

1 A bill to be entitled
2 An act relating to Citrus County; providing for
3 codification of special laws relating to the Citrus County
4 Hospital Board, an independent special district in Citrus
5 County; providing legislative intent; codifying, amending,
6 and reenacting chapter 99-442, Laws of Florida, as
7 amended, as the "Citrus County Hospital and Medical
8 Nursing and Convalescent Home Act"; deleting obsolete
9 provisions; making technical revisions; repealing prior
10 special acts relating to board; authorizing the board to
11 enter into a lease or contract with a not-for-profit
12 corporation for the purpose of operating and managing the
13 hospital and its facilities; providing requirements for
14 such lease or contract; declaring a need for governance
15 authority to fulfill the hospital board's public
16 responsibilities; providing for approval by the hospital
17 board of the governing documents of the not-for-profit
18 corporation and of the members of its board of directors;
19 providing that the hospital board is the sole member of
20 the not-for-profit corporation; providing for the hospital
21 board's approval for a merger or dissolution of the not-
22 for-profit corporation; providing that all members of the
23 hospital board are voting members of the board of
24 directors of the not-for-profit corporation and will
25 comprise a voting majority of the board; requiring
26 hospital board approval of the Chief Executive Officer of
27 the hospital and his or her term of office; requiring
28 hospital board approval for all substantial operating,

29 capital, and debt expenditures; providing for the hospital
30 board's approval of the annual operating and capital
31 budgets of the not-for-profit corporation; requiring an
32 annual independent audit of the fiscal management of the
33 hospital at the discretion of the hospital board;
34 providing that all records of the not-for-profit
35 corporation, unless exempted, are public records;
36 requiring that proprietary confidential business
37 information be disclosed to the hospital board; providing
38 for interpretation and implementation of the act and for
39 court enforcement; providing for severability; providing
40 for application of the act; providing an effective date.

41
42 WHEREAS, the Citrus County Hospital Board was created by
43 the Legislature in 1949 as a special taxing district and a
44 public nonprofit corporation for the purpose of operating public
45 hospitals, medical nursing homes, and convalescent homes in
46 Citrus County, and

47 WHEREAS, in 1987 the hospital board incorporated a not-for-
48 profit management corporation, and in 1990 entered into a lease
49 agreement with the not-for-profit corporation pursuant to s.
50 155.40, Florida Statutes, leasing all public assets, operations,
51 and management of Citrus Memorial Hospital, and

52 WHEREAS, members of the hospital board constituted a
53 majority of the board of directors of the lessee corporation
54 when the hospital board incorporated the not-for-profit
55 corporation, but the hospital board's majority has been diluted
56 over time through increases in the number of private, at-large

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57 corporate directors, and

58 WHEREAS, the term of the lease agreement extends for forty-
59 two (42) years, with an unconditional right of renewal provided
60 to the lessee corporation for an additional forty-five (45)
61 years, providing an effective ninety-seven (97) year lease term,
62 and

63 WHEREAS, the lease provisions do not provide for reasonable
64 public accountability regarding operative or financial
65 performance standards, other than requiring the not-for-profit
66 corporation to maintain minimal bond covenants, the lease fails
67 to provide for any corporate performance standards regarding
68 financial or operative compliance with industry standards or for
69 any actionable financial or operative performance monitoring by
70 the hospital board, and

71 WHEREAS, the Financial Hospital Data 2003-2008 compiled by
72 Florida's Agency for Health Care (AHCA) reports the lessee
73 corporation has incurred cumulative financial operative losses
74 from patient services exceeding fifty (50) million dollars, and
75 2009 internal corporate financial documents project additional
76 patient service operative losses, and

77 WHEREAS, the Florida AHCA Financial Hospital Data 2003-2008
78 reports the lessee corporation consistently underperforms AHCA
79 not-for-profit and similarly grouped hospital operating margins
80 financial benchmarks, and

81 WHEREAS, consistent patient service operative losses
82 incurred by the lessee corporation have necessitated substantial
83 increases in the ad valorem tax burden on the citizens of Citrus
84 County, and

85 WHEREAS, in February 2010 the Auditor General issued a
86 final Operational Audit, report number 2010-093, with findings
87 that are critical of the not-for-profit corporation's fiscal
88 management of the leased public hospital facilities, and its
89 accountability for public funds, noting that the lease agreement
90 does not prescribe any specific good business practices to
91 ensure efficient operations of the public hospital, and

92 WHEREAS, the Attorney General has opined and the Fifth
93 Judicial Circuit Court in and for Citrus County has held that
94 the not-for-profit corporation is an instrumentality of the
95 hospital board for purposes of s. 768.28, Florida Statutes, and
96 is entitled to sovereign immunity, and

97 WHEREAS, the hospital board has repeatedly expressed
98 governance and administrative concerns to the not-for-profit
99 corporation with respect to its performance of public
100 responsibilities and its management of public assets on behalf
101 of the hospital board and the taxpayers of Citrus County, and

102 WHEREAS, the hospital board has endeavored to resolve
103 governance and administrative concerns with the lessee on an
104 amicable basis, but without cooperation on the part of the
105 lessee, and

106 WHEREAS, meaningful oversight by the hospital board is
107 necessitated in light of the not-for-profit corporation's status
108 as an instrumentality of the hospital district, and

109 WHEREAS, restoration of the hospital board's representation
110 on the board of the lessee corporation, and implementation of
111 appropriate accountability and oversight by the hospital board,
112 are necessitated by the not-for-profit corporation's significant

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113 financial losses from patient services, financial
114 underperformance when compared with Florida not-for-profit
115 hospitals or similarly grouped Florida hospitals, and corporate
116 deficiencies as found by the Auditor General, and in order to
117 ensure corporate sovereign immunity status as an instrumentality
118 of the hospital district, and

119 WHEREAS, the ability of the hospital board to continue to
120 act in the public interest on behalf of the taxpayers of Citrus
121 County requires mechanisms to ensure future adherence to the
122 hospital board's public responsibilities, as well as express
123 authority for judicial interpretation and enforcement of this
124 act through declaratory proceedings and other appropriate
125 judicial remedies, and

126 WHEREAS, this act provides an appropriate and effective
127 means of addressing in a public forum the hospital board's
128 concerns with respect to its oversight of the lessee's
129 performance of its responsibilities to the public and to the
130 taxpayers of Citrus County, NOW, THEREFORE,

131

132 Be It Enacted by the Legislature of the State of Florida:

133

134 Section 1. This act constitutes the codification of all
135 special acts relating to the Citrus County Hospital Board. It is
136 the intent of the Legislature in enacting this law to provide a
137 single comprehensive special act charter for the district,
138 including all current authority granted to the district by its
139 several legislative enactments.

140 Section 2. Chapters 99-442 and 2001-308, Laws of Florida,

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141 relating to the Citrus County Hospital Board, are codified,
142 reenacted, and amended to read:

143 Section 1. This act shall be known and may be cited as the
144 "Citrus County Hospital and Medical Nursing and Convalescent
145 Home Act."

146 Section 2. As used in this act, the words and terms shall
147 have the following meanings:

148 (a) The term "Citrus County Hospital Board" or the word
149 "board" shall mean the Citrus County Hospital Board.

150 (b) The word "county" shall mean the County of Citrus, in
151 the State of Florida.

152 (c) The word "state" shall mean the State of Florida.

153 (d) The word "property" shall mean the real and personal
154 property of every nature whatsoever.

155 (e) The word "operate" shall include build, construct,
156 maintain, repair, alter, expand, equip, lease, pursuant to and
157 consistent with section 17 of this act, finance, and operate.

158 (f) The words "county hospital and medical nursing and
159 convalescent homes" shall include hospitals, medical care
160 facilities, clinics, and other allied medical care units.

161 Section 3. (a) There is hereby created the Citrus County
162 Hospital Board, an independent special district, and by that
163 name the board may sue and be sued, plead and be impleaded,
164 contract and be contracted with, acquire and dispose of property
165 or any interest therein, and have an official seal. The board is
166 created as a public nonprofit corporation without stock and is
167 composed of and governed by the five (5) members herein provided
168 for, to be known as trustees. The hospital board is hereby

169 constituted and declared to be an agency of the county and
 170 incorporated for the purpose of operating hospitals, medical
 171 nursing homes, and convalescent homes in the county. The
 172 hospital board shall consist of five (5) trustees appointed by
 173 the Governor and, upon this act becoming a law, the present
 174 members will automatically become trustees and shall constitute
 175 the board. Their respective terms of office shall be the term
 176 each member is presently serving. All subsequent appointments,
 177 upon the expiration of the present terms, shall be for the term
 178 of four (4) years. Upon the expiration of the term of each
 179 trustee, the successor shall be appointed by the Governor.
 180 Likewise, any vacancy occurring shall be filled by appointment
 181 by the Governor for the unexpired term. Each appointment by the
 182 Governor is subject to approval and confirmation by the Florida
 183 Senate.

184 (b) The trustees of said board shall elect from its
 185 members a chair, a vice chair, and a secretary-treasurer who
 186 shall each hold office for a period of one (1) year.

187 (c) The hospital board shall comply with the applicable
 188 requirements of Florida Security for Public Deposits Act,
 189 chapter 280, Florida Statutes, and the Investment of Local
 190 Government Surplus Funds Act, part IV of chapter 218, Florida
 191 Statutes.

192 (d) Any and all funds so deposited shall be withdrawn by a
 193 check or warrant signed by two (2) trustees of the hospital
 194 board, of which one (1) shall be the chair, vice chair, or
 195 secretary-treasurer. No check or warrant shall be delivered to
 196 the payee without approval thereof shown in the minutes of the

197 hospital board.

198 Section 4. The trustees of the board shall receive no
 199 compensation for their services. Three trustees shall constitute
 200 a quorum of the hospital board for the purpose of conducting its
 201 business and exercising its powers and for all other purposes.
 202 Action may be taken by the board only upon a vote in the
 203 affirmative of three trustees thereof.

204 Section 5. The Citrus County Hospital Board as hereby
 205 created shall be for the purpose of operating, in the County of
 206 Citrus, public hospitals, medical nursing homes, and
 207 convalescent homes, primarily and chiefly for the benefit of the
 208 citizens and residents of Citrus County. Authority is hereby
 209 given to said board to build, erect, expand, equip, maintain,
 210 operate, alter, change, lease, pursuant to and consistent with
 211 section 17 of this act, and repair public hospitals, medical
 212 nursing homes, and convalescent homes in Citrus County. The
 213 corporation is authorized, when rooms and services are
 214 available, without detriment or deprivation to the citizens and
 215 residents of Citrus County, to extend the hospitalization and
 216 medical nursing home and convalescent home services provided by
 217 said hospitals, medical nursing homes, and convalescent homes to
 218 patients from adjoining and other counties of Florida and from
 219 other states, upon the payment of the cost of such
 220 hospitalization, medical nursing home services, and convalescent
 221 home services as may be determined by the trustees of the
 222 hospital board. The board shall have the power and authority to
 223 operate an ambulance system and ambulance services. The board
 224 shall have the authority to charge all patients for all services

225 rendered in any facility owned or operated by the hospital
 226 board, including the ambulance facility. The board may charge
 227 patients interest on the patient's account; may sell, discount,
 228 or assign said account to a bank, finance company, collection
 229 agency, or other type of collection facility; may accept
 230 promissory notes or other types of debt obligations from a
 231 patient; may assign or discount said accounts receivable, notes,
 232 or other obligations; may require a patient to guarantee the
 233 payment of an existing account or note; may require a guarantee
 234 of payment before admitting a patient; and may receive and
 235 assign any assignment of all types of insurance proceeds.

236 Section 6. The board may provide for the annual levy of an
 237 ad valorem tax upon all taxable property within the district to
 238 pay for the principal of and interest on promissory notes,
 239 mortgages, or ad valorem bonds; and may pay for the erecting,
 240 building, equipping, maintaining, changing, altering, repairing,
 241 leasing, and operating the public hospital. However, the millage
 242 rate may not exceed 3 mills per year. The board shall comply
 243 with the applicable provisions of chapter 200, Florida Statutes.

244 Section 7. The hospital board is hereby authorized and
 245 empowered to own and acquire property by purchase, lease, gift,
 246 grant, or transfer from the county, the state, or the Federal
 247 Government, or any subdivision or agency thereof, any
 248 municipality, person, partnership, or corporation, and to
 249 acquire, construct, maintain, operate, expand, alter, repair,
 250 change, lease, finance, and equip hospitals, medical nursing
 251 homes, convalescent homes, medical care facilities, and clinics
 252 in the county.

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253 Section 8. The hospital board is authorized and empowered
254 to enter into contracts with individuals, partnerships,
255 corporations, municipalities, the county, the state or any
256 subdivision or agency thereof, and the United States of America
257 or any subdivision or agency thereof to carry out the purposes
258 of this act.

259 Section 9. The hospital board is empowered to and shall
260 adopt all necessary rules and regulations and bylaws for the
261 operation of hospitals, medical nursing homes, and convalescent
262 homes; to provide for the admission thereto and treatment of
263 such charity patients who are citizens of Florida and residents
264 of Citrus County for the last two (2) preceding years; to set
265 the fees and charges to be made for the admission and treatment
266 therein of all patients; and to establish the qualifications for
267 members of the medical profession to be entitled to practice
268 therein.

269 Section 10. The hospital board shall have the power to
270 purchase any and all equipment that may be needed for the
271 operation of hospitals, medical nursing homes, and convalescent
272 homes, and shall have the power to appoint and hire such agent
273 or agents, technical experts, attorneys, and all other employees
274 as are necessary for carrying out the purposes of this act, and
275 to prescribe their salaries and duties. The board shall have the
276 power to discharge all employees or agents when it shall be
277 deemed by the board necessary for the carrying out of the
278 purposes of this act.

279 Section 11. At the end of each fiscal year thereafter, the
280 Citrus County Hospital Board shall within thirty (30) days file

281 with the Clerk of the Circuit Court of Citrus County a full,
 282 complete, and detailed accounting of the preceding year and at
 283 the same time shall file a certified copy of said financial
 284 report with the Board of County Commissioners of Citrus County,
 285 which report shall be recorded in the minutes of the board of
 286 county commissioners. The board of county commissioners at its
 287 discretion and at the expense of the county may publish and
 288 report an accounting in a newspaper of general circulation in
 289 Citrus County.

290 Section 12. In addition to all other implied and express
 291 powers contained herein, the board shall have the express
 292 authority to negotiate loans to borrow money from any state or
 293 federal agency for the purpose or purposes of constructing,
 294 maintaining, repairing, altering, expanding, equipping, leasing,
 295 and operating county hospitals, medical nursing homes,
 296 convalescent homes, medical care facilities, clinics, and all
 297 other types of allied medical care units.

298 Section 13. In addition to all other implied and express
 299 powers contained herein, the board shall have the express
 300 authority to borrow money, with or without issuing notes
 301 therefor, for the purpose or purposes of constructing,
 302 maintaining, repairing, altering, expanding, equipping, leasing,
 303 and operating county hospitals, medical nursing homes,
 304 convalescent homes, medical care facilities, clinics, and all
 305 other types of allied medical care units. The board's authority
 306 to borrow money, with or without issuing notes, shall be subject
 307 to the conditions of this act, applying to the board's right to
 308 issue revenue bonds.

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309 Section 14. Said board shall have express authority to
310 issue bonds, subject to approval by a referendum of the voters
311 of said county, and to issue revenue bonds, without a referendum
312 of the voters of said county, the proceeds of which shall be
313 used for erecting, equipping, building, expanding, altering,
314 changing, maintaining, operating, leasing, and repairing said
315 hospitals, medical nursing homes, and convalescent homes.

316 Section 15. (a) Said bonds, federal or state hospital
317 loans, notes, or revenue bonds shall mature within thirty (30)
318 years from the year in which they are issued or made, and shall
319 be payable in such years and amounts as shall be approved by the
320 board.

321 (b) The board shall determine the form of the loans,
322 notes, bonds, and revenue bonds, including any interest coupons
323 to be attached thereto, and the manner of executing it, shall
324 fix the denomination or denominations thereof and the place or
325 places of payment of principal and interest which may be at any
326 bank or trust company within or without the state. In case an
327 officer whose signature or a facsimile of whose signature shall
328 appear on any loan, note, bond, or revenue certificate or coupon
329 shall cease to be such officer before the delivery thereof, such
330 signature or facsimile shall nevertheless be valid and
331 sufficient for all purposes the same as if the officer had
332 remained in office until such delivery. All loan agreements,
333 notes, bonds, and revenue bonds issued hereunder shall have and
334 are hereby declared to have all the qualities and incidents of
335 negotiable instruments under the negotiable instruments law of
336 the state.

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337 (c) Whenever the board shall pass a resolution approving
338 the issuance of said bonds, the board shall call for an election
339 and, subject to said election, permit the repayment of the bonds
340 out of an annual levy not to exceed one and one-half (1 1/2)
341 mills per year. Said millage is included in the maximum millage
342 of three (3) mills per year. Subject to such limitations, said
343 bonds shall be payable from the full faith and credit of the
344 board.

345 (d) The loans, notes, and revenue bonds, together with the
346 interest, shall be payable from gross or net receipts of the
347 hospital board or any portion thereof.

348 (e) Said loans, notes, bonds, or revenue bonds shall not
349 bear interest in excess of the maximum rate permitted by the
350 laws of the State of Florida.

351 (f) The board may sell bonds, loans, notes, or revenue
352 bonds such manner, either at public or private sale, and for
353 such price as it may determine to be for the best interest of
354 the hospital board.

355 (g) The board of county commissioners during any period
356 that bonds payable from ad valorem taxation are outstanding, in
357 addition to the maximum of one and one-half (1 1/2) mills levy
358 above authorized for the repayment of the bonds and interest,
359 levy annually the remainder of the hospital tax in the amount up
360 to one and one-half (1 1/2) mills on the dollar for the purpose
361 of maintaining and operating the county hospitals, medical
362 nursing homes, and convalescent homes.

363 Section 16. The total amount of outstanding bonds of said
364 hospital payable from ad valorem taxation at any one time shall

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365 not exceed an amount equal to six (6) times the annual hospital
366 tax, assuming said tax is based upon the yearly millage of three
367 (3) mills.

368 Section 17. The hospital board shall have the authority to
369 enter into leases or contracts with a not-for-profit Florida
370 corporation for the purpose of operating and managing a public
371 hospital and any or all of its facilities of whatsoever kind and
372 nature. To ensure public oversight, accountability, and public
373 benefit, in addition to the requirements for any such lease or
374 contract which are set out in s. 155.40, Florida Statutes:

375 (a) The Articles of Incorporation, all amendments or
376 Restatements of the Articles of Incorporation, all corporate
377 Bylaws, all amendments or Restatements of the corporate Bylaws,
378 and all other governing documents of such not-for-profit
379 corporation shall be subject to the approval of the hospital
380 board; and any such documents which have not heretofore been
381 approved by the hospital board shall be submitted to the
382 hospital board for approval forthwith.

383 (b) The hospital board shall be the sole member of the
384 not-for-profit corporation.

385 (c) The hospital board shall independently approve any
386 plan of merger or dissolution of the not-for-profit corporation
387 pursuant to sections 617.1103 and 617.1402, Florida Statutes.

388 (d) All members of the hospital board shall be voting
389 directors of the not-for-profit board of directors.

390 (e) The number of members of the hospital board shall at
391 all times constitute a majority of the voting directors of the
392 not-for-profit corporation, and to the extent that any

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393 governance documents of the not-for-profit corporation do not so
394 presently provide the not-for-profit corporation shall forthwith
395 take all steps necessary to bring them into conformity with this
396 majority membership requirement.

397 (f) All members of the not-for-profit board of directors
398 shall be subject to approval by the hospital board, and any
399 board members presently serving who have not heretofore been
400 approved by the hospital board shall be submitted to the
401 hospital board for approval forthwith.

402 (g) The Chief Executive Officer of the hospital, and his
403 or her term of office and any extensions thereof, shall be
404 approved by the hospital board.

405 (h) The borrowing of money in any form and for any reason
406 in an amount exceeding \$100,000 shall be approved by the
407 hospital board.

408 (i) No annual operating and capital budget of the not-for-
409 profit corporation shall become effective until approved by the
410 Citrus County Hospital Board.

411 (j) Any capital project having a value in excess of
412 \$250,000 per project, and any non-budgeted operative expenditure
413 in excess of \$125,000 in the per annum aggregate, shall be
414 approved by the hospital board.

415 (k) At the discretion of the hospital board, each and
416 every year the not-for-profit corporation shall complete an
417 independent audit of the fiscal management of the hospital by an
418 auditor chosen by the hospital board, with the audit to be paid
419 for by the not-for-profit corporation.

420 (l) All records of the not-for-profit corporation shall be

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421 public records unless exempt by law; provided however, the
422 hospital board, pursuant to their oversight and auditing
423 functions, must be given full and complete access to all
424 proprietary confidential business information upon request and
425 without subpoena, and must maintain the confidentiality of
426 information so received. As used in this paragraph, the term
427 "proprietary confidential business information" means
428 information, regardless of its form or characteristics, which is
429 owned or controlled by the not-for-profit corporation or its
430 subsidiaries, including, but not limited to, all matters
431 encompassed in privileged attorney-client communications and
432 strategic planning.

433 Section 18. In order to ensure public oversight,
434 accountability, and public benefit, the provisions in this act
435 and the hospital board's lease with the not-for-profit
436 corporation:

437 (a) Shall be construed and interpreted as furthering the
438 public health and welfare, and the open-government requirements
439 of s. 24, Article I of the State Constitution and ss. 119.01 and
440 286.011, Florida Statutes; and

441 (b) May be enforced by a court of competent jurisdiction
442 in declaratory proceedings under chapter 86, Florida Statutes,
443 by injunction, or by any other appropriate form of judicial
444 relief.

445 Section 3. Chapter 99-442, Laws of Florida, and chapter
446 2001-308, Laws of Florida, are repealed.

447 Section 4. If any provision of this act or its application
448 to any person or circumstance is held invalid, the invalidity

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449 does not affect other provisions or applications of the act
450 which can be given effect without the invalid provision or
451 application, and to this end the provisions of this act are
452 severable.

453 Section 5. This act shall take effect upon becoming a law
454 and shall apply to existing and future leases and amendments,
455 revisions, and restatements thereto, and to existing and future
456 agreements for hospital care and amendments, revisions, and
457 restatements thereto; however, this act shall not apply to the
458 term of any existing contract entered into by the not-for-profit
459 corporation with a third-party, to any existing contract for the
460 borrowing of money in excess of \$100,000 for which the hospital
461 board has not previously given its approval, or to any existing
462 contract for a capital project in excess of \$250,000 for which
463 the hospital board has not previously given its approval.