

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 reenacting, and repealing chapters 99-442 and 2001-308,
7 Laws of Florida, as the "Citrus County Hospital and
8 Medical Nursing and Convalescent Home Act"; deleting
9 obsolete provisions; making technical revisions; providing
10 definitions; authorizing the board to enter into a lease
11 or contract with a not-for-profit corporation for the
12 purpose of operating and managing the hospital and its
13 facilities; providing requirements for such lease or
14 contract; declaring a need for governance authority to
15 fulfill the hospital board's public responsibilities;
16 providing for a board of directors; providing for
17 membership; requiring that the not-for-profit corporation
18 conform all governance documents to certain requirements,
19 if necessary; authorizing ad valorem taxation; requiring
20 that the not-for-profit corporation separately account for
21 the expenditure of all ad valorem tax moneys provided by
22 the hospital board; requiring that the expenditure of all
23 public tax funds be approved in a public meeting and
24 maintained in a separate account; providing for the
25 hospital board's approval or rejection of the not-for-
26 profit corporation's articles of incorporation or bylaws,
27 selection of a new chief executive officer or renewal of
28 his or her employment contract, the annual operating and

HB 1043

2011

29 capital budgets, additional loan indebtedness or leases in
30 excess of a specified amount, and the not-for-profit
31 corporation's policies for travel reimbursements and
32 contract bid procedures; providing that all records of the
33 not-for-profit corporation are public records unless
34 exempt; providing that any dispute between the hospital
35 board and the not-for-profit corporation is subject to
36 court action; providing for interpretation and
37 implementation of the act and for court enforcement;
38 providing application; repealing chapters 99-442 and 2001-
39 308, Laws of Florida, relating to the Citrus County
40 Hospital Board; providing severability; providing
41 construction; providing an effective date.

42
43 WHEREAS, the Citrus County Hospital Board was created by
44 the Legislature in 1949 as a special taxing district and a
45 public nonprofit corporation for the purpose of acquiring,
46 building, constructing, maintaining, and operating a public
47 hospital in Citrus County; and, in 1965, the Legislature
48 expanded the purpose of the hospital board to include operating
49 public hospitals, medical nursing homes, and convalescent homes
50 in Citrus County, and

51 WHEREAS, in 1987, the hospital board caused to be
52 incorporated a not-for-profit management corporation with the
53 original purpose of operating exclusively for the benefit of and
54 carrying out the purposes of the Citrus County Hospital Board
55 and, in 1990, entered into a long-term lease agreement with the
56 not-for-profit management corporation pursuant to section

HB 1043

2011

57 | 155.40, Florida Statutes, leasing all public assets, operations,
58 | and management of Citrus Memorial Hospital to the not-for-profit
59 | management corporation, and

60 | WHEREAS, at the time the lessee management corporation was
61 | incorporated, the corporate board consisted of five hospital
62 | board directors, the hospital CEO, the Chief of the Medical
63 | Staff, and two private at-large directors selected by the
64 | hospital board, which provided the hospital board a five-to-four
65 | majority position on the management corporation's board of
66 | directors; however, currently, the corporate board consists of
67 | five hospital board directors, seven private at-large directors
68 | selected by the corporation, and one medical director, reducing
69 | the hospital board to a minority position of five of 13
70 | corporate directors, and

71 | WHEREAS, members of the hospital board constituted a
72 | majority of the board of directors of the lessee corporation
73 | when the hospital board incorporated the not-for-profit
74 | corporation, but the hospital board's majority has been diluted
75 | over time through an increase in the number of private, at-large
76 | directors, and

77 | WHEREAS, the term of the lease agreement extends for 43
78 | years, with an unconditional right of renewal provided to the
79 | lessee management corporation for an additional 45 years,
80 | providing an effective 88-year lease term, and

81 | WHEREAS, the lease provisions do not provide for reasonable
82 | public accountability regarding operative or financial
83 | performance standards other than requiring the not-for-profit
84 | management corporation to maintain minimal bond covenants, and

HB 1043

2011

85 the lease fails to provide for any corporate performance
86 standards regarding financial or operative compliance with
87 industry standards or for any actionable financial or operative
88 performance monitoring by the hospital board, and

89 WHEREAS, the Financial Hospital Data 2003-08 compiled by
90 the Agency for Health Care Administration (AHCA) reports the
91 lessee management corporation has incurred cumulative financial
92 operative losses from patient services exceeding \$50 million;
93 2009 AHCA documents reflect corporate losses from patient
94 services approaching \$6 million; and internal financial
95 statements project 2010 corporate losses from patient services
96 in excess of \$10 million, and

97 WHEREAS, the AHCA Financial Hospital Data 2003-08 reports
98 the lessee corporation consistently underperforms AHCA
99 statistically similar hospital group operating margin financial
100 benchmarks as well as consistently underperforms the AHCA not-
101 for-profit hospital group, and

102 WHEREAS, consistent patient service operative losses
103 incurred by the lessee corporation from 2004 to 2009 have
104 necessitated substantial increases in the ad valorem tax burden
105 on the citizens of Citrus County and decreased the management
106 corporation's quantitative debt capacity from \$11 million in
107 2004 to negative \$22 million in 2008, and

108 WHEREAS, in February 2010, the Auditor General issued a
109 report of final findings that is critical of the not-for-profit
110 corporation's fiscal management of the leased public hospital
111 facilities and its accountability for public funds, noting that
112 the lease agreement does not prescribe any specific good

113 business practices to ensure efficient operations of the public
 114 hospital and that Florida Statutes do not authorize the public
 115 hospital board to relinquish to an independent private board
 116 unfettered control over public property, powers, taxing
 117 authority, and money, including expenditures of ad valorem taxes
 118 without public oversight or accountability, and further noting
 119 that the hospital board must exercise sufficient control over
 120 the management corporation for the management corporation to be
 121 considered an instrumentality of a governmental entity and thus
 122 entitled to sovereign immunity, and

123 WHEREAS, the Attorney General opined in 2006 and the Fifth
 124 Judicial Circuit Court in and for Citrus County has held in
 125 2008, limited to a specific case, that the not-for-profit
 126 management corporation is an instrumentality of the hospital
 127 board for purposes of section 768.28, Florida Statutes, and is,
 128 under the circumstances then presented, entitled to sovereign
 129 immunity, although in November 2010 the board asked the Attorney
 130 General to revisit its opinion on sovereign immunity in light of
 131 conduct (or lack thereof) by the lessee corporation that appears
 132 to have jeopardized a public asset, and

133 WHEREAS, the not-for-profit corporation has refused to make
 134 available to the hospital board a strategic plan, which it
 135 considered in closed meetings and later discussed in public
 136 forums in violation of Florida's open meetings and public
 137 records laws, and

138 WHEREAS, the not-for-profit corporation had filed a
 139 petition with AHCA for a declaratory statement that would
 140 authorize the corporation to continue its practice of not

HB 1043

2011

141 separately accounting for its expenditure of low-income pool
142 funds received from AHCA pursuant to federal and state laws but
143 later withdrew its petition upon being advised that such a
144 statement would not be issued, and

145 WHEREAS, in October 2010, the Executive Committee of the
146 Medical Staff of the not-for-profit corporation expressed "no
147 confidence" in the corporation's chief executive officer and
148 president by a supermajority vote due to a lack of trust by its
149 medical staff physicians in the management corporation's CEO,
150 and

151 WHEREAS, the hospital board has repeatedly expressed
152 governance, administrative, and financial performance concerns
153 to the not-for-profit corporation with respect to its
154 performance of public responsibilities and its management of
155 public assets on behalf of the hospital board and the taxpayers
156 of Citrus County, but without success, and

157 WHEREAS, the hospital board has endeavored to resolve
158 governance, administrative, and financial concerns with the
159 lessee on an amicable basis but has received no cooperation from
160 the lessee, and

161 WHEREAS, to ensure the benefits of sovereign immunity
162 status, meaningful oversight by the hospital board is
163 necessitated in light of the not-for-profit corporation's
164 asserted status as an instrumentality of the hospital district,
165 and

166 WHEREAS, restoration of meaningful hospital board
167 representation on the board of the lessee management corporation
168 and implementation of appropriate accountability and oversight

HB 1043

2011

169 by the hospital board are necessitated by the corporate
 170 deficiencies as found by the Auditor General, the lessee
 171 corporation's losses from patient services, increased debt and
 172 ad valorem tax dependency, consistent financial underperformance
 173 when compared with the AHCA statistically similar hospital group
 174 and the AHCA not-for-profit hospital group, and the need to
 175 further and ensure the asserted sovereign immunity status of the
 176 not-for-profit corporation as an instrumentality of the hospital
 177 district, and

178 WHEREAS, the ability of the hospital board to continue to
 179 act in the public interest on behalf of the taxpayers of Citrus
 180 County requires mechanisms to ensure adherence to the hospital
 181 board's public responsibilities and express authority for
 182 judicial interpretation and enforcement of this act through
 183 declaratory proceedings and other appropriate judicial remedies,
 184 and

185 WHEREAS, this act provides an appropriate and effective
 186 means of addressing the lessee's performance of its
 187 responsibilities to the public and to the taxpayers of Citrus
 188 County, NOW, THEREFORE,

189
 190 Be It Enacted by the Legislature of the State of Florida:

191
 192 Section 1. This act constitutes the codification of all
 193 special acts relating to the Citrus County Hospital Board. It is
 194 the intent of the Legislature in enacting this law to provide a
 195 single, comprehensive special act charter for the district,
 196 including all current authority granted to the district by its

197 several legislative enactments and any additional authority
 198 granted by this act.

199 Section 2. Chapters 99-442 and 2001-308, Laws of Florida,
 200 relating to the Citrus County Hospital Board, are codified,
 201 reenacted, amended, and repealed as provided in this act.

202 Section 3. The Citrus County Hospital Board is re-created,
 203 and the charter is re-created and reenacted to read:

204 Section 1. This act may be cited as the "Citrus County
 205 Hospital and Medical Nursing and Convalescent Home Act."

206 Section 2. As used in this act, the following words and
 207 terms have the following meanings:

208 (1) "Citrus County Hospital Board," "hospital board," and
 209 "board" means the Citrus County Hospital Board.

210 (2) "County" means Citrus County.

211 (3) "County hospital and medical nursing and convalescent
 212 homes" includes hospitals, medical care facilities, clinics, and
 213 other allied medical care units.

214 (4) "Indigent care" means medically necessary health care
 215 provided to Citrus County residents who are determined to be
 216 qualified pursuant to the provisions of the Florida Health Care
 217 Responsibility Act, section 154.304(9), Florida Statutes, and
 218 the Florida Health Care Indigency Eligibility Certification
 219 Standards, Florida Administrative Code, rule 59H-1.0035(30).

220 (5) "Operate" includes build, construct, maintain, repair,
 221 alter, expand, equip, lease pursuant to and consistent with the
 222 provisions of this act, finance, and operate.

223 (6) "Property" means real and personal property of every
 224 nature whatsoever.

225 (7) "State" means the State of Florida.

226 Section 3. (1) There is hereby created the Citrus County
 227 Hospital Board, an independent special district, and by that
 228 name the board may sue and be sued, plead and be impleaded,
 229 contract and be contracted with, acquire and dispose of property
 230 or any interest therein, and have an official seal. The board is
 231 created as a public nonprofit corporation without stock and is
 232 composed of and governed by the five members herein provided
 233 for, to be known as trustees. The hospital board is hereby
 234 constituted and declared to be an agency of the county and
 235 incorporated for the purpose of operating hospitals, medical
 236 nursing homes, and convalescent homes in the county. The
 237 hospital board shall consist of five trustees appointed by the
 238 Governor, and, upon this act becoming a law, the present members
 239 will automatically become trustees and shall constitute the
 240 board. Their respective terms of office shall be the term each
 241 member is presently serving. All subsequent appointments, upon
 242 the expiration of the present terms, shall be for terms of 4
 243 years each. Upon the expiration of the term of each trustee, the
 244 successor shall be appointed by the Governor. Likewise, any
 245 vacancy occurring shall be filled by appointment by the Governor
 246 for the unexpired term. Each appointment by the Governor is
 247 subject to approval and confirmation by the Senate.

248 (2) The trustees of the board shall elect from among its
 249 members a chair, a vice chair, and a secretary-treasurer, who
 250 shall each hold office for a period of 1 year. Each trustee
 251 shall execute a bond in the penal sum of \$5,000 with a good and
 252 sufficient surety of a surety company authorized under the laws

253 of the state to become surety, payable to the Citrus County
 254 Hospital Board, conditioned upon the faithful performance of the
 255 duties of the trustee, which bonds shall be approved by the
 256 remaining trustees of the board and shall be filed with the
 257 Board of County Commissioners of Citrus County. The premiums on
 258 such bonds shall be paid by the hospital board. Three trustees
 259 shall constitute a quorum of the hospital board for the purpose
 260 of conducting its business and exercising its powers and for all
 261 other purposes. Action may be taken by the board only upon a
 262 vote in the affirmative of three trustees thereof.

263 (3) The hospital board shall comply with the applicable
 264 requirements of chapter 280, Florida Statutes, and part IV of
 265 chapter 218, Florida Statutes.

266 (4) Any and all funds so deposited shall be withdrawn by a
 267 check or warrant signed by two trustees of the hospital board,
 268 of which one shall be the chair, vice chair, or secretary-
 269 treasurer. No check or warrant exceeding the sum of \$25,000
 270 shall be delivered to the payee without approval thereof shown
 271 in the minutes of the hospital board meeting.

272 Section 4. The trustees of the board shall receive no
 273 compensation for their services, but they shall be entitled to
 274 indemnification from the hospital board for all actions taken in
 275 good faith or on the basis of legal advice from board counsel,
 276 in the manner and the extent provided for in a subsequent
 277 section of this act.

278 Section 5. The Citrus County Hospital Board as hereby
 279 created shall be for the purpose of operating, in Citrus County,
 280 public hospitals, medical nursing homes, and convalescent homes,

HB 1043

2011

281 primarily and chiefly for the benefit of the citizens and
282 residents of Citrus County. Authority is hereby given to the
283 board to build, erect, expand, equip, maintain, operate, alter,
284 change, lease pursuant to and consistent with the provisions of
285 this act, and repair public hospitals, medical nursing homes,
286 and convalescent homes in Citrus County. The corporation is
287 authorized, when rooms and services are available, without
288 detriment or deprivation to the citizens and residents of Citrus
289 County, to extend the hospitalization and medical nursing home
290 and convalescent home services provided by such hospitals,
291 medical nursing homes, and convalescent homes to patients from
292 adjoining and other counties of Florida and from other states,
293 upon the payment of the cost of such hospitalization, medical
294 nursing home services, and convalescent home services as may be
295 determined by the trustees of the hospital board. The board
296 shall have the power and authority to operate an ambulance
297 system and ambulance services and to charge all patients for all
298 services rendered in any facility owned or operated by the
299 hospital board, including the ambulance facility. The board may
300 charge a patient interest on the patient's account; sell,
301 discount, or assign such account to a bank, finance company,
302 collection agency, or other type of collection facility; accept
303 promissory notes or other types of debt obligations from a
304 patient; assign or discount such accounts receivable, notes, or
305 other obligations; require a patient to guarantee the payment of
306 an existing account or note; require a guarantee of payment
307 before admitting a patient; and receive and assign any
308 assignment of all types of insurance proceeds. In addition to

309 all other powers, the board shall have the power and authority
 310 to:

311 (1) Provide for the payment of indigent care services by
 312 private health care providers in the county, or to partner with
 313 other entities such as the Department of Health, in furtherance
 314 of the nonprofit corporation's public purpose and the necessity
 315 for the preservation of the public health and welfare of the
 316 residents of the county.

317 (2) Develop and implement a county health plan.

318 Section 6. The board of county commissioners shall levy or
 319 cause to be levied each year beginning July 1, 1965, the millage
 320 certified to the board of county commissioners by the trustees
 321 of the board upon all taxable real and personal property in
 322 Citrus County, not including, however, homestead property that
 323 is exempt from general taxation by the Constitution of the State
 324 of Florida, for the purpose of erecting, building, equipping,
 325 maintaining, changing, altering, repairing, leasing, and
 326 operating the public hospital provided for in this act. Such tax
 327 shall be known as the hospital tax, and the property appraiser
 328 shall make such assessments and the tax collector shall collect
 329 such assessments when made. The money collected shall be paid
 330 monthly to the board. However, the annual tax levied under this
 331 section may not exceed 3 mills.

332 Section 7. The hospital board is hereby authorized and
 333 empowered to own and acquire property by purchase, lease, gift,
 334 grant, or transfer from the county, the state, or the Federal
 335 Government, or any subdivision or agency thereof, or from any
 336 municipality, person, partnership, or corporation and to

HB 1043

2011

337 acquire, construct, maintain, operate, expand, alter, repair,
338 change, lease, finance, and equip hospitals, medical nursing
339 homes, convalescent homes, medical care facilities, and clinics
340 in the county.

341 Section 8. The hospital board is authorized and empowered
342 to enter into contracts with individuals, partnerships,
343 corporations, municipalities, the county, the state or any
344 subdivision or agency thereof, or the United States of America
345 or any subdivision or agency thereof to carry out the purposes
346 of this act.

347 Section 9. The hospital board is empowered to and shall
348 adopt all necessary rules, regulations, and bylaws for the
349 operation of hospitals, medical nursing homes, and convalescent
350 homes; provide for the admission thereto and treatment of such
351 charity patients who are citizens of the state and residents of
352 the county for the preceding 2 years; set the fees and charges
353 to be made for the admission and treatment therein of all
354 patients; and establish the qualifications for members of the
355 medical profession to be entitled to practice therein.

356 Section 10. The hospital board shall have the power to
357 purchase any and all equipment that may be needed for the
358 operation of hospitals, medical nursing homes, and convalescent
359 homes and shall have the power to appoint and hire such agent or
360 agents, technical experts, attorneys, and all other employees as
361 are necessary for carrying out the purposes of this act,
362 including the hiring and maintenance of staff personnel as it
363 may deem appropriate to assist the board in the discharge of its
364 operational, financial, and statutory responsibilities, and in

HB 1043

2011

365 carrying out its fiduciary duties to the taxpayers of Citrus
366 County, and to prescribe their salaries and duties. The board
367 shall have the power to discharge all employees or agents when
368 deemed necessary by the board for the carrying out of the
369 purposes of this act.

370 Section 11. At the end of each fiscal year, the Citrus
371 County Hospital Board shall within 30 days file with the Clerk
372 of the Circuit Court of Citrus County a full, complete, and
373 detailed accounting of the preceding year and at the same time
374 shall file a certified copy of such financial report with the
375 Board of County Commissioners of Citrus County, which report
376 shall be recorded in the minutes of the board of county
377 commissioners. The board of county commissioners, at its
378 discretion and at the expense of the county, may publish and
379 report an accounting in a newspaper of general circulation in
380 Citrus County.

381 Section 12. In addition to all other implied and express
382 powers contained in this act, the board shall have the express
383 authority to negotiate loans to borrow money from any state or
384 federal agency for the purpose or purposes of constructing,
385 maintaining, repairing, altering, expanding, equipping, leasing,
386 and operating county hospitals, medical nursing homes,
387 convalescent homes, medical care facilities, clinics, and all
388 other types of allied medical care units.

389 Section 13. (1) In addition to all other implied and
390 express powers contained in this act, the board shall have the
391 express authority to borrow money, with or without issuing notes
392 therefor, for the purpose or purposes of constructing,

393 maintaining, repairing, altering, expanding, equipping, leasing,
 394 and operating county hospitals, medical nursing homes,
 395 convalescent homes, medical care facilities, clinics, and all
 396 other types of allied medical care units. The board's authority
 397 to borrow money, with or without issuing notes, shall be subject
 398 to the conditions of this act applying to the board's right to
 399 issue revenue bonds.

400 (2) The board shall have express authority to issue bonds,
 401 subject to approval at a referendum of the voters of the county,
 402 and to issue revenue bonds, without a referendum of the voters
 403 of the county, the proceeds of which shall be used for erecting,
 404 equipping, building, expanding, altering, changing, maintaining,
 405 operating, leasing, and repairing such hospitals, medical
 406 nursing homes, and convalescent homes. Such bonds, federal or
 407 state hospital loans, notes, or revenue bonds shall mature
 408 within 30 years after the year in which they are issued or made
 409 and shall be payable in such years and amounts as shall be
 410 approved by the board.

411 (3) The board shall determine the form of the loans,
 412 notes, bonds, and revenue bonds, including any interest coupons
 413 to be attached thereto, and the manner of executing them, and
 414 shall fix the denomination or denominations thereof and the
 415 place or places of payment of principal and interest, which may
 416 be at any bank or trust company within or without the state. In
 417 case a trustee whose signature or a facsimile of whose signature
 418 appears on any loan, note, bond, or revenue certificate or
 419 coupon ceases to be such trustee before the delivery thereof,
 420 such signature or facsimile shall nevertheless be valid and

HB 1043

2011

421 sufficient for all purposes the same as if the trustee had
422 remained in office until such delivery. All loan agreements,
423 notes, bonds, and revenue bonds issued hereunder shall have and
424 are hereby declared to have all the qualities and incidents of
425 negotiable instruments under the negotiable instruments law of
426 the state.

427 (4) Whenever the board passes a resolution approving the
428 issuance of such bonds, the board shall call for an election
429 and, subject to such election, permit the repayment of the bonds
430 out of an annual levy not to exceed 1.5 mills per year. Such
431 millage is included in the maximum millage of 3 mills per year.
432 Subject to such limitations, such bonds shall be payable from
433 the full faith and credit of the board.

434 (5) The loans, notes, and revenue bonds, together with the
435 interest, shall be payable from gross or net receipts of the
436 hospital board or any portion thereof.

437 (6) Such loans, notes, bonds, or revenue bonds shall not
438 bear interest in excess of the maximum rate permitted by the
439 laws of the state.

440 (7) The board may sell bonds, loans, notes, or revenue
441 bonds in such manner, either at public or private sale, and for
442 such price as it may determine to be for the best interest of
443 the hospital board.

444 Section 14. The total amount of outstanding bonds of the
445 hospital payable from ad valorem taxation at any one time shall
446 not exceed an amount equal to 6 times the annual hospital tax,
447 assuming such tax is based upon the yearly millage of 3 mills.

HB 1043

2011

448 Section 15. (1) The Citrus County Hospital Board shall
449 have the authority to enter into leases or contracts with a not-
450 for-profit Florida corporation for the purpose of operating and
451 managing the hospital and any or all of its facilities of any
452 kind and nature.

453 (2) The Citrus County Hospital Board shall have the power
454 and authority to:

455 (a) Provide health care services to residents of the
456 county through the use of health care facilities not owned and
457 operated by the hospital board. The provision of such care is
458 hereby found and declared to be a public purpose and necessary
459 for the preservation of the public health and welfare of the
460 residents of the county.

461 (b) Maintain an office and all necessary staff at such
462 place or places as it may designate.

463 (c) Employ administrators, physicians, attorneys,
464 accountants, financial experts, consulting engineers,
465 architects, surveyors, and such other employees and agents as
466 may be necessary in its judgment and to fix their compensation,
467 regardless of any lease to the not-for-profit corporation.

468 (d) Acquire existing health care facilities and reimburse
469 any health care facility for the cost of such facilities in
470 accordance with an agreement between the hospital board and the
471 health care facility.

472 (e) Acquire existing health care facilities and refund,
473 refinance, or satisfy outstanding obligations, mortgages, or
474 advances issued, made, or given by such health care facility.

HB 1043

2011

475 (f) Mortgage any health care facility and the site
 476 thereof.

477 (g) Cooperate or contract with other governmental agencies
 478 or private individuals or entities as may be necessary,
 479 convenient, incidental, or proper in connection with any of the
 480 powers, duties, or purposes authorized by this act.

481 (h) Provide for reimbursement to hospitals, physicians, or
 482 other health care providers or facilities, whether public or
 483 private, and pay private physicians for indigent care.

484 (i) Establish criteria for the provision of health care
 485 pursuant to this act.

486 (3) The hospital board is hereby restricted from
 487 reimbursing any health care providers or facilities, including
 488 hospitals and physicians, for their bad debts arising from those
 489 patients who are not eligible for reimbursement under hospital
 490 board guidelines. The hospital board, however, shall continue to
 491 reimburse such health care providers for the medical care of
 492 medically needy patients, to the extent of the hospital board's
 493 limited financial resources, taking into account funds available
 494 from other sources, including other governmental funding
 495 sources.

496 Section 16. (1) The hospital board shall have the power
 497 to indemnify any person who was or is a party, or is threatened
 498 to be made a party, to any threatened, pending, or completed
 499 action, suit, or proceeding, whether civil, criminal,
 500 administrative, or investigative (other than an action by, or in
 501 the right of, the hospital board) by reason of the fact that he
 502 or she is or was an agent of the hospital board, against

HB 1043

2011

503 expenses (including attorney's fees), judgments, fines, and
504 amounts paid in settlement actually and reasonably incurred by
505 him or her in connection with such action, suit, or proceeding,
506 including any appeal thereof, if he or she acted in good faith
507 and in a manner he or she reasonably believed to be in, or not
508 opposed to, the best interests of the hospital board and, with
509 respect to any criminal action or proceeding, had no reasonable
510 cause to believe this conduct was unlawful.

511 (2) The hospital board shall also have the power to
512 indemnify any such person against any loss of wages or earnings
513 suffered during his or her defense, provided that, in the
514 opinion of the trustees of the hospital board, those losses were
515 directly attributable to that defense.

516 (3) The termination of any action, suit, or proceeding by
517 judgment, order, settlement, or conviction or upon a plea of
518 nolo contendere or its equivalent shall not, of itself, create a
519 presumption that the person did not act in good faith and in a
520 manner which he or she reasonably believed to be in, or not
521 opposed to, the best interests of the hospital board or, with
522 respect to any criminal action or proceeding, had reasonable
523 cause to believe that his or her conduct was unlawful.

524 (4) No indemnification under this section shall be made in
525 respect of any claim, issue, or matter as to which such person
526 shall have been adjudged to be liable for negligence or
527 misconduct in the performance of his or her duty to the hospital
528 board unless, and only to the extent that, the court in which
529 such action or suit was brought determines upon application
530 that, despite the adjudication of liability but in view of all

HB 1043

2011

531 circumstances of the case, such person is fairly and reasonably
532 entitled to indemnification for such expenses that such court
533 shall deem proper.

534 (5) If an individual has been determined by the hospital
535 board to be an agent entitled to compensation under these
536 indemnity provisions and to the extent that such agent of the
537 hospital board has been successful on the merits or otherwise in
538 defense of any action, suit, or proceeding referred to in the
539 subsections above or in defense of any claim, issue, or matter
540 therein, he or she shall be indemnified against expenses
541 (including attorney's fees) actually and reasonably incurred by
542 him or her in connection therewith. Any such successful agent
543 shall also be indemnified against any loss of wages or personal
544 service earnings suffered during his or her defense, provided
545 that, by the vote of the hospital board acting through a quorum
546 consisting of members who are not parties to such action, suit,
547 or proceeding, it is determined that those losses were directly
548 attributable to the time involved in that defense. If, however,
549 a quorum of disinterested members cannot be convened, the
550 decision shall be made by independent legal counsel, who may be
551 the legal counsel for the hospital board or may be selected by
552 legal counsel for the hospital board.

553 (6) As used in this section, the term "agent of the
554 hospital board" means a hospital board member; hospital board
555 officer; committee member appointed by the hospital board; or
556 hospital board employee, including persons employed by the
557 hospital board to provide executive, physician, nursing, dental,
558 paramedical, technical, business, management, legal, and other

HB 1043

2011

559 supporting services for the hospital board, together with such
560 other approved agents of the hospital board as well as such
561 other legal entities or individuals as the hospital board may
562 determine by board resolution are carrying out the health care
563 purposes and mandates of the hospital board during the period
564 those entities or individuals are acting within the scope of the
565 authority and duties devolving upon them through an agreement
566 with or direct mandate from the hospital board, excluding
567 medical malpractice claims asserted individually against such
568 persons, but including a person serving at the direction of the
569 hospital board. All such agents of the hospital board, in order
570 to be entitled to indemnification for the liability arising out
571 of the act in question, shall have been acting within the scope
572 of their employment on hospital board-related business.

573 (7) Unless otherwise determined by a court as provided in
574 this section, any indemnification under this section shall be
575 made by the hospital board only as authorized in the specific
576 case upon a determination of a quorum of hospital board members
577 who are not parties to such action, suit, or proceeding or, if
578 that is not possible, by independent legal counsel, who may be
579 the legal counsel of the hospital board, that indemnification of
580 the agent of the hospital board is proper in the circumstances
581 because he or she has met the applicable standard of conduct set
582 forth in this section.

583 (8) Expenses (including attorney's fees) and lost wages or
584 earnings incurred in defending a civil or criminal action, suit,
585 or proceeding may be paid by the hospital board in advance of
586 the final disposition of such action, suit, or proceeding upon a

HB 1043

2011

587 preliminary determination following one of the procedures set
588 forth in this section that the agent of the hospital board met
589 the applicable standard of conduct set forth in the above
590 subsections, and upon receipt of an undertaking by or on behalf
591 of the agent of the hospital board to repay such amount unless
592 it is ultimately determined that he or she is entitled to be
593 indemnified by the hospital board as authorized in this section.

594 (9) Indemnification as provided in this section shall
595 continue as to a person who has ceased to be an agent of the
596 hospital board and shall inure to the benefit of the heirs,
597 executors, and administrators of such a person.

598 Section 17. To ensure public oversight, accountability,
599 and public benefit from the not-for-profit corporation to which
600 the hospital board has leased hospital facilities, and in
601 addition to the requirements for any such lease set forth in
602 section 155.40, Florida Statutes:

603 (1) All members of the hospital board and the board of the
604 not-for-profit corporation shall be residents of Citrus County.

605 (2) The not-for-profit corporation shall separately
606 account for the expenditure of all ad valorem tax moneys
607 provided to it by the Citrus County Hospital Board, including
608 maintaining them in a separate accounting fund. The expenditure
609 for all such public tax funds shall be approved in a public
610 meeting and separately accounted for annually by the not-for-
611 profit corporation in a report provided to the Citrus County
612 Hospital Board.

613 (3) The articles of incorporation, all amendments or
614 restatements of the articles of incorporation, all corporate

615 bylaws, all amendments or restatements of the corporate bylaws,
 616 and all other governing documents of the not-for-profit
 617 corporation shall be subject to the approval of the hospital
 618 board, and any such documents that have not heretofore been
 619 approved by the hospital board shall be submitted forthwith to
 620 the hospital board for approval.

621 (4) The hospital board shall be the sole member of the
 622 not-for-profit corporation.

623 (5) The hospital board shall independently approve any
 624 plan of merger or dissolution of the not-for-profit corporation
 625 pursuant to sections 617.1103 and 617.1402, Florida Statutes,
 626 and may reject any such plan in its sole discretion.

627 (6) The members of the hospital board shall be voting
 628 directors of the not-for-profit board of directors who
 629 constitute a majority of the voting directors of the not-for-
 630 profit corporation; and, to the extent that any governance
 631 documents of the not-for-profit corporation do not so presently
 632 provide, the not-for-profit corporation shall forthwith take all
 633 steps necessary to bring them into conformity with this majority
 634 membership requirement.

635 (7) All members of the not-for-profit board of directors
 636 shall be subject to approval by the hospital board, and any
 637 board members presently serving who have not heretofore been
 638 approved by the hospital board shall be submitted forthwith to
 639 the hospital board for approval.

640 (8) The chief executive officer of the not-for-profit
 641 corporation and his or her term of office and any extensions
 642 thereof shall be approved by the hospital board, and the

HB 1043

2011

643 hospital board may terminate the term of the chief executive
644 officer of the not-for-profit corporation with or without cause
645 in its sole discretion, subject to the terms of any and all
646 then-existing contracts.

647 (9) The hospital board shall approve all borrowing of
648 money by the not-for-profit corporation in any form and for any
649 reason in an amount exceeding \$100,000, any additional loan
650 indebtedness or leases in excess of \$1.25 million per instrument
651 or contract, and all policies of the not-for-profit corporation
652 that govern travel reimbursements and contract bid procedures.

653 (10) No annual operating and capital budget of the not-
654 for-profit corporation shall become effective until approved by
655 the hospital board.

656 (11) Any capital project of the not-for-profit corporation
657 having a value in excess of \$250,000 per project, and any
658 nonbudgeted operative expenditure in excess of \$125,000 in the
659 per annum aggregate, shall be approved by the hospital board.

660 (12) At the discretion of the hospital board, each and
661 every year the not-for-profit corporation shall complete an
662 independent audit of the fiscal management of the hospital by an
663 auditor chosen by the hospital board, with the audit to be paid
664 for by the not-for-profit corporation.

665 (13) All records of the not-for-profit corporation shall
666 be public records unless exempt by law; however, the hospital
667 board, pursuant to its oversight and auditing functions, must be
668 given full and complete access to all proprietary confidential
669 business information upon request and without subpoena and must
670 maintain the confidentiality of information so received. As used

671 in this subsection, the term "proprietary confidential business
 672 information" means information, regardless of its form or
 673 characteristics, that is owned or controlled by the not-for-
 674 profit corporation or its subsidiaries, including, but not
 675 limited to, all matters encompassed in privileged attorney-
 676 client communications and strategic planning.

677 (14) Subject to the annual approved budget, the hospital
 678 board shall reimburse the not-for-profit corporation for
 679 indigent care pursuant to the Florida Health Care Responsibility
 680 Act and the Florida Indigent Certification Standards.

681 (15) The provisions in this act and the hospital board's
 682 lease with the not-for-profit corporation shall be construed and
 683 interpreted as furthering the public health and welfare and the
 684 open government requirements of s. 24, Art. I of the State
 685 Constitution and sections 119.01 and 286.011, Florida Statutes.

686 (16) Any dispute between the hospital board and the not-
 687 for-profit corporation shall be subject to any court action
 688 pursuant to sections 164.101-164.1065, Florida Statutes, and the
 689 provisions of this act may be enforced by a court of competent
 690 jurisdiction in declaratory proceedings under chapter 86,
 691 Florida Statutes, by injunction, or by any other appropriate
 692 form of judicial relief.

693 (17) Failure of the not-for-profit corporation to comply
 694 with any or all of the oversight and accountability provisions
 695 in this section shall not constitute a breach or a termination
 696 of the lease agreement between the not-for-profit corporation
 697 and the hospital board but shall provide cause for the hospital
 698 board, in its discretion, to seek judicial relief in any form

HB 1043

2011

699 that is authorized by law and appropriate to rectify the
700 noncompliant act or omission.

701 Section 4. Section 17 of the Citrus County Hospital and
702 Medical Nursing and Convalescent Home Act applies to existing
703 and future leases and amendments, revisions, and restatements
704 thereto, and to existing and future agreements for hospital care
705 and amendments, revisions, and restatements thereto. However,
706 the Citrus County Hospital and Medical Nursing and Convalescent
707 Home Act does not apply to the term of any existing contract
708 entered into by the not-for-profit corporation with a third
709 party, to any existing contract for the borrowing of money in
710 excess of \$100,000, to any additional loan indebtedness or
711 leases in excess of \$1.25 million for which the hospital board
712 has not previously given its approval, or to any existing
713 contract for a capital project in excess of \$250,000 per
714 project, and any nonbudgeted operative expenditure in excess of
715 \$125,000 in the per annum aggregate, for which the hospital
716 board has not previously given its approval.

717 Section 5. Chapters 99-442 and 2001-308, Laws of Florida,
718 are repealed.

719 Section 6. If any provision of this act or its application
720 to any person or circumstance is held invalid or
721 unconstitutional by a court of competent jurisdiction, the
722 invalidity shall not affect other provisions or applications of
723 the act which can be given effect without the invalid provision
724 or application, and to this end the provisions of this act are
725 severable.

HB 1043

2011

726 Section 7. This act shall be construed as a remedial act
727 and shall be liberally construed to promote the purpose for
728 which it is intended.

729 Section 8. This act shall take effect July 1, 2011.