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CS/CS/HB 1043

2011 Legislature

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

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 excess of a specified amount, and the not-for-profit
30 corporation's policies for travel reimbursements and
31 contract bid procedures; providing that all records of the
32 not-for-profit corporation are public records unless
33 exempt; providing that any dispute between the hospital
34 board and the not-for-profit corporation is subject to
35 court action; providing for a future operational audit of
36 the hospital board; providing application; repealing
37 chapters 99-442 and 2001-308, Laws of Florida, relating to
38 the Citrus County Hospital Board; providing severability;
39 providing an effective date.

40
41 WHEREAS, the Citrus County Hospital Board was created by
42 the Legislature in 1949 as a special taxing district and a
43 public nonprofit corporation for the purpose of acquiring,
44 building, constructing, maintaining, and operating a public
45 hospital in Citrus County; and, in 1965, the Legislature
46 expanded the purpose of the hospital board to include operating
47 public hospitals, medical nursing homes, and convalescent homes
48 in Citrus County, and

49 WHEREAS, in 1987, the hospital board caused to be
50 incorporated a not-for-profit management corporation with the
51 original purpose of operating exclusively for the benefit of and
52 carrying out the purposes of the Citrus County Hospital Board
53 and, in 1990, entered into a long-term lease agreement with the
54 not-for-profit management corporation pursuant to section
55 155.40, Florida Statutes, leasing all public assets, operations,

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56 and management of Citrus Memorial Hospital to the not-for-profit
57 management corporation, and

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

61 WHEREAS, restoration of meaningful hospital board
62 representation on the board of the lessee corporation and
63 implementation of appropriate accountability and oversight by
64 the hospital board are necessitated in order to ensure the
65 sovereign immunity status of the not-for-profit corporation as
66 an instrumentality of the hospital district, and

67 WHEREAS, the ability of the hospital board to continue to
68 act in the public interest on behalf of the taxpayers of Citrus
69 County requires mechanisms to ensure adherence to the hospital
70 board's public responsibilities, and

71 WHEREAS, this act provides an appropriate and effective
72 means of addressing the lessee's performance of its
73 responsibilities to the public and to the taxpayers of Citrus
74 County, NOW, THEREFORE,

75

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

77

78 Section 1. This act constitutes the codification of all
79 special acts relating to the Citrus County Hospital Board. It is
80 the intent of the Legislature in enacting this law to provide a
81 single, comprehensive special act charter for the district,
82 including all current authority granted to the district by its

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83 several legislative enactments and any additional authority
84 granted by this act.

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

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

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

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

94 (1) "Citrus County Hospital Board," "hospital board," and
95 "board" means the Citrus County Hospital Board.

96 (2) "County" means Citrus County.

97 (3) "County hospital and medical nursing and convalescent
98 homes" includes hospitals, medical care facilities, clinics, and
99 other allied medical care units.

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

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

109 (6) "Property" means real and personal property of every
110 nature whatsoever.

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111 (7) "State" means the State of Florida.
112 Section 3. (1) There is hereby created the Citrus County
113 Hospital Board, an independent special district, and by that
114 name the board may sue and be sued, plead and be impleaded,
115 contract and be contracted with, acquire and dispose of property
116 or any interest therein, and have an official seal. The board is
117 created as a public nonprofit corporation without stock and is
118 composed of and governed by the five members herein provided
119 for, to be known as trustees. The hospital board is hereby
120 constituted and declared to be an agency of the county and
121 incorporated for the purpose of operating hospitals, medical
122 nursing homes, and convalescent homes in the county. The
123 hospital board shall consist of five trustees appointed by the
124 Governor, and, upon this act becoming a law, the present members
125 will automatically become trustees and shall constitute the
126 board. Their respective terms of office shall be the term each
127 member is presently serving. All subsequent appointments, upon
128 the expiration of the present terms, shall be for terms of 4
129 years each. Upon the expiration of the term of each trustee, the
130 successor shall be appointed by the Governor. Likewise, any
131 vacancy occurring shall be filled by appointment by the Governor
132 for the unexpired term. Each appointment by the Governor is
133 subject to approval and confirmation by the Senate.
134 (2) The trustees of the board shall elect from among its
135 members a chair, a vice chair, and a secretary-treasurer, who
136 shall each hold office for a period of 1 year. Each trustee
137 shall execute a bond in the penal sum of \$5,000 with a good and
138 sufficient surety of a surety company authorized under the laws

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139 of the state to become surety, payable to the Citrus County
 140 Hospital Board, conditioned upon the faithful performance of the
 141 duties of the trustee, which bonds shall be approved by the
 142 remaining trustees of the board and shall be filed with the
 143 Board of County Commissioners of Citrus County. The premiums on
 144 such bonds shall be paid by the hospital board.

145 (3) The hospital board shall comply with the applicable
 146 requirements of chapter 280, Florida Statutes, and part IV of
 147 chapter 218, Florida Statutes.

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

154 Section 4. The trustees of the board shall receive no
 155 compensation for their services. Three trustees shall constitute
 156 a quorum of the hospital board for the purpose of conducting its
 157 business and exercising its powers and for all other purposes.
 158 Action may be taken by the board only upon a vote in the
 159 affirmative of three trustees thereof.

160 Section 5. The Citrus County Hospital Board as hereby
 161 created shall be for the purpose of operating, in Citrus County,
 162 public hospitals, medical nursing homes, and convalescent homes,
 163 primarily and chiefly for the benefit of the citizens and
 164 residents of Citrus County. Authority is hereby given to the
 165 board to build, erect, expand, equip, maintain, operate, alter,
 166 change, lease pursuant to and consistent with the provisions of

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167 this act, and repair public hospitals, medical nursing homes,
 168 and convalescent homes in Citrus County. The corporation is
 169 authorized, when rooms and services are available, without
 170 detriment or deprivation to the citizens and residents of Citrus
 171 County, to extend the hospitalization and medical nursing home
 172 and convalescent home services provided by such hospitals,
 173 medical nursing homes, and convalescent homes to patients from
 174 adjoining and other counties of Florida and from other states,
 175 upon the payment of the cost of such hospitalization, medical
 176 nursing home services, and convalescent home services as may be
 177 determined by the trustees of the hospital board. The board
 178 shall have the power and authority to operate an ambulance
 179 system and ambulance services and to charge all patients for all
 180 services rendered in any facility owned or operated by the
 181 hospital board, including the ambulance facility. The board may
 182 charge a patient interest on the patient's account; sell,
 183 discount, or assign such account to a bank, finance company,
 184 collection agency, or other type of collection facility; accept
 185 promissory notes or other types of debt obligations from a
 186 patient; assign or discount such accounts receivable, notes, or
 187 other obligations; require a patient to guarantee the payment of
 188 an existing account or note; require a guarantee of payment
 189 before admitting a patient; and receive and assign any
 190 assignment of all types of insurance proceeds. In addition to
 191 all other powers, the board shall have the power and authority
 192 to:

193 (1) Provide for the payment of indigent care services by
 194 private health care providers in the county, or to partner with

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195 other entities such as the Department of Health, in furtherance
 196 of the hospital board's public purpose and the necessity for the
 197 preservation of the public health and welfare of the residents
 198 of the county by the hospital board.

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

200 Section 6. The board of county commissioners shall levy or
 201 cause to be levied each year beginning July 1, 1965, the millage
 202 certified to the board of county commissioners by the trustees
 203 of the board upon all taxable real and personal property in
 204 Citrus County, not including, however, homestead property that
 205 is exempt from general taxation by the Constitution of the State
 206 of Florida, for the purpose of erecting, building, equipping,
 207 maintaining, changing, altering, repairing, leasing, and
 208 operating the public hospital provided for in this act. Such tax
 209 shall be known as the hospital tax, and the property appraiser
 210 shall make such assessments and the tax collector shall collect
 211 such assessments when made. The money collected shall be paid
 212 monthly to the board. However, the annual tax levied under this
 213 section may not exceed 3 mills.

214 Section 7. The hospital board is hereby authorized and
 215 empowered to own and acquire property by purchase, lease, gift,
 216 grant, or transfer from the county, the state, or the Federal
 217 Government, or any subdivision or agency thereof, or from any
 218 municipality, person, partnership, or corporation and to
 219 acquire, construct, maintain, operate, expand, alter, repair,
 220 change, lease, finance, and equip hospitals, medical nursing
 221 homes, convalescent homes, medical care facilities, and clinics
 222 in the county.

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223 Section 8. The hospital board is authorized and empowered
224 to enter into contracts with individuals, partnerships,
225 corporations, municipalities, the county, the state or any
226 subdivision or agency thereof, or the United States of America
227 or any subdivision or agency thereof to carry out the purposes
228 of this act.

229 Section 9. The hospital board is empowered to and shall
230 adopt all necessary rules, regulations, and bylaws for the
231 operation of hospitals, medical nursing homes, and convalescent
232 homes; provide for the admission thereto and treatment of such
233 charity patients who are citizens of the state and residents of
234 the county for the preceding 2 years; set the fees and charges
235 to be made for the admission and treatment therein of all
236 patients; and establish the qualifications for members of the
237 medical profession to be entitled to practice therein.

238 Section 10. The hospital board shall have the power to
239 purchase any and all equipment that may be needed for the
240 operation of hospitals, medical nursing homes, and convalescent
241 homes and shall have the power to appoint and hire such agent or
242 agents, technical experts, attorneys, and all other employees as
243 are necessary for carrying out the purposes of this act,
244 regardless of any lease to a not-for-profit corporation,
245 including the hiring and maintenance of staff personnel as it
246 may deem appropriate to assist the board in the discharge of its
247 operational, financial, and statutory responsibilities, and in
248 carrying out its fiduciary duties to the taxpayers of Citrus
249 County, and to prescribe their salaries and duties. The board
250 shall have the power to discharge all employees or agents when

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251 deemed necessary by the board for the carrying out of the
252 purposes of this act.

253 Section 11. At the end of each fiscal year, the Citrus
254 County Hospital Board shall within 30 days file with the Clerk
255 of the Circuit Court of Citrus County a full, complete, and
256 detailed accounting of the preceding year and at the same time
257 shall file a certified copy of such financial report with the
258 Board of County Commissioners of Citrus County, which report
259 shall be recorded in the minutes of the board of county
260 commissioners. The board of county commissioners, at its
261 discretion and at the expense of the county, may publish and
262 report an accounting in a newspaper of general circulation in
263 Citrus County.

264 Section 12. In addition to all other implied and express
265 powers contained in this act, the board shall have the express
266 authority to negotiate loans to borrow money from any state or
267 federal agency for the purpose or purposes of constructing,
268 maintaining, repairing, altering, expanding, equipping, leasing,
269 and operating county hospitals, medical nursing homes,
270 convalescent homes, medical care facilities, clinics, and all
271 other types of allied medical care units.

272 Section 13. (1) In addition to all other implied and
273 express powers contained in this act, the board shall have the
274 express authority to borrow money, with or without issuing notes
275 therefor, for the purpose or purposes of constructing,
276 maintaining, repairing, altering, expanding, equipping, leasing,
277 and operating county hospitals, medical nursing homes,
278 convalescent homes, medical care facilities, clinics, and all

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279 other types of allied medical care units. The board's authority
 280 to borrow money, with or without issuing notes, shall be subject
 281 to the conditions of this act applying to the board's right to
 282 issue revenue bonds.

283 (2) The board shall have express authority to issue bonds,
 284 subject to approval at a referendum of the voters of the county,
 285 and to issue revenue bonds, without a referendum of the voters
 286 of the county, the proceeds of which shall be used for erecting,
 287 equipping, building, expanding, altering, changing, maintaining,
 288 operating, leasing, and repairing such hospitals, medical
 289 nursing homes, and convalescent homes. Such bonds, federal or
 290 state hospital loans, notes, or revenue bonds shall mature
 291 within 30 years after the year in which they are issued or made
 292 and shall be payable in such years and amounts as shall be
 293 approved by the board.

294 (3) The board shall determine the form of the loans,
 295 notes, bonds, and revenue bonds, including any interest coupons
 296 to be attached thereto, and the manner of executing them, and
 297 shall fix the denomination or denominations thereof and the
 298 place or places of payment of principal and interest, which may
 299 be at any bank or trust company within or without the state. In
 300 case a trustee whose signature or a facsimile of whose signature
 301 appears on any loan, note, bond, or revenue certificate or
 302 coupon ceases to be such trustee before the delivery thereof,
 303 such signature or facsimile shall nevertheless be valid and
 304 sufficient for all purposes the same as if the trustee had
 305 remained in office until such delivery. All loan agreements,
 306 notes, bonds, and revenue bonds issued hereunder shall have and

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307 are hereby declared to have all the qualities and incidents of
308 negotiable instruments under the negotiable instruments law of
309 the state.

310 (4) Whenever the board passes a resolution approving the
311 issuance of such bonds, the board shall call for an election
312 and, subject to such election, permit the repayment of the bonds
313 out of an annual levy not to exceed 1.5 mills per year. Such
314 millage is included in the maximum millage of 3 mills per year.
315 Subject to such limitations, such bonds shall be payable from
316 the full faith and credit of the board.

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

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

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

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

331 Section 15. (1) The Citrus County Hospital Board shall
332 have the authority to enter into leases or contracts with a not-
333 for-profit Florida corporation for the purpose of operating and

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334 managing the hospital and any or all of its facilities of any
335 kind and nature.

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

338 (a) Provide health care services to residents of the
339 county through the use of health care facilities not owned and
340 operated by the hospital board. The provision of such care is
341 hereby found and declared to be a public purpose and necessary
342 for the preservation of the public health and welfare of the
343 residents of the county.

344 (b) Maintain an office.

345 (c) Provide for reimbursement to hospitals, physicians, or
346 other health care providers or facilities, whether public or
347 private, and pay private physicians for indigent care.

348 (3) The hospital board is hereby restricted from
349 reimbursing any health care providers or facilities, including
350 hospitals and physicians, for their bad debts arising from those
351 patients who are not eligible for reimbursement under hospital
352 board guidelines. The hospital board, however, shall continue to
353 reimburse such health care providers for the medical care of
354 medically needy patients, to the extent of the hospital board's
355 financial resources, taking into account funds available from
356 other sources, including other governmental funding sources.

357 Section 16. To ensure public oversight, accountability,
358 and public benefit, in addition to the requirements for any such
359 lease set forth in section 155.40, Florida Statutes:

360 (1) The not-for-profit corporation shall separately
361 account for the expenditure of all ad valorem tax moneys

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362 provided to it by the Citrus County Hospital Board, including
 363 maintaining them in a separate accounting fund. The expenditure
 364 for all such public tax funds shall be approved in a public
 365 meeting and separately accounted for annually by the not-for-
 366 profit corporation in a report provided to the Citrus County
 367 Hospital Board.

368 (2) The articles of incorporation, all amendments or
 369 restatements of the articles of incorporation, all corporate
 370 bylaws, all amendments or restatements of the corporate bylaws,
 371 and all other governing documents of the not-for-profit
 372 corporation shall be subject to the approval of the hospital
 373 board, and any such documents that have not heretofore been
 374 approved by the hospital board shall be submitted forthwith to
 375 the hospital board for approval.

376 (3) The hospital board shall be the sole member of the
 377 not-for-profit corporation.

378 (4) The hospital board shall independently approve any
 379 plan of merger or dissolution of the not-for-profit corporation
 380 pursuant to sections 617.1103 and 617.1402, Florida Statutes,
 381 and may reject any such plan in its sole discretion.

382 (5) The members of the hospital board shall be voting
 383 directors of the not-for-profit board of directors who
 384 constitute a majority of the voting directors of the not-for-
 385 profit corporation; and, to the extent that any governance
 386 documents of the not-for-profit corporation do not so presently
 387 provide, the not-for-profit corporation shall forthwith take all
 388 steps necessary to bring them into conformity with this majority
 389 membership requirement.

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390 (6) All members of the not-for-profit board of directors
 391 shall be subject to approval by the hospital board, and any
 392 board members presently serving who have not heretofore been
 393 approved by the hospital board shall be submitted forthwith to
 394 the hospital board for approval.

395 (7) The chief executive officer of the not-for-profit
 396 corporation and his or her term of office and any extensions
 397 thereof shall be approved by the hospital board, and the
 398 hospital board may terminate the term of the chief executive
 399 officer of the not-for-profit corporation with or without cause
 400 in its sole discretion, subject to the terms of any and all
 401 then-existing contracts.

402 (8) The hospital board shall approve all borrowing of
 403 money by the not-for-profit corporation in any form and for any
 404 reason in an amount exceeding \$100,000, any additional loan
 405 indebtedness or leases in excess of \$1.25 million per instrument
 406 or contract, and all policies of the not-for-profit corporation
 407 that govern travel reimbursements and contract bid procedures.

408 (9) No annual operating and capital budget of the not-for-
 409 profit corporation shall become effective until approved by the
 410 hospital board.

411 (10) Any capital project of the not-for-profit corporation
 412 having a value in excess of \$250,000 per project, and any
 413 nonbudgeted operative expenditure in excess of \$125,000 in the
 414 per annum aggregate, shall be approved by the hospital board.

415 (11) 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

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418 auditor chosen by the hospital board, with the audit to be paid
419 for by the not-for-profit corporation.

420 (12) All records of the not-for-profit corporation shall
421 be public records unless exempt by law.

422 (13) Subject to the annual approved budget, the hospital
423 board shall reimburse the not-for-profit corporation for
424 indigent care pursuant to the Florida Health Care Responsibility
425 Act and the Florida Indigent Certification Standards and shall
426 take into account funds available from other sources, including
427 other governmental funding sources.

428 (14) The provisions in this act and the hospital board's
429 lease with the not-for-profit corporation shall be construed and
430 interpreted as furthering the public health and welfare and the
431 open government requirements of s. 24, Art. I of the State
432 Constitution and sections 119.01 and 286.011, Florida Statutes.

433 (15) Any dispute between the hospital board and the not-
434 for-profit corporation shall be subject to any court action
435 pursuant to sections 164.101-164.1065, Florida Statutes.

436 Section 4. Three years after the effective date of this
437 act, the Citrus County Hospital Board shall submit a request to
438 the Joint Legislative Auditing Committee for an operational
439 audit of the hospital board and the not-for-profit corporation
440 to be conducted by the Auditor General. The board should include
441 specific areas to be addressed in the audit, including, but not
442 limited to, review of internal controls over financial related
443 operations.

444 Section 5. This act shall apply to existing and future
445 leases and amendments, revisions, and restatements thereto, and

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446 to existing and future agreements for hospital care and
447 amendments, revisions, and restatements thereto. However, this
448 act does not apply to the term of any existing contract entered
449 into by the not-for-profit corporation with a third party, to
450 any existing contract for the borrowing of money in excess of
451 \$100,000, to any additional loan indebtedness or leases in
452 excess of \$1.25 million for which the hospital board has not
453 previously given its approval, or to any existing contract for a
454 capital project in excess of \$250,000 per project, and any
455 nonbudgeted operative expenditure in excess of \$125,000 in the
456 per annum aggregate, for which the hospital board has not
457 previously given its approval.

458 Section 6. Chapters 99-442 and 2001-308, Laws of Florida,
459 are repealed.

460 Section 7. If any provision of this act or its application
461 to any person or circumstance is held invalid or
462 unconstitutional by a court of competent jurisdiction, the
463 invalidity shall not affect other provisions or applications of
464 the act which can be given effect without the invalid provision
465 or application, and to this end the provisions of this act are
466 severable.

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