

1 HB111
2 116078-4
3 By Representative Johnson (R)
4 RFD: Health
5 First Read: 01-MAR-11

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8 SYNOPSIS: This bill would abolish the State Health
9 Planning and Development Board and provide for the
10 appointment of a new board. The bill would also
11 authorize members to be terminated for cause as
12 established by rule of the board.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To amend Section 22-21-260 of the Code of Alabama
19 1975, relating to the State Health Planning and Development
20 Board, to abolish the existing board and to provide for the
21 appointment of a new board; and to provide for the termination
22 of members under certain conditions.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 22-21-260 of the Code of Alabama
25 1975, is amended to read as follows:

26 "§22-21-260.

1 "As used in this article, the following words and
2 terms, and the plurals thereof, shall have the meanings
3 ascribed to them in this section, unless otherwise required by
4 their respective context:

5 "(1) ACQUISITION. Obtaining the legal equitable
6 title to a freehold or leasehold estate or otherwise obtaining
7 the substantial benefit of such titles or estates, whether by
8 purchase, lease, loan or suffrage, gift, devise, legacy,
9 settlement of a trust or means whatever, and shall include any
10 act of acquisition. The term "acquisition" shall not mean or
11 include any conveyance, or creation of any lien or security
12 interest by mortgage, deed of trust, security agreement, or
13 similar financing instrument, nor shall it mean or include any
14 transfer of title or rights as a result of the foreclosure, or
15 conveyance or transfer in lieu of the foreclosure, of any such
16 mortgage, deed of trust, security agreement, or similar
17 financing instrument, nor shall it mean or include any gift,
18 devise, legacy, settlement of trust, or other transfer of the
19 legal or equitable title of an interest specified hereinabove
20 by a natural person to any member of such person's immediate
21 family. For the purposes of this section "immediate family"
22 shall mean the spouse of the grantor or transferor and any
23 other person related to the grantor or transferor to the
24 fourth degree of kindred as such degrees are computed
25 according to law.

26 "(2) APPLICANT. Any person, as defined in this
27 section, who files an application for a certificate of need.

1 "(2.1) CAMPUS. The contiguous real property,
2 contained within a single county, which is owned or leased by
3 a health care facility and upon which is located the buildings
4 and any other real property used by the health care facility
5 to provide existing institutional health services which are
6 subject to review.

7 "(3) CAPITAL EXPENDITURE. An expenditure, including
8 a force account expenditure (i.e., an expenditure for a
9 construction project undertaken by the health care facility as
10 its own contractor), which, under generally accepted
11 accounting principles, is not properly chargeable as an
12 expense of operation and maintenance and which satisfies any
13 of the following:

14 "a. Exceeds two million dollars (\$2,000,000) indexed
15 annually for inflation for major medical equipment; eight
16 hundred thousand dollars (\$800,000) for new annual operating
17 costs indexed annually for inflation; four million dollars
18 (\$4,000,000) indexed annually for inflation for any other
19 capital expenditure. The index referenced in this paragraph
20 shall be the Consumer Price Index Market Basket Professional
21 Medical Services index as published by the U.S. Department of
22 Labor, Bureau of Labor Statistics. The SHPDA shall publish
23 this index information to the general public.

24 "b. Changes the bed capacity of the facility with
25 respect to which such expenditure is made.

26 "c. Substantially changes the health services of the
27 facility with respect to which such expenditure is made.

1 "(4) CONSTRUCTION. Actual commencement, with bona
2 fide intention of completing the construction, or completion
3 of the construction, erection, remodeling, relocation,
4 excavation, or fabrication of any real property constituting a
5 facility under this article, and the term construct shall mean
6 and include any act of construction. "Ground breaking
7 ceremony," "receipt of bids," "receipt of quotation," or
8 similar action that will permit unilateral termination without
9 penalty shall not be considered construction.

10 "(5) FIRM COMMITMENT or OBLIGATION. Any of the
11 following:

12 "a. Any executed, enforceable, unconditional written
13 agreement or contract not subject to unilateral cancellation
14 for the acquisition or construction of a health care facility
15 or purchase of equipment therefor.

16 "b. Actual construction of facilities peculiarly
17 adapted to the furnishing of one or more particular services
18 and with the bona fide intention of furnishing such service or
19 services.

20 "c. Any executed, unconditional written agreement
21 not subject to unilateral cancellation for the bona fide
22 purpose of furnishing one or more services.

23 "(6) HEALTH CARE FACILITY. General and specialized
24 hospitals, including tuberculosis, psychiatric, long-term
25 care, and other types of hospitals, and related facilities
26 such as, laboratories, out-patient clinics, and central
27 service facilities operated in connection with hospitals;

1 skilled nursing facilities; intermediate care facilities;
2 skilled or intermediate care units operated in veterans'
3 nursing homes and veterans' homes, owned or operated by the
4 State Department of Veterans' Affairs, as these terms are
5 described in Chapter 5A (commencing with Section 31-5A-1) of
6 Title 31, rehabilitation centers; public health centers;
7 facilities for surgical treatment of patients not requiring
8 hospitalization; kidney disease treatment centers, including
9 free-standing hemodialysis units; community mental health
10 centers and related facilities; alcohol and drug abuse
11 facilities; facilities for the developmentally disabled;
12 hospice service providers; and home health agencies and health
13 maintenance organizations. The term health care facility shall
14 not include the offices of private physicians or dentists,
15 whether for individual or group practices and regardless of
16 ownership, or Christian Science sanatoriums operated or listed
17 and certified by the First Church of Christ, Scientist,
18 Boston, Massachusetts, or a veterans' nursing home or
19 veterans' home owned or operated by the State Department of
20 Veterans' Affairs, not to exceed 150 beds to be built in Bay
21 Minette, Alabama, and a veterans' nursing home or veterans'
22 home owned or operated by the State Department of Veterans'
23 Affairs not to exceed 150 beds to be built in Huntsville,
24 Alabama, for which applications for federal funds under
25 federal law are being considered by the U.S. Department of
26 Veterans' Affairs prior to March 18, 1993.

1 "(7) HEALTH SERVICE AREA. A geographical area
2 designated by the Governor, as being appropriate for effective
3 planning and development of health services.

4 "(8) HEALTH SERVICES. Clinically related (i.e.,
5 diagnostic, curative, or rehabilitative) services, including
6 alcohol, drug abuse, and mental health services customarily
7 furnished on either an in-patient or out-patient basis by
8 health care facilities, but not including the lawful practice
9 of any profession or vocation conducted independently of a
10 health care facility and in accordance with applicable
11 licensing laws of this state.

12 "(9) INSTITUTIONAL HEALTH SERVICES. Health services
13 provided in or through health care facilities or health
14 maintenance organizations, including the entities in or
15 through which such services are provided.

16 "(9.1) MAJOR MEDICAL EQUIPMENT. Medical clinical
17 equipment intended for use in the diagnosis or treatment of
18 medical conditions, which is used to provide institutional
19 health services of a health care facility which are subject to
20 review, and which expenditure exceeds the thresholds
21 referenced in this section and in Section 22-21-263.

22 "(10) MODERNIZATION. The alteration, repair,
23 remodeling, and renovation of existing buildings, including
24 equipment within the existing buildings. Modernization does
25 not include the replacement of existing buildings which are
26 used by a health care facility to provide institutional health

1 services which are subject to review and does not include the
2 replacement of major medical equipment.

3 "(11) PERSON. Any person, firm, partnership,
4 association, joint venture, or corporation, the State of
5 Alabama and its political subdivisions or parts thereof, and
6 any agencies or instrumentalities and any combination of
7 persons herein specified, but person shall not include the
8 United States or any agency or instrumentality thereof, except
9 in the case of voluntary submission to the regulations
10 established by this article.

11 "(12) RURAL HEALTH CARE PROVIDER/APPLICANT/HOSPITAL.
12 A provider or applicant or hospital which is designated by the
13 United States government Health Care Financing Administration
14 as rural.

15 "(13) STATE HEALTH PLAN. A comprehensive plan which
16 is prepared triennially and reviewed at least annually and
17 revised as necessary by the Statewide Health Coordinating
18 Council, with the assistance of the State Health Planning and
19 Development Agency, and approved by the Governor.

20 "The Statewide Health Coordinating Council shall
21 meet at least annually to determine whether revisions for the
22 State Health Plan are necessary. If the Statewide Health
23 Coordinating Council fails to meet and to review or revise the
24 State Health Plan on an annual basis, there shall be no fees
25 required on all certificate of need applications filed with
26 the Certificate of Need Review Board until the Statewide
27 Health Coordinating Council meets and reviews or revises the

1 State Health Plan. For purposes of this paragraph, the annual
2 meeting of the Statewide Health Coordinating Council shall
3 occur on or before August 1 of each calendar year.

4 "The State Health Plan shall provide for the
5 development of health programs and resources to assure that
6 quality health services will be available and accessible in a
7 manner which assures continuity of care, at reasonable costs,
8 for all residents of the state. Nothing in this section should
9 be construed as permitting expenditures for facilities,
10 services, or equipment which are inconsistent with the State
11 Health Plan.

12 "(14) STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
13 (SHPDA). An agency of the State of Alabama ~~which~~ to be known
14 as the State Health Planning and Development Agency (SHPDA) is
15 designated by the Governor as the sole State Health Planning
16 and Development Agency. The SHPDA shall be governed by the
17 board, which shall consist of three consumers, three
18 providers, and three representatives of the Governor who all
19 shall serve four-year staggered terms and all be appointed by
20 the Governor. Immediately after the effective date of the act
21 adding this language, the existing board shall be abolished
22 and the Governor shall appoint new members to the board. The
23 Governor may appoint the current members to new terms under
24 this subdivision. One of the consumers shall serve for a term
25 of two years, one shall serve a term of three years, and one
26 shall serve a term of four years. One of the provider members
27 shall serve for a term of two years, one shall serve a term of

1 three years, and one shall serve a term of four years. One of
2 the representatives of the Governor shall serve a term of two
3 years, one shall serve a term of three years, and one shall
4 serve a term of four years. Thereafter, all terms shall be for
5 four years. Members of the board may only serve two
6 consecutive terms. All board members shall be residents of
7 Alabama and the composition of the board shall reflect the
8 racial, gender, geographic, urban/rural, and economic
9 diversity of the state. Vacancies shall be filled with a
10 member from the same group as the member whose position became
11 vacant by appointment by the Governor to fill the unexpired
12 term. Board membership may only be terminated by death,
13 resignation, or for cause. The definition of cause as provided
14 herein shall be defined by rules adopted by the board pursuant
15 to the Alabama Administrative Procedure Act. Where used in
16 this article, the terms, "state agency," and the "SHPDA,"
17 shall be synonymous and may be used interchangeably.

18 "(15) STATEWIDE HEALTH COORDINATING COUNCIL. A
19 council, appointed by the Governor, established pursuant to
20 Sections 22-4-7 and 22-4-8 to advise the State Health Planning
21 and Development Agency on matters relating to health planning
22 and resource development and to perform other functions as may
23 be delegated to it, to include an annual review of the State
24 Health Plan.

25 "(16) TO OFFER. When used in connection with health
26 services, a health care facility or health maintenance
27 organization that holds itself out as capable of providing, or

1 as having the means for the provision of, specified health
2 services."

3 Section 2. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.