

30:9-12.32 - 30:9-12.34

LEGISLATIVE HISTORY CHECKLIST

NJSA 30:9-12.32 - 30:9-12.34; 30:9-14 ("Public General Hospital Act"-amendments)

LAWS 1981 CHAPTER 26

Bill No. A2239

Sponsor(s) Jackman and others

Date Introduced Nov. 10, 1980

Committee: Assembly -----

Senate -----

Amended during passage Yes

~~xxx~~ Amendments denoted by asterisks

according to Governor's recommendations

Date of Passage: Assembly Dec. 8, 1980

Re-enacted 2-2-81

Senate Dec. 11, 1980

Re-enacted 2-2-81

Date of approval Feb. 9, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~ (Below)

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto Message Yes ~~No~~

Message on signing Yes ~~No~~

Following were printed:

Reports Yes No

Hearings Yes No

Sponsors' statement:

This bill permits the Commissioner of Health to provide assistance to financially distressed public general hospitals and for the Governor to reconstitute their boards of managers.

6/22/81

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2-9-81
[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 2239

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 10, 1980

By Assemblymen JACKMAN, T. GALLO, DORIA, MAYS, COWAN
and ADUBATO

(Without Reference)

AN ACT concerning public general hospitals, amending P. L. 1977, c.
289 and R. S. 30:9-14 and making an appropriation therefor.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. Section 4 of P. L. 1977, c. 289 (C. 30:9-12.32) is amended to
2 read as follows:

3 4. From time to time, as determined by the commissioner, but
4 not less than quarterly, each hospital seeking assistance under
5 this act shall submit to the commissioner the following informa-
6 tion:

7 a. The total number of patient-days of in-patient service pro-
8 vided by the hospital to all patients;

9 b. The number of patient-days of in-patient service provided by
10 the hospital to nonthird party patients;

11 c. Such information as the commissioner may require in order
12 to determine that health care and services provided by the hospital
13 to nonthird party patients are reasonable and necessary;

14 d. Such information as the commissioner may require in order
15 to determine that the hospital is making its best efforts to collect
16 accounts receivable from nonthird party patients, who are not
17 medically indigent as defined by the commissioner;

18 e. Such information as the commissioner may require in order
19 to determine that charges imposed upon nonthird party patients
20 by the hospital do not exceed the reasonable cost of health care
21 services provided; and

22 f. Such information as the commissioner may require in order
23 to determine that charges imposed upon nonthird party patients
24 are proportional to such patients' ability to pay.

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

25 *g. Such information as the commissioner may require in order*
 26 *to determine whether the current liabilities of the hospital exceed*
 27 *its cash balance in such manner or proportion as to render the*
 28 *hospital financially distressed.*

1 2. Section 5 of P. L. 1977, c. 289 (C. 30:9-12.33) is amended to
 2 read as follows:

3 5. a. The commissioner shall determine whether:

4 (1) The calculation by the hospital of total patient-days and
 5 nonthird party patient-days is accurate;

6 (2) The medical and hospital care and services provided non-
 7 third party patients are reasonable and necessary;

8 (3) The hospital is making its best efforts to collect accounts
 9 receivable from nonthird party patients who are not medically
 10 indigent as defined by the commissioner;

11 (4) The charges imposed upon nonthird party patients by the
 12 hospital do not exceed the reasonable cost of health care services
 13 provided; and

14 (5) The charges imposed upon nonthird party patients are pro-
 15 portional to such patients' ability to pay;

16 (6) *The current liabilities of the hospital exceed its cash balance*
 17 *in such manner or proportion as to render the hospital financially*
 18 *distressed.*

19 b. Upon determination that all of the conditions in subsection a.
 20 (1-5) have been satisfied, the commissioner is authorized to enter
 21 into contracts with public general hospitals, together with the
 22 municipality or county by which the hospital is maintained or
 23 operated, according to the following schedule:

24 (1) Where the number of nonthird party patient days is less
 25 than 10% of the total number of patient days actually provided
 26 by the hospital, no payment shall be made; and

27 (2) Where the number of nonthird party patient days exceeds
 28 10% of the total number of patient days actually provided by the
 29 hospital, payment shall be made under one of the following
 30 formulas:

31 (a) Where the Medicaid reimbursement for the hospital is
 32 based on a per diem rate system, payment shall be made at
 33 the rate of 100% of the final current Medicaid per diem rate
 34 for all nonthird party patient days in excess of 3% of such
 35 total.

36 (b) Where the Medicaid reimbursement for the hospital is
 37 based on a system other than a per diem rate, payment shall
 38 be made at the rate of 100% of the total costs of services
 39 rendered, calculated at the Medicaid rate, to nonthird party

40 patients, multiplied by the ratio of the percentage of non-
 41 third party patient days, of the total number of actual patient
 42 days, minus 3% to the percentage of nonthird party patient
 43 days, of the total number of patient days.

44 *c. Upon the commissioner's determination that a hospital,*
 45 *which has received assistance pursuant to the "Public General*
 46 *Hospital Assistance Act," P. L. 1977, c. 289, (C. 30:9-12.29 et*
 47 *seq.) meets the condition described in subsection a. (6) of this*
 48 *section, the commissioner is authorized to enter into contracts*
 49 *with such public general hospital, together with the municipality*
 50 *or county by which the hospital is maintained or operated, for*
 51 *assistance in an amount consistent with a formula developed by*
 52 *the commissioner based on the hospital's financial needs, available*
 53 *assets and potential operating deficiencies, but not ***[in excess***
 54 *of]* **less than* the amounts appropriated pursuant to this act*
 55 **for the benefit of such hospital during fiscal year 1979*. Such*
 56 *assistance shall be conditioned on ***[the appropriation by the local***
 57 *governing bodies for the management and operation of the hos-*
 58 *pital of an amount not less than 50% of the amount of assistance*
 59 *provided under this act but in no case less than the amount ap-*
 60 *propriated by the local governing bodies for the management and*
 60A *operation of the hospital during their fiscal year 1980]* **receipt*
 60B *from the county of not less than \$1.1 million and from the*
 60C *municipality of not less than \$2 million for the management and*
 60D *operation of the hospital for each fiscal year after their fiscal*
 60E *year 1980*.*

61 **[c.]** *d.* Such contracts shall provide that:

62 (i) The hospital receiving assistance agrees to an annual audit
 63 of all expenditures by the hospital, according to procedures es-
 64 tablished by the commissioner in consultation with the State
 65 Treasurer;

66 (ii) The hospital receiving assistance agrees to cooperate fully
 67 in any review by the commissioner or his designee of operating
 68 procedures on management.

69 **[d]** *e.* Such contracts may provide that:

70 (i) Certain services provided by the hospital be maintained,
 71 increased, modified, or continued; provided, however, that no ad-
 72 ditions or modifications may be imposed if the effect of such
 73 additions or modifications would be to increase the total cost of
 74 uncompensated services provided by the hospital;

75 (ii) Specific changes in management or operating procedures,
 76 which the commissioner has determined will improve efficiency,
 77 be implemented; and

78 (iii) The municipality or county by which the hospital is main-
 79 tained issue or cause to be issued bonds in order to provide capital
 80 improvements to increase operating efficiency. No such provis-
 81 ions, however, shall be construed to require such an issue unless
 82 such an issue is authorized by law.

83 [e] f. The commissioner shall promptly negotiate all necessary
 84 contracts in order that the purposes of this act may be fulfilled
 85 to provide assistance to qualifying public general hospitals.

1 3. Section 6 of P. L. 1977, c. 289 (C. 30:9-12.34) is amended to
 2 read as follows:

3 6. a. Notwithstanding the provisions of P. L. 1947, c. 34, s. 2
 4 (C. 30:9-12.2) and R. S. 30:9-14, the Governor shall appoint two
 5 individuals to serve as representatives of this State on the board
 6 of managers of any institution receiving funds pursuant to the
 7 provisions of this act, and the appointing authority pursuant to
 8 the provisions of said P. L. 1947, c. 34, s. 2 (C. 30:9-12.2) and of
 9 R. S. 30:9-14 shall appoint two members to serve as representa-
 10 tives of the municipality or the county on the board of managers of
 11 such an institution. Such four additional members shall be in addi-
 12 tion to and shall have the same powers and duties as the seven mem-
 13 bers appointed pursuant to P. L. 1947, c. 34, s. 2 and the 12 mem-
 14 bers appointed pursuant to R. S. 30:9-14, and shall serve during
 15 each State fiscal year in which funds are appropriated pursuant to
 16 this act and during the fiscal year next following such appropria-
 17 tion.

18 b. *When the commissioner makes a determination pursuant to*
 19 *subsection a.(6) of section 5 of this act, the Governor may, acting*
 20 *on behalf of the public and in order to carry out the express public*
 21 *purposes of the institution, reconstitute the existing board of*
 22 *managers and appoint all members and fix their compensation. The*
 23 *State shall not be responsible for any debts of such hospital, not-*
 24 *withstanding the reconstitution of the board of managers.*

1 4. R. S. 30:9-14 is amended to read as follows:

2 30:9-14. a. The governing body of any municipality establishing
 3 and maintaini nga hospital or hospitals under authority of section
 4 30:9-13 of this Title shall have power to appoint a board to manage
 5 and operate its hospitals established pursuant to section 30:9-13
 6 of this Title. The board shall consist of 12 persons, 10 of whom
 7 shall be citizens and residents of the municipality, who shall serve
 8 without compensation; 3 of whom shall be appointed for a term
 9 of 2 years, 3 of whom shall be appointed for a term of 3 years,
 10 and 4 of whom shall be appointed for a term of 4 years. There-

11 after, all appointments shall be made for terms of 4 years. All
12 appointed members shall serve after the expiration of their terms
13 until their respective successors are appointed and shall qualify,
14 and any vacancy occurring in the appointed members of the board,
15 due to expiration of term or otherwise, shall be filled in the same
16 manner as the original appointment, for the unexpired term only,
17 notwithstanding that the previous incumbent may have held over
18 and continued in office as aforesaid. The board members may be re-
19 imbursed for actual expenses incurred in the performance of their
20 official duties. The chief executive of the municipality and the officer
21 having charge of its finances shall be ex-officio members of the
22 board.

23 b. At its organization meeting the board shall annually elect a
24 chairman, vice-chairman, a secretary and a treasurer, who shall
25 hold office until February 1 next ensuing, and until their respective
26 successors have been elected and qualify. The treasurer may be
27 an ex-officio member of the board. The treasurer shall file a bond
28 of indemnity with the board in an amount sufficient to cover the
29 moneys from time to time under his custody and control. Such
30 moneys shall be deposited to the account of the hospital in a sep-
31 arate bank account or accounts.

32 c. The board or its members shall incur no expense or obligation
33 in excess of the amount appropriated by the governing body for
34 expenditure by them and of hospital funds subject to their dis-
35 position.

36 d. The governing body may remove a member for cause after
37 public hearing which removal shall be in accordance with the civil
38 service and tenure of office laws in municipalities operating under
39 such laws. Such removal shall be reviewable in the Superior Court
40 by a proceeding in lieu of prerogative writ.

41 e. The board shall have the following powers:

42 **[(a)]** (1) To exercise full and exclusive control over the hospital
43 or hospitals owned by the municipality, but subject to State health
44 and licensing laws;

45 **[(b)]** (2) To have a common seal and to alter the same in its
46 discretion;

47 **[(c)]** (3) To sue and be sued as a public body, politic and
48 corporate;

49 **[(d)]** (4) To enter into any and all contracts, execute any and all
50 instruments and do and perform any and all acts or things neces-
51 sary, convenient or desirable for the purposes of the hospital, or
52 to carry out any powers expressly granted in this section;

53 **[(e)]** (5) To do and perform any acts and things authorized by
 54 this act, through or by means of its own officers, agents and em-
 55 ployees, or by contracts with any persons;

56 **[(f)]** (6) To make and enforce by-laws or rules and regulations
 57 for the business and affairs of the hospital and for the use, main-
 58 tenance and operation of the hospital;

59 **[(g)]** (7) To fix the salaries of all employees and to create and
 60 establish such positions as may be necessary for the efficient opera-
 61 tion of the hospital, and except as otherwise provided by section
 62 30:9-13 of this Title and applicable law. All salaries shall be fixed
 63 as nearly as practicable in accordance with the schedule, if any, of
 64 the municipality for corresponding positions. Receipts and reve-
 65 nues of the hospital shall be retained and applied by the board
 66 for the purposes of the hospital. Prior to November 15 of each
 67 year, the board shall certify to the governing body any additional
 68 sums that may be necessary for the proper conduct of its work
 69 during the ensuing fiscal year, which shall include the following
 70 items:

71 **[(1)]** (a) Payment of wages and salaries of employees;

72 **[(2)]** (b) Purchase of materials and supplies;

73 **[(3)]** (c) Purchase of necessary equipment and services.

74 f. The governing body shall annually appropriate such sums as it
 75 may deem necessary for said purposes within the amounts avail-
 76 able therefor in accordance with applicable law. The board shall
 77 not have the power to borrow money for any of its purposes.

78 g. (1) *Notwithstanding anything to the contrary in any of the*
 79 *statutes or any provisions thereof, whenever the Commissioner*
 80 *of the Department of Health makes a determination pursuant to*
 81 *subsection a.(6) of section 5 of P. L. 1977, c. 289 (C. 30:9-12.33),*
 82 *the Governor shall reconstitute the board of managers of the*
 83 *hospital by the appointment*, with the advice and consent of the*
 84 *Senate**; provided, however, that if no action has been taken within*
 85 *45 days after the nominations for appointment have been submitted*
 86 *to the Senate, the nominations shall be deemed confirmed**,** of a
 87 board consisting of not less than five nor more than nine members
 87A who shall receive reasonable compensation, as set by the Governor,
 87B and reimbursement of their expenses and who shall be appointed
 87C for terms not to exceed 5 years. *The appointments of the recon-
 87D stituted board shall be effective as of July 1, 1981. The existing
 87E board members shall continue to serve until the reconstituted board
 87F is appointed.*

88 (2) *The reconstituted board shall have all the powers enumer-*
 89 *ated in subsection e of this act and shall have power to appoint,*

90 *retain and employ attorneys with the approval of the Governor*
 91 *and the Attorney General.*

92 *(3) Notwithstanding the provisions of Title 11 (Civil Service)*
 93 *or any other Title of the Revised Statutes, the board may appoint,*
 94 *remove, promote and transfer employees in the following positions*
 95 *which shall be in the unclassified service: executive director, asso-*
 96 *ciate executive director, assistant executive director.*

97 *(4) In addition, the board shall be responsible for conducting a*
 98 *study of the management, finances and governance structure of*
 99 *the hospital and of the most feasible means of restoring the hospital*
 100 *to an efficient and financially solvent operation. The recommenda-*
 101 *tions of the reconstituted board concerning the future governance*
 102 *of the hospital and the borrowing of money, sale of property and*
 103 *investment of assets for the current or future management and*
 104 *operation of the hospital*, including the reestablishment of the*
 105 *original board of managers if the hospital no longer meets the*
 106 *condition described in subsection a. (6) of section 5 of P. L. 1977,*
 106A *c. 289 (C. 30:9-12.33),* shall be submitted to the governing body*
 106B *and the Governor. The governing body shall take all necessary*
 106C *and proper action to effectuate such recommendations.*

107 *(5) Prior to November 15 of each year, the board shall certify*
 108 *to the governing body any additional sums that may be necessary*
 109 *for the proper conduct of its work during the ensuing fiscal year.*
 110 *The governing body shall appropriate such sums as the board has*
 111 *certified to be necessary within the amounts available in accordance*
 112 *with applicable law.*

113 *(6) Upon the appointment of the reconstituted board, no action*
 114 *or proceeding in the nature of an attachment, garnishment or execu-*
 115 *tion shall be commenced or maintained in the courts of this State*
 116 *against the hospital or its assets for a period of 1 year from the*
 117 *date of appointment of the board by the Governor.*

1 5. (New section) The unexpended balance of funds in former
 2 Account No. 22110-360-150-862 for the fiscal year ending June
 3 30, 1980 is appropriated for the fiscal year ending June 30,
 4 1981 to Account No. 4220-150-021010-60 (Assistance to Public
 5 General Hospitals) for the purpose of this act; provided, how-
 6 ever, that the balance shall first be applied to satisfy obligations
 7 owed to the State for unpaid Public Employment Retirement
 8 System payments, unpaid State gross income, sales and use
 9 and emergency transportation taxes, Federal Social Security
 10 obligations as well as moneys owed to the College of Medicine
 11 and Dentistry of New Jersey.

1 6. This act shall take effect immediately.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

January 22, 1981

ASSEMBLY BILL NO. 2239 (OCR)

To the General Assembly:

Pursuant to Article V, Section 1, Paragraph 14(b) of the Constitution I am returning Assembly Bill No. 2239 (OCR) with my objection, for reconsideration.

This bill would provide a process for the State to assist financially distressed general hospitals to improve their financial and management capabilities. The bill provides for the Governor to appoint an interim board of managers and for the State to provide assistance for any general hospital which has been determined to be financially distressed by the Commissioner of Health.

I am in accord with the purpose of this bill. However, the bill was amended to provide for the advice and consent of the Senate in the Governor's appointment of an interim board of managers. While I have no argument with this provision because it is important for the interim board of managers to have full local political support, I believe that the period of advice and consent should be limited to 45 days. I believe that a time limitation is particularly necessary in this instance because an interim board of managers will only be appointed in cases of financial distress which require immediate remedial action.

Accordingly, I am returning Assembly Bill No. 2239 (OCR) for reconsideration and recommend that it be amended as follows:

Page 6, section 4, line 84: Insert after "Senate":

"; provided, however, that if no action has been taken within 45 days after the nominations for appointment have been submitted to the Senate, the nominations shall be deemed confirmed"

Respectfully,

/s/ Brendan Byrne

GOVERNOR

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY

FROM THE OFFICE OF THE C

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

FEBRUARY 9, 1981

PATRICK SWEENEY

Governor Brendan Byrne today signed the following bills in a public ceremony:

A-2239, sponsored by Assemblyman Christopher J. Jackman (D-Hudson), which will amend the "Public General Hospital Act" to provide a process for New Jersey to assist financially distressed general hospitals. The immediate purpose of this bill is to aid Jersey City Medical Center.

The bill provides for the Governor to appoint an interim board of managers and for the State to provide assistance for any general hospital which has been determined to be financially distressed by the Commissioner of Health.

The bill provides for the advice and consent of the Senate, within 45 days, in the Governor's appointments of an interim board of managers.

A-2040, sponsored by Assemblyman William L. Gormley (R-Atlantic), which will permit property owners whose drinking water supply has been contaminated by a discharge of a hazardous substance to make a claim against the Spill Compensation Fund for restoration or replacement of that water supply source, notwithstanding that the discharge may have occurred prior to the effective date of the "Spill Compensation Act."

The immediate purpose of the bill is to assist homeowners in Jackson Township, whose wells have been contaminated by toxic wastes from a nearby landfill.

The bill limits the Fund availability to private residential wells and limits payments to \$500,000 per year.

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