

30:9-23.15

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2006 **CHAPTER:** 46

NJSA: 30:9-23.15 (Authorizes certain cities to establish a municipal hospital authority)

BILL NO: S2022 (Substituted for A3264)

SPONSOR(S) Kenny and others

DATE INTRODUCED: June 12, 2006

COMMITTEE: **ASSEMBLY:**

SENATE: Budget

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** July 8, 2006

SENATE: July 8, 2006

DATE OF APPROVAL: July 11, 2006

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Senate Committee Substitute (1R) enacted)

S2022

[SPONSOR'S STATEMENT](#): (Begins on page 11 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

[FLOOR AMENDMENT STATEMENT](#): [Yes](#)

LEGISLATIVE FISCAL NOTE: No

A3264

[SPONSOR'S STATEMENT](#): (Begins on page 10 of original bill) [Yes](#)

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SENATE: No

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Title 30.
Chapter 9.
Article 2B. (New)
Municipal
Hospital
Authority Law.
§§1-9 -
C.30:9 -23.15 to
30:9-23.23

P.L. 2006, CHAPTER 46, *approved July 11, 2006*
Senate Committee Substitute (*First Reprint*) for
Senate, No. 2022

1 AN ACT authorizing the establishment of certain municipal hospital
2 authorities, supplementing chapter 9 of Title 30 of the New
3 Jersey Statutes and amending P.L.1992, c.160 and P.L.1971,
4 c.198.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) Sections 1 through ¹~~7~~² of this act shall be
10 known and may be cited as the “Municipal Hospital Authority
11 Law.”

12
13 ¹2. (New section) The transfer of a hospital to an authority by a
14 charitable nonprofit entity pursuant to this act shall be deemed to be
15 in furtherance of such entity’s charitable purposes.¹

16
17 ¹~~2.~~^{3.} (New section) For the purposes of this act:

18 “Authority” means a municipal hospital authority created
19 pursuant to section ¹~~3~~⁴ of this act.

20 “Bonds” means bonds issued by the authority pursuant to this
21 act.

22 “City” means a city that is classified for legislative purposes
23 pursuant to N.J.S.40A:6-4 and which adopts an ordinance creating a
24 municipal hospital authority pursuant to this act.

25 “Hospital” means an institution licensed and classified as a
26 general hospital by the Commissioner of Health and Senior Services
27 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and N.J.A.C.8:43G-
28 1 et seq., notwithstanding that the general hospital also may be
29 licensed to provide inpatient psychiatric or comprehensive
30 rehabilitation hospital services, or other related services.

31 “Local Finance Board” means the Local Finance Board in the
32 Division of Local Government Services in the Department of
33 Community Affairs.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted June 26, 2006.

1 “Manager” means the nonprofit management entity or entities
2 hired by an authority to manage and operate a hospital, or any
3 portion of a hospital, owned by that authority.

4 “Notes” means notes issued by the authority pursuant to this act.

5 “Project” means the acquisition, by purchase, gift or otherwise,
6 of all or any part of the assets and liabilities of a hospital located
7 within a city through a contract or other agreement requiring at least
8 \$12 million in working capital contributions from either the prior
9 owner thereof or another nongovernmental source, as certified by
10 the Local Finance Board in the Department of Community Affairs;
11 the management and operation of that hospital; and the costs of any
12 capital improvements or equipment related to the operation,
13 maintenance, expansion, renovation, or rehabilitation of that
14 hospital; and the provision of working capital for operation of that
15 hospital, along with any required costs of issuing any bonds or
16 notes therefor.

17

18 ¹[3.] 4. (New section) a. The governing body of a city may
19 create, by ordinance, a body corporate and politic to be known as
20 the ". . . . Municipal Hospital Authority," inserting the name of
21 such city. The authority shall constitute an agency and
22 instrumentality of the city creating it.

23 A governing body of a city so creating an authority shall have
24 power from time to time and for such period and upon such terms,
25 with or without consideration, as may be provided by such
26 resolution or ordinance and accepted by the authority (1) to
27 appropriate moneys for the purposes of the authority, and to loan or
28 donate such money to the authority in such installments and upon
29 such terms as may be agreed upon with the authority, (2) to
30 covenant and agree with the authority to pay to or on the order of
31 the authority annually or at shorter intervals as a subsidy for the
32 promotion of its purposes not exceeding such sums of money as
33 may be stated in such resolution or ordinance or computed in
34 accordance therewith, and (3) upon authorization by it in
35 accordance with law of the performance of any act or thing which it
36 is empowered by law to authorize and perform and after
37 appropriation of the moneys (if any) necessary for such
38 performance, to covenant and agree with the authority to do and
39 perform such act or thing and as to the time, manner and other
40 details of its doing and performance, and, in accordance with the
41 limitations and any exceptions thereto and in the manner or mode of
42 procedure prescribed by the local bond law to incur indebtedness,
43 borrow money and issue its negotiable bonds for the purpose of
44 financing such project and appropriation, and to pay the proceeds of
45 such bonds to the authority.

46 b. A municipal hospital authority created pursuant to this act
47 shall be subject to the procedures of the "Local Authorities Fiscal
48 Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), and shall

1 operate pursuant to the provisions of that law, except as otherwise
2 provided in P.L. , c. (C.) (pending before the Legislature as
3 this bill). The sole purpose of the authority shall be to carry out a
4 project and to operate and maintain a project hospital.

5 c. Except as otherwise limited by this act, the authority shall
6 have power:

7 (1) To finance and implement a project as defined pursuant to
8 section 2 of P.L. , c. (C.) (pending before the Legislature as
9 this bill);

10 (2) To sue and be sued;

11 (3) To have an official seal and alter it at pleasure;

12 (4) To make and alter bylaws for its organization and internal
13 management and for the conduct of its affairs and business;

14 (5) To maintain an office at a place within the State as it may
15 determine;

16 (6) To acquire, hold, use, and dispose of its income, revenues,
17 funds, and moneys;

18 (7) To acquire, lease as lessee or lessor, rent, hold, use, and
19 dispose of real or personal property for its purposes;

20 (8) To borrow money and to issue its negotiable bonds or notes
21 and to secure them by a mortgage on its property or any part
22 thereof, or by a pledge of its revenues, and otherwise to provide for
23 and secure the payment of them and to provide for the rights of the
24 holders of the bonds or notes;

25 (9) To make and enter into all contracts and agreements which
26 are necessary or incidental to the performance of its duties and the
27 exercise of its powers under this act;

28 (10) To establish, acquire, construct, rehabilitate, repair,
29 improve, own, operate, and maintain a project, and let, award and
30 enter into construction contracts, purchase orders and other
31 contracts with respect to a project as the authority shall determine;

32 (11) To fix and revise from time to time, and charge and collect,
33 rents, fees and charges for the use, occupancy or services of the
34 hospital or any part thereof or for admission thereto, and for the
35 grant of concessions therein and for things furnished or services
36 rendered by the authority through a project;

37 (12) To function as the hospital governing body responsible for
38 establishing hospital-wide policy, to establish and enforce rules,
39 regulations and bylaws for the use or operation of the hospital or the
40 conduct of its activities, maintaining quality of care, and providing
41 institutional management and planning, which functions shall not be
42 delegated or assigned to another entity;

43 (13) Subject to any agreement with bondholders or noteholders,
44 to invest moneys of the authority not required for immediate use,
45 including proceeds from the sale of any bonds or notes, in
46 obligations, securities and other investments the authority deems
47 prudent;

1 (14) To contract for and to accept any gifts or grants or loans of
2 funds or property or financial or other aid in any form from the
3 United States of America or any agency or instrumentality thereof,
4 or from the State or any agency, instrumentality or political
5 subdivision thereof, or from any other source, including for-profit
6 or nonprofit organizations or the general public, and to comply,
7 subject to the provisions of this act, with the terms and conditions
8 thereof;

9 (15) Subject to any agreements with bondholders or noteholders,
10 to purchase bonds or notes of the authority out of any funds or
11 money of the authority available for those purposes, and to hold,
12 cancel or resell the bonds or notes;

13 (16) To appoint and employ an executive director and additional
14 officers, who need not be members of the authority, and
15 accountants, attorneys, financial advisors, or experts and any other
16 officers, agents and employees as it may require and determine their
17 qualifications, terms of office, duties and compensation, all without
18 regard to the provisions of Title 11A, Civil Service of the New
19 Jersey Statutes;

20 (17) To do and perform any acts and things authorized by this act
21 under, through, or by means of contracts with a nonprofit or for-
22 profit entity or entities;

23 (18) To procure insurance against any losses in connection with
24 its property, operations or assets in such amounts and from such
25 insurers as it deems desirable; and

26 (19) To do anything necessary or convenient to carry out its
27 purposes and exercise the powers granted in this act.
28

29 ¹[4] 5. (New section) a. The authority shall be governed by
30 an ¹[eleven-member] 11 member board. The members shall be
31 divided among four classes. The Class I member shall be the mayor
32 of the city, or his designee, ex officio. There shall be two Class II
33 hospital members, who shall serve on, and be appointed by, the
34 medical staff executive committee of the hospital, to terms
35 concurrent with their membership on the executive committee, and
36 who need not be residents of the city. There shall be six Class III
37 public members, at least four of whom shall be residents of the city,
38 but none of whom shall be officers or employees of the city or of
39 the manager. The Class III public members shall be appointed by
40 the mayor of the city, with the advice and consent of the city
41 council. At least two of the Class III members shall have special
42 expertise as follows: one shall have extensive expertise in finance
43 of private or nonprofit organizations, and one shall have extensive
44 expertise in nonprofit organizational management. The Class III
45 members shall serve for terms of five years and until their
46 respective successors have been appointed and qualified; except
47 that of the six members first appointed by the mayor, one shall be

1 appointed for a term of one year, one for a term of two years, one
2 for a term of three years, one for a term of four years, and two for a
3 term of five years. The hospital's chief executive officer or a
4 designee thereof shall serve as a nonvoting Class IV member. The
5 Commissioner of Community Affairs shall appoint one individual
6 as a nonvoting Class IV member. Vacancies shall be filled in the
7 same manner as the original appointments were made, but for the
8 unexpired term.

9 b. Members of an authority shall not receive compensation for
10 their services, but shall be entitled to reimbursement for actual
11 expenses necessarily incurred in the discharge of the duties of
12 membership, including travel expenses. The powers of the
13 authority shall be vested in the members thereof in office from time
14 to time. Five members shall constitute a quorum of the authority
15 for the purpose of conducting its business and exercising its powers
16 and all other purposes. Action may be taken by the authority upon
17 the affirmative vote of the majority, but not less than five of the
18 members present, unless in any case the bylaws of the authority or
19 State law or regulation shall require a larger number.

20 c. The authority shall select a chairman and a vice-chairman
21 from among its Class III public members, and ¹~~shall~~ may¹
22 employ an executive director, who ¹~~shall~~ may¹ be its secretary.

23 d. Class II and Class IV members of the authority shall not be
24 deemed to have an interest in the hospital solely by virtue of their
25 membership on the medical staff of the hospital or their
26 employment by or contract with a manager, and they shall not be
27 subject to the provisions of ¹subsections d. and e. of¹ section 5 of
28 P.L.1991, c.29 (C.40A:9-22.5) of the "Local Government Ethics
29 Law." ¹~~[.]~~¹

30 e. A member of an authority may be removed by the governing
31 body or officer by which he was appointed for inefficiency or
32 neglect of duty or misconduct in office; but only after the member
33 has been given a copy of the charges at least 10 days prior to a
34 hearing thereon and has had the opportunity to be heard in person or
35 by counsel. In the event of a removal of any member of an
36 authority, a record of the proceedings, together with the charges and
37 findings thereon, shall be filed in the office of the clerk of the city.

38
39 ¹~~[5.]~~ 6.¹ (New section) a. The authority shall exercise its
40 powers and duties to manage and operate a hospital owned by it
41 through a contract or contracts with a manager, which may be
42 entered into without public advertising for bid as otherwise required
43 pursuant to the provisions of section 3 of P.L.1971, c.198
44 (C.40A:11-3); provided, however, that the primary responsibility of
45 operating the hospital shall remain that of the authority.

46 b. The initial duration of a contract shall not exceed five years.
47 A contract entered into pursuant to this subsection may be renewed

1 for an additional period, not to exceed five years. A contract
2 entered into more than ten years from the date of the initial contract
3 shall be negotiated as a new contract and not as a renewal contract.

4 c. A contract, or a renewal thereof, with a manager to manage
5 and operate a hospital owned by the authority shall be effective
6 only with the prior written consent of the Local Finance Board,
7 which shall consult with the Commissioner of Health and Senior
8 Services. The Local Finance Board shall establish an application
9 procedure, submission requirements, and set minimum standards
10 and content that shall be included in any contract with a nonprofit
11 entity to manage and operate a hospital owned by the authority.

12 A contract with a manager shall provide that, in addition to such
13 other matters as determined to be necessary by the authority or as
14 otherwise required by law or regulation:

15 (1) The authority or its agents, and the city or its agents, shall
16 have independent access to the books and records of the hospital at
17 all times;

18 (2) The Governor of the State of New Jersey shall appoint an
19 individual to serve on the board of directors of the manager during
20 the term of the contract, including renewals; and

21 (3) Other than for routine, day-to-day business activities, the
22 authority shall have the final determination regarding the
23 acquisition and disposition of assets, or the incurring of debt or
24 expenses.

25 d. When contracting with a manager, the authority shall
26 approve the individuals that the manager proposes to designate as
27 the hospital's chief executive officer and chief financial officer, by
28 whatever title, and any change thereof and shall also approve
29 contracts or other arrangements setting forth terms and conditions
30 of employment for those positions.

31 e. An authority shall take the following actions pursuant to any
32 requirements that may be established by the Local Finance Board:

33 (1) adopt a management plan for the hospital, including
34 monitoring and review methods of financial activities;

35 (2) set minimum requirements for meetings of the authority, and
36 minimum attendance requirements for members;

37 (3) establish a formal mechanism for communication among the
38 members of the authority's board, hospital administrators and
39 medical staff;

40 (4) form a finance committee, which shall be responsible for the
41 oversight of the finances of the authority, and delineate the duties
42 and obligations of the finance committee; and

43 (5) include minimum provisions that shall be included in a
44 contract with a manager. Such provisions shall include the
45 submission of an annual budget of the hospital and of the nonprofit
46 manager by the manager for the approval of the authority. The
47 approval of these items shall be conditioned upon the approval of
48 the authority's annual budget pursuant to the "Local Authorities

1 Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.). The
2 budget and any supporting documents as may be required by the
3 Division of Local Government Services shall be submitted to the
4 division as part of the submission of the authority's annual budget.
5

6 '7. (New section) a. Bonds or notes issued under this act shall
7 be issued and sold in the same manner, and subject to the same
8 restrictions, as applicable to bonds of an authority authorized to be
9 issued pursuant to the "municipal and county utilities authorities
10 law," P.L.1957, c.183 (C.40:14B-1 et seq.), including specifically
11 sections 25 through 33 (C.40:14B-25 through C.40:14B-33).

12 An authority formed pursuant to P.L. , c. (C.) (pending
13 before the Legislature as this bill) shall be deemed to be a municipal
14 authority for the purposes of sections 59, 62, 63, 64, and 65 of
15 P.L.1957, c.183 (C.40:14B-59 and C.40:14B-62 through C.40:14B-
16 65), and those sections shall be applicable to a municipal hospital
17 authority and its bonds as authorized pursuant to P.L. ,c. (C.)
18 (pending before the Legislature as this bill). P.L. , c. (C.)
19 (pending before the Legislature as this bill) shall be construed
20 liberally to effectuate the legislative intent and as complete and
21 independent authority for the performance by a municipal hospital
22 authority of each and every act and thing herein authorized.

23 For purposes of P.L. , c. (C.) (pending before the
24 Legislature as this bill), "costs" means, in addition to the usual
25 connotations thereof, the cost of acquisition or construction of all or
26 any part of a hospital and of all or any property, rights, easements,
27 privileges, or agreements deemed by the authority to be necessary
28 or useful and convenient therefore or in connection therewith,
29 including interest or discount on bonds, cost of issuance of bonds,
30 and legal expenses, cost of financial, professional and other
31 estimates and advice, organization, administrative, operating and
32 other expenses of the authority or of a hospital owned by the
33 authority prior to and during such acquisition or construction, and
34 all such other expenses as may be necessary or incident to the
35 financing, acquisition, construction and completion of the hospital,
36 or any part thereof, and the placing of the same in operation, and
37 also such provision or reserves for working capital, operating,
38 maintenance or replacement expenses or for payment or security of
39 principal of or interest on bonds during or after such acquisition or
40 construction as the authority may determine, and also
41 reimbursements to the authority or the city of any moneys
42 theretofore expended for the purposes of the authority. In addition,
43 the issuance of any bonds or other instruments by a municipal
44 hospital authority shall be subject to the approval of the Local
45 Finance Board in the Department of Community Affairs.

46 b. Contracts entered into between the city and the authority
47 pursuant to P.L. , c. (C.) (pending before the Legislature
48 as this bill) may also contain provisions as to the financing and

1 payment of expenses to be incurred by the authority and determined
2 by it to be necessary for its purposes. Every such contract shall be
3 authorized and entered into under and pursuant to a resolution
4 adopted by the authority and an ordinance of the governing body of
5 the city, but the terms or text of the contract need not be set forth in
6 full or stated in any such resolution or ordinance if the form of the
7 contract is on file in the office of the municipal clerk and the place
8 in fact of such filing is described in the resolution or ordinance.
9 Any such contract may be made with or without consideration and
10 for a specified or an unlimited time and on any terms and conditions
11 which may be approved by or on behalf of the city and which may
12 be agreed to by the authority in conformity with its contracts with
13 the holders of any bonds or notes, and shall be valid whether or not
14 an appropriation with respect thereto is made by the city prior to
15 authorization or execution thereof. Every such city is hereby
16 authorized and directed to do and perform any and all acts or things
17 necessary, convenient or desirable to carry out and perform every
18 such contract and to provide for the payment or discharge of any
19 obligation thereunder in the same manner as other obligations of
20 that city.

21 c. The city may unconditionally guarantee the punctual payment
22 of the principal of and interest on any bonds or notes issued by the
23 authority, in the same manner, and subject to the same restrictions,
24 as municipal guarantees of bonds of an authority authorized to be
25 issued pursuant to the “parking authority law,” P.L.1948, c.198
26 (C.40:11A-1 et seq.).

27 d. The provisions of N.J.S.40A:2-11 shall not apply to any bond
28 ordinance of the city authorizing bonds pursuant to P.L. , c.
29 (C.) (pending before the Legislature as this bill).

30 e. Notwithstanding any provision of this act to the contrary, any
31 investments of money by the authority shall be made consistent
32 with the provisions of the N.J.S.40A:5-1 et seq.¹
33

34 ¹**[6.] 8.** (New section) Nothing in P.L. , c. (C.)
35 (pending before the Legislature as this bill) shall be construed to
36 apply to a hospital operated by a municipality pursuant to the
37 provisions of R.S.30:9-13.
38

39 ¹**[7.] 9.** (New section) The transfer of a hospital to an authority
40 pursuant to the provisions of P.L. , c. (C.) (pending before
41 the Legislature as this bill) shall be exempt from the provisions of
42 section 2 of P.L.2000, c.143 (C.26:2H-7.11).
43

44 ¹**[8.] 10.** Section 19 of P.L.1992, c.160 (C.26:2H-7a) is
45 amended to read as follows:

46 19. Notwithstanding the provisions of section 7 of P.L.1971,
47 c.136 (C.26:2H-7) to the contrary, the following are exempt from
48 the certificate of need requirement:

- 1 Community-based primary care centers;
- 2 Outpatient drug and alcohol services;
- 3 Hospital-based medical detoxification for drugs and alcohol;
- 4 Ambulance and invalid coach services;
- 5 Mental health services which are non-bed related outpatient
- 6 services;
- 7 Residential health care facility services;
- 8 Capital improvements and renovations to health care facilities;
- 9 Additions of medical/surgical, adult intensive care and adult
- 10 critical care beds in hospitals;
- 11 Replacement of existing major moveable equipment;
- 12 Inpatient operating rooms;
- 13 Alternate family care programs;
- 14 Hospital-based subacute care;
- 15 Ambulatory care facilities;
- 16 Comprehensive outpatient rehabilitation services;
- 17 Special child health clinics;
- 18 New technology in accordance with the provisions of section 18
- 19 of P.L.1998, c.43 (C.26:2H-7d);
- 20 Transfer of ownership interest except in the case of an acute care
- 21 hospital;
- 22 Change of site for approved certificate of need within the same
- 23 county;
- 24 Additions to vehicles or hours of operation of a mobile intensive
- 25 care unit;
- 26 Relocation or replacement of a health care facility within the
- 27 same county, except for an acute care hospital;
- 28 Continuing care retirement communities authorized pursuant to
- 29 P.L.1986, c.103 (C.52:27D-330 et seq.);
- 30 Magnetic resonance imaging;
- 31 Adult day health care facilities;
- 32 Pediatric day health care facilities; **[and]**
- 33 Chronic or acute renal dialysis facilities; and
- 34 Transfer of ownership of a hospital to an authority in accordance
- 35 with P.L. , c. (C.) (pending before the Legislature as this
- 36 bill).
- 37 (cf: P.L.1998, c.43, s.7)
- 38

39 ¹**[9.] 11.** Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended
40 to read as follows:

41 2. As used herein the following words have the following
42 definitions, unless the context otherwise indicates:

- 43 (1) "Contracting unit" means:
- 44 (a) Any county; or
- 45 (b) Any municipality; or
- 46 (c) Any board, commission, committee, authority or agency,
- 47 which is not a State board, commission, committee, authority or
- 48 agency, and which has administrative jurisdiction over any district

1 other than a school district, project, or facility, included or
2 operating in whole or in part, within the territorial boundaries of
3 any county or municipality which exercises functions which are
4 appropriate for the exercise by one or more units of local
5 government, and which has statutory power to make purchases and
6 enter into contracts awarded by a contracting agent for the provision
7 or performance of goods or services.

8 The term shall not include a private firm that has entered into a
9 contract with a public entity for the provision of water supply
10 services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

11 "Contracting unit" shall not include a private firm or public
12 authority that has entered into a contract with a public entity for the
13 provision of wastewater treatment services pursuant to P.L.1995,
14 c.216 (C.58:27-19 et al.).

15 "Contracting unit" shall not include a duly incorporated nonprofit
16 association that has entered into a contract with the governing body
17 of a city of the first class for the provision of water supply services
18 or wastewater treatment services pursuant to section 2 of P.L.2002,
19 c.47 (C.40A:11-5.1).

20 "Contracting unit" shall not include a duly incorporated nonprofit
21 entity that has entered into a contract for management and operation
22 services with a municipal hospital authority established pursuant to
23 P.L. , c. (C.) (pending before the Legislature as this bill).

24 (2) "Governing body" means:

25 (a) The governing body of the county, when the purchase is to
26 be made or the contract or agreement is to be entered into by, or in
27 behalf of, a county; or

28 (b) The governing body of the municipality, when the purchase
29 is to be made or the contract or agreement is to be entered into by,
30 or on behalf of, a municipality; or

31 (c) Any board, commission, committee, authority or agency of
32 the character described in subsection (1) (c) of this section.

33 (3) "Contracting agent" means the governing body of a
34 contracting unit, or its authorized designee, which has the power to
35 prepare the advertisements, to advertise for and receive bids and, as
36 permitted by this act, to make awards for the contracting unit in
37 connection with purchases, contracts or agreements.

38 (4) "Purchase" means a transaction, for a valuable consideration,
39 creating or acquiring an interest in goods, services and property,
40 except real property or any interest therein.

41 (5) (Deleted by amendment, P.L.1999, c.440.)

42 (6) "Professional services" means services rendered or
43 performed by a person authorized by law to practice a recognized
44 profession, whose practice is regulated by law, and the performance
45 of which services requires knowledge of an advanced type in a field
46 of learning acquired by a prolonged formal course of specialized
47 instruction and study as distinguished from general academic
48 instruction or apprenticeship and training. Professional services

1 may also mean services rendered in the provision or performance of
2 goods or services that are original and creative in character in a
3 recognized field of artistic endeavor.

4 (7) "Extraordinary unspecifiable services" means services which
5 are specialized and qualitative in nature requiring expertise,
6 extensive training and proven reputation in the field of endeavor.

7 (8) (Deleted by amendment, P.L.1999, c.440.)

8 (9) "Work" includes services and any other activity of a tangible
9 or intangible nature performed or assumed pursuant to a contract or
10 agreement with a contracting unit.

11 (10) "Homemaker--home health services" means at home
12 personal care and home management provided to an individual or
13 members of the individual's family who reside with the individual,
14 or both, necessitated by the individual's illness or incapacity.
15 "Homemaker--home health services" includes, but is not limited to,
16 the services of a trained homemaker.

17 (11) "Recyclable material" means those materials which would
18 otherwise become municipal solid waste, and which may be
19 collected, separated or processed and returned to the economic
20 mainstream in the form of raw materials or products.

21 (12) "Recycling" means any process by which materials which
22 would otherwise become solid waste are collected, separated or
23 processed and returned to the economic mainstream in the form of
24 raw materials or products.

25 (13) "Marketing" means the sale, disposition, assignment, or
26 placement of designated recyclable materials with, or the granting
27 of a concession to, a reseller, processor, materials recovery facility,
28 or end-user of recyclable material, in accordance with a district
29 solid waste management plan adopted pursuant to P.L.1970, c.39
30 (C.13:1E-1 et seq.) and shall not include the collection of such
31 recyclable material when collected through a system of routes by
32 local government unit employees or under a contract administered
33 by a local government unit.

34 (14) "Municipal solid waste" means, as appropriate to the
35 circumstances, all residential, commercial and institutional solid
36 waste generated within the boundaries of a municipality; or the
37 formal collection of such solid wastes or recyclable material in any
38 combination thereof when collected through a system of routes by
39 local government unit employees or under a contract administered
40 by a local government unit.

41 (15) "Distribution" (when used in relation to electricity) means
42 the process of conveying electricity from a contracting unit that is a
43 generator of electricity or a wholesale purchaser of electricity to
44 retail customers or other end users of electricity.

45 (16) "Transmission" (when used in relation to electricity) means
46 the conveyance of electricity from its point of generation to a
47 contracting unit that purchases it on a wholesale basis for resale.

- 1 (17) "Disposition" means the transportation, placement, reuse,
2 sale, donation, transfer or temporary storage of recyclable materials
3 for all possible uses except for disposal as municipal solid waste.
- 4 (18) "Cooperative marketing" means the joint marketing by two
5 or more contracting units of the source separated recyclable
6 materials designated in a district recycling plan required pursuant to
7 section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written
8 cooperative agreement entered into by the participating contracting
9 units thereof.
- 10 (19) "Aggregate" means the sums expended or to be expended
11 for the provision or performance of any goods or services in
12 connection with the same immediate purpose or task, or the
13 furnishing of similar goods or services, during the same contract
14 year through a contract awarded by a contracting agent.
- 15 (20) "Bid threshold" means the dollar amount set in section 3 of
16 P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall
17 advertise for and receive sealed bids in accordance with procedures
18 set forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).
- 19 (21) "Contract" means any agreement, including but not limited
20 to a purchase order or a formal agreement, which is a legally
21 binding relationship enforceable by law, between a vendor who
22 agrees to provide or perform goods or services and a contracting
23 unit which agrees to compensate a vendor, as defined by and subject
24 to the terms and conditions of the agreement. A contract also may
25 include an arrangement whereby a vendor compensates a
26 contracting unit for the vendor's right to perform a service, such as,
27 but not limited to, operating a concession.
- 28 (22) "Contract year" means the period of 12 consecutive months
29 following the award of a contract.
- 30 (23) "Competitive contracting" means the method described in
31 sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 thru 40A:11-
32 4.5) of contracting for specialized goods and services in which
33 formal proposals are solicited from vendors; formal proposals are
34 evaluated by the purchasing agent or counsel or administrator; and
35 the governing body awards a contract to a vendor or vendors from
36 among the formal proposals received.
- 37 (24) "Goods and services" or "goods or services" means any
38 work, labor, commodities, equipment, materials, or supplies of any
39 tangible or intangible nature, except real property or any interest
40 therein, provided or performed through a contract awarded by a
41 contracting agent, including goods and property subject to
42 N.J.S.12A:2-101 et seq.
- 43 (25) "Library and educational goods and services" means
44 textbooks, copyrighted materials, student produced publications and
45 services incidental thereto, including but not limited to books,
46 periodicals, newspapers, documents, pamphlets, photographs,
47 reproductions, microfilms, pictorial or graphic works, musical
48 scores, maps, charts, globes, sound recordings, slides, films,

1 filmstrips, video and magnetic tapes, other printed or published
2 matter and audiovisual and other materials of a similar nature,
3 necessary binding or rebinding of library materials, and specialized
4 computer software used as a supplement or in lieu of textbooks or
5 reference material.

6 (26) "Lowest price" means the least possible amount that meets
7 all requirements of the request of a contracting agent.

8 (27) "Lowest responsible bidder or vendor" means the bidder or
9 vendor: (a) whose response to a request for bids offers the lowest
10 price and is responsive; and (b) who is responsible.

11 (28) "Official newspaper" means any newspaper designated by
12 the contracting unit pursuant to R.S.35:1-1 et seq.

13 (29) "Purchase order" means a document issued by the
14 contracting agent authorizing a purchase transaction with a vendor
15 to provide or perform goods or services to the contracting unit,
16 which, when fulfilled in accordance with the terms and conditions
17 of a request of a contracting agent and other provisions and
18 procedures that may be established by the contracting unit, will
19 result in payment by the contracting unit.

20 (30) "Purchasing agent" means the individual duly assigned the
21 authority, responsibility, and accountability for the purchasing
22 activity of the contracting unit, and who has such duties as are
23 defined by an authority appropriate to the form and structure of the
24 contracting unit, and P.L.1971, c.198 (C.40A:11-1 et seq.).

25 (31) "Quotation" means the response to a formal or informal
26 request made by a contracting agent by a vendor for provision or
27 performance of goods or services, when the aggregate cost is less
28 than the bid threshold. Quotations may be in writing, or taken
29 verbally if a record is kept by the contracting agent.

30 (32) "Responsible" means able to complete the contract in
31 accordance with its requirements, including but not limited to
32 requirements pertaining to experience, moral integrity, operating
33 capacity, financial capacity, credit, and workforce, equipment, and
34 facilities availability.

35 (33) "Responsive" means conforming in all material respects to
36 the terms and conditions, specifications, legal requirements, and
37 other provisions of the request.

38 (34) "Public works" means building, altering, repairing,
39 improving or demolishing any public structure or facility
40 constructed or acquired by a contracting unit to house local
41 government functions or provide water, waste disposal, power,
42 transportation, and other public infrastructures.

43 (35) "Director" means the Director of the Division of Local
44 Government Services in the Department of Community Affairs.

45 (36) "Administrator" means a municipal administrator appointed
46 pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business
47 administrator, a municipal manager or a municipal administrator
48 appointed pursuant to the "Optional Municipal Charter Law,"

1 P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager
2 appointed pursuant to "the municipal manager form of government
3 law," R.S.40:79-1 et seq.; or the person holding responsibility for
4 the overall operations of an authority that falls under the "Local
5 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et
6 seq.).

7 (37) "Concession" means the granting of a license or right to act
8 for or on behalf of the contracting unit, or to provide a service
9 requiring the approval or endorsement of the contracting unit, and
10 which may or may not involve a payment or exchange, or provision
11 of services by or to the contracting unit.

12 (38) "Index rate" means the rate of annual percentage increase,
13 rounded to the nearest half-percent, in the Implicit Price Deflator
14 for State and Local Government Purchases of Goods and Services,
15 computed and published quarterly by the United States Department
16 of Commerce, Bureau of Economic Analysis.

17 (39) "Proprietary" means goods or services of a specialized
18 nature, that may be made or marketed by a person or persons having
19 the exclusive right to make or sell them, when the need for such
20 goods or services has been certified in writing by the governing
21 body of the contracting unit to be necessary for the conduct of its
22 affairs.

23 (40) "Service or services" means the performance of work, or the
24 furnishing of labor, time, or effort, or any combination thereof, not
25 involving or connected to the delivery or ownership of a specified
26 end product or goods or a manufacturing process. Service or
27 services may also include an arrangement in which a vendor
28 compensates the contracting unit for the vendor's right to operate a
29 concession.

30 (cf: P.L.2002, c.47, s.7)

31

32 '10.] 12.' This act shall take effect immediately.

33

34

35

36

37 Authorizes certain cities to establish a municipal hospital
38 authority.

SENATE, No. 2022

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED JUNE 12, 2006

Sponsored by:

Senator BERNARD F. KENNY, JR.

District 33 (Hudson)

SYNOPSIS

Authorizes certain cities to establish a municipal hospital authority.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT authorizing the establishment of certain municipal hospital
2 authorities, supplementing chapter 9 of Title 30 of the New
3 Jersey Statutes and amending P.L.1971, c.198.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) Sections 1 through 6 of this act shall be known
9 and may be cited as the "Municipal Hospital Authority Law."

10
11 2. (New section) For the purposes of this act:

12 "Authority" means a municipal hospital authority created
13 pursuant to section 2 of this act.

14 "City" means a city that is classified for legislative purposes
15 pursuant to N.J.S.40A:6-4, and that acquires an urban hospital
16 through a contract requiring at least \$12 million in working capital
17 contributions from a nongovernmental source, as certified by the
18 Local Finance Board in the Department of Community Affairs.

19 "Hospital" means an institution licensed and classified as a
20 general hospital by the Commissioner of Health and Senior Services
21 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and N.J.A.C.
22 8:43G-1et seq. The general hospital may also be licensed by the
23 Commissioner to provide inpatient psychiatric or comprehensive
24 rehabilitation hospital services, or other related services.

25 "Local Finance Board" means the Local Finance Board in the
26 Division of Local Government Services in the Department of
27 Community Affairs.

28
29 3. (New section) a. (1) The governing body of a city, as defined
30 in section 2 of P.L. , c. (C.) (pending before the
31 Legislature as this bill), may create, by ordinance, a body corporate
32 and politic to be known as the " Municipal Hospital
33 Authority," inserting the name of the city. The authority shall
34 constitute an agency and instrumentality of the city creating it.

35 (2) A municipal hospital authority shall be created pursuant to
36 the procedures of the "Local Authorities Fiscal Control Law,"
37 P.L.1983, c.313 (C.40A:5A-1 et seq.). The authority shall operate
38 pursuant to the provisions of that law, except as otherwise provided
39 in P.L. , c. (C.) (pending before the Legislature as this
40 bill).

41 b. The authority shall be governed by a ten-member board. The
42 members shall be divided among four classes. The Class I member
43 shall be the mayor of the city creating the authority, or his designee,
44 ex officio. There shall be two Class II hospital members, who shall
45 serve on and be appointed by, the medical staff executive

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

Matter underlined thus is new matter.

1 committee of the hospital, to terms concurrent with their
2 membership on the executive committee, and who need not be
3 residents of the city. There shall be six Class III public members, at
4 least four of whom shall be residents of the city, but none of whom
5 shall be officers or employees of the city or of the hospital. The
6 Class III public members shall be appointed by the mayor, with the
7 advice and consent of the city council. At least two of the Class III
8 members shall have special expertise as follows: one shall have
9 extensive expertise in finance of private or nonprofit organizations,
10 and one shall have extensive expertise in nonprofit organizational
11 management. The Class III members shall serve for terms of five
12 years and until their respective successors have been appointed and
13 qualified; except that of the six members first appointed by the
14 mayor, one shall be appointed for a term of one year, one for a term
15 of two years, one for a term of three years, one for a term of four
16 years and two for a term of five years. The chief executive officer
17 or a designee thereof of a hospital management organization under
18 contract with the authority shall be a nonvoting Class IV member.
19 Vacancies shall be filled in the same manner as the original
20 appointments were made, but for the unexpired term.

21 c. A member of an authority shall not receive compensation for
22 his services, but shall be entitled to reimbursement for actual
23 expenses necessarily incurred in the discharge of the duties of
24 membership, including travel expenses. The powers of the
25 authority shall be vested in the members thereof in office from time
26 to time. Five members shall constitute a quorum of the authority
27 for the purpose of conducting its business and exercising its powers
28 and all other purposes. Action may be taken by the authority upon
29 the affirmative vote of the majority, but not less than five of the
30 members present, unless in any case the bylaws of the authority or
31 State law or regulation shall require a larger number.

32 d. The authority shall select a chairman and a vice-chairman
33 from among its Class III public members, and shall employ an
34 executive director, who shall be its secretary.

35 e. No member or employee of an authority shall acquire any
36 interest, direct or indirect, in any hospital owned by the authority,
37 or in any property included or planned to be included as part of a
38 hospital owned by the authority. Class II members of the authority
39 shall not be deemed to have an interest in the hospital solely by
40 virtue of their membership on the medical staff of the hospital or
41 their employment by a hospital management organization under
42 contract with the authority and they shall not be subject to the
43 provisions of section 5 of P.L.1991, c.29 (C.40A:9-22.5).

44 f. For inefficiency or neglect of duty or misconduct in office a
45 member of an authority may be removed by the governing body or
46 officer by which he was appointed; but a member may be removed
47 only after he has been given a copy of the charges at least 10 days
48 prior to a hearing thereon and has had the opportunity to be heard in

1 person or by counsel. In the event of a removal of any member of
2 an authority a record of the proceedings, together with the charges
3 and findings thereon, shall be filed in the office of the clerk of the
4 municipality.

5
6 4. (New section) a. The purpose of a municipal hospital
7 authority is to own and operate an urban hospital, primarily through
8 a contract with a nonprofit entity or entities. The provisions of Title
9 11A, Civil Service, shall not apply to any authority created pursuant
10 to P.L. , c. (C.) (pending before the Legislature as this
11 bill) or to any private entity contracted by such an authority to
12 manage and operate a hospital.

13 b. To accomplish its purpose a municipal hospital authority has
14 the following powers:

15 (1) to exercise full and exclusive control over the hospital or
16 hospitals owned by the authority, but subject to federal and State
17 laws applicable to hospitals;

18 (2) to have a common seal and to alter the same in its discretion;

19 (3) to sue and be sued as a public body, politic and corporate;

20 (4) subject to the provisions of the “Local Public Contracts
21 Law,” P.L.1971, c.198 (C.40A:11-1 et seq.), except as provided in
22 subparagraph (b) of paragraph (5) of this subsection, to enter into
23 any and all contracts, execute any and all instruments and do and
24 perform any and all acts or things necessary, convenient or
25 desirable for the purposes of the hospital, or to carry out any powers
26 expressly granted in this section;

27 (5) (a) to do and perform any acts and things authorized by this
28 act, through or by means of its own officers, agents and employees,
29 or by contracts with any persons;

30 (b) to enter into a contract with a nonprofit entity to manage and
31 operate a hospital owned by the authority without public advertising
32 pursuant to the provisions of section 3 of P.L.1971, c.198
33 (C.40A:11-3); provided, however, that the primary responsibility of
34 operating the hospital shall remain that of the authority, and
35 provided that the duration of the contract shall not exceed five
36 years. A contract entered into pursuant to this subparagraph may be
37 renewed for an additional period, not to exceed five years. A
38 contract entered into more than ten years from the date of the initial
39 contract shall be negotiated as a new contract and not as a renewal
40 contract. A contract entered into pursuant to this section shall
41 provide that, in addition to such other matters as determined to be
42 necessary by the authority or as otherwise required by law or
43 regulation:

44 (i) The authority or its agents shall have independent access to
45 the books and records of the hospital at all times;

46 (ii) The authority shall have the final determination regarding
47 the disposition of assets and the incurring of debt in unusual
48 situations other than normal, day-to-day business activities;

1 (6) to function as the hospital governing body responsible for
2 establishing hospital-wide policy, adopting bylaws, maintaining
3 quality of care, and providing institutional management and
4 planning, which functions shall not be delegated or assigned to
5 another entity; and

6 (7) to accept, apply for and receive gifts, aid and other funding in
7 support of the hospital's mission from the State or from the federal
8 government, or from for-profit or nonprofit organizations or the
9 general public.

10

11 5. (New section) a. A contract with a nonprofit entity to manage
12 and operate a hospital owned by the authority shall be effective
13 only with the prior written consent of the Local Finance Board, who
14 shall consult with the commissioner of the Department of Health
15 and Senior Services. The Local Finance Board shall establish an
16 application procedure, and set minimum standards and content that
17 shall be included in any contract with a nonprofit entity to manage
18 and operate a hospital owned by the authority.

19 b. When contracting with such a nonprofit entity, the authority
20 shall approve the individuals that the nonprofit entity proposes to
21 designate as the hospital's chief executive officer and chief financial
22 officer, by whatever title, and any change thereof and shall also
23 approve contracts or other arrangements setting forth terms and
24 conditions of employment for those positions.

25 c. A municipal hospital authority shall take the following
26 actions pursuant to any requirements that may be established by the
27 Local Finance Board:

28 (1) adopt a management plan for the hospital, including
29 monitoring and review methods of financial activities; and

30 (2) set minimum requirements for meetings of the authority, and
31 minimum attendance requirements for members;

32 (3) establish a formal mechanism for communication among the
33 members of the authority's board, hospital administrators and
34 medical staff;

35 (4) form a finance committee, which shall be responsible for the
36 oversight of the finances of the authority, and delineate the duties
37 and obligations of the finance committee.

38 (5) include minimum provisions that shall be included in a
39 contract with a nonprofit entity to manage and operate a hospital
40 owned by the authority.

41

42 6. (New section) Nothing in this act shall be construed to apply
43 to a hospital managed by a municipality pursuant to the provisions
44 of R.S.30:9-13.

45

46 7. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to read
47 as follows:

1 2. As used herein the following words have the following
2 definitions, unless the context otherwise indicates:

3 (1) "Contracting unit" means:
4 (a) Any county; or
5 (b) Any municipality; or
6 (c) Any board, commission, committee, authority or agency,
7 which is not a State board, commission, committee, authority or
8 agency, and which has administrative jurisdiction over any district
9 other than a school district, project, or facility, included or
10 operating in whole or in part, within the territorial boundaries of
11 any county or municipality which exercises functions which are
12 appropriate for the exercise by one or more units of local
13 government, and which has statutory power to make purchases and
14 enter into contracts awarded by a contracting agent for the provision
15 or performance of goods or services.

16 The term shall not include a private firm that has entered into a
17 contract with a public entity for the provision of water supply
18 services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

19 "Contracting unit" shall not include a private firm or public
20 authority that has entered into a contract with a public entity for the
21 provision of wastewater treatment services pursuant to P.L.1995,
22 c.216 (C.58:27-19 et al.).

23 "Contracting unit" shall not include a duly incorporated nonprofit
24 association that has entered into a contract with the governing body
25 of a city of the first class for the provision of water supply services
26 or wastewater treatment services pursuant to section 2 of P.L.2002,
27 c.47 (C.40A:11-5.1).

28 "Contracting unit" shall not include a duly incorporated nonprofit
29 association that has entered into a contract for management and
30 operation services with a municipal hospital authority established
31 pursuant to P.L. _____, c. _____ (C. _____) (pending before the
32 Legislature as this bill).

33 (2) "Governing body" means:
34 (a) The governing body of the county, when the purchase is to
35 be made or the contract or agreement is to be entered into by, or in
36 behalf of, a county; or
37 (b) The governing body of the municipality, when the purchase
38 is to be made or the contract or agreement is to be entered into by,
39 or on behalf of, a municipality; or
40 (c) Any board, commission, committee, authority or agency of
41 the character described in subsection (1) (c) of this section.

42 (3) "Contracting agent" means the governing body of a
43 contracting unit, or its authorized designee, which has the power to
44 prepare the advertisements, to advertise for and receive bids and, as
45 permitted by this act, to make awards for the contracting unit in
46 connection with purchases, contracts or agreements.

1 (4) "Purchase" means a transaction, for a valuable consideration,
2 creating or acquiring an interest in goods, services and property,
3 except real property or any interest therein.

4 (5) (Deleted by amendment, P.L.1999, c.440.)

5 (6) "Professional services" means services rendered or
6 performed by a person authorized by law to practice a recognized
7 profession, whose practice is regulated by law, and the performance
8 of which services requires knowledge of an advanced type in a field
9 of learning acquired by a prolonged formal course of specialized
10 instruction and study as distinguished from general academic
11 instruction or apprenticeship and training. Professional services
12 may also mean services rendered in the provision or performance of
13 goods or services that are original and creative in character in a
14 recognized field of artistic endeavor.

15 (7) "Extraordinary unspecifiable services" means services which
16 are specialized and qualitative in nature requiring expertise,
17 extensive training and proven reputation in the field of endeavor.

18 (8) (Deleted by amendment, P.L.1999, c.440.)

19 (9) "Work" includes services and any other activity of a tangible
20 or intangible nature performed or assumed pursuant to a contract or
21 agreement with a contracting unit.

22 (10) "Homemaker--home health services" means at home
23 personal care and home management provided to an individual or
24 members of the individual's family who reside with the individual,
25 or both, necessitated by the individual's illness or incapacity.
26 "Homemaker--home health services" includes, but is not limited to,
27 the services of a trained homemaker.

28 (11) "Recyclable material" means those materials which would
29 otherwise become municipal solid waste, and which may be
30 collected, separated or processed and returned to the economic
31 mainstream in the form of raw materials or products.

32 (12) "Recycling" means any process by which materials which
33 would otherwise become solid waste are collected, separated or
34 processed and returned to the economic mainstream in the form of
35 raw materials or products.

36 (13) "Marketing" means the sale, disposition, assignment, or
37 placement of designated recyclable materials with, or the granting
38 of a concession to, a reseller, processor, materials recovery facility,
39 or end-user of recyclable material, in accordance with a district
40 solid waste management plan adopted pursuant to P.L.1970, c.39
41 (C.13:1E-1 et seq.) and shall not include the collection of such
42 recyclable material when collected through a system of routes by
43 local government unit employees or under a contract administered
44 by a local government unit.

45 (14) "Municipal solid waste" means, as appropriate to the
46 circumstances, all residential, commercial and institutional solid
47 waste generated within the boundaries of a municipality; or the
48 formal collection of such solid wastes or recyclable material in any

1 combination thereof when collected through a system of routes by
2 local government unit employees or under a contract administered
3 by a local government unit.

4 (15) "Distribution" (when used in relation to electricity) means
5 the process of conveying electricity from a contracting unit that is a
6 generator of electricity or a wholesale purchaser of electricity to
7 retail customers or other end users of electricity.

8 (16) "Transmission" (when used in relation to electricity) means
9 the conveyance of electricity from its point of generation to a
10 contracting unit that purchases it on a wholesale basis for resale.

11 (17) "Disposition" means the transportation, placement, reuse,
12 sale, donation, transfer or temporary storage of recyclable materials
13 for all possible uses except for disposal as municipal solid waste.

14 (18) "Cooperative marketing" means the joint marketing by two
15 or more contracting units of the source separated recyclable
16 materials designated in a district recycling plan required pursuant to
17 section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written
18 cooperative agreement entered into by the participating contracting
19 units thereof.

20 (19) "Aggregate" means the sums expended or to be expended
21 for the provision or performance of any goods or services in
22 connection with the same immediate purpose or task, or the
23 furnishing of similar goods or services, during the same contract
24 year through a contract awarded by a contracting agent.

25 (20) "Bid threshold" means the dollar amount set in section 3 of
26 P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall
27 advertise for and receive sealed bids in accordance with procedures
28 set forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

29 (21) "Contract" means any agreement, including but not limited
30 to a purchase order or a formal agreement, which is a legally
31 binding relationship enforceable by law, between a vendor who
32 agrees to provide or perform goods or services and a contracting
33 unit which agrees to compensate a vendor, as defined by and subject
34 to the terms and conditions of the agreement. A contract also may
35 include an arrangement whereby a vendor compensates a
36 contracting unit for the vendor's right to perform a service, such as,
37 but not limited to, operating a concession.

38 (22) "Contract year" means the period of 12 consecutive months
39 following the award of a contract.

40 (23) "Competitive contracting" means the method described in
41 sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 thru 40A:11-
42 4.5) of contracting for specialized goods and services in which
43 formal proposals are solicited from vendors; formal proposals are
44 evaluated by the purchasing agent or counsel or administrator; and
45 the governing body awards a contract to a vendor or vendors from
46 among the formal proposals received.

47 (24) "Goods and services" or "goods or services" means any
48 work, labor, commodities, equipment, materials, or supplies of any

1 tangible or intangible nature, except real property or any interest
2 therein, provided or performed through a contract awarded by a
3 contracting agent, including goods and property subject to
4 N.J.S.12A:2-101 et seq.

5 (25) "Library and educational goods and services" means
6 textbooks, copyrighted materials, student produced publications and
7 services incidental thereto, including but not limited to books,
8 periodicals, newspapers, documents, pamphlets, photographs,
9 reproductions, microfilms, pictorial or graphic works, musical
10 scores, maps, charts, globes, sound recordings, slides, films,
11 filmstrips, video and magnetic tapes, other printed or published
12 matter and audiovisual and other materials of a similar nature,
13 necessary binding or rebinding of library materials, and specialized
14 computer software used as a supplement or in lieu of textbooks or
15 reference material.

16 (26) "Lowest price" means the least possible amount that meets
17 all requirements of the request of a contracting agent.

18 (27) "Lowest responsible bidder or vendor" means the bidder or
19 vendor: (a) whose response to a request for bids offers the lowest
20 price and is responsive; and (b) who is responsible.

21 (28) "Official newspaper" means any newspaper designated by
22 the contracting unit pursuant to R.S.35:1-1 et seq.

23 (29) "Purchase order" means a document issued by the
24 contracting agent authorizing a purchase transaction with a vendor
25 to provide or perform goods or services to the contracting unit,
26 which, when fulfilled in accordance with the terms and conditions
27 of a request of a contracting agent and other provisions and
28 procedures that may be established by the contracting unit, will
29 result in payment by the contracting unit.

30 (30) "Purchasing agent" means the individual duly assigned the
31 authority, responsibility, and accountability for the purchasing
32 activity of the contracting unit, and who has such duties as are
33 defined by an authority appropriate to the form and structure of the
34 contracting unit, and P.L.1971, c.198 (C.40A:11-1 et seq.).

35 (31) "Quotation" means the response to a formal or informal
36 request made by a contracting agent by a vendor for provision or
37 performance of goods or services, when the aggregate cost is less
38 than the bid threshold. Quotations may be in writing, or taken
39 verbally if a record is kept by the contracting agent.

40 (32) "Responsible" means able to complete the contract in
41 accordance with its requirements, including but not limited to
42 requirements pertaining to experience, moral integrity, operating
43 capacity, financial capacity, credit, and workforce, equipment, and
44 facilities availability.

45 (33) "Responsive" means conforming in all material respects to
46 the terms and conditions, specifications, legal requirements, and
47 other provisions of the request.

1 (34) "Public works" means building, altering, repairing,
2 improving or demolishing any public structure or facility
3 constructed or acquired by a contracting unit to house local
4 government functions or provide water, waste disposal, power,
5 transportation, and other public infrastructures.

6 (35) "Director" means the Director of the Division of Local
7 Government Services in the Department of Community Affairs.

8 (36) "Administrator" means a municipal administrator appointed
9 pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business
10 administrator, a municipal manager or a municipal administrator
11 appointed pursuant to the "Optional Municipal Charter Law,"
12 P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager
13 appointed pursuant to "the municipal manager form of government
14 law," R.S.40:79-1 et seq.; or the person holding responsibility for
15 the overall operations of an authority that falls under the "Local
16 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et
17 seq.).

18 (37) "Concession" means the granting of a license or right to act
19 for or on behalf of the contracting unit, or to provide a service
20 requiring the approval or endorsement of the contracting unit, and
21 which may or may not involve a payment or exchange, or provision
22 of services by or to the contracting unit.

23 (38) "Index rate" means the rate of annual percentage increase,
24 rounded to the nearest half-percent, in the Implicit Price Deflator
25 for State and Local Government Purchases of Goods and Services,
26 computed and published quarterly by the United States Department
27 of Commerce, Bureau of Economic Analysis.

28 (39) "Proprietary" means goods or services of a specialized
29 nature, that may be made or marketed by a person or persons having
30 the exclusive right to make or sell them, when the need for such
31 goods or services has been certified in writing by the governing
32 body of the contracting unit to be necessary for the conduct of its
33 affairs.

34 (40) "Service or services" means the performance of work, or
35 the furnishing of labor, time, or effort, or any combination thereof,
36 not involving or connected to the delivery or ownership of a
37 specified end product or goods or a manufacturing process. Service
38 or services may also include an arrangement in which a vendor
39 compensates the contracting unit for the vendor's right to operate a
40 concession.

41 (cf: P.L.2002, c.47, s.7)

42

43 8. This act shall take effect immediately.

STATEMENT

1

2

3 This bill authorizes the establishment of an municipal authority
4 to manage and operate hospitals located in certain urban areas. The
5 authorization would be in addition to the authorization given to
6 municipalities to operate hospitals pursuant to R.S.30:9-13. The
7 bill defines eligible municipalities as those that are classified for
8 legislative purposes pursuant to N.J.S.40A:6-4, and which acquire
9 an urban hospital through a contract requiring at least \$12 million in
10 working capital contributions from a nongovernmental source, as
11 certified by the Local Finance Board in the Department of
12 Community Affairs.

13 The authority is to be governed by a nine-member board. The
14 members shall be divided among four classes. The Class I member
15 shall be the mayor of the city creating the authority, or his designee,
16 ex officio. There are two Class II hospital members who serve on
17 and are appointed by the medical staff executive committee of the
18 hospital, to terms concurrent with their membership on the
19 executive committee, and who need not be residents of the city.
20 There are six Class III public members, at least four of whom shall
21 be residents of the city, but none of whom shall be officers or
22 employees of the city or of the hospital. The Class III public
23 members are appointed by the mayor, with the advice and consent
24 of the city council. At least two of the Class III members shall have
25 special expertise as follows: one shall have extensive expertise in
26 finance of private or nonprofit organizations, and one shall have
27 extensive expertise in nonprofit organizational management. The
28 Class III members shall serve for terms of five years and until their
29 respective successors have been appointed and qualified; except
30 that of the six members first appointed by the mayor, one shall be
31 appointed for a term of one year, one for a term of two years, one
32 for a term of three years, one for a term of four years and two for a
33 term of five years. The Class IV member is a nonvoting member
34 and is the chief executive officer or a designee thereof of a hospital
35 management organization under contract with the authority.
36 Vacancies are to be filled in the same manner as the original
37 appointments were made, but for the unexpired term.

38 The authority is permitted under the bill to contract out the
39 management of the hospital to a nonprofit entity. Management
40 contracts will be subject to the approval of the Local Finance
41 Board, which will also establish financial and other requirements
42 for the authority. The bill exempts the nonprofit entity contracted
43 to manage the urban hospital from the "Local Public Contracts
44 Law," P.L. 1971, c. 198 (C. 40A:11-1 et seq.).

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2022**

STATE OF NEW JERSEY

DATED: JUNE 19, 2006

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute to Senate Bill No. 2022.

The substitute, entitled the "Municipal Hospital Authority Law," permits cities to create an authority to acquire, own and operate a hospital, pursuant to a contract requiring at least \$12 million in working capital contributions from a nongovernmental source to be transferred to the authority, as certified by the Local Finance Board in the Department of Community Affairs. The authority would be an instrumentality of the city creating it. The hospital would be managed by a nonprofit entity, pursuant to a contract.

The authority would be subject to the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), and would need to comply with the fiscal controls of that act as well as special contract requirements that the Local Finance Board will develop for any nonprofit entity contracted to manage the hospital.

The authority is empowered under the act with customary authority powers, including the power to issue bonds. The city creating such an authority is empowered to enter into deficiency agreements with the authority to support its bond issuances. In addition, the authority is charged to function as the hospital governing body responsible for establishing hospital-wide policy, establishing and enforcing rules, regulations and bylaws for the use or operation of the hospital or the conduct of its activities, maintaining quality of care, and providing institutional management and planning, which functions are not to be delegated or assigned to another entity.

The authority is required to carry out its duties to maintain a hospital through entering into a contract or contracts with a nonprofit entity or entities to manage and operate the hospital owned by the authority. The contract for management of the hospital and any contracts of the nonprofit entity managing the hospital are exempted from the bidding requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.)

The initial duration of a contract between the authority and a nonprofit management company shall not exceed five years, but may be renewed for an additional period, not to exceed five years. A

contract entered into more than ten years from the date of the initial contract shall be negotiated as a new contract and not as a renewal contract.

The authority is to be governed by an eleven-member board. The members are to be divided among four classes. The Class I member shall be the mayor of the city creating the authority, or his designee, ex officio. There shall be two Class II hospital members, who shall serve on, and be appointed by, the medical staff executive committee of the hospital, to terms concurrent with their membership on the executive committee, and who need not be residents of the city. There shall be six Class III public members, at least four of whom shall be residents of the city, but none of whom shall be officers or employees of the city or of the hospital. The Class III public members shall be appointed by the mayor, with the advice and consent of the city council. At least two of the Class III members shall have special expertise as follows: one shall have extensive expertise in finance of private or nonprofit organizations, and one shall have extensive expertise in nonprofit organizational management. The Class III members shall serve for terms of five years and until their respective successors have been appointed and qualified; except that of the six members first appointed by the mayor, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and two for a term of five years. The hospital's chief executive officer or a designee thereof shall be a nonvoting Class IV member. The Commissioner of Community Affairs shall appoint one individual as a nonvoting Class IV member. Vacancies shall be filled in the same manner as the original appointments were made, but for the unexpired term.

The Governor is to appoint an individual to serve on the board of directors of the nonprofit entity during the term of the management contract, including renewals. In addition, the authority is to approve the designation of individuals that the management company proposes serve as the hospital's chief executive officer and chief financial officer. In addition, the authority will approve contracts or other arrangements setting forth the terms and conditions of employment for those positions. The contract with the management company is also to provide for the submission of a annual budgets by the management company for the hospital and the nonprofit entity for the approval of the authority. The approval of these budgets shall be conditioned upon the approval of the authority's annual budget pursuant to the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.). The budget and any supporting documents required by the Division of Local Government Services are to be submitted to the division as part of the submission of the authority's annual budget.

Finally, the substitute exempts the transfer of a hospital to an authority formed pursuant to the substitute from the provisions of the "Community Health Care Assets Protection Act," P.L.2000, c.143

(C.26:2H-7.11), which requires a review by the Attorney General prior to entering into a transaction that results in the acquisition of a nonprofit hospital. The transfer would also be exempted from certain certificate of need requirements for new hospitals. The hospital owned by the authority would not be exempted from licensing requirements for hospitals under the substitute.

COMMITTEE SUBSTITUTE:

The substitute clarifies the powers of the authority to act; grants the municipality creating the authority the power to enter into deficiency agreements with the authority; and makes definitional changes to clarify the role of the managing company which will operate the hospital pursuant to a contract with the authority

The committee substitute increases the number of members of the authority to eleven, by adding an appointee of the Commissioner of Community Affairs as a nonvoting Class IV member. In addition, the Governor is authorized to appoint an individual to serve as a nonvoting, ex officio member of the board of directors of the nonprofit corporation with which a contract is entered into to manage the hospital. The substitute also requires that the annual budget of the nonprofit managing entity and the hospital be subject to the approval of the municipal hospital authority authorized to be created under the bill, and that the annual budget of the municipal hospital authority will be subject to the review of the Division of Local Government Services in the Department of Community Affairs.

FISCAL IMPACT:

This bill is not certified for a fiscal note.

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 2022

with Assembly Floor Amendments
(Proposed By Assemblyman SIREs)

ADOPTED: JUNE 26, 2006

These floor amendments add language necessary for the terms and conditions of bond issuance by a municipal hospital authority, by incorporating by reference the bond issuance requirements of several authorities under current law, and, in addition, require the approval of those terms and issuance by the Local Finance Board. The amendments also correct a citation to law to narrow the exemption for members of a municipal hospital authority from the "Local Government Ethics Law," N.J.S.A.40A:9-22.1 et seq., and make a technical correction.

ASSEMBLY, No. 3264

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 8, 2006

Sponsored by:

Assemblyman ALBIO SIRES

District 33 (Hudson)

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblyman FREDERICK SCALERA

District 36 (Bergen, Essex and Passaic)

Assemblyman BRIAN P. STACK

District 33 (Hudson)

Co-Sponsored by:

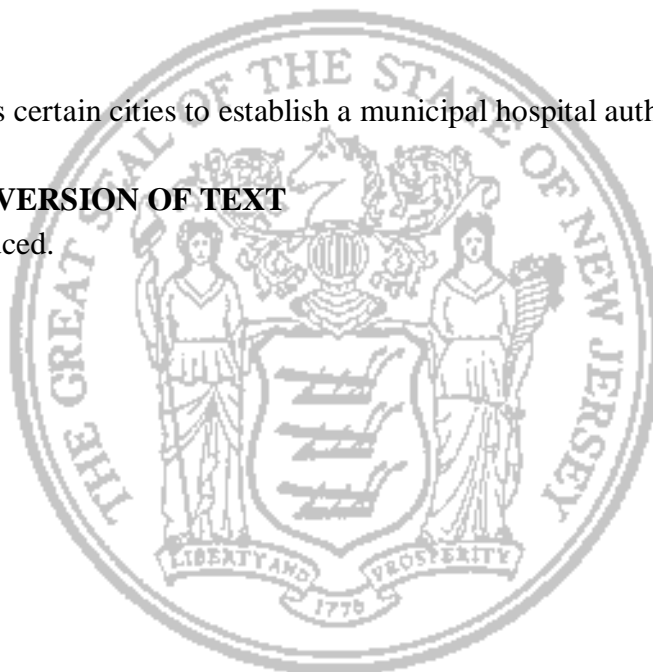
**Assemblyman Epps, Assemblywomen Vainieri Huttle, Pou, Oliver,
Assemblymen Schaer, Manzo, Johnson, Green and Assemblywoman Cruz-
Perez**

SYNOPSIS

Authorizes certain cities to establish a municipal hospital authority.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT authorizing the establishment of certain municipal hospital
2 authorities, supplementing chapter 9 of Title 30 of the New
3 Jersey Statutes and amending P.L.1971, c.198.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) Sections 1 through 6 of this act shall be known
9 and may be cited as the "Municipal Hospital Authority Law."

10
11 2. (New section) For the purposes of this act:

12 "Authority" means a municipal hospital authority created
13 pursuant to section 2 of this act.

14 "City" means a city that is classified for legislative purposes
15 pursuant to N.J.S.40A:6-4, and that acquires an urban hospital
16 through a contract requiring at least \$12 million in working capital
17 contributions from a nongovernmental source, as certified by the
18 Local Finance Board in the Department of Community Affairs.

19 "Hospital" means an institution licensed and classified as a
20 general hospital by the Commissioner of Health and Senior Services
21 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and N.J.A.C.
22 8:43G-1et seq. The general hospital may also be licensed by the
23 Commissioner to provide inpatient psychiatric or comprehensive
24 rehabilitation hospital services, or other related services.

25 "Local Finance Board" means the Local Finance Board in the
26 Division of Local Government Services in the Department of
27 Community Affairs.

28
29 3. (New section) a. (1) The governing body of a city, as defined
30 in section 2 of P.L. , c. C.) (pending before the Legislature
31 as this bill), may create, by ordinance, a body corporate and politic
32 to be known as the " Municipal Hospital Authority," inserting
33 the name of the city. The authority shall constitute an agency and
34 instrumentality of the city creating it.

35 (2) A municipal hospital authority shall be created pursuant to
36 the procedures of the "Local Authorities Fiscal Control Law,"
37 P.L.1983, c.313 (C.40A:5A-1 et seq.). The authority shall operate
38 pursuant to the provisions of that law, except as otherwise provided
39 in P.L. , c. (C.) (pending before the Legislature as this
40 bill).

41 b. The authority shall be governed by a ten-member board. The
42 members shall be divided among four classes. The Class I member
43 shall be the mayor of the city creating the authority, or his designee,
44 ex officio. There shall be two Class II hospital members, who shall
45 serve on and be appointed by, the medical staff executive

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

Matter underlined thus is new matter.

1 committee of the hospital, to terms concurrent with their
2 membership on the executive committee, and who need not be
3 residents of the city. There shall be six Class III public members, at
4 least four of whom shall be residents of the city, but none of whom
5 shall be officers or employees of the city or of the hospital. The
6 Class III public members shall be appointed by the mayor, with the
7 advice and consent of the city council. At least two of the Class III
8 members shall have special expertise as follows: one shall have
9 extensive expertise in finance of private or nonprofit organizations,
10 and one shall have extensive expertise in nonprofit organizational
11 management. The Class III members shall serve for terms of five
12 years and until their respective successors have been appointed and
13 qualified; except that of the six members first appointed by the
14 mayor, one shall be appointed for a term of one year, one for a term
15 of two years, one for a term of three years, one for a term of four
16 years and two for a term of five years. The chief executive officer
17 or a designee thereof of a hospital management organization under
18 contract with the authority shall be a nonvoting Class IV member.
19 Vacancies shall be filled in the same manner as the original
20 appointments were made, but for the unexpired term.

21 c. A member of an authority shall not receive compensation for
22 his services, but shall be entitled to reimbursement for actual
23 expenses necessarily incurred in the discharge of the duties of
24 membership, including travel expenses. The powers of the
25 authority shall be vested in the members thereof in office from time
26 to time. Five members shall constitute a quorum of the authority
27 for the purpose of conducting its business and exercising its powers
28 and all other purposes. Action may be taken by the authority upon
29 the affirmative vote of the majority, but not less than five of the
30 members present, unless in any case the bylaws of the authority or
31 State law or regulation shall require a larger number.

32 d. The authority shall select a chairman and a vice-chairman
33 from among its Class III public members, and shall employ an
34 executive director, who shall be its secretary.

35 e. No member or employee of an authority shall acquire any
36 interest, direct or indirect, in any hospital owned by the authority,
37 or in any property included or planned to be included as part of a
38 hospital owned by the authority. Class II members of the authority
39 shall not be deemed to have an interest in the hospital solely by
40 virtue of their membership on the medical staff of the hospital or
41 their employment by a hospital management organization under
42 contract with the authority and they shall not be subject to the
43 provisions of section 5 of P.L.1991, c.29 (C.40A:9-22.5).

44 f. For inefficiency or neglect of duty or misconduct in office a
45 member of an authority may be removed by the governing body or
46 officer by which he was appointed; but a member may be removed
47 only after he has been given a copy of the charges at least 10 days
48 prior to a hearing thereon and has had the opportunity to be heard in

1 person or by counsel. In the event of a removal of any member of
2 an authority a record of the proceedings, together with the charges
3 and findings thereon, shall be filed in the office of the clerk of the
4 municipality.

5
6 4. (New section) a. The purpose of a municipal hospital
7 authority is to own and operate an urban hospital, primarily through
8 a contract with a nonprofit entity or entities. The provisions of Title
9 11A, Civil Service, shall not apply to any authority created pursuant
10 to P.L. , c. (C.) (pending before the Legislature as this
11 bill) or to any private entity contracted by such an authority to
12 manage and operate a hospital.

13 b. To accomplish its purpose a municipal hospital authority has
14 the following powers:

15 (1) to exercise full and exclusive control over the hospital or
16 hospitals owned by the authority, but subject to federal and State
17 laws applicable to hospitals;

18 (2) to have a common seal and to alter the same in its discretion;

19 (3) to sue and be sued as a public body, politic and corporate;

20 (4) subject to the provisions of the "Local Public Contracts
21 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except as provided in
22 subparagraph (b) of paragraph (5) of this subsection, to enter into
23 any and all contracts, execute any and all instruments and do and
24 perform any and all acts or things necessary, convenient or
25 desirable for the purposes of the hospital, or to carry out any powers
26 expressly granted in this section;

27 (5) (a) to do and perform any acts and things authorized by this
28 act, through or by means of its own officers, agents and employees,
29 or by contracts with any persons;

30 (b) to enter into a contract with a nonprofit entity to manage and
31 operate a hospital owned by the authority without public advertising
32 pursuant to the provisions of section 3 of P.L.1971, c.198
33 (C.40A:11-3); provided, however, that the primary responsibility of
34 operating the hospital shall remain that of the authority, and
35 provided that the duration of the contract shall not exceed five
36 years. A contract entered into pursuant to this subparagraph may be
37 renewed for an additional period, not to exceed five years. A
38 contract entered into more than ten years from the date of the initial
39 contract shall be negotiated as a new contract and not as a renewal
40 contract. A contract entered into pursuant to this section shall
41 provide that, in addition to such other matters as determined to be
42 necessary by the authority or as otherwise required by law or
43 regulation:

44 (i) The authority or its agents shall have independent access to
45 the books and records of the hospital at all times;

46 (ii) The authority shall have the final determination regarding the
47 disposition of assets and the incurring of debt in unusual situations
48 other than normal, day-to-day business activities;

1 (6) to function as the hospital governing body responsible for
2 establishing hospital-wide policy, adopting bylaws, maintaining
3 quality of care, and providing institutional management and
4 planning, which functions shall not be delegated or assigned to
5 another entity; and

6 (7) to accept, apply for and receive gifts, aid and other funding in
7 support of the hospital's mission from the State or from the federal
8 government, or from for-profit or nonprofit organizations or the
9 general public.

10

11 5. (New section) a. A contract with a nonprofit entity to manage
12 and operate a hospital owned by the authority shall be effective
13 only with the prior written consent of the Local Finance Board, who
14 shall consult with the commissioner of the Department of Health
15 and Senior Services. The Local Finance Board shall establish an
16 application procedure, and set minimum standards and content that
17 shall be included in any contract with a nonprofit entity to manage
18 and operate a hospital owned by the authority.

19 b. When contracting with such a nonprofit entity, the authority
20 shall approve the individuals that the nonprofit entity proposes to
21 designate as the hospital's chief executive officer and chief financial
22 officer, by whatever title, and any change thereof and shall also
23 approve contracts or other arrangements setting forth terms and
24 conditions of employment for those positions.

25 c. A municipal hospital authority shall take the following
26 actions pursuant to any requirements that may be established by the
27 Local Finance Board:

28 (1) adopt a management plan for the hospital, including
29 monitoring and review methods of financial activities; and

30 (2) set minimum requirements for meetings of the authority, and
31 minimum attendance requirements for members;

32 (3) establish a formal mechanism for communication among the
33 members of the authority's board, hospital administrators and
34 medical staff;

35 (4) form a finance committee, which shall be responsible for the
36 oversight of the finances of the authority, and delineate the duties
37 and obligations of the finance committee.

38 (5) include minimum provisions that shall be included in a
39 contract with a nonprofit entity to manage and operate a hospital
40 owned by the authority.

41

42 6. (New section) Nothing in this act shall be construed to apply
43 to a hospital managed by a municipality pursuant to the provisions
44 of R.S.30:9-13.

45

46 7. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to read
47 as follows:

1 2. As used herein the following words have the following
2 definitions, unless the context otherwise indicates:

3 (1) "Contracting unit" means:
4 (a) Any county; or
5 (b) Any municipality; or
6 (c) Any board, commission, committee, authority or agency,
7 which is not a State board, commission, committee, authority or
8 agency, and which has administrative jurisdiction over any district
9 other than a school district, project, or facility, included or
10 operating in whole or in part, within the territorial boundaries of
11 any county or municipality which exercises functions which are
12 appropriate for the exercise by one or more units of local
13 government, and which has statutory power to make purchases and
14 enter into contracts awarded by a contracting agent for the provision
15 or performance of goods or services.

16 The term shall not include a private firm that has entered into a
17 contract with a public entity for the provision of water supply
18 services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

19 "Contracting unit" shall not include a private firm or public
20 authority that has entered into a contract with a public entity for the
21 provision of wastewater treatment services pursuant to P.L.1995,
22 c.216 (C.58:27-19 et al.).

23 "Contracting unit" shall not include a duly incorporated nonprofit
24 association that has entered into a contract with the governing body
25 of a city of the first class for the provision of water supply services
26 or wastewater treatment services pursuant to section 2 of P.L.2002,
27 c.47 (C.40A:11-5.1).

28 "Contracting unit" shall not include a duly incorporated nonprofit
29 association that has entered into a contract for management and
30 operation services with a municipal hospital authority established
31 pursuant to P.L. _____, c. _____ (C. _____) (pending before the Legislature
32 as this bill).

33 (2) "Governing body" means:
34 (a) The governing body of the county, when the purchase is to
35 be made or the contract or agreement is to be entered into by, or in
36 behalf of, a county; or
37 (b) The governing body of the municipality, when the purchase
38 is to be made or the contract or agreement is to be entered into by,
39 or on behalf of, a municipality; or
40 (c) Any board, commission, committee, authority or agency of
41 the character described in subsection (1) (c) of this section.

42 (3) "Contracting agent" means the governing body of a
43 contracting unit, or its authorized designee, which has the power to
44 prepare the advertisements, to advertise for and receive bids and, as
45 permitted by this act, to make awards for the contracting unit in
46 connection with purchases, contracts or agreements.

A3264 SIRES, PRIETO

7

1 (4) "Purchase" means a transaction, for a valuable consideration,
2 creating or acquiring an interest in goods, services and property,
3 except real property or any interest therein.

4 (5) (Deleted by amendment, P.L.1999, c.440.)

5 (6) "Professional services" means services rendered or
6 performed by a person authorized by law to practice a recognized
7 profession, whose practice is regulated by law, and the performance
8 of which services requires knowledge of an advanced type in a field
9 of learning acquired by a prolonged formal course of specialized
10 instruction and study as distinguished from general academic
11 instruction or apprenticeship and training. Professional services
12 may also mean services rendered in the provision or performance of
13 goods or services that are original and creative in character in a
14 recognized field of artistic endeavor.

15 (7) "Extraordinary unspecifiable services" means services which
16 are specialized and qualitative in nature requiring expertise,
17 extensive training and proven reputation in the field of endeavor.

18 (8) (Deleted by amendment, P.L.1999, c.440.)

19 (9) "Work" includes services and any other activity of a tangible
20 or intangible nature performed or assumed pursuant to a contract or
21 agreement with a contracting unit.

22 (10) "Homemaker--home health services" means at home
23 personal care and home management provided to an individual or
24 members of the individual's family who reside with the individual,
25 or both, necessitated by the individual's illness or incapacity.
26 "Homemaker--home health services" includes, but is not limited to,
27 the services of a trained homemaker.

28 (11) "Recyclable material" means those materials which would
29 otherwise become municipal solid waste, and which may be
30 collected, separated or processed and returned to the economic
31 mainstream in the form of raw materials or products.

32 (12) "Recycling" means any process by which materials which
33 would otherwise become solid waste are collected, separated or
34 processed and returned to the economic mainstream in the form of
35 raw materials or products.

36 (13) "Marketing" means the sale, disposition, assignment, or
37 placement of designated recyclable materials with, or the granting
38 of a concession to, a reseller, processor, materials recovery facility,
39 or end-user of recyclable material, in accordance with a district
40 solid waste management plan adopted pursuant to P.L.1970, c.39
41 (C.13:1E-1 et seq.) and shall not include the collection of such
42 recyclable material when collected through a system of routes by
43 local government unit employees or under a contract administered
44 by a local government unit.

45 (14) "Municipal solid waste" means, as appropriate to the
46 circumstances, all residential, commercial and institutional solid
47 waste generated within the boundaries of a municipality; or the
48 formal collection of such solid wastes or recyclable material in any

1 combination thereof when collected through a system of routes by
2 local government unit employees or under a contract administered
3 by a local government unit.

4 (15) "Distribution" (when used in relation to electricity) means
5 the process of conveying electricity from a contracting unit that is a
6 generator of electricity or a wholesale purchaser of electricity to
7 retail customers or other end users of electricity.

8 (16) "Transmission" (when used in relation to electricity) means
9 the conveyance of electricity from its point of generation to a
10 contracting unit that purchases it on a wholesale basis for resale.

11 (17) "Disposition" means the transportation, placement, reuse,
12 sale, donation, transfer or temporary storage of recyclable materials
13 for all possible uses except for disposal as municipal solid waste.

14 (18) "Cooperative marketing" means the joint marketing by two
15 or more contracting units of the source separated recyclable
16 materials designated in a district recycling plan required pursuant to
17 section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written
18 cooperative agreement entered into by the participating contracting
19 units thereof.

20 (19) "Aggregate" means the sums expended or to be expended
21 for the provision or performance of any goods or services in
22 connection with the same immediate purpose or task, or the
23 furnishing of similar goods or services, during the same contract
24 year through a contract awarded by a contracting agent.

25 (20) "Bid threshold" means the dollar amount set in section 3 of
26 P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall
27 advertise for and receive sealed bids in accordance with procedures
28 set forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

29 (21) "Contract" means any agreement, including but not limited
30 to a purchase order or a formal agreement, which is a legally
31 binding relationship enforceable by law, between a vendor who
32 agrees to provide or perform goods or services and a contracting
33 unit which agrees to compensate a vendor, as defined by and subject
34 to the terms and conditions of the agreement. A contract also may
35 include an arrangement whereby a vendor compensates a
36 contracting unit for the vendor's right to perform a service, such as,
37 but not limited to, operating a concession.

38 (22) "Contract year" means the period of 12 consecutive months
39 following the award of a contract.

40 (23) "Competitive contracting" means the method described in
41 sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 thru 40A:11-
42 4.5) of contracting for specialized goods and services in which
43 formal proposals are solicited from vendors; formal proposals are
44 evaluated by the purchasing agent or counsel or administrator; and
45 the governing body awards a contract to a vendor or vendors from
46 among the formal proposals received.

47 (24) "Goods and services" or "goods or services" means any
48 work, labor, commodities, equipment, materials, or supplies of any

1 tangible or intangible nature, except real property or any interest
2 therein, provided or performed through a contract awarded by a
3 contracting agent, including goods and property subject to
4 N.J.S.12A:2-101 et seq.

5 (25) "Library and educational goods and services" means
6 textbooks, copyrighted materials, student produced publications and
7 services incidental thereto, including but not limited to books,
8 periodicals, newspapers, documents, pamphlets, photographs,
9 reproductions, microfilms, pictorial or graphic works, musical
10 scores, maps, charts, globes, sound recordings, slides, films,
11 filmstrips, video and magnetic tapes, other printed or published
12 matter and audiovisual and other materials of a similar nature,
13 necessary binding or rebinding of library materials, and specialized
14 computer software used as a supplement or in lieu of textbooks or
15 reference material.

16 (26) "Lowest price" means the least possible amount that meets
17 all requirements of the request of a contracting agent.

18 (27) "Lowest responsible bidder or vendor" means the bidder or
19 vendor: (a) whose response to a request for bids offers the lowest
20 price and is responsive; and (b) who is responsible.

21 (28) "Official newspaper" means any newspaper designated by
22 the contracting unit pursuant to R.S.35:1-1 et seq.

23 (29) "Purchase order" means a document issued by the
24 contracting agent authorizing a purchase transaction with a vendor
25 to provide or perform goods or services to the contracting unit,
26 which, when fulfilled in accordance with the terms and conditions
27 of a request of a contracting agent and other provisions and
28 procedures that may be established by the contracting unit, will
29 result in payment by the contracting unit.

30 (30) "Purchasing agent" means the individual duly assigned the
31 authority, responsibility, and accountability for the purchasing
32 activity of the contracting unit, and who has such duties as are
33 defined by an authority appropriate to the form and structure of the
34 contracting unit, and P.L.1971, c.198 (C.40A:11-1 et seq.).

35 (31) "Quotation" means the response to a formal or informal
36 request made by a contracting agent by a vendor for provision or
37 performance of goods or services, when the aggregate cost is less
38 than the bid threshold. Quotations may be in writing, or taken
39 verbally if a record is kept by the contracting agent.

40 (32) "Responsible" means able to complete the contract in
41 accordance with its requirements, including but not limited to
42 requirements pertaining to experience, moral integrity, operating
43 capacity, financial capacity, credit, and workforce, equipment, and
44 facilities availability.

45 (33) "Responsive" means conforming in all material respects to
46 the terms and conditions, specifications, legal requirements, and
47 other provisions of the request.

1 (34) "Public works" means building, altering, repairing,
2 improving or demolishing any public structure or facility
3 constructed or acquired by a contracting unit to house local
4 government functions or provide water, waste disposal, power,
5 transportation, and other public infrastructures.

6 (35) "Director" means the Director of the Division of Local
7 Government Services in the Department of Community Affairs.

8 (36) "Administrator" means a municipal administrator appointed
9 pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business
10 administrator, a municipal manager or a municipal administrator
11 appointed pursuant to the "Optional Municipal Charter Law,"
12 P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager
13 appointed pursuant to "the municipal manager form of government
14 law," R.S.40:79-1 et seq.; or the person holding responsibility for
15 the overall operations of an authority that falls under the "Local
16 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et
17 seq.).

18 (37) "Concession" means the granting of a license or right to act
19 for or on behalf of the contracting unit, or to provide a service
20 requiring the approval or endorsement of the contracting unit, and
21 which may or may not involve a payment or exchange, or provision
22 of services by or to the contracting unit.

23 (38) "Index rate" means the rate of annual percentage increase,
24 rounded to the nearest half-percent, in the Implicit Price Deflator
25 for State and Local Government Purchases of Goods and Services,
26 computed and published quarterly by the United States Department
27 of Commerce, Bureau of Economic Analysis.

28 (39) "Proprietary" means goods or services of a specialized
29 nature, that may be made or marketed by a person or persons having
30 the exclusive right to make or sell them, when the need for such
31 goods or services has been certified in writing by the governing
32 body of the contracting unit to be necessary for the conduct of its
33 affairs.

34 (40) "Service or services" means the performance of work, or the
35 furnishing of labor, time, or effort, or any combination thereof, not
36 involving or connected to the delivery or ownership of a specified
37 end product or goods or a manufacturing process. Service or
38 services may also include an arrangement in which a vendor
39 compensates the contracting unit for the vendor's right to operate a
40 concession.

41 (cf: P.L.2002, c.47, s.7)

42

43 8. This act shall take effect immediately.

44

45 STATEMENT

46

47 This bill authorizes the establishment of an municipal authority
48 to manage and operate hospitals located in certain urban areas. The

1 authorization would be in addition to the authorization given to
2 municipalities to operate hospitals pursuant to R.S.30:9-13. The
3 bill defines eligible municipalities as those that are classified for
4 legislative purposes pursuant to N.J.S.40A:6-4, and which acquire
5 an urban hospital through a contract requiring at least \$12 million in
6 working capital contributions from a nongovernmental source, as
7 certified by the Local Finance Board in the Department of
8 Community Affairs.

9 The authority is to be governed by a nine-member board. The
10 members shall be divided among four classes. The Class I member
11 shall be the mayor of the city creating the authority, or his designee,
12 ex officio. There are two Class II hospital members who serve on
13 and are appointed by the medical staff executive committee of the
14 hospital, to terms concurrent with their membership on the
15 executive committee, and who need not be residents of the city.
16 There are six Class III public members, at least four of whom shall
17 be residents of the city, but none of whom shall be officers or
18 employees of the city or of the hospital. The Class III public
19 members are appointed by the mayor, with the advice and consent
20 of the city council. At least two of the Class III members shall have
21 special expertise as follows: one shall have extensive expertise in
22 finance of private or nonprofit organizations, and one shall have
23 extensive expertise in nonprofit organizational management. The
24 Class III members shall serve for terms of five years and until their
25 respective successors have been appointed and qualified; except
26 that of the six members first appointed by the mayor, one shall be
27 appointed for a term of one year, one for a term of two years, one
28 for a term of three years, one for a term of four years and two for a
29 term of five years. The Class IV member is a nonvoting member
30 and is the chief executive officer or a designee thereof of a hospital
31 management organization under contract with the authority.
32 Vacancies are to be filled in the same manner as the original
33 appointments were made, but for the unexpired term.

34 The authority is permitted under the bill to contract out the
35 management of the hospital to a nonprofit entity. Management
36 contracts will be subject to the approval of the Local Finance
37 Board, which will also establish financial and other requirements
38 for the authority. The bill exempts the nonprofit entity contracted
39 to manage the urban hospital from the "Local Public Contracts
40 Law," P.L.1971, c. 198 (C. 40A:11-1 et seq.).

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3264

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 2006

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 3264.

This bill authorizes the establishment of an municipal authority to manage and operate hospitals located in certain urban areas. The authorization would be in addition to the authorization given to municipalities to operate hospitals pursuant to R.S.30:9-13. The bill defines eligible municipalities as those that are classified for legislative purposes pursuant to N.J.S.40A:6-4, and which acquire an urban hospital through a contract requiring at least \$12 million in working capital contributions from a nongovernmental source, as certified by the Local Finance Board in the Department of Community Affairs.

The authority is to be governed by an eleven-member board. The members shall be divided among four classes. The Class I member shall be the mayor of the city creating the authority, or his designee, ex officio. There are two Class II hospital members who serve on and are appointed by the medical staff executive committee of the hospital, to terms concurrent with their membership on the executive committee, and who need not be residents of the city. There are six Class III public members, at least four of whom shall be residents of the city, but none of whom shall be officers or employees of the city or of the hospital. The Class III public members are appointed by the mayor, with the advice and consent of the city council. At least two of the Class III members shall have special expertise as follows: one shall have extensive expertise in finance of private or nonprofit organizations, and one shall have extensive expertise in nonprofit organizational management. The Class III members shall serve for terms of five years and until their respective successors have been appointed and qualified; except that of the six members first appointed by the mayor, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and two for a term of five years. There are two Class IV members; one is a nonvoting member and is the chief executive officer

or a designee thereof of a hospital management organization under contract with the authority and the other is a nonvoting appointee of the Commissioner of Community Affairs. Vacancies are to be filled in the same manner as the original appointments were made, but for the unexpired term.

The authority is permitted under the bill to contract out the management of the hospital to a nonprofit entity. The Commissioner of the Department of Health and Senior Services is authorized to appoint an individual to serve as a nonvoting, ex officio member of the board of directors of the nonprofit corporation with which a contract in entered into to manage the hospital. Management contracts will be subject to the approval of the Local Finance Board, which will also establish financial and other requirements for the authority. The bill exempts the nonprofit entity contracted to manage the urban hospital from the "Local Public Contracts Law," P.L.1971, c. 198 (C. 40A:11-1 et seq.). The annual budget of the nonprofit managing entity shall be subject to the approval of the municipal hospital authority authorized to be created under the bill, and subject to the approval of the authority's budget. The annual budget of the municipal hospital authority will be subject to the review of and approval by the Division of Local Government Services in the Department of Community Affairs.

COMMITTEE AMENDMENTS

The committee amended the bill to increase the number of members of the authority to eleven, by adding an appointee of the Commissioner of Community Affairs as a nonvoting Class IV member. In addition, the Commissioner of the Department of Health and Senior Services is authorized to appoint an individual to serve as a nonvoting, ex officio member of the board of directors of the nonprofit corporation with which a contract in entered into to manage the hospital. The amendments also require that the annual budget of the nonprofit managing entity shall be subject to the approval of the municipal hospital authority authorized to be created under the bill, and that the annual budget of the municipal hospital authority will be subject to the review of the Division of Local Government Services in the Department of Community Affairs.