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LAW

[First Reprint]

**ASSEMBLY, No. 3389**

**STATE OF NEW JERSEY**

**213th LEGISLATURE**

INTRODUCED OCTOBER 23, 2008

**Sponsored by:**

**Assemblyman PETER J. BARNES, III**

**District 18 (Middlesex)**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington and Camden)**

**Assemblyman JOSEPH VAS**

**District 19 (Middlesex)**

**Co-Sponsored by:**

**Assemblyman Cryan and Senator Vitale**

**SYNOPSIS**

Concerns hospital asset transformation program.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on November 13, 2008, with amendments.

**(Sponsorship Updated As Of: 12/16/2008)**

1 AN ACT concerning the hospital asset transformation program in the  
2 New Jersey Health Care Facilities Financing Authority and  
3 amending P.L.1972, c.29.

4

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

7

8 1. Section 7 of P.L.1972, c.29 (C.26:2I-7) is amended to read  
9 as follows:

10 7. a. The authority is authorized from time to time to issue its  
11 bonds for any corporate purpose and to fund and refund the same all  
12 as provided in this act. Such bonds may, at the discretion of the  
13 authority, be designated as "bonds," "notes," "bond anticipation  
14 notes" or otherwise.

15 b. Except as may otherwise be expressly provided by the  
16 authority, every issue of its bonds shall be general obligations of the  
17 authority payable from any revenues or moneys of the authority,  
18 subject only to any agreements with the holders of particular bonds  
19 pledging any particular revenues or moneys. Notwithstanding that  
20 bonds may be payable from a special fund, they shall be fully  
21 negotiable within the meaning of Title 12A, the Uniform  
22 Commercial Code, of the New Jersey Statutes, subject only to any  
23 provisions of the bonds for registration.

24 c. The bonds may be issued as serial bonds or as term bonds, or  
25 the authority, in its discretion, may issue bonds of both types. The  
26 bonds shall be authorized by resolution of the members of the  
27 authority and shall bear such date or dates, mature at such time or  
28 times, not exceeding 50 years from their respective dates, bear  
29 interest at such rate or rates, be payable at such time or times, be in  
30 such denominations, be in such form, either coupon or registered,  
31 carry such registration privileges, be executed in such manner, be  
32 payable in lawful money of the United States of America at such  
33 place or places, and be subject to such terms of redemption, as such  
34 resolution or resolutions may provide. The bonds may be sold at  
35 public or private sale for such price or prices as the authority shall  
36 determine. Pending preparation of the definitive bonds, the  
37 authority may issue interim receipts or certificates which shall be  
38 exchanged for such definitive bonds.

39 d. Any resolution or resolutions authorizing any bonds or any  
40 issue of bonds may contain provisions, which shall be a part of the  
41 contract with the holders of the bonds to be authorized, as to:

42 (i) pledging all or any part of the revenues of a project or any  
43 revenue producing contract or contracts made by the authority with

**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:**

**<sup>1</sup>Assembly AAP committee amendments adopted November 13, 2008.**

- 1 any individual, partnership, corporation or association or other  
2 body, public or private, to secure the payment of the bonds or of  
3 any particular issue of bonds, subject to such agreements with  
4 bondholders as may then exist;
- 5 (ii) the rentals, fees and other charges to be charged, and the  
6 amounts to be raised in each year thereby, and the use and  
7 disposition of the revenues;
- 8 (iii) the setting aside of reserves or sinking funds, and the  
9 regulation and disposition thereof;
- 10 (iv) limitations on the right of the authority or its agent to restrict  
11 and regulate the use of a project;
- 12 (v) limitations on the purpose to which the proceeds of sale of  
13 any issue of bonds then or thereafter to be issued may be applied  
14 and pledging such proceeds to secure the payment of the bonds or  
15 any issue of the bonds;
- 16 (vi) limitations on the issuance of additional bonds, the terms  
17 upon which additional bonds may be issued and secured and the  
18 refunding of outstanding bonds;
- 19 (vii) the procedure, if any, by which the terms of any contract  
20 with bondholders may be amended or abrogated, the amount of  
21 bonds the holders of which must consent thereto, and the manner in  
22 which such consent may be given;
- 23 (viii) limitations on the amount of moneys derived from a  
24 project to be expended for operating, administrative or other  
25 expenses of the authority; and
- 26 (ix) defining the acts or omissions to act which shall constitute a  
27 default in the duties of the authority to holders of its obligations and  
28 providing the rights and remedies of such holders in the event of a  
29 default.
- 30 e. Neither the members of the authority nor any person  
31 executing the bonds shall be liable personally on the bonds or be  
32 subject to any personal liability or accountability by reason of the  
33 issuance thereof.
- 34 f. The authority shall have power out of any funds available  
35 therefor to purchase its bonds. The authority may hold, pledge,  
36 cancel or resell such bonds, subject to and in accordance with  
37 agreements with bondholders.
- 38 g. (1) '(a)' There is established a hospital asset transformation  
39 program in the authority for the purpose of providing financial  
40 assistance by the authority to nonprofit hospitals in this State, from  
41 funds received pursuant to and in accordance with the provisions of  
42 this subsection, in connection with the termination of the provision  
43 of hospital acute care services at a specific location that may no  
44 longer be necessary or useful for this purpose. For the purposes of  
45 this subsection, "the termination of the provision of hospital acute  
46 care services" shall include, but not be limited to, the actual closure  
47 of, or other action taken to terminate acute care services at, a  
48 nonprofit hospital and the surrender of its license to provide

1 hospital acute care services at that specific location, which occurred  
2 after the issuance by the commissioner of, and in accordance with  
3 the provisions of, a certificate of need issued pursuant to P.L.1971,  
4 c.136 (C.26:2H-1 et seq.), without regard to any pending appeal by  
5 a third party of the issuance of the certificate of need.

6 '(b)' The termination of the provision of hospital acute care  
7 services shall not preclude the commissioner from issuing a new  
8 certificate of need with respect to the provision of hospital acute  
9 care services at that location to a party unrelated to the party to  
10 whom the certificate of need with respect to the termination of the  
11 provision of hospital acute care services was issued.

12 (2) Subject to the approval of the State Treasurer, the authority  
13 shall have the power to issue bonds and refunding bonds, incur  
14 indebtedness and borrow money secured, in whole or in part, by  
15 moneys received pursuant to subsection a. of section 6 of P.L.2000,  
16 c.98 (C.26:2I-7.1), in order to provide, in connection with the  
17 hospital asset transformation program, any nonprofit health care  
18 organization in the State with the funds to:

19 (a) satisfy the outstanding bonded indebtedness or any other  
20 outstanding indebtedness of any hospital in the State;

21 (b) pay the costs of transitioning a general hospital to a  
22 nonprofit, non-acute care health care-related facility, including, but  
23 not limited to, construction, renovation, equipment, information  
24 technology and working capital;

25 (c) pay the costs related to transitioning acute care and related  
26 services from the hospital at which inpatient acute care services are  
27 to be terminated to an existing nonprofit general hospital, including,  
28 but not limited to, construction, renovation, equipment, information  
29 technology and working capital;

30 (d) pay the costs associated with the closure of a general  
31 hospital;

32 (e) pay the costs of the acquisition of a general hospital in the  
33 State for the purpose of either (i) moving an existing general  
34 hospital's services into the acquired hospital and closing the  
35 acquirer's inpatient acute care services, or (ii) closing its inpatient  
36 acute care services;

37 (f) pay capitalized interest;

38 (g) fund a debt service reserve fund;

39 (h) pay the costs associated with the issuance of any bonds for  
40 any of the aforementioned purposes; or

41 (i) pay other costs specifically related to the closure or  
42 transition of inpatient acute care services as identified in the  
43 contract with the Treasurer.

44 The authority may establish reserves or other funds to further  
45 secure these bonds or refunding bonds.

46 (3) The authority may, in any resolution authorizing the  
47 issuance of bonds or refunding bonds issued pursuant to this  
48 subsection, pledge the contract with the State Treasurer provided

1 for in subsection b. of section 6 of P.L.2000, c.98 (C.26:2I-7.1), or  
2 any part thereof, for the payment or redemption of the bonds or  
3 refunding bonds, and covenant as to the use and disposition of  
4 money available to the authority for payments of bonds and  
5 refunding bonds. Subject to the approval of the State Treasurer, the  
6 authority may pay the costs associated with the issuance of bonds or  
7 refunding bonds by the authority for the purposes of this subsection  
8 from amounts it receives from the proceeds of the bonds or  
9 refunding bonds and from amounts it receives pursuant to  
10 subsection a. of section 6 of P.L.2000, c.98 (C.26:2I-7.1), which  
11 costs may include, but are not limited to, any costs relating to the  
12 issuance of the bonds or refunding bonds and costs attributable to  
13 any agreements securing, or providing for the payment of, these  
14 bonds or refunding bonds. The authority is authorized to enter into  
15 any agreement necessary or desirable to effectuate the purposes of  
16 this subsection, including an agreement to sell bonds or refunding  
17 bonds to any person and to comply with the laws of any jurisdiction  
18 relating thereto.

19 (cf: P.L.2007, c.110, s.1)

20

21 2. This act shall take effect immediately.

1 refunding bonds, and covenant as to the use and disposition of  
2 money available to the authority for payments of bonds and  
3 refunding bonds. Subject to the approval of the State Treasurer, the  
4 authority may pay the costs associated with the issuance of bonds or  
5 refunding bonds by the authority for the purposes of this subsection  
6 from amounts it receives from the proceeds of the bonds or  
7 refunding bonds and from amounts it receives pursuant to  
8 subsection a. of section 6 of P.L.2000, c.98 (C.26:2I-7.1), which  
9 costs may include, but are not limited to, any costs relating to the  
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14 this subsection, including an agreement to sell bonds or refunding  
15 bonds to any person and to comply with the laws of any jurisdiction  
16 relating thereto.

17 (cf: P.L.2007, c.110, s.1)

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19 2. This act shall take effect immediately.

20

21

22 SPONSOR'S STATEMENT

23

24 The purpose of this bill is to clarify the provisions of the "New  
25 Jersey Health Care Facilities Financing Authority Law," P.L.1972,  
26 c.29 (C.26:2I-1 et seq.), governing the hospital asset transformation  
27 program in the New Jersey Health Care Facilities Financing  
28 Authority.

29 That law established a hospital asset transformation program in  
30 the authority for the purpose of providing financial assistance by the  
31 authority to nonprofit hospitals in this State, from funds received  
32 pursuant to and in accordance with the provisions of P.L.1972, c.29,  
33 in connection with the termination of the provision of hospital acute  
34 care services at a specific location that may no longer be necessary  
35 or useful for this purpose.

36 This bill stipulates that "the termination of the provision of  
37 hospital acute care services" is to include, but not be limited to, the  
38 actual closure of, or other action taken to terminate acute care  
39 services at, a nonprofit hospital and the surrender of its license to  
40 provide hospital acute care services at that specific location, which  
41 occurred after the issuance by the Commissioner of Health and  
42 Senior Services, and in accordance with the provisions of, a  
43 certificate of need (CN) issued pursuant to P.L.1971, c.136  
44 (C.26:2H-1 et seq.), without regard to any pending appeal by a third  
45 party of the issuance of the CN. The termination of the provision of  
46 hospital acute care services is not to preclude the commissioner  
47 from issuing a new CN with respect to the provision of hospital  
48 acute care services at that location to a party unrelated to the party

**A3389 P. BARNES, III, DIEGNAN**

**6**

- 1 to whom the CN with respect to the termination of the provision of**
- 2 hospital acute care services was issued.**

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3389**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 13, 2008

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3389, with committee amendments.

The bill, as amended, clarifies the provisions of the "New Jersey Health Care Facilities Financing Authority Law," P.L.1972, c.29 (C.26:2I-1 et seq.), governing the hospital asset transformation program in the New Jersey Health Care Facilities Financing Authority.

That law established a hospital asset transformation program in the authority for the purpose of providing financial assistance by the authority to nonprofit hospitals in this State, from funds received pursuant to and in accordance with the provisions of P.L.1972, c.29, in connection with the termination of the provision of hospital acute care services at a specific location that may no longer be necessary or useful for this purpose.

This bill clarifies the meaning of the termination of the provision of hospital acute care services. The bill stipulates that "the termination of the provision of hospital acute care services" is to include, but not be limited to, the actual closure of, or other action taken to terminate acute care services at, a nonprofit hospital and the surrender of its license to provide hospital acute care services at that specific location, which occurred after the issuance by the Commissioner of Health and Senior Services, and in accordance with the provisions of, a certificate of need (CN) issued pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), without regard to any pending appeal by a third party of the issuance of the CN. The termination of the provision of hospital acute care services is not to preclude the commissioner from issuing a new CN with respect to the provision of hospital acute care services at that location to a party unrelated to the party to whom the CN with respect to the termination of the provision of hospital acute care services was issued.

#### FISCAL IMPACT:

This bill was not certified as requiring a fiscal note.

COMMITTEE AMENDMENTS:

The amendments are technical, dividing a paragraph into two subparagraphs.

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 3389**

**STATE OF NEW JERSEY**

DATED: DECEMBER 8, 2008

The Senate Health, Human Services and Senior Citizens Committee reports favorably Assembly Bill No. 3389 (1R).

This bill clarifies the provisions of the "New Jersey Health Care Facilities Financing Authority Law," P.L.1972, c.29 (C.26:2I-1 et seq.), governing the hospital asset transformation program in the New Jersey Health Care Facilities Financing Authority.

That law established a hospital asset transformation program in the authority for the purpose of providing financial assistance by the authority to nonprofit hospitals in this State, from funds received pursuant to and in accordance with the provisions of P.L.1972, c.29, in connection with the termination of the provision of hospital acute care services at a specific location that may no longer be necessary or useful for this purpose.

This bill clarifies the meaning of the termination of the provision of hospital acute care services. The bill stipulates that "the termination of the provision of hospital acute care services" is to include, but not be limited to, the actual closure of, or other action taken to terminate acute care services at, a nonprofit hospital and the surrender of its license to provide hospital acute care services at that specific location, which occurred after the issuance by the Commissioner of Health and Senior Services, and in accordance with the provisions of, a certificate of need (CN) issued pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), without regard to any pending appeal by a third party of the issuance of the CN. The termination of the provision of hospital acute care services is not to preclude the commissioner from issuing a new CN with respect to the provision of hospital acute care services at that location to a party unrelated to the party to whom the CN with respect to the termination of the provision of hospital acute care services was issued.

This bill is identical to Senate Bill No. 2352 SCA (Vitale), which the committee also reported favorably on this date.

1 refunding bonds, and covenant as to the use and disposition of  
2 money available to the authority for payments of bonds and  
3 refunding bonds. Subject to the approval of the State Treasurer, the  
4 authority may pay the costs associated with the issuance of bonds or  
5 refunding bonds by the authority for the purposes of this subsection  
6 from amounts it receives from the proceeds of the bonds or  
7 refunding bonds and from amounts it receives pursuant to  
8 subsection a. of section 6 of P.L.2000, c.98 (C.26:2I-7.1), which  
9 costs may include, but are not limited to, any costs relating to the  
10 issuance of the bonds or refunding bonds and costs attributable to  
11 any agreements securing, or providing for the payment of, these  
12 bonds or refunding bonds. The authority is authorized to enter into  
13 any agreement necessary or desirable to effectuate the purposes of  
14 this subsection, including an agreement to sell bonds or refunding  
15 bonds to any person and to comply with the laws of any jurisdiction  
16 relating thereto.

17 (cf: P.L.2007, c.110, s.1)

18

19 2. This act shall take effect immediately.

20

21

22 SPONSOR'S STATEMENT

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24 The purpose of this bill is to clarify the provisions of the "New  
25 Jersey Health Care Facilities Financing Authority Law," P.L.1972,  
26 c.29 (C.26:2I-1 et seq.), governing the hospital asset transformation  
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28 Authority.

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48 acute care services at that location to a party unrelated to the party

**S2352 VITALE**

**6**

- 1 to whom the CN with respect to the termination of the provision of**
- 2 hospital acute care services was issued.**

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

**SENATE, No. 2352**

with committee amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 8, 2008

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with amendments Senate Bill No. 2352.

As amended by committee, this bill clarifies the provisions of the "New Jersey Health Care Facilities Financing Authority Law," P.L.1972, c.29 (C.26:2I-1 et seq.), governing the hospital asset transformation program in the New Jersey Health Care Facilities Financing Authority.

That law established a hospital asset transformation program in the authority for the purpose of providing financial assistance by the authority to nonprofit hospitals in this State, from funds received pursuant to and in accordance with the provisions of P.L.1972, c.29, in connection with the termination of the provision of hospital acute care services at a specific location that may no longer be necessary or useful for this purpose.

This bill clarifies the meaning of the phrase "termination of the provision of hospital acute care services." The bill stipulates that "the termination of the provision of hospital acute care services" is to include, but not be limited to, the actual closure of, or other action taken to terminate acute care services at, a nonprofit hospital and the surrender of its license to provide hospital acute care services at that specific location, which occurred after the issuance by the Commissioner of Health and Senior Services, and in accordance with the provisions of, a certificate of need (CN) issued pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), without regard to any pending appeal by a third party of the issuance of the CN. The termination of the provision of hospital acute care services is not to preclude the commissioner from issuing a new CN with respect to the provision of hospital acute care services at that location to a party unrelated to the party to whom the CN with respect to the termination of the provision of hospital acute care services was issued.

The committee adopted technical amendments, which divide a paragraph into two subparagraphs.

As amended by committee, this bill is identical to Assembly Bill No. 3389 (1R) (Barnes/Diegnan/Gusciora/Conaway/Vas), which the committee also reported favorably in this date.