

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1056

Short Title: Hospital/Med. Service Corp.

(Public)

Sponsors: Senators Gulley and Winner.

Referred to: Rules and Operations of the Senate.

April 21, 1997

A BILL TO BE ENTITLED

1
2 AN ACT TO AMEND THE NONPROFIT CORPORATION LAWS AND THE
3 INSURANCE LAWS TO PROTECT THE PUBLIC'S INTEREST IN THE
4 DISPOSITION OF FUNDS RESULTING FROM A CONVERSION BY A
5 NONPROFIT HOSPITAL AND MEDICAL SERVICE CORPORATION TO A
6 FOR-PROFIT ENTITY.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 55A-17-01 reads as rewritten:

9 **"§ 55A-17-01. Applicability of Chapter.**

10 (a) The provisions of this Chapter relating to domestic corporations shall apply to:

11 (1) All corporations heretofore or hereafter organized under this Chapter.

12 (2) All nonprofit corporations without capital stock heretofore or hereafter
13 organized under any other act, unless there is some other specific
14 statutory provision particularly applicable to such corporations or
15 inconsistent with some provisions of this Chapter, in which case that
16 other provision prevails. ~~Nothing herein shall apply to hospital and medical~~
17 ~~service corporations as defined in Article 65 of Chapter 58 of the General~~
18 ~~Statutes which were incorporated prior to July 1, 1957, or repeal or modify the~~
19 ~~provisions of G.S. 54-138.~~

1 (b) The provisions of this Chapter relating to foreign corporations shall apply to all
2 corporations conducting affairs in this State for purposes for which a corporation might
3 be organized under this Chapter. A foreign corporation authorized to conduct affairs in
4 this State on July 1, 1994, is subject to this Chapter but is not required to obtain a new
5 certificate of authority to conduct affairs under this Chapter.

6 (c) Notwithstanding subdivision (a)(2) of this section, this Chapter does not:

7 (1) Repeal or modify the provisions of G.S. 54-138.

8 (2) Apply to a hospital and medical service corporation that is licensed
9 under Article 65 of Chapter 58 of the General Statutes and that was
10 incorporated prior to July 1, 1957. However, if that corporation
11 proposes to convert under G.S. 58-65-130(3), it shall provide written
12 notice and a plan of the conversion to the Attorney General and the
13 Commissioner of Insurance at least 30 days before the consummation of
14 the conversion."

15 Section 2. G.S. 58-65-130 reads as rewritten:

16 **"§ 58-65-130. Amendments to certificate of incorporation.**

17 Any corporation subject to the provisions of this Article and Article 66 of this Chapter
18 may hereafter amend its charter in the following manner only:

19 (1) a. A meeting of the board of directors, trustees or other governing
20 authority shall be called in accordance with the bylaws specifying the
21 amendment to be voted upon at such meeting.

22 b. If at such meeting two thirds of the directors, trustees or other
23 governing authority present vote in favor of the proposed
24 amendment, then the president and secretary shall under oath
25 make a certificate to this effect, which certificate shall set forth
26 the call for such meeting, a statement showing service of such
27 call upon all directors, and a certified copy of so much of the
28 minutes of the meeting as relate to the adoption of the proposed
29 amendment.

30 c. Said officers shall cause said certificate to be published once a
31 week for two consecutive weeks in a newspaper in Raleigh and
32 in the county where the corporation's principal office is located,
33 or posted at the courthouse door if no newspaper be published
34 within the county. Said printed or posted notices shall be in such
35 form and of such size as the Commissioner may approve, and in
36 addition to setting forth in full the certificate required in
37 paragraph b shall state that application for amending the
38 corporation's charter in the manner specified has been proposed
39 by the board of directors, trustees, or other governing authority,
40 and shall also state the time set for the meeting of certificate
41 holders thereby called to be held at the principal office of the
42 corporation to take action on the proposed amendment. A true
43 copy of such notice shall be filed with the Commissioner. Such

1 publication and filing of notice shall be completed at least 30
2 days prior to the date set therein for the meeting of the certificate
3 holders and due proof thereof shall be filed with the
4 Commissioner at least 15 days prior to the date of such meeting.
5 If the meeting at which the proposed amendment is to be
6 considered is a special meeting, rather than a regular annual
7 meeting of certificate holders, such special meeting can be called
8 only after the Commissioner has given his approval in writing,
9 and the published notice shall show the fact of such approval. At
10 said meeting those present in person or represented by proxy
11 shall constitute a quorum.

12 d. If at such certificate holders' meeting two thirds of those present
13 in person or by proxy shall vote in favor of any proposed
14 amendment, the president and secretary shall make a certificate
15 under oath setting forth such fact together with the full text of the
16 amendment thus approved. Said certificate shall, within 30 days
17 after such meeting, be submitted to the Commissioner for his
18 approval as conforming to the requirement of law, and it shall be
19 the duty of the Commissioner to act upon all proposed
20 amendments within 10 days after filing of such certificates with
21 him. Should the Commissioner approve the proposed amendment
22 or amendments, he shall certify this fact, together with the full
23 text of such amendments as are approved by him, to the
24 Secretary of State who shall thereupon issue the charter
25 amendment in the usual form. Should the Commissioner
26 disapprove of any amendment, then the same shall not be
27 allowed.

28 (2) All charters and charter amendments heretofore issued upon application
29 of the board of directors, trustees or other governing authority of any
30 corporations subject to the provisions of this Article and Article 66 of
31 this Chapter are hereby validated.

32 (3) The charter of any corporation subject to the provisions of this Article
33 and Article 66 of this Chapter may be amended to convert that
34 corporation, so amending its charter, into either a mutual nonstock or
35 stock accident and health insurance company or life insurance company
36 subject to the provisions of Articles 1 through 64 of this Chapter provided
37 ~~the rights of the subscribers or certificate holders in the reserves and capital of~~
38 ~~such corporation are adequately protected under rules and regulations adopted~~
39 ~~by the Commissioner of Insurance. Chapter.~~

40 (4) If the corporation proposing to convert is exempt under G.S. 55A-17-
41 01(a)(2) from the provisions of Chapter 55A of the General Statutes, it
42 is subject to the following:

- 1 a. The filing of the notice and plan of the proposed conversion in
2 accordance with G.S. 55A-17-01(c).
3 b. Any rules adopted by the Commissioner of Insurance to protect
4 the rights of subscribers or certificate holders in the reserves and
5 capital of the corporation.
6 c. The impressment of its reserves and capital or portions thereof by
7 the State of North Carolina for the protection of the public, as
8 determined concurrently by the Commissioner of Insurance and
9 the Attorney General."

10 Section 3. This act is effective when it becomes law.