

House Bill No. 1515

An act relating to the Board of Trustees of Bay Medical Center, Bay County; codifying, amending, reenacting, and repealing chapters 23183 (1945), 27396 (1951), 30578 (1955), 57-1140, 59-1073, 61-1871, 61-1876, 93-375, and 95-510, Laws of Florida, relating to the Board of Trustees of Bay Medical Center, an independent special district of the State of Florida; providing legislative intent for the ratification and confirmation of the establishment of the district; ratifying the appointments and terms of existing members of the board; deleting obsolete language; providing alternative methods for disbursing and receiving funds of the board; confirming inapplicability of the Administrative Procedure Act; providing an effective date.

WHEREAS, chapter 23183, Laws of Florida, 1945, authorized the establishment of a county hospital, formerly known as Bay Memorial Hospital of Bay County, Florida, now known as Bay Medical Center, and

WHEREAS, in 1948, the Board of County Commissioners of Bay County by resolution petitioned the Governor to appoint a board of trustees to administer the affairs of the hospital under the general laws of the state until such time as a special act might be enacted by the Legislature to establish the terms and authority by which the hospital would be administered and operated, and

WHEREAS, despite the decision of the board of county commissioners to divest itself of operational control of the hospital, a special act was not immediately enacted, and

WHEREAS, nonetheless, the Legislature repeatedly has recognized the existence of the board of trustees, first by enacting chapter 27396 (1951), Laws of Florida, which authorized the board of trustees to organize a medical staff, then by enacting chapter 61-1871, Laws of Florida, which conferred upon the board of trustees specific powers to provide hospitalization insurance and other fringe benefits for its employees, and later by enacting chapter 93-375, Laws of Florida, which revised the method of appointing its members, and

WHEREAS, in chapter 95-510, Laws of Florida, the Legislature again amended the method of selection of the board of trustees and specifically affirmed the corporate authority of the board as a body politic in existence and operating without interruption since 1948, thus clarifying and confirming, once and for all, its status as an independent special district, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to Board of Trustees of Bay Medical Center, the governing body of the county hospital authorized by chapter 23183 (1945), Laws of Florida, and subsequently recognized and

ratified as an independent special district by chapter 95-510, Laws of Florida. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the district that ratifies and continues without interruption all powers and authority granted to the board by, or implicit in, the several previous legislative enactments. In furtherance of this intent, the Legislature finds that the Board of Trustees of Bay Medical Center, formerly known as Bay Memorial Hospital of Bay County, has continuously existed as a body politic since 1948, and nothing herein shall be construed to question or impair any contract currently outstanding or the authority and power of the board to take the actions previously taken and spread upon its minutes.

Section 2. Chapters 23183 (1945), 27396 (1951), 30578 (1955), 57-1140, 59-1073, 61-1871, 61-1876, 93-375, and 95-510, Laws of Florida, are codified, reenacted, amended, and repealed as provided in this act.

Section 3. The charter for the Board of Trustees of Bay Medical Center is re-created and reenacted to read:

Section 1. This act may be cited as the “Bay Medical Center District Act.”

Section 2. The Board of Trustees of Bay Medical Center (the “board of trustees” or the “board”), being formerly known as Bay Memorial Hospital of Bay County, Florida, shall be and have all the powers of a public body corporate and politic, exercisable in the name of Bay Medical Center, to establish, lease, acquire, own, and operate one or more hospitals or other health care or ancillary facilities situated within Bay County and, where supportive of those facilities, within health planning districts 1, 2, and 3, as defined in section 408.032(5), Florida Statutes (1993); to provide health care services determined by the board or its delegates to be in the best interest of the persons utilizing such facilities and services; to do and perform any and all acts or services that may be incidental or necessary to carry out those purposes or intended to improve the physical or mental health of the persons utilizing such facilities and services; to form, contribute to, and participate in all manner of alliances and organizations involved in the delivery, marketing, sale, and payment of health care services; and to engage in any lawful act or activity in which a not-for-profit corporation providing health care services may engage under the laws of Florida, including, but not limited to, the power, the exercise of which is declared to be for a public purpose:

- (1) To have perpetual existence as a body politic and corporate.
- (2) To adopt and use, and prescribe the use of, a common seal and one or more service marks, and to alter the same at pleasure.
- (3) To contract and enter agreements with public and private entities.
- (4) To sue and be sued pursuant to section 768.28, Florida Statutes, in the name of Bay Medical Center.
- (5) To acquire, purchase, hold, develop, improve, modify, lease as lessee or lessor, and convey such real and personal property as the board may deem proper or expedient to further the purposes of this act.

(6) To appoint and employ such executive officers and such other agents and employees as the board may deem advisable.

(7) To borrow money, incur indebtedness, and, by resolution of the board, issue notes, revenue certificates, bonds, and other evidences of indebtedness payable from revenues, lease participations, or legally available funds by Bay Medical Center, and to fund or refund the same, all upon such terms and conditions and containing such provisions as may be approved by the board.

(8) To borrow money and, by resolution of the board, issue anticipation notes payable from the anticipated proceeds of bonds, notes, certificates, lease participations, revenues, grants, agreements with public or private entities, or legally available funds of Bay Medical Center, and to fund or refund the same, all upon such terms and conditions and containing such provisions as may be approved by the board.

(9) To make and adopt bylaws for the organization of and the transaction of business by the board and for the governance and operation of the facilities operated by Bay Medical Center.

(10) To establish and authorize a medical staff to direct and control medical staff and allied health practitioners with privileges to perform professional services in the hospitals and other facilities operated by Bay Medical Center. The board shall, after recommendation of the medical staff, establish bylaws, rules, and regulations governing the organization of such medical staff; the selection, appointment, and reappointment of such medical staff members; the selection, credentialing, and recredentialing of allied health practitioners; the disciplining or removal of medical staff members and allied health practitioners; the delineation of clinical privileges; the professional and administrative duties of members of the medical staff; and such other matters as the board may address so that the health and well-being of patients and the best interests of the hospital and other facilities authorized pursuant to this act may at all times be served.

(11) To determine the lines and levels of services to be delivered through the facilities operated by Bay Medical Center.

(12) To establish, fix, and charge rates, fees, rentals, and other charges for the use of the services and facilities operated by Bay Medical Center.

(13) To establish a risk management and retention program consisting of such self-insurance plans or commercial insurance, or both, as the board may deem prudent to protect against those risks of loss commonly insured against by businesses and organizations carrying out health care functions.

(14) To form Florida for-profit corporations and other business organizations, and to form, become a member of, participate in the governance of, including exercising control over such governance, and to contribute funds to Florida not-for-profit corporations. Bay Medical Center shall not hold in its name corporate stock or similar evidence of ownership (herein "stock") issued by any for-profit corporation or other business organization established under the authority of this section, but such stock may be held either

by a not-for-profit corporation established by Bay Medical Center or by a third party in trust for Bay Medical Center under a written trust agreement. The corporations or other business organizations established under the authority of this section may be stockholders with and may enter into joint ventures and other cooperative projects with third-party individuals and entities as long as Bay Medical Center itself is not directly involved as a shareholder, joint venturer, or partner. The fact that a corporation or other business organization established by Bay Medical Center is a shareholder, joint venturer, or other type of participant in a business or cooperative project shall not, alone, subject that business or cooperative project to the requirements of section 119.07(1) or section 286.011, Florida Statutes, except as otherwise provided by Florida law.

(15) To enter into arrangements with other public or private hospitals or entities to provide for the cooperative sharing of facilities and other resources, as well as to provide for the merger or consolidation of hospitals or facilities into Bay Medical Center, in order to improve the quality of the patient care in Bay and neighboring counties, achieve higher utilization of resources, improve cost-control measures, avoid unnecessary duplication of resources within those counties, and help make it possible for residents of those counties to obtain and afford the benefits of technological and scientific improvements in hospital care and services.

(16) To engage in, and pay from its funds those expenses of the type normally incurred in, the establishment, acquisition, operation, repair, maintenance, expansion, and diversification of an integrated system for the delivery of physical, emotional, mental, or other health care services, consisting of, without limitation, hospitals, clinics, health maintenance organizations, ambulatory care facilities, nursing homes and congregate and assisted living facilities, home health providers, hospice facilities, managed care organizations and facilities, other alternative delivery systems now or hereafter conceived, self-insurance and risk-retention programs, captive insurance companies and support organizations, and organizations and facilities intended to prevent sickness, injury, or disease or to promote a healthy lifestyle. This subsection shall not be construed to restrict any of the powers vested in Bay Medical Center by any other provision of this act or any provision of general law.

(17) To provide either independently or in cooperation with other public or private agencies, an appropriate location or locations for the delivery of quality hospital care and related services and treatment to patients who are determined according to criteria established or approved by the board to be medically indigent. The board may establish policies providing a reduced charge or no charge for the treatment of those patients who, after reasonable inquiry, are found by the hospital management to be without the means to pay in full. The board may, from time to time, establish guidelines for the hospital management in making such inquiry and determinations. The board may collect from patients who are found to have the means to pay such charges as the hospital board may, in its sole discretion, from time to time establish.

(18) To accept gifts and contributions; to accept moneys or funds available from other private or governmental agencies for payment of the cost of

treatment and care of patients or for other purposes; and to accept the grant, conveyance, or lease of those assets now or hereafter owned by the Board of County Commissioners of Bay County, (the “board of county commissioners”) and either in the possession of the board of trustees or used or useful in the operation of Bay Medical Center, which grant, conveyance, or lease is hereby authorized, and to dedicate such assets to hospital, health care, and ancillary purposes as provided herein.

(19) To make contributions to charitable organizations described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, as well as to governmental agencies for such purposes as the board may determine to further the physical and mental health of the residents of Bay County or the persons utilizing the facilities and services offered by the board.

(20) To create, be a voting member of, choose directors to serve on the boards of, be a partner in, or participate in or control any venture, corporation, partnership, or other organization, public or private, and contribute funds thereto, which the board finds operates for purposes consistent with, and in furtherance of, the mission, purposes, and best interests of the hospital and other facilities created, operated, or authorized under this act.

(21) To enter one or more contracts, upon such terms and conditions as the board may deem advisable, to receive or provide management services, professional services, and skilled or unskilled labor.

(22) To incur and pay reasonable expenditures for travel, physician recruiting, employee recruiting, hospitality, education, and marketing related to the furtherance of the objectives of this act.

(23) To do all things which are customarily done by other hospitals, public or private, similarly situated and which will further the purposes of this act.

(24) To exercise all implied powers necessary to further the purposes of this act, which implied powers, although not named, are hereby expressly granted.

(25) To provide and pay for employee benefits customarily provided by private employers similarly situated, with or without employee contribution, including, without limitation, group health insurance through a self-insurance plan or a commercial insurer, or both, with optional extension of coverage to dependents, group life insurance, and group disability insurance, and to allow varied discounts on the cost of drugs, emergency care, diagnostic, and other hospital services to employees of Bay Medical Center, members of the medical staff, and allied health practitioners with credentials at facilities operated by Bay Medical Center.

The express examples of powers enumerated herein shall not be construed to limit or preclude the exercise of any other power, express or implied. Nonetheless, the board shall have neither the power to levy any tax nor the power to appropriate property by right of eminent domain.

Section 3. The Board of Trustees of Bay Medical Center shall consist of nine persons, one of whom shall be nominated and confirmed by the board of county commissioners, six of whom shall be nominated by the board of trustees and confirmed by the board of county commissioners, and two of whom shall be nominated by the medical staff of the primary hospital operated by the board of trustees and confirmed by the board of county commissioners. Each medical staff nominee shall be selected by majority vote of active medical staff members conducted in accordance with the bylaws governing regular medical staff affairs and approved by the board of trustees for submission to the board of county commissioners. The board of county commissioners shall nominate and confirm its single appointee approximately 30 days prior to the end of the expiring term. For all other appointments, one qualified person shall be nominated for each vacancy approximately 60 days prior to the end of the expiring term. The board of county commissioners shall confirm or reject such nominee within 30 days after the nomination is made. If the nominee is rejected, one additional qualified person shall be nominated within 30 days thereafter and the process shall be repeated in like manner until the appointment is complete or three nominations have been made. If the third nominee is rejected, the board of county commissioners alone shall make the appointment. The appointment of all members of the board of trustees in office on the effective date of this act, and the seats and terms for which they were appointed, are hereby ratified and validated. Upon the expiration of their respective terms, successors to Seats One, Two, Three, Four, Five, and Six shall be nominated by the board of trustees and confirmed by the board of county commissioners for a term of 4 years; successors to Seats Eight and Nine shall be nominated by the medical staff as provided herein and confirmed by the board of county commissioners for a term of 4 years; and successors to Seat Seven shall be nominated and confirmed by the board of county commissioners alone for a term of 4 years. In the event a seat becomes vacant by reason of resignation, death, removal, suspension, or otherwise, the bodies or body nominating and confirming that member shall by similar procedure nominate and confirm a member to fill the vacant seat for the remainder of the term or, in the event of a suspension, the period of suspension. Every member shall serve until the expiration of that member's term or the confirmation of that member's successor by the board of county commissioners, whichever occurs later. A person who has served two full, consecutive terms as a member of the board of trustees shall not be eligible for reconfirmation until the next regular appointment process occurring approximately 2 years after that person's termination of service. Each member of the board of trustees shall be and remain a citizen and resident of the state, of sound mind and good moral character, and without economic or other interests either in competition with the best interests of the facilities, services, and businesses operated and provided by Bay Medical Center or likely to create a continuing or frequently recurring temptation to disregard the member's fiduciary duty to Bay Medical Center. Without limiting the foregoing, the following persons are declared to be disqualified from service on the board of trustees: any person employed by Bay Medical Center or any entity controlled by Bay Medical Center; any person employed by, holding a material interest in, or serving as an officer, director, manager of, or business consultant or advisor to, any business entity operating or providing facilities or services the majority of which are in competition with the facilities or health care services

operated or offered by Bay Medical Center or any entity controlled by Bay Medical Center; and any person serving upon any executive, administrative, or credentialing committee of the medical staff of any facility or organization operated by Bay Medical Center or any entity controlled by Bay Medical Center. As used herein, "material interest" means direct or indirect, legal, equitable, or beneficial ownership of or interest in more than 5 percent of the total assets or capital stock of any business entity. For purposes of this act, indirect ownership includes, without limitation, ownership by a spouse or minor child. A determination by the board of county commissioners, after full and fair disclosure of all relevant facts, that a nominee or board member is qualified notwithstanding the appearance of a conflict shall constitute a legislative determination of that fact. Members of the board of trustees may be removed by the Governor for cause. Notwithstanding the qualifications for members of the board of trustees set forth above, any otherwise valid act of the board of trustees shall be valid notwithstanding a subsequent determination that one or more members of the board of trustees were not qualified under this act to serve at the time such action was taken.

Section 4. The board shall elect from its members a chair and vice chair and either a secretary and a treasurer or a secretary-treasurer. Five of the members shall constitute a quorum, but no action, except to recess or adjourn, shall be effective unless five of the members concur therein. The board shall cause true and accurate minutes and records to be kept of all business transacted by the board and shall keep full, true, and complete books of accounts and records. Except as provided by law, such minutes, records, and books of accounts and the current budget shall at all reasonable times be open and subject to public inspection, and any person desiring to do so may make or procure a copy of any minutes, records, or books of accounts or position filled, as he or she may desire at the person's expense. Except as provided by law, all meetings of the board shall be open to the general public. At least once a year the board shall cause the financial records and accounts of the hospital to be audited by a certified public accountant authorized to practice public accounting in the state.

Section 5. The board shall hire or appoint a chief executive officer, who shall have the title of president. The president shall be responsible to see to the hiring or retention of such vice presidents, assistants, and personnel as he or she may deem necessary for the efficient management and operation of the hospital and its other facilities. The president shall recommend the adoption of such general policies by the board as may be deemed necessary and appropriate for the day-to-day management and operation of the hospital and its other facilities, and the board may authorize the president to see to the establishment of specific policies, procedures, guidelines, and rules regarding such management and operation. The board may authorize and delegate the enforcement of all such policies, procedures, guidelines, and rules to the president, who may, in turn, authorize and delegate enforcement of the same to such assistants, staff, or contractors as the president may deem appropriate or necessary.

Section 6. Funds of the board may be paid out or received for purposes consistent with this act only upon drafts, checks, or warrants signed by persons duly authorized by the board to execute such instruments or, if

authorized by the board and subject to all restrictions and limitations contained in any such authorization, by electronic funds transfers, wire transfers, direct credits, direct debits, purchasing cards, or any other electronic means as may be provided or authorized by the Federal Reserve Bank. The board may authorize the use of facsimile signatures under conditions specified by the board. The board may adopt rules for the payment of lesser sums in cash, not to exceed \$100, and a petty cash fund or funds may be established for such purpose with the maximum amount payable in cash in one transaction fixed by the board. All funds of the board shall be deposited in banks which are qualified under state law to accept deposits of public funds. The board may deposit or invest its surplus funds in interest-bearing accounts, instruments, or securities, to the fullest extent permitted by general law.

Section 7. The public hospital operated under this act shall be for the primary use and benefit of the residents of Bay County. Such residents may be admitted to the hospital or treated at its other facilities, including additional hospitals owned, acquired, leased, or operated by Bay Medical Center, subject, however, to the rules and regulations adopted by the board. The board may extend the use of the hospital and its other facilities to nonresidents of Bay County upon such terms and conditions as the board may from time to time by its rules and regulations provide. The provisions of chapter 120, Florida Statutes, shall not apply to the board.

Section 8. The board of county commissioners and the board of trustees, jointly, are hereby authorized by a majority vote of the board of county commissioners and a two-thirds vote of the board of trustees, to grant, give, sell, convey, lease, or otherwise dispose of all of the assets and property, real, personal, and mixed, constituting the health care and ancillary facilities owned or controlled by the board of trustees, including property owned by the board of county commissioners, to a for-profit or not-for-profit corporation or other entity, upon a finding by a majority vote of the board of county commissioners and a two-thirds vote of the board of trustees, that such grant, gift, sale, conveyance, lease, or other disposition is in the best interest of the continued delivery of comprehensive, quality health care for the residents of Bay County, reasonably ensures the continued availability of such care regardless of ability to pay, and will provide for the continued treatment of indigent patients pursuant to the Florida Health Care Responsibility Act and pursuant to chapter 87-92, Laws of Florida, to the extent that the board of trustees is then providing such treatment pursuant to those acts. Such a finding shall constitute a determination that any such action serves a public purpose. The authority granted in this section is cumulative and in addition to all other powers of the board of trustees and nothing in this section shall be interpreted or construed to diminish or limit any such power. Following any such grant, gift, sale, conveyance, lease, or other disposition, and after paying or making provision for the payment of all liabilities of the board of trustees, the board of county commissioners and the board of trustees, jointly, are hereby authorized, by a majority vote of the former and a two-thirds vote of the latter, to dissolve the board of trustees, in which event any other assets of the board of trustees shall be distributed to the board of county commissioners. In the event, for any reason, the board of county commissioners is unable or unwilling to accept any or some of the assets

distributed to it, a court of competent jurisdiction, in an action brought for that purpose, shall order the disposition of such nondistributable assets to such organization or organizations organized and operated for charitable, educational, or scientific purposes as shall at that time qualify as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States Internal Revenue law), and as the court shall determine to be best calculated to carry out the purposes of this act. In the event that either the board of county commissioners or the board of trustees proposes to exercise the authority granted in this section and the other board does not agree, either board may place the proposed grant, gift, sale, conveyance, lease, or other disposition, and the general terms thereof, to a vote of the electors of Bay County at the next general election or at a special election called for such purpose. Upon approval of such action by a majority of the electors voting in a referendum upon such action, the board making the proposal shall be authorized, but not required, to take such action alone within a period of 180 days after the referendum.

Section 9. The effectuation of the authorized purposes under the provisions of this act shall be in all respects for the benefit of the people of Bay County and is hereby declared to be for the preservation of the public health, for the public good, and for the use of the public of the county; and, since the board will be performing essential governmental functions in effectuating such purposes, the board or any other agency, instrumentality, or body in charge of the hospital shall not be required to pay any taxes or assessments of any kind or nature whatsoever upon any property required or used for or in connection with any additions, extensions, and improvements to such hospital or hospitals or system or systems, or any rates, fees, rentals, receipts, or income at any time received from the operation thereof; and all bonds issued hereunder, their transfer, and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation of any kind by the state or by any political subdivision, taxing agency, or instrumentality thereof.

Section 10. The Legislature intends that the provisions of this act shall be liberally construed in order to accomplish the remedial purposes of this act which are to give the board a reasonable opportunity to manage and develop a public hospital or hospitals and other facilities in an increasingly competitive and rapidly changing marketplace in order to provide quality and comprehensive health care for the residents of Bay County, regardless of ability to pay. Where strict construction of this act would result in the defeat of the accomplishment of any of the purposes of this act, and a liberal construction would permit or assist in the accomplishment thereof, the liberal construction shall be chosen. In the event any provision of this act is held to be unconstitutional or otherwise unenforceable, the remainder of this act shall continue in full force and effect and be liberally construed to advance the remedial purposes of this act.

Section 4. Chapters 23183 (1945), 27396 (1951), 30578 (1955), 57-1140, 59-1073, 61-1871, 61-1876, 93-375, and 95-510, Laws of Florida, are repealed.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor June 14, 2005.

Filed in Office Secretary of State June 14, 2005.