

## Council Substitute for House Bill No. 791

An act relating to the DeSoto County Hospital District; amending chapter 2004-450, Laws of Florida; providing the nature of the district; providing for sovereign immunity; providing additional powers of the district; revising provisions relating to the destruction of records; providing for treatment of prisoners or county officers admitted to any hospital operated or leased by the district; providing for personnel; providing contract requirements for lease of facilities to not-for-profit corporations; providing for self-insurance plans; deleting certain requirements for insurance policy contracts; providing for liens for collection of charges; providing applicability; providing an effective date.

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

Section 1. Present sections 17 and 18 of section 3 of chapter 2004-450, Laws of Florida, are renumbered as sections 18 and 19, respectively, present sections 1, 3, 4, 14, 15, and 16 of that section are amended, and new sections 16 and 20 are added to that section, to read:

Section 1. Creation; boundaries; nature of district.—

(1) An independent special district is created and incorporated to be known as the “DeSoto County Hospital District,” which district shall embrace and include all of DeSoto County.

(2) The district is an independent special district of the state and DeSoto County pursuant to this act and chapter 189, Florida Statutes, and a public body both corporate and politic. The district shall not be an agency for the purposes of the Administrative Procedure Act, chapter 120, Florida Statutes. The district shall enjoy all the protections of sovereign immunity and section 768.28, Florida Statutes.

Section 3. Powers.—

(1) The District Board of DeSoto County Hospital District shall have all the powers of a body corporate, including the power to sue and be sued under the name of the DeSoto County Hospital District; to contract and be contracted with; to adopt and use a common seal and to alter same at pleasure; to acquire, purchase, hold, lease, mortgage, and convey such real and personal property as the board may deem proper or expedient to carry out the purposes of this act; to appoint and employ a superintendent and such other agents and employees as the board may deem advisable and to fix a compensation of all employees and to remove any appointees or employees; to insure the improvements, fixtures, and equipment against loss by fire, windstorm, or other coverage in such amounts as may be determined reasonable and proper; and to borrow money and issue evidence of indebtedness of the district therefor to carry out the provisions of this act in the manner hereinafter provided.

(2) The DeSoto County Hospital District is authorized and empowered to finance by any commercially reasonable means, including the issuance of industrial development or revenue bonds, the construction of additional medical facilities, the purchase of medical-care-related equipment, and such other classes of property in furtherance of the district's purposes.

(3) The district serves a proper public purpose; performs an essential governmental function of the state and county; shall have all power and authority necessary to carry out the purposes of this act, including, without limitation, all powers authorized by law to hospital districts, facilities, and authorities; and shall have and operate under the powers of a body corporate and politic, including such general and special powers and duties as are provided herein and as may be otherwise provided and amended from time to time by the Legislature.

Section 4. Officers; meetings; records.—There shall be a chair of the district board elected annually. The district board may elect one of its members to serve as secretary and treasurer or it may appoint some person not a member of the district board to serve in that capacity. In the absence of the chair or his or her inability to act at any regular meeting, warrants may be signed by any other member of the district board selected by the members present as chair pro tem. Three members shall constitute a quorum, and a vote of at least two members shall be necessary to the transaction of any business of the district. A regular meeting of the board shall be held annually. Additional meetings may be called by a majority of the board upon advance notice as provided by section 189.417, Florida Statutes. The members shall cause true and accurate minutes and records to be kept of all business transacted by them and shall keep full, true, and complete books of account and minutes, which minutes, records, and books of account shall at all reasonable times be open and subject to inspection; and any person desiring to do so may make or procure copies of the minutes, records, or books of account, or such portions thereof as he or she may desire; however, such records shall not include personnel and medical records of a private and confidential nature. The district board shall be empowered to destroy any of its records, together with any of the records of the hospitals owned and operated by the district board, if the records are photographed, or microfilmed, or otherwise maintained in a reproducible format prior to their destruction.

Section 14. Admission to facilities.—The hospital or related medical facilities established under this act shall be for the use and benefit of the residents of this district, subject to the rules, regulations, and charges prescribed by the district board which are in effect as of the date of admission of a patient or patients to such a hospital or related medical facility. Medical care and treatment for the indigent in the district shall be and remain the primary responsibility of DeSoto County, any authorization herein contained for treatment of indigents to the contrary notwithstanding, the district board of this district being granted the authority to refuse such admission of indigents when found by such district board not to be financially practicable with due regard to the general financial condition of the district. The district board is empowered to enter into and fulfill agreements with the Board of County Commissioners of DeSoto County for the admission and

treatment of indigents upon such terms, costs, and charges as may be mutually agreed upon. The district board shall be authorized to accept moneys from any welfare funds provided for DeSoto County or moneys available to the indigent patients from a federal, state, or county agency or moneys available to DeSoto County from said governmental agencies for welfare and hospital purposes, for the payment of costs of treatment and care of indigent residents of the district as shall be admitted. The district board may collect from patients financially able such charges as the district board may from time to time establish. The district board may extend the privileges and use of the hospital or clinic to nonresidents of the district who shall pay the rates established by the district board upon such terms and conditions as the district board may provide. However, residents of the district wherein the hospital or clinic is located shall have first claim to admission. The district board shall further have the power to furnish and extend the benefits of the hospital and clinic services and treatment to the homes of indigent residents of the district. Each municipal corporation situated within the district and the law enforcement agencies of DeSoto County shall be liable to the district board for the occupancy, care, medicine, and treatment of prisoners in the custody of the municipal corporation or for county officers who are admitted to any hospital operated or leased by the district board.

Section 15. Regulation of physicians, staff members, and practitioners.— Realizing that factors other than ~~academic records~~ ~~professional~~ must enter into the qualifications of those who practice medicine and surgery, the district board is authorized to set up rules, regulations, and bylaws for the operation of the hospital and hospital staff. The district board is authorized to grant or revoke licenses and privileges of staff members for practice in and about any hospital or other medical care facility maintained under this act, so that the welfare and health of patients and the best interests of the facility may at all times be best served. Privileges of staff membership and appointments thereto may be authorized or granted by the district board. The district board is further authorized to set up rules and regulations for the control of all professional and nonprofessional employees of any hospital or other medical care facility, which terms shall include nurses on general duty or on private duty attending patients, and all parties in the facility as employees in any manner in attendance of patients. The district is further authorized to recruit, retain, discharge, and compensate personnel, including physicians, to provide health-related services at facilities operated or leased by the district. The district is also authorized to employ or enter into independent contractor arrangements, at the discretion of the board, with professionals and others and fix their compensation.

Section 16. Lease of facilities to not-for-profit corporation.—

(1) The district board is permitted to acquire any health-related properties, including the DeSoto Memorial Hospital, and contract with a not-for-profit corporation formed by the district or the board for the operation, management, and maintenance of the district's facilities of whatsoever kind and nature through one or more agreements, with the term thereof and conditions and covenants contained therein made at the discretion of the board, except that the contract must provide:

(a) That the corporation's articles of incorporation and bylaws are subject to the approval of the board.

(b) That the corporation shall become qualified under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or any other subsection of section 501(c) as approved by the board, prior to the effective date of the contract.

(c) For the prompt return of the operation of the district facilities from the corporation to the district in the event of termination of the agreement or dissolution of the corporation.

(d) That the district is not responsible for the debts or other obligations of the corporation.

(2) An agreement with a not-for-profit corporation may provide, but need not be limited to providing, that the members of the board may be members of the board of directors of the corporation.

~~Section 17.16. Insurance; board liability.—The district board may secure and keep in force in amounts it may determine, in companies duly authorized to do business in Florida, liability insurance covering vehicles, premises, and malpractice. In combination with such insurance or in the alternative, the district board may create a self-insurance plan that provides the same or similar coverages. In consideration of the premium at which each policy shall be written, it shall be a part of the policy contract between the district board and the insurer that the company shall not be entitled to the benefit of the defense of governmental immunity for the insured by reason of exercising a governmental function on any suit brought against the insured.~~

Section 20. Liens for collection of charges.—

(1) The district, as well as any not-for-profit corporation contracting with the district for the operation, management, and maintenance of the district's facilities, shall be entitled to a lien for all charges incurred for hospital care, treatment, and maintenance of ill or injured persons upon any and all causes of action, suits, claims, counterclaims, and demands accruing to such persons or the legal representatives of such persons, and upon all judgments, settlements, and settlement agreements rendered or entered into by virtue thereof, on account of illness or injuries giving rise to such causes of action, suits, claims, counterclaims, demands, judgments, settlements, or settlement agreements and that necessitate or shall have necessitated such hospital care, treatment, and maintenance.

(2) In order to perfect such a lien, the executive office or agent of the hospital, before any person shall have been discharged from said hospital or within 45 days after such discharge, shall file in the office of the Clerk of the Circuit Court of DeSoto County a verified claim in writing setting forth the name and address of the patient as it appears on the records of the hospital; the name and location of the hospital; the name and address of the executive office or agent of the hospital; the dates of the patient's admission to and discharge from the hospital; the amount claimed to be due for such hospital

care, treatment, and maintenance; and, to the best knowledge of the person signing the claim, the names and addresses of all persons, firms, or corporations that may be claimed by the ill or injured person, or by the legal representative of such person, to be liable for such illness or injuries. At the same time that the claim is filed with the clerk of the circuit court, a copy thereof shall be sent by regular mail to the ill or injured person, to his or her attorney, if known, and to all persons, firms, or corporations named in the claim. The filing and mailing of the claim in accordance with this section shall be notice thereof to all persons, firms, or corporations that may be liable for such illness or injuries regardless of whether they are named in the claim or lien and regardless of whether they have received a copy of the claim.

(3) The Clerk of the Circuit Court of DeSoto County shall endorse on the claim the date and hour of filing and shall record the claim in the official records of DeSoto County. The clerk shall be paid by the claimant, as the clerk's fee for the filing and recording of each claim, the same fee as provided for filing and recording other instruments under the recording laws.

(4) No release or satisfaction of any cause of action, suit, claim, counterclaim, demand, judgment, settlement, or settlement agreement shall be valid or effectual as against such lien unless the lienholder joins therein or executes a release of the lien. Any acceptance of a release or satisfaction of any such cause of action, suit, claim, counterclaim, demand, or judgment and any settlement of any of the foregoing in the absence of a release of satisfaction of the lien shall prima facie constitute an impairment of the lien, and the lienholder shall be entitled to an action at law for damages on account of such impairment and in such action shall recover from the one accepting such release or satisfaction or making such settlement the outstanding charges for such hospital care, treatment, and maintenance. Satisfaction of any judgment rendered in favor of the lienholder in any such action shall operate as a satisfaction of the lien. Any action by the lienholder may be brought and maintained in any court of competent jurisdiction in or for DeSoto County. If the lienholder prevails in such action, the lienholder shall be entitled to recover from the defendant, in addition to costs otherwise allowed by law, reasonable attorney's fees, suit money, costs, and expenses incident to the matter.

(5) The provisions of this act shall not be applicable to accidents or injuries within the purview of the workers' compensation laws of this state.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 17, 2008.

Filed in Office Secretary of State June 17, 2008.