SENATE BILL 1104

J1, F5, J3 (4lr3391)

ENROLLED BILL

— Finance/Appropriations —

Introduced by **Senators Middleton ~~and Ramirez~~, Ramirez, Astle, Feldman, Glassman, Kelley, Kittleman, Klausmeier, Mathias, and Pugh**

Read and Examined by Proofreaders:

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Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____M.

_____

President.

CHAPTER _____

AN ACT concerning

University of Maryland Medical System Corporation – Governance – Medical Center Employees

FOR the purpose of requiring the Board of Directors of the University of Maryland Medical System Corporation to establish a nonprofit subsidiary to operate all or a part of the University of Maryland Medical Center, to the extent approved by the University of Maryland in the annual contract, in order to bring certain Medical Center employees within the jurisdiction of the National Labor Relations Act; requiring the subsidiary to have certain powers and be formed in a certain manner to meet the jurisdictional requirements of the National Labor Relations Board; authorizing the Medical System Corporation, on or after a certain date, to amend its articles of incorporation to add certain voting members to the Board of Directors; establishing a certain process for adding certain voting members to the Board of Directors; clarifying that certain

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW**.

[Brackets**]** indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.

provisions of law that apply to employees of the Medical System Corporation apply to certain employees of a subsidiary established to operate all or a part of the Medical Center; establishing the intent of the General Assembly; providing for the construction of certain provisions of this Act; providing for the application of this Act; honoring certain collective bargaining agreements subject to certain terms and requirements; providing that certain individuals ~~represented by a certain entity~~ *who have elected to be exclusively represented* maintain certain representation under certain circumstances; and generally relating to the governance of the University of Maryland Medical System Corporation and the employees of the University of Maryland Medical Center.

BY repealing and reenacting, with amendments,
Article – Education
Section 13–302, 13–303(k), 13–304(b), and 13–305(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 13–304(a) and (c)
Annotated Code of Maryland
(2008 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

13–302.

It is hereby found and determined that:

(1) The purposes of the medical system are to provide medical care of the type unique to University medical facilities for the citizens of the State and region and, in accomplishing this objective, to provide a clinical context for education and research conducted by the faculty of the University;

(2) The purposes extend to all citizens of the State, particularly regarding health care needs which only an academic medical institution can adequately meet such as extensive tertiary care, major shock trauma treatment, and sophisticated surgical techniques;

(3) The purposes also include rendering comprehensive health care to the community naturally served by University Hospital to assure its availability to citizens of that community;

(4) These purposes separately and collectively serve the highest public interest and are essential to the public health and welfare, but must be realized in the most efficient manner and at the lowest cost practicable and consistent with these purposes;

(5) It has proven unnecessarily costly and administratively cumbersome for the University to finance, manage, and carry out the patient care activities of an academic institution within the existing framework of a State agency, since many applicable laws, management structures, and procedures were developed to implement types of governmental functions which differ from the operations of a major patient care facility in an environment of State and federal regulation; such patient care operations are more efficiently served by contemporary legal, management, and procedural structures utilized by similarly situated, private entities throughout the nation;

(6) It is fiscally desirable for the State of Maryland to separate the operations, revenues, and obligations of the medical system from the State to the end that, to the maximum extent practicable, the medical system be a self–supporting entity to which the State may make grants or with which the State may contract as may be deemed appropriate from time to time; this separation will segregate patient care costs and revenues from unrelated State activities;

(7) The interests of the citizens of the State, the region, and the community naturally served by University Hospital will be best met by granting and transferring State assets and liabilities related to the medical system to a private, nonprofit, nonstock corporation in order to create a separate legal and organizational structure for the medical system to provide independence and flexibility of management and funding, while assuring a compatible and mutually beneficial relationship with the University; **[**and**]**

(8) In order to maintain the highest quality patient care with the maximum efficiency practicable, the R Adams Cowley Shock Trauma Center will be part of the medical system and will be governed by the Board of Directors**; AND**

(9) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

(I) EMPLOYEES OF THE MEDICAL SYSTEM CORPORATION AND ANY SUBSIDIARY OF THE MEDICAL SYSTEM CORPORATION WHO ARE NOT MEDICAL SYSTEM UNIVERSITY PERSONNEL ENJOY THE RIGHTS AND PROTECTIONS ASSOCIATED WITH FULL FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING AFFORDED TO SIMILARLY SITUATED CITIZENS OF THE STATE; AND

(II) EACH SUBSIDIARY ESTABLISHED BY THE MEDICAL SYSTEM CORPORATION UNDER § 13–303(K) OF THIS SUBTITLE, INCLUDING A SUBSIDIARY ESTABLISHED FOR THE PURPOSE OF OPERATING ALL OR A PART OF

THE UNIVERSITY OF MARYLAND MEDICAL CENTER, FALLS WITHIN THE JURISDICTION OF THE NATIONAL LABOR RELATIONS BOARD AND THE EMPLOYEES OF THE SUBSIDIARY ARE SUBJECT TO THE BENEFITS AND PROTECTIONS OF THE NATIONAL LABOR RELATIONS ACT.

13–303.

(k) **(1) THE BOARD OF DIRECTORS SHALL ESTABLISH A NONPROFIT SUBSIDIARY FOR THE PURPOSE OF OPERATING ALL OR A PART OF THE UNIVERSITY OF MARYLAND MEDICAL CENTER, TO THE EXTENT APPROVED BY THE UNIVERSITY IN THE ANNUAL CONTRACT, THAT SHALL:**

(I) HAVE ALL POWERS AVAILABLE UNDER THE LAWS GOVERNING THE FORMATION OF THE SUBSIDIARY; AND

(II) BE FORMED IN A MANNER SO THAT THE SUBSIDIARY, FOR THE PURPOSES OF MEETING THE JURISDICTIONAL REQUIREMENTS OF THE NATIONAL LABOR RELATIONS BOARD:

1. DOES NOT CONSTITUTE A DEPARTMENT OR ADMINISTRATIVE ARM OF THE STATE OR ANY AGENCY, POLITICAL SUBDIVISION, PUBLIC BODY, PUBLIC CORPORATION, OR MUNICIPAL CORPORATION; AND

2. IS NOT ADMINISTERED BY INDIVIDUALS WHO ARE RESPONSIBLE TO PUBLIC OFFICIALS OR TO THE GENERAL ELECTORATE.

(2) [The**] IN ADDITION TO ESTABLISHING A SUBSIDIARY UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE** Board of Directors may establish nonprofit or for–profit subsidiaries or related entities**,** to the extent approved by the University in the annual contract.

13–304.

(a) The government of the Medical System Corporation is vested in the Board of Directors.

(b) **(1) [**The**] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE** Board of Directors consists of 6 nonvoting members and not less than 22 and not more than 27 voting members appointed by the Governor.

(2) (I) ON OR AFTER OCTOBER 1, 2014, THE MEDICAL SYSTEM CORPORATION MAY AMEND ITS ARTICLES OF INCORPORATION TO ADD UP TO THREE VOTING MEMBERS TO THE BOARD OF DIRECTORS AS THE MEDICAL SYSTEM CORPORATION DETERMINES TO BE NECESSARY AND APPROPRIATE.

(II) NOMINATIONS OF ADDITIONAL VOTING MEMBERS SHALL BE MADE BY THE BOARD OF DIRECTORS AND SUBMITTED TO THE BOARD OF REGENTS FOR COMMENT AND TO THE GOVERNOR FOR CONSIDERATION.

(III) ANY MEMBER ADDED TO THE BOARD OF DIRECTORS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. REPRESENT AN ENTITY THAT AFFILIATES WITH THE MEDICAL SYSTEM CORPORATION ON OR AFTER OCTOBER 1, 2014;

2. BE APPOINTED BY THE GOVERNOR; AND

3. BE DESIGNATED AS AN AFFILIATE BOARD MEMBER.

(IV) THE VOTING MEMBERSHIP OF THE BOARD OF DIRECTORS MAY NOT EXCEED 30 MEMBERS.

(V) NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO REQUIRE THE MEDICAL SYSTEM CORPORATION TO NOMINATE A REPRESENTATIVE OF AN ENTITY THAT AFFILIATES WITH THE MEDICAL SYSTEM CORPORATION ON OR AFTER OCTOBER 1, 2014, TO BE AN ADDITIONAL BOARD MEMBER.

(c) (1) Each member shall be a resident of this State.

(2) Three voting members shall be members of the Board of Regents.

(3) Two voting members shall be members of the General Assembly, 1 nominated by the President of the Senate and 1 nominated by the Speaker of the House of Delegates.

(4) At least 1 voting member of the Board shall be appointed by the Governor, upon nomination by the membership of the Community Advisory Council, from the membership of the Community Advisory Council.

(5) At least 1 voting member of the Board of Directors shall have expertise in the hospital field.

(6) In appointing the voting members of the Board of Directors, the Governor shall insure that the composition of the Board fairly represents the minority composition of the State.

(7) The nonvoting members shall be, ex officio, the Chancellor of the University System of Maryland, the President, the Chief Executive Officer, the Dean

of the School of Medicine, the President of the medical staff organization of the medical system, and the Associate Director of nursing services for the medical system.

13–305.

(b) **(1) IN THIS SUBSECTION, "MEDICAL SYSTEM CORPORATION EMPLOYEES" INCLUDE THE EMPLOYEES OF A SUBSIDIARY ESTABLISHED UNDER § 13–303(K) OF THIS SUBTITLE FOR THE PURPOSE OF OPERATING ALL OR A PART OF THE UNIVERSITY OF MARYLAND MEDICAL CENTER.**

[(1)**] (2)** The Medical System Corporation shall utilize both Medical System Corporation employees and medical system University personnel.

[(2)**] (3)** Prior to the transfer date, each University employee working in the medical system shall elect to be either a Medical System Corporation employee or a part of medical system University personnel. No University employee may be required to become an employee of the Medical System Corporation as a condition of employment or promotion. All medical system University personnel are University employees in all respects.

[(3)**] (4)** With respect to promotion opportunities, the Medical System Corporation shall treat medical system University personnel on the same basis as Medical System Corporation employees.

[(4)**] (5)** The Medical System Corporation shall establish an integrated seniority list composed of Medical System Corporation employees and medical system University personnel. Each listed employee's seniority will be calculated by including all employment with the University or the Medical System Corporation or both.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(1) Nothing in Section 1 of this Act shall be construed to affect the recognition of bargaining representatives of employees working at the University of Maryland Medical Center that are in existence on the effective date of this Act;

(2) Following the effective date of this Act, any collective bargaining agreements shall continue to be honored by the subsidiary established in Section 1 of this Act, subject to the terms of the collective bargaining agreements and the requirements of the National Labor Relations Act; and

(3) Those individuals employed by the Medical System Corporation who ~~elected to be represented by AFSCME on the creation of the Medical System Corporation~~ *have elected to be exclusively represented* shall not have that representation affected by the creation of the new subsidiary established in Section 1 of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.