

CHAPTER 117

(House Bill 1486)

AN ACT concerning

Prince George's County Hospital Authority

FOR the purpose of ~~altering~~ extending the ~~scope of the~~ Prince George's County Hospital Authority's bidding process; clarifying the duration of a certain funding commitment of the State and Prince George's County; authorizing the Maryland Health Care Commission to make certain exemptions; requiring the Authority to make certain assessments and take certain actions regarding certain bids for the Prince George's County health care system; requiring the Authority to ~~develop a certain plan for the transfer of the component assets of the Prince George's County health care system under certain circumstances~~ complete its obligations by a certain time; ~~specifying certain actions the Authority may take to fulfill its mission; requiring the Authority to develop a certain plan for the transfer of the component assets of the health care system;~~ requiring certain agencies to serve as consultants to the Authority ~~in the development of the plan~~; specifying the role of certain agency consultants; ~~clarifying the application of certain actions of the Authority and the county to individual components of the health care system; establishing certain deadlines~~ declaring the intent of the General Assembly; making this Act an emergency measure; and generally relating to the Prince George's County Hospital Authority.

BY repealing and reenacting, without amendments,

Article – Health – General

Section 24–1602(a)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 24–1602(b), 24–1604(b), and 24–1605(f), (h), and (k), ~~and 24–1606(a), (b), and (c)(1)~~

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY adding to

Article – Health – General

Section 24–1605(l), and (m), ~~(n)~~, and ~~(o)~~ and 24–1605.1

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

24–1602.

(a) There is a body corporate and politic known as the Prince George's County Hospital Authority.

(b) The mission of the Authority is to [establish]:

(1) **ESTABLISH** and implement an open, transparent, and competitive bidding process for the purpose of transferring the Prince George's County health care system to one or more new owners; **AND**

(2) **EXTEND ~~AND ADAPT~~ THE BIDDING PROCESS:**

(I) **AS NECESSARY TO FULFILL THE PURPOSES OF THIS SUBTITLE; AND**

(II) **IN A MANNER CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE.**

24–1604.

(b) (1) Within 60 days after the Authority is established, the Governor, the County Executive, and the County Council, with input from the presiding officers and fiscal leadership of the General Assembly, shall reach agreement on the funding the State and the county will commit for support of the Prince George's County health care system ~~if~~ the bidding process established under § 24–1605 of this subtitle results in an agreement to transfer the Prince George's County health care system to a new owner or owners~~].~~

(2) (I) **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE STATE AND THE COUNTY SHALL FULFILL THEIR AGREEMENT ON FUNDING FOR THE SUPPORT OF THE HEALTH CARE SYSTEM.**

(II) **THE STATE AND THE COUNTY SHALL BE RELIEVED OF SOME OR ALL OF THEIR RESPECTIVE OBLIGATIONS TO PROVIDE LONG-TERM FUNDING TO SUPPORT THE HEALTH CARE SYSTEM:**

~~A. 1.~~ ONLY TO THE EXTENT THAT ANY FUND BALANCE REMAINS AFTER THE TRANSFER OF ALL THE HEALTH CARE SYSTEM'S COMPONENTS TO A NEW OWNER OR OWNERS; OR

~~B. 2. ONLY TO THE EXTENT THAT ANY FUND BALANCE REMAINS AFTER~~ AFTER THE AUTHORITY HAS EXPIRED WITHOUT AGREEMENT ON THE TRANSFER OF ALL COMPONENTS OF THE SYSTEM TO A NEW OWNER OR OWNERS.

24-1605.

(f) (1) **THE MARYLAND HEALTH CARE COMMISSION MAY ISSUE AN EXEMPTION FROM CERTIFICATE OF NEED AND WAIVE THE REQUIREMENTS OF THE STATE HEALTH PLAN IN ORDER TO FACILITATE A RECOMMENDATION BY THE AUTHORITY TO RELOCATE BEDS OR SERVICES OF ALL OR PART OF A FACILITY.**

(2) Any health care entity that [receives the transfer] **ACQUIRES ALL OR PART** of the Prince George's County health care system shall be recognized as a merged asset system for certificate of need purposes under Title 19, Subtitle 1 of this article.

(h) Except as otherwise provided in [subsection (i) of] this section **AND § 24-1604(B)(2) OF THIS SUBTITLE**, if the Authority fails to conduct the bidding process in accordance with the requirements, time frame, and deadlines set forth in this subtitle, the State and the county shall be relieved of their obligation to commit financial support to the Prince George's County health care system as agreed upon under § 24-1604(b) and (c) of this subtitle.

(k) If, at the end of the extension of time and not more than 60 days from the beginning of the 2009 General Assembly, the Authority has not reached a final agreement on the transfer of the Prince George's County health care system to a successful bidder[,]:

(1) [the] **THE** State and the county shall [be relieved of] **CONTINUE TO FULFILL** their [obligation to commit financial support to the Prince George's County health care system as agreed upon under § 24-1604(b) and (c)] **FUNDING AGREEMENT AS SET FORTH IN § 24-1604(B)(2)** of this subtitle; **AND**

(2) **~~THE~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE AUTHORITY SHALL ASSESS ANY BID OR COMBINATION OF BIDS THE AUTHORITY HAS RECEIVED TO DETERMINE:**

(I) **WHETHER ANY BID OR COMBINATION OF BIDS ~~SATISFY~~ SATISFIES THE AUTHORITY'S MANDATE TO TRANSFER THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM IN ITS ENTIRETY TO A NEW OWNER OR OWNERS; AND**

(II) **WHETHER ~~ANY BIDDER~~ ONE OR MORE BIDDERS WOULD BE CAPABLE OF MEETING THE REQUIREMENTS SET FORTH IN § 24-1605(C) OF THIS SUBTITLE AND HAS SUBMITTED A BID THAT MEETS THOSE REQUIREMENTS.**

(L) **IF THE AUTHORITY DETERMINES THAT ANY BID OR COMBINATION OF BIDS ~~SATISFY~~ SATISFIES THE REQUIREMENTS OF SUBSECTION (K) OF THIS SECTION, AND AFTER CONSULTATION WITH STAKEHOLDERS, THE AUTHORITY SHALL:**

(1) **PROCEED TOWARDS A FINAL AGREEMENT ON THE TRANSFER OF THE HEALTH CARE SYSTEM; AND**

(2) **NOTIFY STAKEHOLDERS IN ACCORDANCE WITH § 24-1602(G)(2) OF THIS SUBTITLE.**

~~(M) IF THE AUTHORITY DETERMINES THAT NO BID OR COMBINATION OF BIDS SATISFY THE REQUIREMENTS OF SUBSECTION (K) OF THIS SECTION, THE AUTHORITY SHALL DEVELOP A PLAN FOR THE TRANSFER OF ALL COMPONENTS OF THE HEALTH CARE SYSTEM, CONSISTENT WITH ITS MISSION UNDER § 24-1602(B) AND (C) OF THIS SUBTITLE, AND AS FURTHER DESCRIBED IN § 24-1605.1 OF THIS SUBTITLE.~~

~~(N) IN IMPLEMENTING THE MANDATE UNDER SUBSECTION (M) OF THIS SECTION, SUBJECT TO THE CONDITIONS SET FORTH IN PARAGRAPH (2) OF THIS SUBSECTION, THE AUTHORITY MAY:~~

~~(1) CONSIDER BIDS FOR INDIVIDUAL COMPONENTS OF THE HEALTH CARE SYSTEM;~~

~~(2) ACCEPT BIDS FROM ONE OR MORE SEPARATE ENTITIES FOR INDIVIDUAL COMPONENTS OF THE HEALTH CARE SYSTEM; AND~~

~~(3) AFTER CONSULTATION WITH STAKEHOLDERS, TRANSFER INDIVIDUAL COMPONENTS IN SEPARATE TRANSACTIONS PROVIDED THAT:~~

~~(I) THE AUTHORITY HAS SECURED AGREEMENTS WITH ONE OR MORE BIDDERS THAT WILL COLLECTIVELY RESULT IN THE SALE OF ALL COMPONENTS OF THE HEALTH CARE SYSTEM; AND~~

~~(H) THE AUTHORITY DETERMINES THAT THE TRANSFER IS CONSISTENT WITH THE PLAN REQUIRED IN SUBSECTION (M) OF THIS SECTION.~~

~~(O) (M) THE AUTHORITY SHALL COMPLETE ITS OBLIGATIONS UNDER SUBSECTIONS (M) AND (N) OF THIS SECTION PRIOR TO THE EXPIRATION OF THE AUTHORITY.~~

24-1605.1.

~~(A) THE PLAN FOR THE TRANSFER OF ASSETS OF THE HEALTH CARE SYSTEM DEVELOPED IN ACCORDANCE WITH § 24-1605(M) OF THIS SUBTITLE:~~

~~(1) SHALL SEEK TO CONTINUE THE LEVEL, SCOPE, AND QUALITY OF SERVICES TO WHICH CONSUMERS OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM HAVE HAD ACCESS BEFORE THE EFFECTIVE DATE OF THIS SECTION;~~

~~(2) WHERE POSSIBLE, SHALL ENHANCE THE AVAILABILITY, ACCESSIBILITY, COST-EFFECTIVENESS, AND QUALITY OF SERVICES TO WHICH CONSUMERS OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM HAVE HAD ACCESS BEFORE THE EFFECTIVE DATE OF THIS SECTION;~~

~~(3) MAY CONSIDER ALTERNATIVE APPROACHES TO THE CONFIGURATION OF THE HEALTH CARE SYSTEM BEFORE THE EFFECTIVE DATE OF THIS SECTION AND THE DELIVERY OF HEALTH CARE SERVICES IN THE REGION, INCLUDING:~~

~~(I) GREATER DECENTRALIZATION OF HEALTH CARE DELIVERY AND RELIANCE ON COMMUNITY-BASED SERVICES;~~

~~(II) INCREASED USE OF MEDICAL HOMES, AMBULATORY SURGICAL FACILITIES, FEDERALLY QUALIFIED HEALTH CENTERS, AND OTHER NONPROFIT CLINICS;~~

~~(III) THE POTENTIAL SHIFT OF CERTAIN SERVICES FROM ONE HEALTH CARE SYSTEM COMPONENT TO OTHERS WITHIN THE SYSTEM OR TO OTHER HEALTH CARE PROVIDERS IN THE REGION;~~

~~(IV) POTENTIAL PARTNERSHIPS WITH ACADEMIC MEDICINE INSTITUTIONS;~~

~~(V) THE RECAPITALIZATION AND DEVELOPMENT OF PRINCE GEORGE'S HOSPITAL CENTER FOR SERVICE AS A SURGE CAPACITY~~

~~TRAUMA CENTER AND CENTER FOR EXCELLENCE IN EMERGENCY PREPAREDNESS TRAINING OF HEALTH CARE PROVIDERS IN THE NATIONAL CAPITAL REGION; AND~~

~~(VI) THE POTENTIAL FOR PROMOTING THE DEVELOPMENT OF A BROADER HEALTH CARE RELATED OR LIFE SCIENCES CAMPUS THROUGH USE OF ONE OF THE SYSTEM'S COMPONENTS AS AN ANCHOR OR PARTNER FOR THE CAMPUS;~~

~~(4) SHALL DETERMINE THE APPROPRIATE PERCENTAGE OF THE HEALTH CARE SYSTEM'S BOND INDEBTEDNESS, UNFUNDED PENSION LIABILITY, AND ANY OTHER OBLIGATIONS THAT SHALL BE ALLOCATED TO EACH INDIVIDUAL HEALTH CARE SYSTEM COMPONENT AND TRANSFERRED TO THE NEW OWNER OF EACH COMPONENT, PROVIDED THAT THE ALLOCATION OF RESPONSIBILITY FOR THE HEALTH CARE SYSTEM'S LIABILITIES SHALL BE DESIGNED TO MAXIMIZE THE SUCCESSFUL TRANSFER OF THE ENTIRE SYSTEM CONSISTENT WITH THE PLAN DEVELOPED UNDER THIS SECTION; AND~~

~~(5) SHALL DETERMINE THE APPROPRIATE PERCENTAGE OF THE STATE'S AND COUNTY'S LONG TERM FUNDING COMMITMENT UNDER § 24-1604 OF THIS SUBTITLE THAT SHALL BE ALLOCATED TO EACH INDIVIDUAL SYSTEM COMPONENT AND TRANSFERRED TO THE NEW OWNER OF EACH COMPONENT, PROVIDED THAT THE ALLOCATION OF THE STATE'S AND COUNTY'S LONG TERM FUNDING COMMITMENT SHALL BE DESIGNED TO MAXIMIZE THE SUCCESSFUL TRANSFER OF THE ENTIRE SYSTEM CONSISTENT WITH THE PLAN DEVELOPED UNDER THIS SECTION.~~

~~(B) (A) TO FACILITATE THE DEVELOPMENT OF THE PLAN DEVELOPED UNDER § 24-1605(M) TRANSFER OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM UNDER § 24-1605(K)(2) OF THIS SUBTITLE AND SUBSECTION (A) OF THIS SECTION, THE FOLLOWING AGENCIES SHALL DESIGNATE INDIVIDUALS TO SERVE AS ADVISORS~~ ADVISERS ~~TO THE AUTHORITY:~~

- (1) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;
- (2) THE PRINCE GEORGE'S COUNTY HEALTH DEPARTMENT;
- (3) THE MARYLAND HEALTH CARE COMMISSION;
- (4) THE MARYLAND HEALTH SERVICES COST REVIEW COMMISSION;

(5) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT;

(6) THE PRINCE GEORGE'S COUNTY ECONOMIC DEVELOPMENT CORPORATION;

(7) THE MARYLAND HEALTH AND HIGHER EDUCATION FINANCING AUTHORITY;

(8) THE MARYLAND INSTITUTE OF EMERGENCY MEDICAL SERVICES SYSTEM;

(9) THE GOVERNOR'S OFFICE OF HOMELAND SECURITY;

(10) THE COMMUNITY HEALTH RESOURCES COMMISSION; AND

(11) THE MARYLAND LIFE SCIENCES ADVISORY BOARD.

~~(C)~~ (B) INDIVIDUALS DESIGNATED UNDER SUBSECTION ~~(B)~~ (A) OF THIS SECTION SHALL SERVE AS CONSULTANTS TO THE AUTHORITY AND SHALL, IF REQUESTED BY THE AUTHORITY:

~~(1)~~ ~~ASSIST THE AUTHORITY IN THE DEVELOPMENT OF THE PLAN DEVELOPED UNDER § 24-1605(M) OF THIS SUBTITLE AND SUBSECTION (A) OF THIS SECTION;~~

~~(2)~~ (1) ASSIST THE AUTHORITY IN THE EVALUATION OF ANY PROPOSALS SUBMITTED TO THE AUTHORITY, TO THE EXTENT THAT THE AUTHORITY SHOULD SPECIFICALLY REQUEST THE ASSISTANCE; ~~OR~~ AND

~~(3)~~ (2) ASSIST THE AUTHORITY IN ITS DISCUSSIONS AND NEGOTIATIONS WITH ANY BIDDERS, TO THE EXTENT THAT THE AUTHORITY SHOULD SPECIFICALLY REQUEST THE ASSISTANCE.

~~(D)~~ (C) INDIVIDUALS DESIGNATED UNDER SUBSECTION ~~(B)~~ (A) OF THIS SECTION SHALL BE SUBJECT TO ANY CONFIDENTIALITY AGREEMENTS BINDING ON THE AUTHORITY AND ITS STAFF.

~~(E)~~ (D) AGENCIES DESIGNATING INDIVIDUALS UNDER SUBSECTION ~~(B)~~ (A) OF THIS SECTION MAY ADOPT APPROPRIATE INTERNAL POLICIES OR RESTRICTIONS TO ASSURE THE INTEGRITY OF ANY SUBSEQUENT REGULATORY PROCEEDINGS.

~~(a) (1) On the Authority's selection of a new owner or owners OF ANY OF THE COMPONENTS OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM in accordance with the bidding process established under § 24-1605 of this subtitle, and on agreement for the sale or transfer OF ANY OF THE COMPONENTS of the Prince George's County health care system to the new owner or owners, disposition of the real property, assets, and facilities OF EACH COMPONENT owned by the county that are under the possession or control of Dimensions, as a result of any lease agreement with the county, shall occur as follows:~~

~~(i) The county shall transfer title to all real property, assets, and facilities OF EACH COMPONENT of the Prince George's County health care system as part of the agreement for the sale or transfer OF THE COMPONENT of the Prince George's County health care system to the new owner or owners for compensation to the county as provided under subsections (b) and (c) of this section; and~~

~~(ii) The process for transfer of title shall be completed by the date of final implementation of the agreement for the sale or transfer OF THE COMPONENT of the Prince George's County health care system.~~

~~(2) Notwithstanding any other provision of this subtitle, any property on which there is no facility defined as part of the Prince George's County health care system and which the new owner or owners OF THE COMPONENT of the Prince George's County health care system will not use or develop shall remain under the control and ownership of the county.~~

~~(3) The county shall settle all encumbrances the county has placed or been involved in placing for its benefit on the real property, assets, and facilities to be acquired by the new owner or owners prior to the transfer of title, so that, except for any remaining encumbrances placed and held solely by Dimensions, clear legal title will be conveyed.~~

~~(b) (1) The county may not receive compensation or credit toward its financial obligations as agreed upon under § 24-1604 of this subtitle for the real property, assets, and facilities of the Prince George's County health care system that will be used for purposes related to the [operations of a] DELIVERY OF health care [system], in accordance with the goals set for the health care system in § 24-1602(c) of this subtitle, serving the residents of the county and surrounding jurisdictions.~~

~~(2) Specific plans for such use shall be established in the agreement for the sale or transfer OF EACH COMPONENT of the Prince George's County health care system.~~

~~(3) The development of the real property, assets, and facilities for purposes related to the [operation of a] DELIVERY OF health care [system] shall occur and be substantially underway at least 2 years before the end of the period during which the State and the county are providing financial support to the Prince George's County health care system.~~

~~(e) (1) For any portion or portions of the real property, assets, or facilities acquired by the new owner or owners that will not be used for purposes related to the [operation of a] DELIVERY OF health care [system], if any, the county shall be given a credit towards its obligation for financial support of the Prince George's County health care system as agreed upon under § 24-1604 of this subtitle.~~

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Authority continue its bid review process and proceed towards a final agreement on the transfer of the Prince George's County health care system as provided under Section 1 of this Act and any agreements in effect on January 1, 2009, relating to the transfer of the health care system shall remain in effect consistent with Section 1 of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 14, 2009.