

# 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:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

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

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **University of Maryland Medical System Corporation – Governance – Medical**  
3 **Center Employees**

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

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#### 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.



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

11 BY repealing and reenacting, with amendments,  
 12 Article – Education  
 13 Section 13–302, 13–303(k), 13–304(b), and 13–305(b)  
 14 Annotated Code of Maryland  
 15 (2008 Replacement Volume and 2013 Supplement)

16 BY repealing and reenacting, without amendments,  
 17 Article – Education  
 18 Section 13–304(a) and (c)  
 19 Annotated Code of Maryland  
 20 (2008 Replacement Volume and 2013 Supplement)

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

23 **Article – Education**

24 13–302.

25 It is hereby found and determined that:

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

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

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

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

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

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

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

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

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

31           **(i) EMPLOYEES OF THE MEDICAL SYSTEM CORPORATION**  
32 **AND ANY SUBSIDIARY OF THE MEDICAL SYSTEM CORPORATION WHO ARE NOT**  
33 **MEDICAL SYSTEM UNIVERSITY PERSONNEL ENJOY THE RIGHTS AND**  
34 **PROTECTIONS ASSOCIATED WITH FULL FREEDOM OF ASSOCIATION AND**  
35 **COLLECTIVE BARGAINING AFFORDED TO SIMILARLY SITUATED CITIZENS OF**  
36 **THE STATE; AND**

37           **(ii) EACH SUBSIDIARY ESTABLISHED BY THE MEDICAL**  
38 **SYSTEM CORPORATION UNDER § 13-303(k) OF THIS SUBTITLE, INCLUDING A**  
39 **SUBSIDIARY ESTABLISHED FOR THE PURPOSE OF OPERATING ALL OR A PART OF**

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

5 13-303.

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

10 (i) HAVE ALL POWERS AVAILABLE UNDER THE LAWS  
11 GOVERNING THE FORMATION OF THE SUBSIDIARY; AND

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

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

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

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

24 13-304.

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

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

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

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

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

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

8                   2.   **BE APPOINTED BY THE GOVERNOR; AND**

9                   3.   **BE DESIGNATED AS AN AFFILIATE BOARD**  
10 **MEMBER.**

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

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

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

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

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

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

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

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

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

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

3 13-305.

4 (b) (1) IN THIS SUBSECTION, "MEDICAL SYSTEM CORPORATION  
5 EMPLOYEES" INCLUDE THE EMPLOYEES OF A SUBSIDIARY ESTABLISHED UNDER  
6 § 13-303(K) OF THIS SUBTITLE FOR THE PURPOSE OF OPERATING ALL OR A  
7 PART OF THE UNIVERSITY OF MARYLAND MEDICAL CENTER.

8 [(1)] (2) The Medical System Corporation shall utilize both Medical  
9 System Corporation employees and medical system University personnel.

10 [(2)] (3) Prior to the transfer date, each University employee working  
11 in the medical system shall elect to be either a Medical System Corporation employee  
12 or a part of medical system University personnel. No University employee may be  
13 required to become an employee of the Medical System Corporation as a condition of  
14 employment or promotion. All medical system University personnel are University  
15 employees in all respects.

16 [(3)] (4) With respect to promotion opportunities, the Medical System  
17 Corporation shall treat medical system University personnel on the same basis as  
18 Medical System Corporation employees.

19 [(4)] (5) The Medical System Corporation shall establish an  
20 integrated seniority list composed of Medical System Corporation employees and  
21 medical system University personnel. Each listed employee's seniority will be  
22 calculated by including all employment with the University or the Medical System  
23 Corporation or both.

24 SECTION 2. AND BE IT FURTHER ENACTED, That:

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

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

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

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