

1 HB363
2 203666-1
3 By Representative Sorrell
4 RFD: State Government
5 First Read: 09-FEB-21

SYNOPSIS: Under existing law, health care services and facilities, with some exceptions, are required to apply for and receive a certificate of need before they may construct new health care facilities or offer new or expanded services.

This bill would repeal the certificate of need program and abolish the state agencies, councils, and boards that exist to operate the certificate of need program and collect data to support the operation of the certificate of need program, and would update related code sections to remove references both to the program and to these agencies, councils, and boards.

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 22-12A-3, 22-21-336, and 22-21-341, Code of Alabama 1975; to repeal Article 1,

1 commencing with Section 22-4-1, of Chapter 4 of Title 22, Code
2 of Alabama 1975; to repeal Article 2, commencing with Section
3 22-4-30, of Chapter 4 of Title 22, Code of Alabama 1975; to
4 repeal Article 9, commencing with Section 22-21-260, of
5 Chapter 21 of Title 22, Code of Alabama 1975; to eliminate the
6 certificate of need program for health care services and
7 facilities; to abolish the Certificate of Need Review Board,
8 the State Health Planning and Development Agency, the
9 Statewide Health Coordinating Council, and the Health Care
10 Information and Data Advisory Council; and to update related
11 code sections to remove references both to the program and to
12 the authority, responsibilities, and powers of the Certificate
13 of Need Review Board, the State Health Planning and
14 Development Agency, the Statewide Health Coordinating Council,
15 and the Health Care Information and Data Advisory Council.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 22-12A-3, 22-21-336, and
18 22-21-341, Code of Alabama 1975, are amended to read as
19 follows:

20 "§22-12A-3.

21 "(a) The Bureau of Maternal and Child Health under
22 the direction of the State Board of Health shall, in
23 coordination with ~~the State Health Planning and Development~~
24 ~~Agency, the State Health Coordinating Council,~~ the Alabama
25 Council on Maternal and Infant Health and the regional and
26 State Perinatal Advisory Committees, annually prepare a plan,
27 consistent with the legislative intent of Section 22-12A-2, to

1 reduce infant mortality and handicapping conditions to be
2 presented to legislative health and finance committees prior
3 to each regular session of the ~~legislature~~ legislature. ~~Such a~~
4 This plan shall include all of the following:

5 "(1) ~~primary care~~ Primary care, hospital and ~~care,~~
6 prenatal~~7~~ care, and perinatal care.

7 "(2) ~~secondary~~ Secondary and tertiary levels of
8 care, both in ~~hospital~~ hospitals and on an ~~out-patient~~
9 outpatient basis~~7~~.

10 "(3) ~~transportation~~ Transportation of patients for
11 medical services and care ~~and follow-up and.~~

12 "(4) Comprehensive perinatal care, including post
13 delivery checkups and additional evaluation of infants through
14 the first year of life~~7~~.

15 "(5) ~~and optional~~ Optional educational programs~~7~~
16 including pupils in schools at for students of appropriate
17 ages~~7~~, for good perinatal care covered pursuant to the
18 provisions of this chapter.

19 "(b) All recommendations for ~~expenditure~~
20 expenditures of funds shall be in accord with provisions of
21 this plan.

22 "§22-21-336.

23 "(a) Any ~~municipality, county, or educational~~
24 institution, any public hospital corporation and any other
25 public agency, authority or body is hereby Municipalities,
26 counties, educational institutions, public hospital
27 corporations, and public agencies, authorities, and bodies are

1 authorized to transfer and convey either of the following to
2 any authority, ~~with or without consideration:~~

3 "(1) Any health care facilities and other
4 properties, real or personal, and all funds and assets,
5 tangible or intangible, relative to the ownership or operation
6 of any ~~such~~ health care facilities that may be owned by ~~such a~~
7 municipality, county, educational institution, public hospital
8 corporation or other public agency, authority or body, ~~as the~~
9 ~~case may be~~, or that may be jointly owned by any two or more
10 ~~thereof~~ of these entities, ~~including, without limiting the~~
11 ~~generality of the foregoing, any certificates of need,~~
12 ~~assurances of need or other similar rights appertaining or~~
13 ~~ancillary thereto, irrespective of whether they have been~~
14 ~~exercised; and.~~

15 "(2) Any funds owned or controlled by ~~such a~~
16 municipality, county, educational institution, public hospital
17 corporation or other public agency, authority or body, ~~as the~~
18 ~~case may be~~, or jointly by any two or more ~~thereof~~ of these
19 entities, that may have been raised or allocated for any of
20 the purposes for which ~~such the~~ authority shall have been
21 organized, whether or not ~~such the~~ property is considered
22 necessary for the conduct of the governmental or public
23 functions ~~(if any)~~ of ~~such the~~ municipality, county,
24 educational institution, public hospital corporation or other
25 public agency, authority or body.

26 "(b) ~~Such A~~ transfer or conveyance under this
27 section shall be authorized by an ordinance or resolution duly

1 adopted by the governing body of ~~such~~ the municipality,
2 county, or educational institution or by the board of
3 directors or other governing body of ~~such~~ the public hospital
4 corporation or other public agency, authority or body, ~~as the~~
5 ~~case may be, and it shall not be necessary, any provision of~~
6 ~~law to the contrary notwithstanding, to obtain any certificate~~
7 ~~of need, assurance of need or other similar permit for any~~
8 ~~such transfer or conveyance.~~ In the event of the transfer of
9 any health care facilities to the authority, any hospital tax
10 proceeds, other tax proceeds and other revenues apportioned or
11 allocated to or for the benefit of the prior owner or operator
12 of ~~such~~ the health care facilities or for patient care at ~~such~~
13 the health care facilities shall thereafter be paid to the
14 authority.

15 "§22-21-341.

16 "(a) Any public hospital corporation may be
17 reincorporated under this article, avail itself of all rights,
18 powers, and privileges, and become subject to all duties,
19 obligations, and responsibilities conferred or imposed by this
20 article, in the following manner:

21 "(1) The board of directors or other governing body
22 of ~~such~~ the public hospital corporation shall adopt a
23 resolution that both:

24 a. ~~stating that it proposes~~ Proposes and applies for
25 permission to reincorporate ~~hereunder~~ under this article.

26 b. ~~and containing a form of~~ Contains a proposed
27 certificate of reincorporation, which ~~such certificate of~~

1 ~~reincorporation~~ shall include, with the necessary changes in
2 detail, the information required to be included in a
3 certificate of incorporation described in Section 22-21-314
4 other than that referred to in subdivision (b) (1) ~~thereof~~.

5 "(2) ~~Such~~ The public hospital corporation shall as
6 promptly as practicable thereafter file a certified copy of
7 ~~such the~~ resolution with the governing body of each county or
8 municipality that authorized the formation of ~~such the~~ public
9 hospital corporation. ~~(and, with respect to any~~ If the public
10 hospital corporation was organized under the provisions of
11 Article 6 of this chapter, the public hospital corporation
12 shall also file a certified copy of the resolution with the
13 governing body of any other municipality that is ~~then a~~
14 ~~"member" thereof); and each such~~ a member of the public
15 hospital corporation. Each member county and municipality
16 shall be deemed an "authorizing subdivision" with respect to
17 any ~~such~~ public hospital corporation reincorporated ~~hereunder~~
18 under this article.

19 "(3) The governing body of each authorizing
20 subdivision shall, as promptly as may be practicable after the
21 filing of said certified resolution, review and act upon the
22 said resolution and application in the manner, with the
23 necessary changes in detail, prescribed in Section 22-21-313.

24 "(4) ~~The~~ Either the chairman ~~(~~ or other principal
25 officer~~)~~ and the secretary of ~~such the~~ public hospital
26 corporation shall ~~thereupon~~ sign and acknowledge a certificate
27 of reincorporation, in the form included in the resolution

1 referred to in subdivision (1) ~~of this section~~, and cause it
2 to be filed for record in the office specified in Section
3 22-21-314.

4 "(5) ~~Thereupon, such~~ The certificate of
5 reincorporation shall be filed and recorded by the judge of
6 probate as provided in Section 22-21-314, and the existence of
7 ~~such the~~ public hospital corporation as an authority under
8 this article shall begin upon the filing of ~~such the~~
9 certificate of reincorporation as provided for in this
10 section.

11 "(b) No ~~such~~ reincorporation shall ~~in any manner~~
12 affect the rights of creditors or the rights or liabilities of
13 the public hospital corporation existing at the time of ~~such~~
14 the reincorporation ~~or shall (any provision of law to the~~
15 ~~contrary notwithstanding) necessitate the obtaining by such~~
16 ~~reincorporated public hospital corporation or the reissuance~~
17 ~~of any certificate of need, assurance of need or other similar~~
18 ~~permit~~. With respect to any public hospital corporation
19 reincorporated ~~hereunder~~ under this article, any reference
20 herein to a certificate of incorporation thereof shall also
21 include and refer to its certificate of reincorporation."

22 Section 2. (a) Article 1, commencing with Section
23 22-4-1, of Chapter 4 of Title 22, Code of Alabama 1975, is
24 repealed.

25 (b) Article 2, commencing with Section 22-4-30, of
26 Chapter 4 of Title 22, Code of Alabama 1975, is repealed.

1 (c) Article 9, commencing with Section 22-21-260, of
2 Chapter 21 of Title 22, Code of Alabama 1975, is repealed.

3 (b) The State Health Planning and Development
4 Agency, the Statewide Health Coordinating Council, the Health
5 Care Information and Data Advisory Council, and the
6 Certificate of Need Review Board are abolished, and any funds
7 held by or for the operation of the State Health Planning and
8 Development Agency, the State Health Coordinating Council, the
9 Health Care Information and Data Advisory Council, and the
10 Certificate of Need Review Board shall revert to the State
11 General Fund.

12 Section 3. This act shall become effective October
13 1, 2020, following its passage and approval by the Governor,
14 or its otherwise becoming law.