

The House Committee on Ways and Means offers the following substitute to HB 363:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 31-8-9.1 of the Official Code of Georgia Annotated, relating to
2 eligibility to receive tax credits, so as to revise a definition; to amend Article 2 of Chapter
3 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate,
4 computation, exemptions, and credits relative to state income taxes, so as to increase the tax
5 credit limit for contributions by corporate donors; to increase the aggregate limit for tax
6 credits for contributions to rural hospital organizations; to provide for preapproval of
7 proportional amounts of contributions under certain circumstances; to provide for certain
8 timelines; to extend the sunset provision; to provide for related matters; to provide for an
9 effective date and applicability; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Code Section 31-8-9.1 of the Official Code of Georgia Annotated, relating to eligibility to
13 receive tax credits, is amended by revising paragraph (3) of subsection (a) as follows:

14 "(3) 'Rural hospital organization' means an acute care hospital or rural freestanding
15 emergency department licensed by the department pursuant to Article 1 of Chapter 7 of
16 this title that:

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- 17 (A) ~~Has its primary campus~~ Provides inpatient hospital services at a facility located in
 18 a rural county or is a critical access hospital;
- 19 (B) Participates in both Medicaid and medicare and accepts both Medicaid and
 20 medicare patients;
- 21 (C) Provides health care services to indigent patients;
- 22 (D) Has at least 10 percent of its annual net revenue categorized as indigent care,
 23 charity care, or bad debt;
- 24 (E) Annually files IRS Form 990, Return of Organization Exempt From Income Tax,
 25 with the department, or for any hospital not required to file IRS Form 990, the
 26 department will provide a form that collects the same information to be submitted to the
 27 department on an annual basis;
- 28 (F) Is operated by a county or municipal authority pursuant to Article 4 of Chapter 7
 29 of this title or is designated as a tax-exempt organization under Section 501(c)(3) of the
 30 Internal Revenue Code;
- 31 (G) Is current with all audits and reports required by law; and
- 32 (H) Has a three-year average patient margin, as a percent of expense, less than one
 33 standard deviation above the state-wide three-year average of organizations defined in
 34 subparagraphs (A) through (G) of this paragraph, as calculated by the department. For
 35 purposes of this subparagraph, the term 'patient margin' means gross patient revenues
 36 less contractual adjustments, bad debt, indigent and charity care, other uncompensated
 37 care, and total expenses."

38 SECTION 2.

39 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
 40 imposition, rate, computation, exemptions, and credits relative to state income taxes, is
 41 amended in Code Section 48-7-29.20, relating to tax credits for contributions to rural hospital
 42 organizations, by revising subsections (b.1), (e), and (k) as follows:

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43 "(b.1) From January 1 to June 30 each taxable year, an individual taxpayer shall be limited
44 in its qualified rural hospital organization expenses allowable for credit under this Code
45 section, and the commissioner shall not approve qualified rural hospital organization
46 expenses incurred from January 1 to June 30 each taxable year, which exceed the following
47 limits:

- 48 (1) In the case of a single individual or a head of household, \$5,000.00;
49 (2) In the case of a married couple filing a joint return, \$10,000.00; or
50 (3) In the case of an individual who is a member of a limited liability company duly
51 formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a
52 partnership, ~~\$10,000.00~~ \$25,000.00."

53 "(e)(1) In no event shall the aggregate amount of tax credits allowed under this Code
54 section exceed ~~\$75~~ \$80 million per taxable year.

55 (2)(A) No more than \$4 million of the aggregate limit established by paragraph (1) of
56 this subsection shall be contributed to any individual rural hospital organization in any
57 taxable year. From January 1 to June 30 each taxable year, the commissioner shall only
58 preapprove contributions submitted by individual taxpayers in an amount not to exceed
59 \$2 million, and from corporate donors in an amount not to exceed \$2 million. From
60 July 1 to December 31 each taxable year, subject to the aggregate limit in paragraph (1)
61 of this subsection and the individual rural hospital organization limit in this paragraph,
62 the commissioner shall approve contributions submitted by individual taxpayers and
63 corporations or other entities.

64 (B) In the event an individual or corporate donor desires to make a contribution to an
65 individual rural hospital organization that has received the maximum amount of
66 contributions for that ~~taxable~~ year, the Department of Community Health shall provide
67 the individual or corporate donor with a list, ranked in order of financial need, as
68 determined by the Department of Community Health, of rural hospital organizations
69 still eligible to receive contributions for the ~~taxable~~ year.

70 (C) In the event an individual or corporate donor desires to make a contribution to an
 71 individual rural hospital organization that would cause such rural hospital organization
 72 to exceed its maximum amount of contributions for that year, the commissioner shall
 73 not deny such desired contribution, but shall approve the proportional amount of the
 74 desired contribution up to the rural hospital organization's maximum allowed amount
 75 and any remainder shall be attributed as provided for in subparagraph (D) of this
 76 paragraph.

77 ~~(C)~~(D) In the event that an individual or corporate donor desires to make a contribution
 78 to an unspecified or undesignated rural hospital organization, either directly to the
 79 department or through a third party that participates in soliciting, administering, or
 80 managing donations, such donation shall be attributed to the rural hospital organization
 81 ranked with the highest financial need that has not yet received the maximum amount
 82 of contributions for that ~~taxable~~ year, regardless of whether a third party has a
 83 contractual relationship or agreement with such rural hospital organization.

84 ~~(D)~~(E) Any third party that participates in soliciting, advertising, or managing
 85 donations shall provide the complete list of rural hospital organizations eligible to
 86 receive the tax credit provided pursuant to this Code section including their ranking in
 87 order of financial need as determined by the Department of Community Health
 88 pursuant to Code Section 31-8-9.1, to any potential donor regardless of whether a third
 89 party has a contractual relationship or agreement with such rural hospital organization.

90 (3) For purposes of paragraphs (1) and (2) of this subsection, a rural hospital
 91 organization shall notify a potential donor of the requirements of this Code section.
 92 Before making a contribution to a rural hospital organization, the taxpayer shall
 93 electronically notify the department, in a manner specified by the department, of the total
 94 amount of contribution that the taxpayer intends to make to the rural hospital
 95 organization. The commissioner shall preapprove or deny the requested amount or a
 96 portion of such amount, if applicable pursuant to subparagraph (C) of paragraph (2) of

97 this subsection, within 30 days after receiving the request from the taxpayer and shall
98 provide written notice to the taxpayer and rural hospital organization of such preapproval
99 or denial which shall not require any signed release or notarized approval by the taxpayer.
100 ~~In order to receive a tax credit under this Code section, the taxpayer shall make the~~
101 ~~contribution to the rural hospital organization within 180 days after receiving notice from~~
102 ~~the department that the requested amount was preapproved. In order to receive a tax~~
103 ~~credit under this Code section, a taxpayer preapproved by the commissioner on or before~~
104 September 30 shall make the contribution to the rural hospital organization within 180
105 days after receiving notice of preapproval from the commissioner, but not later than
106 October 31. A taxpayer preapproved by the commissioner after September 30 shall make
107 the contribution to the rural hospital organization on or before December 31. If the
108 taxpayer does not comply with this paragraph, the commissioner shall not include this
109 preapproved contribution amount when calculating the limits prescribed in paragraphs
110 (1) and (2) of this subsection.

111 (4)(A) Preapproval of contributions by the commissioner shall be based solely on the
112 availability of tax credits subject to the aggregate total limit established under
113 paragraph (1) of this subsection and the individual rural hospital organization limit
114 established under paragraph (2) of this subsection.

115 (B) Any taxpayer preapproved by the ~~department~~ commissioner pursuant to this
116 subsection shall retain their approval in the event the credit percentage in this Code
117 section is modified for the year in which the taxpayer was preapproved.

118 (C) Upon the rural hospital organization's confirmation of receipt of donations that
119 have been preapproved by the ~~department~~ commissioner, any taxpayer preapproved by
120 the ~~department~~ commissioner pursuant to subsection (c) of this Code section shall
121 receive the full benefit of the income tax credit established by this Code section even
122 though the rural hospital organization to which the taxpayer made a donation does not
123 properly comply with the reports or filings required by this Code section.

124 (5) Notwithstanding any laws to the contrary, the department shall not take any adverse
125 action against donors to rural hospital organizations if the commissioner preapproved a
126 donation for a tax credit prior to the date the rural hospital organization is removed from
127 the Department of Community Health list pursuant to Code Section 31-8-9.1, and all such
128 donations shall remain as preapproved tax credits subject only to the donor's compliance
129 with paragraph (3) of this subsection."

130 "(k) This Code section shall stand automatically repealed and reserved on December 31,
131 ~~2024~~ 2029."

132 **SECTION 3.**

133 This Act shall become effective on July 1, 2024, and shall be applicable to taxable years
134 beginning on or after January 1, 2024.

135 **SECTION 4.**

136 All laws and parts of laws in conflict with this Act are repealed.