

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 869  
Senate Health Care Committee Substitute Adopted 5/25/05

Short Title: Public Hospital Amendments/Downtown Facility. (Public)

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Sponsors:

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Referred to:

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March 23, 2005

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY AND AMEND THE CONFLICT OF INTEREST LAW FOR  
2 PUBLIC HOSPITALS AND TO EXTEND A SPECIAL DEADLINE FOR  
3 EXEMPT ADULT HOUSING FACILITIES LOCATED IN A DOWNTOWN  
4 AREA AND BEING RELOCATED DUE TO A MAJOR ECONOMIC  
5 DEVELOPMENT PROJECT.  
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 131E-14.2 reads as rewritten:

9 **"§ 131E-14.2. Conflict of interest.**

10 (a) No member of the board of directors or employee of a public hospital, as  
11 defined in G.S. 159-39(a), or that person's spouse shall do either of the following:

- 12 (1) Acquire any interest, direct or indirect, in any hospital facility or in  
13 any property included or planned to be included in a hospital facility.  
14 (2) Have any direct interest ~~interest, direct or indirect~~, in any contract or  
15 proposed contract for materials or services to be furnished or used in  
16 connection with any hospital facility, except an employment contract  
17 for an employee. This restriction shall not apply to any contract,  
18 undertaking, or other transaction with a bank or banking institution,  
19 savings and loan association or public utility in the regular course of  
20 its business provided that the contract, undertaking, or other  
21 transaction shall be authorized by the board by specific resolution on  
22 which no director having ~~an interest, direct or indirect, shall vote.~~ direct  
23 interest shall vote.

24 (b) The fact that a person or that person's spouse owns ten percent (10%) or less  
25 stock of a corporation or has a ten percent (10%) or less ownership in any other business  
26 entity or is an employee of that corporation or other business entity does not make the  
27 person have an ~~"interest, direct or indirect"~~ a "direct interest" as this phrase is used in  
28 subsection (a) of this section; provided that, in order for the exception to apply, the  
29 contract, undertaking, or other transaction shall be authorized by the board of directors

1 by specific resolution on which no director or employee having an interest, direct or  
2 indirect, shall vote.

3 (c) If a member of the board of directors or an employee of a public hospital or  
4 that person's spouse owns or controls an interest, direct or indirect, in any property  
5 included or planned to be included in any hospital facility, the member of the board of  
6 directors or the employee shall immediately disclose the same in writing to the board  
7 and the disclosure shall be entered upon the minutes of the board. Failure to disclose  
8 shall constitute misconduct in office and shall be grounds for removal.

9 (c1) Subsection (a) of this section shall not apply if the director or employee is not  
10 involved in making or administering the contract. A director or employee is involved in  
11 administering a contract if the director or employee oversees the performance of or  
12 interprets the contract. A director or employee is involved in making a contract if the  
13 director or employee participates in the development of specifications or terms or in the  
14 preparation or award of the contract. A director or employee is not involved in making  
15 or administering a contract solely because of the performance of ministerial duties  
16 related to the contract. A director is also involved in making a contract if the board of  
17 directors takes action on the contract, whether or not the director actually participates in  
18 that action, unless the contract is approved under an exception to this section under  
19 which the director is allowed to benefit and is prohibited from voting.

20 (d) Subsection (a) of this section shall not apply to any member of the board of  
21 directors of a public hospital if (i) the undertaking or contract or series of undertakings  
22 or contracts between the public hospital and one of its officials is approved by specific  
23 resolution of the ~~governing body board~~ adopted in an open and public meeting and  
24 recorded in its ~~minutes~~ minutes; (ii) the official entering into the contract or undertaking  
25 with the public hospital does not in an official capacity participate in any way or vote;  
26 and (iii) the amount does not exceed twelve thousand five hundred dollars (\$12,500) for  
27 medically related services and twenty-five thousand dollars (\$25,000) for other goods or  
28 services within a 12-month period; and ~~(ii) the official entering into the contract or~~  
29 ~~undertaking with the public hospital does not in an official capacity participate in any~~  
30 ~~way or vote.~~ or the contract is for medically related services that are provided by a  
31 director who serves on the board as an ex officio representative of the hospital medical  
32 staff pursuant to a hospital bylaw adopted prior to January 1, 2005, or that are provided  
33 by the spouse of that director.

34 (e) Subsection (a) of this section shall not apply to any employment relationship  
35 between a public hospital and the spouse of a member of the board of directors of the  
36 public hospital.

37 (f) A contract entered into in violation of this section is void. A contract that is  
38 void under this section may continue in effect until an alternative can be arranged when:  
39 (i) immediate termination would result in harm to the public health or welfare, and (ii)  
40 the continuation is approved as provided in this subsection. A public hospital that is a  
41 party to the contract may request approval to continue contracts under this subsection  
42 from the chairman of the Local Government Commission. Approval of continuation of  
43 contracts under this subsection shall be given for the minimum period necessary to  
44 protect the public health or welfare."

1           **SECTION 2.** Section 3(a) of S.L. 2004-2 reads as rewritten:  
2           **"SECTION 3.(a)** In applying to a "specially impacted adult care home", Section  
3           11.69(b2) of S.L. 1997-443, as enacted by Section 3 of S.L. 2001-234, "June 1, 2004"  
4           shall be read as "~~June 1, 2005~~ June 1, 2006", and "December 1, 2004" shall be read as  
5           "~~December 1, 2005~~ December 1, 2006".  
6           **SECTION 3.** This act is effective when it becomes law.