

[First Reprint]

## **ASSEMBLY, No. 3264**

# **STATE OF NEW JERSEY**

## **212th LEGISLATURE**

INTRODUCED JUNE 8, 2006

**Sponsored by:**

**Assemblyman ALBIO SIRES**

**District 33 (Hudson)**

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**Assemblyman FREDERICK SCALERA**

**District 36 (Bergen, Essex and Passaic)**

**Assemblyman BRIAN P. STACK**

**District 33 (Hudson)**

**Co-Sponsored by:**

**Assemblyman Epps, Assemblywomen Vainieri Huttie, Pou, Oliver,  
Assemblymen Schaer, Manzo, Johnson, Green and Assemblywoman Cruz-  
Perez**

**SYNOPSIS**

Authorizes certain cities to establish a municipal hospital authority.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Housing and Local Government Committee on  
June 12, 2006, with amendments.



1 AN ACT authorizing the establishment of certain municipal hospital  
 2 authorities, supplementing chapter 9 of Title 30 of the New  
 3 Jersey Statutes and amending P.L.1971, c.198.

4  
 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
 6 *of New Jersey:*

7  
 8 1. (New section) Sections 1 through 6 of this act shall be known  
 9 and may be cited as the "Municipal Hospital Authority Law."

10  
 11 2. (New section) For the purposes of this act:

12 "Authority" means a municipal hospital authority created  
 13 pursuant to section 2 of this act.

14 "City" means a city that is classified for legislative purposes  
 15 pursuant to N.J.S.40A:6-4, and that acquires an urban hospital  
 16 through a contract requiring at least \$12 million in working capital  
 17 contributions from a nongovernmental source, as certified by the  
 18 Local Finance Board in the Department of Community Affairs.

19 "Hospital" means an institution licensed and classified as a  
 20 general hospital by the Commissioner of Health and Senior Services  
 21 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and N.J.A.C.  
 22 8:43G-1et seq. The general hospital may also be licensed by the  
 23 Commissioner to provide inpatient psychiatric or comprehensive  
 24 rehabilitation hospital services, or other related services.

25 "Local Finance Board" means the Local Finance Board in the  
 26 Division of Local Government Services in the Department of  
 27 Community Affairs.

28  
 29 3. (New section) a. (1) The governing body of a city, as defined  
 30 in section 2 of P.L. , c. (C. ) (pending before the Legislature  
 31 as this bill), may create, by ordinance, a body corporate and politic  
 32 to be known as the " . . . . Municipal Hospital Authority," inserting  
 33 the name of the city. The authority shall constitute an agency and  
 34 instrumentality of the city creating it.

35 (2) A municipal hospital authority shall be created pursuant to  
 36 the procedures of the "Local Authorities Fiscal Control Law,"  
 37 P.L.1983, c.313 (C.40A:5A-1 et seq.). The authority shall operate  
 38 pursuant to the provisions of that law, except as otherwise provided  
 39 in P.L. , c. (C. ) (pending before the Legislature as this  
 40 bill).

41 b. The authority shall be governed by <sup>1</sup>**[a ten-member]** an  
 42 eleven-member<sup>1</sup> board. The members shall be divided among four  
 43 classes. The Class I member shall be the mayor of the city creating  
 44 the authority, or his designee, ex officio. There shall be two Class

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHO committee amendments adopted June 12, 2006.

1 II hospital members, who shall serve on and be appointed by, the  
2 medical staff executive committee of the hospital, to terms  
3 concurrent with their membership on the executive committee, and  
4 who need not be residents of the city. There shall be six Class III  
5 public members, at least four of whom shall be residents of the city,  
6 but none of whom shall be officers or employees of the city or of  
7 the hospital. The Class III public members shall be appointed by  
8 the mayor, with the advice and consent of the city council. At least  
9 two of the Class III members shall have special expertise as  
10 follows: one shall have extensive expertise in finance of private or  
11 nonprofit organizations, and one shall have extensive expertise in  
12 nonprofit organizational management. The Class III members shall  
13 serve for terms of five years and until their respective successors  
14 have been appointed and qualified; except that of the six members  
15 first appointed by the mayor, one shall be appointed for a term of  
16 one year, one for a term of two years, one for a term of three years,  
17 one for a term of four years and two for a term of five years. The  
18 chief executive officer or a designee thereof of a hospital  
19 management organization under contract with the authority shall be  
20 a nonvoting Class IV member. <sup>1</sup>The Commissioner of Community  
21 Affairs shall appoint one individual as a nonvoting Class IV  
22 member.<sup>1</sup> Vacancies shall be filled in the same manner as the  
23 original appointments were made, but for the unexpired term.

24 c. A member of an authority shall not receive compensation for  
25 his services, but shall be entitled to reimbursement for actual  
26 expenses necessarily incurred in the discharge of the duties of  
27 membership, including travel expenses. The powers of the  
28 authority shall be vested in the members thereof in office from time  
29 to time. Five members shall constitute a quorum of the authority  
30 for the purpose of conducting its business and exercising its powers  
31 and all other purposes. Action may be taken by the authority upon  
32 the affirmative vote of the majority, but not less than five of the  
33 members present, unless in any case the bylaws of the authority or  
34 State law or regulation shall require a larger number.

35 d. The authority shall select a chairman and a vice-chairman  
36 from among its Class III public members, and shall employ an  
37 executive director, who shall be its secretary.

38 e. No member or employee of an authority shall acquire any  
39 interest, direct or indirect, in any hospital owned by the authority,  
40 or in any property included or planned to be included as part of a  
41 hospital owned by the authority. Class II members of the authority  
42 shall not be deemed to have an interest in the hospital solely by  
43 virtue of their membership on the medical staff of the hospital or  
44 their employment by a hospital management organization under  
45 contract with the authority and they shall not be subject to the  
46 provisions of section 5 of P.L.1991, c.29 (C.40A:9-22.5).

47 f. For inefficiency or neglect of duty or misconduct in office a  
48 member of an authority may be removed by the governing body or

1 officer by which he was appointed; but a member may be removed  
2 only after he has been given a copy of the charges at least 10 days  
3 prior to a hearing thereon and has had the opportunity to be heard in  
4 person or by counsel. In the event of a removal of any member of  
5 an authority a record of the proceedings, together with the charges  
6 and findings thereon, shall be filed in the office of the clerk of the  
7 municipality.

8  
9 4. (New section) a. The purpose of a municipal hospital  
10 authority is to own and operate an urban hospital, primarily through  
11 a contract with a nonprofit entity or entities. The provisions of Title  
12 11A, Civil Service, shall not apply to any authority created pursuant  
13 to P.L. , c. (C. ) (pending before the Legislature as this bill)  
14 or to any private entity contracted by such an authority to manage  
15 and operate a hospital.

16 b. To accomplish its purpose a municipal hospital authority has  
17 the following powers:

18 (1) to exercise full and exclusive control over the hospital or  
19 hospitals owned by the authority, but subject to federal and State  
20 laws applicable to hospitals;

21 (2) to have a common seal and to alter the same in its discretion;

22 (3) to sue and be sued as a public body, politic and corporate;

23 (4) subject to the provisions of the "Local Public Contracts  
24 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except as provided in  
25 subparagraph (b) of paragraph (5) of this subsection, to enter into  
26 any and all contracts, execute any and all instruments and do and  
27 perform any and all acts or things necessary, convenient or  
28 desirable for the purposes of the hospital, or to carry out any powers  
29 expressly granted in this section;

30 (5) (a) to do and perform any acts and things authorized by this  
31 act, through or by means of its own officers, agents and employees,  
32 or by contracts with any persons;

33 (b) to enter into a contract with a nonprofit entity to manage and  
34 operate a hospital owned by the authority without public advertising  
35 pursuant to the provisions of section 3 of P.L.1971, c.198  
36 (C.40A:11-3); provided, however, that the primary responsibility of  
37 operating the hospital shall remain that of the authority, and  
38 provided that the duration of the contract shall not exceed five  
39 years. A contract entered into pursuant to this subparagraph may be  
40 renewed for an additional period, not to exceed five years. A  
41 contract entered into more than ten years from the date of the initial  
42 contract shall be negotiated as a new contract and not as a renewal  
43 contract. A contract entered into pursuant to this section shall  
44 provide that, in addition to such other matters as determined to be  
45 necessary by the authority or as otherwise required by law or  
46 regulation:

47 (i) The authority or its agents shall have independent access to  
48 the books and records of the hospital at all times;

(ii) The authority shall have the final determination regarding the disposition of assets and the incurring of debt in unusual situations other than normal, day-to-day business activities<sup>1</sup>; and

(iii) That the Commissioner of the Department of Health and Senior Services appoint an individual to serve as a nonvoting, ex officio member of the board of directors of the nonprofit corporation being contracted to operate the hospital<sup>1</sup>.

(6) to function as the hospital governing body responsible for establishing hospital-wide policy, adopting bylaws, maintaining quality of care, and providing institutional management and planning, which functions shall not be delegated or assigned to another entity; and

(7) to accept, apply for and receive gifts, aid and other funding in support of the hospital's mission from the State or from the federal government, or from for-profit or nonprofit organizations or the general public.

5. (New section) a. A contract with a nonprofit entity to manage and operate a hospital owned by the authority shall be effective only with the prior written consent of the Local Finance Board, who shall consult with the commissioner of the Department of Health and Senior Services. The Local Finance Board shall establish an application procedure,<sup>1</sup>submission requirements,<sup>1</sup> and set minimum standards and content that shall be included in any contract with a nonprofit entity to manage and operate a hospital owned by the authority.

b. When contracting with such a nonprofit entity, the authority shall approve the individuals that the nonprofit entity proposes to designate as the hospital's chief executive officer and chief financial officer, by whatever title, and any change thereof and shall also approve contracts or other arrangements setting forth terms and conditions of employment for those positions.

c. A municipal hospital authority shall take the following actions pursuant to any requirements that may be established by the Local Finance Board:

(1) adopt a management plan for the hospital, including monitoring and review methods of financial activities; and

(2) set minimum requirements for meetings of the authority, and minimum attendance requirements for members;

(3) establish a formal mechanism for communication among the members of the authority's board, hospital administrators and medical staff;

(4) form a finance committee, which shall be responsible for the oversight of the finances of the authority, and delineate the duties and obligations of the finance committee.

(5) include minimum provisions that shall be included in a contract with a nonprofit entity to manage and operate a hospital owned by the authority. <sup>1</sup>Such provisions shall include the

1 submission of an annual budget by the nonprofit entity for the  
2 approval of the authority. The approval of this budget shall be  
3 conditioned upon the approval of the authority's annual budget  
4 pursuant to the "Local Authorities Fiscal Control Law," P.L.1983,  
5 c.313 (C.40A:5A-1 et seq.). The budget and any supporting  
6 documents as may be required by the Division of Local  
7 Government Services shall be submitted to the division as part of  
8 the submission of the authority's annual budget.<sup>1</sup>

9  
10 6. (New section) Nothing in this act shall be construed to apply  
11 to a hospital managed by a municipality pursuant to the provisions  
12 of R.S.30:9-13.

13  
14 7. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to  
15 read as follows:

16 2. As used herein the following words have the following  
17 definitions, unless the context otherwise indicates:

18 (1) "Contracting unit" means:

19 (a) Any county; or

20 (b) Any municipality; or

21 (c) Any board, commission, committee, authority or agency,  
22 which is not a State board, commission, committee, authority or  
23 agency, and which has administrative jurisdiction over any district  
24 other than a school district, project, or facility, included or  
25 operating in whole or in part, within the territorial boundaries of  
26 any county or municipality which exercises functions which are  
27 appropriate for the exercise by one or more units of local  
28 government, and which has statutory power to make purchases and  
29 enter into contracts awarded by a contracting agent for the provision  
30 or performance of goods or services.

31 The term shall not include a private firm that has entered into a  
32 contract with a public entity for the provision of water supply  
33 services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

34 "Contracting unit" shall not include a private firm or public  
35 authority that has entered into a contract with a public entity for the  
36 provision of wastewater treatment services pursuant to P.L.1995,  
37 c.216 (C.58:27-19 et al.).

38 "Contracting unit" shall not include a duly incorporated nonprofit  
39 association that has entered into a contract with the governing body  
40 of a city of the first class for the provision of water supply services  
41 or wastewater treatment services pursuant to section 2 of P.L.2002,  
42 c.47 (C.40A:11-5.1).

43 "Contracting unit" shall not include a duly incorporated nonprofit  
44 association that has entered into a contract for management and  
45 operation services with a municipal hospital authority established  
46 pursuant to P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature  
47 as this bill).

48 (2) "Governing body" means:

1 (a) The governing body of the county, when the purchase is to  
2 be made or the contract or agreement is to be entered into by, or in  
3 behalf of, a county; or

4 (b) The governing body of the municipality, when the purchase  
5 is to be made or the contract or agreement is to be entered into by,  
6 or on behalf of, a municipality; or

7 (c) Any board, commission, committee, authority or agency of  
8 the character described in subsection (1) (c) of this section.

9 (3) "Contracting agent" means the governing body of a  
10 contracting unit, or its authorized designee, which has the power to  
11 prepare the advertisements, to advertise for and receive bids and, as  
12 permitted by this act, to make awards for the contracting unit in  
13 connection with purchases, contracts or agreements.

14 (4) "Purchase" means a transaction, for a valuable consideration,  
15 creating or acquiring an interest in goods, services and property,  
16 except real property or any interest therein.

17 (5) (Deleted by amendment, P.L.1999, c.440.)

18 (6) "Professional services" means services rendered or  
19 performed by a person authorized by law to practice a recognized  
20 profession, whose practice is regulated by law, and the performance  
21 of which services requires knowledge of an advanced type in a field  
22 of learning acquired by a prolonged formal course of specialized  
23 instruction and study as distinguished from general academic  
24 instruction or apprenticeship and training. Professional services  
25 may also mean services rendered in the provision or performance of  
26 goods or services that are original and creative in character in a  
27 recognized field of artistic endeavor.

28 (7) "Extraordinary unspecifiable services" means services which  
29 are specialized and qualitative in nature requiring expertise,  
30 extensive training and proven reputation in the field of endeavor.

31 (8) (Deleted by amendment, P.L.1999, c.440.)

32 (9) "Work" includes services and any other activity of a tangible  
33 or intangible nature performed or assumed pursuant to a contract or  
34 agreement with a contracting unit.

35 (10) "Homemaker--home health services" means at home  
36 personal care and home management provided to an individual or  
37 members of the individual's family who reside with the individual,  
38 or both, necessitated by the individual's illness or incapacity.  
39 "Homemaker--home health services" includes, but is not limited to,  
40 the services of a trained homemaker.

41 (11) "Recyclable material" means those materials which would  
42 otherwise become municipal solid waste, and which may be  
43 collected, separated or processed and returned to the economic  
44 mainstream in the form of raw materials or products.

45 (12) "Recycling" means any process by which materials which  
46 would otherwise become solid waste are collected, separated or  
47 processed and returned to the economic mainstream in the form of  
48 raw materials or products.

1       (13) "Marketing" means the sale, disposition, assignment, or  
2 placement of designated recyclable materials with, or the granting  
3 of a concession to, a reseller, processor, materials recovery facility,  
4 or end-user of recyclable material, in accordance with a district  
5 solid waste management plan adopted pursuant to P.L.1970, c.39  
6 (C.13:1E-1 et seq.) and shall not include the collection of such  
7 recyclable material when collected through a system of routes by  
8 local government unit employees or under a contract administered  
9 by a local government unit.

10       (14) "Municipal solid waste" means, as appropriate to the  
11 circumstances, all residential, commercial and institutional solid  
12 waste generated within the boundaries of a municipality; or the  
13 formal collection of such solid wastes or recyclable material in any  
14 combination thereof when collected through a system of routes by  
15 local government unit employees or under a contract administered  
16 by a local government unit.

17       (15) "Distribution" (when used in relation to electricity) means  
18 the process of conveying electricity from a contracting unit that is a  
19 generator of electricity or a wholesale purchaser of electricity to  
20 retail customers or other end users of electricity.

21       (16) "Transmission" (when used in relation to electricity) means  
22 the conveyance of electricity from its point of generation to a  
23 contracting unit that purchases it on a wholesale basis for resale.

24       (17) "Disposition" means the transportation, placement, reuse,  
25 sale, donation, transfer or temporary storage of recyclable materials  
26 for all possible uses except for disposal as municipal solid waste.

27       (18) "Cooperative marketing" means the joint marketing by two  
28 or more contracting units of the source separated recyclable  
29 materials designated in a district recycling plan required pursuant to  
30 section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written  
31 cooperative agreement entered into by the participating contracting  
32 units thereof.

33       (19) "Aggregate" means the sums expended or to be expended  
34 for the provision or performance of any goods or services in  
35 connection with the same immediate purpose or task, or the  
36 furnishing of similar goods or services, during the same contract  
37 year through a contract awarded by a contracting agent.

38       (20) "Bid threshold" means the dollar amount set in section 3 of  
39 P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall  
40 advertise for and receive sealed bids in accordance with procedures  
41 set forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

42       (21) "Contract" means any agreement, including but not limited  
43 to a purchase order or a formal agreement, which is a legally  
44 binding relationship enforceable by law, between a vendor who  
45 agrees to provide or perform goods or services and a contracting  
46 unit which agrees to compensate a vendor, as defined by and subject  
47 to the terms and conditions of the agreement. A contract also may  
48 include an arrangement whereby a vendor compensates a



1 contracting unit for the vendor's right to perform a service, such as,  
2 but not limited to, operating a concession.

3 (22) "Contract year" means the period of 12 consecutive months  
4 following the award of a contract.

5 (23) "Competitive contracting" means the method described in  
6 sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 thru 40A:11-  
7 4.5) of contracting for specialized goods and services in which  
8 formal proposals are solicited from vendors; formal proposals are  
9 evaluated by the purchasing agent or counsel or administrator; and  
10 the governing body awards a contract to a vendor or vendors from  
11 among the formal proposals received.

12 (24) "Goods and services" or "goods or services" means any  
13 work, labor, commodities, equipment, materials, or supplies of any  
14 tangible or intangible nature, except real property or any interest  
15 therein, provided or performed through a contract awarded by a  
16 contracting agent, including goods and property subject to  
17 N.J.S.12A:2-101 et seq.

18 (25) "Library and educational goods and services" means  
19 textbooks, copyrighted materials, student produced publications and  
20 services incidental thereto, including but not limited to books,  
21 periodicals, newspapers, documents, pamphlets, photographs,  
22 reproductions, microfilms, pictorial or graphic works, musical  
23 scores, maps, charts, globes, sound recordings, slides, films,  
24 filmstrips, video and magnetic tapes, other printed or published  
25 matter and audiovisual and other materials of a similar nature,  
26 necessary binding or rebinding of library materials, and specialized  
27 computer software used as a supplement or in lieu of textbooks or  
28 reference material.

29 (26) "Lowest price" means the least possible amount that meets  
30 all requirements of the request of a contracting agent.

31 (27) "Lowest responsible bidder or vendor" means the bidder or  
32 vendor: (a) whose response to a request for bids offers the lowest  
33 price and is responsive; and (b) who is responsible.

34 (28) "Official newspaper" means any newspaper designated by  
35 the contracting unit pursuant to R.S.35:1-1 et seq.

36 (29) "Purchase order" means a document issued by the  
37 contracting agent authorizing a purchase transaction with a vendor  
38 to provide or perform goods or services to the contracting unit,  
39 which, when fulfilled in accordance with the terms and conditions  
40 of a request of a contracting agent and other provisions and  
41 procedures that may be established by the contracting unit, will  
42 result in payment by the contracting unit.

43 (30) "Purchasing agent" means the individual duly assigned the  
44 authority, responsibility, and accountability for the purchasing  
45 activity of the contracting unit, and who has such duties as are  
46 defined by an authority appropriate to the form and structure of the  
47 contracting unit, and P.L.1971, c.198 (C.40A:11-1 et seq.).

1       (31) "Quotation" means the response to a formal or informal  
2 request made by a contracting agent by a vendor for provision or  
3 performance of goods or services, when the aggregate cost is less  
4 than the bid threshold. Quotations may be in writing, or taken  
5 verbally if a record is kept by the contracting agent.

6       (32) "Responsible" means able to complete the contract in  
7 accordance with its requirements, including but not limited to  
8 requirements pertaining to experience, moral integrity, operating  
9 capacity, financial capacity, credit, and workforce, equipment, and  
10 facilities availability.

11       (33) "Responsive" means conforming in all material respects to  
12 the terms and conditions, specifications, legal requirements, and  
13 other provisions of the request.

14       (34) "Public works" means building, altering, repairing,  
15 improving or demolishing any public structure or facility  
16 constructed or acquired by a contracting unit to house local  
17 government functions or provide water, waste disposal, power,  
18 transportation, and other public infrastructures.

19       (35) "Director" means the Director of the Division of Local  
20 Government Services in the Department of Community Affairs.

21       (36) "Administrator" means a municipal administrator appointed  
22 pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business  
23 administrator, a municipal manager or a municipal administrator  
24 appointed pursuant to the "Optional Municipal Charter Law,"  
25 P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager  
26 appointed pursuant to "the municipal manager form of government  
27 law," R.S.40:79-1 et seq.; or the person holding responsibility for  
28 the overall operations of an authority that falls under the "Local  
29 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et  
30 seq.).

31       (37) "Concession" means the granting of a license or right to act  
32 for or on behalf of the contracting unit, or to provide a service  
33 requiring the approval or endorsement of the contracting unit, and  
34 which may or may not involve a payment or exchange, or provision  
35 of services by or to the contracting unit.

36       (38) "Index rate" means the rate of annual percentage increase,  
37 rounded to the nearest half-percent, in the Implicit Price Deflator  
38 for State and Local Government Purchases of Goods and Services,  
39 computed and published quarterly by the United States Department  
40 of Commerce, Bureau of Economic Analysis.

41       (39) "Proprietary" means goods or services of a specialized  
42 nature, that may be made or marketed by a person or persons having  
43 the exclusive right to make or sell them, when the need for such  
44 goods or services has been certified in writing by the governing  
45 body of the contracting unit to be necessary for the conduct of its  
46 affairs.

47       (40) "Service or services" means the performance of work, or the  
48 furnishing of labor, time, or effort, or any combination thereof, not

1 involving or connected to the delivery or ownership of a specified  
2 end product or goods or a manufacturing process. Service or  
3 services may also include an arrangement in which a vendor  
4 compensates the contracting unit for the vendor's right to operate a  
5 concession.

6 (cf: P.L.2002, c.47, s.7)

7

8 8. This act shall take effect immediately.