

1 Article 2.

2 Public Hospitals.

3 Part 1. Municipal Hospitals.

4 **§ 131E-5. Title and purpose.**

5 (a) This Part shall be known and may be cited as the "Municipal Hospital Act."

6 (b) The purpose of this Part is to authorize municipalities to construct, operate and
7 maintain hospitals and other facilities which furnish hospital, clinical and similar services to the
8 people of this State. It is also the purpose of this Part to authorize municipalities to cooperate
9 with other public and private agencies and with each other. Additionally, it is the purpose of
10 this Part to authorize municipalities to accept assistance from State and federal agencies and
11 from other sources.

12 (c) This Part provides an additional and alternative method for municipalities to
13 establish facilities that furnish hospital, clinical and similar services. This Part shall not be
14 regarded as repealing any powers now existing under any other law, either general, special or
15 local.

16 (d) This Part shall be construed liberally to effect its purposes. (1983, c. 775, s. 1.)
17

18 **§ 131E-6. Definitions.**

19 As used in this Part, unless otherwise specified:

20 (1) "City", as defined in G.S. 160A-1(2), means a municipal corporation
21 organized under the laws of this State for the better government of the
22 people within its jurisdiction and having the powers, duties, privileges, and
23 immunities conferred by law on cities, towns, and villages. The term "city"
24 does not include counties or municipal corporations organized for a special
25 purpose under any statute or law. The word "city" is interchangeable with
26 the words "town" and "village" and shall mean any city as defined in this
27 subdivision without regard to the terminology employed in charters, local
28 acts, other portions of the General Statutes, or local customary usage.

29 (2) "Community general hospital" means a short-term nonfederal hospital that
30 provides diagnostic and therapeutic services to patients for a variety of
31 medical conditions, both surgical and nonsurgical, such services being
32 available for use primarily by residents of the community in which it is
33 located.

34 (3) "Corporation, foreign or domestic, authorized to do business in North
35 Carolina" means a corporation for profit or having a capital stock which is
36 created and organized under Chapter 55 of the General Statutes or any other
37 general or special act of this State, or a foreign corporation which has
38 procured a certificate of authority to transact business in this State pursuant
39 to Article 10 of Chapter 55 of the General Statutes.

40 (4) "Hospital facility" means any one or more buildings, structures, additions,
41 extensions, improvements or other facilities, whether or not located on the
42 same site or sites, machinery, equipment, furnishings or other real or
43 personal property suitable for health care or medical care; and includes,
44 without limitation, general hospitals; chronic disease, maternity, mental,
45 tuberculosis and other specialized hospitals; nursing homes, including
46 skilled nursing facilities and intermediate care facilities; adult care homes for
47 the aged and disabled; public health center facilities; housing or quarters for
48 local public health departments; facilities for intensive care and self-care;
49 clinics and outpatient facilities; clinical, pathological and other laboratories;
50 health care research facilities; laundries; residences and training facilities for
51 nurses, interns, physicians and other staff members; food preparation and

1 food service facilities; administrative buildings, central service and other
2 administrative facilities; communication, computer and other electronic
3 facilities; fire-fighting facilities; pharmaceutical and recreational facilities;
4 storage space; X ray, laser, radiotherapy and other apparatus and equipment;
5 dispensaries; utilities; vehicular parking lots and garages; office facilities for
6 hospital staff members and physicians; and such other health and hospital
7 facilities customarily under the jurisdiction of or provided by hospitals, or
8 any combination of the foregoing, with all necessary, convenient or related
9 interests in land, machinery, apparatus, appliances, equipment, furnishings,
10 appurtenances, site preparation, landscaping, and physical amenities.

11 (4a) "Hospital land" means air and ground rights to real property held either in
12 fee or by lease by a municipality, with all easements, rights-of-way,
13 appurtenances, landscaping, and physical amenities such as utilities, parking
14 lots, and garages, but excluding other improvements to land described in
15 subsection (4) of this section and G.S. 131E-16(15).

16 (5) "Municipality" means any county, city, or other political subdivision of this
17 State, or any hospital district created under Part C of this Article.

18 (6) "Nonprofit association" or "nonprofit corporation" means any association or
19 corporation from which no part of the net earnings inures or may lawfully
20 inure to the benefit of a private shareholder or individual. (1983, c. 775, s. 1;
21 1997-233, s. 1.)
22

23 § 131E-7. General powers.

24 (a) A municipality shall have all the powers necessary or convenient to carry out the
25 purposes of this Part, including the following powers, which are in addition to the powers
26 granted elsewhere in this Part:

27 (1) To construct, equip, operate, and maintain hospital facilities;

28 (2) To levy property taxes pursuant to G.S. 153A-149 or G.S. 160A-209 and to
29 allocate those and other revenues whose use is not otherwise restricted by
30 law to fund hospital facilities; a hospital district may levy annually a tax on
31 property having a situs in the district under the rules and according to the
32 procedures prescribed in the Machinery Act, Chapter 105 of the General
33 Statutes, Subchapter II, and a hospital district may allocate those and other
34 revenues whose use is not otherwise restricted by law to fund hospital
35 facilities;

36 (3) To issue bonds and notes pursuant to the Local Government Finance Act,
37 Chapter 159 of the General Statutes, for the financing of hospital facilities;

38 (4) To use property owned or controlled by the municipality;

39 (5) To acquire real or personal property, including existing hospital facilities, by
40 purchase, grant, gift, devise, lease, condemnation, or otherwise;

41 (6) To establish a fee schedule for services received from hospital facilities and
42 to make services available regardless of ability to pay.

43 (b) A municipality or a public hospital may contract with or enter into any arrangement
44 with other public hospitals or municipalities of this or other states, the State of North Carolina,
45 federal, or public agencies, or with any person, private organization, or nonprofit corporation or
46 association for the provision of health care. The municipality or public hospital may pay for or
47 contribute its share of the cost of any such contract or arrangement from revenues available for
48 these purposes, including revenues rising from the provision of health care.

49 (c) Any two or more municipalities may enter into agreements to jointly exercise the
50 powers, privileges, and authorities granted by this Part. These agreements may provide for:

- 1 (1) The appointment of a board, composed of representatives of the parties to
- 2 the agreement, to supervise and manage a hospital facility;
- 3 (2) The authority and duties of the board and the compensation of its members;
- 4 (3) The proportional share of the costs of acquisition, construction,
- 5 improvement, maintenance, or operation of hospital facilities;
- 6 (4) The duration, amendment, and termination of the agreement and the
- 7 disposition of property on termination of the agreement; and
- 8 (5) Any other matters as necessary.

9 (d) A municipality may lease any hospital facility, or part, to a nonprofit association on
10 terms and conditions consistent with the purposes of this Part. The municipality will determine
11 the length of the lease. No lease executed under this subsection shall be deemed to convey a
12 freehold interest.

13 (e) A municipality shall not sell nor convey any rights of ownership the municipality
14 has in any hospital facility, including the buildings, land and equipment associated with the
15 hospital, to any corporation or other business entity operated for profit, except that nothing
16 herein shall prohibit the sale of surplus buildings, surplus land or surplus equipment by a
17 municipality to any corporation or other business entity operated for profit.

18 A municipality may lease any hospital facility, or part, to any corporation, foreign or
19 domestic, authorized to do business in North Carolina on terms and conditions consistent with
20 the purposes of this Part and with G.S. 160A-272. The municipality shall determine the length
21 of the lease; however, no lease under this subsection shall be longer than 10 years, including
22 options to renew or extend the original term of the lease, except that leases of surplus buildings,
23 surplus land or surplus equipment may be for any length of time determined by the
24 municipality. The lease shall provide that the hospital facility will be operated as a community
25 general hospital open to the general public and that the lessee will accept Medicare and
26 Medicaid patients. No lease executed under this subsection shall be deemed to convey a
27 freehold interest. No bonds, notes nor other evidences of indebtedness shall be issued by a
28 municipality to finance equipment for or the acquisition, extension, construction,
29 reconstruction, improvement, enlargement, or betterment of any hospital facility when the
30 facility is leased to a corporation, foreign or domestic, authorized to do business in North
31 Carolina.

32 For purposes of this subsection, "surplus" means any building, land or equipment which is
33 not required for use in the delivery of necessary health care services by a hospital facility at the
34 time of the sale, conveyance of ownership rights, or lease.

35 This subsection shall not be construed to affect any pending litigation nor to reflect any
36 legislative intent as to any prior authorized or executed agreements. This subsection shall be
37 effective from January 1, 1984 until June 30, 1984.

38 (f) In addition to the general and special powers conferred by this Part, a municipality
39 is authorized to exercise powers necessary to implement the powers under this Part. (1983, c.
40 775, s. 1; 1993, c. 529, s. 5.3; 1995, c. 509, s. 71.)

41
42 **§ 131E-7.1. Public hospitals' managed care development authorized.**

43 A public hospital as defined in G.S. 159-39(a) may acquire an ownership interest, in whole
44 or in part, in a nonprofit or for-profit managed care company, including a health maintenance
45 organization, physician hospital organization, physician organization, management services
46 organization, or preferred provider organization with which the public hospital is also directly
47 or indirectly a contracting provider. Ownership interest may be evidenced by the ownership or
48 acquired by the purchase of stock. This ownership or acquisition of stock is the exercise of a
49 health care function and is not the investment of idle funds within the meaning of G.S. 159-30
50 and G.S.159-39(g). (1995 (Reg. Sess., 1996), c. 713, s. 1.)

1 **§ 131E-8. Sale of hospital facilities to nonprofit corporations.**

2 (a) A municipality as defined in G.S. 131E-6(5) or hospital authority as defined in G.S.
3 131E-16(14), upon such terms and conditions as it deems wise, with or without monetary
4 consideration, may sell or convey to a nonprofit corporation organized under Chapter 55A of
5 the General Statutes any rights of ownership the municipality or hospital authority has in a
6 hospital facility including the building, land and equipment associated with the hospital, if the
7 nonprofit corporation is legally committed to continue to operate the facility as a community
8 general hospital open to the general public, free of discrimination based upon race, creed, color,
9 sex or national origin. The nonprofit corporation shall also agree, as a condition of the
10 municipality or hospital authority's conveying ownership, to provide such services to indigent
11 patients as the municipality or hospital authority and the nonprofit corporation shall agree. The
12 nonprofit corporation shall further agree that should it fail to operate the facility as a
13 community general hospital open to the general public or should the nonprofit corporation
14 dissolve without a successor nonprofit corporation to carry out the terms and conditions of the
15 agreement of conveyance, all ownership rights in the hospital facility, including the building,
16 land and equipment associated with the hospital, shall revert to the municipality or hospital
17 authority or successor entity originally conveying the hospital.

18 (b) When either general obligation bonds or revenue bonds issued for the benefit of the
19 hospital to be conveyed are outstanding at the time of sale or conveyance, then the nonprofit
20 corporation must agree to the following:

21 By the effective date of sale or conveyance, the nonprofit corporation shall place
22 into an escrow fund money or direct obligations of, or obligations the principal
23 of and interest on which, are unconditionally guaranteed by the United States of
24 America (as approved by the Local Government Commission), the principal of
25 and interest on which, when due and payable, will provide sufficient money to
26 pay the principal of and the interest and redemption premium, if any, on all
27 bonds then outstanding to the maturity date or dates of such bonds or to the date
28 or dates specified for the redemption thereof. The nonprofit corporation shall
29 furnish to the Local Government Commission such evidence as the Commission
30 may require that the securities purchased will satisfy the requirements of this
31 section. A hospital which has placed funds in escrow to retire outstanding
32 general obligation or revenue bonds, as provided in this section, shall not be
33 considered a public hospital, and G.S. 159-39(a)(3) shall be inapplicable to such
34 hospitals.

35 (c) Any sale or conveyance under this section must be approved by the municipality or
36 hospital authority by a resolution adopted at a regular meeting of the governing body on 10
37 days' public notice. Notice shall be given by publication describing the hospital facility to be
38 conveyed, the proposed monetary consideration or lack thereof, and the governing body's intent
39 to authorize the sale or conveyance.

40 (d) Neither G.S. 153A-176 nor Article 12 of Chapter 160A of the General Statutes shall
41 apply to sales or conveyances pursuant to this section.

42 (e) A sale or conveyance of substantially all the equipment is a sale or conveyance of
43 hospital facility. (1983, c. 775, s. 1; 1989, c. 444.)
44

45 **§ 131E-8.1. Maintenance of Health Education Facilities.**

46 (a) This section shall apply to all sales and leases of a hospital facility by a municipality
47 or hospital authority where any portion of the facility was constructed with a capital grant from
48 the Area Health Education Centers Program (AHEC).

49 (b) The municipality or hospital authority shall give specific notice of intent to sell or
50 lease and of any public hearing to the Director of the local AHEC program and the Director of
51 the AHEC Program at the University of North Carolina School of Medicine at Chapel Hill.

1 (c) The municipality or hospital authority may provide continued access to the identical
2 or equivalent facilities suitable for continuation of AHEC activities, including all services being
3 provided under the existing operating contract. The municipality or hospital authority may
4 convey all ownership rights in the hospital facility, or any part thereof, to the local AHEC
5 Program without monetary consideration. Further, the municipality or hospital authority may
6 reimburse the local AHEC Program for any funds used for the original construction of any
7 office for AHEC provided by AHEC to establish or continue the hospital facility.

8 (d) No portion of this section shall be construed to alter rights or obligations of the
9 operating contracts between the hospital facility and AHEC. (1983 (Reg. Sess., 1984), c. 1056,
10 s. 1; 1985 (Reg. Sess., 1986), c. 995.)
11

12 **§ 131E-9. Governing authority of hospital facilities.**

13 (a) The governing body of a municipality may establish by resolution an office, board,
14 or other municipal agency to plan, establish, construct, maintain, or operate a hospital facility.
15 The resolution shall prescribe the powers, duties, compensation, and tenure of the members of
16 the governing authority. The municipality shall remain responsible for the expenses of
17 planning, establishment, construction, maintenance and operation of the hospital facilities.

18 (b) (1) The county board of commissioners of a county may establish by resolution a
19 county hospital authority to plan, establish, construct, maintain, or operate a hospital facility.
20 The authority shall be referred to as "_____ County Hospital Authority."

21 (2) The county hospital authority shall consist of six appointed members and
22 one ex officio member.

23 (3) The appointed members of the authority shall be appointed by the county
24 board of commissioners. All appointed members shall be residents of the
25 county. Three of the members shall be residents of a city in the county and
26 the remaining three members shall not be residents of the same city or cities
27 in which the other three members appointed under this subdivision reside.

28 (4) For the initial appointments to the county hospital authority, two of the
29 members shall be appointed for a term of three years, two for a term of four
30 years, and two for a term of five years to achieve staggered terms. All
31 subsequent appointments shall be for five-year terms.

32 (5) The ex officio member of the county hospital authority shall be a member of
33 the county board of commissioners. The ex officio member's term on the
34 hospital authority shall be commensurate with his or her term as a member
35 of the county board of commissioners.

36 (6) When any member of the county hospital authority resigns or is removed
37 from office before the expiration of the member's term, the county board of
38 commissioners shall appoint a person to serve the unexpired portion of the
39 term.

40 (c) Any authority vested in a county under this Part or any authority or power that may
41 be exercised by a hospital authority under the Hospital Authorities Act, Chapter 131E, Article
42 2, Part B, may be vested by resolution of the county board of commissioners in a county
43 hospital authority established under this section. However, a county hospital authority shall
44 exercise only the powers and duties prescribed in the county board of commissioners'
45 resolution. The county board of commissioners shall determine in the resolution the
46 compensation, traveling and any other expenses which shall be paid to each member of the
47 county hospital authority. However, the expenses to plan, establish, construct and operate the
48 hospital facility shall remain the responsibility of the county. (1983, c. 775, s. 1.)
49

50 **§ 131E-10. Condemnation.**

1 Every municipality is authorized to condemn property to carry out the purposes of this Part.
2 In condemning property, a municipality shall proceed in the manner provided in Chapter 40A
3 of the General Statutes or in the charter of the municipality. A municipality or its agents is
4 authorized to enter upon land, provided no unnecessary damage is done, to make surveys and
5 examinations relative to any condemnation proceeding. Notwithstanding the provisions of any
6 other statute or of any applicable municipal charter, the municipality may take possession of
7 property to be condemned at any time after the commencement of the condemnation
8 proceeding. The municipality shall not be precluded from abandonment of the condemnation of
9 property in any case where possession has not taken place. (1983, c. 775, s. 1.)

10
11 **§ 131E-11. Federal and State aid.**

12 Every municipality or nonprofit association is authorized to accept and disburse federal and
13 State moneys, whether made available by grant, loan, gift or devise, to carry out the purposes of
14 this Part. All federal moneys shall be accepted and disbursed upon the terms and conditions
15 prescribed by the United States, if the terms and conditions are consistent with State law. All
16 State moneys shall be accepted and disbursed upon the terms and conditions prescribed by
17 either or both the State and the North Carolina Medical Care Commission. Unless the terms and
18 conditions provide otherwise, the chief financial officer of the municipality shall deposit all
19 moneys received under this section and keep them in separate trust funds. (1983, c. 775, s. 1.)

20
21 **§ 131E-12. Public purposes.**

22 The exercise of the powers, privileges, and authorities conferred on municipalities by this
23 Part are public and government functions, exercised for a public purpose and matters of public
24 necessity. In the case of a county, the exercise of the powers, privileges and authorities
25 conferred by this Part is a county function and purpose, as well as a public and governmental
26 function. In the case of any municipality other than a county, the exercise of the powers,
27 privileges, and authorities conferred by this Part is a municipal function and purpose, as well as
28 a public and governmental function. (1983, c. 775, s. 1.)

29
30 **§ 131E-13. Lease or sale of hospital facilities to or from for-profit or nonprofit**
31 **corporations or other business entities by municipalities and hospital**
32 **authorities.**

33 (a) A municipality or hospital authority as defined in G.S. 131E-16(14), may lease, sell,
34 or convey any hospital facility, or part, to a corporation, foreign or domestic, authorized to do
35 business in North Carolina, subject to these conditions, which shall be included in the lease,
36 agreement of sale, or agreement of conveyance:

- 37 (1) The corporation shall continue to provide the same or similar clinical
38 hospital services to its patients in medical-surgery, obstetrics, pediatrics,
39 outpatient and emergency treatment, including emergency services for the
40 indigent, that the hospital facility provided prior to the lease, sale, or
41 conveyance. These services may be terminated only as prescribed by
42 Certificate of Need Law prescribed in Article 9 of Chapter 131E of the
43 General Statutes, or, if Certificate of Need Law is inapplicable, by review
44 procedure designed to guarantee public participation pursuant to rules
45 adopted by the Secretary of the Department of Health and Human Services.
- 46 (2) The corporation shall ensure that indigent care is available to the population
47 of the municipality or area served by the hospital authority at levels related
48 to need, as previously demonstrated and determined mutually by the
49 municipality or hospital authority and the corporation.

- 1 (3) The corporation shall not enact financial admission policies that have the
2 effect of denying essential medical services or treatment solely because of a
3 patient's immediate inability to pay for the services or treatment.
- 4 (4) The corporation shall ensure that admission to and services of the facility are
5 available to beneficiaries of governmental reimbursement programs
6 (Medicaid/Medicare) without discrimination or preference because they are
7 beneficiaries of those programs.
- 8 (5) The corporation shall prepare an annual report that shows compliance with
9 the requirements of the lease, sale, or conveyance.

10 The corporation shall further agree that if it fails to substantially comply with these
11 conditions, or if it fails to operate the facility as a community general hospital open to the
12 general public and free of discrimination based on race, creed, color, sex, or national origin
13 unless relieved of this responsibility by operation of law, or if the corporation dissolves without
14 a successor corporation to carry out the terms and conditions of the lease, agreement of sale, or
15 agreement of conveyance, all ownership or other rights in the hospital facility, including the
16 building, land and equipment associated with the hospital, shall revert to the municipality or
17 hospital authority or successor entity originally conveying the hospital; provided that any
18 building, land, or equipment associated with the hospital facility that the corporation has
19 constructed or acquired since the sale may revert only upon payment to the corporation of a
20 sum equal to the cost less depreciation of the building, land, or equipment.

21 This section shall not apply to leases, sales, or conveyances of nonmedical services or
22 commercial activities, including the gift shop, cafeteria, the flower shop, or to surplus hospital
23 property that is not required in the delivery of necessary hospital services at the time of the
24 lease, sale, or conveyance.

25 (b) In the case of a sale or conveyance, if either general obligation bonds or revenue
26 bonds issued for the benefit of the hospital to be conveyed are outstanding at the time of sale or
27 conveyance, then the corporation shall agree to the following:

28 By the effective date of sale or conveyance, the corporation shall place into an escrow fund
29 money or direct obligations of, or obligations the principal of and interest on which, are
30 unconditionally guaranteed by the United States of America (as approved by the Local
31 Government Commission), the principal of and interest on which, when due and payable, will
32 provide sufficient money to pay the principal of and the interest and redemption premium, if
33 any, on all bonds then outstanding to the maturity date or dates of such bonds or to the date or
34 dates specified for the redemption thereof. The corporation shall furnish to the Local
35 Government Commission such evidence as the Commission may require that the securities
36 purchased will satisfy the requirements of this section. A hospital which has placed funds in
37 escrow to retire outstanding general obligation or revenue bonds, as provided in this section,
38 shall not be considered a public hospital, and G.S. 159-39(a)(3) shall be inapplicable to such
39 hospitals.

40 No bonds, notes or other evidences of indebtedness shall be issued by a municipality or
41 hospital authority to finance equipment for or the acquisition, extension, construction,
42 reconstruction, improvement, enlargement, or betterment of any hospital facility if the facility
43 has been sold or conveyed to a corporation, foreign or domestic, authorized to do business in
44 North Carolina.

45 (c) In the case of a lease, the municipality or hospital authority shall determine the
46 length of the lease. No lease executed under this section shall be deemed to convey a freehold
47 interest. Any sublease or assignment of the lease shall be subject to the conditions prescribed
48 by this section. If the term of the lease is more than 10 years, and either general obligation
49 bonds or revenue bonds issued for the benefit of the hospital to be leased are outstanding at the
50 time of the lease, then the corporation shall agree to the following:

1 By the effective date of the lease, the corporation shall place into an escrow fund money or
2 direct obligations of, or obligations the principal of and interest on which, are unconditionally
3 guaranteed by the United States of America (as approved by the Local Government
4 Commission), the principal of and interest on which, when due and payable, will provide
5 sufficient money to pay the principal of and the interest and redemption premium, if any, on all
6 bonds then outstanding to the maturity date or dates of such bonds or to the date or dates
7 specified for the redemption thereof. The corporation shall furnish to the Local Government
8 Commission such evidence as the Commission may require that the securities purchased will
9 satisfy the requirements of this section.

10 No bonds, notes or other evidences of indebtedness shall be issued by a municipality or
11 hospital authority to finance equipment for or the acquisition, extension, construction,
12 reconstruction, improvement, enlargement, or betterment of any hospital facility when the
13 facility is leased to a corporation, foreign or domestic, authorized to do business in North
14 Carolina.

15 (d) The municipality or hospital authority shall comply with the following procedures
16 before leasing, selling, or conveying a hospital facility, or part thereof:

- 17 (1) The municipality or hospital authority shall first adopt a resolution declaring
18 its intent to sell, lease, or convey the hospital facility at a regular meeting on
19 10 days' public notice. Notice shall be given by publication in one or more
20 papers of general circulation in the affected area describing the intent to
21 lease, sell, or convey the hospital facility involved, known potential buyers
22 or lessees, a solicitation of additional interested buyers or lessees and intent
23 to negotiate the terms of the lease or sale. Specific notice, given by certified
24 mail, shall be given to the local office of each state-supported program that
25 has made a capital expenditure in the hospital facility, to the Department of
26 Health and Human Services, and to the Office of State Budget and
27 Management.
- 28 (2) At the meeting to adopt a resolution of intent, the municipality or hospital
29 authority shall request proposals for lease or purchase by direct solicitation
30 of at least five prospective lessees or buyers. The solicitation shall include a
31 copy of G.S. 131E-13.
- 32 (3) The municipality or hospital authority shall conduct a public hearing on the
33 resolution of intent not less than 15 days after its adoption. Notice of the
34 public hearing shall be given by publication at least 15 days before the
35 hearing. All interested persons shall be heard at the public hearing.
- 36 (4) Before considering any proposal to lease or purchase, the municipality or
37 hospital authority shall require information on charges, services, and
38 indigent care at similar facilities owned or operated by the proposed lessee
39 or buyer.
- 40 (5) Not less than 45 days after adopting a resolution of intent and not less than
41 30 days after conducting a public hearing on the resolution of intent, the
42 municipality or hospital authority shall conduct a public hearing on
43 proposals for lease or purchase that have been made. Notice of the public
44 hearings shall be given by publication at least 10 days before the hearing.
45 The notice shall state that copies of proposals for lease or purchase are
46 available to the public.
- 47 (6) The municipality or hospital authority shall make copies of the proposals to
48 lease or purchase available to the public at least 10 days before the public
49 hearing on the proposals.
- 50 (7) Not less than 60 days after adopting a resolution of intent, the municipality
51 or hospital authority at a regular meeting shall approve any lease, sale, or

1 conveyance by a resolution. The municipality or hospital authority shall
2 adopt this resolution only upon a finding that the lease, sale, or conveyance
3 is in the public interest after considering whether the proposed lease, sale, or
4 conveyance will meet the health-related needs of medically underserved
5 groups, such as low income persons, racial and ethnic minorities, and
6 handicapped persons. Notice of the regular meeting shall be given at least 10
7 days before the meeting and shall state that copies of the lease, sale, or
8 conveyance proposed for approval are available.

9 (8) At least 10 days before the regular meeting at which any lease, sale, or
10 conveyance is approved, the municipality or hospital authority shall make
11 copies of the proposed contract available to the public.

12 (e) Notwithstanding the provisions of subsections (c) and (d) of this section or G.S.
13 131E-23, a hospital authority as defined in G.S. 131E-16(14) or a municipality may lease or
14 sublease hospital land to a corporation or other business entity, whether for profit or not for
15 profit, and may participate as an owner, joint venturer, or other equity participant with a
16 corporation or other business entity for the development, construction, and operation of medical
17 office buildings and other health care or hospital facilities, so long as the municipality, hospital
18 authority, or other entity continues to maintain its primary community general hospital facilities
19 as required by subsection (a) of this section.

20 (f) A municipality or hospital authority may permit or consent to the pledge of hospital
21 land or leasehold estates in hospital land to facilitate the development, construction, and
22 operation of medical office buildings and other health care or hospital facilities. A municipality
23 or hospital authority also may, as lessee, enter into master leases or agreements to fund for
24 temporary vacancies relating to hospital land or hospital facilities for use in the provision of
25 health care.

26 (g) Neither G.S. 153A-176 nor Article 12 of Chapter 160A of the General Statutes shall
27 apply to leases, subleases, sales, or conveyances under this Chapter. (1983 (Reg. Sess., 1984),
28 c. 1066, s. 1; 1997-233, s. 2; 1997-443, s. 11A.118(a); 2000-140, s. 93.1(a); 2001-424, s.
29 12.2(b).)

30 31 **§ 131E-14. Lease or sale of hospital facilities to certain nonprofit corporations.**

32 If a municipality or hospital authority leases, sells, or conveys a hospital facility, or part, to
33 a nonprofit corporation of which a majority of voting members of its governing body is not
34 appointed or controlled by the municipality or hospital authority, the procedural requirements
35 set forth in G.S. 131E-13(d) shall apply. (1983 (Reg. Sess., 1984), c. 1066, s. 2.)

36 37 **§ 131E-14.1. Branch facilities.**

38 Notwithstanding anything in this Article, any municipality owning and operating a hospital
39 organized under the provisions of this Part or Part 3 or any nonprofit corporation which leases
40 or operates a hospital facility pursuant to an agreement with the municipality may erect,
41 remodel, enlarge, purchase, finance, and operate branches and related facilities within this State
42 but outside the boundaries of the county subject to the following limitations:

- 43 (1) No moneys derived from the exercise by the owning municipality of its
44 power of taxation shall be expended on facilities located outside its
45 boundaries;
- 46 (2) No moneys derived from the issuance by the owning municipality of its
47 bonds or notes shall be expended on facilities located outside its boundaries;
- 48 (3) The owning municipality shall not possess the power of eminent domain or
49 have the right of condemnation with respect to hospital facilities located
50 outside its boundaries; and

- 1 (4) The power conferred on counties by G.S. 153A-169 and G.S. 153A-170 to
2 adopt ordinances regulating the use of county-owned property and parking
3 on county-owned property shall not extend to hospital facilities located
4 outside its boundaries unless the board of commissioners of the county in
5 which the facility is located shall by resolution permit any such ordinance to
6 be applicable within its jurisdiction.
- 7 (5), (6) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 676, s. 1. (1983, c.
8 578, s. 1; 1993 (Reg. Sess., 1994), c. 676, s. 1.)
9

10 **§ 131E-14.2. Conflict of interest.**

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

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

23 (b) The fact that a person or that person's spouse owns ten percent (10%) or less stock
24 of a corporation or has a ten percent (10%) or less ownership in any other business entity or is
25 an employee of that corporation or other business entity does not make the person have a
26 "direct interest" as this phrase is used in subsection (a) of this section; provided that, in order
27 for the exception to apply, the contract, undertaking, or other transaction shall be authorized by
28 the board of directors by specific resolution on which no director or employee having an
29 interest, direct or indirect, shall vote.

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

36 (c1) Subsection (a) of this section shall not apply if the director or employee is not
37 involved in making or administering the contract. A director or employee is involved in
38 administering a contract if the director or employee oversees the performance of or interprets
39 the contract. A director or employee is involved in making a contract if the director or
40 employee participates in the development of specifications or terms or in the preparation or
41 award of the contract. A director or employee is not involved in making or administering a
42 contract solely because of the performance of ministerial duties related to the contract. A
43 director is also involved in making a contract if the board of directors takes action on the
44 contract, whether or not the director actually participates in that action, unless the contract is
45 approved under an exception to this section under which the director is allowed to benefit and
46 is prohibited from voting.

47 (d) Subsection (a) of this section shall not apply to any member of the board of
48 directors of a public hospital if (i) the undertaking or contract or series of undertakings or
49 contracts between the public hospital and one of its officials is approved by specific resolution
50 of the board adopted in an open and public meeting and recorded in its minutes; (ii) the official
51 entering into the contract or undertaking with the public hospital does not in an official capacity

1 participate in any way or vote; and (iii) the amount does not exceed twelve thousand five
2 hundred dollars (\$12,500) for medically related services and twenty-five thousand dollars
3 (\$25,000) for other goods or services within a 12-month period, or the contract is for medically
4 related or administrative services that are provided by a director who serves on the board as an
5 ex officio representative of the hospital medical staff pursuant to a hospital bylaw adopted prior
6 to January 1, 2005, or that are provided by the spouse of that director.

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

10 (f) A contract entered into in violation of this section is void. A contract that is void
11 under this section may continue in effect until an alternative can be arranged when: (i)
12 immediate termination would result in harm to the public health or welfare, and (ii) the
13 continuation is approved as provided in this subsection. A public hospital that is a party to the
14 contract may request approval to continue contracts under this subsection from the chairman of
15 the Local Government Commission. Approval of continuation of contracts under this
16 subsection shall be given for the minimum period necessary to protect the public health or
17 welfare. (2001-409, s. 6; 2005-70, s. 1; 2006-264, s. 64(b).)

18
19 Part 2. Hospital Authority.

20 **§ 131E-15. Title and purpose.**

21 (a) This Part shall be known as the "Hospital Authorities Act."

22 (b) The General Assembly finds and declares that in order to protect the public health,
23 safety, and welfare, including that of low income persons, it is necessary that counties and
24 cities be authorized to provide adequate hospital, medical, and health care and that the
25 provision of such care is a public purpose. Therefore, the purpose of this Part is to provide an
26 alternate method for counties and cities to provide hospital, medical, and health care. (1943, c.
27 780, ss. 1, 2; 1971, c. 799; 1983, c. 775, s. 1.)

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30 **§ 131E-16. Definitions.**

31 As used in this Part, unless otherwise specified:

- 32 (1) "Board of county commissioners" means the legislative body charged with
33 governing the county.
- 34 (2) "Bonds" means any bonds or notes issued by the hospital authority pursuant
35 to this Part and the Local Government Finance Act, Chapter 159 of the
36 General Statutes.
- 37 (3) "City" means any city or town which is, or is about to be, included in the
38 territorial boundaries of a hospital authority when created hereunder.
- 39 (4) "City clerk" and "mayor" means the clerk and mayor, respectively, of the
40 city, or the officers thereof charged with the duties customarily imposed on
41 the clerk and mayor, respectively.
- 42 (5) "City council" means the legislative body, council, board of commissioners,
43 board of trustees, or other body charged with governing the city or town.
- 44 (6) "Commissioner" means one of the members of a hospital authority appointed
45 in accordance with the provisions of this Part.
- 46 (7) "Community general hospital" means a short-term nonfederal hospital that
47 provides diagnostic and therapeutic services to patients for a variety of
48 medical conditions, both surgical and nonsurgical, such services being
49 available for use primarily by residents of the community in which it is
50 located.

- 1 (8) "Contract" means any agreement of a hospital authority with or for the
2 benefit of an obligee whether contained in a resolution, trust indenture,
3 mortgage, lease, bond or other instrument.
- 4 (9) "Corporation, foreign or domestic, authorized to do business in North
5 Carolina" means a corporation for profit or having a capital stock which is
6 created and organized under Chapter 55 of the General Statutes or any other
7 general or special act of this State, or a foreign corporation which has
8 procured a certificate of authority to transact business in this State pursuant
9 to Article 10 of Chapter 55 of the General Statutes.
- 10 (10) "County" means the county which is, or is about to be, included in the
11 territorial boundaries of a hospital authority when created hereunder.
- 12 (11) "County clerk" and "chairman of the board of county commissioners" means
13 the clerk and chairman, respectively, of the county or the officers thereof
14 charged with the duties customarily imposed on the clerk and chairman,
15 respectively.
- 16 (12) "Federal government" means the United States of America, or any agency,
17 instrumentality, corporate or otherwise, of the United States of America.
- 18 (13) "Government" means the State and federal governments and any
19 subdivision, agency or instrumentality, corporate or otherwise, of either of
20 them.
- 21 (14) "Hospital authority" means a public body and a body corporate and politic
22 organized under the provisions of this Part.
- 23 (15) "Hospital facilities" means any one or more buildings, structures, additions,
24 extensions, improvements or other facilities, whether or not located on the
25 same site or sites, machinery, equipment, furnishings or other real or
26 personal property suitable for health care or medical care; and includes,
27 without limitation, general hospitals; chronic disease, maternity, mental,
28 tuberculosis and other specialized hospitals; nursing homes, including
29 skilled nursing facilities and intermediate care facilities; adult care homes for
30 the aged and disabled; public health center facilities; housing or quarters for
31 local public health departments; facilities for intensive care and self-care;
32 clinics and outpatient facilities; clinical, pathological and other laboratories;
33 health care research facilities; laundries; residences and training facilities for
34 nurses, interns, physicians and other staff members; food preparation and
35 food service facilities; administrative buildings, central service and other
36 administrative facilities; communication, computer and other electronic
37 facilities; fire-fighting facilities; pharmaceutical and recreational facilities;
38 storage space; X ray, laser, radiotherapy and other apparatus and equipment;
39 dispensaries; utilities; vehicular parking lots and garages; office facilities for
40 hospital staff members and physicians; and such other health and hospital
41 facilities customarily under the jurisdiction of or provided by hospitals, or
42 any combination of the foregoing, with all necessary, convenient or related
43 interests in land, machinery, apparatus, appliances, equipment, furnishings,
44 appurtenances, site preparation, landscaping and physical amenities.
- 45 (15a) "Hospital land" means air and ground rights to real property held either in
46 fee or by lease by a hospital authority, with all easements, rights-of-way,
47 appurtenances, landscaping, and physical amenities such as utilities, parking
48 lots, and garages, but excluding other improvements to land described in
49 G.S. 131E-6(4) and subsection (15) of this section.

- 1 (16) "Municipality" means any county, city, town or incorporated village, other
2 than a city as defined above, which is located within or partially within the
3 territorial boundaries of an authority.
4 (17) "Real property" means lands, lands under water, structures, and any and all
5 easements, franchises and incorporeal hereditaments and every estate and
6 right therein, legal and equitable, including terms for years and liens by way
7 of judgment, mortgage or otherwise.
8 (18) "State" means the State of North Carolina. (1943, c. 780, s. 3; 1971, c. 780,
9 s. 22; c. 799; 1983, c. 775, s. 1; 1995, c. 535, s. 19; 1997-233, s. 3.)
10

11 **§ 131E-17. Creation of a hospital authority.**

12 (a) A hospital authority may be created whenever a city council or a county board of
13 commissioners finds and adopts a resolution finding that it is in the interest of the public health
14 and welfare to create a hospital authority.

15 (b) After the adoption of a resolution creating a hospital authority, the mayor or the
16 chairman of the county board of commissioners shall appoint commissioners in accordance
17 with G.S. 131E-18.

18 (c) The commissioners shall be a public body and a body corporate and politic upon the
19 completion of the procedures described in G.S. 131E-19. (1943, c. 780, s. 4; 1971, c. 799;
20 1983, c. 775, s. 1.)
21

22 **§ 131E-18. Commissioners.**

23 (a) The mayor or the chairman of the county board shall appoint the commissioners of
24 the authority. There shall be not less than six and not more than 30 commissioners. Upon a
25 finding that it is in the public interest, the commissioners may adopt a resolution increasing or
26 decreasing the number of commissioners by a fixed number; Provided that no decrease in the
27 number of commissioners shall shorten a commissioner's term. A certified copy of the
28 resolution and a list of nominees shall be submitted to the mayor or the chairman of the county
29 board of commissioners for appointments in accordance with the procedures set forth in
30 subsection (d) of this section.

31 (b) For the initial appointments of commissioners, one-third of the commissioners shall
32 be appointed for a term of one year, one-third for a term of two years, and one-third for a term
33 of three years to achieve staggered terms. All subsequent appointments shall be for three-year
34 terms. A commissioner shall hold office until a successor has been appointed and qualified.
35 Vacancies from resignation or removal from office shall be filled for the unexpired portion of
36 the term.

37 (c) The mayor or the chairman of the county board of commissioners shall name the
38 first chair of the authority. Thereafter, the commissioners shall elect each subsequent chair
39 from their members. The commissioners shall elect from their members the first vice-chair and
40 all subsequent vice-chairs.

41 (d) When a commissioner resigns, is removed from office, completes a term of office,
42 or when there is an increase in the number of commissioners, the remaining commissioners
43 shall submit to the mayor or the chairman of the county board of commissioners a list of
44 nominees for appointment to the commission. The mayor or the chairman of the county board
45 of commissioners shall appoint, only from the nominees, the number of commissioners
46 necessary to fill all vacancies. However, the mayor or the chairman of the county board of
47 commissioners may require the commissioners to submit as many additional lists of nominees
48 as he or she may desire.

49 (e) The mayor shall file with the city clerk, or the chairman of the county board of
50 commissioners shall file with the county clerk, a certificate of appointment or reappointment of

1 a commissioner. The certificate shall be conclusive evidence of the due and proper appointment
2 of the commissioner.

3 (f) Commissioners shall receive no compensation for their services, but they shall be
4 entitled to reimbursement for necessary expenses, including travel expenses, incurred in the
5 discharge of their duties.

6 (g) For a county with a population of less than 75,000, according to the most recent
7 decennial federal census, the following exceptions to the provisions of this section shall apply:

8 (1) The commissioners shall be appointed by the county board of commissioners
9 rather than the chairman of the county board of commissioners;

10 (2) In making appointments under subsection (d) of this section, the county
11 board of commissioners shall consider the nominations of the commissioners
12 of the authority, but the county board of the commissioners is not bound by
13 the nominations and may choose any qualified person.

14 The foregoing exceptions shall not apply when a county with a population of less than 75,000
15 jointly establishes a hospital authority with a city.

16 (h) A majority of the commissioners shall constitute a quorum. (1943, c. 780, s. 5;
17 1971, c. 799; 1973, c. 792; 1981, c. 525, s. 1; 1983, c. 775, s. 1.)
18

19 **§ 131E-19. Incorporation of a hospital authority.**

20 (a) After the commissioners are appointed, they shall present to the Secretary of State
21 an application for incorporation as a hospital authority. The application shall be signed by each
22 of the commissioners and shall set forth:

23 (1) That the city council or the county board of commissioners has found that it
24 is in the interest of the public health and welfare to create a hospital
25 authority;

26 (2) That the mayor or the chairman of the county board of commissioners has
27 appointed them as commissioners;

28 (3) The name and official residence of each of the commissioners;

29 (4) A certified copy of the appointment evidencing the commissioners' right to
30 office, and the date and place of induction into and taking of office;

31 (5) That they desire the hospital authority to become a public body and a body
32 corporate and politic under this Part;

33 (6) The term of office of each of the commissioners;

34 (7) The name which is proposed for the corporation; and

35 (8) The location and principal office of the corporation.

36 The application shall be subscribed and sworn to by each of the commissioners before an
37 officer authorized by the laws of this State to take and certify oaths. This officer shall certify
38 upon the application that he or she personally knows the commissioners and knows them to be
39 the officers as asserted in the application, and that each subscribed to the application and took
40 the oath in the officer's presence.

41 (b) The Secretary of State shall examine the application. If he or she finds that the name
42 proposed for the corporation is not identical with that of a person or of any other corporation in
43 this State or so nearly similar so as to lead to confusion and uncertainty, the application shall be
44 filed and recorded in the appropriate book of record in the Secretary of State's office. The
45 Secretary of State shall then make and issue to the commissioners a certificate of incorporation
46 pursuant to this Part, under the Seal of the State, and shall record the certificate with the
47 application.

48 (c) A hospital authority's name or the location or principal office of the corporation may
49 be changed by the adoption of a resolution by the majority of the authority's commissioners. A
50 copy of the resolution, duly verified by the chair and secretary of the commission before an
51 officer authorized by the laws of this State to take and certify oaths, shall be delivered to the

1 Secretary of State, along with a conformed copy. If the Secretary of State finds that the
2 proposed name is not identical with that of a person or any corporation of this State, or so
3 nearly similar as to lead to confusion and uncertainty, the resolution shall be filed and recorded
4 in the appropriate book of record in the Secretary of State's office. A resolution changing the
5 location or principal office of the hospital authority shall be filed and recorded in the
6 appropriate book of record in the Secretary of State's office. The Secretary of State shall then
7 return to the authority the conformed copy, together with a certificate stating that the attached
8 copy is a true copy of the document in the Secretary of State's office, that shows the date of
9 filing.

10 (d) In any legal proceeding, a copy of the certificate of incorporation, certified by the
11 Secretary of State, shall be admissible in evidence and shall be conclusive proof of its filing
12 and contents and the incorporation of the hospital authority in accordance with this Part. (1943,
13 c. 780, s. 4; 1966, c. 988, s. 1; 1971, c. 799; 1983, c. 775, s. 1.)
14

15 **§ 131E-20. Boundaries of the authority.**

16 (a) The territorial boundaries of a hospital authority shall include the city or county
17 creating the authority and the area within 10 miles from the territorial boundaries of that city or
18 county. However, a hospital authority may engage in health care activities in a county outside
19 its territorial boundaries pursuant to:

- 20 (1) An agreement with a hospital facility if only one hospital currently exists in
21 that county;
- 22 (2) An agreement with any hospital if more than one hospital currently exists in
23 that county; or
- 24 (3) An agreement with any health care agency if no hospital currently exists in
25 that county.

26 In no event shall the territorial boundaries of a hospital authority include, in whole or in part,
27 the area of any previously existing hospital authority. All priorities shall be determined on the
28 basis of the time of issuance of the certificates of incorporation by the Secretary of State.

29 (b) After the creation of an authority, the subsequent existence within its territorial
30 boundaries of more than one city or county shall in no way affect the territorial boundaries of
31 the authority. (1943, c. 780, s. 4; 1971, c. 799; 1983, c. 775, s. 1; 1993, c. 529, s. 6.1.)
32

33 **§ 131E-21. Conflict of interest.**

34 (a) No commissioner or employee of the hospital authority or that person's spouse shall
35 do either of the following:

- 36 (1) Acquire any interest, direct or indirect, in any hospital facility or in any
37 property included or planned to be included in a hospital facility.
- 38 (2) Have any interest, direct or indirect, in any contract or proposed contract for
39 materials or services to be furnished or used in connection with any hospital
40 facility, except an employment contract for an employee. The foregoing
41 restriction shall not apply to any contract, undertaking, or other transaction
42 with a bank or banking institution, savings and loan association or public
43 utility in the regular course of its business; Provided that any such contract,
44 undertaking, or other transaction shall be authorized by the commissioners
45 by specific resolution on which no commissioner having an interest, direct or
46 indirect, shall vote.

47 (b) The fact that a person or that person's spouse owns ten percent (10%) or less stock
48 of a corporation or has a ten percent (10%) or less ownership in any other business entity or is
49 an employee of that corporation or other business entity does not make the person have an
50 "interest, direct or indirect" as this phrase is used in subsection (a) of this section; provided that,
51 in order for the exception to apply, the contract, undertaking or other transaction shall be

1 authorized by the commissioners by specific resolution on which no commissioner or employee
2 having an interest, direct or indirect, shall vote.

3 (c) If a commissioner or employee of an authority or that person's spouse owns or
4 controls an interest, direct or indirect, in any property included or planned to be included in any
5 hospital facility, the commissioner or employee shall immediately disclose the same in writing
6 to the authority and the disclosure shall be entered upon the minutes of the authority. Failure to
7 disclose shall constitute misconduct in office and shall be grounds for a commissioner's
8 removal from office under G.S. 131E-22.

9 (d) Subsection (a) of this section shall not apply to any commissioner of a hospital
10 authority if (i) the undertaking or contract or series of undertakings or contracts between the
11 hospital authority and one of its officials is approved by specific resolution of the governing
12 body adopted in an open and public meeting and recorded in its minutes and the amount does
13 not exceed twelve thousand five hundred dollars (\$12,500) for medically related services and
14 twenty-five thousand dollars (\$25,000) for other goods or services within a 12-month period;
15 and (ii) the official entering into the contract or undertaking with the hospital authority does not
16 in an official capacity participate in any way or vote.

17 (e) Subsection (a) of this section shall not apply to any employment relationship
18 between a hospital authority and the spouse of a commissioner of the hospital authority.

19 (f) A contract entered into in violation of this section is void. A contract that is void
20 under this section may continue in effect until an alternative can be arranged when: (i)
21 immediate termination would result in harm to the public health or welfare, and (ii) the
22 continuation is approved as provided in this subsection. A hospital authority that is a party to
23 the contract may request approval to continue contracts under this subsection from the
24 chairman of the Local Government Commission. Approval of continuation of contracts under
25 this subsection shall be given for the minimum period necessary to protect the public health or
26 welfare. (1943, c. 780, s. 7; 1971, c. 749; 1983, c. 775, s. 1; 1983 (Reg. Sess., 1984), c. 1058, s.
27 1; 2001-409, s. 7.)

28 29 **§ 131E-22. Removal of commissioners.**

30 (a) The appointing authority, as stated in G.S. 131E-18, may remove a commissioner
31 for inefficiency, neglect of duty, or misconduct in office. A commissioner may be removed
32 only after he or she has been given a copy of the charges and provided the opportunity to be
33 heard in person or by counsel. A commissioner is entitled to at least 10 days after receipt of the
34 notice to prepare for a hearing before the mayor or the chairman of the county.

35 (b) An obligee of the authority may file with the mayor or the chairman of the county
36 board of commissioners written charges that the authority is willfully violating the laws of the
37 State or a term, provision, or covenant to any contract to which the authority is a party. The
38 mayor or the chairman of the county board of commissioners shall give each of the
39 commissioners a copy of the charges at least 10 days prior to the hearing on the charges. The
40 commissioners shall be provided an opportunity to be heard in person or by counsel. The mayor
41 or the chairman of the county board of commissioners shall, within 15 days after receipt of the
42 charges, remove any commissioners of the authority who are found to have acquiesced in any
43 willful violation. If a commissioner has not filed a written statement before the hearing with the
44 authority stating his or her objections to or lack of participation in the violation, the
45 commissioner shall be deemed to have acquiesced in a willful violation.

46 (c) If, after due and diligent search, a commissioner to whom charges are required to be
47 delivered cannot be found within the county where the authority is located, the charges shall be
48 deemed to be served upon the commissioner when it is mailed to the commissioner at the
49 commissioner's last known address as the same appears on the records of the authority.

50 (d) In the event of the removal of any commissioner, the mayor shall file in the office of
51 the city clerk, or the chairman of the county board of commissioners shall file with the county

1 clerk, a record of the proceedings together with the charges against the commissioner and the
2 findings. (1943, c. 780, s. 8; 1971, c. 799; 1983, c. 775, s. 1.)

3
4 **§ 131E-23. Powers of the authority.**

5 (a) An authority shall have all powers necessary or convenient to carry out the purposes
6 of this Part, including the following powers, which are in addition to those powers granted
7 elsewhere in this Part:

- 8 (1) To investigate hospital, medical, and health conditions and the means of
9 improving those conditions;
- 10 (2) To determine where inadequate hospital and medical facilities exist;
- 11 (3) To accept donations or money, personal property, or real estate for the
12 benefit of the authority and to take title to the same from any person, firm,
13 corporation or society;
- 14 (4) To acquire by purchase, gift, devise, lease, condemnation, or otherwise any
15 existing hospital facilities;
- 16 (5) To purchase, lease, obtain options upon, or otherwise acquire any real or
17 personal property or any interest therein from any person, firm, corporation,
18 city, county, or government;
- 19 (6) To sell, exchange, transfer, assign, or pledge any real or personal property or
20 any interest therein to any person, firm, corporation, city, county or
21 government;
- 22 (7) To own, hold, clear and improve property;
- 23 (8) To borrow money upon its bonds, notes, debentures, or evidences of
24 indebtedness, as provided for in G.S. 131E-26 and G.S. 131E-27;
- 25 (9) To purchase real or personal property pursuant to G.S. 131E-32;
- 26 (10) To appoint an administrator of a hospital facility and necessary assistants,
27 and any and all other employees necessary or advisable, to fix their
28 compensation, to adopt necessary rules governing their employment, and to
29 remove employees;
- 30 (11) To delegate to its agents or employees any powers or duties as it may deem
31 appropriate;
- 32 (12) To employ its own counsel and legal staff;
- 33 (13) To adopt, amend and repeal bylaws for the conduct of its business;
- 34 (14) To enter into contracts for necessary supplies, equipment, or services for the
35 operation of its business;
- 36 (15) To appoint committees or subcommittees as it shall deem advisable, to fix
37 their duties and responsibilities, and to do all things necessary in connection
38 with the construction, repair, reconstruction, management, supervision,
39 control and operation of the authority's business;
- 40 (16) To establish procedures for health care providers to secure the privilege of
41 practicing within any hospital operated by the authority pursuant to Part 3 of
42 Article 5 of this Chapter;
- 43 (17) To establish reasonable rules governing the conduct of health care providers
44 while on duty in any hospital operated by the facility pursuant to Part 3 of
45 Article 5 of this Chapter;
- 46 (18) To provide for the construction, reconstruction, improvement, alteration or
47 repair of any hospital facility, or any part of a facility;
- 48 (19) To enter into any contracts or other arrangements with any municipality,
49 other public agency of this or any other State or of the United States, or with
50 any individual, private organization, or nonprofit association for the
51 provision of hospital, clinical, or similar services;

- 1 (20) To lease any hospital facilities to or from any municipality, other public
2 agency of this or any other state or of the United States, or to any individual,
3 corporation, or association upon any terms and subject to any conditions as
4 may carry out the purposes of this Part. The authority may provide for the
5 lessee to use, operate, manage and control the hospital facilities, and to
6 exercise designated powers, in the same manner as the authority itself might
7 do;
- 8 (21) To act as an agent for the federal, State or local government in connection
9 with the acquisition, construction, operation or management of a hospital
10 facility, or any part thereof;
- 11 (22) To arrange with the State, its subdivisions and agencies, and any county or
12 city, to the extent it is within the scope of their respective functions,
13 a. To cause the services customarily provided by each to be rendered
14 for the benefit of the hospital authority,
15 b. To furnish, plan, replan, install, open or close streets, roads, alleys,
16 sidewalks or similar facilities and to acquire property, options or
17 property rights for the furnishing of property or services for a
18 hospital facility, and
19 c. To provide and maintain parks and sewage, water and other facilities
20 for hospital facilities and to lease and rent any of the dwellings or
21 other accommodations or any of the lands, buildings, structures or
22 facilities embraced in any hospital facility and to establish and revise
23 the rents and charges;
- 24 (23) To insure the property or the operations of the authority against risks as the
25 authority may deem advisable;
- 26 (24) To invest any funds held in reserves or sinking funds, or any funds not
27 required for immediate disbursement, in property or securities in which
28 trustees, guardians, executors, administrators, and others acting in a
29 fiduciary capacity may legally invest funds under their control;
- 30 (25) To sue and be sued;
- 31 (26) To have a seal and to alter it at pleasure;
- 32 (27) To have perpetual succession;
- 33 (28) To make and execute contracts and other instruments necessary or
34 convenient to the exercise of the powers of the authority;
- 35 (29) To remove vehicles parked on land owned or leased by the hospital authority
36 in areas clearly designated as no parking or restricted parking zones. An
37 owner of a removed vehicle as a condition of regaining possession of the
38 vehicle, shall reimburse the hospital authority for all reasonable costs, not to
39 exceed fifty dollars (\$50.00), incidental to the removal and storage of the
40 vehicle provided that the designation of the area as a no parking or restricted
41 parking zone clearly indicates that the owner may be subject to these costs;
- 42 (30) To plan and operate hospital facilities;
- 43 (31) To provide teaching and instruction programs and schools for medical
44 students, interns, physicians, nurses, technicians and other health care
45 professionals;
- 46 (32) To provide and maintain continuous resident physician and intern medical
47 services;
- 48 (33) To adopt, amend and repeal rules and regulations governing the admission of
49 patients and the care, conduct, and treatment of patients;
- 50 (34) To establish a fee schedule for services received from hospital facilities and
51 make the services available regardless of ability to pay;

- 1 (35) To maintain and operate isolation wards for the care and treatment of
2 mental, contagious, or other similar diseases;
3 (36) To sell a hospital facility pursuant to G.S. 131E-8 or G.S. 131E-13; and
4 (37) To agree to limitations upon the exercise of any powers conferred upon the
5 hospital authority by this Part in connection with any loan by a government.

6 (b) A hospital authority may exercise any or all of the powers conferred upon it by this
7 Part, either generally or with respect to any specific hospital facility or facilities, through or by
8 designated agents, including any corporation or corporations which are or shall be formed
9 under the laws of this State.

10 (c) Expired pursuant to Session Laws 1983, c. 775, s. 1.

11 (d) No provisions with respect to the acquisition, operation or disposition of property by
12 other public bodies shall be applicable to a hospital authority unless otherwise specified by the
13 General Assembly. (1913, c. 42, s. 15; 1917, c. 268; C.S., s. 7273; 1983, c. 775, s. 1; 1995, c.
14 509, s. 135.1(l); 1997-456, s. 27; 1999-456, s. 6.)
15

16 **§ 131E-24. Eminent domain.**

17 (a) A hospital authority may acquire by eminent domain any real property, including
18 fixtures and improvements, which it deems necessary to carry out the purposes of this Part. The
19 hospital authority may exercise the power of eminent domain under the provisions of Chapter
20 40A of the General Statutes or any other statute now in force or subsequently enacted for the
21 exercise of the power of eminent domain.

22 (b) No property belonging to any city, town, or county, any government, religious or
23 charitable organization, or to any existing hospital or clinic may be acquired without its
24 consent. No property belonging to a public utility corporation may be acquired without the
25 approval of the commission or other officer or agency, if any, having regulatory power over the
26 corporation.

27 (c) The right of eminent domain shall not be exercised unless and until a certificate of
28 public convenience and necessity for the facility has been issued by the North Carolina Utilities
29 Commission. The proceedings leading up to issuing of the certificate of public convenience and
30 necessity, and the right of appeal from the proceedings shall be governed by the Public Utilities
31 Act, Chapter 62 of the General Statutes, and the rights under that act are hereby expressly
32 reserved to all interested parties in the proceedings. In addition to the powers now granted by
33 law to the North Carolina Utilities Commission, the Utilities Commission is authorized to
34 investigate and examine all facilities set up or attempted to be set up under this Part and to
35 determine the question of public convenience and necessity for the facility. (1943, s. 780, s. 10;
36 1971, c. 799; 1981, c. 919, s. 18; 1983, c. 775, s. 1.)
37

38 **§ 131E-25. Zoning and building laws.**

39 All hospital facilities of the authority shall be subject to the planning, zoning, sanitary and
40 building laws, ordinances and regulations applicable to the locality in which the hospital
41 facility is situated. (1943, c. 780, s. 11; 1971, c. 799; 1983, c. 775, s. 1.)
42

43 **§ 131E-26. Revenue bonds and notes.**

44 (a) A hospital authority shall have the power to issue revenue bonds under the Local
45 Government Revenue Bond Act, Chapter 159 of the General Statutes, Article 5, or the bond
46 and revenue anticipation provisions of Chapter 159 of the General Statutes, Article 9, for the
47 purpose of acquiring, constructing, reconstructing, improving, enlarging, bettering, equipping,
48 extending or operating hospital facilities.

49 (b) A hospital authority shall have the power to borrow for the purposes above
50 enumerated upon its notes or other evidences of indebtedness, subject to the approval of the
51 Local Government Commission as provided in G.S. 131E-32(c). Such approval shall be

1 required regardless of the amount of any such borrowing. Any borrowing by a hospital
2 authority before the date of ratification of Part 2 of Article 2 of this Chapter, whether or not
3 approved by the Local Government Commission, is valid, ratified and confirmed. (1983, c.
4 775, s. 1.)

5
6 **§ 131E-27. Contracts with federal government.**

7 A hospital authority is authorized:

- 8 (1) To borrow money and accept grants from the federal government for or to
9 aid in the construction of a hospital facility;
10 (2) To acquire any land acquired by the federal government for the construction
11 of a hospital facility; and
12 (3) To acquire, lease or manage any hospital facility constructed or owned by
13 the federal government.

14 To these ends, a hospital authority is authorized to enter into contracts, mortgages, trust
15 indentures, leases or other agreements giving the federal government the right to supervise and
16 approve the construction, maintenance and operation of the hospital facility. It is the purpose
17 and intent of this Part to authorize every hospital authority to do any and all things necessary to
18 secure the financial aid and cooperation of the federal government in the construction,
19 maintenance, and operation of hospital facilities. (1943, c. 780, s. 19; 1971, c. 799; 1983, c.
20 775, s. 1.)

21
22 **§ 131E-28. Tax exemptions.**

23 (a) Hospital authorities shall be exempt from the payment of taxes or fees to the State
24 or any of its subdivisions, or to any officer or employee of the State or any of its subdivisions.

25 (b) Hospital authority property used for public purposes shall be exempt from all local
26 and municipal taxes and for the purposes of this tax exemption, an authority shall be deemed to
27 be a municipal corporation.

28 (c) Bonds, notes, debentures, or other evidences of indebtedness of a hospital authority
29 issued under the Local Government Revenue Bond Act, Chapter 159 of the General Statutes,
30 Article 5, or issued pursuant to the bond and revenue anticipation provisions of Chapter 159 of
31 the General Statutes, Article 9, or issued pursuant to G.S. 131E-26(b) or contracted pursuant to
32 G.S. 131E-32 shall at all times be free from taxation by the State or any of its subdivisions,
33 except for inheritance or gift taxes, income taxes on the gain from the transfer of the
34 instruments, and franchise taxes. The interest on the instruments is not subject to taxation as
35 income. (1943, c. 780, s. 21; 1971, c. 799; 1973, c. 695, s. 6; 1977, c. 268; 1983, c. 775, s. 1;
36 1995, c. 46, s. 13.)

37
38 **§ 131E-29. Audits and recommendations.**

39 Each hospital authority shall file with the mayor of the city or the chairman of the county
40 board of commissioners at least annually an audit report by a certified public accountant of its
41 activities for the preceding year, and shall make any recommendations necessary to carry out
42 the purposes of this Part. (1943, c. 780, s. 22; 1971, c. 799; 1983, c. 775, s. 1.)

43
44 **§ 131E-30. Appropriations.**

45 Each year the governing body of a city or county in which the hospital authority is located
46 may appropriate and transfer funds to the authority. The appropriations shall be from the
47 General Fund and may not exceed five percent (5%) of the General Fund. Money appropriated
48 and paid to the hospital authority by a city or county shall be deemed a necessary expense of
49 the city or county. However, the appropriations shall not be deemed to be a revenue of the
50 authority for the purpose of bonds of the hospital authority issued under the Local Government

1 Revenue Bond Act, Chapter 159 of the General Statutes, Article 5. (1943, c. 780, s. 25; 1971, c.
2 780, s. 23; c. 799; 1983, c. 775, s. 1.)

3
4 **§ 131E-31. Transfers of property by a city or county to a hospital authority.**

5 (a) A city or county may lease, sell, convey, or otherwise transfer, with or without
6 consideration or with nominal consideration, any property, whether real or personal or mixed,
7 to a hospital authority whose territorial boundaries include at least part of the city or county. A
8 hospital authority is authorized to accept such lease, transfer, assignment or conveyance and to
9 bind itself to the performance and observation of any agreements and conditions required by
10 the city or county.

11 (b) If a city or county sells, conveys, or otherwise irrevocably transfers to a hospital
12 authority property with a market value in excess of two hundred fifty thousand dollars
13 (\$250,000), and if the hospital authority accepts this property, the mayor of the city or the
14 chairman of the county board of commissioners shall have the right to name additional
15 commissioners to serve on the authority. The number of additional commissioners shall be such
16 that the proportion of additional commissioners to existing commissioners is approximately
17 equal to the proportion of the total value being transferred to the hospital authority to the total
18 value of property already held by the authority. The determination of the ratios will be made
19 solely by the governing body of the city or county transferring the property to the hospital
20 authority; however, in no event shall fewer than two nor more than nine commissioners be
21 added to the hospital authority. The total number of commissioners shall be increased by the
22 number of commissioners added under this subsection. The times of commencement and
23 expiration of the initial terms of the commissioners being added shall be determined by
24 agreement between the hospital authority and the governing body of the city or county. After
25 the expiration of the initial terms, subsequent terms will be three years. Copies of the
26 agreement setting out the number of persons being added and the terms of each shall be filed
27 with the clerk of the city or the clerk of the county board of commissioners making the transfer
28 and, thereafter, copies of the reports referred to in G.S. 131E-29 shall be filed with the clerk of
29 the city or the clerk of the county board of commissioners. (1943, c. 780, s. 26; 1961, c. 988, s.
30 2; 1971, c. 799; 1983, c. 775, s. 1.)

31
32 **§ 131E-32. Purchase money security interests.**

33 (a) An authority shall have the power and authority to purchase real or personal
34 property under installment contracts, purchase money mortgages or deeds of trust, or other
35 instruments, which create in the property purchased a security interest to secure payment of the
36 purchase price and interest thereon. No deficiency judgment may be rendered against any
37 authority for breach of an obligation authorized by this section. Any contract made or entered
38 into by an authority before the date of ratification of Part 2 of Article 2 of this Chapter which
39 would have been valid hereunder is valid, ratified and confirmed.

40 (b) A hospital authority may contract pursuant to this section in an amount of less than
41 seven hundred fifty thousand dollars (\$750,000), adjusted, as hereinafter provided, in any
42 single transaction without the approval of the Local Government Commission: Provided,
43 however, that the approval of the Local Government Commission shall be required for any
44 single contract pursuant to this section if the aggregate dollar amount of all such contracts
45 outstanding after any such single transaction, exclusive of revenue bonds issued pursuant to
46 G.S. 131E-26 and federal contracts entered pursuant to G.S. 131E-27, would exceed ten percent
47 (10%) of the total operating revenues, as hereinafter defined, of the hospital authority for its
48 most recently completed fiscal year as set forth in the audited financial statements of such
49 authority for such fiscal year. The approval of the Local Government Commission shall be
50 required with respect to any single contract pursuant to this section in an amount of seven
51 hundred fifty thousand dollars (\$750,000) or more, adjusted as hereinafter provided.

1 (c) Approval of the Local Government Commission under this section or as required by
2 G.S. 131E-26(b) shall be obtained in accordance with such rules and regulations as the Local
3 Government Commission may prescribe and shall be evidenced by the secretary's certificate on
4 the contract or note or other evidence of indebtedness. In determining whether to approve any
5 such contract or borrowing, the Local Government Commission shall consider whether the
6 hospital authority can demonstrate the financial responsibility and capability of the hospital
7 authority to fulfill its obligations with respect to such contract or borrowing. The Local
8 Government Commission may approve the application without other findings, if it finds that (i)
9 the proposed project or the purpose of the borrowing is necessary and expedient, (ii) the
10 contract or the borrowing, under the circumstances, is preferable to a bond issue for the same
11 purpose, (iii) the sums to fall due under the contract or borrowing are adequate and not
12 excessive for the proposed purpose, (iv) the authority's debt management procedures are good,
13 or that reasonable assurances have been given that its debt will henceforth be managed in strict
14 compliance with law and (v) the authority is not in default on any of its debt service
15 obligations. Any contract or borrowing subject to this subsection requiring the approval of the
16 Local Government Commission that does not bear the secretary's certificate thereon shall be
17 void, and it shall be unlawful for any officer, employee or agent of a hospital authority to make
18 any payments of money thereunder. An order of the Local Government Commission approving
19 any such contract or borrowing shall not be regarded as an approval of the legality of the
20 contract or borrowing in any respect.

21 (d) The seven hundred fifty thousand dollars (\$750,000) amount referred to in G.S.
22 131E-32(b) shall be in effect from July 15, 1983 through September 30, 1984. For each
23 twelve-month period thereafter, the seven hundred fifty thousand dollar (\$750,000) amount
24 shall be the figure in effect for the preceding twelve-month period, adjusted to reflect the
25 change in the preceding twelve-month period in the Department of Commerce Composite
26 Construction Cost Index.

27 (e) For purposes of G.S. 131E-32(b), the "total operating revenues" of a hospital
28 authority for a fiscal year means patient revenue, less provisions for contractual adjustments,
29 uncompensated care and bad debts, plus other operating revenues, all as determined in
30 accordance with generally accepted accounting principles. (1983, c. 775, s. 1.)

31
32 **§ 131E-33. Part controlling.**

33 Insofar as the provisions of this Part are inconsistent with the provisions of any other law,
34 the provisions of this Part shall be controlling; however this Part shall not be construed as
35 preventing a city, town, or county from establishing and operating a hospital under the
36 authority of any other law now or hereafter in effect. (1943, c. 780, s. 28; 1971, c. 799; 1983, c.
37 775, s. 1.)

38
39 **§ 131E-34:** Repealed by Session Laws 2011-326, s. 17, effective June 27, 2011.

40
41 **§§ 131E-35 through 131E-39. Reserved for future codification purposes.**

42
43 **Part 3. Hospital District Act.**

44 **§ 131E-40. Title and purpose.**

45 (a) This Part shall be known as the "Hospital District Act."

46 (b) It is the purpose of this Part to authorize the creation of hospital districts to furnish
47 hospital, clinical and similar services to the people of this State.

48 (c) This Part provides an additional and alternative method for the provision of hospital,
49 clinical and similar services.

50 (d) This Part shall be construed liberally to effect its purposes. (1983, c. 775, s. 1.)

51

1 **§ 131E-41. Methods of creation of a hospital district.**

2 (a) The voters of an area may petition their county board of commissioners and the
3 North Carolina Medical Care Commission for the creation of a hospital district. All of the area
4 proposed to be included within a hospital district must be located within one county. The
5 petition shall be signed by at least 500 voters of the area described in the petition. However, if
6 the area has less than 1,100 voters, then the minimum number of petitioners shall be 250 voters.
7 The petition shall set forth:

- 8 (1) A description of the area to be included within the proposed hospital district;
- 9 (2) The names of all municipalities located in whole or in part in the proposed
10 hospital district;
- 11 (3) The names of all publicly owned hospitals in the proposed hospital district;
- 12 (4) The purpose or purposes sought to be accomplished by the creation of the
13 hospital district; and
- 14 (5) The proposed name of the hospital district.

15 The petition shall be delivered to the county board of commissioners of the county in which the
16 proposed hospital district would be located. If the county board of commissioners approves the
17 creation of the hospital district, they shall have the petition delivered to the North Carolina
18 Medical Care Commission for review under G.S. 131E-42.

19 (b) In the alternative, the county board of commissioners, in its discretion, may create a
20 hospital district by resolution. This authority exists only when one hospital district already
21 exists in the county, or when a special tax levy for hospital purposes has been authorized or is
22 now authorized with respect to a portion of the county. This power is limited to establishing a
23 hospital district in the area lying outside the existing hospital district or outside the portion of
24 the county in which a hospital tax levy has been or is now authorized. When a county board of
25 commissioners exercises its power under this subsection, all other provisions of this Part shall
26 be applicable, except as modified by this subsection. (1949, c. 766, s. 5; 1953, c. 1045, s. 1;
27 1959, cc. 877, 1074; 1971, c. 780, s. 37.4; 1973, c. 476, s. 152; c. 494, s. 45; c. 1090, s. 1; 1983,
28 c. 775, s. 1.)
29

30 **§ 131E-42. Hearing and determination.**

31 (a) After receipt of a petition for the creation of a hospital district that meets the
32 requirements of G.S. 131E-41(a) and that has been approved by the county board of
33 commissioners, the North Carolina Medical Care Commission shall give notice of a hearing on
34 the creation of a hospital district. The notice of hearing shall be posted at the county courthouse
35 door and at three public places within the proposed district. In addition, notice of hearing shall
36 be published at least once for three successive weeks in a newspaper circulating in the proposed
37 district. The notice of hearing shall specify:

- 38 (1) The date of hearing which shall not be earlier than 20 days after the first
39 posting and publication of notice;
- 40 (2) The location of the hearing, which shall be within the county in which the
41 proposed district would be located; and
- 42 (3) That any interested person may appear and be heard at the hearing.

43 (b) At the time and place specified in the notice of hearing, the North Carolina Medical
44 Care Commission, or its designee, shall hear all interested persons, and, if necessary, adjourn
45 and reconvene at a later time.

46 (c) After the hearing, the North Carolina Medical Care Commission shall determine if it
47 is in the public interest and beneficial to the residents of the area to create a hospital district,
48 and, if it is, shall adopt a resolution creating the hospital district. The resolution shall define the
49 area to be included in the hospital district. The area shall either be the one described in the
50 petition or a part of that area. However, no municipality, in whole or in part, shall be included
51 in a hospital district unless the governing body of the municipality shall have approved by

1 resolution the inclusion and shall have filed a certified copy of the resolution with the North
2 Carolina Medical Care Commission.

3 (d) Each hospital district shall be designated by the North Carolina Medical Care
4 Commission as the "_____ Hospital District of _____ County," inserting in the blank spaces
5 a name identifying the locality and the name of the county.

6 (e) The North Carolina Medical Care Commission shall give notice of the creation of a
7 hospital district. The notice shall be published at least once for two successive weeks in the
8 newspaper in which the notice of hearing required by G.S. 131E-42(a) was published. A notice
9 substantially in the following form, the blanks first being properly filled in, with the printed or
10 written signature of the executive secretary of the North Carolina Medical Care Commission
11 appended, shall be published with the resolution:

12 The foregoing resolution was passed by the North Carolina Medical Care
13 Commission on the _____ day of _____, ____; it was first published on the
14 _____ day of _____, _____.

15 Any action or proceeding questioning the validity of the resolution or
16 creation of the _____ Hospital District of _____ County or the inclusion in the
17 district of any of the areas described in the resolution must be commenced
18 within thirty days after the first publication of this resolution.

19 _____
20 Secretary
21 North Carolina Medical
22 Care Commission.

23 (1943, c. 766, s. 5; 1951, c. 805; 1953, c. 1045, ss. 1, 2; 1959, c. 877; 1973, c. 476, s. 152; c.
24 1090, s. 1; 1983, c. 775, s. 1; 1999, c. 456, s. 59.)

25
26 **§ 131E-43. Limitation of actions.**

27 Any action or proceeding in any court to set aside a resolution of the North Carolina
28 Medical Care Commission creating any hospital district, or questioning the validity of the
29 resolution, or the creation of any hospital district, or the inclusion in the district of any of the
30 territory described in the resolution creating the district, must be commenced within 30 days
31 after the first publication of the resolution and notice required by G.S. 131E-42(e). Thereafter,
32 no right of action or defense founded upon the invalidity of a resolution or the creation of a
33 district or the inclusion of any territory in the district shall be asserted, nor shall the validity of
34 the resolution or the creation of the district or the inclusion of any territory be open to question
35 in any court upon any ground, except in any action or proceeding commenced within the
36 30-day period. (1949, c. 766, s. 5; 1951, c. 805; 1953, c. 1045, s. 2; 1973, c. 476, s. 152; c.
37 1090, s. 1; 1983, c. 775, s. 1.)

38
39 **§ 131E-44. General powers.**

40 (a) The inhabitants of a hospital district are a body corporate and politic by the name
41 specified by the North Carolina Medical Care Commission. Under that name they:

- 42 (1) Are vested with all the property and rights of property belonging to any
43 corporation;
- 44 (2) Have perpetual succession;
- 45 (3) May sue or be sued;
- 46 (4) May contract;
- 47 (5) May acquire any real or personal property;
- 48 (6) May hold, invest, sell or dispose of property;
- 49 (7) May have a seal and alter and renew it; and
- 50 (8) May exercise the powers conferred upon them by this Part.

1 (b) A hospital district is vested with all the powers necessary or convenient to carry out
2 the purposes of this Part, including the following powers, which are in addition to the powers
3 granted elsewhere:

- 4 (1) Those powers granted under the Municipal Hospital Act, Chapter 131E of
5 the General Statutes, Article 2, Part A;
6 (2) To issue general obligation and revenue bonds and bond anticipation notes
7 pursuant to the Local Government Finance Act, Chapter 159 of the General
8 Statutes;
9 (3) To issue tax and revenue anticipation notes pursuant to Chapter 159 of the
10 General Statutes, Article 9, Part 2; and
11 (4) All other powers as are necessary and incidental to the exercise of the
12 powers of this Part. (1971, c. 780, s. 37.4; 1973, c. 476, s. 152; c. 494, s. 45;
13 1983, c. 775, s. 1.)
14

15 **§ 131E-45. County taxes.**

16 The county board of commissioners may levy a tax for the financing of the operation,
17 equipment, and maintenance of any hospital operated by the district, including any public or
18 nonprofit hospital, if the tax is approved by a majority of the qualified voters of the hospital
19 district who shall vote on the question of levying the tax. The county board of commissioners
20 shall determine the rate or amount of taxes that will be levied if approved by the voters of the
21 district. The election on the question of levying the tax may be held at any time fixed by the
22 county board of commissioners and shall be conducted in the same manner as bond elections
23 held under G.S. 159-61. (1949, c. 766, s. 5; 1953, c. 1045, s. 6; 1983, c. 775, s. 1.)
24

25 **§ 131E-46. Referendum on repeal of tax levy.**

26 (a) The board of commissioners of the county in which a hospital district was created
27 under the provisions of this Part may, if a tax levy was authorized by referendum under G.S.
28 131E-45, call a referendum on the repeal of the authority to levy a tax. Such referendum may
29 be called only if there are no outstanding general obligation bonds of the district.

30 (b) The question on the ballot shall be:

31 " FOR removal of the right of the board of county commissioners to levy and
32 collect a tax in _____ Hospital District of _____ County,
33 " AGAINST removal of the right of the board of county commissioners to levy
34 and collect a tax in _____ Hospital District of _____ County."

35 (c) The referendum shall be conducted in the same manner as bond elections held
36 under G.S. 159-61. No new registration of voters shall be required.

37 (d) If a majority of the votes cast are in favor of the question, then beginning on the first
38 day of the fiscal year following the date of the referendum, the board of county commissioners
39 shall have no authority to levy a tax in the hospital district unless the voters approve under G.S.
40 131E-45. No referendum may be held within one year of the date of a referendum under this
41 section. (1983, c. 775, s. 1.)
42

43 **§ 131E-47. Governing body.**

44 The board of county commissioners of the county in which a hospital district is located
45 shall be the governing body of the district. All of the provisions of the Municipal Hospital Act,
46 Chapter 131E, Article 2, Part 1, shall apply to the hospital district and to the county board of
47 commissioners as the governing body. (1953, c. 1045, s. 7; 1983, c. 775, s. 1.)
48

49 Part 4. Limited Liability.

50 **§ 131E-47.1. Limited liability.**

1 (a) A person serving as a director, trustee, or officer of a public hospital as defined in
2 G.S. 159-39, or as a commissioner, member, or officer of a hospital authority established under
3 Part 1 or 2 of this Article, or as a director, trustee, or officer of North Carolina Memorial
4 Hospital, shall be immune individually from civil liability for monetary damages, except to the
5 extent covered by insurance, for any act or failure to act arising out of this service, except
6 where the person:

7 (1) Is compensated for his services beyond reimbursement for expenses,

8 (2) Was not acting within the scope of his official duties,

9 (3) Was not acting in good faith,

10 (4) Committed gross negligence or willful or wanton misconduct that resulted in
11 the damage or injury,

12 (5) Derived an improper personal financial benefit from the transaction,

13 (6) Incurred the liability from the operation of a motor vehicle, or

14 (7) Is defendant in an action brought under G.S. 55A-28.1 or 55A-28.2.

15 (b) The immunity in subsection (a) is personal to the directors, trustees, officers,
16 commissioners, and members, and does not immunize the hospital or hospital authority for
17 liability for the acts or omissions of the directors, trustees, or officers. (1987 (Reg. Sess., 1988),
18 c. 1057, s. 1; c. 1100, s. 39.2.)