

SECOND REGULAR SESSION

# HOUSE BILL NO. 2903

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MAYHEW.

6045H.02I

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To repeal sections 205.170, 205.190, and 206.090, RSMo, and to enact in lieu thereof five new sections relating to hospitals.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 205.170, 205.190, and 206.090, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 205.170, 205.190, 205.191, 206.090, and 206.111, to read as follows:

205.170. 1. The county commission shall appoint five trustees chosen from the citizens at large with reference to their fitness for such office, all residents of the county, not more than three of such trustees to be residents of the city, town or village in which the hospital is to be located, who shall constitute a board of trustees for such public hospital.

205.170. 2. The trustees appointed pursuant to subsection 1 of this section shall hold their offices until the next following municipal election, when five hospital trustees shall be elected and hold their offices for the following terms, with each of the trustees' respective terms determined by lot:

- 205.170. 205.170. (1) One trustee for a one-year term;
- 205.170. 205.170. (2) One trustee for a two-year term;
- 205.170. 205.170. (3) One trustee for a three-year term;
- 205.170. 205.170. (4) One trustee for a four-year term; and
- 205.170. 205.170. (5) One trustee for a five-year term.

205.170. 205.170. 3. For trustees elected prior to January 1, 1995:

205.170. 205.170. (1) If the terms of two trustees expire at the time of the next election of trustees occurring after January 1, 1995, then:

EXPLANATION — Matter enclosed in bold-faced brackets [**thus**] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

32       4. The terms of the trustees elected pursuant to subsection 3 of this section shall be  
33 determined by lot.

34        5. The office of a trustee elected pursuant to subsection 3 of this section whose term  
35 of office is about to expire shall be filled by the election of a hospital trustee who shall serve  
36 for a term of five years. Each trustee subsequently elected shall serve a term of five years.

37        6. No person elected or appointed to the office of trustee under subsections 1 to 5  
38 of this section shall have either of the following conflicts of interest:

39 (1) Be a current employee of the hospital or any of its controlled affiliates; or  
40 (2) Be a former employee of the hospital, or any of its controlled affiliates, within  
41 the past three years.

42        7. Members of the board of trustees are subject to removal from office in the  
43 manner and for the causes prescribed by law in accordance with the provisions of  
44 section 106.220.

45        8. Any vacancy in the board of trustees occasioned by removal, resignation or  
46 otherwise shall be reported to the county commission and be filled in like manner as original  
47 appointments, the appointee to hold office until the next following municipal election, when  
48 such vacancy shall be filled by election of a trustee to serve during the remainder of the term  
49 of his **or her** predecessor.

50 [7.] 9. No trustee shall have a personal pecuniary interest, either directly or indirectly,  
51 in the purchase of any supplies for such hospital, unless the same are purchased by  
52 competitive bidding.

205.190. 1. The trustees shall, within ten days after their appointment or election,  
2 qualify by taking the oath of civil officers and organize as a board of hospital trustees by the  
3 election of one of their number as chairman, one as secretary, one as treasurer, and by the  
4 election of such other officers as they may deem necessary.

5       2. No trustee shall receive any compensation for his or her services performed, but a  
6 trustee may receive reimbursement for any cash expenditures actually made for personal  
7 expenses incurred as such trustee, and an itemized statement of all such expenses and money  
8 paid out shall be made under oath by each of such trustees and filed with the secretary and  
9 allowed only by the affirmative vote of all of the trustees present at a meeting of the board.

10       3. The board of hospital trustees shall make and adopt such bylaws, rules and  
11 regulations for its own guidance and for the government of the hospital as may be deemed  
12 expedient for the economic and equitable conduct thereof, not inconsistent with sections  
13 205.160 to 205.340 and the ordinances of the city or town wherein such public hospital is  
14 located. The board shall provide by regulation for the bonding of the chief executive officer  
15 and may require a bond of the treasurer of the board and of any employee of the hospital as it  
16 deems necessary. The costs of all bonds required shall be paid out of the hospital fund.  
17 Except as provided in subsection 4 of this section, it shall have the exclusive control of the  
18 deposit, investment, and expenditure of all moneys collected to the credit of the hospital fund,  
19 and of the purchase of site or sites, the purchase or construction of any hospital buildings, and  
20 of the supervision, care and custody of the grounds, rooms or buildings purchased,  
21 constructed, leased or set apart for that purpose; provided, that all moneys received for such  
22 hospital shall be credited to the hospital and deposited into the depositary thereof for the sole  
23 use of such hospital in accordance with the provisions of sections 205.160 to 205.340. All  
24 funds received by each such hospital shall be paid out only upon warrants ordered drawn by  
25 the treasurer of the board of trustees of said county upon the properly authenticated vouchers  
26 of the hospital board.

27       4. The trustees shall have authority, both within and outside the county, except in  
28 counties of the third or fourth classification (other than the county in which the hospital is  
29 located) where there already exists a hospital organized pursuant to this chapter; provided that  
30 this exception shall not prohibit the continuation of existing activities otherwise allowed by  
31 law to operate, maintain and manage a hospital and hospital facilities, and to make and enter  
32 into contracts, for the use, operation or management of a hospital or hospital facilities; to  
33 engage in health care activities; to make and enter into leases of equipment and real property,  
34 a hospital or hospital facilities, as lessor or lessee, regardless of the duration of such lease;  
35 provided that any lease of substantially all of the hospital, as the term "hospital" is defined in  
36 section 197.020, wherein the board of trustees is lessor shall be entered into only with the  
37 approval of the county commission wherein such hospital is located and provided that in a

38 county of the second, third or fourth classification, the income to such county from such lease  
39 of substantially all of the hospital shall be appropriated to provide health care services in the  
40 county; and further to provide rules and regulations for the operation, management or use of a  
41 hospital or hospital facilities. Any agreement entered into pursuant to this subsection  
42 pertaining to the lease of the hospital, as herein defined, shall have a definite termination date  
43 as negotiated by the parties, but this shall not preclude the trustees from entering into a  
44 renewal of the agreement with the same or other parties pertaining to the same or other  
45 subjects upon such terms and conditions as the parties may agree. Notwithstanding any other  
46 law to the contrary, the county commission in any noncharter county of the first classification  
47 wherein such hospital is located may separately negotiate and enter into contractual  
48 agreements with the lessee as a condition of approval of any lease authorized pursuant to this  
49 subsection.

50 5. The board of hospital trustees shall have power to appoint a suitable chief  
51 executive officer and necessary assistants and fix their compensation, and shall also have  
52 power to remove such appointees; and shall in general carry out the spirit and intent of  
53 sections 205.160 to 205.340 in establishing and maintaining a county public hospital.

54 6. The board of hospital trustees may establish and operate a day care center to  
55 provide care exclusively for the children of the hospital's employees. A day care center  
56 established by the board shall be licensed pursuant to the provisions of sections 210.201 to  
57 210.245. The operation of a day care center shall be paid for by fees or charges, established  
58 by the board, and collected from the hospital employees who use its services. The board,  
59 however, is authorized to receive any private donations or grants from agencies of the federal  
60 government intended for the support of the day care center.

61 7. The board of hospital trustees shall hold meetings at least ~~[once each month]~~  
62 **quarterly**, shall keep a complete record of all its proceedings; and three members of the  
63 board shall constitute a quorum for the transaction of business.

64 8. ~~[One of the trustees shall visit and examine the hospital at least twice each month  
65 and The board shall, during the first week in January of each year, file with the county  
66 commission of the county a report of its proceedings with reference to such hospital and a  
67 statement of all receipts and expenditures during the year; and shall at such time certify the  
68 amount necessary to maintain and improve the hospital for the ensuing year.]~~ The board  
69 shall submit to the county commission an annual financial report in a manner that is  
70 consistent with the submission of such other financial reports that may be required by  
71 the state auditor relating to political subdivisions.

205.191. 1. Except as otherwise provided in sections 205.160 to 205.340, every  
2 hospital established under sections 205.160 to 205.340 shall be subject to the

3 requirements applicable to public bodies and records contained in sections 610.010 to  
4 610.225.

5       2. In addition to the exceptions available under sections 610.010 to 610.225, the  
6 records of the hospital and its controlled subsidiaries shall not be subject to the  
7 provisions of sections 610.010 to 610.225 if, upon determination by the board, the  
8 disclosure of the information in the records would be harmful to the fiscal position of the  
9 hospital, or confer any other health care providers an unequal advantage over the  
10 hospital, and such records contain:

11       (1) Proprietary information gathered by, or in the possession of, the hospital  
12 from third parties under a promise of confidentiality;

13       (2) Contract cost estimates prepared for confidential use in awarding contracts  
14 for research, development, construction, renovation, commercialization, or the purchase  
15 of goods or services;

16       (3) Data, records, or information of a proprietary nature produced or collected  
17 by, or for, the hospital, its employees, its officers, or members of its board of trustees;

18       (4) Third-party financial statements, records, and related data not publicly  
19 available that may be shared with the hospital;

20       (5) Consulting or other reports paid for by the hospital to assist the hospital in  
21 connection with its strategic planning and goals;

22       (6) The determination of marketing and operational strategies where disclosure  
23 of such strategies would be harmful to the fiscal position of the hospital or confer any  
24 other health care providers an unequal advantage over the hospital; or

25       (7) Financial information gathered by, or in the possession of, the hospital where  
26 disclosure of such information would be harmful to the fiscal position of the hospital or  
27 confer any other health care providers an unequal advantage over the hospital.

28       3. In addition to the exceptions available under sections 610.010 to 610.225, the  
29 hospital, including the board of trustees, executive committee, audit committee, or other  
30 such committees that the board may authorize from time to time, may discuss, consider,  
31 and take action on any of the following in closed session if, upon determination by the  
32 board, including as appropriate the executive committee, audit committee, or other such  
33 committees that the board may authorize from time to time, disclosure of such items  
34 would be harmful to the fiscal position of the hospital or confer any other health care  
35 providers an unequal advantage over the hospital:

36       (1) Plans that could affect the value of property, real or personal, owned or  
37 desirable for ownership by the hospital;

38       (2) The condition, acquisition, use, or disposition of real or personal property; or

39       (3) Marketing or operational strategies.

206.090. 1. After the hospital district has been declared organized, the declaring  
2 county commission shall divide the district into six election districts as equal in population as  
3 possible, and shall by lot number the districts from one to six inclusive. The county  
4 commission shall cause an election to be held in the hospital district within ninety days after  
5 the order establishing the hospital district to elect hospital district directors. Each voter shall  
6 vote for six directors, one from each district, except in any county of the third classification  
7 without a township form of government and with more than ten thousand six hundred but  
8 fewer than ten thousand seven hundred inhabitants, each voter shall vote for one director from  
9 the hospital election district in which the voter resides. Directors shall serve a term of six  
10 years or a lesser term of years as may be established by the county commission. If directors  
11 are to serve a term of six years, the initial term of the director elected from district number  
12 one shall serve a term of one year, the director elected from district number two shall serve a  
13 term of two years, the director elected from district number three shall serve a term of three  
14 years, the director elected from district number four shall serve a term of four years, the  
15 director elected from district number five shall serve a term of five years, and the director  
16 elected from district number six shall serve a term of six years; thereafter, the terms of all  
17 directors shall be six years. If the county commission chooses to establish a term of office of  
18 less than six years, the initial election of directors shall be done in a manner established by the  
19 county commission. All directors shall serve until their successors are elected and qualified.  
20 Any vacancy shall be filled by the remaining members of the board of directors who shall  
21 appoint a person to serve as director until the next municipal election.

22       2. Candidates for director of the hospital district shall be citizens of the United States,  
23 voters of the hospital district who have resided within the state for one year next preceding the  
24 election and who are at least thirty years of age. All candidates shall file their declaration of  
25 candidacy with the county commission calling the election for the organizational election, and  
26 for subsequent elections, with the secretary of the board of directors of the district.

27       3. Notwithstanding any other provisions of law, if the number of candidates for office  
28 of director is no greater than the number of directors to be elected, no election shall be held,  
29 and the candidates shall assume the responsibilities of their offices at the same time and in the  
30 same manner as if they had been elected.

31       4. Notwithstanding the provisions of subsections 1 to 3 of this section, after the  
32 formation of the hospital district, the hospital board of directors, by a majority vote of the  
33 directors with the consent of a majority of the county commission on an order of record, may  
34 abolish the six hospital districts' election districts and cause the hospital district directors to be  
35 elected from the hospital district at large. Upon opting to elect the hospital district directors at  
36 large, the then-serving hospital district directors shall continue to serve the remainder of their

37 terms and any vacancies on the board, after the date of such option, shall be filled by an  
38 election conducted at large in the district.

39 **5. No person elected or appointed to the office of director under this section shall**  
40 **have either of the following conflicts of interest:**

41 **(1) Be a current employee of the hospital or any of its controlled affiliates; or**  
42 **(2) Be a former employee of the hospital, or any of its controlled affiliates, within**  
43 **the past three years.**

44 **6. Members of the hospital board of directors are subject to removal from office**  
45 **in the manner and for the causes prescribed by law in accordance with the provisions of**  
46 **section 106.220.**

206.111. 1. Except as otherwise provided in sections 206.010 to 206.160, every  
2 hospital established under sections 206.010 to 206.160 shall be subject to the  
3 requirements applicable to public bodies and records contained in sections 610.010 to  
4 610.225.

5 **2. In addition to the exceptions available under sections 610.010 to 610.225, the**  
6 **records of the hospital and its controlled subsidiaries shall not be subject to the**  
7 **provisions of sections 610.010 to 610.225 if, upon determination by the board, the**  
8 **disclosure of the information in the records would be harmful to the fiscal position of the**  
9 **hospital, or confer any other health care providers an unequal advantage over the**  
10 **hospital, and such records contain:**

11 **(1) Proprietary information gathered by, or in the possession of, the hospital**  
12 **from third parties under a promise of confidentiality;**

13 **(2) Contract cost estimates prepared for confidential use in awarding contracts**  
14 **for research, development, construction, renovation, commercialization, or the purchase**  
15 **of goods or services;**

16 **(3) Data, records, or information of a proprietary nature produced or collected**  
17 **by, or for, the hospital, its employees, its officers, or members of its board of trustees;**

18 **(4) Third-party financial statements, records, and related data not publicly**  
19 **available that may be shared with the hospital;**

20 **(5) Consulting or other reports paid for by the hospital to assist the hospital in**  
21 **connection with its strategic planning and goals;**

22 **(6) The determination of marketing and operational strategies where disclosure**  
23 **of such strategies would be harmful to the fiscal position of the hospital or confer any**  
24 **other health care providers an unequal advantage over the hospital; or**

25 **(7) Financial information gathered by, or in the possession of, the hospital where**  
26 **disclosure of such information would be harmful to the fiscal position of the hospital or**  
27 **confer any other health care providers an unequal advantage over the hospital.**

28       **3. In addition to the exceptions available under sections 610.010 to 610.225, the**  
29 **hospital, including the board of trustees, executive committee, audit committee, or other**  
30 **such committees that the board may authorize from time to time, may discuss, consider,**  
31 **and take action on any of the following in closed session if, upon determination by the**  
32 **board, including as appropriate the executive committee, audit committee, or other such**  
33 **committees that the board may authorize from time to time, disclosure of such items**  
34 **would be harmful to the fiscal position of the hospital or confer any other health care**  
35 **providers an unequal advantage over the hospital:**

36       **(1) Plans that could affect the value of property, real or personal, owned or**  
37 **desirable for ownership by the hospital;**

38       **(2) The condition, acquisition, use, or disposition of real or personal property; or**

39       **(3) Marketing or operational strategies.**

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