

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 988

AN ACT

To repeal sections 190.060, 190.241, and 197.315, RSMo, and to enact in lieu thereof six new sections relating to health care providers, with an emergency clause for certain sections.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 190.060, 190.241, and 197.315, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 96.192, 190.060, 190.241, 190.265, 197.315, and 205.165, to read as follows:

96.192. 1. The board of trustees of any hospital authorized under subsection 2 of this section, and established and organized under the provisions of sections 96.150 to 96.229, may invest up to twenty-five percent of the hospital's funds not required for immediate disbursement in obligations or for the operation of the hospital in any United States investment grade fixed income funds or any diversified stock funds, or both.

2. The provisions of this section shall only apply if the hospital:

(1) Receives less than one percent of its annual revenues from municipal, county, or state taxes; and

(2) Receives less than one percent of its annual revenue from appropriated funds from the municipality in which such hospital is located.

1 190.060. 1. An ambulance district shall have the following
2 governmental powers, and all other powers incidental, necessary,
3 convenient or desirable to carry out and effectuate the express
4 powers:

5 (1) To establish and maintain an ambulance service within
6 its corporate limits, and to acquire for, develop, expand, extend
7 and improve such service;

8 (2) To acquire land in fee simple, rights in land and
9 easements upon, over or across land and leasehold interests in
10 land and tangible and intangible personal property used or useful
11 for the location, establishment, maintenance, development,
12 expansion, extension or improvement of an ambulance service. The
13 acquisition may be by dedication, purchase, gift, agreement,
14 lease, use or adverse possession;

15 (3) To operate, maintain and manage the ambulance service,
16 and to make and enter into contracts for the use, operation or
17 management of and to provide rules and regulations for the
18 operation, management or use of the ambulance service;

19 (4) To fix, charge and collect reasonable fees and
20 compensation for the use of the ambulance service according to
21 the rules and regulations prescribed by the board from time to
22 time;

23 (5) To borrow money and to issue bonds, notes,
24 certificates, or other evidences of indebtedness for the purpose
25 of accomplishing any of its corporate purposes, subject to
26 compliance with any condition or limitation set forth in sections
27 190.001 to 190.090 or otherwise provided by the Constitution of
28 the state of Missouri;

1 (6) To employ or enter into contracts for the employment of
2 any person, firm, or corporation, and for professional services,
3 necessary or desirable for the accomplishment of the objects of
4 the district or the proper administration, management, protection
5 or control of its property;

6 (7) To maintain the ambulance service for the benefit of
7 the inhabitants of the area comprising the district regardless of
8 race, creed or color, and to adopt such reasonable rules and
9 regulations as may be necessary to render the highest quality of
10 emergency medical care; to exclude from the use of the ambulance
11 service all persons who willfully disregard any of the rules and
12 regulations so established; to extend the privileges and use of
13 the ambulance service to persons residing outside the area of the
14 district upon such terms and conditions as the board of directors
15 prescribes by its rules and regulations;

16 (8) To provide for health, accident, disability and pension
17 benefits for the salaried members of its organized ambulance
18 district and such other benefits for the members' spouses and
19 minor children, through either, or both, a contributory or
20 noncontributory plan. The type and amount of such benefits shall
21 be determined by the board of directors of the ambulance district
22 within the level of available revenue of the pension program and
23 other available revenue of the district. If an employee
24 contributory plan is adopted, then at least one voting member of
25 the board of trustees shall be a member of the ambulance district
26 elected by the contributing members. The board of trustees shall
27 not be the same as the board of directors;

28 (9) To purchase insurance indemnifying the district and its

1 employees, officers, volunteers and directors against liability
2 in rendering services incidental to the furnishing of ambulance
3 services. Purchase of insurance pursuant to this section is not
4 intended to waive sovereign immunity, official immunity or the
5 Missouri public duty doctrine defenses; and

6 (10) To provide for life insurance, accident, sickness,
7 health, disability, annuity, length of service, pension,
8 retirement and other employee-type fringe benefits, subject to
9 the provisions of section 70.615, for the volunteer members of
10 any organized ambulance district and such other benefits for
11 their spouses and eligible unemancipated children, either through
12 a contributory or noncontributory plan, or both. For purposes of
13 this section, "eligible unemancipated child" means a natural or
14 adopted child of an insured, or a stepchild of an insured who is
15 domiciled with the insured, who is less than twenty-three years
16 of age, who is not married, not employed on a full-time basis,
17 not maintaining a separate residence except for full-time
18 students in an accredited school or institution of higher
19 learning, and who is dependent on parents or guardians for at
20 least fifty percent of his or her support. The type and amount
21 of such benefits shall be determined by the board of directors of
22 the ambulance district within available revenues of the district,
23 including the pension program of the district. The provision and
24 receipt of such benefits shall not make the recipient an employee
25 of the district. Directors who are also volunteer members may
26 receive such benefits while serving as a director of the
27 district.

28 2. The use of any ambulance service of a district shall be

1 subject to the reasonable regulation and control of the district
2 and upon such reasonable terms and conditions as shall be
3 established by its board of directors.

4 3. A regulatory ordinance of a district adopted pursuant to
5 any provision of this section may provide for a suspension or
6 revocation of any rights or privileges within the control of the
7 district for a violation of any regulatory ordinance.

8 4. Nothing in this section or in other provisions of
9 sections 190.001 to 190.245 shall be construed to authorize the
10 district or board to establish or enforce any regulation or rule
11 in respect to the operation or maintenance of the ambulance
12 service within its jurisdiction which is in conflict with any
13 federal or state law or regulation applicable to the same subject
14 matter.

15 5. After August 28, 1998, the board of directors of an
16 ambulance district that proposes to contract for the total
17 management and operation of the ambulance service, when that
18 ambulance district has not previously contracted out for said
19 service, shall hold a public hearing within a thirty-day period
20 and shall make a finding that the proposed contract to manage and
21 operate the ambulance service will:

22 (1) Provide benefits to the public health that outweigh the
23 associated costs;

24 (2) Maintain or enhance public access to ambulance service;

25 (3) Maintain or improve the public health and promote the
26 continued development of the regional emergency medical services
27 system.

28 6. (1) Upon a satisfactory finding following the public

1 hearing in subsection 5 of this section and after a sixty-day
2 period, the ambulance district may enter into the proposed
3 contract, however said contract shall not be implemented for at
4 least thirty days.

5 (2) The provisions of subsection 5 of this section shall
6 not apply to contracts which were executed prior to August 28,
7 1998, or to the renewal or modification of such contracts or to
8 the signing of a new contract with an ambulance service provider
9 for services that were previously contracted out.

10 7. All ambulance districts authorized to adopt laws,
11 ordinances, or regulations regarding basic life support
12 ambulances shall require such ambulances to be equipped with an
13 automated external defibrillator and be staffed by at least one
14 individual trained in the use of an automated external
15 defibrillator.

16 8. The ambulance district may adopt procedures for
17 conducting fingerprint background checks on current and
18 prospective employees, contractors, and volunteers. The
19 ambulance district may submit applicant fingerprints to the
20 Missouri state highway patrol, Missouri criminal records
21 repository, for the purpose of checking the person's criminal
22 history. The fingerprints shall be used to search the Missouri
23 criminal records repository and shall be submitted to the Federal
24 Bureau of Investigation to be used for searching the federal
25 criminal history files. The fingerprints shall be submitted on
26 forms and in the manner prescribed by the Missouri state highway
27 patrol. Fees shall be as set forth in section 43.530.

28 190.241. 1. The department shall designate a hospital as

1 an adult, pediatric or adult and pediatric trauma center when a
2 hospital, upon proper application submitted by the hospital and
3 site review, has been found by the department to meet the
4 applicable level of trauma center criteria for designation in
5 accordance with rules adopted by the department as prescribed by
6 section 190.185.

7 2. Except as provided for in subsection 4 of this section,
8 the department shall designate a hospital as a STEMI or stroke
9 center when such hospital, upon proper application and site
10 review, has been found by the department to meet the applicable
11 level of STEMI or stroke center criteria for designation in
12 accordance with rules adopted by the department as prescribed by
13 section 190.185. In developing STEMI center and stroke center
14 designation criteria, the department shall use, as it deems
15 practicable, appropriate peer-reviewed or evidence-based research
16 on such topics including, but not limited to, the most recent
17 guidelines of the American College of Cardiology and American
18 Heart Association for STEMI centers, or the Joint Commission's
19 Primary Stroke Center Certification program criteria for stroke
20 centers, or Primary and Comprehensive Stroke Center
21 Recommendations as published by the American Stroke Association.

22 3. The department of health and senior services shall, not
23 less than once every five years, conduct an on-site review of
24 every trauma, STEMI, and stroke center through appropriate
25 department personnel or a qualified contractor, with the
26 exception of stroke centers designated pursuant to subsection 4
27 of this section; however, this provision is not intended to limit
28 the department's ability to conduct a complaint investigation

1 pursuant to subdivision (3) of subsection 2 of section 197.080 of
2 any trauma, STEMI, or stroke center. On-site reviews shall be
3 coordinated for the different types of centers to the extent
4 practicable with hospital licensure inspections conducted under
5 chapter 197. No person shall be a qualified contractor for
6 purposes of this subsection who has a substantial conflict of
7 interest in the operation of any trauma, STEMI, or stroke center
8 under review. The department may deny, place on probation,
9 suspend or revoke such designation in any case in which it has
10 reasonable cause to believe that there has been a substantial
11 failure to comply with the provisions of this chapter or any
12 rules or regulations promulgated pursuant to this chapter. If
13 the department of health and senior services has reasonable cause
14 to believe that a hospital is not in compliance with such
15 provisions or regulations, it may conduct additional announced or
16 unannounced site reviews of the hospital to verify compliance.
17 If a trauma, STEMI, or stroke center fails two consecutive
18 on-site reviews because of substantial noncompliance with
19 standards prescribed by sections 190.001 to 190.245 or rules
20 adopted by the department pursuant to sections 190.001 to
21 190.245, its center designation shall be revoked.

22 4. Instead of applying for stroke center designation
23 pursuant to the provisions of subsection 2 of this section, a
24 hospital may apply for stroke center designation pursuant to this
25 subsection. Upon receipt of an application from a hospital on a
26 form prescribed by the department, the department shall designate
27 such hospital:

28 (1) A level I stroke center if such hospital has been

1 certified as a comprehensive stroke center by the Joint
2 Commission or any other certifying organization designated by the
3 department when such certification is in accordance with the
4 American Heart Association/American Stroke Association
5 guidelines;

6 (2) A level II stroke center if such hospital has been
7 certified as a primary stroke center by the Joint Commission or
8 any other certifying organization designated by the department
9 when such certification is in accordance with the American Heart
10 Association/American Stroke Association guidelines; or

11 (3) A level III stroke center if such hospital has been
12 certified as an acute stroke-ready hospital by the Joint
13 Commission or any other certifying organization designated by the
14 department when such certification is in accordance with the
15 American Heart Association/American Stroke Association
16 guidelines.

17
18 Except as provided by subsection 5 of this section, the
19 department shall not require compliance with any additional
20 standards for establishing or renewing stroke designations. The
21 designation shall continue if such hospital remains certified.
22 The department may remove a hospital's designation as a stroke
23 center if the hospital requests removal of the designation or the
24 department determines that the certificate recognizing the
25 hospital as a stroke center has been suspended or revoked. Any
26 decision made by the department to withdraw its designation of a
27 stroke center pursuant to this subsection that is based on the
28 revocation or suspension of a certification by a certifying

1 organization shall not be subject to judicial review. The
2 department shall report to the certifying organization any
3 complaint it receives related to the stroke center certification
4 of a stroke center designated pursuant to this subsection. The
5 department shall also advise the complainant which organization
6 certified the stroke center and provide the necessary contact
7 information should the complainant wish to pursue a complaint
8 with the certifying organization.

9 5. Any hospital receiving designation as a stroke center
10 pursuant to subsection 4 of this section shall:

11 (1) Annually and within thirty days of any changes submit
12 to the department proof of stroke certification and the names and
13 contact information of the medical director and the program
14 manager of the stroke center;

15 (2) Submit to the department a copy of the certifying
16 organization's final stroke certification survey results within
17 thirty days of receiving such results;

18 (3) Submit every four years an application on a form
19 prescribed by the department for stroke center review and
20 designation;

21 (4) Participate in the emergency medical services regional
22 system of stroke care in its respective emergency medical
23 services region as defined in rules promulgated by the
24 department;

25 (5) Participate in local and regional emergency medical
26 services systems by reviewing and sharing outcome data and
27 providing training and clinical educational resources.

1 Any hospital receiving designation as a level III stroke center
2 pursuant to subsection 4 of this section shall have a formal
3 agreement with a level I or level II stroke center for physician
4 consultative services for evaluation of stroke patients for
5 thrombolytic therapy and the care of the patient post-
6 thrombolytic therapy.

7 6. Hospitals designated as a STEMI or stroke center by the
8 department, including those designated pursuant to subsection 4
9 of this section, shall submit data to meet the data submission
10 requirements specified by rules promulgated by the department.

11 Such submission of data may be done by the following methods:

12 (1) Entering hospital data directly into a state registry
13 by direct data entry;

14 (2) Downloading hospital data from a nationally-recognized
15 registry or data bank and importing the data files into a state
16 registry; or

17 (3) Authorizing a nationally-recognized registry or data
18 bank to disclose or grant access to the department facility-
19 specific data held by the registry or data bank.

20
21 A hospital submitting data pursuant to subdivisions (2) or (3) of
22 this subsection shall not be required to collect and submit any
23 additional STEMI or stroke center data elements.

24 7. When collecting and analyzing data pursuant to the
25 provisions of this section, the department shall comply with the
26 following requirements:

27 (1) Names of any health care professionals, as defined in
28 section 376.1350, shall not be subject to disclosure;

1 (2) The data shall not be disclosed in a manner that
2 permits the identification of an individual patient or encounter;

3 (3) The data shall be used for the evaluation and
4 improvement of hospital and emergency medical services' trauma,
5 stroke, and STEMI care;

6 (4) The data collection system shall be capable of
7 accepting file transfers of data entered into to any national
8 recognized trauma, stroke, or STEMI registry or data bank to
9 fulfill trauma, stroke, or STEMI certification reporting
10 requirements;

11 (5) STEMI and stroke center data elements shall conform to
12 nationally recognized performance measures, such as the American
13 Heart Association's Get With the Guidelines, and include
14 published detailed measure specifications, data coding
15 instructions, and patient population inclusion and exclusion
16 criteria to ensure data reliability and validity; and

17 (6) Generate from the trauma, stroke, and STEMI registries
18 quarterly regional and state outcome data reports for trauma,
19 stroke, and STEMI designated centers, the state advisory council
20 on EMS, and regional EMS committees to review for performance
21 improvement and patient safety.

22 8. The board of registration for the healing arts shall
23 have sole authority to establish education requirements for
24 physicians who practice in an emergency department of a facility
25 designated as a trauma, STEMI, or stroke center by the department
26 under this section. The department shall deem such education
27 requirements promulgated by the board of registration for the
28 healing arts sufficient to meet the standards for designations

1 under this section.

2 9. The department of health and senior services may
3 establish appropriate fees to offset the costs of trauma, STEMI,
4 and stroke center reviews.

5 [5.] 10. No hospital shall hold itself out to the public as
6 a STEMI center, stroke center, adult trauma center, pediatric
7 trauma center, or an adult and pediatric trauma center unless it
8 is designated as such by the department of health and senior
9 services.

10 [6.] 11. Any person aggrieved by an action of the
11 department of health and senior services affecting the trauma,
12 STEMI, or stroke center designation pursuant to this chapter,
13 including the revocation, the suspension, or the granting of,
14 refusal to grant, or failure to renew a designation, may seek a
15 determination thereon by the administrative hearing commission
16 under chapter 621. It shall not be a condition to such
17 determination that the person aggrieved seek a reconsideration, a
18 rehearing, or exhaust any other procedure within the department.

19 190.265. 1. In order to ensure that the skids of a
20 helicopter do not get caught in a fence or other barriers and
21 cause a potentially catastrophic outcome, any rules and
22 regulations promulgated by the department of health and senior
23 services pursuant to sections 190.185, 190.241, and 192.006,
24 chapter 197, or any other provision of Missouri law shall not
25 require hospitals to have a fence, or other barriers, around such
26 hospital's helipad. Any regulation requiring fencing, or other
27 barriers, or any interpretation of such regulation shall be null
28 and void.

1 2. In addition to the prohibition in subsection 1 of this
2 section, the department shall not promulgate any rules and
3 regulations with respect to the operation or construction of a
4 helipad located at a hospital.

5 3. Hospitals shall ensure that helipads are free of
6 obstruction and safe for use by a helicopter while on the ground,
7 during approach, and takeoff.

8 4. As used in this section, the term "hospital" shall have
9 the same meaning as in section 197.020.

10 197.315. 1. Any person who proposes to develop or offer a
11 new institutional health service within the state must obtain a
12 certificate of need from the committee prior to the time such
13 services are offered.

14 2. Only those new institutional health services which are
15 found by the committee to be needed shall be granted a
16 certificate of need. Only those new institutional health
17 services which are granted certificates of need shall be offered
18 or developed within the state. No expenditures for new
19 institutional health services in excess of the applicable
20 expenditure minimum shall be made by any person unless a
21 certificate of need has been granted.

22 3. After October 1, 1980, no state agency charged by
23 statute to license or certify health care facilities shall issue
24 a license to or certify any such facility, or distinct part of
25 such facility, that is developed without obtaining a certificate
26 of need.

27 4. If any person proposes to develop any new institutional
28 health care service without a certificate of need as required by

1 sections 197.300 to 197.366, the committee shall notify the
2 attorney general, and he shall apply for an injunction or other
3 appropriate legal action in any court of this state against that
4 person.

5 5. After October 1, 1980, no agency of state government may
6 appropriate or grant funds to or make payment of any funds to any
7 person or health care facility which has not first obtained every
8 certificate of need required pursuant to sections 197.300 to
9 197.366.

10 6. A certificate of need shall be issued only for the
11 premises and persons named in the application and is not
12 transferable except by consent of the committee.

13 7. Project cost increases, due to changes in the project
14 application as approved or due to project change orders,
15 exceeding the initial estimate by more than ten percent shall not
16 be incurred without consent of the committee.

17 8. Periodic reports to the committee shall be required of
18 any applicant who has been granted a certificate of need until
19 the project has been completed. The committee may order the
20 forfeiture of the certificate of need upon failure of the
21 applicant to file any such report.

22 9. A certificate of need shall be subject to forfeiture for
23 failure to incur a capital expenditure on any approved project
24 within six months after the date of the order. The applicant may
25 request an extension from the committee of not more than six
26 additional months based upon substantial expenditure made.

27 10. Each application for a certificate of need must be
28 accompanied by an application fee. The time of filing commences

1 with the receipt of the application and the application fee. The
2 application fee is one thousand dollars, or one-tenth of one
3 percent of the total cost of the proposed project, whichever is
4 greater. All application fees shall be deposited in the state
5 treasury. Because of the loss of federal funds, the general
6 assembly will appropriate funds to the Missouri health facilities
7 review committee.

8 11. In determining whether a certificate of need should be
9 granted, no consideration shall be given to the facilities or
10 equipment of any other health care facility located more than a
11 fifteen-mile radius from the applying facility.

12 12. When a nursing facility shifts from a skilled to an
13 intermediate level of nursing care, it may return to the higher
14 level of care if it meets the licensure requirements, without
15 obtaining a certificate of need.

16 13. In no event shall a certificate of need be denied
17 because the applicant refuses to provide abortion services or
18 information.

19 14. A certificate of need shall not be required for the
20 transfer of ownership of an existing and operational health
21 facility in its entirety.

22 15. A certificate of need may be granted to a facility for
23 an expansion, an addition of services, a new institutional
24 service, or for a new hospital facility which provides for
25 something less than that which was sought in the application.

26 16. The provisions of this section shall not apply to
27 facilities operated by the state, and appropriation of funds to
28 such facilities by the general assembly shall be deemed in

1 compliance with this section, and such facilities shall be deemed
2 to have received an appropriate certificate of need without
3 payment of any fee or charge. The provisions of this subsection
4 shall not apply to hospitals operated by the state and licensed
5 under chapter 197, except for department of mental health state-
6 operated psychiatric hospitals.

7 17. Notwithstanding other provisions of this section, a
8 certificate of need may be issued after July 1, 1983, for an
9 intermediate care facility operated exclusively for the
10 intellectually disabled.

11 18. To assure the safe, appropriate, and cost-effective
12 transfer of new medical technology throughout the state, a
13 certificate of need shall not be required for the purchase and
14 operation of:

15 (1) Research equipment that is to be used in a clinical
16 trial that has received written approval from a duly constituted
17 institutional review board of an accredited school of medicine or
18 osteopathy located in Missouri to establish its safety and
19 efficacy and does not increase the bed complement of the
20 institution in which the equipment is to be located. After the
21 clinical trial has been completed, a certificate of need must be
22 obtained for continued use in such facility; or

23 (2) Equipment that is to be used by an academic health
24 center operated by the state in furtherance of its research or
25 teaching missions.

26 205.165. 1. The board of trustees of any hospital
27 authorized under subsection 1 of this section and organized under
28 the provisions of sections 205.160 to 205.340 may invest up to

1 fifteen percent of their funds not required for immediate
2 disbursement in obligations or for the operation of the hospital
3 into any mutual fund, in the form of an investment company, in
4 which shareholders combine money to invest in a variety of
5 stocks, bonds, and money-market investments.

6 2. The provisions of this section shall only apply if the
7 hospital:

8 (1) Is located within a county of the first classification
9 with more than one hundred fifty thousand but fewer than two
10 hundred thousand inhabitants; and

11 (2) Receives less than one percent of its annual revenues
12 from county or state taxes.

13 Section B. Because immediate action is necessary to
14 preserve access to quality health care facilities for the
15 citizens of Missouri and because immediate action may prevent a
16 tragic occurrence from happening, the enactment of section
17 190.265 and the repeal and reenactment of section 197.315 of this
18 act is deemed necessary for the immediate preservation of the
19 public health, welfare, peace, and safety, and is hereby declared
20 to be an emergency act within the meaning of the constitution,
21 and the enactment of section 190.265 and the repeal and
22 reenactment of section 197.315 of this act shall be in full force
23 and effect upon its passage and approval.

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29 Will Kraus

Keith Frederick