

1-1 By: Chisum (Senate Sponsor - Bivins) H.B. No. 940
1-2 (In the Senate - Received from the House March 31, 2003;
1-3 April 3, 2003, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 7, 2003, reported favorably by
1-5 the following vote: Yeas 4, Nays 0; May 7, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the Hemphill County Hospital District.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 4(c), Chapter 424, Acts of the 66th
1-11 Legislature, Regular Session, 1979, is amended to read as follows:

1-12 (c) At the time the creation of the district is approved and
1-13 the returns of the election are officially canvassed, the persons
1-14 then serving as temporary directors shall become permanent
1-15 directors of the district, shall take the constitutional oath of
1-16 office, and shall divide themselves into two classes, namely:
1-17 class one, two persons to serve until the first Saturday in April
1-18 following the election at which the creation of the district is
1-19 approved, and class two, three persons to serve until the first
1-20 Saturday in April of the next succeeding year. Successors shall be
1-21 elected by vote of the qualified voters of the entire district for
1-22 two-year terms. Notice of an ~~an [a director's]~~ election of directors
1-23 shall be published one time at least 30 days before the date of the
1-24 election in a newspaper or newspapers which individually or
1-25 collectively have general circulation in the district. A [Any]
1-26 person who wishes [desiring] to have the person's [his or her] name
1-27 printed on the ballot as a candidate for director must [shall] file
1-28 an application with the secretary of the board of directors not
1-29 later than the 45th day [a petition signed by at least 10 qualified
1-30 voters residing in the district asking that his or her name be
1-31 printed on the ballot. The petition shall be filed with the
1-32 secretary at least 35 days] before the date of the election.
1-33 Subchapter C, Chapter 2, Election Code, applies to the election of
1-34 unopposed candidates for the board of directors. Vacancies in
1-35 office shall be filled for the unexpired term by the remainder of
1-36 the board of directors.

1-37 SECTION 2. Section 5, Chapter 424, Acts of the 66th
1-38 Legislature, Regular Session, 1979, is amended to read as follows:

1-39 Sec. 5. POWERS AND DUTIES. (a) The board of directors
1-40 shall manage, control, and administer the hospital system and
1-41 ancillary health care system and all funds and resources of the
1-42 district, but in no event shall any operating, depreciation, or
1-43 building reserves be invested in any funds or securities other than
1-44 those specified in Subchapter A, Chapter 2256, Government Code
1-45 [Article 836 or 837, Revised Civil Statutes of Texas, 1925, as
1-46 amended].

1-47 (b) The district, through its board of directors, may sue
1-48 and be sued and may adopt [promulgate] rules governing the
1-49 operation of the district, the hospital system and ancillary health
1-50 care system, its staff, and its employees.

1-51 (c) The board of directors shall appoint a qualified person
1-52 to serve as administrator or manager of the hospital system and
1-53 ancillary health care system and may, in its discretion, appoint an
1-54 assistant to the administrator or manager. The administrator or
1-55 manager, and assistant administrator or manager, if any, shall
1-56 serve at the will of the board and shall receive compensation fixed
1-57 by the board. The administrator or manager shall, on assuming the
1-58 person's [his or her] duties, execute a bond payable to the hospital
1-59 district in an amount to be set by the board of directors, in no
1-60 event less than \$5,000, conditioned that the person [he or she]
1-61 shall perform the duties required of the person [him or her], and
1-62 containing other conditions the board may require. The
1-63 administrator or manager shall supervise all the work and
1-64 activities of the district and shall have general direction of the

2-1 affairs of the district, subject to the limitations prescribed by
2-2 the board.

2-3 (d) The board of directors may appoint to the staff doctors
2-4 it considers [~~deems~~] necessary for the efficient operation of the
2-5 hospital system and ancillary health care system and may provide
2-6 for temporary appointments to the staff if warranted by
2-7 circumstances.

2-8 (e) The board of directors may delegate to the administrator
2-9 or manager the authority to employ technicians, nurses, and other
2-10 employees of the hospital system and ancillary health care system
2-11 and the district.

2-12 (f) The board of directors may contract with any other
2-13 political subdivision or governmental agency whereby the district
2-14 will provide investigatory or other services as to the medical,
2-15 hospital, or welfare needs of the inhabitants of the district and
2-16 may contract with any county, incorporated city or town, the State
2-17 of Texas, or agencies of the federal government for the treatment of
2-18 sick, diseased, or injured persons.

2-19 SECTION 3. Section 6, Chapter 424, Acts of the 66th
2-20 Legislature, Regular Session, 1979, is amended to read as follows:

2-21 Sec. 6. BUDGET AND ANNUAL AUDIT. (a) The district shall be
2-22 operated on the basis of a fiscal year established by the board of
2-23 directors, provided the fiscal year may not be changed more than
2-24 once in any 24-month period.

2-25 (b) As soon as practicable after the end of each district
2-26 fiscal year, the [The] board of directors shall have an annual audit
2-27 made of the finances [financial condition] of the district which,
2-28 together with other records of the district, shall be open to
2-29 inspection at the principal office of the district. The board shall
2-30 select a qualified independent accounting firm to perform the
2-31 audit. The audit must contain a detailed accounting of
2-32 disbursements.

2-33 (c) The administrator or manager shall prepare an annual
2-34 budget for approval by the board of directors.

2-35 (d) The budget shall also contain a complete financial
2-36 statement of the district showing:

2-37 (1) all outstanding obligations of the district;

2-38 (2) [] the cash on hand to the credit of each fund of
2-39 the district;

2-40 (3) [] the funds received from all sources during the
2-41 previous year;

2-42 (4) [] the funds available from all sources during
2-43 the ensuing year;

2-44 (5) [] the balances expected at year end of the year
2-45 in which the budget is being prepared;

2-46 (6) [] estimated revenues and balances available to
2-47 cover the proposed budget; [] and

2-48 (7) the estimated tax rate that will be required.

2-49 (e) A public hearing on the annual budget shall be held by
2-50 the board of directors after notice of a hearing has been published
2-51 in a newspaper of general circulation in the district one time at
2-52 least 10 days before the date set for the hearing. Any person
2-53 residing in the district may be present and participate in the
2-54 hearing. At the conclusion of the hearing, the budget, as proposed
2-55 by the administrator or manager, shall be acted on by the board of
2-56 directors.

2-57 (f) The board of directors may make changes in the budget
2-58 which in their judgment the law warrants and the interest of the
2-59 taxpayers demands. No expenditure may be made for any expense not
2-60 included in the annual budget or an amendment to it. The annual
2-61 budget may be amended from time to time as circumstances require,
2-62 but the annual budget and all amendments to it shall be approved by
2-63 the board of directors. [~~As soon as practicable after the close of~~
2-64 ~~each fiscal year, the administrator or manager shall prepare for~~
2-65 ~~the board a full sworn statement of all money belonging to the~~
2-66 ~~district and a full account of disbursements.]~~

2-67 SECTION 4. Chapter 424, Acts of the 66th Legislature,
2-68 Regular Session, 1979, is amended by adding Section 6A to read as
2-69 follows:

3-1 Sec. 6A. EMERGENCY ACTION. (a) In an emergency, the
 3-2 administrator or manager may take any lawful action necessary to
 3-3 preserve district assets or protect patient health and safety.

3-4 (b) As soon as practicable after any action is taken, the
 3-5 administrator or manager shall report the emergency action to the
 3-6 board of directors, and the board shall amend the annual budget to
 3-7 reflect the costs of the action, if any.

3-8 SECTION 5. Section 7(a), Chapter 424, Acts of the 66th
 3-9 Legislature, Regular Session, 1979, is amended to read as follows:

3-10 (a) The board of directors may issue and sell its bonds in
 3-11 the name and on the faith and credit of the hospital district for
 3-12 the purchase, construction, acquisition, repair, and renovation of
 3-13 buildings and improvements, and equipping them for hospital and
 3-14 ancillary health care purposes. At the time of the issuance of any
 3-15 bonds by the district, the board shall levy a tax sufficient to
 3-16 create an interest and sinking fund to pay the interest on and
 3-17 principal of the bonds as they mature, providing the tax together
 3-18 with any other taxes levied for the district may not exceed 75 cents
 3-19 on each \$100 valuation of all taxable property located in the
 3-20 district subject to hospital district taxation in any one year. No
 3-21 bonds payable from taxes may be issued by the hospital district
 3-22 except refunding bonds until authorized by a majority of the
 3-23 electors of the district. The order for a bond election shall
 3-24 specify the date of the election, the amount of bonds to be
 3-25 authorized, the maximum maturity of the bonds, the place or places
 3-26 where the election will be held, and the presiding judge and
 3-27 alternate judge for each voting place, and shall provide for clerks
 3-28 as in county elections. Notice of a bond election shall be given by
 3-29 publishing a substantial copy of the election order in a newspaper
 3-30 of general circulation in the district once a week for two
 3-31 consecutive weeks, the date of the first publication to appear at
 3-32 least 30 days before the date set for the election, and the bond
 3-33 election shall be conducted in accordance with the Texas Election
 3-34 Code, as amended, except as modified by the provisions of this Act.

3-35 SECTION 6. Section 8, Chapter 424, Acts of the 66th
 3-36 Legislature, Regular Session, 1979, is amended to read as follows:

3-37 Sec. 8. REVENUE BONDS. In addition to the power to issue
 3-38 bonds payable from taxes levied by the district, as contemplated by
 3-39 Section 7 of this Act, the board of directors may issue and refund
 3-40 any previously issued revenue bonds for purchasing, constructing,
 3-41 acquiring, repairing, equipping, or renovating buildings and
 3-42 improvements for hospital and ancillary health care purposes, and
 3-43 for acquiring sites for hospital and ancillary health care
 3-44 purposes, the bonds to be payable from and secured by a pledge of
 3-45 all or part of the revenues of the district to be derived from the
 3-46 operation of its hospital, ~~or~~ hospital system, or ancillary
 3-47 health care system, and the bonds may be additionally secured by a
 3-48 mortgage or deed of trust lien on any part or all of its property.
 3-49 The bonds shall be issued in the manner and in accordance with the
 3-50 procedures and requirements specified for the issuance of revenue
 3-51 bonds by county hospital authorities in Sections 264.042, 264.043,
 3-52 and 264.046-264.049, Health and Safety Code [8 and 10 through 13 of
 3-53 Chapter 122, Acts of the 58th Legislature, Regular Session, 1963,
 3-54 as amended (Article 4494r, Vernon's Texas Civil Statutes)].

3-55 SECTION 7. Section 9, Chapter 424, Acts of the 66th
 3-56 Legislature, Regular Session, 1979, is amended to read as follows:

3-57 Sec. 9. REFUNDING BONDS. Without an election the board of
 3-58 directors may issue refunding bonds of the district payable from
 3-59 taxes or revenues for the purpose of refunding any outstanding
 3-60 legal indebtedness the district has issued, incurred, or assumed.
 3-61 The refunding bonds may be sold and the proceeds applied to the
 3-62 payment of outstanding indebtedness or may be exchanged in whole or
 3-63 in part for not less than the principal amount of the outstanding
 3-64 indebtedness being refunded. Refunding bonds shall be issued in
 3-65 conformity with Chapter 1207, Government Code [503, Acts of the
 3-66 54th Legislature, Regular Session, 1955, as amended (Article 717k,
 3-67 Vernon's Texas Civil Statutes), or Chapter 784, Acts of the 61st
 3-68 Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas
 3-69 Civil Statutes)], or any other general law of the state authorizing

4-1 refunding bonds and applicable to hospital districts.

4-2 SECTION 8. Section 10, Chapter 424, Acts of the 66th
4-3 Legislature, Regular Session, 1979, is amended to read as follows:

4-4 Sec. 10. BOND REQUIREMENTS. Bonds of the district payable
4-5 from taxes or revenues must:

4-6 (1) ~~[shall]~~ mature not later than the 40th anniversary
4-7 ~~[within 40 years]~~ of the [their] date of issuance;

4-8 (2) ~~[r]~~ be executed in the name of the hospital
4-9 district and on the district's [in its] behalf by the president of
4-10 the board of directors, and [be] countersigned by the secretary in
4-11 the manner provided by Chapter 618, Government Code;

4-12 (3) ~~[204, Acts of the 57th Legislature, Regular~~
4-13 ~~Session, 1961, as amended (Article 717j-1, Vernon's Texas Civil~~
4-14 ~~Statutes), shall]~~ bear interest at a rate not to exceed that
4-15 prescribed by Chapter 1204, Government Code; and

4-16 (4) ~~[3, Acts of the 61st Legislature, Regular Session,~~
4-17 ~~1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes),~~
4-18 ~~and shall]~~ be subject to the [same] requirements of Chapter 1202,
4-19 Government Code [in the manner of approval by the attorney general
4-20 and registration by the comptroller of public accounts as are by law
4-21 provided for approval and registration of bonds issued by counties.
4-22 On the approval of the bonds by the attorney general and
4-23 registration by the comptroller, they shall be incontestable for
4-24 any cause].

4-25 SECTION 9. Section 11, Chapter 424, Acts of the 66th
4-26 Legislature, Regular Session, 1979, is amended to read as follows:

4-27 Sec. 11. DISTRICT PROPERTY. (a) The board of directors has
4-28 complete discretion ~~[as]~~ to determine the type, number, and
4-29 location, either inside or outside the district, of facilities and
4-30 services [buildings] required to establish and maintain an adequate
4-31 hospital system and ancillary health care system. The hospital
4-32 system and ancillary health care system may include equipment,
4-33 facilities, and services considered [deemed] necessary for
4-34 hospital care and ancillary health care by the directors, including
4-35 domiciliary care and treatment of sick or injured patients,
4-36 geriatric services, outpatient clinics, rural health clinics,
4-37 convalescent home facilities, physician's offices, home health
4-38 services, long-term care, skilled nursing care, intermediate
4-39 nursing care, assisted living facilities, hospice care, ambulatory
4-40 surgery centers, urgent care facilities, and operation of a mobile
4-41 emergency medical service.

4-42 (b) The board of directors may enter into an operating or
4-43 management contract with one or more public or private entities
4-44 with regard to all or part of district [its] facilities and
4-45 services. The board, on behalf of the district, may enter into a
4-46 joint ownership arrangement with a public or private entity to
4-47 provide management or operating services if the board determines
4-48 that the joint ownership arrangement is in the district's best
4-49 interests and does not violate Article III, Section 52, Texas
4-50 Constitution [or a part of them, or may lease all or part of the
4-51 buildings, facilities, and other property owned by it on terms and
4-52 conditions considered to be in the best interest of its
4-53 inhabitants, provided that any lease may not be for a period longer
4-54 than 40 years from the date entered].

4-55 (c) The board of directors, on behalf of the district, may
4-56 lease or sell or otherwise dispose of all or part of the district's
4-57 property of any nature, including the district's hospital,
4-58 ancillary health care facilities or other facilities, buildings,
4-59 supplies, or equipment, to a public or private entity [property or
4-60 equipment of any nature] on terms and conditions found by the board
4-61 to be in the best interest of its inhabitants.

4-62 (d) ~~[b]~~ The board of directors of the district may
4-63 prescribe the method of making purchases and expenditures by and
4-64 for the hospital district and prescribe all accounting and control
4-65 procedures. All contracts for construction shall be made [or
4-66 purchase involving the expenditure of more than \$5,000 may be made
4-67 only after advertising] in the manner provided by Subchapter B,
4-68 Chapter 271, Local Government Code [Chapter 163, General Laws, Acts
4-69 of the 42nd Legislature, Regular Session, 1931, as amended (Article

5-1 ~~2368a, Vernon's Texas Civil Statutes). The provisions of Article~~
 5-2 ~~5160, Revised Civil Statutes of Texas, 1925, as amended, relating~~
 5-3 ~~to performance and payment bonds shall apply to construction~~
 5-4 ~~contracts let by the district].~~

5-5 (e) The board of directors, on behalf of the district, may
 5-6 acquire by lease, purchase, or lease to purchase property,
 5-7 facilities, supplies, and equipment for the district for use in the
 5-8 [its] hospital system and ancillary health care system and may
 5-9 mortgage or pledge the property, facilities, supplies, or equipment
 5-10 [so] acquired as security for the payment of the purchase price.
 5-11 Except as permitted in the preceding sentence and Sections 7, 8, and
 5-12 9 of this Act, the district may incur no obligation payable from any
 5-13 revenues of the district, tax or otherwise, except those on hand or
 5-14 to be on hand within the current and following fiscal year of the
 5-15 district.

5-16 SECTION 10. Section 16, Chapter 424, Acts of the 66th
 5-17 Legislature, Regular Session, 1979, is amended to read as follows:

5-18 Sec. 16. TAX ASSESSMENT AND COLLECTION. (a) The directors
 5-19 may levy taxes for the entire year in which the district is
 5-20 established as a result of the election provided in this Act. ~~[All~~
 5-21 ~~taxes of the district shall be assessed and collected on county tax~~
 5-22 ~~values as provided in Subsection (b) of this section unless the~~
 5-23 ~~directors, by majority vote, elect to have taxes assessed and~~
 5-24 ~~collected by the district's own tax assessor-collector under~~
 5-25 ~~Subsection (c) of this section. A determination by the board of~~
 5-26 ~~directors pertaining to the assessment and collection of taxes~~
 5-27 ~~shall be made before December 1 annually and shall govern the manner~~
 5-28 ~~in which taxes are subsequently assessed and collected, until~~
 5-29 ~~changed by a similar action by the board.] Hospital taxes shall be~~
 5-30 ~~levied on all taxable property within the district subject to~~
 5-31 ~~hospital district taxation.~~

5-32 (b) The Tax Code governs the appraisal, assessment, and
 5-33 collection of district taxes [Under this subsection, district taxes
 5-34 shall be assessed and collected on county tax values in the same
 5-35 manner as provided by law with relation to county taxes. The tax
 5-36 assessor-collector of the county in which the district is located
 5-37 shall be charged with and required to accomplish the assessment and
 5-38 collection of all taxes levied by and on behalf of the district.
 5-39 The county assessor-collector of taxes shall charge and deduct from
 5-40 payments to the hospital district an amount as fees for assessing
 5-41 and collecting the taxes at a rate of one percent of the taxes
 5-42 assessed and one percent of the taxes collected, but in no event
 5-43 shall the amount paid exceed \$5,000 in any one calendar year. These
 5-44 fees shall be deposited in the officers salary fund of the county
 5-45 and reported as fees of the office of the county tax
 5-46 assessor-collector. Interest and penalties on taxes paid to the
 5-47 hospital district shall be the same as in the case of county taxes.
 5-48 Discounts shall be the same as allowed by the county. The residue
 5-49 of tax collections after deductions of discounts and fees for
 5-50 assessing and collecting shall be deposited in the district's
 5-51 depository. The bond of the county tax assessor-collector shall
 5-52 stand as security for the proper performance of his or her duties as
 5-53 assessor-collector of the district, or if in the judgment of the
 5-54 board of directors it is necessary, additional bond payable to the
 5-55 district may be required. In all matters pertaining to the
 5-56 assessment, collection, and enforcement of taxes for the district,
 5-57 the county tax assessor-collector may act in all respects according
 5-58 to the laws of the State of Texas relating to state and county
 5-59 taxes].

5-60 (c) The board of directors may provide for the appointment
 5-61 of a tax assessor-collector for the district or may contract for the
 5-62 assessment and collection of taxes as provided by the Tax Code
 5-63 [Under this subsection, taxes shall be assessed and collected by a
 5-64 tax assessor-collector appointed by the board, which shall also fix
 5-65 the term of his or her employment, compensation, and requirement
 5-66 for bond to assure the faithful performance of his or her duties,
 5-67 but in no event may the bond be for less than \$5,000. The directors
 5-68 shall annually appoint five persons to serve as a board of
 5-69 equalization and shall fix their compensation. Each member of the

6-1 ~~board and the tax assessor-collector must be residents of the~~
6-2 ~~district, and each shall have the same duties, including the~~
6-3 ~~obligation to take the oath of office, as required by county~~
6-4 ~~officials exercising those powers and duties. Except as provided~~
6-5 ~~in this law to the contrary, all the provisions of Title 122,~~
6-6 ~~Revised Civil Statutes of Texas, 1925, as amended, shall apply to~~
6-7 ~~the district].~~

6-8 SECTION 11. Section 18, Chapter 424, Acts of the 66th
6-9 Legislature, Regular Session, 1979, is amended to read as follows:

6-10 Sec. 18. INDIGENT CARE. (a) Not later than the first day
6-11 of each operating year, the district shall adopt an application
6-12 procedure to determine eligibility for assistance, as provided by
6-13 Section 61.053, Health and Safety Code.

6-14 (b) Whenever a patient residing in the district has been
6-15 admitted to the facilities of the district, the administrator or
6-16 manager may have an inquiry made as to the patient's [his or her]
6-17 circumstances and those of the relatives of the patient legally
6-18 liable for the patient's [his or her] support. If the administrator
6-19 or manager [he or she] finds that the patient or the patient's [his
6-20 or her] relatives are able to pay for the patient's [his or
6-21 her] care and treatment wholly or partly [in whole or in part], an order shall
6-22 be made directing the patient or the patient's [his or her]
6-23 relatives to pay to the hospital district for the care and support
6-24 of the patient a specified sum per week in proportion to their
6-25 financial ability.

6-26 (c) The administrator or manager may collect money owed to
6-27 the district [shall have the power and authority to collect these
6-28 sums] from the estate of the patient or from the patient's [his or
6-29 her] relatives legally liable for the patient's [his or her]
6-30 support in the manner provided by law for collection of expenses in
6-31 the last illness of a deceased person.

6-32 (d) If the administrator or manager finds that the patient
6-33 or the patient's [his or her] relatives are not able to pay either
6-34 wholly or partly [in whole or in part] for the patient's [his or
6-35 her] care and treatment in the hospital, they shall become a charge
6-36 on the hospital district as to the amount of the inability to pay.

6-37 (e) If [Should] there is [be] a dispute as to the ability to
6-38 pay or doubt in the mind of the administrator or manager, the board
6-39 of directors shall hear and resolve the dispute and issue its final
6-40 order after calling witnesses.

6-41 (f) Appeals from a final order of the board of directors
6-42 must be made [shall lie] to the district court. The substantial
6-43 evidence rule shall apply.

6-44 SECTION 12. This Act takes effect immediately if it
6-45 receives a vote of two-thirds of all the members elected to each
6-46 house, as provided by Section 39, Article III, Texas Constitution.
6-47 If this Act does not receive the vote necessary for immediate
6-48 effect, this Act takes effect September 1, 2003.

6-49 * * * * *