



UPDATE: List of Georgia Hospitals Eligible for Contributions Finalized

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On April 24, 2016, Georgia Governor Nathan Deal signed into law S.B. 258, a bill permitting individuals and companies to receive state tax credits for contributions to certain rural Georgia hospitals. As AGG previously discussed in an earlier posting, the new law's purpose is to "provide for tax credits for contributions to rural hospital organizations"¹ and "to provide for the amount, nature, limits, and procedures for new tax credits for contributions to rural hospital organizations." The law is intended to assuage the plight of Georgia's rural hospitals which has recently been described by State Senator Renee Unterman as a "perfect tsunami" and a "crisis in health care."²

Under the new law, Georgia's Department of Community Health (DCH) is required to approve a list of eligible rural hospital organizations by December 1 of each year.³ Clyde Reese, the commissioner of DCH, announced on August 22, 2016, that the list of hospital organizations determined to be eligible to receive donations has been posted to the DCH web site.⁴ The list of 47 eligible hospitals was posted along with a financial proxy form which is "required to be submitted to [DCH] by each eligible organization" and a "form detailing the content of a five year viability and stability plan required to be submitted to [DCH] by each eligible organization."⁵ Both the financial proxy form and the five year plan are required to be received by DCH by October 17, 2016.

A Georgia hospital qualifies under the new law for receipt of tax-credit eligible donations if it meets the definition of the term "rural hospital organization," which is defined within O.C.G.A. § 31-8-9.1 to mean "an acute care hospital licensed by the [Department of Community Health] pursuant to Article 1 of Chapter 7 of this title" that meets all of the following 7 requirements:

- (3)(A) Provides inpatient hospital services at a facility located in a rural county⁶ or is a critical access hospital;⁷
- (3)(B) Participates in both Medicaid and medicare [sic] and accepts both Medicaid and medicare [sic] patients;
- (3)(C) Provides health care services to indigent patients;
- (3)(D) Has at least 10 percent of its annual net revenue categorized as indigent care, charity care, or bad debt;
- (3)(E) Annually files IRS Form 990, Return of Organization Exempt From Income Tax, with the department, or for any hospital not required to file IRS Form 990, the department will provide a form that collects the same information to be submitted to the

¹ *Georgia's Rural Hospital Tax Credit Bill Passes, Awaits Governor's Signature* (Apr. 4, 2016), <http://www.agg.com/Georgias-Rural-Hospital-Tax-Credit-Bill-Passes-Awaits-Governors-Signature-04-04-2016/> (last accessed Aug. 22, 2016).

² <http://news.wabe.org/post/ga-officials-say-rural-health-network-faces-bleak-future> (last accessed Aug. 23, 2016).

³ O.C.G.A. § 31-8-9.1(b)(1) ("By December 1 of each year, the department shall approve a list of rural hospital organizations eligible to receive contributions from the tax credit provided pursuant to Code Section 48-7-29.20 and transmit such list to the Department of Revenue.")

⁴ <http://dch.georgia.gov/press-releases/2016-08-22/statement-commissioner-reese-rural-hospital-tax-credit-legislation-0> (last accessed Aug. 23, 2016).

⁵ *Id.*; <http://dch.georgia.gov/sites/dch.georgia.gov/files/Tax-credit-qualifiers.FINAL.pdf> (last accessed Aug. 23, 2016).

⁶ "Rural county" is defined to mean "a county having a population of less than 35,000 according to the United States decennial census of 2010 or any future such census; provided, however, that for counties which contain a military base or installation, the military personnel and their dependents living in such county shall be excluded from the total population of such county for purposes of this definition." O.C.G.A. § 31-8-9.1(a)(2).

⁷ "Critical access hospital" is defined to mean "a hospital that meets the requirements of the federal Centers for Medicare and Medicaid Services to be designated as a critical access hospital and that is recognized by the department as a critical access hospital for purposes of Medicaid." O.C.G.A. § 31-8-9.1(a)(1).

department on an annual basis;

(3)(F) Is operated by a county or municipal authority pursuant to Article 4 of Chapter 7 of this title or is designated as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code; and

(3)(G) Is current with all audits and reports required by law.

In addition, the law requires that, before making a contribution to a rural hospital organization, the taxpayer must electronically notify DCH of the total amount of contribution the taxpayer intends to make to the rural hospital organization. DCH's commissioner must preapprove or deny the requested amount within 30 days after receiving the taxpayer's request.⁸

For more information regarding the tax credit provisions, see *Georgia's Rural Hospital Tax Credit Bill Passes, Awaits Governor's Signature*, or click [here](#).⁹ With the list of eligible hospitals finalized, Georgia's struggling rural hospitals are one step closer to being able to collect significant donations made attractive by the tax credit.¹⁰ With the closure of at least four rural hospitals in recent years, it remains to be seen whether the new law will save other vulnerable hospitals from a similar fate.

⁸ O.C.G.A. § 48-7-29.20(e)(3).

⁹ <http://www.agg.com/Georgias-Rural-Hospital-Tax-Credit-Bill-Passes-Awaits-Governors-Signature-04-04-2016/> (last accessed Aug. 22, 2016).

¹⁰ The tax credits in the aggregate for the State are capped and cannot exceed "\$50 million in 2017, \$60 million in 2018, and \$70 million in 2019." O.C.G.A. § 48-7-29.20(e)(1).

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