



## Georgia's Rural Hospital Tax Credit Bill Passes, Awaits Governor's Signature

H. Carol Saul and Alex B. Foster

On March 24, 2016, the Georgia General Assembly passed S.B. 258, a bill aimed at throwing a lifeline to Georgia's struggling rural hospitals through rural hospital tax credit provisions. The legislation was sponsored by State Senators Fran Millar (R-District 40) and John Albers (R-District 56) and borrowed the tax credit provisions from H.B. 919, which was sponsored by State Representative Geoff Duncan (R-Cumming). Among other things, the Bill's purpose was to "provide for tax credits for contributions to rural hospital organizations" and "to provide for the amount, nature, limits, and procedures for new tax credits for contributions to rural hospital organizations."<sup>1</sup>

The Bill will modify Georgia Code Title 31, Chapter 8, Article 1 (titled "Hospital Care for the Indigent Generally") by including a new Section 9.1, and Georgia Code Title 48, Chapter 7, Article 2 (titled "Imposition, Rate, and Computation; Exemptions") by including a new Section 29.20. Under the legislation, a hospital qualifies for receipt of tax-credit eligible donations if it meets the definition of the term "rural hospital organization," which is defined within the new Code section 31-8-9.1 to mean "an acute care hospital licensed by the [Department of Community Health (DCH)] pursuant to Article 1 of Chapter 7 of this title" that:

- (3)(A) Provides inpatient hospital services at a facility located in a rural county or is a critical access hospital;
- (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 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.

The same code section defines a "critical access hospital" as a:

[H]ospital 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.

If signed by the Governor, the law will require DCH, by December 1 of each year, to approve a list of rural hospital organizations eligible to receive contributions from the tax credit.<sup>2</sup> DCH may also adopt regulations necessary to implement the Code provisions. S.B. 258 also contains the following important features:

<sup>1</sup> For the text of S.B. 258, see <http://www.legis.ga.gov/Legislation/en-US/display/20152016/SB/258>.

<sup>2</sup> S.B. 258 states "[t]his Act shall become effective upon its approval by the Governor or upon its becoming law without such approval."

- Defines “Qualified rural hospital organization expense” to mean “the contribution of funds by an individual or corporate taxpayer to a rural hospital organization for the direct benefit of such organization during the tax year for which a credit under this Code section [O.C.G.A. § 48-7-29.20] is claimed.”
- For individual taxpayers, tax credits are limited to 70% of the actual amount expended or \$2,500 for an individual and \$5,000 for couples, whichever is less.
- For corporations, tax credits are limited to 70% of the actual amount expended or 75% of the corporation’s income tax liability, whichever is less.
- Total aggregate tax credits allowed may not exceed \$50 million in 2017, \$60 million in 2018, and \$70 million in 2019.
- 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.
- The Code section is scheduled to automatically repeal December 31, 2019.

Nationally, rural hospital closures have clustered in those states that have not expanded Medicaid. In Georgia, recent closures have included: Calhoun Memorial Hospital (Arlington), Charlton Memorial Hospital (Folkston), Hart County Hospital (Hartwell), Lower Oconee Community Hospital (Glenwood), and Stewart-Webster Hospital (Richland). Whether this legislative initiative will save other vulnerable hospitals may depend on the generosity of their communities.

## Authors and Contributors

---

**H. Carol Saul**

Partner, Atlanta Office  
404.873.8694  
carol.saul@agg.com

**Alex B. Foster**

Associate, Atlanta Office  
404.873.8598  
alexander.foster@agg.com

not *if*, but *how*.<sup>®</sup>

## About Arnall Golden Gregory LLP

---

Arnall Golden Gregory, a law firm with more than 150 attorneys in Atlanta and Washington, DC, employs a “business sensibility” approach, developing a deep understanding of each client’s industry and situation in order to find a customized, cost-sensitive solution, and then continuing to help them stay one step ahead. Selected for The National Law Journal’s prestigious 2013 Midsize Hot List, the firm offers corporate, litigation and regulatory services for numerous industries, including healthcare, life sciences, global logistics and transportation, real estate, food distribution, financial services, franchising, consumer products and services, information services, energy and manufacturing. AGG subscribes to the belief “not if, but how.” Visit [www.agg.com](http://www.agg.com).

**Atlanta Office**

171 17th Street, NW  
Suite 2100  
Atlanta, GA 30363

**Washington, DC Office**

1775 Pennsylvania Avenue, NW  
Suite 1000  
Washington, DC 20006

To subscribe to future alerts, insights and newsletters: <http://www.agg.com/subscribe/>

©2016. Arnall Golden Gregory LLP. This legal insight provides a general summary of recent legal developments. It is not intended to be, and should not be relied upon as, legal advice. Under professional rules, this communication may be considered advertising material.