### As Introduced

132nd General Assembly Regular Session 2017-2018

H. B. No. 462

**Representatives Schuring, West** 

# A BILL

To amend section 117.10 and to enact section	1
3727.11 of the Revised Code to require that a	2
for-profit hospital and its affiliated health	3
care facilities in certain counties follow	4
specified procedures before ceasing operations	5
or closing, and to declare an emergency.	6

## BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 117.10 be amended and section	7
3727.11 of the Revised Code be enacted to read as follows:	8
Sec. 117.10. (A) The auditor of state shall audit all	9
public offices as provided in this chapter. The auditor of state	10
also may audit the specific funds or accounts of private	11
institutions, associations, boards, and corporations into which	12
has been placed or deposited public money from a public office	13
and may require of them annual reports in such form as the	14
auditor of state prescribes. The auditor of state may audit some	15
or all of the other funds or accounts of a private institution,	16
association, board, or corporation that has received public	17
money from a public office only if one or more of the following	18
applies:	19

(1) The audit is specifically required or authorized by 20 the Revised Code; 21 (2) The private institution, association, board, or 22 corporation requests that the auditor of state audit some or all 23 of its other funds or accounts; 24 (3) All of the revenue of the private institution, 2.5 association, board, or corporation is composed of public money; 26 27 (4) The private institution, association, board, or 28 corporation failed to separately and independently account for the public money in its possession, in violation of section 29 117.431 of the Revised Code; 30 (5) The auditor of state has a reasonable belief that the 31 private institution, association, board, or corporation 32 illegally expended, converted, misappropriated, or otherwise 33 cannot account for the public money it received from a public 34 office and that it is necessary to audit its other funds or 35 accounts to make that determination. 36 (B) If the auditor of state performs or contracts for the 37 performance of an audit, including a special audit, of the 38 public employees retirement system, school employees retirement 39 system, state teachers retirement system, state highway patrol 40 retirement system, or Ohio police and fire pension fund, the 41 auditor of state shall make a timely report of the results of 42 the audit to the Ohio retirement study council. 43 (C) The auditor of state may audit the accounts of any 44 provider as defined in section 5164.01 of the Revised Code. 45

(D) If a public office has been audited by an agency of
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the United States government, the auditor of state may, if
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satisfied that the federal audit has been conducted according to
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principles and procedures not contrary to those of the auditor of state, use and adopt the federal audit and report in lieu of an audit by the auditor of state's own office.

(E) Within thirty days after the creation or dissolution or the winding up of the affairs of any public office, that public office shall notify the auditor of state in writing that this action has occurred.

(F) Nothing in this section precludes the auditor of state
from issuing to a private institution, association, board, or
corporation a subpoena and compulsory process for the attendance
of witnesses or the production of records under section 117.18
of the Revised Code if the subpoena and compulsory process is in
furtherance of an audit the auditor of state is authorized by
law to perform.

<u>(</u> G) '	The	auditor	of	state	s sl	nall	perform	the	duties	63
<u>described</u>	in	section	372	27.11	of	the	Revised	Code	<u>e.</u>	64

#### Sec. 3727.11. (A) As used in this section:

(1) "Affiliated health care facility" means a health care	66
facility, including a health care practitioner's office but	67
excluding a hospital, at which preventive, diagnostic,	68
therapeutic, acute convalescent, rehabilitation, mental health,	69
intellectual disability, intermediate care, or skilled nursing	70
services are provided and which is owned, leased, operated, or	71
controlled, in whole or in part, by a for-profit hospital.	72

(2) "Corporation" and "foreign corporation" have the same73meanings as in section 1701.01 of the Revised Code.74

(3) "For-profit hospital" means either of the following:
 (a) A hospital registered with the department of health
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under section 3701.07 of the Revised Code that is a corporation 77 or foreign corporation; 78 (b) A hospital registered with the department of health 79 under section 3701.07 of the Revised Code that is owned, leased, 80 operated, or controlled by a corporation or foreign corporation. 81 (B) On and after the effective date of this section, no 82 for-profit hospital in a county with a population of at least 83 three hundred seventy thousand but less than three hundred 84 seventy-five thousand according to the most recent population 85 estimates issued by the United States census bureau may 86 permanently cease operations or permanently close unless both of 87 the following are the case: 88 (1) The auditor of state has determined that the procedure 89 specified in division (C) of this section has been followed. 90 (2) If applicable and after the determination in division 91 (B) (1) of this section is made, the hospital has complied with 92 voluntary dissolution procedures specified in sections 1701.86 93 to 1701.882 of the Revised Code. 94 (C) Before a for-profit hospital in a county described in 95 division (B) of this section may permanently cease operations or 96 permanently close, it must do all of the following: 97 (1) Submit to the auditor sufficient evidence of poor 98 financial condition, supported by audited financial statements, 99 that justifies the hospital's cessation of operations or 100 <u>closure;</u> 101 (2) Submit to the auditor sufficient evidence of good-102 faith negotiations with a least three other hospitals or 103 hospital systems to purchase it and its affiliated health care 104 105 facilities;

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(3) Accept new patients and continue clinical operations	106
for at least nine months after publicly announcing its intent to	107
<u>cease operations or close;</u>	108
(4) Submit to the auditor a credible plan for the transfer	109
of each patient for care and of each health care practitioner	110
for employment to another hospital or health care facility, as	111
applicable, located not more than fifteen miles from the	112
originating hospital or facility;	113
(5) Submit to the auditor sufficient evidence that all	114
outstanding debts to persons and government entities in the	115
<u>county in which it is located have been paid;</u>	116
county in which it is located have been paid,	110
(6) Submit to the auditor sufficient evidence that it has	117
paid all taxes levied by the state or by a subdivision or other	118
taxing unit of the state, including taxes held in trust by the	119
hospital such as employer-withheld income taxes and sales or use	120
taxes, for which the hospital is liable.	121
(D) The auditor's determination described in division (B)	122
(1) of this section is final.	123
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(E) If the auditor determines that a for-profit hospital	124
in a county described in division (B) of this section is not in	125
compliance with this section, the auditor may petition the court	126
of common pleas in that county for injunctive relief. The court	127
shall grant injunctive relief upon a showing that the hospital	128
<u>is not in compliance.</u>	129
Section 2. That existing section 117.10 of the Revised	130
Code is hereby repealed.	131
Section 3. Section 117.10 of the Revised Code is presented	132
in this act as a composite of the section as amended by both Am.	132
Sub. H.B. 59 and Am. S.B. 67 of the 130th General Assembly. The	134

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### H. B. No. 462 As Introduced

General Assembly, applying the principle stated in division (B)135of section 1.52 of the Revised Code that amendments are to be136harmonized if reasonably capable of simultaneous operation,137finds that the composite is the resulting version of the section138in effect prior to the effective date of the section as139presented in this act.140

Section 4. This act is hereby declared to be an emergency 141 measure necessary for the immediate preservation of the public 142 peace, health, and safety. The reason for such necessity is that 143 the closure of a hospital and its affiliated health care 144 facilities as described in this act is likely to cause a medical 145 crisis for thousands of residents who need access to primary and 146 critical care. Therefore, this act shall go into immediate 147 effect. 148