

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

Introduced by Reps. VanWoerkom and Lilly

ENROLLED HOUSE BILL No. 5876

AN ACT to amend 1945 PA 47, entitled “An act to authorize 2 or more cities, townships, and villages, or any combination of cities, townships, and villages, to incorporate a hospital authority for planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining, and operating 1 or more community hospitals and related buildings or structures and related facilities; to provide for the sale, lease, or other transfer of a hospital owned by a hospital authority to a nonprofit corporation established under the laws of this state for no or nominal monetary consideration; to define hospitals and community hospitals; to provide for changes in the membership therein; to authorize the cities, townships, and villages to levy taxes for community hospital purposes; to provide for the issuance of bonds; to provide for the pledge of assessments; to provide for borrowing money for operation and maintenance and issuing notes for operation and maintenance; to validate elections heretofore held and notes heretofore issued; to validate bonds heretofore issued; to authorize condemnation proceedings; to grant certain powers of a body corporate; to validate and ratify the organization, existence, and membership of entities acting as hospital authorities under the act and the actions taken by hospital authorities and by the members of the hospital authorities; and to prescribe penalties and provide remedies,” by amending section 9 (MCL 331.9), as amended by 1990 PA 69.

The People of the State of Michigan enact:

Sec. 9. (1) For purposes of a hospital authority established under this act, the hospital board may purchase, lease, accept by gift or devise, or condemn private property. The hospital board may sell, exchange or otherwise transfer, lease, hold, manage, and control a property, asset, or hospital owned by the hospital board. Subject to subsections (2), (14), and (19), the sale, exchange, transfer, or lease of a property, asset, or hospital must be for its market value and the money received from that sale, exchange, transfer, or lease must be retained by the hospital authority. If acquired by condemnation, 1911 PA 149, MCL 213.21 to 213.25, and the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, apply.

(2) Except as otherwise provided in subsection (19), a hospital authority whose jurisdiction has a member population of fewer than 300,000 may, by resolution, provide for the sale, lease, or other transfer of a hospital owned by the hospital board, under this subsection and subsections (3) to (12). The resolution must include a copy of the document proposed to effect the sale, lease, or other transfer. If a hospital authority passes a resolution described in this subsection, the hospital authority also shall provide by resolution for a public vote of the electors at large of all cities, villages, and townships in the hospital authority on the question of the sale, lease, or other transfer of the hospital. The election must be conducted in the same manner as provided in section 4 for the approval of an additional tax for capital improvements. If the sale, lease, or other transfer of the hospital is approved by a majority of the voters, the hospital board may sell, lease, or otherwise transfer a hospital owned by

the hospital board on terms and conditions considered reasonable by the hospital board, including a sale, lease, or other transfer for no or nominal monetary consideration, subject to subsections (6) to (8) and all of the following conditions:

(a) The sale, lease, or other transfer from the hospital authority must be to a nonprofit corporation established under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, and organized specifically for the ownership and operation of the hospital. The nonprofit corporation shall meet both of the following requirements:

(i) At the time of the sale, lease, or other transfer or within 6 months after the date of the sale, lease, or other transfer, be an entity exempt from federal income tax under section 501(c) of the internal revenue code of 1986, 26 USC 501, or a comparable successor provision.

(ii) At the time of the sale, lease, or other transfer from the hospital authority, the majority of the members of the board of directors of the nonprofit corporation are also members of the board of the hospital authority.

(b) At the time of the sale, lease, or other transfer from the hospital authority, the articles of incorporation of the nonprofit corporation and the contractual arrangements between the hospital authority and the nonprofit corporation must require that the nonprofit corporation operate the hospital as a nonprofit community hospital open to the general public that serves the general population residing in the service area of the hospital authority.

(c) At the time of the sale, lease, or other transfer from the hospital authority, the articles of incorporation of the nonprofit corporation and the contractual arrangements between the hospital authority and the nonprofit corporation must require that the nonprofit corporation shall not sell, lease, or otherwise transfer the hospital without the express consent of the hospital authority. If the sale, lease, or other transfer of the hospital by the nonprofit corporation is approved by the hospital authority, the nonprofit corporation may sell, lease, or otherwise transfer the hospital on terms and conditions considered reasonable by the nonprofit corporation, including a sale, lease, or other transfer for no or nominal monetary consideration.

(d) If the hospital authority has ever levied an additional tax for capital improvements under section 4, the hospital authority shall pay back to each member unit of the hospital authority, on terms and conditions as agreed upon by the hospital board and each member unit, an amount equal to all taxes for capital improvement collected within the 60 months immediately preceding the sale, lease, or other transfer with respect to property located in the member unit, and any remaining uncollected portion of the tax levy must not then be collected.

(3) As used in subsection (2), "hospital" includes all property, real and personal, tangible and intangible, including without limitation cash and accounts receivable, used in the operation and management of the hospital.

(4) If self-liquidating bonds have been issued by the hospital authority under this act, and if the bonds are outstanding, a lease of a hospital under subsection (2), with or without a transfer to the nonprofit corporation at the expiration of the lease term and with or without monetary consideration, is not a violation of this act or of any bond resolution or ordinance adopted under this act if the lease does all of the following:

(a) Requires the lessee to pay rent to the hospital authority in an amount sufficient to pay the principal and interest obligations of the bonds as they become due.

(b) Requires the lessee to maintain the various bond funds as required by this act and by the bond resolution or ordinance.

(c) Provides for the continuation of the lien created by this act and by the bond resolution or ordinance on the net revenues of the hospital.

(d) Requires the lessee to operate the hospital in a manner consistent with the bond resolution or ordinance.

(5) If self-liquidating bonds have been issued by the hospital authority under this act, and if the bonds are outstanding, a sale of a hospital under subsection (2) is not a violation of this act or of any bond resolution or ordinance adopted under this act if all of the following conditions are met:

(a) The outstanding bonds are defeased.

(b) Defeasance of the existing bonded indebtedness is accomplished by depositing sufficient cash or United States treasury obligations, or both, in escrow in an amount sufficient, including interest to be earned on the funds and obligations placed in escrow, to provide for payment of all interest, principal, and premium, if any, when and as due on the outstanding bonds, including final payment. As used in this subdivision, "final payment" means the final payment due at the maturity of the bonds or on the redemption of the bonds before maturity on a date on which the bonds are callable for redemption if irrevocable arrangements have been made to call the bonds for redemption on that date.

(c) The contract of sale contains provisions implementing this subsection.

(6) Subject to subsection (9), if a hospital authority passes a resolution providing for an election as provided in subsection (2), the legislative body of a city, village, or township participating in the hospital authority may, within 90 days after the date the resolution is passed by the hospital authority, pass a resolution to withdraw

from membership in the authority. If the resolution to withdraw as a member of the authority is passed by the legislative body, the election under subsection (2) must not be held unless a majority of the hospital authority board concurs in the withdrawal of that member unit. If the board concurs in the withdrawal, the withdrawal is effective on the date of the sale, lease, or other transfer of the hospital after the election under subsection (2). After the effective date of the withdrawal, the withdrawing member unit is not subject to any tax levy or other request for funds made by the hospital authority under this act or otherwise, and is not entitled to any of the assets of the hospital authority.

(7) Subject to subsection (9) and except as otherwise provided in this subsection, if a hospital authority passes a resolution providing for an election under subsection (2), the legislative body of a city, village, or township participating in the hospital authority may, within 90 days after the date the resolution is passed by the hospital authority, provide by resolution for a public vote of the electors of the city, village, or township on the question of the withdrawal of that unit from membership in the hospital authority. The election must be held at the same time as the at large election held under subsection (2) and conducted in the same manner as provided in section 4 for the approval of an additional tax for capital improvements. If an election is called by a member unit under this subsection, its vote is a separate vote for that unit on the question of withdrawal from the hospital authority. However, an election under this subsection or under subsection (2) must not be conducted unless the hospital board has by majority vote consented to the withdrawal of the member unit that has resolved to hold an election on the question of withdrawal from the authority under this subsection. If the board concurs in the withdrawal, the withdrawal is effective on the date of the sale, lease, or other transfer of the hospital after the election under subsection (2). After the effective date of the withdrawal, the withdrawing member unit is not subject to any tax levy or other request for funds made by the hospital authority under this act or otherwise, and is not entitled to any of the assets of the hospital authority.

(8) Subject to subsection (9) and except as otherwise provided in this subsection, if a hospital authority passes a resolution providing for an election under subsection (2), the electors of a city, village, or township participating in the hospital authority may, by petition signed by a number of qualified and registered electors residing within the city, village, or township equal to not less than 5% of the number of votes cast by the qualified and registered electors in that city, village, or township for secretary of state at the last general election in which a secretary of state was elected, require a public vote of the electors in that city, village, or township on the question of the withdrawal of that unit from membership in the hospital authority. The petitions must be submitted to the clerk of the city, village, or township within 90 days after the passage of the resolution by the hospital authority providing for an election under subsection (2). If a sufficient number of signatures are submitted, the clerk of the city, village, or township shall take the steps necessary to provide for an election. The election must be held at the same time as the at large election held under subsection (2) and conducted in the same manner as provided in section 4 for the approval of an additional tax for capital improvements. If an election is required in a member unit under this subsection, its vote is a separate vote for that unit on the question of withdrawal from the hospital authority. However, an election under this subsection or under subsection (2) must not be conducted unless by a majority vote the hospital board has consented to the withdrawal of the member unit. If the board concurs in the withdrawal, the withdrawal is effective on the date of the sale, lease, or other transfer of the hospital after the election under subsection (2). After the effective date of the withdrawal, the withdrawing member unit is not subject to any tax levy or other request for funds made by the hospital authority under this act or otherwise, and is not entitled to any of the assets of the hospital authority.

(9) If, at the election held under subsection (2), a majority of the electors at large do not vote to approve the sale, lease, or other transfer of the hospital to a nonprofit corporation, a resolution passed under subsection (6) or an election held under subsection (7) or (8) to withdraw a city, village, or township from participation in the hospital authority is void.

(10) An election held under subsection (8) takes precedence over a resolution passed under subsection (6).

(11) For a lease or other transfer of a hospital under subsection (2), the total bonded indebtedness of the hospital after the lease or transfer must not be increased so as to exceed 60% of the total asset value of the hospital without a majority vote of the members serving on the hospital authority board. As used in this subsection and subsection (12), "total asset value" means the total value of the various assets of the hospital, including assets to be constructed or acquired by means of the additional proposed bonded indebtedness, as shown on an audited financial statement that includes all bonded indebtedness of the hospital.

(12) For a lease or other transfer of a hospital under subsection (2), the total bonded indebtedness of the hospital after the lease or transfer must not be increased so as to exceed 80% of the total asset value of the hospital unless authorized at a general or special election and approved by a majority vote of the total qualified and registered electors voting on the question in each city, village, and township participating in the hospital authority. The election must be conducted in the same manner as provided in section 4 for the approval of an additional tax for capital improvements.

(13) On the sale, lease, or other transfer of a hospital under this section, the nonprofit corporation or subsequent profit entity shall assume and is bound by any existing labor agreement applicable to the hospital, for the remainder of the term of the agreement. A representative of the employees or a group of employees who is entitled to represent the employees or group of employees under 1947 PA 336, MCL 423.201 to 423.217, shall continue to be the representative of the employees or group of employees if the employees become employees of the nonprofit corporation or subsequent profit entity. This subsection does not limit the rights of the hospital employees, under applicable law, to assert that a bargaining representative protected by this subsection is no longer the representative of the employees.

(14) A hospital authority whose jurisdiction has a member population of more than 300,000 may, by resolution adopted by a majority vote of the hospital board, provide for the sale, lease, or other transfer of a hospital owned by the hospital board on any terms and conditions considered reasonable by the hospital board, including sale, lease, or other transfer for no or nominal monetary consideration, subject to all of the following terms and conditions:

(a) The sale, lease, or other transfer is to a nonprofit corporation established under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, and organized specifically for the ownership and operation of the hospital. The nonprofit corporation shall at the time of the sale, lease, or other transfer or within 6 months after the date of the sale, lease, or other transfer, be an entity exempt from federal income tax under section 501(c) of the internal revenue code of 1986, 26 USC 501, or a comparable successor provision.

(b) The articles of incorporation of the nonprofit corporation and the contractual arrangements between the hospital authority and the nonprofit corporation must at all times require that the nonprofit corporation operate the hospital as a nonprofit community health facility open to the general public that serves the general population residing in the service area of the hospital authority.

(c) The articles of incorporation of the nonprofit corporation and the contractual arrangements between the hospital authority and the nonprofit corporation must at all times require that the nonprofit corporation shall not sell all of the transferred assets without the express consent of the hospital authority and the approval by a majority of the voters in an election conducted in the same manner as provided in section 4 for the approval of an additional tax for capital improvements. If all of the transferred assets are sold under this subdivision, the sale must be for market value and the proceeds of the transaction must be turned over to the hospital authority and used for health care needs within the service area of the hospital authority.

(d) The articles of incorporation of the nonprofit corporation and the contractual arrangements between the hospital authority and the nonprofit corporation must at all times require that the nonprofit corporation adopt and carry out policies designed to ensure that the hospital complies with the requirement of section 20201(2)(a) of the public health code, 1978 PA 368, MCL 333.20201, that patients not be denied appropriate care on the basis of source of payment.

(15) As used in subsection (14), "hospital" includes all property, real and personal, tangible and intangible, including without limitation cash, accounts receivable, and pension reserves used in the operation and management of 1 or more hospitals.

(16) If self-liquidating bonds have been issued by the hospital authority under this act, and if the bonds are outstanding, a sale, lease, or other transfer of a hospital under subsection (14) is not a violation of this act or of any bond resolution or ordinance adopted under this act if all of the following conditions are met:

(a) The outstanding bonds are defeased.

(b) Defeasance of the existing bonded indebtedness is accomplished by depositing sufficient cash or United States treasury obligations, or both, in escrow in an amount sufficient, including interest to be earned on the funds and obligations placed in escrow, to provide for payment of all interest, principal, and premium, if any, when and as due on the outstanding bonds, including final payment. As used in this subdivision, "final payment" means the final payment due at the maturity of the bonds or on redemption of the bonds before maturity on a date on which the bonds are callable for redemption if irrevocable arrangements have been made to call the bonds for redemption on that date.

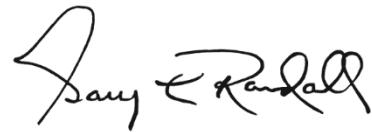
(17) If a hospital authority passes a resolution providing for the sale, lease, or other transfer of a hospital under subsection (14), the legislative body of a city, village, or township participating in the hospital authority may, within 60 days after the resolution is passed by the hospital authority, pass a resolution to withdraw from membership in the authority. If a legislative body of a member city, village, or township in the authority passes a resolution to withdraw under this subsection, the resolution adopted by the hospital authority under subsection (14) is not effective until a majority of the hospital authority board concurs in the withdrawal of that city, village, or township. However, if the sale, lease, or other transfer of the hospital is not carried out, the resolution to withdraw and the hospital authority's resolution of concurrence in the withdrawal are void.

(18) On the sale, lease, or other transfer of a hospital under subsection (14), the nonprofit corporation shall assume and is bound by any existing labor agreement applicable to the hospital, for the remainder of the term of the agreement. A representative of the employees or a group of employees under 1947 PA 336, MCL 423.201 to 423.217, shall continue to be the representative of the employees or group of employees when the employees become employees of the nonprofit corporation or subsequent profit entity. This subsection does not limit the rights of the hospital employees, under applicable law, to assert that a bargaining representative protected by this subsection is no longer the representative of the employees.

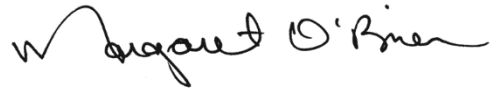
(19) A hospital authority whose jurisdiction has a member population of fewer than 5,000 may by resolution adopted by a majority vote of the hospital board provide for the sale, lease, or other transfer of real property owned by the hospital board to the county in which the member units of the hospital authority are located on any terms and conditions considered reasonable by the hospital board, including sale, lease, or other transfer for no or nominal monetary consideration.

(20) If a hospital authority has completed the purposes for which it was organized, the hospital board, by a vote of the majority of the entire hospital board, may provide for the dissolution of the hospital authority. A hospital authority has not completed the purposes for which it was organized if it has bonds outstanding that have not been defeased as described in this section.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor