

**SUBSTITUTE FOR
HOUSE BILL NO. 5876**

A bill 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:

1 Sec. 9. (1) For purposes of a hospital authority established
 2 ~~pursuant to~~**under** this act, the hospital board may purchase, lease,
 3 accept by gift or devise, or condemn private property. The hospital
 4 board may sell, exchange or otherwise transfer, lease, hold,
 5 manage, and control a property, asset, or hospital owned by the
 6 hospital board. Subject to subsections (2), (14), and (19), the
 7 sale, exchange, transfer, or lease of a property, asset, or
 8 hospital ~~shall~~**must** be for its market value and the money ~~se~~
 9 received ~~shall~~**from that sale, exchange, transfer, or lease must** be
 10 retained by the hospital authority. If acquired by condemnation,
 11 ~~Act No. 149 of the Public Acts of 1911, as amended, being sections~~
 12 ~~213.21 to 213.25 of the Michigan Compiled Laws~~**1911 PA 149, MCL**
 13 **213.21 to 213.25**, and the uniform condemnation procedures act, ~~Act~~
 14 ~~No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77~~
 15 ~~of the Michigan Compiled Laws, shall apply.~~**1980 PA 87, MCL 213.51**
 16 **to 213.75, apply.**

17 (2) Except as otherwise provided in subsection (19), a
 18 hospital authority whose jurisdiction has a member population of
 19 fewer than 300,000 may, by resolution, provide for the sale, lease,
 20 or other transfer of a hospital owned by the hospital board,
 21 ~~pursuant to~~**under** this subsection and subsections (3) to (12). The
 22 resolution ~~shall~~**must** include a copy of the document proposed to
 23 effect the sale, lease, or other transfer. If a hospital authority

1 passes ~~such~~ a resolution **described in this subsection**, the hospital
 2 authority also shall provide by resolution for a public vote of the
 3 electors at large of all cities, villages, and townships in the
 4 hospital authority on the question of the sale, lease, or other
 5 transfer of the hospital. The election ~~shall~~**must** be conducted in
 6 the same manner as provided in section 4 for the approval of an
 7 additional tax for capital improvements. If the sale, lease, or
 8 other transfer of the hospital is approved by a majority of the
 9 voters, the hospital board may sell, lease, or otherwise transfer a
 10 hospital owned by the hospital board on terms and conditions
 11 considered reasonable by the hospital board, including a sale,
 12 lease, or other transfer for no or nominal monetary consideration,
 13 subject to subsections (6) to (8) and all of the following
 14 conditions:

15 (a) The sale, lease, or other transfer ~~shall~~**from the hospital**
 16 **authority must** be to a nonprofit corporation established pursuant
 17 ~~to~~**under** the nonprofit corporation act, ~~Act No. 162 of the Public~~
 18 ~~Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan~~
 19 ~~Compiled Laws, 1982 PA 162, MCL 450.2101 to 450.3192~~, and organized
 20 specifically for the ownership and operation of the hospital. The
 21 nonprofit corporation shall meet both of the following
 22 requirements:

23 (i) At the time of the sale, lease, or other transfer or within
 24 6 months after the date of the sale, lease, or other transfer, be
 25 an entity exempt from federal income tax under section 501(c) of
 26 the internal revenue code **of 1986, 26 USC 501**, or a comparable
 27 successor provision.

28 (ii) At the time of the sale, lease, or other transfer **from the**
 29 **hospital authority**, the majority of the members of the board of

1 directors of the nonprofit corporation ~~shall~~**are** also ~~be~~ members of
2 the board of the hospital authority.

3 (b) ~~The~~**At the time of the sale, lease, or other transfer from**
4 **the hospital authority, the** articles of incorporation of the
5 nonprofit corporation and the contractual arrangements between the
6 hospital authority and the nonprofit corporation ~~shall at all times~~
7 **must** require that the nonprofit corporation operate the hospital as
8 a nonprofit community hospital open to the general public that
9 serves the general population residing in the service area of the
10 hospital authority.

11 (c) ~~The~~**At the time of the sale, lease, or other transfer from**
12 **the hospital authority, the** articles of incorporation of the
13 nonprofit corporation and the contractual arrangements between the
14 hospital authority and the nonprofit corporation ~~shall at all times~~
15 **must** require that the nonprofit corporation shall not sell, lease,
16 or otherwise transfer the hospital without the express consent of
17 the hospital authority. ~~and the approval by a majority of the~~
18 ~~voters as required in this subsection for the sale, lease, or other~~
19 ~~transfer of a hospital from the hospital board to a nonprofit~~
20 ~~corporation. If the hospital is sold, leased, or otherwise~~
21 ~~transferred pursuant to this subdivision, the sale, lease, or other~~
22 ~~transfer shall be for market value and the proceeds of the~~
23 ~~transaction shall be turned over to the hospital authority.~~**If the**
24 **sale, lease, or other transfer of the hospital by the nonprofit**
25 **corporation is approved by the hospital authority, the nonprofit**
26 **corporation may sell, lease, or otherwise transfer the hospital on**
27 **terms and conditions considered reasonable by the nonprofit**
28 **corporation, including a sale, lease, or other transfer for no or**
29 **nominal monetary consideration.**

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

11 ~~(c) The articles of incorporation of the nonprofit corporation~~
 12 ~~and the contractual arrangements between the hospital authority and~~
 13 ~~the nonprofit corporation shall at all times require that the~~
 14 ~~nonprofit corporation adopt and carry out policies designed to~~
 15 ~~ensure both of the following:~~

16 ~~(i) That hospital care is provided to a reasonable degree to~~
 17 ~~indigent persons in the corporation's hospital service area free of~~
 18 ~~charge.~~

19 ~~(ii) That the hospital complies with the requirement of section~~
 20 ~~20201(2)(a) of the public health code, Act No. 368 of the Public~~
 21 ~~Acts of 1978, being section 333.20201 of the Michigan Compiled~~
 22 ~~Laws, that patients not be denied appropriate care on the basis of~~
 23 ~~source of payment.~~

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

28 (4) If self-liquidating bonds have been issued by the hospital
 29 authority ~~pursuant to~~ **under** this act, and if the bonds are

1 outstanding, a lease of a hospital ~~as provided for in~~**under**
 2 subsection (2), with or without a transfer to the nonprofit
 3 corporation at the expiration of the lease term and with or without
 4 monetary consideration, is not a violation of this act or of any
 5 bond resolution or ordinance adopted ~~pursuant to~~**under** this act if
 6 the lease does all of the following:

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

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

12 (c) Provides for the continuation of the lien created by this
 13 act and by the bond resolution or ordinance ~~upon~~**on** the net
 14 revenues of the hospital.

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

17 (5) If self-liquidating bonds have been issued by the hospital
 18 authority ~~pursuant to~~**under** this act, and if the bonds are
 19 outstanding, a sale of a hospital ~~as provided for in~~**under**
 20 subsection (2) is not a violation of this act or of any bond
 21 resolution or ordinance adopted ~~pursuant to~~**under** this act if all
 22 of the following conditions are met:

23 (a) The outstanding bonds are defeased.

24 (b) Defeasance of the existing bonded indebtedness is
 25 accomplished by depositing sufficient cash or United States
 26 treasury obligations, or both, in escrow in an amount sufficient,
 27 including interest to be earned on the funds and obligations placed
 28 in escrow, to provide for payment of all interest, principal, and
 29 premium, if any, when and as due on the outstanding bonds,

1 including final payment. As used in this subdivision, "final
2 payment" means the final payment due at the maturity of the bonds
3 or ~~upon~~**on** the redemption of the bonds ~~prior to~~**before** maturity on
4 a date on which the bonds are callable for redemption if
5 irrevocable arrangements have been made to call the bonds for
6 redemption on that date.

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

9 (6) Subject to subsection (9), if a hospital authority passes
10 a resolution providing for an election ~~pursuant to~~**as provided in**
11 subsection (2), the legislative body of a city, village, or
12 township participating in the hospital authority may, within 90
13 days after the date the resolution is passed by the hospital
14 authority, pass a resolution to withdraw from membership in the
15 authority. If the resolution to withdraw as a member of the
16 authority is passed by the legislative body, the election ~~provided~~
17 ~~for in~~**under** subsection (2) ~~shall~~**must** not be held unless a
18 majority of the hospital authority board concurs in the withdrawal
19 of that member unit. If the board concurs in the withdrawal, the
20 withdrawal ~~shall be~~**is** effective on the date of the sale, lease, or
21 other transfer of the hospital after the election ~~provided for in~~
22 **under** subsection (2). After the effective date of the withdrawal,
23 the withdrawing member unit is not subject to any tax levy or other
24 request for funds made by the hospital authority under this act or
25 otherwise, and is not entitled to any of the assets of the hospital
26 authority.

27 (7) Subject to subsection (9) and except as otherwise provided
28 in this subsection, if a hospital authority passes a resolution
29 providing for an election ~~pursuant to~~**under** subsection (2), the

1 legislative body of a city, village, or township participating in
2 the hospital authority may, within 90 days after the date the
3 resolution is passed by the hospital authority, provide by
4 resolution for a public vote of the electors of the city, village,
5 or township on the question of the withdrawal of that unit from
6 membership in the hospital authority. The election ~~shall~~**must** be
7 held at the same time as the at large election held under
8 subsection (2) and conducted in the same manner as provided in
9 section 4 for the approval of an additional tax for capital
10 improvements. If an election is called by a member unit under this
11 subsection, its vote ~~shall be~~**is** a separate vote for that unit on
12 the question of withdrawal from the hospital authority. However, an
13 election under this subsection or under subsection (2) ~~shall~~**must**
14 not be conducted unless the hospital board has by majority vote
15 consented to the withdrawal of the member unit that has resolved to
16 hold an election on the question of withdrawal from the authority
17 under this subsection. If the board concurs in the withdrawal, the
18 withdrawal is effective on the date of the sale, lease, or other
19 transfer of the hospital after the election ~~provided for in~~**under**
20 subsection (2). After the effective date of the withdrawal, the
21 withdrawing member unit is not subject to any tax levy or other
22 request for funds made by the hospital authority under this act or
23 otherwise, and is not entitled to any of the assets of the hospital
24 authority.

25 (8) Subject to subsection (9) and except as otherwise provided
26 in this subsection, if a hospital authority passes a resolution
27 providing for an election ~~pursuant to~~**under** subsection (2), the
28 electors of a city, village, or township participating in the
29 hospital authority may, by petition signed by a number of qualified

1 and registered electors residing within the city, village, or
2 township equal to not less than 5% of the number of votes cast by
3 the qualified and registered electors in that city, village, or
4 township for secretary of state at the last general election in
5 which a secretary of state was elected, require a public vote of
6 the electors in that city, village, or township on the question of
7 the withdrawal of that unit from membership in the hospital
8 authority. The petitions ~~shall~~**must** be submitted to the clerk of
9 the city, village, or township within 90 days after the passage of
10 the resolution by the hospital authority providing for an election
11 ~~pursuant to~~**under** subsection (2). If a sufficient number of
12 signatures are submitted, the clerk of the city, village, or
13 township shall take the steps necessary to provide for an election.
14 The election ~~shall~~**must** be held at the same time as the at large
15 election held under subsection (2) and conducted in the same manner
16 as provided in section 4 for the approval of an additional tax for
17 capital improvements. If an election is required in a member unit
18 under this subsection, its vote is a separate vote for that unit on
19 the question of withdrawal from the hospital authority. However, an
20 election under this subsection or under subsection (2) ~~shall~~**must**
21 not be conducted unless by a majority vote the hospital board has
22 consented to the withdrawal of the member unit. If the board
23 concurs in the withdrawal, the withdrawal is effective on the date
24 of the sale, lease, or other transfer of the hospital after the
25 election ~~provided for in~~**under** subsection (2). After the effective
26 date of the withdrawal, the withdrawing member unit is not subject
27 to any tax levy or other request for funds made by the hospital
28 authority under this act or otherwise, and is not entitled to any
29 of the assets of the hospital authority.

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

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

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

21 (12) For a lease or other transfer of a hospital ~~pursuant to~~
22 **under** subsection (2), the total bonded indebtedness of the hospital
23 after the lease or transfer ~~shall~~**must** not be increased so as to
24 exceed 80% of the total asset value of the hospital unless
25 authorized at a general or special election and approved by a
26 majority vote of the total qualified and registered electors voting
27 on the question in each city, village, and township participating
28 in the hospital authority. The election ~~shall~~**must** be conducted in
29 the same manner as provided in section 4 for the approval of an

1 additional tax for capital improvements.

2 (13) ~~Upon~~**On** the sale, lease, or other transfer of a hospital
3 under this section, the nonprofit corporation or subsequent profit
4 entity shall assume and is bound by any existing labor agreement
5 applicable to the hospital, for the remainder of the term of the
6 agreement. A representative of the employees or a group of
7 employees who is entitled to represent the employees or group of
8 employees under ~~Act No. 336 of the Public Acts of 1947, being~~
9 ~~sections 423.201 to 423.216 of the Michigan Compiled Laws, 1947 PA~~
10 **336, MCL 423.201 to 423.217**, shall continue to be the
11 representative of the employees or group of employees if the
12 employees become employees of the nonprofit corporation or
13 subsequent profit entity. This subsection does not limit the rights
14 of the hospital employees, under applicable law, to assert that a
15 bargaining representative protected by this subsection is no longer
16 the representative of the employees.

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

25 (a) The sale, lease, or other transfer is to a nonprofit
26 corporation established ~~pursuant to~~**under** the nonprofit corporation
27 act, ~~Act No. 162 of the Public Acts of 1982, being sections~~
28 ~~450.2101 to 450.3192 of the Michigan Compiled Laws, 1982 PA 162,~~
29 **MCL 450.2101 to 450.3192**, and organized specifically for the

1 ownership and operation of the hospital. The nonprofit corporation
2 shall at the time of the sale, lease, or other transfer or within 6
3 months after the date of the sale, lease, or other transfer, be an
4 entity exempt from federal income tax under section 501(c) of the
5 internal revenue code **of 1986, 26 USC 501**, or a comparable
6 successor provision.

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

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

25 (d) The articles of incorporation of the nonprofit corporation
26 and the contractual arrangements between the hospital authority and
27 the nonprofit corporation ~~shall~~**must** at all times require that the
28 nonprofit corporation adopt and carry out policies designed to
29 ensure that the hospital complies with the requirement of section

1 20201(2) (a) of the public health code, ~~Act No. 368 of the Public~~
 2 ~~Acts of 1978, being section 333.20201 of the Michigan Compiled~~
 3 ~~Laws, 1978 PA 368, MCL 333.20201~~, that patients not be denied
 4 appropriate care on the basis of source of payment.

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

9 (16) If self-liquidating bonds have been issued by the
 10 hospital authority ~~pursuant to~~ **under** this act, and if the bonds are
 11 outstanding, a sale, lease, or other transfer of a hospital ~~as~~
 12 ~~provided for in~~ **under** subsection (14) is not a violation of this
 13 act or of any bond resolution or ordinance adopted ~~pursuant to~~
 14 **under** this act if all of the following conditions are met:

15 (a) The outstanding bonds are defeased.

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

28 (17) If a hospital authority passes a resolution providing for
 29 the sale, lease, or other transfer of a hospital ~~as provided in~~

1 **under** subsection (14), the legislative body of a city, village, or
2 township participating in the hospital authority may, within 60
3 days after the resolution is passed by the hospital authority, pass
4 a resolution to withdraw from membership in the authority. If a
5 legislative body of a member city, village, or township in the
6 authority passes ~~such~~ a resolution **to withdraw under this**
7 **subsection**, the resolution adopted by the hospital authority under
8 subsection (14) is not effective until a majority of the hospital
9 authority board concurs in the withdrawal of that city, village, or
10 township. However, if the sale, lease, or other transfer of the
11 hospital is not carried out, the resolution to withdraw and the
12 hospital authority's resolution of concurrence in the withdrawal
13 are void.

14 (18) ~~Upon~~ **On** the sale, lease, or other transfer of a hospital
15 under subsection (14), the nonprofit corporation shall assume and
16 is bound by any existing labor agreement applicable to the
17 hospital, for the remainder of the term of the agreement. A
18 representative of the employees or a group of employees under ~~Act~~
19 ~~No. 336 of the Public Acts of 1947, being sections 423.201 to~~
20 ~~423.216 of the Michigan Compiled Laws, 1947 PA 336, MCL 423.201 to~~
21 **423.217**, shall continue to be the representative of the employees
22 or group of employees when the employees become employees of the
23 nonprofit corporation or subsequent profit entity. This subsection
24 does not limit the rights of the hospital employees, under
25 applicable law, to assert that a bargaining representative
26 protected by this subsection is no longer the representative of the
27 employees.

28 (19) A hospital authority whose jurisdiction has a member
29 population of fewer than 5,000 may by resolution adopted by a

1 majority vote of the hospital board provide for the sale, lease, or
2 other transfer of real property owned by the hospital board to the
3 county in which the member units of the hospital authority are
4 located on any terms and conditions considered reasonable by the
5 hospital board, including sale, lease, or other transfer for no or
6 nominal monetary consideration.

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