



**House
Legislative
Analysis
Section**

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COUNTY HOSPITAL CORPORATIONS

Senate Bill 266 as passed by the Senate
Senate Bill 267 with House committee amendments
First Analysis (11-10-87)

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Sponsor: Sen. Harry Gast
Senate Committee: Finance
House Committee: Public Health

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S.B. 266 & 267 (11-10-87)

THE APPARENT PROBLEM:

Approximately 18 county hospitals in the state, mostly in the Upper Peninsula and northern lower Michigan, currently operate under Public Act 350 of 1913, which allows counties to establish and maintain public hospitals, or Public Act 109 of 1945, which permits boards of supervisors of certain counties to acquire, establish, maintain, and operate hospitals, county general hospitals, and sanatoria. Counties operating under these statutes, which are 70 and 40 years old, believe that the statutes are outdated in many ways and have asked for legislation that would enable them to compete more effectively in today's health care market.

THE CONTENT OF THE BILLS:

Senate Bill 267 would create the County Health Facilities Act, which would allow the reorganization of county hospitals into public nonprofit hospitals. Senate Bill 266 would amend the Revenue Bond Act (MCL 141.103 and 141.118) to permit the newly reorganized county hospitals the same bonding authority that they have under their present structure. It also would require these reorganized hospitals to continue to provide care to the indigent either for free or at a reduced charge. The two bills are tie-barred.

Senate Bill 267. Ninety days after the effective date of the bill, a county public hospital organized and operated under Public Act 350 of 1913 or Public Act 109 of 1945 (including those that had operated for at least 15 years as though organized under these acts) automatically would be incorporated under the bill unless the county board of commissioners passed a resolution that prohibited the incorporation. If the county board of commissioners passed a resolution prohibiting incorporation of the county hospital, the resolution would be in effect for one year and would have to be renewed yearly to continue the prohibition. If the commissioners failed to renew the resolution, the county public hospital automatically would be incorporated. Once incorporated, a county hospital or its subsidiary would remain incorporated unless or until dissolved by its board, with the approval of a majority of the county board of commissioners.

The county board of commissioners could adopt articles of incorporation for the corporation by resolution, but until they did, the provisions of the bill would constitute the articles of incorporation. Thus, until articles of incorporation providing different board size and terms of office were adopted, the bill would continue the sizes, terms of office, and membership on existing hospital boards. The articles of incorporation could be amended by resolution of a majority of the county board of commissioners, and could be amended for a subsidiary corporation by approval of a majority of the trustees serving on the board of the parent corporation. Appointment of corporation board members would remain within the province of the commissioners,

who would have the final right of approval over the nominees, a list of whom would be provided to the commissioners by the hospital board. The county board of commissioners also would appoint board members to any subsidiary corporation.

The bill contains detailed provisions regarding the financial operations of hospital corporations and subsidiaries, and specifies that the title to any real estate presently vested in a county would remain titled to that county and would not be impaired by reorganization.

The bill would take effect 60 days after it was enacted and would repeal Public Act 350 of 1913 and Public Act 109 of 1945.

HOUSE COMMITTEE ACTION:

The House Public Health Committee adopted amendments to Senate Bill 267 that would require county hospitals to use the state hospital authority, rather than local hospital authorities, for bonding. The committee also adopted an amendment which struck county sanatoria, infirmaries and other health care facilities from the bill, so that only county hospitals would fall under the bill's provisions. The committee also added an amendment that would require reorganized hospitals and their subsidiaries to retain existing employees and collective bargaining agreements.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency (10-19-87), the bills should have no significant impact on the state general fund, either in terms of costs or savings. Any increases in health care services, and therefore additional costs, would probably be offset by increases in operating efficiencies and consequent reduced costs, due to the replacement or upgrading of antiquated facilities and delivery systems.

An indeterminate amount of savings could accrue to certain counties to the extent that the transfer of health care facilities and services to a county nonprofit health care corporation reduced or eliminated the counties' financial obligations to operate or maintain these facilities or services.

ARGUMENTS:

For:

The statutes that govern county hospitals are more than 40 years old, in the case of Public Act 109, and more than 70 years old, in the case of Public Act 350. Over the years, the operation of hospitals has changed dramatically. Unfortunately, county hospitals established under these acts have not been able to adjust to the changing health care industry because of the limiting provisions in these acts. Furthermore, these hospitals generally are located in small towns that face losing their acute patient care

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facilities if action is not taken to allow the hospitals to compete in the health care market.

For:

County hospitals, like other government hospitals, confront declining property tax revenues, bonding limitations, geographic restrictions, cumbersome purchasing requirements, limitations on mergers and affiliations, and a host of other challenges. In addition, the limited wording of their enabling legislation prevents county hospitals from diversifying into other health care areas, such as outpatient clinics and "meals on wheels" for aged and disabled persons; stifles growth, competitiveness, and long-term financial stability; and restricts statutory authority to borrow money. Because of these difficulties, some county hospitals have been sold or incorporated, or have taken actions that were not legal under the current law, in a desperate attempt to change their financial situation. Senate Bill 267 would provide relief in these areas as well as give county hospitals more flexibility in their operations in order to stay alive. Thus, the bill would enhance the corporate powers of county hospitals by allowing the hospitals to become separate and distinct entities for financial and business reasons, but remain under county control.

For:

For those county hospitals not wishing to incorporate, incorporation would not be inevitable, since a county board of commissioners would have 90 days after the effective date of the bill to decide whether or not its county hospital would be incorporated under the provisions of the bill. If the commissioners took no action, the hospital would be incorporated. The commissioners, however, could pass a resolution prohibiting incorporation. Every year thereafter, the commissioners would have to decide whether to incorporate. Thus, control of the hospital would remain with the commissioners, who are the elected representatives of the county residents.

Against:

Residents of counties that operate hospitals for years have supported these hospitals with their tax dollars. Under Senate Bill 267, counties would be giving away their hospitals, and would lose control over them.

Response: Under the bill, a county still would have control over its hospital because a county could modify the articles of incorporation to fit its needs, and the county board of commissioners would appoint members to the hospital boards and subsidiary boards. Thus, the hospital administration still would be answerable to the county. The effect of incorporation would not be to remove the hospital from county control but to allow the hospital to be operated in a more competitive fashion.

Against:

Simply as a "good government" measure the bill should be amended to require positive action by the county board of commissioners to change the status of existing county hospitals. County boards, or even county voters, should be able to vote into incorporation rather than voting to stay out.

Response: Elections would allow private hospitals, which have the financial wherewithal to do so, to mount aggressive campaigns of opposition to the increased potential for competition. Where the need for the kinds of services provided by county hospitals is so great, this possibility should be minimized.

POSITIONS:

The Department of Public Health is not taking a position on the bills. (11-9-87)

The Department of Social Services supports Senate Bill 267 but has not yet analyzed Senate Bill 266. (11-9-87)

The Michigan County Social Services Association opposed the bills as passed by the Senate, but has not yet taken a position on the bills as amended by the House committee. (11-9-87)