

HOUSE BILL No. 5755

June 8, 1988, Introduced by Reps. Richard A. Young, Ostling, Sitz, Barns, Keith, Lynn Owen, DeMars and Dobronski and referred to the Committee on Appropriations.

A bill to amend section 9 of Act No. 47 of the Public Acts of 1945, entitled as amended

"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; and 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,"

as amended by Act No. 117 of the Public Acts of 1987, being section 331.9 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 9 of Act No. 47 of the Public Acts of
2 1945, as amended by Act No. 117 of the Public Acts of 1987, being
3 section 331.9 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 9. (1) For purposes of a hospital authority estab-
6 lished pursuant to this act, the hospital board may purchase,
7 lease, accept by gift or devise, or condemn private property.
8 The hospital board may sell, exchange or otherwise transfer,
9 lease, hold, manage, and control any property, asset, or hospital
10 owned by the hospital board. Subject to ~~subsection~~ SUBSECTIONS
11 (2) AND (14), any sale, exchange, transfer, or lease of any prop-
12 erty, asset, or hospital shall be for its market value and the
13 money so received shall be retained by the hospital authority.
14 If acquired by condemnation, Act No. 149 of the Public Acts of
15 1911, as amended, being sections 213.21 to 213.25 of the Michigan
16 Compiled Laws and the uniform condemnation procedures act, Act
17 No. 87 of the Public Acts of 1980, being sections 213.51 to
18 213.77 of the Michigan Compiled Laws, shall apply.

19 (2) A hospital authority whose jurisdiction has a member
20 population of less than 300,000 may, by resolution, provide for
21 the sale, lease, or other transfer of a hospital owned by the
22 hospital board, under this section. The resolution shall include
23 a copy of the document proposed to effect the sale, lease, or
24 other transfer. If a hospital authority passes such a

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

14 (a) The sale, lease, or other transfer shall be to a non-
15 profit corporation established pursuant to the nonprofit corpora-
16 tion act, Act No. 162 of the Public Acts of 1982, being sections
17 450.2101 to 450.3192 of the Michigan Compiled Laws, and organized
18 specifically for the ownership and operation of the hospital.
19 The nonprofit corporation shall meet both of the following
20 requirements:

21 (i) At the time of the sale, lease, or other transfer or
22 within 6 months after the date of the sale, lease, or other
23 transfer, be an entity exempt from federal income tax under
24 section 501(c) of the internal revenue code or a comparable suc-
25 cessor provision.

26 (ii) At the time of the sale, lease, or other transfer, the
27 majority of the members of the board of directors of the

1 nonprofit corporation shall also be members of the board of the
2 hospital authority.

3 (b) The articles of incorporation of the nonprofit corpora-
4 tion and the contractual arrangements between the hospital
5 authority and the nonprofit corporation shall at all times
6 require that the nonprofit corporation operate the hospital as a
7 nonprofit community hospital open to the general public which
8 serves the general population residing in the service area of the
9 hospital authority.

10 (c) The articles of incorporation of the nonprofit corpora-
11 tion and the contractual arrangements between the hospital
12 authority and the nonprofit corporation shall at all times
13 require that the nonprofit corporation shall not sell, lease, or
14 otherwise transfer the hospital without the express consent of
15 the hospital authority and the approval by a majority of the
16 voters as required in this subsection for the sale, lease, or
17 other transfer of a hospital from the hospital board to a non-
18 profit corporation. If the hospital is sold, leased, or other-
19 wise transferred pursuant to this subdivision, the sale, lease,
20 or other transfer shall be for market value and the proceeds of
21 the transaction shall be turned over to the hospital authority.

22 (d) If the hospital authority has ever levied an additional
23 tax for capital improvements under section 4, then the hospital
24 authority shall pay back to each member unit of the hospital
25 authority, upon such terms and conditions as may be agreed upon
26 by the hospital board and each member unit, an amount equal to
27 all such taxes for capital improvement collected within the 60

1 months immediately preceding the sale, lease, or other transfer
2 with respect to property located in the member unit, and any
3 remaining uncollected portion of the tax levy shall not then be
4 collected.

5 (e) The articles of incorporation of the nonprofit corpora-
6 tion and the contractual arrangements between the hospital
7 authority and the nonprofit corporation shall at all times
8 require that the nonprofit corporation adopt and carry out poli-
9 cies designed to ensure both of the following:

10 (i) That hospital care is provided to a reasonable degree to
11 indigent persons in the corporation's hospital service area free
12 of charge.

13 (ii) That the hospital complies with the requirement of
14 section 20201(2)(a) of the public health code, Act No. 368 of the
15 Public Acts of 1978, being section 333.20201 of the Michigan
16 Compiled Laws, that patients not be denied appropriate care on
17 the basis of source of payment.

18 (3) As used in subsection (2), "hospital" includes all prop-
19 erty, real and personal, tangible and intangible, including with-
20 out limitation cash and accounts receivable, used in the opera-
21 tion and management of the hospital.

22 (4) If self-liquidating bonds have been issued by the hospi-
23 tal authority pursuant to this act, and if the bonds are out-
24 standing, a lease of a hospital as provided for in subsection
25 (2), with or without a transfer to the nonprofit corporation at
26 the expiration of the lease term and with or without monetary
27 consideration, shall not be construed as a violation of this act

1 or of any bond resolution or ordinance adopted pursuant to this
2 act if the lease does all of the following:

3 (a) Requires the lessee to pay rent to the hospital author-
4 ity in an amount sufficient to pay the principal and interest
5 obligations of the bonds as they become due.

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

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

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

13 (5) If self-liquidating bonds have been issued by the hospi-
14 tal authority pursuant to this act, and if the bonds are out-
15 standing, a sale of a hospital as provided for in subsection (2)
16 shall not be construed as a violation of this act or of any bond
17 resolution or ordinance adopted pursuant to this act if all of
18 the following conditions are met:

19 (a) The outstanding bonds are defeased.

20 (b) Defeasance of the existing bonded indebtedness is accom-
21 plished by depositing sufficient cash or United States treasury
22 obligations, or both, in escrow in an amount sufficient, includ-
23 ing interest to be earned on the funds and obligations placed in
24 escrow, to provide for payment of all interest, principal, and
25 premium, if any, when and as due on the outstanding bonds,
26 including final payment. As used in this subdivision, "final
27 payment" means the final payment due at the maturity of the bonds

1 or upon the redemption of the bonds prior to maturity on a date
2 on which the bonds are callable for redemption if irrevocable
3 arrangements have been made to call the bonds for redemption on
4 that date.

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

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

25 (7) Subject to subsection (9) and except as otherwise pro-
26 vided in this subsection, if a hospital authority passes a
27 resolution providing for an election pursuant to subsection (2),

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

26 (8) Subject to subsection (9) and except as otherwise
27 provided in this subsection, if a hospital authority passes a

1 resolution providing for an election pursuant to subsection (2),
2 the electors of a city, village, or township participating in the
3 hospital authority may, by petition signed by a number of quali-
4 fied and registered electors residing within the city, village,
5 or township equal to not less than 5% of the number of votes cast
6 by the qualified and registered electors in that city, village,
7 or township for secretary of state at the last general election
8 in which a secretary of state was elected, require a public vote
9 of the electors in that city, village, or township on the ques-
10 tion of the withdrawal of that unit from membership in the hospi-
11 tal authority. The petitions shall be submitted to the clerk of
12 the city, village, or township within 90 days after the passage
13 of the resolution by the hospital authority providing for an
14 election pursuant to subsection (2). If a sufficient number of
15 signatures are submitted, the clerk of the city, village, or
16 township shall take the steps necessary to provide for an
17 election. The election shall be held at the same time as the at
18 large election held under subsection (2) and conducted in the
19 same manner as provided in section 4 for the approval of an addi-
20 tional tax for capital improvements. If an election is required
21 in a member unit under this subsection, its vote shall be a sepa-
22 rate vote for that unit on the question of withdrawal from the
23 hospital authority. However, an election under this subsection
24 or under subsection (2) shall not be conducted unless by a major-
25 ity vote the hospital board has consented to the withdrawal of
26 the member unit. If the board concurs in the withdrawal, the
27 withdrawal shall be effective on the date of the sale, lease, or

1 other transfer of the hospital after the election provided for in
2 subsection (2). After the effective date of the withdrawal, the
3 withdrawing member unit shall not be subject to any tax levy or
4 other request for funds made by the hospital authority under this
5 act or otherwise, and shall not be entitled to any of the assets
6 of the hospital authority.

7 (9) If, at the election held pursuant to subsection (2), a
8 majority of the electors at large do not vote to approve the
9 sale, lease, or other transfer of the hospital to a nonprofit
10 corporation, a resolution passed under subsection (6) or an elec-
11 tion held under subsection (7) or (8) to withdraw a city, vil-
12 lage, or township from participation in the hospital authority
13 shall be void.

14 (10) An election held under subsection (8) shall take prece-
15 dence over a resolution passed under subsection (6).

16 (11) For a lease or other transfer of a hospital pursuant to
17 subsection (2), the total bonded indebtedness of the hospital
18 after the lease or transfer shall not be increased so as to
19 exceed 60% of the total asset value of the hospital without a
20 majority vote of the members serving on the hospital authority
21 board. As used in this subsection and subsection (12), "total
22 asset value" means the total value of the various assets of the
23 hospital, including assets to be constructed or acquired by means
24 of the additional proposed bonded indebtedness, as shown on an
25 audited financial statement which includes all bonded indebted-
26 ness of the hospital.

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

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

25 (14) A HOSPITAL AUTHORITY WHOSE JURISDICTION HAS A MEMBER
26 POPULATION OF MORE THAN 300,000 MAY, BY RESOLUTION ADOPTED BY A
27 MAJORITY VOTE OF THE HOSPITAL BOARD, PROVIDE FOR THE SALE, LEASE,

1 OR OTHER TRANSFER OF A HOSPITAL OWNED BY THE HOSPITAL BOARD ON
2 ANY TERMS AND CONDITIONS CONSIDERED REASONABLE BY THE HOSPITAL
3 BOARD, INCLUDING SALE, LEASE, OR OTHER TRANSFER FOR NO OR NOMINAL
4 MONETARY CONSIDERATION, SUBJECT TO ALL OF THE FOLLOWING TERMS AND
5 CONDITIONS:

6 (A) THE SALE, LEASE, OR OTHER TRANSFER SHALL BE TO A NON-
7 PROFIT CORPORATION ESTABLISHED PURSUANT TO THE NONPROFIT CORPORA-
8 TION ACT, ACT NO. 162 OF THE PUBLIC ACTS OF 1982, BEING SECTIONS
9 450.2101 TO 450.3192 OF THE MICHIGAN COMPILED LAWS, AND ORGANIZED
10 SPECIFICALLY FOR THE OWNERSHIP AND OPERATION OF THE HOSPITAL.
11 THE NONPROFIT CORPORATION SHALL AT THE TIME OF THE SALE, LEASE,
12 OR OTHER TRANSFER OR WITHIN 6 MONTHS AFTER THE DATE OF THE SALE,
13 LEASE, OR OTHER TRANSFER, BE AN ENTITY EXEMPT FROM FEDERAL INCOME
14 TAX UNDER SECTION 501(c) OF THE INTERNAL REVENUE CODE OR A COM-
15 PARABLE SUCCESSOR PROVISION.

16 (B) THE ARTICLES OF INCORPORATION OF THE NONPROFIT CORPORA-
17 TION AND THE CONTRACTUAL ARRANGEMENTS BETWEEN THE HOSPITAL
18 AUTHORITY AND THE NONPROFIT CORPORATION SHALL AT ALL TIMES
19 REQUIRE THAT THE NONPROFIT CORPORATION OPERATE THE HOSPITAL AS A
20 NONPROFIT COMMUNITY HEALTH FACILITY OPEN TO THE GENERAL PUBLIC
21 THAT SERVES THE GENERAL POPULATION RESIDING IN THE SERVICE AREA
22 OF THE HOSPITAL AUTHORITY.

23 (C) THE ARTICLES OF INCORPORATION OF THE NONPROFIT CORPORA-
24 TION AND THE CONTRACTUAL ARRANGEMENTS BETWEEN THE HOSPITAL
25 AUTHORITY AND THE NONPROFIT CORPORATION SHALL AT ALL TIMES
26 REQUIRE THAT THE NONPROFIT CORPORATION SHALL NOT SELL ALL OF THE
27 HOSPITAL WITHOUT THE EXPRESS CONSENT OF THE HOSPITAL AUTHORITY

1 AND THE APPROVAL BY A MAJORITY OF THE VOTERS IN AN ELECTION
2 CONDUCTED IN THE SAME MANNER AS PROVIDED IN SECTION 4 FOR THE
3 APPROVAL OF AN ADDITIONAL TAX FOR CAPITAL IMPROVEMENTS. IF THE
4 HOSPITAL IS SOLD PURSUANT TO THIS SUBDIVISION, THE SALE SHALL BE
5 FOR MARKET VALUE AND THE PROCEEDS OF THE TRANSACTION SHALL BE
6 TURNED OVER TO THE HOSPITAL AUTHORITY AND USED FOR HEALTH CARE
7 NEEDS WITHIN THE SERVICE AREA OF THE HOSPITAL AUTHORITY.

8 (D) THE ARTICLES OF INCORPORATION OF THE NONPROFIT CORPORA-
9 TION AND THE CONTRACTUAL ARRANGEMENTS BETWEEN THE HOSPITAL
10 AUTHORITY AND THE NONPROFIT CORPORATION SHALL AT ALL TIMES
11 REQUIRE THAT THE NONPROFIT CORPORATION ADOPT AND CARRY OUT POLI-
12 CIES DESIGNED TO ENSURE THAT THE HOSPITAL COMPLIES WITH THE
13 REQUIREMENT OF SECTION 20201(2)(A) OF THE PUBLIC HEALTH CODE, ACT
14 NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333.20201 OF
15 THE MICHIGAN COMPILED LAWS, THAT PATIENTS NOT BE DENIED APPROPRI-
16 ATE CARE ON THE BASIS OF SOURCE OF PAYMENT.

17 (15) AS USED IN SUBSECTION (14), "HOSPITAL" INCLUDES ALL
18 PROPERTY, REAL AND PERSONAL, TANGIBLE AND INTANGIBLE, INCLUDING
19 WITHOUT LIMITATION CASH, ACCOUNTS RECEIVABLE, AND PENSION
20 RESERVES USED IN THE OPERATION AND MANAGEMENT OF 1 OR MORE
21 HOSPITALS.

22 (16) IF SELF-LIQUIDATING BONDS HAVE BEEN ISSUED BY THE HOS-
23 PITAL AUTHORITY PURSUANT TO THIS ACT, AND IF THE BONDS ARE OUT-
24 STANDING, A SALE, LEASE, OR OTHER TRANSFER OF A HOSPITAL AS PRO-
25 VIDED FOR IN SUBSECTION (14) SHALL NOT BE CONSTRUED AS A VIOLA-
26 TION OF THIS ACT OR OF ANY BOND RESOLUTION OR ORDINANCE ADOPTED
27 PURSUANT TO THIS ACT IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

1 (A) THE OUTSTANDING BONDS ARE DEFEASED.

2 (B) DEFEASANCE OF THE EXISTING BONDED INDEBTEDNESS IS ACCOM-
3 PLISHED BY DEPOSITING SUFFICIENT CASH OR UNITED STATES TREASURY
4 OBLIGATIONS, OR BOTH, IN ESCROW IN AN AMOUNT SUFFICIENT, INCLUD-
5 ING INTEREST TO BE EARNED ON THE FUNDS AND OBLIGATIONS PLACED IN
6 ESCROW, TO PROVIDE FOR PAYMENT OF ALL INTEREST, PRINCIPAL, AND
7 PREMIUM, IF ANY, WHEN AND AS DUE ON THE OUTSTANDING BONDS,
8 INCLUDING FINAL PAYMENT. AS USED IN THIS SUBDIVISION, "FINAL
9 PAYMENT" MEANS THE FINAL PAYMENT DUE AT THE MATURITY OF THE BONDS
10 OR UPON THE REDEMPTION OF THE BONDS PRIOR TO MATURITY ON A DATE
11 ON WHICH THE BONDS ARE CALLABLE FOR REDEMPTION IF IRREVOCABLE
12 ARRANGEMENTS HAVE BEEN MADE TO CALL THE BONDS FOR REDEMPTION ON
13 THAT DATE.

14 (17) IF A HOSPITAL AUTHORITY PASSES A RESOLUTION PROVIDING
15 FOR THE SALE, LEASE, OR OTHER TRANSFER OF A HOSPITAL AS PROVIDED
16 IN SUBSECTION (14), THE LEGISLATIVE BODY OF A CITY, VILLAGE, OR
17 TOWNSHIP PARTICIPATING IN THE HOSPITAL AUTHORITY MAY, WITHIN 60
18 DAYS AFTER THE RESOLUTION IS PASSED BY THE HOSPITAL AUTHORITY,
19 PASS A RESOLUTION TO WITHDRAW FROM MEMBERSHIP IN THE AUTHORITY.
20 IF A LEGISLATIVE BODY OF A MEMBER CITY, VILLAGE, OR TOWNSHIP IN
21 THE AUTHORITY PASSES SUCH A RESOLUTION, THE RESOLUTION ADOPTED BY
22 THE HOSPITAL AUTHORITY UNDER SUBSECTION (14) SHALL NOT BE EFFEC-
23 TIVE UNTIL A MAJORITY OF THE HOSPITAL AUTHORITY BOARD CONCURS IN
24 THE WITHDRAWAL OF THAT CITY, VILLAGE, OR TOWNSHIP. HOWEVER, IF
25 THE SALE, LEASE, OR OTHER TRANSFER OF THE HOSPITAL IS NOT CARRIED
26 OUT, THE RESOLUTION TO WITHDRAW AND THE HOSPITAL AUTHORITY'S
27 RESOLUTION OF CONCURRENCE IN THE WITHDRAWAL ARE VOID.