

# HOUSE BILL No. 5546

February 28, 1990, Introduced by Rep. Gagliardi and referred to the Committee on Public Health.

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. 273 of the Public Acts of 1988, 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. 273 of the Public Acts of 1988, 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~~ A property, asset, or hos-  
10 pital owned by the hospital board. Subject to subsections (2),  
11 ~~and (14), any~~ (14), AND (19), THE sale, exchange, transfer, or  
12 lease of ~~any~~ A property, asset, or hospital shall be for its  
13 market value and the money so received shall be retained by the  
14 hospital authority. If acquired by condemnation, Act No. 149 of  
15 the Public Acts of 1911, as amended, being sections 213.21 to  
16 213.25 of the Michigan Compiled Laws and the uniform condemnation  
17 procedures act, Act No. 87 of the Public Acts of 1980, being sec-  
18 tions 213.51 to 213.77 of the Michigan Compiled Laws, shall  
19 apply.

20       (2) ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (19), A  
21 hospital authority whose jurisdiction has a member population of  
22 ~~less~~ FEWER than 300,000 may, by resolution, provide for the  
23 sale, lease, or other transfer of a hospital owned by the  
24 hospital board, ~~under~~ PURSUANT TO this ~~section~~ SUBSECTION AND

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

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

24 (i) At the time of the sale, lease, or other transfer or  
25 within 6 months after the date of the sale, lease, or other  
26 transfer, be an entity exempt from federal income tax under

1 section 501(c) of the internal revenue code or a comparable  
2 successor provision.

3 (ii) At the time of the sale, lease, or other transfer, the  
4 majority of the members of the board of directors of the non-  
5 profit corporation shall also be members of the board of the hos-  
6 pital authority.

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

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

26 (d) If the hospital authority has ever levied an additional  
27 tax for capital improvements under section 4, then the hospital

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

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

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

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

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

26 (4) If self-liquidating bonds have been issued by the  
27 hospital authority pursuant to this act, and if the bonds are

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

7 (a) Requires the lessee to pay rent to the hospital author-  
8 ity 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  
11 as required by this act and by the bond resolution or ordinance.

12 (c) Provides for the continuation of the lien created by  
13 this act and by the bond resolution or ordinance upon 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 hospi-  
18 tal authority pursuant to this act, and if the bonds are out-  
19 standing, a sale of a hospital as provided for in subsection (2)  
20 ~~shall not be construed as~~ IS NOT a violation of this act or of  
21 any bond resolution or ordinance adopted pursuant to this act if  
22 all of the following conditions are met:

23 (a) The outstanding bonds are defeased.

24 (b) Defeasance of the existing bonded indebtedness is accom-  
25 plished by depositing sufficient cash or United States treasury  
26 obligations, or both, in escrow in an amount sufficient,  
27 including interest to be earned on the funds and obligations

1 placed in escrow, to provide for payment of all interest,  
2 principal, and premium, if any, when and as due on the outstand-  
3 ing bonds, including final payment. As used in this subdivision,  
4 "final payment" means the final payment due at the maturity of  
5 the bonds or upon the redemption of the bonds prior to maturity  
6 on a date on which the bonds are callable for redemption if  
7 irrevocable arrangements have been made to call the bonds for  
8 redemption on that date.

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

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

1 act or otherwise, and ~~shall not be~~ IS NOT entitled to any of  
2 the assets of the hospital authority.

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



1 hospital authority under this act or otherwise, and ~~shall not~~  
2 ~~be~~ IS NOT entitled to any of the assets of the hospital  
3 authority.

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

1 the hospital authority. However, an election under this  
2 subsection or under subsection (2) shall not be conducted unless  
3 by a majority vote the hospital board has consented to the with-  
4 drawal of the member unit. If the board concurs in the withdraw-  
5 al, the withdrawal ~~shall be~~ IS effective on the date of the  
6 sale, lease, or other transfer of the hospital after the election  
7 provided for in subsection (2). After the effective date of the  
8 withdrawal, the withdrawing member unit ~~shall not be~~ IS NOT  
9 subject to any tax levy or other request for funds made by the  
10 hospital authority under this act or otherwise, and ~~shall not~~  
11 ~~be~~ IS NOT entitled to any of the assets of the hospital  
12 authority.

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

20 (10) An election held under subsection (8) ~~shall take~~  
21 TAKES precedence over a resolution passed under subsection (6).

22 (11) For a lease or other transfer of a hospital pursuant to  
23 subsection (2), the total bonded indebtedness of the hospital  
24 after the lease or transfer shall not be increased so as to  
25 exceed 60% of the total asset value of the hospital without a  
26 majority vote of the members serving on the hospital authority  
27 board. As used in this subsection and subsection (12), "total

1 asset value" means the total value of the various assets of the  
2 hospital, including assets to be constructed or acquired by means  
3 of the additional proposed bonded indebtedness, as shown on an  
4 audited financial statement ~~which~~ THAT includes all bonded  
5 indebtedness of the hospital.

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

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

1 applicable law, to assert that a bargaining representative  
2 protected by this subsection is no longer the representative of  
3 the employees.

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

12 (a) The sale, lease, or other transfer ~~shall be~~ IS to a  
13 nonprofit corporation established pursuant to the nonprofit cor-  
14 poration act, Act No. 162 of the Public Acts of 1982, being sec-  
15 tions 450.2101 to 450.3192 of the Michigan Compiled Laws, and  
16 organized specifically for the ownership and operation of the  
17 hospital. The nonprofit corporation shall at the time of the  
18 sale, lease, or other transfer or within 6 months after the date  
19 of the sale, lease, or other transfer, be an entity exempt from  
20 federal income tax under section 501(c) of the internal revenue  
21 code or a comparable successor provision.

22 (b) The articles of incorporation of the nonprofit corpora-  
23 tion and the contractual arrangements between the hospital  
24 authority and the nonprofit corporation shall at all times  
25 require that the nonprofit corporation operate the hospital as a  
26 nonprofit community health facility open to the general public

1 that serves the general population residing in the service area  
2 of the hospital authority.

3 (c) 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 shall not sell all of the  
7 transferred assets without the express consent of the hospital  
8 authority and the approval by a majority of the voters in an  
9 election conducted in the same manner as provided in section 4  
10 for the approval of an additional tax for capital improvements.  
11 If all of the transferred assets are sold pursuant to this subdi-  
12 vision, the sale shall be for market value and the proceeds of  
13 the transaction shall be turned over to the hospital authority  
14 and used for health care needs within the service area of the  
15 hospital authority.

16 (d) 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 adopt and carry out poli-  
20 cies designed to ensure that the hospital complies with the  
21 requirement of section 20201(2)(a) of the public health code, Act  
22 No. 368 of the Public Acts of 1978, being section 333.20201 of  
23 the Michigan Compiled Laws, that patients not be denied appropri-  
24 ate care on the basis of source of payment.

25 (15) As used in subsection (14), "hospital" includes all  
26 property, real and personal, tangible and intangible, including  
27 without limitation cash, accounts receivable, and pension

1 reserves used in the operation and management of 1 or more  
2 hospitals.

3       (16) If self-liquidating bonds have been issued by the hos-  
4 pital authority pursuant to this act, and if the bonds are out-  
5 standing, a sale, lease, or other transfer of a hospital as pro-  
6 vided for in subsection (14) ~~shall not be construed as~~ IS NOT a  
7 violation of this act or of any bond resolution or ordinance  
8 adopted pursuant to this act if all of the following conditions  
9 are met:

10       (a) The outstanding bonds are defeased.

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

23       (17) If a hospital authority passes a resolution providing  
24 for the sale, lease, or other transfer of a hospital as provided  
25 in subsection (14), the legislative body of a city, village, or  
26 township participating in the hospital authority may, within 60  
27 days after the resolution is passed by the hospital authority,

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

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

24 (19) A HOSPITAL AUTHORITY WHOSE JURISDICTION HAS A MEMBER  
25 POPULATION OF FEWER THAN 20,000 MAY BY RESOLUTION ADOPTED BY A  
26 MAJORITY VOTE OF THE HOSPITAL BOARD PROVIDE FOR THE SALE, LEASE,  
27 OR OTHER TRANSFER OF A HOSPITAL OWNED BY THE HOSPITAL BOARD TO

1 THE COUNTY IN WHICH THE MEMBER UNITS OF THE HOSPITAL AUTHORITY  
2 ARE LOCATED ON ANY TERMS AND CONDITIONS CONSIDERED REASONABLE BY  
3 THE HOSPITAL BOARD, INCLUDING SALE, LEASE, OR OTHER TRANSFER FOR  
4 NO OR NOMINAL MONETARY CONSIDERATION.