

SUBSTITUTE FOR
SENATE BILL NO. 846

A bill to amend 1996 PA 522, entitled
"The Michigan biologic products institute transfer act,"
by amending the title and section 3 (MCL 333.26333) and by adding
sections 3a, 3b, 6a, 6b, and 6c; and to repeal acts and parts of
acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act TO ESTABLISH THE MICHIGAN BIOLOGIC PRODUCTS INSTITUTE

3

AS AN INDEPENDENT, AUTONOMOUS STATE AGENCY WITHIN THE DEPARTMENT

4

OF COMMUNITY HEALTH; to authorize the conveyance of the assets

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and liabilities of the state related to the operation of the

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Michigan biologic products institute; to authorize the state

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administrative board to approve the conveyance and to make

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determinations that certain conditions upon the conveyance have

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been met; to permit the acceptance of consideration in exchange

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1 for the conveyance; to make certain findings and determinations
2 of the interest of the state relative to the conveyance; to
3 authorize the state administrative board to approve certain
4 agreements for continued services and products by certain state
5 agencies to transferred facilities or to the state from the
6 transferred facilities; TO ESTABLISH THE MICHIGAN BIOLOGIC PRO-
7 DUCTS COMMISSION AS A TEMPORARY STATE COMMISSION; to authorize
8 the Michigan biologic products commission to negotiate and, upon
9 concurrence of the state administrative board, approve certain
10 agreements related to the conveyance of the assets and liabili-
11 ties of the state associated with the Michigan biologic products
12 institute, certain agreements for the marketing of the assets and
13 liabilities, certain agreements for continued services and pro-
14 ducts, and certain agreements for the retention of rights, inter-
15 ests, and easements in certain conveyed assets; to authorize
16 employees and employee based entities to bid for or make propos-
17 als to acquire the assets and liabilities of the state associated
18 with the Michigan biologic products institute; to prescribe the
19 powers and duties of certain public officers and certain state
20 agencies and departments; to grant exclusive jurisdiction over
21 claims related to the conveyance to the court of claims and to
22 limit the time in which claims related to the conveyance or to
23 the products produced by the Michigan biologic products institute
24 may be brought; to provide for the disposition of the revenue
25 derived from the conveyance; ~~and~~ to make an appropriation; AND
26 TO MAKE A SUPPLEMENTAL APPROPRIATION.

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1 Sec. 3. As used in this act:

2 (a) "Assets" means all or part of the following that are
3 associated with the institute and are subject to conveyance under
4 this act:

5 (i) Real property, including all rights to coal, oil, gas,
6 and other materials, and all rights to sand, gravel, clay, and
7 other nonmetallic minerals, found on, within, or under real prop-
8 erty conveyed under this act, except that the agreement for the
9 conveyance of the assets and liabilities of the institute entered
10 into under this act shall specify that the state shall receive
11 not less than 1/2 of the net royalties from the development, if
12 any, of coal, oil, gas, or other minerals on or under the real
13 estate.

14 (ii) Personal property.

15 (iii) Intangible property.

16 (iv) Product inventory, including, but not limited to, manu-
17 factured products that have been released by the federal food and
18 drug administration for public sale and use, manufactured pro-
19 ducts that have not been released by the federal food and drug
20 administration for public sale and use, and products that are in
21 the process of being manufactured and components of those
22 products.

23 (b) "Chair" means the chair of the commission.

24 (c) "Commission" means the Michigan biologic products com-
25 mission established by Executive Order 1995-25, pursuant to sec-
26 tion 4 of article V of the state constitution of 1963, AND BY
27 SECTION 3B.

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1 (d) "Conveyance" means sale, transfer, assignment, or other
2 disposition.

3 (e) "Institute" means the Michigan biologic products insti-
4 tute established by Executive Order 1995-25, pursuant to section
5 4 of article V of the state constitution of 1963, AND BY SECTION
6 3A.

7 (f) "Local health department" means that term as defined in
8 section 1105 of the public health code, ~~being section 333.1105~~
9 ~~of the Michigan Compiled Laws~~ MCL 333.1105.

10 (g) "Pharmaceutical products fund" means the pharmaceutical
11 products fund established under section 9112 of the public health
12 code, ~~being section 333.9112 of the Michigan Compiled Laws~~ MCL
13 333.9112.

14 (h) "Public health code" means ~~Act No. 368 of the Public~~
15 ~~Acts of 1978, being sections 333.1101 to 333.25211 of the~~
16 ~~Michigan Compiled Laws~~ 1978 PA 368, MCL 333.1101 TO 333.25211.

17 (i) "Real property" means all or a portion of the real prop-
18 erty associated with the institute, more particularly described
19 as follows:

20 (i) A parcel of land in the NE 1/4 of section 5, T4N, R2W,
21 Ingham County, Michigan and more particularly described as com-
22 mencing at the northeast corner of said section 5; thence
23 N89°59'49"W 124.94 feet, on the north line of said section 5;
24 thence S00°00'11"W 33.00 feet, to the point of beginning of this
25 description; thence S33°12'59"W 315.33 feet; thence N53°08'14"W
26 101.37 feet; thence S89°11'38"W 47.55 feet; thence S00°42'03"W
27 63.21 feet; thence S89°45'02"W 73.97 feet; thence S00°59'58"W

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1 106.92 feet; thence 132.16 feet, on the arc of a curve to the
2 right with a central angle of $33^{\circ}53'13''$, a radius of 223.46 feet,
3 and a long chord bearing and distance of $S22^{\circ}22'16''W$ 130.25 feet;
4 thence $S59^{\circ}26'51''W$ 14.65 feet; thence $S77^{\circ}08'54''W$ 92.93 feet;
5 thence $S88^{\circ}34'58''W$ 131.49 feet; thence $S01^{\circ}57'43''E$ 41.46 feet;
6 thence $S88^{\circ}02'17''W$ 153.47 feet; thence $S01^{\circ}57'43''E$ 132.00 feet;
7 thence $S88^{\circ}02'17''W$ 351.61 feet; to the easterly right of way line
8 of Logan Street; thence $N00^{\circ}28'13''E$ 716.63 feet, to the southerly
9 right of way line of Sheridan Road; thence $S89^{\circ}59'49''E$ 1155.21
10 feet, on said right of way to the point of beginning, containing
11 12.56 acres, more or less.

12 (ii) A parcel of land in the SE 1/4 of Section 32, T5N, R2W,
13 Clinton County, Michigan and more particularly described as
14 beginning at the S 1/4 corner of said section 32; thence
15 $N00^{\circ}12'30''W$ 2152.16 feet on the N-S 1/4 line of said section 32;
16 thence $S89^{\circ}57'16''E$ 683.94 feet to the westerly Right-of-Way of
17 DeWitt Road at a point 500.00 feet southerly of the E-W 1/4 line
18 of said section 32; thence on the westerly Right-of-Way of DeWitt
19 Road for the next five calls; thence $S04^{\circ}03'50''E$ 112.68 feet;
20 thence 299.44 feet on the arc of a curve to the left with a cen-
21 tral angle of $23^{\circ}26'19''$, a radius of 731.99 feet and long chord
22 bearing and distance of $S15^{\circ}47'00''E$ 297.36 feet; thence
23 $S27^{\circ}30'10''E$ 927.69 feet; thence 356.62 feet on the arc of a curve
24 to the right with a central angle of $27^{\circ}41'37''$, a radius of
25 737.82 feet and a long chord bearing and distance of $S13^{\circ}39'21''E$
26 353.16 feet; thence $S00^{\circ}11'27''W$ 30.40 feet; thence $S88^{\circ}07'13''W$
27 171.96 feet; thence $S17^{\circ}13'15''W$ 128.78 feet; thence $S02^{\circ}36'04''W$

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1 161.34 feet; thence N89°52'39"W 420.93 feet; thence S00°06'07"E
2 267.69 feet to the south line of said section 32, thence
3 N89°59'49"W 632.45 feet on the south line of said section 32 to
4 the N 1/4 corner of section 5, T4N, R2W; thence S89°27'29"W 6.45
5 feet on the south line of said section 32 to the point of begin-
6 ning, containing 46.94 acres, more or less.

7 (j) "State administrative board" means the state administra-
8 tive board created under ~~Act No. 2 of the Public Acts of 1921,~~
9 ~~being sections 17.1 to 17.11 of the Michigan Compiled Laws~~ 1921
10 PA 2, MCL 17.1 TO 17.11.

11 SEC. 3A. (1) EFFECTIVE FEBRUARY 17, 1998, THE MICHIGAN BIO-
12 LOGIC PRODUCTS INSTITUTE, ESTABLISHED BY EXECUTIVE ORDER 1995-25,
13 IS TRANSFERRED TO THE MICHIGAN DEPARTMENT OF COMMUNITY HEALTH AS
14 A TYPE I TRANSFER. AS USED IN THIS SUBSECTION, "TYPE I TRANSFER"
15 MEANS THAT TERM AS DEFINED IN SECTION 3 OF THE EXECUTIVE ORGANI-
16 ZATION ACT OF 1965, 1965 PA 380, MCL 16.103.

17 (2) THE INSTITUTE IS AN INDEPENDENT AND AUTONOMOUS ENTITY.
18 THE INSTITUTE AND THE DIRECTOR OF THE INSTITUTE SHALL EXERCISE
19 THE POWERS AND PERFORM THE DUTIES PRESCRIBED BY THIS ACT INDEPEN-
20 DENTLY OF THE PRINCIPAL EXECUTIVE DEPARTMENTS OF THIS STATE,
21 INCLUDING, BUT NOT LIMITED TO, PERSONNEL, BUDGETING, PROCUREMENT,
22 AND MANAGEMENT-RELATED FUNCTIONS.

23 (3) THE GOVERNOR SHALL APPOINT A DIRECTOR FOR THE INSTITUTE,
24 WHO SHALL BE THE HEAD OF THE INSTITUTE, WITHIN THE MEANING OF THE
25 EXECUTIVE REORGANIZATION ACT OF 1965, 1965 PA 380, MCL 16.101 TO
26 16.608. THE DIRECTOR IS ALSO THE APPOINTING AUTHORITY FOR

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1 PURPOSES OF SECTION 5 OF ARTICLE XI OF THE STATE CONSTITUTION OF
2 1963.

3 (4) THE INSTITUTE HAS THE POWERS, DUTIES, AND RESPONSIBILI-
4 TIES PRESCRIBED IN EXECUTIVE ORDER 1995-25, AND SHALL OPERATE
5 PURSUANT TO AND IN ACCORDANCE WITH EXECUTIVE ORDER 1995-25.

6 SEC. 3B. (1) EFFECTIVE FEBRUARY 17, 1998, THE MICHIGAN BIO-
7 LOGIC PRODUCTS COMMISSION, ESTABLISHED BY EXECUTIVE ORDER
8 1995-25, IS TRANSFERRED TO THE MICHIGAN DEPARTMENT OF COMMUNITY
9 HEALTH AS A TYPE I TRANSFER. AS USED IN THIS SUBSECTION, "TYPE I
10 TRANSFER" MEANS THAT TERM AS DEFINED IN SECTION 3 OF THE EXECU-
11 TIVE ORGANIZATION ACT OF 1965, 1965 PA 380, MCL 16.103.

12 (2) THE COMMISSION CONSISTS OF 3 VOTING MEMBERS APPOINTED BY
13 THE GOVERNOR WHO ARE NOT EMPLOYEES OF THE INSTITUTE AND WHO SHALL
14 SERVE AT THE PLEASURE OF THE GOVERNOR. THE GOVERNOR SHALL DESIG-
15 NATE 1 OF THE APPOINTED MEMBERS TO SERVE AS CHAIR OF THE
16 COMMISSION. THE CHAIR OF THE COMMISSION ALSO SERVES IN THAT
17 CAPACITY AT THE PLEASURE OF THE GOVERNOR.

18 (3) THE COMMISSION HAS THE POWERS, DUTIES, AND RESPONSIBILI-
19 TIES PRESCRIBED IN EXECUTIVE ORDER 1995-25, AND SHALL OPERATE
20 PURSUANT TO AND IN ACCORDANCE WITH EXECUTIVE ORDER 1995-25.

21 (4) THE MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT COM-
22 PENSATION, BUT SHALL BE REIMBURSED FOR NECESSARY TRAVEL AND OTHER
23 EXPENSES PURSUANT TO THE STANDARD TRAVEL REGULATIONS OF THE
24 DEPARTMENT OF MANAGEMENT AND BUDGET.

25 (5) THE COMMISSION MAY PROMULGATE BYLAWS GOVERNING THE
26 ORGANIZATION AND PROCEDURES OF THE COMMISSION. A MAJORITY OF THE
27 MEMBERS SERVING CONSTITUTE A QUORUM FOR THE TRANSACTION OF

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1 BUSINESS, NOTWITHSTANDING THE EXISTENCE OF 1 OR MORE VACANCIES ON
2 THE COMMISSION. THE COMMISSION SHALL APPROVE A FINAL ACTION OF
3 THE COMMISSION BY A MAJORITY VOTE OF THE MEMBERS. A MEMBER OF
4 THE COMMISSION MUST BE PRESENT AT A MEETING OF THE COMMISSION IN
5 ORDER TO VOTE, EITHER IN PERSON OR BY AMPLIFIED TELEPHONE
6 EQUIPMENT.

7 (6) THE COMMISSION SHALL MEET AT THE CALL OF THE CHAIR AND
8 AS OTHERWISE PROVIDED IN THE COMMISSION'S BYLAWS. THE COMMISSION
9 MAY MEET AT ANY LOCATION WITHIN THE STATE. A MEETING OF THE COM-
10 MISSION IS SUBJECT TO THE OPEN MEETINGS ACT, 1976 PA 267, MCL
11 15.261 TO 15.275. THE COMMISSION MAY MAKE INQUIRIES, CONDUCT
12 STUDIES AND INVESTIGATIONS, HOLD HEARINGS, AND RECEIVE COMMENTS
13 FROM THE PUBLIC.

14 SEC. 6A. THERE IS APPROPRIATED FOR THE DEPARTMENT OF COMMU-
15 NITY HEALTH AND THE MICHIGAN BIOLOGIC PRODUCTS INSTITUTE FOR THE
16 FISCAL YEAR ENDING SEPTEMBER 30, 1998, FROM THE FOLLOWING FUNDS:

17 **DEPARTMENT OF COMMUNITY HEALTH**

18	FULL-TIME EQUATED CLASSIFIED POSITIONS.....	200.0	
19	GROSS APPROPRIATION.....	\$	18,000,000
20	INTERDEPARTMENTAL GRANT REVENUES:		
21	TOTAL INTERDEPARTMENTAL GRANTS AND INTRADE-		
22	PARTMENTAL TRANSFERS.....	\$	0
23	ADJUSTED GROSS APPROPRIATION.....	\$	18,000,000
24	FEDERAL REVENUES:		
25	TOTAL FEDERAL REVENUES.....		3,000,000
26	SPECIAL REVENUE FUNDS:		

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1	TOTAL LOCAL REVENUES.....	0
2	TOTAL PRIVATE REVENUES.....	0
3	TOTAL OTHER STATE RESTRICTED REVENUES.....	15,000,000
4	STATE GENERAL FUND/GENERAL PURPOSE..... \$	0
5	MICHIGAN BIOLOGIC PRODUCTS INSTITUTE	
6	TOTAL FULL-TIME EQUATED POSITIONS.....	200.0
7	BIOLOGIC PRODUCTS PROCESSING--200.0 FULL-TIME	
8	EQUATED POSITIONS..... \$	<u>18,000,000</u>
9	GROSS APPROPRIATION..... \$	18,000,000
10	APPROPRIATED FROM:	
11	FEDERAL REVENUES:	
12	TOTAL FEDERAL REVENUES.....	3,000,000
13	SPECIAL REVENUE FUNDS:	
14	BIOLOGIC PRODUCTS SALES AND OTHER REVENUES...	15,000,000
15	STATE GENERAL FUND/GENERAL PURPOSE..... \$	0
16	SEC. 6B. PURSUANT TO SECTION 30 OF ARTICLE IX OF THE STATE	
17	CONSTITUTION OF 1963, TOTAL STATE SPENDING IN SECTION 6A FROM	
18	STATE SOURCES FOR FISCAL YEAR 1997-98 IS ESTIMATED AT	
19	\$15,000,000.00. APPROPRIATIONS FROM WHICH SPENDING TO UNITS	
20	OF LOCAL GOVERNMENT WILL OCCUR:..... \$	0
21	SEC. 6C. (1) IN ADDITION TO THE FUNDS APPROPRIATED IN SEC-	
22	TION 6A FOR THE MICHIGAN BIOLOGIC PRODUCTS INSTITUTE, THERE IS	
23	APPROPRIATED AN AMOUNT NOT TO EXCEED \$5,000,000.00 FOR FEDERAL	
24	CONTINGENCY FUNDS. THESE FUNDS ARE NOT AVAILABLE FOR EXPENDITURE	
25	UNTIL THEY HAVE BEEN TRANSFERRED TO ANOTHER LINE ITEM IN THIS ACT	
26	PURSUANT TO SECTION 393(2) OF THE MANAGEMENT AND BUDGET ACT, 1984	
27	PA 431, MCL 18.1393.	

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1 (2) IN ADDITION TO THE FUNDS APPROPRIATED IN SECTION 6A,
2 THERE IS APPROPRIATED AN AMOUNT NOT TO EXCEED \$5,000,000.00 FOR
3 STATE RESTRICTED CONTINGENCY FUNDS. THESE FUNDS ARE NOT AVAIL-
4 ABLE FOR EXPENDITURE UNTIL THEY HAVE BEEN TRANSFERRED TO ANOTHER
5 LINE ITEM IN THIS ACT PURSUANT TO SECTION 393(2) OF THE MANAGE-
6 MENT AND BUDGET ACT, 1984 PA 431, MCL 18.1393.

7 (3) IN ADDITION TO THE FUNDS APPROPRIATED IN SECTION 6A,
8 THERE IS APPROPRIATED AN AMOUNT NOT TO EXCEED \$100,000.00 FOR
9 LOCAL CONTINGENCY FUNDS. THESE FUNDS ARE NOT AVAILABLE FOR
10 EXPENDITURE UNTIL THEY HAVE BEEN TRANSFERRED TO ANOTHER LINE ITEM
11 IN THIS ACT PURSUANT TO SECTION 393(2) OF THE MANAGEMENT AND
12 BUDGET ACT, 1984 PA 431, MCL 18.1393.

13 (4) IN ADDITION TO THE FUNDS APPROPRIATED IN SECTION 6A,
14 THERE IS APPROPRIATED AN AMOUNT NOT TO EXCEED \$500,000.00 FOR
15 PRIVATE CONTINGENCY FUNDS. THESE FUNDS ARE NOT AVAILABLE FOR
16 EXPENDITURE UNTIL THEY HAVE BEEN TRANSFERRED TO ANOTHER LINE ITEM
17 IN THIS ACT PURSUANT TO SECTION 393(2) OF THE MANAGEMENT AND
18 BUDGET ACT, 1984 PA 431, MCL 18.1393.

19 Enacting section 1. Section 1201 of 1997 PA 111 is
20 repealed.