



House Office Building, 9 South  
Lansing, Michigan 48909  
Phone: 517/373-6466

## HOSPITAL AUTHORITY BOARD AMENDMENTS

### House Bill 5680 (Substitute H-1) First Analysis (3-19-02)

**Sponsor: Rep. Patricia Birkholz**  
**Committee: Local Government and**  
**Urban Policy**

#### ***THE APPARENT PROBLEM:***

Informally known as “the Hospital Authority Act,” Public Act 47 of 1945 authorizes two or more cities, townships, or villages to incorporate a hospital authority for the purpose of constructing, acquiring, and/or operating community hospitals and related facilities. As a public agency, a hospital authority, and thus a hospital owned and operated by such an authority, is restricted in the types of economic arrangements it may make. Some people believe that these restrictions place authority hospitals at an unfair competitive disadvantage with private, nonprofit hospitals. Prior to 1987, there was no mechanism in the act to allow an authority hospital to convert to a private, nonprofit status and thus expand its financial possibilities while still operating on a nonprofit basis. In 1987, the legislature amended the Hospital Authority Act to allow a hospital authority, whose member municipalities have a population of less than 300,000, to sell, lease, or transfer a hospital to a nonprofit corporation. (Subsequent legislation allowed the only hospital authority in the state whose jurisdiction included more than 300,000 people to sell, lease, or transfer a hospital to a nonprofit corporation.) Moreover, the amendment imposed certain restrictions on both the operations of a converted authority hospital and future sales, leases, and transfers of the hospital. As amended, the act specified (and still does specify) that a private, nonprofit corporation that has acquired a hospital from a hospital authority cannot sell, lease or transfer the hospital without the hospital authority’s express consent. Moreover, the nonprofit corporation has to turn over the proceeds of such a transaction to the hospital authority. (Other requirements apply but are not directly relevant.) Thus, a hospital authority must continue to exist even after it has sold, leased, or transferred a hospital to a private, nonprofit corporation if for no other reasons than to approve and accept the proceeds of a (possible) subsequent conversion. Under the act, however, a hospital authority board has to conduct meetings regularly and complete an annual budget regardless of whether the

authority currently operates or owns a hospital (or other facility).

It may seem odd that the authority’s board needs to continue to exist at all, once it has converted a hospital to private, nonprofit status. According to committee testimony, however, the restrictions on future conversions of former authority hospitals, including the requirements that the authority’s board consent to the conversion and receive proceeds from the conversion, were added to protect the member municipalities that originally created the authority as a public (nonprofit) agency. Without such restrictions, someone could create a *private, nonprofit* corporation as a mere shell, use it to acquire an authority hospital, and then immediately turn around and sell, lease, or transfer the hospital to a *private, for-profit* corporation.

The board of the Holland Community Hospital Authority is an example of a board that currently exists solely for such reasons. In 1988, the authority converted the Holland Community Hospital to a hospital with a private, nonprofit status, and as required by the act, the board still conducts regular meetings. According to a representative of the authority’s board, the regular meetings only last a minute and are pointless, since the board does not really have any business to conduct. In Holland Community Hospital’s case, the same individuals serve on both the authority’s board and the hospital’s board, and the two boards meet right after one another, so conducting a one minute authority board meeting is a minor annoyance rather than a significant burden. Still, it is possible for the two boards to be composed of different members. The representative suggested that the annual report requirement is burdensome and would (if it was complied with) create additional administrative costs. Some people believe that an authority that has converted a hospital, no longer operates a hospital,

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and has few material assets should be relieved of certain statutory requirements.

### ***THE CONTENT OF THE BILL:***

Public Act 47 of 1945 requires that a hospital authority be directed and governed by a hospital board, and the act provides for the composition, organization, powers, and duties of the board. House Bill 5680 would amend Public Act 47 of 1945 to allow an authority that had gross assets of less than \$20,000 and that was not engaged in the operation of a hospital to adopt a resolution stating that the authority had “no material assets.” Adopting such a resolution would allow the board to meet less regularly and to forego drafting an annual budget. The bill would also impose special notification requirements in the case of a board whose members at large were removed by a resolution of local units’ legislative bodies, as permitted under the act. Finally, the bill would state that an annual report that the board is required to file with the secretary of state had to contain information required by the secretary of state. More specifically the bill would make the following changes:

**Notification requirements.** Currently a hospital board must be composed of both members appointed by the local units’ legislative bodies (one member for the first 20,000 population and one for each additional 40,000 or fraction thereof) and seven at large members selected by the appointed members. In the case of a hospital authority whose member jurisdiction has a population of 300,000 or more, the legislative bodies of local units whose representation constitutes a majority of the board’s members (excluding the members at large) may adopt a resolution to remove the members at large. The resolution must be transmitted to the secretary of the hospital board, and the secretary is required to notify the members at large that they have been removed from office and to notify the full hospital board not later than the next regularly scheduled meeting of the board. The bill would specify that if a hospital authority board was not scheduled to hold a regularly scheduled meeting within 90 days after the secretary received the local unit’s resolutions to remove the members at large, the secretary would have to notify the other members of the removal of the members at large within 30 days after receipt of the resolutions.

**Authority with no material assets.** Among other requirement, a hospital board currently must establish times for holding regular board meetings, must provide for an annual auditing of the accounts of the authority’s treasurer by a certified public accountant,

and must complete an annual budget. The bill would allow a hospital board to adopt a resolution stating that the authority had no material assets if an audit showed that the authority had gross assets, without accounting for any liabilities, of less than \$20,000, as long as the authority was not engaged (either directly or indirectly) in the operation of a hospital. (Any residual value resulting from an authority’s potential right to retake possession of a hospital or other property previously sold or transferred, pursuant to the act, would not be included as part of the authority’s assets for making a determination of no material assets.) The resolution would have to be adopted at a public meeting held in compliance with Public Act 47’s requirements for board meetings and with the Open Meetings Act.

In general, the board would be required to continue to function in compliance with the act, but some special provisions would apply. First, the board would not be required to meet at the regular times previously established by the board. Second, the board would not need to complete an annual budget, as is otherwise required by the act. Third, the board could take action by a written consent of the board members if the written consent was signed by a number of board members equal to the number of members necessary to approve such action at a meeting at which all the board members attended. However, the board could only take action for the purpose of electing members at large to the board (and could not take action for the purpose of removing members at large), and the (written) action would have to be made available to the public in compliance with the Freedom of Information Act.

A determination that the authority had no material assets would remain in effect until the authority began to engage in the operation of a hospital or until the authority’s gross assets increased to \$20,000. As soon as one of these conditions was met, or at the board’s discretion, the determination of no material assets would cease and the board would be required to resume all of the actions required of it before the determination of no material assets was made.

**Report to secretary of state.** The act requires the hospital board to file a report with the secretary of state within 30 days after the formation of a new hospital authority and annually on July 1 thereafter. Currently, the act states that the report is to include the date of the authority’s formation, the names of the member communities, and other information “as the report may require.” The bill would specify instead that the report is to include the listed information and

other information as the *secretary of state* may require.

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill could reduce administrative costs imposed on local units that participate in hospital authorities and are eligible to adopt a “no material assets” resolution. (3-18-02)

### ***ARGUMENTS:***

#### ***For:***

There is no reason why a hospital authority’s board should be required to meet or complete an annual budget if the authority has virtually no material assets and does not operate, let alone own, a hospital. Such requirements were designed for hospital authority boards that actually owned and operated hospitals. The requirement that the board continue to exist after it has converted the hospital was added in order to protect municipalities by ensuring that they, through the authority board, had a voice in, and received proceeds from, future conversions of the hospital. It is not clear what benefit the municipalities or any one else derives from regular one minute “pro forma” meetings or from an annual budget that shows that administrative costs of completing the annual budget is the single largest cost to the hospital authority for the fiscal year. These requirements may be only minor annoyances for some, but they do create some administrative burden, and in the absence of any good reason for imposing such burden, the requirements should be eliminated.

#### ***Response:***

As written, it is not clear whether the bill’s provision allowing the board to take written action for the purpose of electing at large members to the board would allow a group of board members to elect at large members without holding a meeting and without notifying all current board members that such action was being considered.

### ***POSITIONS:***

The Michigan Health and Hospital Association supports the bill. (3-15-02)

Analyst: J. Caver

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.