

HOUSE BILL No. 5722

March 14, 2018, Introduced by Reps. Neeley, Garrett, Peterson, Cochran, Santana, Byrd, Graves, Phelps, Sneller and Faris and referred to the Committee on Health Policy.

A bill to amend 1987 PA 230, entitled "Municipal health facilities corporations act," by amending sections 251, 253, 254, 255, 256, and 258 (MCL 331.1251, 331.1253, 331.1254, 331.1255, 331.1256, and 331.1258), sections 251, 253, 254, and 255 as added by 1988 PA 502, section 256 as amended by 2010 PA 331, and section 258 as amended by 2011 PA 195, and by adding section 252a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 251. **(1)** The city council of a city or the village
2 council of a village that owns or operates a public hospital may
3 incorporate 1 or more corporations under this act. The city council
4 of a city or the village council of a village that does not own or
5 operate a public hospital may also establish ~~such a~~ **PUBLIC** hospital
6 or other health care facility, or both, by incorporating 1 or more

1 corporations under this act.

2 (2) ~~The~~ **EXCEPT AS PROVIDED IN SECTION 252A, THE** question of
 3 establishing 1 or more corporations under this act shall be
 4 presented to the city or village electors at a special or regular
 5 city or village election before incorporation. An election under
 6 this section shall be conducted ~~pursuant to~~ **UNDER** the Michigan
 7 election law, ~~Act No. 116 of the Public Acts of 1954, being~~
 8 ~~sections 168.1 to 168.992 of the Michigan Compiled Laws.~~ **1954 PA**
 9 **116, MCL 168.1 TO 168.992.**

10 **SEC. 252A. (1) A CITY HOSPITAL THAT WAS ESTABLISHED UNDER THE**
 11 **HOME RULE CITIES ACT, 1909 PA 279, MCL 117.1 TO 117.38, IS IN A**
 12 **CITY THAT HAS A POPULATION OF FEWER THAN 100,000 AS OF THE MOST**
 13 **RECENT FEDERAL DECENNIAL CENSUS, AND IS NOT INCORPORATED AS OF THE**
 14 **EFFECTIVE DATE OF THIS SECTION, IS CONSIDERED A CORPORATION**
 15 **INCORPORATED AND EXISTING UNDER THIS ACT, WITHOUT THE ADOPTION OR**
 16 **FILING OF ARTICLES OF INCORPORATION, WITHOUT A VOTE OF THE**
 17 **ELECTORS, AND WITHOUT DIMINISHING THE TERMS OF OFFICE OF**
 18 **INDIVIDUALS SERVING ON THE BOARD OF THE CITY HOSPITAL ON THE**
 19 **EFFECTIVE DATE OF THIS SECTION.**

20 (2) **THE CITY COUNCIL OF A CITY THAT OPERATES A HOSPITAL THAT**
 21 **IS CONSIDERED INCORPORATED BY OPERATION OF SUBSECTION (1) MAY AT**
 22 **ANY TIME AFTER THE EFFECTIVE DATE OF THIS SECTION ADOPT ARTICLES OF**
 23 **INCORPORATION FOR THE CORPORATION UNDER SECTIONS 255(2) AND 256.**
 24 **UNTIL THE EFFECTIVE DATE OF ARTICLES OF INCORPORATION ADOPTED UNDER**
 25 **THIS SUBSECTION, THE PROVISIONS OF THIS ACT ARE CONSIDERED TO**
 26 **CONSTITUTE THE ARTICLES OF INCORPORATION OF THE CORPORATION.**

27 Sec. 253. (1) If the city or village electors approve the

1 incorporation of a corporation under this act, ~~the~~ **OR IF A CITY**
2 **HOSPITAL IS INCORPORATED BY OPERATION OF SECTION 252A(1), ALL OF**
3 **THE FOLLOWING APPLY:**

4 (A) **THE** corporation ~~shall be~~ **IS** considered to be the successor
5 to the city public hospital for the city or the village public
6 hospital for the village, and the terms of office of the trustees
7 of the city public hospital or village public hospital shall
8 continue.

9 (B) The corporation ~~shall have~~ **HAS** all of the rights,
10 privileges, immunities, and franchises of its predecessor city
11 public hospital or village public hospital, all personal property,
12 all debts due on whatever account, and all choses in action.

13 (C) All interests and licenses of or belonging to the city
14 public hospital or village public hospital ~~shall be~~ **ARE** considered
15 to be transferred to, and vested in, the corporation without
16 further act or deed, ~~Such~~ **AND THOSE** interests and licenses shall
17 not be considered to have undergone any change of ownership for the
18 purpose of any law or regulation. ~~nor shall the~~

19 (D) **THE** fiscal year of any city public hospital or village
20 public hospital **SHALL NOT** be considered to have ended solely
21 because the city or village incorporates a corporation under this
22 act.

23 (E) The title to any real estate, or any interest in real
24 estate, vested in any city or city public hospital or village or
25 village public hospital, ~~shall~~ **DOES** not revert ~~or in any way be~~ **AND**
26 **IS NOT** impaired because a corporation succeeds a city public
27 hospital or village public hospital ~~pursuant to~~ **UNDER** this act.

1 (2) A corporation incorporated by a city or village under this
2 act ~~shall be~~ **OR INCORPORATED BY OPERATION OF SECTION 252A(1) IS**
3 considered to be the owner of all money and other property then
4 deposited in the treasury of the city or village to the credit of
5 the hospital fund and ~~shall be~~ **IS** entitled to all interest and
6 other earnings accruing on those funds on and after the effective
7 date of the incorporation. The corporation ~~shall be~~ **IS** the owner of
8 all other personal property used exclusively by or for the city
9 public hospital or village public hospital. The treasurer of any
10 city or village ~~having~~ **THAT HAS** custody of money and other property
11 ~~belonging~~ **THAT BELONGS** to a corporation ~~pursuant to~~ **UNDER** this
12 subsection shall arrange for the prompt transfer of ~~such~~ **THAT** money
13 and other property to the custody of the corporation.

14 (3) A corporation incorporated by a city or village under this
15 act ~~shall be~~ **OR INCORPORATED BY OPERATION OF SECTION 252A(1) IS** the
16 employer of all ~~persons~~ **INDIVIDUALS WHO ARE** employed by the city
17 public hospital or village public hospital and shall assume and be
18 bound by any labor agreement in existence on the effective date of
19 the incorporation and applicable to the city public hospital or
20 village public hospital, but shall not be subject to greater
21 obligations with respect to the terms, conditions, or duration of
22 employment than was the city public hospital or village public
23 hospital immediately preceding the effective date of the
24 incorporation. A representative of the employees or a group of
25 employees who is entitled to represent the employees or group of
26 employees under ~~Act No. 336 of the Public Acts of 1947, being~~
27 ~~sections 423.201 to 423.216 of the Michigan Compiled Laws, 1947 PA~~

1 **336, MCL 423.201 TO 423.217**, shall continue to be the
2 representative of the employees or group of employees. This
3 subsection does not limit the rights of the hospital employees,
4 under applicable law, to assert that a bargaining representative
5 protected by this subsection is no longer the representative of the
6 employees.

7 (4) A corporation incorporated by a city or village under this
8 act ~~shall be~~ **OR INCORPORATED BY OPERATION OF SECTION 252A(1) IS**
9 responsible and liable for all liabilities and obligations of the
10 city public hospital or village public hospital it succeeds. A
11 claim existing or an action or proceeding pending by or against a
12 city public hospital or village public hospital may be prosecuted
13 by the corporation succeeding it in the name of the city public
14 hospital or village public hospital, or the corporation may be
15 substituted. The rights of creditors and any lien upon the property
16 of a city or a city public hospital or a village or village public
17 hospital existing on the effective date of the incorporation shall
18 not be impaired.

19 Sec. 254. **(1)** If, in ~~accordance with sections 251 and 252,~~
20 **CONNECTION WITH THE INCORPORATION OF A CORPORATION FOR WHICH A VOTE**
21 **OF ELECTORS IS REQUIRED UNDER SECTION 251**, a majority of all the
22 votes cast upon the question are in favor of establishing a
23 corporation, the city council or village council may incorporate a
24 corporation in order to implement or further the public purposes
25 stated in section 102 through the exercise of all or some of the
26 powers provided ~~in~~ **UNDER** this act.

27 **(2)** The board of trustees of a corporation may incorporate 1

1 or more subsidiary corporations in order to implement or further
2 the public purposes stated in section 102 through the exercise of
3 all or some of the powers provided in this act.

4 (3) The city council or village council shall adopt a suitable
5 name for any corporation ~~which~~**THAT** it incorporates **OR THAT IS**
6 **INCORPORATED BY OPERATION OF SECTION 252A(1)**. The board of trustees
7 of a corporation shall adopt a suitable name for any subsidiary
8 corporation ~~which~~**THAT** it incorporates.

9 Sec. 255. (1) ~~The~~**EXCEPT AS PROVIDED IN SECTION 252A, THE**
10 incorporation of a corporation by a city or village shall be
11 accomplished by approval of articles of incorporation by resolution
12 of the city council or village council. The incorporation of a
13 subsidiary corporation shall be accomplished by approval of
14 articles of incorporation by resolution of the city council or
15 village council.

16 (2) The articles of incorporation **APPROVED UNDER SUBSECTION**
17 **(1) OR SECTION 252A(2)** shall set forth the name of the corporation
18 or subsidiary corporation; the purposes for which it is created,
19 which may include all of the purposes for which a corporation or
20 subsidiary corporation may be organized under this act; the number,
21 terms, and manner of selection of the officers of its board of
22 trustees or subsidiary board, which shall include a chairperson and
23 a secretary, and a general description of their respective powers
24 and duties; the **EFFECTIVE** date ~~upon which~~**OF** the incorporation;
25 ~~shall become effective;~~ and the name of the newspaper in which the
26 articles of incorporation shall be published. The articles of
27 incorporation of a subsidiary corporation shall also contain the

1 name of the corporation acting as its parent, and shall specify the
2 size of the subsidiary board in accordance with section 258(2). The
3 articles of incorporation of a corporation may specify transactions
4 otherwise within the powers of its board of trustees ~~which shall~~
5 **THAT** require approval by resolution of the city council or village
6 council, and may also contain other matters considered expedient to
7 be included in the articles of incorporation. The articles of
8 incorporation of a subsidiary corporation may specify transactions
9 otherwise within the powers of its subsidiary board ~~which shall~~
10 **THAT** require approval by resolution of the board of trustees of its
11 designated parent corporation, and may also contain other matters
12 considered expedient to be included in the articles of
13 incorporation.

14 Sec. 256. (1) The articles of incorporation of a corporation
15 incorporated by a city or village **OR ADOPTED UNDER SECTION 252A(2)**
16 shall be executed in duplicate by the chairperson of the city
17 council or the president of the village council or other member of
18 the city council or village council designated by the city council
19 or village council. The articles of incorporation of a subsidiary
20 corporation of a corporation incorporated by a city or village
21 shall be executed in duplicate by the chairperson of the board of
22 trustees of the parent corporation, or other trustee designated by
23 the board of trustees. The articles of incorporation shall then be
24 delivered to the city clerk or village clerk who shall file 1 copy
25 in his or her office and the other with the secretary of the
26 corporation or subsidiary corporation when a secretary is selected.
27 The city clerk or village clerk shall cause a copy of the articles

1 of incorporation to be published once in a newspaper designated in
2 the articles of incorporation and circulating within the city or
3 village, accompanied by a statement that the right exists to
4 question the validity of the incorporation in court as provided ~~in~~
5 **UNDER** this section, **IF APPLICABLE**.

6 (2) The city clerk or village clerk shall file 1 printed copy
7 of articles of incorporation delivered to him or her under
8 subsection (1) with the secretary of state and 1 printed copy in
9 his or her office. The city clerk or village clerk shall attach to
10 each of the printed copies his or her certificate setting forth
11 that the copy is a true and complete copy of the original articles
12 of incorporation on file in his or her office.

13 (3) ~~The~~ **EXCEPT AS PROVIDED IN SECTION 252A(2), THE**
14 incorporation of a corporation or a subsidiary corporation
15 described in this section is effective at the time provided in the
16 articles of incorporation, but not before approval of the question
17 of incorporation by the city or village electors under section 251.

18 (4) The validity of the incorporation of a corporation or a
19 subsidiary corporation described in this section is conclusively
20 presumed unless questioned in a court of competent jurisdiction
21 within 60 days after the certified copy of the articles of
22 incorporation of that corporation or subsidiary corporation is
23 filed with the secretary of state under subsection (2). **THIS**
24 **SUBSECTION DOES NOT APPLY TO A CORPORATION INCORPORATED BY**
25 **OPERATION OF SECTION 252A(1).**

26 (5) This section does not apply to articles of incorporation
27 of a restructured corporation or restructured subsidiary

1 corporation described in section 305a.

2 Sec. 258. (1) All of the following apply to each board of
3 trustees and subsidiary board of a corporation incorporated by a
4 city or village, **OR TO A CORPORATION INCORPORATED BY OPERATION OF**
5 **SECTION 252A(1) THAT HAS ADOPTED ARTICLES OF INCORPORATION UNDER**
6 **SECTION 252A(2) :**

7 (a) The board shall consist of at least 5 and not more than 15
8 trustees. The exact number of trustees and the length of their
9 terms of office shall be as specified in the articles of
10 incorporation.

11 (b) Except for the initial appointments to a board of trustees
12 or subsidiary board of a newly incorporated corporation or
13 subsidiary corporation, **OR TO THE INITIAL APPOINTMENT TO THE BOARD**
14 **OF TRUSTEES OF A CORPORATION INCORPORATED BY OPERATION OF SECTION**
15 **252A(1) THAT HAS ADOPTED ARTICLES OF INCORPORATION UNDER SECTION**
16 **252A(2) ,** the term of office of a trustee begins on January 1.

17 (c) The terms of office of trustees shall be staggered so that
18 an approximately equal number of terms expire at the end of each
19 year or each 2 years, except that terms may be fixed so that the
20 shortest terms do not expire until the end of the second year
21 following the incorporation of a corporation or a subsidiary
22 corporation **OR THE EFFECTIVE DATE OF ARTICLES OF INCORPORATION**
23 **ADOPTED UNDER SECTION 252A(2) BY A CORPORATION INCORPORATED BY**
24 **OPERATION OF SECTION 252A(1) .** A trustee whose term of office ~~has~~
25 ~~expired~~**EXPIRES** shall continue to serve until his or her successor
26 is appointed.

27 (2) If a city or village incorporates a corporation under this

1 act, the city council or village council shall appoint the initial
2 board of trustees. ~~After~~ **IF AN UNINCORPORATED CITY HOSPITAL THAT IS**
3 **ALREADY IN EXISTENCE AS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT**
4 **THAT ADDED SECTION 252A IS AUTOMATICALLY INCORPORATED UNDER SECTION**
5 **252A(1), APPOINTMENTS TO THE BOARD OF TRUSTEES SHALL BE MADE IN THE**
6 **MANNER PREVIOUSLY SPECIFIED IN THE CITY CHARTER, UNTIL THE**
7 **EFFECTIVE DATE OF ARTICLES OF INCORPORATION ADOPTED UNDER SECTION**
8 **252A(2) THAT SPECIFY OTHERWISE. FOR A CITY HOSPITAL THAT IS ALREADY**
9 **IN EXISTENCE AS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
10 **ADDED SECTION 252A, AFTER** the initial board of trustees, when a
11 trustee's term of office expires or if a trustee's office is
12 otherwise vacant, the remaining members of the board of trustees
13 shall fill the vacancy with the advice and consent of the city
14 council or village council. This subsection does not apply to an ex
15 officio member of a board of trustees who is appointed by a chief
16 executive officer.

17 (3) The terms of office of trustees serving on the board of a
18 city public hospital or village public hospital before
19 incorporation that is subsequently incorporated under this act **OR**
20 **BEFORE THE EFFECTIVE DATE OF ARTICLES OF INCORPORATION ADOPTED**
21 **UNDER SECTION 252A(2) BY A CORPORATION INCORPORATED BY OPERATION OF**
22 **SECTION 252A(1)** shall not be diminished, except that the articles
23 of incorporation for that ~~successor~~ corporation may prospectively
24 establish new lengths of terms of office for the board of trustees,
25 and may prospectively alter the board size.

26 (4) If a city or village incorporates a subsidiary
27 corporation, the board of trustees of the parent corporation shall

1 appoint the initial subsidiary board with the advice and consent of
2 the city council or village council. After the initial subsidiary
3 board, when a trustee's term of office expires or if a trustee's
4 office is otherwise vacant, the board of trustees of the parent
5 corporation shall fill the vacancy with the advice and consent of
6 the city council or village council. This subsection does not apply
7 to an ex officio member of a subsidiary board who is appointed by a
8 chief executive officer.

9 (5) A trustee of a corporation or subsidiary corporation
10 established by a city or village, **OR A TRUSTEE OF A CORPORATION**
11 **INCORPORATED BY OPERATION OF SECTION 252A(1) THAT ADOPTS ARTICLES**
12 **OF INCORPORATION UNDER SECTION 252A(2)**, shall be chosen based on
13 his or her qualifications for that office, but not more than 1/3 of
14 the trustees serving at any time shall be direct providers of
15 health care. The articles of incorporation of the corporation or
16 subsidiary corporation may require that a trustee be a resident of
17 the city or village. A trustee of the parent corporation, including
18 its chief executive officer, and the chief executive officer of a
19 subsidiary corporation are eligible for appointment to a subsidiary
20 board, and those offices are not incompatible. A trustee is
21 eligible for reappointment.

22 (6) Within 9 days after commencing his or her term of office,
23 a trustee shall take the oath of office as provided in section 1 of
24 article XI of the state constitution of 1963.

25 (7) A trustee of a corporation incorporated by a city or
26 village, **OR A TRUSTEE OF A CORPORATION INCORPORATED BY OPERATION OF**
27 **SECTION 252A(1) THAT ADOPTS ARTICLES OF INCORPORATION UNDER SECTION**

1 **252A(2)**, may be removed from office for cause either by vote of a
2 majority of the members then serving on the city council or village
3 council or by vote of a majority of the members then serving on the
4 board of trustees of the corporation. A trustee of a subsidiary
5 corporation may be removed from office for cause either by vote of
6 a majority of the members then serving on the city council or
7 village council or by vote of a majority of the members then
8 serving on the board of trustees of the parent corporation. As used
9 in this subsection, "cause" includes, but is not limited to,
10 incompetency to properly exercise duties; official misconduct; or
11 habitual or willful neglect of duty, including, but not limited to,
12 failure to attend meetings, including committee meetings, in
13 accordance with standards determined by the board of trustees of
14 the corporation or subsidiary board.

15 (8) A trustee **OF A CORPORATION INCORPORATED BY A CITY OR**
16 **VILLAGE, OR A TRUSTEE OF A CORPORATION INCORPORATED BY OPERATION OF**
17 **SECTION 252A(1) THAT ADOPTS ARTICLES OF INCORPORATION UNDER SECTION**
18 **252A(2)**, shall not be removed from office on grounds of misconduct
19 or neglect unless the trustee is served with a notice of hearing
20 and a copy of the asserted ground for removal, and is given full
21 opportunity to be heard, either in person or by counsel, before a
22 vote is taken on the question of removal from office.

23 (9) **SUBSECTIONS (1) TO (8) DO NOT APPLY TO A CITY HOSPITAL**
24 **THAT EXISTS ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED**
25 **THIS SUBSECTION, THAT IS INCORPORATED BY OPERATION OF SECTION**
26 **252A(1), AND THAT HAS NOT ADOPTED ARTICLES OF INCORPORATION UNDER**
27 **SECTION 252A(2). UNTIL A CITY HOSPITAL INCORPORATED BY OPERATION OF**

1 SECTION 252A(1) ADOPTS ARTICLES OF INCORPORATION UNDER 252A(2), THE
2 CITY CHARTER OF THE CITY THAT ESTABLISHED THE HOSPITAL SHALL GOVERN
3 THE NUMBER, TERM OF OFFICE, APPOINTMENT, QUALIFICATION, AND REMOVAL
4 OF TRUSTEES SERVING ON THE BOARD OF THAT CORPORATION.

5 Enacting section 1. This amendatory act takes effect 90 days
6 after the date it is enacted into law.