

Act No. 351
Public Acts of 2020
Approved by the Governor
December 30, 2020
Filed with the Secretary of State
December 30, 2020
EFFECTIVE DATE: March 24, 2021

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Senators Barrett, Brinks, Chang, Moss, Wojno and Hollier

ENROLLED SENATE BILL No. 1110

AN ACT to amend 2016 PA 560, entitled “An act to create the Michigan veterans’ facility authority; to develop and operate certain veterans’ facilities; to create funds and accounts; to authorize the issuing of bonds and notes; to prescribe the powers and duties of the authority and certain state departments and other state officials and employees; and to make appropriations and prescribe certain conditions for the appropriations,” by amending the title and sections 2, 3, 5, and 6 (MCL 36.102, 36.103, 36.105, and 36.106), sections 3, 5, and 6 as amended by 2018 PA 630, and by adding sections 6a, 6c, and 12a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act to create the Michigan veterans’ facility authority; to develop and operate certain veterans’ facilities; to create funds and accounts; to authorize the issuing of bonds and notes; to prescribe the powers and duties of the authority and certain state departments and other state officials and employees; to require the promulgation of rules; and to make appropriations and prescribe certain conditions for the appropriations.

Sec. 2. As used in this act:

- (a) “Authority” means the Michigan veterans’ facility authority created under section 3.
- (b) “Authority board” or “board” means the board of directors of the authority.
- (c) “Bond” means a bond, note, or other obligation issued by the authority under this act.
- (d) “Department” means the department of military and veterans affairs.
- (e) “Develop” means to plan, acquire, construct, improve, enlarge, maintain, renew, renovate, repair, replace, lease, equip, furnish, market, promote, manage, or operate.
- (f) “Michigan veteran homes” means the administrative entity that centrally manages and operates veterans’ facilities in this state.
- (g) “Veteran” means an individual who meets both of the following:
 - (i) Is a veteran as defined in section 1 of 1965 PA 190, MCL 35.61.
 - (ii) Was honorably discharged.
- (h) “Veterans’ facility” means a long-term care facility and ancillary facilities for veterans and their dependents as determined by the authority.

Sec. 3. (1) The Michigan veterans’ facility authority is created as a public body corporate and politic within the department. The authority shall be administered under the supervision of the department but shall exercise its prescribed statutory powers, duties, and functions independently of the department as an autonomous entity

within the department. The exercise by the authority of the powers conferred by this act is an essential governmental function of this state.

(2) The authority shall provide general oversight and governance of Michigan veteran homes and veterans' facilities in this state. The authority shall promulgate rules to implement this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Rules promulgated by the prior board of managers under former 1885 PA 152 and in effect on the effective date of the amendatory act that added this subsection continue in effect to the extent that the rules do not conflict with this act and may be amended or rescinded by the authority.

(3) Notwithstanding the existence of common management, the authority must be treated and accounted for as a separate legal entity with its separate corporate purposes as set forth in this act. The assets, liabilities, and funds of the authority must not be consolidated or commingled with those of this state.

Sec. 5. (1) The authority shall exercise its duties through a board of directors.

(2) The board shall be made up of the following members:

(a) Subject to subsection (7), the director of the department.

(b) Three members with professional knowledge, skill, or experience in long-term care, health care licensure or finance, or medicine who represent the interests of 1 or more congressionally chartered veterans' organizations appointed by the governor with the advice and consent of the senate.

(c) Three members with professional knowledge, skill, or experience in long-term care, health care licensure or finance, or medicine appointed by the governor with the advice and consent of the senate. One of the members appointed under this subdivision must be a resident of the Upper Peninsula of this state.

(d) One member appointed by the governor from a list of 2 or more individuals selected by the majority leader of the senate, with professional knowledge, skill, or experience in long-term care, health care licensure or finance, or medicine.

(e) One member appointed by the governor from a list of 2 or more individuals selected by the speaker of the house of representatives, with professional knowledge, skill, or experience in long-term care, health care licensure or finance, or medicine.

(3) The appointed members shall serve for terms of 4 years. Of the 5 members first appointed, the governor shall appoint 1 for an initial term of 1 year, 2 for an initial term of 2 years, and 2 for an initial term of 3 years. The appointed members shall serve until a successor is appointed. A vacancy must be filled for the balance of the unexpired term in the same manner as the original appointment.

(4) A director of a state department who is a designated member of the board may appoint a representative to serve in his or her absence.

(5) Members of the board shall serve without compensation but may receive reasonable reimbursement for necessary travel and expenses incurred in the discharge of their duties.

(6) The director of the department shall serve as chairperson of the board until January 1, 2019. At that time, the board members shall elect a chairperson who is not the director of the department or his or her designee.

(7) One year after the second facility operated by the authority is open and housing veterans, the director of the department shall then serve as a nonvoting member of the board. A new member who is a veteran who has professional knowledge, skill, or experience in long-term care, health care licensure or finance, or medicine shall be appointed by the governor with the advice and consent of the senate.

(8) A majority of the appointed and serving members of the board constitute a quorum of the board for the transaction of business. Actions of the board must be approved by a majority vote of the members present at a meeting.

(9) The members of the board shall recommend by name the appointment of an executive director of the Michigan veterans' facility authority, to be appointed by the governor. The executive director is exempt from the classified state civil service and serves at the pleasure of the governor. The executive director shall administer the business operations of Michigan veteran homes, veterans' facilities developed and operated under this act, and the authority. The executive director shall receive compensation determined annually by the authority.

(10) The authority may employ or contract for legal, financial, and technical experts, and other officers, agents, and employees, permanent and temporary, as the authority requires, and shall determine their qualifications, duties, and compensation. The board may delegate to 1 or more agents or employees any powers or duties, and any limitations on those powers or duties, that the board considers proper.

(11) The members of the board and officers and employees of the authority are subject to 1968 PA 317, MCL 15.321 to 15.330, and 1968 PA 318, MCL 15.301 to 15.310.

(12) A member of the board or officer, employee, or agent of the authority shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent individual would exercise under similar circumstances in a like position. In discharging his or her duties, a member of the board or an officer, employee, or agent, when acting in good faith, may rely upon the opinion of the authority's counsel, upon the report of an independent appraiser selected with reasonable care by the board, or upon the financial statements of the authority represented to him or her by the executive director, or an officer of the authority having charge of its books or account, to be correct, or stated in a written report by a certified public accountant, or firm of certified public accountants, to fairly reflect the financial condition of the authority.

(13) The board shall organize and make its own policies and procedures. The board shall conduct all business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of each meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(14) Upon request by a member of the legislature, the board shall make nonprivileged information regarding the operations and accounts of the authority and nonprivileged information regarding the care provided to veterans at a veterans' facility available to members of the legislature.

Sec. 6. (1) The authority has all of the following powers:

(a) To review and revise a system of oversight and governance for Michigan veteran homes, that must include all rules, regulations, and laws necessary for effective management and preserving the health and welfare of veterans and dependents residing at veterans' facilities in this state.

(b) To solicit and accept gifts, grants, and loans from any person.

(c) To invest any money of the authority at the authority's discretion, in any obligations determined proper by the authority, and name and use depositories for its money.

(d) To procure insurance against any loss in connection with the property, assets, or activities of the authority.

(e) To sue and be sued, to have a seal, and to make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise of the authority's powers.

(f) To make and amend bylaws.

(g) To employ and contract with individuals necessary for the operation of the authority and 1 or more veterans' facilities.

(h) To make and execute contracts including without limitation sale agreements, trust agreements, trust indentures, bond purchase agreements, tax regulatory agreements, continuing disclosure agreements, ancillary facilities, and all other instruments necessary or convenient for the exercise of its powers and functions, and commence any action to protect or enforce any right conferred upon it by law, or by any contract or other agreement.

(i) To engage the services of financial advisors and experts, legal counsel, placement agents, underwriters, appraisers, and other advisors, consultants, and fiduciaries as may be necessary to effectuate the purposes of this act.

(j) To pay its operating expenses and financing costs.

(k) To pledge revenues or other assets as security for the payment of the principal of and interest on any bonds.

(l) To procure insurance, letters of credit, or other credit enhancement with respect to any bonds for the payment of tenders of bonds, or for the payment upon maturity of short-term bonds.

(m) To develop or operate 1 or more veterans' facilities.

(n) To solicit federal funds and other funding sources to develop veterans' facilities.

(o) To establish or permit to be established on its behalf 1 or more separate nonprofit corporations organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, to assist the authority in the furtherance of its public purposes.

(p) To do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this act.

(2) All employees of the authority are state employees, except for those positions that the authority fills using alternative methods of service delivery in accordance with established civil service rules and regulations. The authority is subject to all established civil service rules and regulations pertaining to employment and hiring practices. On the effective date of the amendatory act that added section 6a, employees of a veterans' facility established under former 1885 PA 152 shall continue in their current employment status. Any changes or modifications to these and future employees' compensation, benefits, or employment status must be made in accordance with established civil service rules and regulations.

- (3) In determining the operation and staffing of a veterans' facility, the authority shall do both of the following:
 - (a) Consider nationally recognized models and guidelines for the delivery of health care in veterans' facilities.
 - (b) Follow the rules and regulations of the civil service commission.

Sec. 6a. (1) The following individuals are eligible for admission to a veterans' facility in this state:

- (a) A veteran eligible for the United States Department of Veterans Affairs' health care or financial assistance for long-term nursing or day care.
- (b) A dependent of a veteran who meets 1 of the following criteria:
 - (i) The veteran is eligible for admission under subdivision (a).
 - (ii) The veteran was eligible for admission under subdivision (a) at the time of the veteran's death.
- (2) As a condition of admission, each veteran and dependent must agree to pay to Michigan veteran homes, for the use by and benefit of this state, a sum based on his or her income and assets to support the care and services he or she receives at the veterans' facility.
- (3) Michigan veteran homes shall annually determine the per diem maintenance rate and present the rate to the board for approval. The per diem maintenance rate charges must be paid in a manner and timeline determined by Michigan veteran homes.
- (4) Money collected under this section and from the United States Department of Veterans' Affairs administration in direct payment for services to veterans at the veterans' facilities must be deposited in the veterans' facility operation fund created in section 6c.
- (5) Michigan veteran homes may deduct either of the following amounts from money Michigan veteran homes holds on behalf of a veteran or dependent residing at a veterans' facility after the death of the veteran or dependent:
 - (a) Money the veteran or dependent owes to Michigan veteran homes or the veterans' facility at the time of his or her death.
 - (b) Funeral or burial-related expenses incurred by Michigan veteran homes or the veterans' facility due to the death of the veteran or dependent.
- (6) Michigan veteran homes shall, after all necessary payments are made under subsection (5), remit any remaining money to the next of kin of the deceased veteran or dependent.
- (7) If, after 2 years following the death of a veteran or dependent residing at a veterans' facility, Michigan veteran homes is unable to find a surviving relative or next of kin of the veteran or dependent, Michigan veteran homes shall deposit any money held on behalf of the veteran or dependent into the charitable support fund created in section 6c.
- (8) A veteran's or dependent's failure to remit a payment agreed to under subsection (2) is cause for dismissal from a veterans' facility.
- (9) As used in this section:
 - (a) "Dependent" means a widow, widower, former spouse, or spouse of a veteran, or a gold star parent.
 - (b) "Gold star parent" means an individual who has had a son or daughter die while serving in the United States Armed Forces or in forces incorporated as part of the United States Armed Forces if the son or daughter meets any of the eligibility criteria specified in 10 USC 1126(a)(1) to (3) for a gold star lapel button.

Sec. 6c. (1) The authority shall provide fiduciary oversight, in coordination with the state treasury, for all funds held by Michigan veteran homes on behalf of members residing at each veterans' facility.

(2) The authority may receive money held in the post fund and posthumous fund created by former 1905 PA 313, and the veterans' facility operation fund created in section 11 of former 1885 PA 152.

(3) The authority and Michigan veteran homes shall do all of the following:

- (a) Create and maintain a charitable support fund into which the post fund and posthumous fund must be deposited. Gifts received by the authority and Michigan veteran homes that are not specifically directed for the use and benefit of this state must be deposited into the charitable support fund.
- (b) Expend money in the charitable support fund, upon approval by the board, to benefit the members of Michigan veteran homes and support the operations of veterans' facilities.
- (c) Create and maintain a separate, segregated account for the veterans' facility operation fund. Money in the veterans' facility operation fund must be expended only to support the operations and services provided at a veterans' facility established under this act.

Sec. 12a. (1) No later than January 1, April 1, July 1, and October 1 of each year, the Michigan veteran homes on behalf of the authority, or a successor entity, shall submit a quarterly report in writing to the governor, the senate and house committees on veterans affairs, and the senate and house appropriations subcommittees for the department that contains all of the following information for each state veterans' facility:

- (a) Staffing levels and the extent that staffing levels do or do not meet industry standards.
 - (b) Number of patient complaints, average time to review a complaint and respond, and the response to each complaint.
 - (c) Timeliness of the distribution of pharmaceutical drugs.
 - (d) Security provided for pharmaceutical drugs in the facility, including the title of the individuals providing the security.
 - (e) How patient money is accounted for, including the name and title of the individual who supervises patient spending accounts.
 - (f) Number of facility resident deaths that occurred after the most recent report.
- (2) The Michigan veteran homes, on behalf of the authority, shall post the reports required under subsection (1) on its public website in a prominent and conspicuous manner.

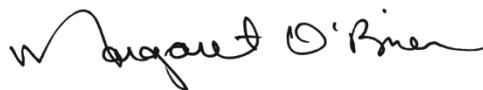
Enacting section 1. 1885 PA 152, MCL 36.1 to 36.12, is repealed.

Enacting section 2. 1921 PA 15, MCL 36.31 to 36.32, is repealed.

Enacting section 3. 1901 PA 54, MCL 36.51 to 36.55, is repealed.

Enacting section 4. 1905 PA 313, MCL 36.61, is repealed.

Enacting section 5. This amendatory act does not take effect unless Senate Bill No. 1109 of the 100th Legislature is enacted into law.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor

Compiler's note: Senate Bill No. 1109, referred to in enacting section 5, was filed with the Secretary of State December 30, 2020, and became 2020 PA 350, Eff. Mar. 24, 2021.