

SENATE BILL NO. 1110

September 15, 2020, Introduced by Senators BARRETT, BRINKS, CHANG, MOSS, WOJNO and HOLLIER and referred to the Committee on Families, Seniors, and Veterans.

A bill to amend 2016 PA 560, entitled
"Michigan veterans' facility authority act,"
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 and 6c; and to repeal acts
and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 TITLE
- 2 An act to create the Michigan veterans' facility authority; to
- 3 develop and operate certain veterans' facilities; to create funds

1 and accounts; to authorize the issuing of bonds and notes; to
 2 prescribe the powers and duties of the authority and certain state
 3 departments and other state officials and employees; ~~and to require~~
 4 **the promulgation of rules; and** to make appropriations and prescribe
 5 certain conditions for the appropriations.

6 Sec. 2. As used in this act:

7 (a) "Authority" means the Michigan veterans' facility
 8 authority created under section 3.

9 (b) ~~"Board"~~ **"Authority board" or "board"** means the board of
 10 directors of the authority.

11 (c) "Bond" means a bond, note, or other obligation issued by
 12 the authority under this act.

13 (d) "Department" means the department of military and veterans
 14 affairs.

15 (e) "Develop" means to plan, acquire, construct, improve,
 16 enlarge, maintain, renew, renovate, repair, replace, lease, equip,
 17 furnish, market, promote, manage, or operate.

18 (f) **"Michigan veteran homes" means the administrative entity**
 19 **that centrally manages and operates veterans' facilities in this**
 20 **state.**

21 (g) ~~(f)~~ "Veteran" means an individual who meets both of the
 22 following:

23 (i) Is a veteran as defined in section 1 of 1965 PA 190, MCL
 24 35.61.

25 (ii) Was honorably discharged.

26 (h) ~~(g)~~ "Veterans' facility" means a long-term care facility
 27 and ancillary facilities for veterans and their dependents as
 28 determined by the authority.

29 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.

(3) ~~(2)~~ Notwithstanding the existence of common management, the authority ~~shall~~ **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 ~~shall~~ **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

1 the senate. One of the members appointed under this subdivision
 2 ~~shall~~**must** be a resident of the Upper Peninsula of this state.

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

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

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

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

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

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

29 (7) One year after the second facility operated by the

1 authority is open and housing veterans, the director of the
 2 department shall then serve as a nonvoting member of the board. A
 3 new member who is a veteran who has professional knowledge, skill,
 4 or experience in long-term care, health care licensure or finance,
 5 or medicine shall be appointed by the governor with the advice and
 6 consent of the senate.

7 (8) A majority of the appointed and serving members of the
 8 board ~~shall~~ constitute a quorum of the board for the transaction of
 9 business. Actions of the board ~~shall~~ **must** be approved by a majority
 10 vote of the members present at a meeting. **Members of the board may**
 11 **be present in person at a meeting of the board or, if authorized by**
 12 **the bylaws of the board, by use of telecommunications or other**
 13 **electronic equipment.**

14 (9) The members of the board shall recommend by name the
 15 appointment of an executive director of the Michigan veterans'
 16 facility authority, to be appointed by the governor. The executive
 17 director is exempt from the classified state civil service and
 18 serves at the pleasure of the governor. The executive director
 19 shall administer the business operations of ~~Michigan veterans'~~
 20 ~~facilities, as that term is defined under section 2a of 1985 PA~~
 21 ~~152, MCL 36.2a, Michigan veteran homes~~, veterans' facilities
 22 developed and operated under this act, and the authority. The
 23 executive director shall receive compensation determined annually
 24 by the authority.

25 (10) The authority may employ or contract for legal,
 26 financial, and technical experts, and other officers, agents, and
 27 employees, permanent and temporary, as the authority requires, and
 28 shall determine their qualifications, duties, and compensation. The
 29 board may delegate to 1 or more agents or employees any powers or

1 duties, and any limitations on those powers or duties, that the
2 board considers proper.

3 (11) The members of the board and officers and employees of
4 the authority are subject to 1968 PA 317, MCL 15.321 to 15.330, and
5 1968 PA 318, MCL 15.301 to 15.310.

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

21 (13) The board shall organize and make its own policies and
22 procedures. The board shall conduct all business at public meetings
23 held in compliance with the open meetings act, 1976 PA 267, MCL
24 15.261 to 15.275. Public notice of the time, date, and place of
25 each meeting shall be given in the manner required by the open
26 meetings act, 1976 PA 267, MCL 15.261 to 15.275.

27 (14) Upon request by a member of the legislature, the board
28 shall make nonprivileged information regarding the operations and
29 accounts of the authority and nonprivileged information regarding

1 the care provided to veterans at a veterans' facility available to
2 members of the legislature.

3 Sec. 6. (1) The authority ~~shall have~~ **has** all of the following
4 powers:

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

10 **(b)** ~~(a)~~ To solicit and accept gifts, grants, and loans from
11 any person.

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

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

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

20 **(f)** ~~(e)~~ To make and amend bylaws.

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

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

1 agreement.

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

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

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

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

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

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

16 (o) ~~(n)~~ To establish or permit to be established on its behalf
 17 1 or more separate nonprofit corporations organized under the
 18 nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192,
 19 to assist the authority in the furtherance of its public purposes.

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

23 (2) When hiring employees for a veterans' facility, the
 24 authority shall give preference to employees currently employed ~~by~~
 25 ~~at a Michigan veterans' facility. under 1985 PA 152, MCL 36.1 to~~
 26 ~~36.12.~~

27 (3) In determining the operation and staffing of a veterans'
 28 facility, the authority shall do both of the following:

29 (a) Consider nationally recognized models and guidelines for

1 the delivery of health care in veterans' facilities.

2 (b) Follow the rules and regulations of the civil service
3 commission.

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

6 (a) A veteran eligible for the United States Department of
7 Veterans Affairs' health care or financial assistance for long-term
8 nursing or day care.

9 (b) A dependent of a veteran who meets 1 of the following
10 criteria:

11 (i) The veteran is eligible for admission under subdivision
12 (a).

13 (ii) The veteran was eligible for admission under subdivision
14 (a) at the time of the veteran's death.

15 (2) As a condition of admission, each veteran and dependent
16 must agree to pay to Michigan veteran homes, for the use by and
17 benefit of this state, a sum based on his or her income and assets
18 to support the care and services he or she receives at the
19 veterans' facility.

20 (3) Michigan veteran homes shall annually determine the per
21 diem maintenance rate and present the rate to the board for
22 approval. The per diem maintenance rate charges must be paid in a
23 manner and timeline determined by Michigan veteran homes.

24 (4) Money collected under this section and from the United
25 States Department of Veterans' Affairs administration in direct
26 payment for services to veterans at the veterans' facilities must
27 be deposited in the veterans' facility operation fund created in
28 section 6c.

29 (5) Michigan veteran homes may deduct either of the following

1 amounts from money Michigan veteran homes holds on behalf of a
2 veteran or dependent residing at a veterans' facility after the
3 death of the veteran or dependent:

4 (a) Money the veteran or dependent owes to Michigan veteran
5 homes or the veterans' facility at the time of his or her death.

6 (b) Funeral or burial-related expenses incurred by Michigan
7 veteran homes or the veterans' facility due to the death of the
8 veteran or dependent.

9 (6) If, after 2 years following the death of a veteran or
10 dependent residing at a veterans' facility, Michigan veteran homes
11 is unable to find a surviving relative or next of kin of the
12 veteran or dependent, Michigan veteran homes shall deposit any
13 money held on behalf of the veteran or dependent into the
14 charitable support fund created in section 6c.

15 (7) A veteran's or dependent's failure to remit payment as
16 agreed upon is cause for dismissal from a veterans' facility.

17 (8) As used in this section:

18 (a) "Dependent" means a widow, widower, former spouse, or
19 spouse of a veteran, or a gold star parent.

20 (b) "Gold star parent" means an individual who has had a son
21 or daughter die while serving in the United States Armed Forces or
22 in forces incorporated as part of the United States Armed Forces if
23 the son or daughter meets any of the eligibility criteria specified
24 in 10 USC 1126(a)(1) to (3) for a gold star lapel button.

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

29 (2) The authority may receive money held in the post fund and

1 posthumous fund created by former 1905 PA 313, and the veterans'
2 facility operation fund created in section 11 of former 1885 PA
3 152.

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

6 (a) Create and maintain a charitable support fund into which
7 the post fund and posthumous fund must be deposited. Gifts received
8 by the authority and Michigan veteran homes that are not
9 specifically directed for the use and benefit of this state must be
10 deposited into the charitable support fund.

11 (b) Expend money in the charitable support fund, upon approval
12 by the board, to benefit the members of Michigan veteran homes and
13 support the operations of veterans' facilities.

14 (c) Create and maintain a separate, segregated account for the
15 veterans' facility operation fund. Money in the veterans' facility
16 operation fund must be expended only to support the operations and
17 services provided at a veterans' facility established under this
18 act.

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

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

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

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

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