



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 374 (as enacted)
Sponsor: Senator John Moolenaar
Senate Committee: Health Policy
House Committee: Health Policy

PUBLIC ACT 195 of 2011

Date Completed: 2-2-12

RATIONALE

The Municipal Health Facilities Corporations Act authorizes a county, city, or village to incorporate a public hospital or other health facility. The board of a health facilities corporation must consist of five to 15 trustees, and board members must be appointed as provided in the Act. The Act requires the county board of commissioners, or the city or village council, as applicable, to appoint trustees to the board when the corporation is created. Previously, the Act also required the local governing body to appoint trustees to fill vacancies and, before a trustee was appointed, required the board of trustees to submit the names of three nominees. In addition, if a local unit created a subsidiary health facilities corporation, the board of the parent corporation or the subsidiary had to submit the names of three nominees for each position on the subsidiary's board, for appointment by the county board of commissioners or the city or village council.

These requirements evidently were problematic for several reasons. In small communities, it can sometimes be challenging to find enough individuals who are qualified and willing to serve on a public hospital's board, and the requirement to submit three names for each position compounded that difficulty. In addition, since two nominees were rejected every time one was appointed, some people apparently were hesitant to apply, or agree to be nominated, for future openings. Also, if the local unit's governing body did not select one of the three nominees for a vacancy, the process had to be repeated until the position was filled.

To address these issues, it was suggested that the procedures for appointing public hospital board members should be revised.

CONTENT

The bill amended the Municipal Health Facilities Corporations Act to delete the requirement that three people be nominated for a position on the board of a municipal health facilities corporation or subsidiary corporation; and require a board of trustees to fill vacancies subject to approval of the local governing body.

Previously, if a local governmental unit incorporated a public hospital or other health facility, the Act required the county board of commissioners, or the city or village council, as applicable, to appoint trustees to all positions on the corporation's board. When a local governmental unit incorporated a subsidiary, the board of trustees of the parent corporation had to submit to the local governing body the names of three subsidiary board nominees. Also, to fill a vacancy on the board of a corporation or subsidiary corporation, the remaining board members had to submit to the applicable governing body the names of three nominees. The governing body had to consider the nominations and make appointments to the board. The governing body was not required to fill a position with one of the three nominees, but if it did not, it had to request and consider additional nominees until the position was filled.

The bill retained the requirement that the local governing body appoint the members of the initial board of trustees of a municipal health facilities corporation, but deleted the process involving the nomination of members to serve on the initial board of a subsidiary or to fill vacancies on a corporation's or subsidiary's board.

Specifically, after the appointment of the initial board of trustees of a health facilities corporation, when the term of office of a trustee expires or is otherwise vacant, the bill requires the remaining board members to fill the vacancy with the advice and consent of the applicable local governing body. If a subsidiary corporation is formed, the bill requires the board of trustees of the parent corporation to appoint the subsidiary board and fill vacancies with the local governing body's advice and consent. These requirements do not apply to an ex officio member who is appointed by a chief executive officer.

The bill took effect on October 18, 2011.

MCL 331.1209 & 331.1258

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The previous nomination and appointment procedures compounded the difficulty of finding qualified and willing board members for a public hospital. In some communities, the pool of eligible candidates is small to begin with; not more than one third of the board members can be direct health care providers, and trustees may be required to be residents of the county, city, or village. Every time a vacancy was filled, at least two good candidates had to be rejected, generating bad public relations in some situations and making the individuals reluctant to be nominated in the future. Over time, if people were asked repeatedly to have their names placed in nomination and then were not appointed, the process began to look like a sham.

The bill essentially requires only one person to be considered at a time to fill a board position when a trustee's term expires or a vacancy otherwise arises. Instead of

recommending three candidates to the local governing body for appointment, the board of trustees will select one person, whose appointment will be subject to the governing body's advice and consent. If the person is rejected, the process will be repeated. The bill will benefit the 12 public hospitals that are subject to the Act, by retaining a local unit's authority to make the final decision in the trustee selection process, while keeping available the largest possible pool of qualified candidates.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.