

# HOUSE BILL NO. 5876

March 03, 2022, Introduced by Reps. VanWoerkom and Lilly and referred to the Committee on Health Policy.

A bill to amend 1945 PA 47, entitled

"An act to authorize 2 or more cities, townships, and villages, or any combination of cities, townships, and villages, to incorporate a hospital authority for planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining, and operating 1 or more community hospitals and related buildings or structures and related facilities; to provide for the sale, lease, or other transfer of a hospital owned by a hospital authority to a nonprofit corporation established under the laws of this state for no or nominal monetary consideration; to define hospitals and community hospitals; to provide for changes in the membership therein; to authorize the cities, townships, and villages to levy taxes for community hospital purposes; to provide for the issuance of bonds; to provide for the pledge of

assessments; to provide for borrowing money for operation and maintenance and issuing notes for operation and maintenance; to validate elections heretofore held and notes heretofore issued; to validate bonds heretofore issued; to authorize condemnation proceedings; to grant certain powers of a body corporate; to validate and ratify the organization, existence, and membership of entities acting as hospital authorities under the act and the actions taken by hospital authorities and by the members of the hospital authorities; and to prescribe penalties and provide remedies,"

by amending section 9 (MCL 331.9), as amended by 1990 PA 69.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 9. (1) For purposes of a hospital authority established  
 2 ~~pursuant to~~ **under** this act, the hospital board may purchase, lease,  
 3 accept by gift or devise, or condemn private property. The hospital  
 4 board may sell, exchange or otherwise transfer, lease, hold,  
 5 manage, and control a property, asset, or hospital owned by the  
 6 hospital board. Subject to subsections (2), (14), and (19), the  
 7 sale, exchange, transfer, or lease of a property, asset, or  
 8 hospital ~~shall~~ **must** be for its market value and the money ~~so~~  
 9 received ~~shall~~ **from that sale, exchange, transfer, or lease must** be  
 10 retained by the hospital authority. If acquired by condemnation,  
 11 ~~Act No. 149 of the Public Acts of 1911, as amended, being sections~~  
 12 ~~213.21 to 213.25 of the Michigan Compiled Laws~~ **1911 PA 149, MCL**  
 13 **213.21 to 213.25**, and the uniform condemnation procedures act, ~~Act~~  
 14 ~~No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77~~  
 15 ~~of the Michigan Compiled Laws, shall apply.~~ **1980 PA 87, MCL 213.51**  
 16 **to 213.75, apply.**

17           (2) Except as otherwise provided in subsection (19), a  
 18 hospital authority whose jurisdiction has a member population of  
 19 fewer than 300,000 may, by resolution, provide for the sale, lease,  
 20 or other transfer of a hospital owned by the hospital board,

1 ~~pursuant to~~**under** this subsection and subsections (3) to (12). The  
 2 resolution ~~shall~~**must** include a copy of the document proposed to  
 3 effect the sale, lease, or other transfer. If a hospital authority  
 4 passes ~~such a~~ resolution **described in this subsection**, the hospital  
 5 authority also shall provide by resolution for a public vote of the  
 6 electors at large of all cities, villages, and townships in the  
 7 hospital authority on the question of the sale, lease, or other  
 8 transfer of the hospital. The election ~~shall~~**must** be conducted in  
 9 the same manner as provided in section 4 for the approval of an  
 10 additional tax for capital improvements. If the sale, lease, or  
 11 other transfer of the hospital is approved by a majority of the  
 12 voters, the hospital board may sell, lease, or otherwise transfer a  
 13 hospital owned by the hospital board on terms and conditions  
 14 considered reasonable by the hospital board, including a sale,  
 15 lease, or other transfer for no or nominal monetary consideration,  
 16 subject to subsections (6) to (8) and all of the following  
 17 conditions:

18 (a) The sale, lease, or other transfer ~~shall~~**from the hospital**  
 19 **authority must** be to a nonprofit corporation established ~~pursuant~~  
 20 ~~to~~**under** the nonprofit corporation act, ~~Act No. 162 of the Public~~  
 21 ~~Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan~~  
 22 ~~Compiled Laws, 1982 PA 162, MCL 450.2101 to 450.3192~~, and organized  
 23 specifically for the ownership and operation of the hospital. The  
 24 nonprofit corporation shall meet both of the following  
 25 requirements:

26 (i) At the time of the sale, lease, or other transfer or within  
 27 6 months after the date of the sale, lease, or other transfer, be  
 28 an entity exempt from federal income tax under section 501(c) of  
 29 the internal revenue code **of 1986, 26 USC 501**, or a comparable

1 successor provision.

2 (ii) At the time of the sale, lease, or other transfer **from the**  
 3 **hospital authority**, the majority of the members of the board of  
 4 directors of the nonprofit corporation ~~shall~~**are** also ~~be~~ members of  
 5 the board of the hospital authority.

6 (b) ~~The~~**At the time of the sale, lease, or other transfer from**  
 7 **the hospital authority, the** articles of incorporation of the  
 8 nonprofit corporation and the contractual arrangements between the  
 9 hospital authority and the nonprofit corporation ~~shall at all times~~  
 10 **must** require that the nonprofit corporation operate the hospital as  
 11 a nonprofit community hospital open to the general public that  
 12 serves the general population residing in the service area of the  
 13 hospital authority.

14 (c) ~~The~~**At the time of the sale, lease, or other transfer from**  
 15 **the hospital authority, the** articles of incorporation of the  
 16 nonprofit corporation and the contractual arrangements between the  
 17 hospital authority and the nonprofit corporation ~~shall at all times~~  
 18 **must** require that the nonprofit corporation shall not sell, lease,  
 19 or otherwise transfer the hospital without the express consent of  
 20 the hospital authority. ~~and the approval by a majority of the~~  
 21 ~~voters as required in this subsection for the sale, lease, or other~~  
 22 ~~transfer of a hospital from the hospital board to a nonprofit~~  
 23 ~~corporation. If the hospital is sold, leased, or otherwise~~  
 24 ~~transferred pursuant to this subdivision, the sale, lease, or other~~  
 25 ~~transfer shall be for market value and the proceeds of the~~  
 26 ~~transaction shall be turned over to the hospital authority.~~

27 (d) If the hospital authority has ever levied an additional  
 28 tax for capital improvements under section 4, ~~then~~ the hospital  
 29 authority shall pay back to each member unit of the hospital

1 authority, ~~upon such~~ **on** terms and conditions as ~~may be~~ agreed upon  
 2 by the hospital board and each member unit, an amount equal to all  
 3 taxes for capital improvement collected within the 60 months  
 4 immediately preceding the sale, lease, or other transfer with  
 5 respect to property located in the member unit, and any remaining  
 6 uncollected portion of the tax levy ~~shall~~ **must** not then be  
 7 collected.

8 ~~(e) The articles of incorporation of the nonprofit corporation~~  
 9 ~~and the contractual arrangements between the hospital authority and~~  
 10 ~~the nonprofit corporation shall at all times require that the~~  
 11 ~~nonprofit corporation adopt and carry out policies designed to~~  
 12 ~~ensure both of the following:~~

13 ~~(i) That hospital care is provided to a reasonable degree to~~  
 14 ~~indigent persons in the corporation's hospital service area free of~~  
 15 ~~charge.~~

16 ~~(ii) That the hospital complies with the requirement of section~~  
 17 ~~20201(2) (a) of the public health code, Act No. 368 of the Public~~  
 18 ~~Acts of 1978, being section 333.20201 of the Michigan Compiled~~  
 19 ~~Laws, that patients not be denied appropriate care on the basis of~~  
 20 ~~source of payment.~~

21 (3) As used in subsection (2), "hospital" includes all  
 22 property, real and personal, tangible and intangible, including  
 23 without limitation cash and accounts receivable, used in the  
 24 operation and management of the hospital.

25 (4) If self-liquidating bonds have been issued by the hospital  
 26 authority ~~pursuant to~~ **under** this act, and if the bonds are  
 27 outstanding, a lease of a hospital ~~as provided for in~~ **under**  
 28 subsection (2), with or without a transfer to the nonprofit  
 29 corporation at the expiration of the lease term and with or without

1 monetary consideration, is not a violation of this act or of any  
 2 bond resolution or ordinance adopted ~~pursuant to~~**under** this act if  
 3 the lease does all of the following:

4 (a) Requires the lessee to pay rent to the hospital authority  
 5 in an amount sufficient to pay the principal and interest  
 6 obligations of the bonds as they become due.

7 (b) Requires the lessee to maintain the various bond funds as  
 8 required by this act and by the bond resolution or ordinance.

9 (c) Provides for the continuation of the lien created by this  
 10 act and by the bond resolution or ordinance ~~upon~~**on** the net  
 11 revenues of the hospital.

12 (d) Requires the lessee to operate the hospital in a manner  
 13 consistent with the bond resolution or ordinance.

14 (5) If self-liquidating bonds have been issued by the hospital  
 15 authority ~~pursuant to~~**under** this act, and if the bonds are  
 16 outstanding, a sale of a hospital ~~as provided for in~~**under**  
 17 subsection (2) is not a violation of this act or of any bond  
 18 resolution or ordinance adopted ~~pursuant to~~**under** this act if all  
 19 of the following conditions are met:

20 (a) The outstanding bonds are defeased.

21 (b) Defeasance of the existing bonded indebtedness is  
 22 accomplished by depositing sufficient cash or United States  
 23 treasury obligations, or both, in escrow in an amount sufficient,  
 24 including interest to be earned on the funds and obligations placed  
 25 in escrow, to provide for payment of all interest, principal, and  
 26 premium, if any, when and as due on the outstanding bonds,  
 27 including final payment. As used in this subdivision, "final  
 28 payment" means the final payment due at the maturity of the bonds  
 29 or ~~upon~~**on** the redemption of the bonds ~~prior to~~**before** maturity on

1 a date on which the bonds are callable for redemption if  
2 irrevocable arrangements have been made to call the bonds for  
3 redemption on that date.

4 (c) The contract of sale contains provisions implementing this  
5 subsection.

6 (6) Subject to subsection (9), if a hospital authority passes  
7 a resolution providing for an election ~~pursuant to~~ **as provided in**  
8 subsection (2), the legislative body of a city, village, or  
9 township participating in the hospital authority may, within 90  
10 days after the date the resolution is passed by the hospital  
11 authority, pass a resolution to withdraw from membership in the  
12 authority. If the resolution to withdraw as a member of the  
13 authority is passed by the legislative body, the election ~~provided~~  
14 ~~for in~~ **under** subsection (2) ~~shall~~ **must** not be held unless a  
15 majority of the hospital authority board concurs in the withdrawal  
16 of that member unit. If the board concurs in the withdrawal, the  
17 withdrawal ~~shall be~~ **is** effective on the date of the sale, lease, or  
18 other transfer of the hospital after the election ~~provided for in~~  
19 **under** subsection (2). After the effective date of the withdrawal,  
20 the withdrawing member unit is not subject to any tax levy or other  
21 request for funds made by the hospital authority under this act or  
22 otherwise, and is not entitled to any of the assets of the hospital  
23 authority.

24 (7) Subject to subsection (9) and except as otherwise provided  
25 in this subsection, if a hospital authority passes a resolution  
26 providing for an election ~~pursuant to~~ **under** subsection (2), the  
27 legislative body of a city, village, or township participating in  
28 the hospital authority may, within 90 days after the date the  
29 resolution is passed by the hospital authority, provide by

1 resolution for a public vote of the electors of the city, village,  
2 or township on the question of the withdrawal of that unit from  
3 membership in the hospital authority. The election ~~shall~~**must** be  
4 held at the same time as the at large election held under  
5 subsection (2) and conducted in the same manner as provided in  
6 section 4 for the approval of an additional tax for capital  
7 improvements. If an election is called by a member unit under this  
8 subsection, its vote ~~shall be~~**is** a separate vote for that unit on  
9 the question of withdrawal from the hospital authority. However, an  
10 election under this subsection or under subsection (2) ~~shall~~**must**  
11 not be conducted unless the hospital board has by majority vote  
12 consented to the withdrawal of the member unit that has resolved to  
13 hold an election on the question of withdrawal from the authority  
14 under this subsection. If the board concurs in the withdrawal, the  
15 withdrawal is effective on the date of the sale, lease, or other  
16 transfer of the hospital after the election ~~provided for in~~**under**  
17 subsection (2). After the effective date of the withdrawal, the  
18 withdrawing member unit is not subject to any tax levy or other  
19 request for funds made by the hospital authority under this act or  
20 otherwise, and is not entitled to any of the assets of the hospital  
21 authority.

22 (8) Subject to subsection (9) and except as otherwise provided  
23 in this subsection, if a hospital authority passes a resolution  
24 providing for an election ~~pursuant to~~**under** subsection (2), the  
25 electors of a city, village, or township participating in the  
26 hospital authority may, by petition signed by a number of qualified  
27 and registered electors residing within the city, village, or  
28 township equal to not less than 5% of the number of votes cast by  
29 the qualified and registered electors in that city, village, or



1 township for secretary of state at the last general election in  
 2 which a secretary of state was elected, require a public vote of  
 3 the electors in that city, village, or township on the question of  
 4 the withdrawal of that unit from membership in the hospital  
 5 authority. The petitions ~~shall~~**must** be submitted to the clerk of  
 6 the city, village, or township within 90 days after the passage of  
 7 the resolution by the hospital authority providing for an election  
 8 ~~pursuant to~~**under** subsection (2). If a sufficient number of  
 9 signatures are submitted, the clerk of the city, village, or  
 10 township shall take the steps necessary to provide for an election.  
 11 The election ~~shall~~**must** be held at the same time as the at large  
 12 election held under subsection (2) and conducted in the same manner  
 13 as provided in section 4 for the approval of an additional tax for  
 14 capital improvements. If an election is required in a member unit  
 15 under this subsection, its vote is a separate vote for that unit on  
 16 the question of withdrawal from the hospital authority. However, an  
 17 election under this subsection or under subsection (2) ~~shall~~**must**  
 18 not be conducted unless by a majority vote the hospital board has  
 19 consented to the withdrawal of the member unit. If the board  
 20 concurs in the withdrawal, the withdrawal is effective on the date  
 21 of the sale, lease, or other transfer of the hospital after the  
 22 election ~~provided for in~~**under** subsection (2). After the effective  
 23 date of the withdrawal, the withdrawing member unit is not subject  
 24 to any tax levy or other request for funds made by the hospital  
 25 authority under this act or otherwise, and is not entitled to any  
 26 of the assets of the hospital authority.

27 (9) If, at the election held ~~pursuant to~~**under** subsection (2),  
 28 a majority of the electors at large do not vote to approve the  
 29 sale, lease, or other transfer of the hospital to a nonprofit

1 corporation, a resolution passed under subsection (6) or an  
 2 election held under subsection (7) or (8) to withdraw a city,  
 3 village, or township from participation in the hospital authority  
 4 is void.

5 (10) An election held under subsection (8) takes precedence  
 6 over a resolution passed under subsection (6).

7 (11) For a lease or other transfer of a hospital ~~pursuant to~~  
 8 **under** subsection (2), the total bonded indebtedness of the hospital  
 9 after the lease or transfer ~~shall~~**must** not be increased so as to  
 10 exceed 60% of the total asset value of the hospital without a  
 11 majority vote of the members serving on the hospital authority  
 12 board. As used in this subsection and subsection (12), "total asset  
 13 value" means the total value of the various assets of the hospital,  
 14 including assets to be constructed or acquired by means of the  
 15 additional proposed bonded indebtedness, as shown on an audited  
 16 financial statement that includes all bonded indebtedness of the  
 17 hospital.

18 (12) For a lease or other transfer of a hospital ~~pursuant to~~  
 19 **under** subsection (2), the total bonded indebtedness of the hospital  
 20 after the lease or transfer ~~shall~~**must** not be increased so as to  
 21 exceed 80% of the total asset value of the hospital unless  
 22 authorized at a general or special election and approved by a  
 23 majority vote of the total qualified and registered electors voting  
 24 on the question in each city, village, and township participating  
 25 in the hospital authority. The election ~~shall~~**must** be conducted in  
 26 the same manner as provided in section 4 for the approval of an  
 27 additional tax for capital improvements.

28 (13) ~~Upon~~**On** the sale, lease, or other transfer of a hospital  
 29 under this section, the nonprofit corporation or subsequent profit

1 entity shall assume and is bound by any existing labor agreement  
2 applicable to the hospital, for the remainder of the term of the  
3 agreement. A representative of the employees or a group of  
4 employees who is entitled to represent the employees or group of  
5 employees under ~~Act No. 336 of the Public Acts of 1947, being~~  
6 ~~sections 423.201 to 423.216 of the Michigan Compiled Laws, 1947 PA~~  
7 **336, MCL 423.201 to 423.217**, shall continue to be the  
8 representative of the employees or group of employees if the  
9 employees become employees of the nonprofit corporation or  
10 subsequent profit entity. This subsection does not limit the rights  
11 of the hospital employees, under applicable law, to assert that a  
12 bargaining representative protected by this subsection is no longer  
13 the representative of the employees.

14 (14) A hospital authority whose jurisdiction has a member  
15 population of more than 300,000 may, by resolution adopted by a  
16 majority vote of the hospital board, provide for the sale, lease,  
17 or other transfer of a hospital owned by the hospital board on any  
18 terms and conditions considered reasonable by the hospital board,  
19 including sale, lease, or other transfer for no or nominal monetary  
20 consideration, subject to all of the following terms and  
21 conditions:

22 (a) The sale, lease, or other transfer is to a nonprofit  
23 corporation established ~~pursuant to~~ **under** the nonprofit corporation  
24 act, ~~Act No. 162 of the Public Acts of 1982, being sections~~  
25 ~~450.2101 to 450.3192 of the Michigan Compiled Laws, 1982 PA 162,~~  
26 **MCL 450.2101 to 450.3192**, and organized specifically for the  
27 ownership and operation of the hospital. The nonprofit corporation  
28 shall at the time of the sale, lease, or other transfer or within 6  
29 months after the date of the sale, lease, or other transfer, be an

1 entity exempt from federal income tax under section 501(c) of the  
 2 internal revenue code **of 1986, 26 USC 501**, or a comparable  
 3 successor provision.

4 (b) The articles of incorporation of the nonprofit corporation  
 5 and the contractual arrangements between the hospital authority and  
 6 the nonprofit corporation ~~shall~~**must** at all times require that the  
 7 nonprofit corporation operate the hospital as a nonprofit community  
 8 health facility open to the general public that serves the general  
 9 population residing in the service area of the hospital authority.

10 (c) The articles of incorporation of the nonprofit corporation  
 11 and the contractual arrangements between the hospital authority and  
 12 the nonprofit corporation ~~shall~~**must** at all times require that the  
 13 nonprofit corporation shall not sell all of the transferred assets  
 14 without the express consent of the hospital authority and the  
 15 approval by a majority of the voters in an election conducted in  
 16 the same manner as provided in section 4 for the approval of an  
 17 additional tax for capital improvements. If all of the transferred  
 18 assets are sold ~~pursuant to~~**under** this subdivision, the sale ~~shall~~  
 19 **must** be for market value and the proceeds of the transaction ~~shall~~  
 20 **must** be turned over to the hospital authority and used for health  
 21 care needs within the service area of the hospital authority.

22 (d) The articles of incorporation of the nonprofit corporation  
 23 and the contractual arrangements between the hospital authority and  
 24 the nonprofit corporation ~~shall~~**must** at all times require that the  
 25 nonprofit corporation adopt and carry out policies designed to  
 26 ensure that the hospital complies with the requirement of section  
 27 20201(2) (a) of the public health code, ~~Act No. 368 of the Public~~  
 28 ~~Acts of 1978, being section 333.20201 of the Michigan Compiled~~  
 29 ~~Laws, 1978 PA 368, MCL 333.20201~~, that patients not be denied

1 appropriate care on the basis of source of payment.

2 (15) As used in subsection (14), "hospital" includes all  
 3 property, real and personal, tangible and intangible, including  
 4 without limitation cash, accounts receivable, and pension reserves  
 5 used in the operation and management of 1 or more hospitals.

6 (16) If self-liquidating bonds have been issued by the  
 7 hospital authority ~~pursuant to~~ **under** this act, and if the bonds are  
 8 outstanding, a sale, lease, or other transfer of a hospital ~~as~~  
 9 ~~provided for in~~ **under** subsection (14) is not a violation of this  
 10 act or of any bond resolution or ordinance adopted ~~pursuant to~~  
 11 **under** this act if all of the following conditions are met:

12 (a) The outstanding bonds are defeased.

13 (b) Defeasance of the existing bonded indebtedness is  
 14 accomplished by depositing sufficient cash or United States  
 15 treasury obligations, or both, in escrow in an amount sufficient,  
 16 including interest to be earned on the funds and obligations placed  
 17 in escrow, to provide for payment of all interest, principal, and  
 18 premium, if any, when and as due on the outstanding bonds,  
 19 including final payment. As used in this subdivision, "final  
 20 payment" means the final payment due at the maturity of the bonds  
 21 or ~~upon the~~ **on** redemption of the bonds ~~prior to~~ **before** maturity on  
 22 a date on which the bonds are callable for redemption if  
 23 irrevocable arrangements have been made to call the bonds for  
 24 redemption on that date.

25 (17) If a hospital authority passes a resolution providing for  
 26 the sale, lease, or other transfer of a hospital ~~as provided in~~  
 27 **under** subsection (14), the legislative body of a city, village, or  
 28 township participating in the hospital authority may, within 60  
 29 days after the resolution is passed by the hospital authority, pass

1 a resolution to withdraw from membership in the authority. If a  
2 legislative body of a member city, village, or township in the  
3 authority passes ~~such~~ a resolution **to withdraw under this**  
4 **subsection**, the resolution adopted by the hospital authority under  
5 subsection (14) is not effective until a majority of the hospital  
6 authority board concurs in the withdrawal of that city, village, or  
7 township. However, if the sale, lease, or other transfer of the  
8 hospital is not carried out, the resolution to withdraw and the  
9 hospital authority's resolution of concurrence in the withdrawal  
10 are void.

11 (18) ~~Upon~~ **On** the sale, lease, or other transfer of a hospital  
12 under subsection (14), the nonprofit corporation shall assume and  
13 is bound by any existing labor agreement applicable to the  
14 hospital, for the remainder of the term of the agreement. A  
15 representative of the employees or a group of employees under ~~Act~~  
16 ~~No. 336 of the Public Acts of 1947, being sections 423.201 to~~  
17 ~~423.216 of the Michigan Compiled Laws, 1947 PA 336, MCL 423.201 to~~  
18 **423.217**, shall continue to be the representative of the employees  
19 or group of employees when the employees become employees of the  
20 nonprofit corporation or subsequent profit entity. This subsection  
21 does not limit the rights of the hospital employees, under  
22 applicable law, to assert that a bargaining representative  
23 protected by this subsection is no longer the representative of the  
24 employees.

25 (19) A hospital authority whose jurisdiction has a member  
26 population of fewer than 5,000 may by resolution adopted by a  
27 majority vote of the hospital board provide for the sale, lease, or  
28 other transfer of real property owned by the hospital board to the  
29 county in which the member units of the hospital authority are

- 1 located on any terms and conditions considered reasonable by the
- 2 hospital board, including sale, lease, or other transfer for no or
- 3 nominal monetary consideration.