

MUNICIPAL HEALTH FACILITIES CORPORATION ACT

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Senate Bill 513 as passed by the Senate
Sponsor: Sen. Edward W. McBroom
House Committee: Health Policy
Senate Committee: Health Policy
Complete to 10-27-23

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 319 of 2023)

SUMMARY:

Senate Bill 513 would amend the Municipal Health Facilities Corporations Act (MHFCA) to revise provisions that allow a municipal health facilities corporation established under the act to restructure as a nonprofit corporation if it meets certain criteria. Among other requirements, the restructuring would have to be approved by the corporation's board of trustees and the governing body of the applicable local unit of government.

Generally speaking, the MHFCA provides a framework under which a local government can incorporate public hospitals or other health facilities. Enacted in 1987, the MHFCA was intended in part to modernize state law with regard to county hospitals then being operated under statutes dating from 1913 and 1945. Section 305a was added to the act in 2010 to allow an entity established under the MHFCA and located in a county that met specified criteria to restructure as a traditional nonprofit corporation.

Currently, section 305a allows the board of trustees or a subsidiary board of a municipal health facilities corporation to restructure the corporation or subsidiary corporation as a nonprofit corporation if both of the following conditions are met:

- The corporation or subsidiary corporation is located in a county with a population between 45,000 and 60,000 as of the most recent 10-year federal census.
- The restructuring is completed before June 30, 2018.

This ability to restructure is also made subject to any applicable licensing and regulatory requirements, the requirements of the Nonprofit Corporation Act, and other requirements of section 305a (described in **Background**, below).

The bill would revise the population numbers described above so that section 305a would apply to corporations and subsidiary corporations in counties with a population between 5,000 and 7,500 as of the 2020 census. Under the bill, the restructuring would need to be completed by June 30, 2025.

According to Senate committee testimony, these changes would allow the Helen Newberry Joy Hospital and Healthcare Center (HNJH), originally organized as a county hospital, to restructure as a nonprofit corporation and thus have more flexibility in the contemporary health care environment. The hospital is a rural health care facility located in the village of Newberry in Luce County in the Upper Peninsula. (Luce County had a population of 5,339 in the 2020 census.)

MCL 331.1305a

BACKGROUND:

Additional requirements of section 305a

A board or subsidiary board proposing a restructuring under section 305a must adopt a restructuring plan that includes all of the following:

- The terms and conditions of the proposed restructuring.
- The articles of incorporation and bylaws that are proposed to govern the restructured entity. These articles and bylaws must comply with the requirements of the Nonprofit Corporation Act.

If a restructuring plan is approved, the corporation or subsidiary corporation must file the articles of incorporation with the administrator as provided in the Nonprofit Corporation Act. The effective date of a restructuring is the effective date of the articles under that act. All of the following apply when the restructuring takes effect:

- The restructured entity is considered a continuation of the restructuring entity.
- The restructured entity has all of the liabilities of the restructuring entity. The restructuring does not affect any obligations or liabilities of the corporation or subsidiary corporation incurred before the restructuring or the personal liability of any person incurred before the restructuring.
- The title to all real estate and other property and rights owned by the corporation or subsidiary corporation remain vested in the restructured entity without reversion or impairment.
- The rights, privileges, powers, and interests in property of the corporation or subsidiary corporation, as well as its debts, liabilities, and duties, are not considered, due to the restructuring, to have been transferred to the restructured entity for any purpose.
- A proceeding pending against the corporation or subsidiary corporation may be continued as if the restructuring had not occurred, or the restructured entity may be substituted in the proceeding for the corporation or subsidiary corporation.
- The restructured entity is considered to be the same entity that existed before the restructuring and is considered to be incorporated on the date the corporation or subsidiary corporation was originally incorporated.
- The restructured entity is subject to the Nonprofit Corporation Act and, except as otherwise provided, to the MHFCA.
- The articles of incorporation of the corporation or the subsidiary corporation filed under the MHFCA are considered terminated, and the articles of incorporation filed under the Nonprofit Corporation Act apply to the corporation or subsidiary corporation. The corporation or subsidiary corporation must deliver a copy of the new articles of incorporation to the county, city, or village clerk where the MHFCA articles were filed, who must account for the restructuring in their records.
- The corporation or subsidiary corporation must also deliver a copy of the new articles of incorporation to the secretary of state with notification that the previous articles are no longer in effect.

A board of trustees or subsidiary board may not restructure a corporation or subsidiary corporation without the prior majority approval of the county board of commissioners, city

council, or village council, as applicable. A subsidiary board may not restructure a subsidiary corporation as a nonprofit corporation without the prior approval of the board of trustees of its parent corporation. A board of trustees or subsidiary board may not restructure a corporation or subsidiary corporation if the restructuring in any way impairs the obligation of the corporation or subsidiary corporation with respect to any outstanding obligation, bond, note, or contract.

History of section 305a

When it was added to the act in 2010, section 305a applied to a corporation or subsidiary located in a county with a population between 40,000 and 44,000 as of the 2000 census, and the restructuring had to be completed by July 1, 2012. This allowed for the merger of the Mecosta County Medical Center (now Spectrum Health Big Rapids Hospital) and Spectrum Health.

In 2016, the population requirements were amended to apply to a corporation or subsidiary located in a county with a population between 24,000 and 30,000 as of the 2010 census, with restructuring to be completed by June 30, 2017. This facilitated a partnership between the Alpena Regional Medical Center (now the MyMichigan Medical Center Alpena) and MidMichigan Health, as well as allowing the West Shore Medical Center in Manistee (now Munson Healthcare Manistee Hospital) to partner with Munson Healthcare. In addition, the Dickinson County Healthcare System (now Marshfield Medical Center-Dickinson) was restructured under the terms of the 2016 amendments.

The current requirements of the section, described above, were enacted in 2017 and understood to facilitate a merger between the Branch County Community Health Center (now ProMedica Coldwater Regional Hospital) and ProMedica Health Systems of Toledo.

Previous legislation

The bill is a reintroduction of Senate Bill 1055 of the 2021-22 legislative session, which was passed by the Senate and reported from the House Health Policy committee.

FISCAL IMPACT:

Senate Bill 513 would have an indeterminate fiscal impact on the Department of Health and Human Services (DHHS) resulting from uncompensated care cost offset payments related to the state's traditional and expanded Medicaid programs – Healthy Michigan Plan (HMP). Publicly owned and operated hospitals submit uncompensated care reports to DHHS, which allows the department to draw federal disproportional share hospital (DSH) funds to offset the costs of uncompensated care. This reduction in available funding would vary from year to year, but would be entirely dependent upon the number of public hospitals that choose to restructure as a nonprofit under the MHFCA.

Federal DSH payments for uncompensated care are collected by DHHS and allocated accordingly to each of the eligible hospitals—appropriated as state restricted revenues. There are currently four eligible hospitals in the state, which comprise: Helen Newberry, Hurley Medical Center, Kalkaska Memorial, and the University of Michigan Health System. Total

DSH appropriated¹ for the aforementioned hospitals totaled \$94.6 million in FY 2022-23. The table below details specific DSH allocations for FY 2022-23 as approximations of DSH revenue forgone if each hospital transitions to nonprofit status.

FY 2022-23 Uncompensated Care DSH Appropriations	
Helen Newberry Joy Hospital	\$1,635,600
Hurley Medical Center	\$10,628,500
Kalkaska Memorial Health Center	\$177,300
University of Michigan Health System	\$82,207,600

POSITIONS:

A representative of Helen Newberry Joy Hospital testified in support of the bill. (10-12-23)

The following entities indicated support for the bill (10-12-23):

- Upper Peninsula Health Plan
- Michigan Health and Hospital Association

Legislative Analyst: Rick Yuille
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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

¹ Per section 1700 of the annual DHHS budget, 2022 PA 166.