

MUNICIPAL HEALTH FACILITIES CORPORATIONS ACT (EXCERPT)
Act 230 of 1987

331.1307 Definitions; retention of employees; continuation of collective bargaining agreements; bargaining representative; standing of employee to commence action; rescission of transactions; continued participation in federal old age, survivors, and disability insurance benefits program.

Sec. 307.

(1) As used in this section:

(a) "Contractor" means an entity which enters into a contract or other agreement with a local governmental unit, corporation, or subsidiary corporation for the purpose of providing health services or for the management, administration, or operation of a health care facility or department of a health care facility, pursuant to section 303(h), 304(d), 304(e), 304(l), 305(b), 305(i), or 306. Contractor includes a local governmental unit, corporation, or subsidiary corporation.

(b) "Transferee" means an entity which receives, accepts, or comes into possession or an ownership or leasehold interest in a health care facility, department of a health care facility, or other real or personal assets of a health care facility pursuant to section 303(h), 304(d), 304(e), 304(l), 305(b), 305(i), or 306. Transferee includes a corporation, county, or subsidiary corporation.

(c) "Affected health care facility" means a health care facility or part or department of a health care facility regularly employing 5 or more persons on a full-time basis or the equivalent which is the subject of any transaction made pursuant to section 303(h), 304(d), 304(e), 304(l), 305(b), 305(i), or 306.

(2) A local governmental unit, corporation, or subsidiary corporation shall not enter into a contract, lease, agreement, transfer, or other arrangement authorized in section 303(h), 304(d), 304(e), 304(l), 305(b), 305(i), or 306 with a contractor or transferee under which the contractor or transferee agrees or can reasonably be expected to continue the operation of the affected health care facility for the purpose of providing health services unless the local governmental unit, corporation, or subsidiary corporation agrees to retain the employees of the affected health care facility and continue all collective bargaining agreements covering such employees or unless the contractor or transferee agrees to all of the following:

(a) That all collective bargaining agreements in effect and covering employees of the affected health care facility shall be continued in full force and effect by the contractor or transferee.

(b) That employees of the affected health care facility shall be employed by the contractor or transferee and shall not be replaced with new employees, except in accordance with applicable collective bargaining agreements and with policies applicable to the affected health care facility existing on the date of such contract, lease, agreement, transfer, or other arrangement.

(c) That the contractor or transferee shall continue the terms and conditions of employment of employees of the affected health care facility.

(d) That the contractor or transferee shall grant recognition to each collective bargaining agent of employees of the affected health care facility which had representation rights on the date of the contract, agreement, or other arrangement. However, a contract, lease, agreement, transfer, or other arrangement may permit such modifications of the obligations of the contractor or transferee as may be required to conform to an order of the national labor relations board in appropriate proceedings.

(3) This section does not limit employees' rights, under applicable law, to assert that their bargaining representative is no longer representative of the employee.

(4) If a local governmental unit, corporation, or subsidiary corporation enters into an agreement providing for a transaction that is subject to subsection (2), an employee of the affected health care facility or the collective bargaining agent of such an employee shall have standing to commence an action in the circuit court for the county to determine if the transaction is in compliance with subsection (2), if the action is commenced within 90 days after written notice by the local governmental unit, corporation, or subsidiary corporation to the employees and collective bargaining agent of the affected health care facility of the execution of such agreement. If the court determines that the agreement is not in compliance with subsection (2), and if the local governmental unit, corporation, or the subsidiary corporation and the contractor or transferee do not agree to amendments making the agreement in compliance with subsection (2), the court shall declare the agreement void and of no effect and provide for rescission of the transactions provided for under the agreement.

(5) An employee of a county public hospital, city public hospital, village public hospital, or other health care facility who, on the effective date of this act, participates in the federal old age, survivors, and disability insurance benefits program through a voluntary agreement made pursuant to section 218 of title II of the social security act, 42 U.S.C. 418, shall continue to participate in the program if the individual is employed by a corporation or subsidiary corporation pursuant to this act.

History: 1987, Act 230, Eff. Feb. 27, 1988 ;-- Am. 1988, Act 502, Eff. Jan. 1, 1989