

LEGISLATIVE BILL 54

Approved by the Governor May 22, 1971

Introduced by Terry Carpenter, 48th District; William H. Hasebroock, 18th District; William Skarda, Jr., 7th District

AN ACT to adopt the Hospital Authorities Act; to provide severability; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. This act may be referred to as the Hospital Authorities Act.

Sec. 2. It is declared that conditions resulting from the concentration of population of various counties, cities and villages in this state require the construction, maintenance and operation of adequate hospital facilities for the care of the public health and for the control and treatment of epidemics, for the care of the indigent and for the public welfare; that in various counties, cities and villages of the state there is a lack of adequate hospital facilities available to the inhabitants thereof and that consequently many persons including persons of low income are forced to do without adequate medical and hospital care and accommodations; that these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the state and impair economic values; that these conditions cannot be remedied by the ordinary operations of private enterprises; that the providing of adequate hospital and medical care are public uses; that it is in the public interest that adequate hospital and medical facilities and care be provided in order to care for and protect the health and public welfare; and the necessity in the public interest for the provisions of this act is hereby declared as a matter of legislative determination.

Sec. 3. Whenever it shall be conducive to the public health and welfare, a hospital authority constituting a public corporation and body politic may be established in the manner and having the powers and duties provided in this act.

Sec. 4. (1) Whenever the formation of a hospital authority is desired, a petition or petitions, stating (a) the general location of the hospital to be maintained by such proposed authority, (b) the territory

to be included within it, which territory shall be contiguous, (c) the approximate number of persons believed to reside within the boundaries of the proposed authority, and (d) the names of five or more, but not exceeding fifteen, proposed trustees, who shall be electors residing within the boundaries of the proposed authority, to serve as a board of trustees until their successors are appointed and qualified, should the authority be formed, together with a prayer that the same be declared to be a hospital authority under the provisions of this act, may be filed in the office of the county clerk of the county in which the proposed authority is situated.

(2) (a) Each hospital authority established in a county having a total population of three hundred thousand or more, as shown by the most recent federal census, shall encompass an area in which at least forty thousand persons reside; (b) each hospital authority established in a county having a total population of one hundred fifty thousand to three hundred thousand, as shown by the most recent federal census, shall encompass an area in which at least thirty thousand persons reside; (c) each hospital authority established in a county having a total population of twenty thousand to one hundred fifty thousand, as shown by the most recent federal census, shall encompass an area in which at least twenty thousand persons reside; and (d) no hospital authority shall be established in any county having a total population of less than twenty thousand, as shown by the most recent federal census, unless the same shall encompass the entire county which it is to serve. Such petitions shall be signed by at least one hundred electors who appear to reside within the suggested boundaries of the proposed authority.

Sec. 5. Upon receipt of such petitions, the county clerk shall set the date for a hearing thereon, which shall not be less than twenty nor more than forty-five days from their date of filing, and cause notice thereof to be published on the same day in each of three successive weeks in one or more newspapers of general circulation throughout the area to be included in the proposed authority. Such notice shall contain a statement of the information contained in such petitions and of the date, time, and place at which such hearing shall be held before the board of county commissioners and that at such hearing proposals may be considered for the exclusion of land from or the inclusion of additional land in such proposed authority, and for designating as initial trustees persons other than those named in the petitions.

Sec. 6. All electors residing within the boundaries of the proposed authority who have not signed the petitions and who may object to the organization of the authority or to any one or more of the proposed trustees shall, not less than five days prior to the date set for the hearing on the petitions, file with the county clerk any such objection in writing, stating (1) why such hospital authority should not be organized and declared a public corporation in this state, (2) why the territory comprising the authority should be enlarged, decreased or otherwise changed, and (3) their objections to any one or more of the proposed trustees.

Sec. 7. Prior to the holding of a hearing on the petitions, except as otherwise provided in section 10 of this act, the question of forming the proposed hospital authority shall be submitted to the appropriate local or area health planning agency for its consideration and review, if there has been created, pursuant to state or federal law, such a local or area health planning agency having jurisdiction within the area in which the proposed hospital authority is to be established. Such local or area health planning agency shall within sixty days render its findings and recommendations, if any, and shall be deemed to have approved the formation of the proposed hospital authority if its findings and recommendations have not been rendered within such period of sixty days.

Sec. 8. Except as otherwise provided in section 10 of this act, the question of forming the proposed hospital authority shall also be submitted to the State Office of Planning and Programming, together with the findings and recommendations, if any, of the appropriate local or area health planning agency, if any, for its consideration and review. The State Office of Planning and Programming shall within thirty days render its findings and recommendations, if any, and shall be deemed to have approved the formation of the proposed hospital authority if its findings and recommendations have not been rendered within such period of thirty days.

Sec. 9. Except as otherwise provided in section 10 of this act, the findings and recommendations, if any, of the appropriate local health planning agency, if any, and of the State Office of Planning and Programming, or an appropriate showing to the effect that no such findings and recommendations have been rendered within the periods of time respectively permitted as set forth in this act, shall be filed with the county clerk not less than five days

prior to the date set for the hearing on the petitions, which hearing date may be continued by the county clerk without the giving of additional published notice if required in order to permit such filing to be made not less than five days prior to the hearing.

Sec. 10. Anything elsewhere contained in this act to the contrary notwithstanding, the provisions of sections 7 to 9 of this act shall not apply for a period of one year from and after the effective date of this act to the formation of any hospital authority which will, as set forth in the petitions filed pursuant to section 4 of this act, become the successor in interest to a formal plan of hospital construction, expansion or replacement which has been substantially established prior to the effective date of this act, the preparation of which was initiated for or on behalf of an existing health care facility licensed under the laws of this state prior to the establishment, pursuant to federal or state law, of a local or area health planning agency having jurisdiction within the area in which such existing health care facility licensed under state law is located, and prior to August 4, 1969.

For purposes of the preceding provisions of this section, the existence of a substantially established formal plan of hospital construction, expansion or replacement shall be shown by the filing with the county board prior to the hearing on the petitions seeking creation of a hospital authority of a copy of a completed feasibility or needs study prepared by a nationally recognized hospital consultant or firm of hospital consultants which is a member of the American Association of Hospital Consultants, concluding that a need exists for a new hospital or for the replacement of an existing hospital and delineating the service area to be served, pertinent population growth factors, the recommended location of the hospital, the type of hospital required to adequately provide for the health care needs of the specified service area to be served, and the size of the hospital required in order to adequately provide for the health care needs of the service area to be served, together with an affidavit of an officer of the existing health care facility licensed under state law for or on whose behalf such study was prepared, stating that (1) the preparation thereof was initiated prior to the establishment, pursuant to state or federal law, of a local or area health planning agency having jurisdiction within the area in which such existing health care facility licensed under state law is located; (2) the preparation thereof was initiated prior to August 4, 1969; and (3) that implementation of

such study had progressed to such an extent that expenditures equal to not less than one hundred thousand dollars for site acquisition and preparation of plans and specifications had been made prior to January 1, 1971.

Sec. 11. Such petitions, written objections, and findings and recommendations filed as provided in sections 6 to 9 of this act, if any, shall be heard by the county board without any unnecessary delay. In making its determination with respect to whether or not a proposed authority should be declared a public corporation of this state, the county board shall ascertain, to its satisfaction, that all of the requirements set forth in this act have been met or complied with. Should the county board determine that the formation of such authority will be conducive to the public health, convenience, or welfare, it shall declare the authority a public corporation and body politic of this state and shall declare the trustees nominated, or in case of meritorious objection thereto, other suitable trustees who shall be electors residing within the county in which the authority is situated, to be the board of trustees of the authority to serve until their successors are appointed and qualified; Provided, that the board of trustees shall not consist of more than fifteen members. In arriving at its determination as to whom should be appointed to initial membership on the board of trustees of an authority, the county board shall give due consideration to each nominee's general reputation in the community, his education and experience in areas such as education, medicine, hospital administration, business management, finance, law, engineering and other fields which might be of benefit to the authority, his background in public service activities, the amount of time and energy that he might be expected to be able to devote to the affairs of the authority and such other factors as the county board may deem relevant. One or more of the trustees initially appointed shall be consumers of health care services as distinguished from providers of health care services. The county board in appointing the initial trustees shall classify such initial trustees so that approximately one-third of their number shall serve for two years, approximately one-third of their number shall serve for four years and approximately one-third of their number shall serve for six years, their successors to be thereafter appointed for terms of six years each.

Sec. 12. Within twenty days after the authority has been declared a public corporation and body politic by the county board, the county clerk shall

transmit to the Secretary of State a certified copy of the record relating thereto, and the same shall be filed in his office in the same manner as articles of incorporation are required to be filed under the general law concerning corporations. A copy of such record shall also be filed by the county clerk in his own office.

Sec. 13. Such authority shall be a public body corporate and politic by the name of Hospital Authority No. of County, Nebraska.

Sec. 14. Within thirty days after the county board shall have declared the authority a public corporation, the trustees so appointed by the county board shall meet and elect one of their number chairman, one of their number vice-chairman and one of their number secretary of the authority. The trustees shall serve without compensation, except that each shall be allowed his actual and necessary traveling and incidental expenses incurred in the performance of his official duties. The board shall (1) adopt a seal, bearing the name of the authority, (2) keep a record of all of its proceedings which shall be open to inspection by all interested persons during regular business hours and under reasonable circumstances, and (3) establish the time and place of holding its regular meetings and the manner of calling special meetings and shall have the power from time to time to pass all necessary resolutions, orders, rules, and regulations for the necessary conduct of its business and to carry into effect the objects for which such authority was formed.

Sec. 15. Any vacancy upon the board of trustees, occurring other than by the expiration of a term, shall be filled by appointment by the remaining members of the board of trustees. Any person appointed to fill such vacancy shall serve for the remainder of the unexpired term. There shall at all times be one or more members of the board of trustees who are consumers of health care services as distinguished from providers of health care services.

Sec. 16. Candidates for other than initial appointment to the board of trustees of a hospital authority may be nominated by petitions signed by not less than twenty-five electors residing within the boundaries of the authority. Such petitions shall be filed with the board of trustees not less than forty-five days prior to the date upon which the term of office of any trustee is due to expire. Not less than thirty days prior to such date of expiration the board

of trustees shall cause such petitions to be filed in the office of the county clerk of the county in which the authority is situated. Upon receipt of such petitions, the county clerk shall set the date for a hearing thereon, which shall be not less than ten nor more than forty-five days from their date of filing, and cause notice thereof to be published on the same day in each of two successive weeks in one or more newspapers of general circulation throughout the area included within the authority. Such notice shall contain the date, time and place at which such hearing shall be held before the county board; the names of each person nominated for appointment to a six-year term on the board of trustees of the authority; and that at the hearing before the county board objections will be heard to the appointment of any one or more of the persons nominated. Any member of the board of trustees may be nominated for reappointment.

Sec. 17. All electors residing within the boundaries of the authority who have not signed the petitions nominating a candidate for appointment to the board of trustees may, not less than five days prior to the date set for hearing on the nominations, file with the county clerk any objections to the appointment of any such candidate stating their objections to any one or more of the candidates.

Sec. 18. The petitions for nomination of candidates for the office of trustee of an authority, and any written objections filed as provided in section 17 of this act, if any, shall be heard by the county board without unnecessary delay. In arriving at its determination as to which of the candidates should be appointed to serve a six-year term on the board of trustees of the authority, the county board shall give due consideration to each nominee's general reputation in the community, his education and experience in areas such as education, medicine, hospital administration, business management, finance, law, engineering and other fields which might be of benefit to the authority, his background in public service activities, the amount of time and energy that he might be expected to be able to devote to the affairs of the authority and such other factors as the county board may deem relevant. At the conclusion of the hearing, the county board shall, within ten days, enter its order appointing such candidate or candidates as it shall have determined upon to serve a term of six years on the board of trustees of the authority, such term of office to continue until a successor has been appointed.

Sec. 19. Each hospital authority shall have and exercise the following powers:

(1) To have perpetual succession as a body politic and corporate; Provided, that any county board having declared a hospital authority to be a public corporation and body politic of this state shall, upon a showing duly made and with appropriate notice given to the Secretary of State, but not sooner than upon expiration of a period of two years from and after the date upon which the record relating to formation of such hospital authority was filed with the Secretary of State pursuant to section 12 of this act, enter an order dissolving any hospital authority which does not then have under construction, own, lease as lessee or as lessor, or operate a hospital;

(2) To have and use a corporate seal and alter it at pleasure;

(3) To sue and be sued in all courts and places and in all actions and proceedings whatever;

(4) To purchase, receive, have, take, hold, lease as lessee, use, and enjoy property of every kind and description within the limits of the authority, and to control, dispose of, sell for a nominal or other consideration, convey, and encumber the same and create a leasehold interest in the same, as lessor, with any nonprofit person, firm, partnership, association or corporation, other than a county, city or village in this state, for the benefit of the authority;

(5) To administer any trust declared or created for hospitals of the authority, and receive by gift, devise, or bequest and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of such hospitals;

(6) To employ legal counsel to advise the board of trustees in all matters pertaining to the business of the authority, and to perform such functions in respect to the legal affairs of the authority as the board may direct;

(7) To employ such technical experts, and such officers, agents and employees, permanent and temporary, as it may require, and to determine their qualifications, duties and compensation, such technical experts, officers, agents and employees to hold their offices or positions at the pleasure of the board;

(8) To delegate to one or more of its agents or employees such powers and duties as it deems proper;

(9) To do any and all things which an individual might do which are necessary for and to the advantage of a hospital;

(10) To establish, improve, alter, maintain and operate one or more hospitals situated within the territorial limits of the authority. The term hospital as used in this act shall mean and include, except as used in section 22 of this act, any structure or structures suitable for use as a hospital, nursing home, clinic, or other health care facility, laboratory, laundry, nurses' or interns' residences and dormitories, administration buildings, research facilities, and maintenance, storage or utility facilities and other structures or facilities reasonably related thereto or required or useful for the operation thereof, including parking and other facilities or structures essential or convenient for the orderly operation thereof and shall also include furniture, instruments, equipment and machinery and other similar items necessary or convenient for the operations thereof;

(11) To enter into contracts and other agreements for the management, operation and maintenance of any hospital or any part thereof upon such terms and conditions and for such periods of time as its board of trustees may determine;

(12) To do any and all other acts and things necessary to carry out the provisions of this act, including the power to borrow money on its bonds, notes, debentures, or other evidences of indebtedness and to secure the same by pledges of its revenue in the manner and to the extent provided in this act, and to fund or refund the same; and

(13) To acquire, maintain, and operate ambulances or ambulance services within and without the authority.

Sec. 20. The board of trustees shall be responsible for the operation of all hospitals owned or leased by the authority as lessee, according to the best interests of the public health and shall make and enforce all rules, regulations, and by-laws necessary for the administration, government, protection, and maintenance of hospitals under its management and all property belonging thereto and may prescribe the terms upon which patients may be admitted thereto. Such

hospitals shall not contract to care for indigent county patients at below the cost for care. In fixing the rates the board shall establish such rates as will permit each hospital owned or leased by the authority as lessee to be operated upon a self-supporting basis; Provided, that in establishing rates the board of trustees shall give due consideration to at least the following factors: Costs of administration, operation and maintenance of the various facilities under its jurisdiction, the cost of making necessary repairs and renewals thereto, debt service requirements, the creation of reserves for contingencies, and projected needs for expansion and for the making of major improvements; and provided further, that the board of trustees shall require the lessee or operator of any facility to annually furnish such statements and other information as to historical and projected income, revenue and expenditures and its recommendations as to rates as the board of trustees shall deem necessary, desirable or appropriate in enabling it to establish rates in accordance with the provisions of this section. Minimum standards of operation shall be established and enforced by the board of trustees.

Sec. 21. No member of the board of trustees, or any person who shall have been a member of the board of trustees at any time during the immediately preceding period of two years, shall have any direct or indirect personal pecuniary interest in the purchase of any material to be used by or supplied to such authority, or in any contract with such authority. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than one hundred dollars nor more than one thousand dollars, and his office shall be vacated.

Sec. 22. Prior to constructing any structure which is to be utilized as a hospital or as a nursing home, as opposed to structures related thereto, the question of constructing such structure shall, except as otherwise provided in section 25 of this act, be submitted to the appropriate local or area health planning agency for its consideration and review, if there has been created, pursuant to state or federal law, such a local or area health planning agency having jurisdiction within the area in which the proposed structure is to be constructed. Such local or area health planning agency shall within sixty days render its findings and recommendations, if any, and shall be deemed to have approved construction of the proposed structure if its findings and recommendations have not been rendered within such period of sixty days.

Sec. 23. The question of constructing any structure which is to be utilized as a hospital or as a nursing home, as opposed to structures related thereto, shall also, except as otherwise provided in section 25 of this act, be submitted to the State Office of Planning and Programming, together with the findings and recommendations, if any, of the appropriate local or area health planning agency, if any, for its consideration and review. The State Office of Planning and Programming shall within thirty days render its findings and recommendations, if any, and shall be deemed to have approved construction of the proposed structure if its findings and recommendations have not been rendered within such period of thirty days.

Sec. 24. Except as otherwise provided in section 25 of this act, the findings and recommendations, if any, of the appropriate local health planning agency, if any, and of the State Office of Planning and Programming, shall be considered by the board of trustees of the hospital authority in making its determination as to whether or not to proceed with construction of the proposed structure.

Sec. 25. Anything elsewhere contained in this act to the contrary notwithstanding, the provisions of sections 22 to 24 of this act shall not apply to the construction, by any hospital authority to which the provisions of section 10 of this act apply, of a hospital or nursing home contemplated by the substantially finalized formal plan of hospital construction, expansion or replacement filed pursuant to the provisions of section 10 of this act with the county board of the county in which such authority is situated, and constituting a partial implementation thereof.

Sec. 26. An authority shall have power and is hereby authorized from time to time in its discretion to issue bonds for the purpose only of constructing, furnishing and equipping new facilities or additions or improvements to existing facilities, or for the purpose of providing for the refunding of any such bonds. Bonds may be issued under this act notwithstanding any debt or other limitation, including limitation as to interest rates, prescribed in any statute.

Sec. 27. The principal and interest on such bonds shall be payable exclusively from the income and revenue of the facilities constructed, furnished and equipped with the proceeds of such bonds or with such proceeds together with the proceeds of a grant from the federal government to aid in financing, furnishing or

equipping thereof; Provided, that an authority may, in its discretion, also pledge to the payment of the principal and interest on any such bonds all or any part of the income and revenue derived from the operation of any or all of the other facilities then or at any time thereafter owned or operated by it; and provided further, that an authority may in its discretion, also expressly provide that any such bonds shall be general obligations of the authority payable out of any revenue, income, receipts, profits, or other money or funds of the authority derived from any source whatsoever. Such bonds may be additionally secured by a trust indenture.

Sec. 28. Neither the trustees of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

Sec. 29. The bonds and other obligations of the authority shall not be a debt of any county, city or village in which the authority is located or of the state, and neither the state nor any such county, city or village shall be liable thereon, nor in any event shall they be payable out of any funds or properties other than those of the authority, and such bonds and obligations shall so state on their face. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation of the laws of this state.

Sec. 30. The bonds of the authority shall be authorized by its resolution and shall be issued in one or more series and shall bear such date or dates, mature at such time or times, not exceeding sixty years from their respective dates, bear interest at such rate or rates, payable annually or semiannually, be in such denominations, which may be made interchangeable, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places either within or without the state, and be subject to such terms of redemption, with or without premium, as such resolution or its trust indenture may provide.

Sec. 31. The bonds may be sold at public or private sale at such price or prices or such rate or rates, and at such premiums or at such discounts, as the authority shall determine.

Sec. 32. Pending the authorization, preparation, execution or delivery of definitive bonds,

the authority may issue interim certificates, or other temporary obligations, to the purchaser of such bonds. Such interim certificates, or other temporary obligations, shall be in such form, contain such terms, conditions and provisions, bear such date or dates, and evidence such agreements relating to their discharge or payment or the delivery of definitive bonds as the authority may by resolution or trust indenture determine.

Sec. 33. In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery.

Sec. 34. The authority shall have the power out of any funds available therefor to purchase any bonds issued by it at a price not more than the principal amount thereof, the then applicable premium payable upon their redemption, or the next applicable redemption premium if the bonds are not then redeemable, and the accrued interest; Provided, that bonds payable exclusively from the revenue of a designated facility or facilities shall be purchased only out of any such revenue available therefor. All bonds so purchased shall be canceled. This section shall not apply to the redemption of bonds.

Sec. 35. Any provision of any law to the contrary notwithstanding, any bonds, interim certificates, or other obligations issued pursuant to the provisions of this act shall be fully negotiable.

Sec. 36. In connection with the issuance of bonds or the incurring of any obligations under a lease and in order to secure the payment of such bonds or obligations, the authority shall have power:

(1) To pledge by resolution, trust indenture, or other contract, all or any part of its income, rents, fees, revenue or other funds;

(2) To covenant to impose and maintain such schedule of fees and charges as will produce funds sufficient to pay operating costs and debt service;

(3) To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any hospital facility or any part thereof, or with respect to limitations on its right to undertake additional

hospital facilities;

(4) To covenant against pledging all or any part of its income, rents, fees, revenue and other funds to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;

(5) To provide for the release of income, rents, fees, revenue and other funds, from any pledge and to reserve rights and powers in, or the right to dispose of property, the income, rents, fees and revenue from which are subject to a pledge;

(6) To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

(7) To covenant as to what other, or additional debt, may be incurred by it;

(8) To provide for the terms, form, registration, exchange, execution and authentication of bonds;

(9) To provide for the replacement of lost, destroyed, or mutilated bonds;

(10) To covenant as to the use of any or all of its property, real or personal;

(11) To create or to authorize the creation of special funds in which there shall be segregated: (a) The proceeds of any bequest, gift, loan or grant; (b) all of the income, rents, fees and revenue of any hospital facility or facilities or parts thereof; (c) any money held for the payment of the costs of operation and maintenance of any such hospital facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (d) any money held for the payment of the principal and interest on its bonds or the sums due under its leases or as a reserve for such payments; and (e) any money held for any other reserve or contingencies; and to covenant as to the use and disposal of the money held in such funds;

(12) To redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

(13) To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner;

(14) To prescribe the procedure, if any, by which the authority may issue additional parity or junior lien bonds;

(15) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

(16) To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance money;

(17) To vest in an obligee of the authority the right, in the event of the failure of the authority to observe or perform any covenant on its part to be kept or performed, to cure any such default and to advance any money necessary for such purpose, and the money so advanced may be made an additional obligation of the authority with such interest, security and priority as may be provided in any trust indenture, lease or contract of the authority with reference thereto;

(18) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

(19) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation;

(20) To covenant to surrender possession of all or any part of any hospital facility or facilities the revenue from which have been pledged for the purpose of constructing, furnishing, and equipping new buildings or additions to existing buildings as provided for in this act upon the happening of any event of default, as defined in the contract, and to vest in an obligee the right without judicial proceeding to obtain a substitute lessee for the hospital facilities or any part thereof or to take possession of and to use, operate, manage and control such hospital facilities or any part thereof, and to collect and receive all income, rents, fees and

revenue arising therefrom in the same manner as the authority itself might do and to dispose of the money collected in accordance with the agreement of the authority with such obligee;

(21) To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant;

(22) To make covenants other than in addition to the covenants expressly authorized in this section, of like or different character;

(23) To execute all instruments necessary or convenient in the exercise of the powers granted in this section or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those specified in this act, as the government or any purchaser of the bonds of the authority may reasonably require; and

(24) To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the authority tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated in this section; it being the intention hereof to give the authority power to do all things in the issuance of bonds and in the making of provisions for their security that are not inconsistent with the Constitution of this state without the consent or approval of any judge or court being required therefor.

Sec. 37. An obligee of the authority shall have the right in addition to all other rights which may be conferred on such obligee subject only to any contractual restrictions binding upon such obligee:

(1) By mandamus, suit, action or proceeding in law or equity, all of which may be joined in one action, to compel the authority, and the trustees, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any resolutions, contracts or trust indentures of the authority, and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by

the provisions of this act; or

(2) By suit, action or proceeding in equity to enjoin any acts or things which may be unlawful or the violation of any of the rights of such obligee of the authority.

Sec. 38. Any authority shall have power by its trust indenture, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, lease or other obligations the right upon the happening of an event of default as defined in such instrument:

(1) By suit, action or proceeding in any court of competent jurisdiction to obtain the appointment of a receiver of any hospital facility or facilities of the authority or any part or parts thereof. If such receiver be appointed, he may enter and take possession of such hospital facility or facilities or any part or parts thereof and operate and maintain the same, and collect and receive all income, fees, rents, revenue, or other charges thereafter arising therefrom in the same manner as the authority itself might do and shall keep such money in a separate account or accounts and apply the same in accordance with the obligations of the authority as the court shall direct; or

(2) By suit, action or proceeding in any court of competent jurisdiction to require the authority and the trustees thereof to account as if it and they were the trustees of an express trust.

Sec. 39. All the rights and remedies conferred in this act shall be cumulative and shall be subject to sale by the foreclosure of a trust indenture, or any other instrument thereon, or relating to any contract with the authority.

Sec. 40. No interest of the authority in any property, real or personal, shall be subject to sale by foreclosure of a mortgage, trust indenture, or any other instrument thereon, or relating thereto, either through judicial proceedings or the exercise of a power of sale contained in such instrument. All property of the authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same. No judgment against the authority shall be a charge or lien upon its property, real or personal. Nothing in this section shall limit or be construed as limiting the right of a holder of a bond to reduce such bond, or the interest

thereon, to judgment in the event of the failure of the authority to pay the principal or interest on such bond as and when the same become due, or to prohibit, or be construed as prohibiting, such holder from enforcing and collecting such judgment out of the revenue and other money of the authority pledged to the payment of such bond and the interest thereon.

Sec. 41. (1) Any hospital authority is hereby authorized to provide for the issuance of bonds of the authority for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase or maturity of such bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a hospital or any portion thereof. Any such refunding bonds may, if the board of trustees in its absolute discretion finds the same to be in the best interests of the authority, bear a rate of interest or rates of interest higher than the rate or rates of interest carried by the bonds to be refunded and redeemed.

(2) The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority.

(3) All such refunding bonds shall be subject to the provisions of this act in the same manner and to the same extent as other bonds issued pursuant to the provisions of this act.

Sec. 42. Bonds issued by any authority under the provisions of this act are hereby made securities in which all agencies, public officers and public bodies of the state and its political subdivisions, all insurance companies, state banks and trust companies, national banking associations, building and loan associations, savings and loan associations, investment companies, executors, administrators, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or

other obligations of the state, may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law, and shall also be eligible and lawful security for all deposits of public funds of the state and of its political subdivisions, to the extent of the full value of the bonds and appurtenant coupons.

Sec. 43. The provisions of this act shall be deemed to provide a complete, additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws; Provided, that the issuance of bonds and refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds, including particularly, but not limited to, the provisions of Chapter 10, Reissue Revised Statutes of Nebraska, 1943, and amendments thereof; and provided further, that the bonds shall be registered in the office of the Auditor of Public Accounts but shall not be required to be registered in the office of any county clerk or treasurer, comptroller or finance director of any city or village. The bonds shall constitute exempt securities within the meaning of section 8-1110, Reissue Revised Statutes of Nebraska, 1943. Except as otherwise expressly provided in this act, none of the powers granted to an authority under the provisions of this act shall be subject to the supervision or regulation or require the approval or consent of any municipality or political subdivision or any commission, court, board, body, bureau, official or agency thereof or of the state.

Sec. 44. The exercise of the powers granted by the provisions of this act will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of a hospital by an authority or its agents will constitute the performance of an essential public function, neither the authority nor its agents shall be required to pay any taxes or assessments upon or in respect of a hospital or any property acquired or used by the authority or its agents under the provisions of this act or upon the income therefrom, and any bonds issued under

the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state and by the municipalities and other political subdivisions in the state.

Sec. 45. Whenever it shall have paid or provided for the payment of all of its outstanding obligations, and it shall appear to the board of trustees of an authority that the need for such authority no longer exists, then upon petition by the board of trustees to the county board of the county in which the authority is situated, and upon the production of satisfactory evidence in support of such petition, the county board shall enter an order declaring that the need for such authority no longer exists, and approving a plan for the winding up of the business of the authority, the payment or assumption of its obligations, and the transfer of its assets.

Sec. 46. If the county board shall enter an order, as provided in section 45 of this act, that the need for such authority no longer exists, except for the winding up of its affairs in accordance with the plan approved by the county board, its authorities, powers and duties to transact business or to function shall cease to exist as of that date set forth in the order of the county board.

Sec. 47. The State of Nebraska covenants and agrees with the holders of bonds issued by an authority that the state will not limit or alter the rights vested by this act in an authority to acquire, maintain, construct, reconstruct, and operate hospitals; to establish and collect such rates, rentals, charges, and fees as may be convenient or necessary to produce sufficient revenue to meet the expense of maintenance and operation of such hospitals and to fulfill the terms of any agreements made with holders of bonds of the authority. The state will also not in any way impair the rights and remedies of the bondholders until the bonds together with interest thereon and with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully met and discharged. The provisions of this act and of the proceedings authorizing bonds thereby shall constitute a contract with the holders of said bonds.

Sec. 48. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration of invalidity shall

not affect the validity of the remaining portions thereof.

Sec. 49. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.