

**CHAPTER 285—S.F.No. 3715**

*An act relating to Steele County; authorizing transfer of nursing home and assisted living facility and related assets to nonprofit corporation and acquisition of membership interest in nonprofit corporation; providing an exception to the moratorium on new nursing home beds for beds transferred to a new site within the county; amending Minnesota Statutes 2006, section 144A.071, subdivision 4c.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2006, section 144A.071, subdivision 4c, is amended to read:

Subd. 4c. **Exceptions for replacement beds after June 30, 2003.** (a) The commissioner of health, in coordination with the commissioner of human services, may approve the renovation, replacement, upgrading, or relocation of a nursing home or boarding care home, under the following conditions:

(1) to license and certify an 80-bed city-owned facility in Nicollet County to be constructed on the site of a new city-owned hospital to replace an existing 85-bed facility attached to a hospital that is also being replaced. The threshold allowed for this project under section 144A.073 shall be the maximum amount available to pay the additional medical assistance costs of the new facility;

(2) to license and certify 29 beds to be added to an existing 69-bed facility in St. Louis County, provided that the 29 beds must be transferred from active or layaway status at an existing facility in St. Louis County that had 235 beds on April 1, 2003.

The licensed capacity at the 235-bed facility must be reduced to 206 beds, but the payment rate at that facility shall not be adjusted as a result of this transfer. The operating payment rate of the facility adding beds after completion of this project shall be the same as it was on the day prior to the day the beds are licensed and certified. This project shall not proceed unless it is approved and financed under the provisions of section 144A.073;

(3) to license and certify a new 60-bed facility in Austin, provided that: (i) 45 of the new beds are transferred from a 45-bed facility in Austin under common ownership that is closed and 15 of the new beds are transferred from a 182-bed facility in Albert Lea under common ownership; (ii) the commissioner of human services is authorized by the 2004 legislature to negotiate budget-neutral planned nursing facility closures; and (iii) money is available from planned closures of facilities under common ownership to make implementation of this clause budget-neutral to the state. The bed capacity of the Albert Lea facility shall be reduced to 167 beds following the transfer. Of the 60 beds at the new facility, 20 beds shall be used for a special care unit for persons with Alzheimer's disease or related dementias; ~~and~~

(4) to license and certify up to 80 beds transferred from an existing state-owned nursing facility in Cass County to a new facility located on the grounds of the

Ah-Gwah-Ching campus. The operating cost payment rates for the new facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431. The property payment rate for the first three years of operation shall be \$35 per day. For subsequent years, the property payment rate of \$35 per day shall be adjusted for inflation as provided in section 256B.434, subdivision 4, paragraph (c), as long as the facility has a contract under section 256B.434; and

(5) to initiate a pilot program to license and certify up to 80 beds transferred from an existing county-owned nursing facility in Steele County relocated to the site of a new acute care facility as part of the county's Communities for a Lifetime comprehensive plan to create innovative responses to the aging of its population. Upon relocation to the new site, the nursing facility shall delicense 28 beds. The property payment rate for the first three years of operation of the new facility shall be increased by an amount as calculated according to items (i) to (v):

(i) compute the estimated decrease in medical assistance residents served by the nursing facility by multiplying the decrease in licensed beds by the historical percentage of medical assistance resident days;

(ii) compute the annual savings to the medical assistance program from the delicensure of 28 beds by multiplying the anticipated decrease in medical assistance residents, determined in item (i), by the existing facility's weighted average payment rate multiplied by 365;

(iii) compute the anticipated annual costs for community-based services by multiplying the anticipated decrease in medical assistance residents served by the nursing facility, determined in item (i), by the average monthly elderly waiver service costs for individuals in Steele County multiplied by 12;

(iv) subtract the amount in item (iii) from the amount in item (ii);

(v) divide the amount in item (iv) by an amount equal to the relocated nursing facility's occupancy factor under section 256B.431, subdivision 3f, paragraph (c), multiplied by the historical percentage of medical assistance resident days.

For subsequent years, the adjusted property payment rate shall be adjusted for inflation as provided in section 256B.434, subdivision 4, paragraph (c), as long as the facility has a contract under section 256B.434.

(b) Projects approved under this subdivision shall be treated in a manner equivalent to projects approved under subdivision 4a.

## Sec. 2. **STEELE COUNTY ASSET TRANSFER; STATUS OF TRANSFEREE.**

Subdivision 1. **Asset transfer authorized.** Steele County may lease, sell, or otherwise transfer to a nonprofit corporation all of the real and personal property, tangible and intangible, including contract rights, receivables, and enterprise funds, owned or used by the county for nursing home, assisted living, and related purposes and may acquire a membership interest in the nonprofit corporation. Any lease must provide for rent payable by the corporation at least sufficient to pay the principal and interest on the outstanding bonds of the county issued to finance any of the facilities. The lease may grant the corporation an option or require the corporation to purchase the facilities upon payment or redemption of the outstanding bonds. Any lease, sale, or other transfer

must be on terms and conditions approved by the county board, without advertisement or public solicitation of bids.

Subd. 2. **Status of transferee.** The articles of incorporation or bylaws of the transferee corporation may provide that the county board has the right to appoint and remove one or more members of the governing board of the corporation and that specified actions be subject to the approval of the members. The corporation shall be a nonprofit corporation organized under Minnesota Statutes, chapter 317A, and entitled to exercise all of the powers of a nonprofit corporation under that chapter. If the county board does not have the right to appoint a majority of the governing board of the nonprofit corporation, neither Minnesota Statutes, section 465.717, nor other laws applicable to public corporations shall apply to the nonprofit corporation.

Subd. 3. **Open meeting law; data practices.** A nonprofit corporation created under this section is subject to the Minnesota Open Meeting Law and Minnesota Government Data Practices Act.

**EFFECTIVE DATE; LOCAL APPROVAL.** This section is effective the day after the governing body of Steele County and its chief clerical officer timely complete compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Presented to the governor May 5, 2008

Signed by the governor May 8, 2008, 12:00 p.m.