

Senate Bill No. 1221

Passed the Senate August 28, 2008

Secretary of the Senate

Passed the Assembly August 20, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to repeal and add Section 15438.5 of the Government Code, and to add Part 7 (commencing with Section 1179.100) to Division 1 of the Health and Safety Code, relating to health facility financing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1221, Kuehl. Health facility financing.

Existing law authorizes, if a health facility seeking financing for a project pursuant to the California Health Facilities Financing Authority Act does not meet the guidelines established by the California Health Facilities Financing Authority with respect to bond rating, the authority to give special consideration, on a case-by-case basis, to financing the project if the health facility demonstrates to the satisfaction of the authority the financial feasibility of the project, and the performance of significant community service. For the purposes of these provisions, a health facility that performs a significant community service is one that contracts with Medi-Cal or that can demonstrate that it has fulfilled specified criteria regarding community service.

This bill would require any participating health institution, except for specified children's hospitals, seeking financing for a project from the authority, a city, county, special district, or a joint powers authority, to demonstrate the performance of community service, of each project location, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 15438.5 of the Government Code is repealed.

SEC. 2. Section 15438.5 is added to the Government Code, to read:

15438.5. (a) In enacting this part, the Legislature intends for the authority to assist in the provision of tax-exempt financing only to participating health institutions that can demonstrate the financial feasibility of the proposed project to be financed or the creditworthiness of the obligors with respect to the requested

financing. It is further the intent of the Legislature that all or part of any savings experienced by a participating health institution, as a result of the tax-exempt financing, be passed on for the benefit of the public in the form of community service described in this section. Further, it is not the intent of the Legislature to authorize the authority to control or participate in the operation of health facilities, except where default occurs or appears likely to occur.

(b) When determining the financial feasibility of projects, the authority shall consider the more favorable interest rates reasonably anticipated through the issuance of revenue bonds under this part. It is the intent of the Legislature that the authority attempt in whatever ways possible to assist participating health institutions to arrange projects that will meet the financial feasibility standards developed under this part.

(c) Except for a participating health institution that operates as a children's hospital described in Section 10727 of the Welfare and Institutions Code, and except as provided in subdivision (d), a participating health institution seeking financing for a project pursuant to this part shall, for each project location, demonstrate, to the satisfaction of the authority, the performance of community service, by submitting to the authority all of the following:

(1) A copy of its policy of treating all patients without regard to ability to pay, in accordance with Section 1317 of the Health and Safety Code or, if the applicant is not subject to that section, a copy of its policy for providing emergency services without regard to a patient's ability to pay.

(2) Confirmation that the applicant maintains a California Medical Assistance Commission (CMAC) Contract, otherwise provides for the treatment of Medi-Cal eligible patients, or otherwise provides services to low-income individuals.

(3) A copy of its charity care policy pursuant to Section 127405 of the Health and Safety Code.

(4) Confirmation that it maintains a mechanism for tracking and reporting its costs, charges, and clinical quality data, to the extent required by state and federal agencies.

(5) A copy of the most recent community benefits plan, as defined in subdivision (a) of Section 127345 of the Health and Safety Code, including an implementation schedule and economic valuation of the community benefits as set forth in Sections 127350 and 127355 of the Health and Safety Code.

(d) (1) If a participating health institution that is a hospital subject to the community benefits requirements of Article 2 (commencing with Section 127340) of Chapter 2 of Part 2 of Division 107 of the Health and Safety Code does not submit the information described in paragraphs (1) to (5), inclusive, of subdivision (c), the participating health institution shall demonstrate to the satisfaction of the authority the performance of community service by submitting to the authority the most recent community benefits plan of the hospital. The participating health institution shall identify its priorities, as determined by the community needs assessment, and demonstrate that it has taken action on most of these priorities.

(2) If a participating health institution is not a hospital subject to the community benefits requirements of Article 2 (commencing with Section 127340) of Chapter 2 of Part 2 of Division 107 of the Health and Safety Code, but is a nonhospital affiliate of a participating health institution, the participating health institution shall demonstrate to the authority the performance of community service by submitting to the agency any item of information described in paragraphs (1) to (5), inclusive, of subdivision (c) or by other means, as described in paragraph (3). For purposes of this section, a “nonhospital affiliate” means a nonhospital entity organized under the laws of the state which is directly controlled by or under common control or having a governing board identical with the participating health institution or any other affiliate of the participating health institution. For purposes of this paragraph, “control” means the power to direct the management and policies of an entity through the ownership of at least a majority of its voting securities or the right to designate or elect at least a majority of the members of its board of directors by contract or otherwise.

(3) If a participating health institution is neither a hospital subject to the community benefits requirements of Article 2 (commencing with Section 127340) of Chapter 2 of Part 2 of Division 107 of the Health and Safety Code or a nonhospital affiliate, and does not submit any of the items of information described in paragraphs (1) to (5), inclusive, of subdivision (c), the participating health institution shall demonstrate to the authority the performance of community service by other means, including, but not limited to, providing a certification that the participating health institution is a federally qualified health center, or a primary

care clinic described in subdivision (a) of Section 1204 of, subdivision (c) of Section 1206 of, or subdivision (h) of Section 1206 of, the Health and Safety Code.

(e) Enforcement of the conditions under which the authority issues bonds pursuant to this section shall be governed by the enforcement conditions under Section 15459.4.

(f) Notwithstanding any other provision of law, nothing in this section nor any enforcement proceeding brought pursuant to this section shall affect the validity or enforceability of any bonds issued by the authority under this part.

SEC. 3. Part 7 (commencing with Section 1179.100) is added to Division 1 of the Health and Safety Code, to read:

PART 7. LOCAL FINANCING OF HEALTH FACILITIES

1179.100. For purposes of this part, the following definitions shall apply:

(a) “Health facility” shall have the same meaning as set forth in subdivision (d) of Section 15432 of the Government Code.

(b) “Local agency” means a city, county, special district, or joint powers authority.

(c) “Participating health institution” means a city, county, or city and county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and that, with the assistance of a local agency, undertakes the financing or refinancing of a project or of working capital.

(d) “Project” shall have the meaning set forth in Section 15432 of the Government Code.

1179.101. (a) In enacting this part, the Legislature intends for a local agency to assist in the provision of tax-exempt financing only to a participating health institution that can demonstrate the financial feasibility of the proposed project to be financed or the creditworthiness of the obligors with respect to the requested financing. It is further the intent of the Legislature that all or part of any savings experienced by a participating health institution, as a result of the tax-exempt financing, be passed on for the benefit of the public in the form of community service described in this section. Further, it is not the intent of the Legislature to authorize

a local agency to control or participate in the operation of health facilities, except where default occurs or appears likely to occur.

(b) Except for a participating health institution that operates as a children's hospital described in Section 10727 of the Welfare and Institutions Code and except as provided in subdivision (c), a participating health institution seeking financing for a project pursuant to this part shall, for each project location, demonstrate, to the satisfaction of the local agency the performance of community service, by submitting to the local agency all of the following:

(1) A copy of its policy of treating all patients without regard to ability to pay, in accordance with Section 1317 or, if the applicant is not subject to that section, a copy of its policy for providing emergency services without regard to a patient's ability to pay.

(2) Confirmation that the applicant maintains a California Medical Assistance Commission (CMAC) Contract, otherwise provides for the treatment of Medi-Cal eligible patients, or otherwise provides services to low-income individuals.

(3) A copy of its charity care policy pursuant to Section 127405.

(4) Confirmation that it maintains a mechanism for tracking and reporting its costs, charges, and clinical quality data, to the extent required by state and federal agencies.

(5) A copy of the most recent community benefits plan, as defined in subdivision (a) of Section 127345, including an implementation schedule and economic valuation of the community benefits as set forth in Sections 127350 and 127355.

(c) (1) If a participating health institution that is a hospital subject to the community benefits requirements of Article 2 (commencing with Section 127340) of Chapter 2 of Part 2 of Division 107 does not submit the information described in paragraphs (1) to (5), inclusive, of subdivision (b), the participating health institution shall demonstrate to the satisfaction of the local agency the performance of community service by submitting to the local agency the most recent community benefits plan of the hospital. The participating health institution shall identify its priorities, as determined by the community needs assessment, and demonstrate that it has taken action on most of these priorities.

(2) If a participating health institution is not a hospital subject to the community benefits requirements of Article 2 (commencing

with Section 127340) of Chapter 2 of Part 2 of Division 107, but is a nonhospital affiliate of a participating health institution, the participating health institution shall demonstrate to the local agency the performance of community service by submitting to the local agency any item of information described in paragraphs (1) to (5), inclusive, of subdivision (b) or by other means, as described in paragraph (3). For purposes of this section, a “nonhospital affiliate” means a nonhospital entity organized under the laws of the state which is directly controlled by or under common control or having a governing board identical with the participating health institution or any other affiliate of the participating health institution. For purposes of this paragraph, “control” means the power to direct the management and policies of an entity through the ownership of at least a majority of its voting securities or the right to designate or elect at least a majority of the members of its board of directors by contract or otherwise.

(3) If a participating health institution is neither a hospital subject to the community benefits requirements of Article 2 (commencing with Section 127340) of Chapter 2 of Part 2 of Division 107 or a nonhospital affiliate, and does not submit any of the items of information described in paragraphs (1) to (5), inclusive, of subdivision (b), the participating health institution shall demonstrate to the local agency the performance of community service by other means, including, but not limited to, providing a certification that the participating health institution is a federally qualified health center, or a primary care clinic described in subdivision (a) of Section 1204, subdivision (c) of Section 1206, or subdivision (h) of Section 1206.

(d) The remedies and sanctions available to the local agency for failure by a participating health institution to comply with this section shall include referring the alleged violation to the office of the Attorney General for legal action as described in Section 15459.4 of the Government Code.

(e) Notwithstanding any other provision of law, nothing in this section nor any enforcement proceeding brought pursuant to this section shall affect the validity or enforceability of any bonds issued, or other form of financing provided, by a local agency.

Approved _____, 2008

Governor