

AMENDED IN SENATE JANUARY 25, 2012

AMENDED IN SENATE JANUARY 13, 2012

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN SENATE AUGUST 30, 2011

AMENDED IN ASSEMBLY MARCH 7, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 272**

**Introduced by Assembly Member Monning**

February 7, 2011

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An act to amend Section 15438 of, and to add Section 15438.10 to, the Government Code, relating to health facilities financing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 272, as amended, Monning. Health care facilities: financing.

The California Health Facilities Financing Authority Act authorizes the California Health Facilities Financing Authority to make loans from the continuously appropriated California Health Facilities Financing Authority Fund to participating health institutions for financing or refinancing the acquisition, construction, or remodeling of health facilities. The act defines a health facility to include various specified facilities and facilities operated in conjunction with these facilities. It also defines a participating health institution to mean specified entities authorized by state law to provide or operate a health facility and

undertake the financing or refinancing of the construction or acquisition of a project or of working capital, as defined.

Existing law authorizes the authority to award grants to any eligible health facility, as defined, for purposes of financing defined projects.

This bill would authorize the authority to award one or more grants that, in the aggregate, do not exceed \$1,500,000 to one or more projects designed to demonstrate new or enhanced cost-effective methods of delivering health care services, as specified. ~~This bill would authorize the authority to award additional grants that, in the aggregate, do not exceed \$5,000,000 to eligible recipients, as defined by the authority, to replicate the model developed by a project, if specified conditions are met, and would authorize the authority to adopt regulations relating to this grant program as emergency regulations.~~ This bill would create the California Health Access Model Program Account in the California Health Facilities Financing Authority Fund, and would transfer up to ~~\$6,500,000~~ \$1,500,000 from the fund to the account for the purposes of the bill. The bill would require that any moneys remaining in the account as of January 1, ~~2020~~ 2015, revert to the fund. *This bill would require the authority to report to the Governor and the Legislature on the outcomes of the demonstration grant program, as specified.* By expanding the purposes for which a continuously appropriated fund may be used, this bill would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
 State-mandated local program: no.

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

- 1 SECTION 1. Section 15438 of the Government Code is
- 2 amended to read:
- 3 15438. The authority may do any of the following:
- 4 (a) Adopt bylaws for the regulation of its affairs and the conduct
- 5 of its business.
- 6 (b) Adopt an official seal.
- 7 (c) Sue and be sued in its own name.
- 8 (d) Receive and accept from any agency of the United States,
- 9 any agency of the state, or any municipality, county, or other
- 10 political subdivision thereof, or from any individual, association,

1 or corporation gifts, grants, or donations of moneys for achieving  
2 any of the purposes of this chapter.

3 (e) Engage the services of private consultants to render  
4 professional and technical assistance and advice in carrying out  
5 the purposes of this part.

6 (f) Determine the location and character of any project to be  
7 financed under this part, and to acquire, construct, enlarge, remodel,  
8 renovate, alter, improve, furnish, equip, fund, finance, own,  
9 maintain, manage, repair, operate, lease as lessee or lessor, and  
10 regulate the same, to enter into contracts for any or all of those  
11 purposes, to enter into contracts for the management and operation  
12 of a project or other health facilities owned by the authority, and  
13 to designate a participating health institution as its agent to  
14 determine the location and character of a project undertaken by  
15 that participating health institution under this chapter and as the  
16 agent of the authority, to acquire, construct, enlarge, remodel,  
17 renovate, alter, improve, furnish, equip, own, maintain, manage,  
18 repair, operate, lease as lessee or lessor, and regulate the same,  
19 and as the agent of the authority, to enter into contracts for any or  
20 all of those purposes, including contracts for the management and  
21 operation of that project or other health facilities owned by the  
22 authority.

23 (g) Acquire, directly or by and through a participating health  
24 institution as its agent, by purchase solely from funds provided  
25 under the authority of this part, or by gift or devise, and to sell, by  
26 installment sale or otherwise, any lands, structures, real or personal  
27 property, rights, rights-of-way, franchises, easements, and other  
28 interests in lands, including lands lying under water and riparian  
29 rights, that are located within the state that the authority determines  
30 necessary or convenient for the acquisition, construction, or  
31 financing of a health facility or the acquisition, construction,  
32 financing, or operation of a project, upon the terms and at the prices  
33 considered by the authority to be reasonable and that can be agreed  
34 upon between the authority and the owner thereof, and to take title  
35 thereto in the name of the authority or in the name of a participating  
36 health institution as its agent.

37 (h) Receive and accept from any source loans, contributions,  
38 or grants for, or in aid of, the construction, financing, or refinancing  
39 of a project or any portion of a project in money, property, labor,  
40 or other things of value.

1 (i) Make secured or unsecured loans to, or purchase secured or  
2 unsecured loans of, any participating health institution in  
3 connection with the financing of a project or working capital in  
4 accordance with an agreement between the authority and the  
5 participating health institution. However, no loan to finance a  
6 project shall exceed the total cost of the project, as determined by  
7 the participating health institution and approved by the authority.  
8 Funds for secured loans may be provided from the California  
9 Health Facilities Financing Authority Fund pursuant to subdivision  
10 (b) of Section 15439 to small or rural health facilities pursuant to  
11 authority guidelines.

12 (j) (1) Make secured or unsecured loans to, or purchase secured  
13 or unsecured loans of, any participating health institution in  
14 accordance with an agreement between the authority and the  
15 participating health institution to refinance indebtedness incurred  
16 by that participating health institution or a participating health  
17 institution that controls or manages, is controlled or managed by,  
18 is under common control or management with, or is affiliated with  
19 that participating health institution, in connection with projects  
20 undertaken or for health facilities acquired or for working capital.

21 (2) Make secured or unsecured loans to, or purchase secured or  
22 unsecured loans of, any participating health institution in  
23 accordance with an agreement between the authority and the  
24 participating health institution to refinance indebtedness incurred  
25 by that participating health institution or a participating health  
26 institution that controls or manages, is controlled or managed by,  
27 is under common control or management with, or is affiliated with  
28 that participating health institution, payable to the authority or  
29 assigned or pledged to authority issued bonds.

30 (3) Funds for secured loans may be provided from the California  
31 Health Facilities Financing Authority Fund pursuant to subdivision  
32 (b) of Section 15439 to small or rural health facilities pursuant to  
33 authority guidelines.

34 (k) Mortgage all or any portion of interest of the authority in a  
35 project or other health facilities and the property on which that  
36 project or other health facilities are located, whether owned or  
37 thereafter acquired, including the granting of a security interest in  
38 any property, tangible or intangible, and to assign or pledge all or  
39 any portion of the interests of the authority in mortgages, deeds  
40 of trust, indentures of mortgage or trust, or similar instruments,

1 notes, and security interests in property, tangible or intangible, of  
2 participating health institutions to which the authority has made  
3 loans, and the revenues therefrom, including payments or income  
4 from any thereof owned or held by the authority, for the benefit  
5 of the holders of bonds issued to finance the project or health  
6 facilities or issued to refund or refinance outstanding indebtedness  
7 of participating health institutions as permitted by this part.

8 (l) Lease to a participating health institution the project being  
9 financed or other health facilities conveyed to the authority in  
10 connection with that financing, upon the terms and conditions the  
11 authority determines proper, charge and collect rents therefor,  
12 terminate the lease upon the failure of the lessee to comply with  
13 any of the obligations of the lease, and include in that lease, if  
14 desired, provisions granting the lessee options to renew the term  
15 of the lease for the period or periods and at the rent, as determined  
16 by the authority, purchase any or all of the health facilities or that  
17 upon payment of all of the indebtedness incurred by the authority  
18 for the financing of that project or health facilities or for refunding  
19 outstanding indebtedness of a participating health institution, then  
20 the authority may convey any or all of the project or the other  
21 health facilities to the lessee or lessees thereof with or without  
22 consideration.

23 (m) Charge and equitably apportion among participating health  
24 institutions, the administrative costs and expenses incurred by the  
25 authority in the exercise of the powers and duties conferred by this  
26 part.

27 (n) Obtain, or aid in obtaining, from any department or agency  
28 of the United States or of the state, any private company, or any  
29 insurance or guarantee as to, of, or for the payment or repayment  
30 of, interest or principal, or both, or any part thereof, on any loan,  
31 lease, or obligation, or any instrument evidencing or securing the  
32 loan, lease, or obligation, made or entered into pursuant to this  
33 part; and notwithstanding any other provisions of this part, to enter  
34 into any agreement, contract, or any other instrument whatsoever  
35 with respect to that insurance or guarantee, to accept payment in  
36 the manner and form as provided therein in the event of default  
37 by a participating health institution, and to assign that insurance  
38 or guarantee as security for the authority's bonds.

39 (o) Enter into any and all agreements or contracts, including  
40 agreements for liquidity or credit enhancement, bond exchange

1 agreements, interest rate swaps or hedges, execute any and all  
2 instruments, and do and perform any and all acts or things  
3 necessary, convenient, or desirable for the purposes of the authority  
4 or to carry out any power expressly granted by this part.

5 (p) Invest any moneys held in reserve or sinking funds or any  
6 moneys not required for immediate use or disbursement, at the  
7 discretion of the authority, in any obligations authorized by the  
8 resolution authorizing the issuance of the bonds secured thereof  
9 or authorized by law for the investment of trust funds in the custody  
10 of the Treasurer.

11 (q) Award grants to any eligible clinic pursuant to Section  
12 15438.6.

13 (r) Award grants to any eligible health facility pursuant to  
14 Section 15438.7.

15 (s) (1) Notwithstanding any other provision of law, provide a  
16 working capital loan of up to five million dollars (\$5,000,000) to  
17 assist in the establishment and operation of the California Health  
18 Benefit Exchange (Exchange) established under Section 100500.  
19 The authority may require any information it deems necessary and  
20 prudent prior to providing a loan to the Exchange and may require  
21 any term, condition, security, or repayment provision it deems  
22 necessary in the event the authority chooses to provide a loan.  
23 Under no circumstances shall the authority be required to provide  
24 a loan to the Exchange.

25 (2) Prior to the authority providing a loan to the Exchange, a  
26 majority of the board of the Exchange shall be appointed and shall  
27 demonstrate, to the satisfaction of the authority, that the federal  
28 planning and establishment grants made available to the Exchange  
29 by the United States Secretary of Health and Human Services are  
30 insufficient or will not be released in a timely manner to allow the  
31 Exchange to meet the necessary requirements of the federal Patient  
32 Protection and Affordable Care Act (Public Law 111-148).

33 (3) The Exchange shall repay a loan made under this subdivision  
34 no later than June 30, 2016, and shall pay interest at the rate paid  
35 on moneys in the Pooled Money Investment Account.

36 (t) Award grants pursuant to Section 15438.10.

37 SEC. 2. Section 15438.10 is added to the Government Code,  
38 to read:

39 15438.10. (a) The Legislature finds and declares the following:

1 (1) Many Californians face serious obstacles in obtaining needed  
2 health care services, including, but not limited to, medical, mental  
3 health, ~~and dental services~~ *dental, and preventive services*. The  
4 obstacles faced by vulnerable populations and communities include  
5 existence of complex medical, physical, or social conditions,  
6 disabilities, economic disadvantage, and living in remote or  
7 underserved areas that make it difficult to access services.

8 (2) With the recent passage of national health care reform, there  
9 is an increased demand for innovative ways to deliver *quality*  
10 health care, *including preventive services*, to individuals in a  
11 cost-effective manner.

12 ~~(3) Technological innovation continues to create opportunities~~  
13 ~~for developing new methods of delivering needed services to~~  
14 ~~vulnerable populations and communities cost-effectively and with~~  
15 ~~improved health outcomes.~~

16 ~~(4)~~

17 (3) There is a need to develop new methods of delivering health  
18 services utilizing innovative models that can be demonstrated to  
19 be effective and then replicated throughout California and that  
20 bring community-based health care *preventive services* to  
21 individuals where they live or receive education, social, or general  
22 health services.

23 ~~(5)~~

24 (4) For more than 30 years, the California Health Facilities  
25 Financing Authority has provided financial assistance through  
26 tax-exempt bonds, low-interest loans, and grants to health facilities  
27 in California, assisting in the expansion of the availability of health  
28 services and health care facilities throughout the state.

29 (b) (1) Following the completion of a competitive selection  
30 process, the authority may award one or more grants that, in the  
31 aggregate, do not exceed one million five hundred thousand dollars  
32 (\$1,500,000) to one or more projects designed to demonstrate  
33 specified new or enhanced cost-effective methods of delivering  
34 *quality* health care services to improve access to quality health  
35 care for vulnerable populations or communities, or both, that are  
36 effective at enhancing health outcomes and improving access to  
37 quality health care *and preventive services*. These health care  
38 services may include, but are not limited to, medical, mental health,  
39 or dental services for the diagnosis, care, prevention, and treatment  
40 of human illness, or individuals with physical, mental, or

1 developmental disabilities. More than one demonstration project  
2 may receive a grant pursuant to this section. It is the intent of the  
3 Legislature for a demonstration project that receives a grant to  
4 allow patients to receive screenings, diagnosis, or treatment in  
5 community settings, including, but not limited to, school-based  
6 health centers, adult day care centers, and residential care facilities  
7 for the elderly, or for individuals with mental illness or  
8 developmental disabilities. ~~It is also the intent of the Legislature  
9 for a demonstration project that receives a grant to take advantage  
10 of advances in telecommunications technologies that will produce  
11 a more accessible and cost-effective delivery system for needed  
12 services and improved health outcomes.~~

13 (2) A grant awarded pursuant to this subdivision may be  
14 allocated in increments to a demonstration project over multiple  
15 years to ensure the demonstration project's ability to complete its  
16 work, as determined by the authority. Prior to the initial allocation  
17 of funds pursuant to this subdivision, the administrators of the  
18 demonstration project shall provide evidence that the demonstration  
19 project has or will have additional funds sufficient to ensure  
20 completion of the demonstration project. If the authority allocates  
21 a grant in increments, each subsequent year's allocation shall be  
22 provided to the demonstration project only upon submission of  
23 research that shows that the project is progressing toward the  
24 identification of a *high-quality and* cost-effective delivery model  
25 that improves health outcomes and access to quality health care  
26 *and preventive services* for vulnerable populations or communities,  
27 and can be replicated throughout the state in community settings.

28 (3) Except for a health facility that qualifies as a "small and  
29 rural hospital" pursuant to Section 124840 of the Health and Safety  
30 Code, a health facility that has received tax-exempt bond financing  
31 from the authority shall not be eligible to receive funds awarded  
32 for a demonstration project. Such a health facility may participate  
33 as an uncompensated partner or member of a collaborative effort  
34 that is awarded a demonstration project grant. *A health facility that  
35 participates in a demonstration project that receives funds pursuant  
36 to this section may not claim the funding provided by the authority  
37 toward meeting its community benefit and charity care obligations.*

38 (4) Funds provided to a demonstration project pursuant to this  
39 subdivision may be used to supplement, but not to supplant,  
40 existing financial and resource commitments of the grantee or

1 grantees or any other member of a collaborative effort that has  
2 been awarded a demonstration project grant.

3 ~~(e) (1) If a demonstration project that receives a grant pursuant  
4 to subdivision (b) is successful at developing a new method of  
5 delivering cost-effective health care services in community settings  
6 that result in increased access to quality health care or improved  
7 health care outcomes, then, beginning as early as the second year  
8 after the initial allocation of moneys provided pursuant to  
9 subdivision (b), the authority may implement a second grant  
10 program that awards not more than five million dollars  
11 (\$5,000,000), in the aggregate, to eligible recipients as defined by  
12 the authority, to replicate in additional California communities the  
13 model developed by a demonstration project that received a grant  
14 pursuant to subdivision (b). Prior to the implementation of this  
15 second grant program, the authority shall prepare and provide a  
16 report to the Legislature and the Governor on the outcomes of the  
17 demonstration project. The report shall be made in accordance  
18 with Section 9795.~~

19 ~~(2) If the authority implements the second grant program, the  
20 authority shall also report annually, beginning with the first year  
21 of implementation of the second grant program, to the Legislature  
22 and the Governor regarding the program, including, but not limited  
23 to, the total amount of grants issued pursuant to this subdivision,  
24 the amount of each grant issued, and a description of each project  
25 awarded funding for replication of the model.~~

26 ~~(3) Grants under this subdivision may be utilized for eligible  
27 costs, as defined in subdivision (c) of Section 15432, including  
28 equipment, information technology, and working capital, as defined  
29 in subdivision (h) of Section 15432.~~

30 ~~(4) The authority may adopt regulations relating to the grant  
31 program authorized pursuant to this subdivision, including  
32 regulations that define eligible recipients, eligible costs, and  
33 minimum and maximum grant amounts, as emergency regulations  
34 in accordance with Chapter 3.5 (commencing with Section 11340)  
35 of Part 1. For purposes of Chapter 3.5 (commencing with Section  
36 11340) of Part 1, including Section 11349.6, the adoption of the  
37 regulations shall be considered by the Office of Administrative  
38 Law to be necessary for the immediate preservation of the public  
39 peace, health and safety, and general welfare.~~

1 (c) (1) The authority shall prepare and provide a report to the  
 2 Legislature and the Governor by January 1, 2014, on the outcomes  
 3 of the demonstration grant program, including, but not limited to,  
 4 the following:

- 5 (A) The total amount of grants issued.
- 6 (B) The amount of each grant issued.
- 7 (C) A description of other sources of funding for each project.
- 8 (D) A description of each project awarded funding.
- 9 (E) A description of project outcomes that demonstrate  
 10 cost-effective delivery of health care services in community settings,  
 11 that result in improved access to quality health care or improved  
 12 health care outcomes.

13 (2) The report submitted pursuant to this subdivision shall be  
 14 submitted in compliance with Section 9795.

15 (d) There is hereby created the California Health Access Model  
 16 Program Account in the California Health Facilities Financing  
 17 Authority Fund. All moneys in the account are hereby continuously  
 18 appropriated to the authority for carrying out the purposes of this  
 19 section. An amount of up to ~~six million five hundred thousand~~  
 20 ~~dollars (\$6,500,000)~~ one million five hundred thousand  
 21 dollars (\$1,500,000) shall be transferred from funds in the California  
 22 Health Facilities Financing Authority Fund that are not impressed  
 23 with a trust for other purposes into the California Health Access  
 24 Model Program Account for the purpose of issuing grants pursuant  
 25 to this section. Any moneys remaining in the California Health  
 26 Access Model Program Account on January 1, ~~2020~~ 2015, shall  
 27 revert as of that date to the California Health Facilities Financing  
 28 Authority Fund.

29 (e) Any recipient of a grant provided pursuant to subdivision  
 30 (b) shall adhere to all applicable laws relating to scope of practice,  
 31 licensure, staffing, and building codes.

32 SEC. 3. This act is an urgency statute necessary for the  
 33 immediate preservation of the public peace, health, or safety within  
 34 the meaning of Article IV of the Constitution and shall go into  
 35 immediate effect. The facts constituting the necessity are:

36 In order to assist underserved and vulnerable health care  
 37 populations at the earliest possible time, it is necessary that this  
 38 act take effect immediately.

O