ASSEMBLY BILL No. 1394

Introduced by Committee on Health (Monning (Chair), Logue (Vice Chair), Ammiano, Atkins, Bonilla, Eng, Gordon, Hayashi, Roger Hernández, Bonnie Lowenthal, Mitchell, Pan, V. Manuel Pérez, Smyth, and Williams)

February 28, 2011

An act to amend Sections 15432, 15438, 15438.5, 15439, 15441, 15442, 15446, 15451.5, 15459, 15459.1, 15459.2, 15459.3, and 15459.4 of the Government Code, relating to health facility financing, and making an appropriation therefor.

legislative counsel's digest

AB 1394, as introduced, Committee on Health. Health care facilities: financing.

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

The bill would expand the definition of a health facility to include a specified private school and information systems equipment and facilities operated to support the services provided in the specified facilities. It would revise the definition of a participating health institution to specify that the financing or refinancing may be undertaken by the specified entities or through a related, nonprofit corporation.

(2) The act specifies the powers of the authority as including entering into agreements for liquidity and credit enhancement.

This bill would revise these powers to include the power to enter into bond exchange agreements.

(3) The act authorizes, if a health facility seeking financing for a project pursuant to the act does not meet the guidelines established by the 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. The act provides that it is not the intent of the Legislature to authorize the control or participation in the operation of hospitals by the authority, except where default occurs or appears likely.

This bill would revise the above-described intent of the Legislature regarding default, as specified.

(4) The act authorizes the authority to hold, pledge, cancel, or resell its bonds, subject to and in accordance with agreements with bondholders.

This bill would additionally authorize the authority to exchange its bonds, subject to and in accordance with its agreements with bondholders.

(5) Existing law authorizes revenue bonds issued pursuant to the act to be secured by a specified trust agreement or indenture. The act authorizes indentures, trust agreements, or resolutions for issuance of these bonds to contain provisions for protecting and enforcing the rights and remedies of the bondholders, as specified.

This bill would additionally authorize provisions in these indentures, trust agreements, or resolution for protecting and enforcing the rights and remedies of any provider of credit or liquidity support for these bonds.

(6) The act requires a participating health institution that is a private, nonprofit corporation, or association that borrows money to finance working capital, other than as part of the cost of a project, to repay and discharge the loan within 15 months of the loan date.

This bill would, instead, require repayment and discharge within 60 months of the loan date.

By expanding the purposes for which a continuously appropriated fund may be used this bill would result in an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means the California Health Facilities Financing Authority Act.

(b) "Authority" means the California Health Facilities Financing Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion of a project financed under this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the cost of insurance during construction, the cost of funding or financing noncapital expenses, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, service contracts, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses of funding or financing, that are necessary or incident to determining the feasibility of constructing any project, or that are incident to the construction, acquisition, or financing of any project.

(d) “Health facility” means any facility, place, or building that is licensed, accredited, or certified and organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, or physical, mental, or developmental disability, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, and includes, but is not limited to, all of the following types:

(1) A general acute care hospital that is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital that is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility that is a health facility that provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility that is a health facility that provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility that is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A clinic that is operated by a tax-exempt nonprofit corporation that is licensed pursuant to Section 1204 or 1204.1 of

the Health and Safety Code or a clinic exempt from licensure pursuant to subdivision (b) or (c) of Section 1206 of the Health and Safety Code.

(7) An adult day health center that is a facility, as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, that provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any facility owned or operated by a local jurisdiction for the provision of county health services.

(9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. “Elderly,” for the purposes of this paragraph, means a person 62 years of age or older.

(10) A child day care facility operated in conjunction with a health facility. A child day care facility is a facility, as defined in Section 1596.750 of the Health and Safety Code. For purposes of this paragraph, “child” means a minor from birth to 18 years of age.

(11) An intermediate care facility/developmentally disabled habilitative that is a health facility, as defined under subdivision (e) of Section 1250 of the Health and Safety Code.

(12) An intermediate care facility/developmentally disabled-nursing that is a health facility, as defined under subdivision (h) of Section 1250 of the Health and Safety Code.

(13) A community care facility that is a facility, as defined under subdivision (a) of Section 1502 of the Health and Safety Code, that provides care, habilitation, rehabilitation, or treatment services to developmentally disabled or mentally impaired persons.

(14) A nonprofit community care facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, other than a facility that, as defined in that subdivision, is a residential facility for the elderly, a foster family agency, a foster family home, a full service adoption agency, or a noncustodial adoption agency.

(15) A nonprofit accredited community work activity program, as specified in subdivision (e) of Section 4851 and Section 4856 of the Welfare and Institutions Code.

(16) A community mental health center, as defined in paragraph (3) of subdivision (b) of Section 5667 of the Welfare and Institutions Code.

(17) A nonprofit speech and hearing center, as defined in Section 1201.5 of the Health and Safety Code.

(18) A blood bank, as defined in Section 1600.2 of the Health and Safety Code, licensed pursuant to Section 1602.5 of the Health and Safety Code, and exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

(19) A residential facility for persons with developmental disabilities, as defined in Sections 4688.5 and 4688.6 of the Welfare and Institutions Code, which includes, but is not limited to, a community care facility licensed pursuant to Section 1502 of the Health and Safety Code and a family teaching home as defined in Section 4689.1 of the Welfare and Institutions Code.

(20) A certified private school that provides educational services in conjunction with a multidisciplinary health facility, as defined in paragraphs (1) to (19), inclusive, that otherwise qualifies for financing pursuant to this part, and that is designed to meet the needs of individuals with physical, mental, or developmental disabilities.

"Health facility" includes a clinic that is described in subdivision (*l*) of Section 1206 of the Health and Safety Code.

"Health facility" includes *information systems equipment and* the following facilities, if the *equipment and* facility is operated in conjunction with *or to support the services provided in* one or more of the facilities specified in paragraphs (1) to (19), inclusive, of this subdivision: a laboratory, laundry, ~~or~~ *a* nurses or interns residence, housing for staff or employees and their families or patients or relatives of patients, a physicians' facility, an administration building, a research facility, a maintenance, storage, or utility facility, *an information systems facility,* all structures or facilities related to any of the foregoing facilities or required or useful for the operation of a health facility and the necessary and usual attendant and related facilities and equipment, and parking and supportive service facilities or structures required or useful for the orderly conduct of the health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) “Participating health institution” means a city, city and county, or county, a district hospital, or a private nonprofit corporation or association, or a limited liability company whose sole member is a nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and that, pursuant to ~~the provisions of~~ this part, undertakes*, by itself, or through a related nonprofit corporation,* the financing or refinancing of the construction or acquisition of a project or of working capital as provided in this part. “Participating health institution” also includes, for purposes of the California Health Facilities Revenue Bonds (UCSF-Stanford Health Care) 1998 Series A, the Regents of the University of California.

(f) “Project” means construction, expansion, remodeling, renovation, furnishing, or equipping, or funding, financing, or refinancing of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. “Project” may include reimbursement for the costs of construction, expansion, remodeling, renovation, furnishing, or equipping, or funding, financing, or refinancing of a health facility or acquisition of a health facility. “Project” may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

(g) “Revenue bond” means any bond, warrant, note, lease, or installment sale obligation that is evidenced by a certificate of participation or other evidence of indebtedness issued by the authority.

(h) “Working capital” means moneys to be used by, or on behalf of, a participating health institution to pay or prepay maintenance or operation expenses or any other costs that would be treated as an expense item, under generally accepted accounting principles, in connection with the ownership or operation of a health facility, including, but not limited to, reserves for maintenance or operation expenses, interest for not to exceed one year on any loan for working capital made pursuant to this part, and reserves for debt service with respect to, and any costs necessary or incidental to, that financing.

SEC. 2. Section 15438 of the Government Code is amended to read:

15438. The authority may do any of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Receive and accept from any agency of the United States, any agency of the state, or any municipality, county, or other political subdivision thereof, or from any individual, association, or corporation gifts, grants, or donations of moneys for achieving any of the purposes of this chapter.

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

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

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

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

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

(j) Make secured or unsecured loans to, or purchase secured or unsecured loans of, any participating health institution in accordance with an agreement between the authority and the participating health institution to refinance indebtedness incurred by that participating health institution in connection with projects undertaken or for health facilities acquired or for working capital. Funds for secured loans may be provided from the California Health Facilities Financing Fund pursuant to subdivision (b) of Section 15439 to small or rural health facilities pursuant to authority guidelines.

(k) Mortgage all or any portion of interest of the authority in a project or other health facilities and the property on which that project or other health facilities are located, whether owned or thereafter acquired, including the granting of a security interest in any property, tangible or intangible, and to assign or pledge all or any portion of the interests of the authority in mortgages, deeds of trust, indentures of mortgage or trust, or similar instruments, notes, and security interests in property, tangible or intangible, of participating health institutions to which the authority has made loans, and the revenues therefrom, including payments or income from any thereof owned or held by the authority, for the benefit of the holders of bonds issued to finance the project or health facilities or issued to refund or refinance outstanding indebtedness of participating health institutions as permitted by this part.

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

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

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

(o) Enter into any and all agreements or contracts, including agreements for liquidity ~~and~~ *or* credit enhancement, *bond exchange agreements*, interest rate swaps or hedges, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the authority or to carry out any power expressly granted by this part.

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

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

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

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

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

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

SEC. 3. Section 15438.5 of the Government Code is amended to read:

15438.5. (a) It is the intent of the Legislature in enacting this part to provide financing only, and, except as provided in subdivisions (b), (c), and (d), only to *participating* health ~~facilities~~ *institutions* that can demonstrate the financial feasibility of their projects. 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 that tax-exempt revenue bond funding, be passed on to the consuming public through lower charges or containment of the rate of increase in hospital rates. It is not the intent of the Legislature in enacting this part to encourage unneeded health facility construction. Further, it is not the intent of the Legislature to authorize the authority to control or participate in the operation of hospitals, except where default occurs ~~or appears likely to occur~~ *under the terms of an agreement with the authority*.

(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 ~~facilities~~ *institutions* to ~~arrange~~ *finance* projects that will meet the financial feasibility standards developed under this part.

(c) If a *participating* health ~~facility~~ *institution* seeking financing for a project pursuant to this part does not meet the guidelines established by the authority with respect to bond rating, the authority may nonetheless give special consideration, on a case-by-case basis, to financing the project if the *participating* health ~~facility~~ *institution* demonstrates to the satisfaction of the authority the financial feasibility of the project, and the performance of significant community service. For the purposes of this part, a *participating* health ~~facility~~ *institution* that performs a significant community service is one that contracts with Medi-Cal or that can demonstrate, with the burden of proof being on the *participating* health ~~facility~~ *institution*, that it has fulfilled at least two of the following criteria:

(1) On or before January 1, 1991, has established, and agrees to maintain, a 24-hour basic emergency medical service open to the public with a physician and surgeon on duty, or is a children's hospital as defined in Section 14087.21 of the Welfare and Institutions Code, that jointly provides basic or comprehensive emergency services in conjunction with another licensed hospital. This criterion shall not be utilized in a circumstance where a small and rural hospital, as defined in Section 442.2 of the Health and Safety Code, has not established a 24-hour basic emergency medical service with a physician and surgeon on duty or will operate a designated trauma center on a continuing basis during the life of the revenue bonds issued by the authority.

(2) Has adopted, and agrees to maintain on a continuing basis during the life of the revenue bonds issued by the authority, a policy, approved and recorded by the facility's board of directors, of treating all patients without regard to ability to pay, including, but not limited to, emergency room walk-in patients.

(3) Has provided and agrees to provide care, on a continuing basis during the life of the revenue bonds issued by the authority, to Medi-Cal and uninsured patients in an amount not less than 5 percent of the facility's adjusted inpatient days as reported on an annual basis to the Office of Statewide Health Planning and Development.

(4) Has budgeted at least 5 percent of its net operating income to meeting the medical needs of uninsured patients and to providing other services, including, but not limited to, community education, primary care outreach in ambulatory settings, and unmet nonmedical needs, such as food, shelter, clothing, or transportation for vulnerable populations in the community, and agrees to continue that policy during the life of the revenue bonds issued by the authority.

(d) 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.

SEC. 4. Section 15439 of the Government Code is amended to read:

15439. (a) The California Health Facilities Authority Fund is continued in existence in the State Treasury as the California Health Facilities Financing Authority Fund. All money in the fund is hereby continuously appropriated to the authority for carrying out the purposes of this division. The authority may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this part, or any particular secured or unsecured loan made pursuant to subdivision (i), (j), or (s) of Section 15438, or for a grant awarded pursuant to subdivision (b) of Section 15438.7, and, for that purpose or as necessary or convenient to the accomplishment of any other purpose of the authority, may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this part from whatever source shall be deposited in the fund.

(b) Subject to the priorities that may be created by the pledge of particular moneys in the fund to secure any issuance of bonds of the authority, and subject further to the cost of loans provided by the authority pursuant to subdivisions (i), (j), or (s) of Section 15438 and to the cost of grants provided by the authority pursuant to Section 15438.7, and subject further to any reasonable costs which may be incurred by the authority in administering the program authorized by this division, all moneys in the fund derived from any source shall be held in trust for the security and payment of bonds of the authority and shall not be used or pledged for any other purpose so long as the bonds are outstanding and unpaid. However, nothing in this section shall limit the power of the authority to make loans with the proceeds of bonds in accordance with the terms of the resolution authorizing the same *or pledging or granting a security interest to the provider of credit support as specified in the documents pursuant to which authority revenue bonds are issued*.

(c) Pursuant to any agreements with the holders of particular bonds pledging any particular assets, revenues, or moneys, the authority may create separate accounts in the fund to manage assets, revenues, or moneys in the manner set forth in the agreements.

(d) The authority may, from time to time, direct the ~~State~~ Treasurer to invest moneys in the fund that are not required for its current needs, including proceeds from the sale of any bonds, in the eligible securities specified in Section 16430 as the agency shall designate. The authority may direct the ~~State~~ Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4. All interest or other increment resulting from an investment or deposit shall be deposited in the fund, notwithstanding Section 16305.7. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4, excepting the Surplus Money Investment Fund.

(e) All moneys accruing to the authority from whatever source shall be deposited in the fund.

SEC. 5. Section 15441 of the Government Code is amended to read:

15441. (a) The authority is authorized, from time to time, to issue its negotiable revenue bonds in order to provide funds for achieving any of its purposes under this part.

(b) Except as may otherwise be expressly provided by the authority, each of its revenue bonds shall be payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Notwithstanding that ~~such~~ *these* revenue bonds may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of ~~such~~ *these* bonds for registration.

(c) The authority's revenue bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance of all revenue bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, not exceeding 40 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as the indenture, trust agreement, or resolution relating to ~~such~~ *these* revenue bonds may provide. The authority's revenue bonds or notes may be sold by the Treasurer at public or private sale, after giving due consideration to the recommendation of the participating health institution, for ~~such~~ *the* price or prices and upon ~~such~~ *the* terms and conditions as the authority shall determine. The Treasurer may sell ~~any such~~ *these* revenue bonds at a price below the par value thereof. However, the discount on any bonds so sold shall not exceed 6 percent of the par value thereof, except in the case of any bonds payable in whole or in part from moneys held under one or more outstanding resolutions or indentures. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds which shall be exchanged for such definitive bonds.

(d) Any resolution or resolutions authorizing the issuance of any revenue bonds or any issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to pledging all or any part of the revenues of a project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds.

(e) Neither the members of the authority nor any person executing the revenue bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds. The authority may hold, pledge, *exchange,* cancel, or resell ~~such~~ *these* bonds, subject to and in accordance with *its* agreements with bondholders.

SEC. 6. Section 15442 of the Government Code is amended to read:

15442. In the discretion of the authority, any revenue bonds issued under the provisions of this part may be secured by a trust agreement or indenture by and between the authority and a corporate trustee or trustees, which may be the ~~State~~ Treasurer or any trust company or bank having the powers of a trust company within or without the state. ~~Such~~ *The* trust agreement, indenture, or the resolution providing for the issuance of ~~such~~ *these* bonds may pledge or assign the revenues to be received from a participating health institution. ~~Such~~ *The* indenture, trust agreement, or resolution providing for the issuance of ~~such~~ *these* bonds may contain ~~such~~ provisions for protecting and enforcing the rights and remedies of the bondholders *and any provider of credit or liquidity support for these bonds* as may be reasonable and proper and not in violation of law, including particularly ~~such~~ *those* provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any ~~such~~ trust agreement or indenture may set forth the rights and remedies of the bondholders, *any provider of credit or liquidity support for these bonds,* and of the trustee or trustees, and may restrict the individual right of action of bondholders. In addition to the foregoing, any ~~such~~ indenture, trust agreement, or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders.

SEC. 7. Section 15446 of the Government Code is amended to read:

15446. (a) The authority may provide for the issuance of bonds of the authority for the purpose of refunding any bonds or any series or issue of bonds ~~of the authority~~ *issued for the benefit of a participating health institution* then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption, purchase, or maturity of the bonds.

(b) The proceeds of any bonds issued for the purpose of refunding of outstanding bonds may, in the discretion of the authority, be applied to the purchase, redemption prior to maturity, or retirement at maturity of any outstanding bonds on their earliest redemption date or dates, upon their purchase or maturity, or paid to a third person to assume the authority's obligation to make the payments, and may, pending that application, be placed in escrow to be applied to the purchase, retirement at maturity, or redemption on the date or dates determined by the authority.

(c) Any proceeds placed in escrow may, pending their use, be invested and reinvested in obligations or securities authorized by resolutions of the authority, payable or maturing at the time or times as are appropriate to assure the prompt payment of the principal, interest, and redemption premium, if any, of the outstanding bonds to be refunded at maturity or redemption of the bonds to be refunded either at their earliest redemption date or dates or any subsequent redemption date or dates or for payment of interest on the refunding bonds on or prior to the final date of redemption or payment of the bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by the authority.

(d) All of the refunding bonds are subject to this part in the same manner and to the same extent as other bonds issued pursuant to this part.

SEC. 8. Section 15451.5 of the Government Code is amended to read:

15451.5. A participating health institution that is a private nonprofit corporation or association and that borrows money to finance working capital pursuant to this part, other than as part of the cost of a project, shall be required to repay and discharge the loan within ~~15~~ *60* months of the loan date.

SEC. 9. Section 15459 of the Government Code is amended to read:

15459. As a condition of the issuance of revenue bonds, whether by the authority or any local agency, to finance the construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or the acquisition of a health facility, each ~~borrower~~ *participating health institution* shall give reasonable assurance to the authority that the services of the health facility will be made available to all persons residing or employed in the area served by the facility.

For the purposes of this section and Sections 15459.1, 15459.2, 15459.3, and 15459.4, all of the following definitions apply:

~~(a) "Borrower" means each local agency or nonprofit corporation or association which operates or provides the health facility and receives the benefit of the issuance of revenue bonds.~~

~~(b)~~

(a) "Local agency" means any public district, public corporation, authority, agency, board, commission, county, city and county, city, school district, or any other public entity.

~~(c)~~

(b) "Revenue bond" means any bonds, warrants, notes, lease, or installment sale obligations evidenced by certificates of participation, or other evidence of indebtedness issued by the authority or by a local agency payable from funds other than the proceeds of ad valorem taxes or the proceeds of assessments levied without limitation as to rate or amount by the local agency upon property in the local agency.

SEC. 10. Section 15459.1 of the Government Code is amended to read:

15459.1. As part of its assurance under Section 15459, the ~~borrower~~ *participating health institution* shall agree to all of the following actions:

(a) To advise each person seeking services at the ~~borrower's~~ *participating health institution's* facility as to the person's potential eligibility for Medi-Cal and Medicare benefits or benefits from other governmental third-party payers.

(b) To make available to the authority and to any interested person a list of physicians with staff privileges at the ~~borrower's~~

participating health institution's facility, which includes all of the following:

(1) Name.

(2) Specialty.

(3) Language spoken.

(4) Whether the physician takes Medi-Cal and Medicare patients.

(5) Business address and phone number.

(c) To inform in writing on a periodic basis all practitioners of the healing arts having staff privileges in the ~~borrower's~~ *participating health institution's* facility as to the existence of the facility's community service obligation. The required notice to practitioners shall contain a statement, as follows:

"This hospital has agreed to provide a community service and to accept Medi-Cal and Medicare patients. The administration and enforcement of this agreement is the responsibility of the California Health Facilities Financing Authority and this facility."

(d) To post notices in the following form, which shall be multilingual where the ~~borrower~~ *participating health institution* serves a multilingual community, in appropriate areas within the facility, including, but not limited to, admissions offices, emergency rooms, and business offices:

"This facility has agreed to make its services available to all persons residing or employed in this area. This facility is prohibited by law from discriminating against Medi-Cal and Medicare patients. Should you believe you may be eligible for Medi-Cal or Medicare, you should contact our business office (or designated person or office) for assistance in applying. You should also contact our business office (or designated person or office) if you are in need of a physician to provide you with services at this facility. If you believe that you have been refused services at this facility in violation of the community service obligation you should inform (designated person or office) and the California Health Facilities Financing Authority."

The ~~borrower~~ *participating health institution* shall provide copies of this notice for posting to all welfare offices in the county where the ~~borrower's~~ *participating health institution's* facility is located.

(e) For all facilities in areas, and of a type, not subject to Medi-Cal contracting and for all ~~borrowers~~ *participating health institution* which have negotiated in good faith to obtain a Medi-Cal contract but were not awarded a contract by the California

Medi-Cal Assistance Commission, the authority shall make modifications to the requirements contained in this section to reflect the absence of a Medi-Cal contract. Nothing in this section relieves a hospital of its obligations under Section 1317 of the Health and Safety Code.

SEC. 11. Section 15459.2 of the Government Code is amended to read:

15459.2. If the ~~borrower~~ *participating health institution* cannot demonstrate that it meets the requirements of ~~Section~~ *Sections* 15459 *and 15459.1*, it may nonetheless be eligible for financing through the issuance of revenue bonds if it presents a plan that is satisfactory to the authority which details the reasonable steps and timetables that the borrower agrees to take to bring the facility into compliance with ~~Section 15459~~ *these sections*.

SEC. 12. Section 15459.3 of the Government Code is amended to read:

15459.3. Each ~~borrower~~ *participating health institution* shall make available to the authority and to the public upon request an annual report substantiating compliance with the requirements of Section 15459. The annual report shall set forth sufficient information and verification therefor to indicate the ~~borrower's~~ *participating health institution's* compliance. The report shall include at least the following:

(a) By category for inpatient admissions, emergency admission, and where the facility has a separate identifiable outpatient service:

(1) The total number of patients receiving services.

(2) The total number of Medi-Cal patients served.

(3) The total number of Medicare patients served.

(4) The total number of patients who had no financial sponsor at the time of service.

(5) The dollar volume of services provided to each patient category listed in paragraphs (1), (2), and (3).

(b) Where appropriate, the actions taken pursuant to Section 15459.2 and the effect the actions have had on the data specified in subdivision (a).

(c) Any other information which the authority may reasonably require.

SEC. 13. Section 15459.4 of the Government Code is amended to read:

15459.4. The remedies and sanctions available to the authority against the ~~borrower~~ *participating health institution* for failure to adhere to the assurance given to the authority under Section 15459 shall include all of the following:

(a) Rendering the ~~borrower~~ *participating health institution* ineligible for federal and state financial assistance under the Hill-Burton Program.

(b) Requiring a ~~borrower~~ *participating health institution* that had originally met the conditions of community service to submit a plan that is satisfactory to the authority which details the reasonable steps and timetables that the ~~borrower~~ *participating health institution* agrees to take to bring the facility back into compliance with the assurances given to the authority.

(c) Referring the violation to the office of the Attorney General of California for legal action authorized under existing law or other remedy at law or equity, when a facility fails to carry out the actions agreed to in a plan approved by the authority pursuant to subdivision (b) of this section. However, the remedies obtainable by the legal action shall not include withdrawal or cancellation of the project or projects financed or to be financed through the issuance of revenue bonds.

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