
SUBSTITUTE HOUSE BILL 1846

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Sommers, Hunter, Fromhold, Kenney, Moeller, Simpson and Ormsby)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to the health care facilities authority; amending
2 RCW 70.37.090; reenacting and amending RCW 70.37.050; adding new
3 sections to chapter 70.37 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.37.050 and 1983 c 210 s 2 and 1983 c 167 s 171 are
6 each reenacted and amended to read as follows:

7 (1) The authority shall establish rules concerning its exercise of
8 the powers authorized by this chapter.

9 (2) The authority shall receive from applicants requests for the
10 providing of bonds for financing of health care facilities ((and)). An
11 applicant must furnish at least the following information, where
12 applicable, with its request for financial assistance:

13 (a) Identification of the applicant;

14 (b) A description of the applicant's legal structure. If a private
15 nonprofit corporation, the applicant must describe how the assets are
16 held and by whom, and provide copies of its articles of incorporation
17 or similar documentation;

18 (c) If the applicant is a private nonprofit entity or corporation,

1 the applicant must provide a copy of the internal revenue service
2 determination of section 501(c)(3) status;

3 (d) A description of the project for which financial assistance is
4 sought, including:

5 (i) Amount of requested borrowing;

6 (ii) A general description of the project to be accomplished with
7 authority financial assistance;

8 (iii) The current status of planning for the project and dates
9 proposed for: (A) Completion of drawings for the project, if
10 necessary; (B) filing of environmental impact statement, if necessary;
11 (C) entry into construction contract; and (D) completion or occupancy;

12 (iv) The current status of certificate of need for the project;

13 (v) The cost of the project;

14 (vi) Other funds to be used for the project, if any;

15 (vii) The amount of projected revenues to be derived from the
16 project, the sources of such revenues, when revenues are expected to
17 begin, and a three-year revenue projection;

18 (viii) Feasibility studies on the project, if any; and

19 (ix) Proposed security for authority-issued bonds;

20 (e) Debt to be refinanced with authority assistance:

21 (i) Amount, date, maturity or maturities, interest rate or rates,
22 prepayment penalties, if any, debt service, and form of applicant's
23 existing debt to be refinanced;

24 (ii) Source of revenue for payment of existing debt, security for
25 debt to be refinanced, and rating, if any, assigned to debt to be
26 refinanced;

27 (iii) Holder of debt;

28 (iv) Proposed security for new authority-issued debt; and

29 (v) Proposed date schedule for accomplishing debt refinancing;

30 (f) Finances of applicant:

31 (i) Audited, if audited, financial statements for past three years;

32 (ii) Latest current financial statement;

33 (iii) Current year's budget of revenues, expenses, and capital
34 expenditures;

35 (iv) As applicable to the project, sources of revenues and
36 approximate dollar volumes for each source in the last three years, and
37 projection of revenues, expenses, and capital expenditures for next

1 three to five years, including revenues and expenses of proposed
2 project; and

3 (v) If not otherwise described in financial statements, a
4 description of long-term debts of applicant, including date incurred,
5 by whom held, debt service schedule, interest rate, form of debt,
6 source of revenues for repayment, and security for repayment;

7 (g) A description of pending or threatened litigation or
8 administrative actions with potential for a material adverse effect on
9 the applicant's ability to repay the financial assistance provided by
10 the authority;

11 (h) A brief description of existing medical facilities, including
12 number of beds, number of medical and other staff, categories of
13 medical services offered, and laboratory and research facilities, if
14 any;

15 (i) A brief description of hospital expansion plans, if any, in the
16 next ten years;

17 (j) A brief summary of statistics for the past three years, if
18 available, on percentage of bed occupancy and types and numbers of
19 patients cared for; and

20 (k)(i) An estimate of aggregate savings over the life of the
21 proposed financing to be realized by the applicant through authority
22 financing by tax-exempt bonds as compared to financing through taxable
23 obligations, including interest assumptions on which savings
24 calculations are based; and

25 (ii) A description of the means the applicant proposes to use to
26 ensure that savings from tax-exempt financing are passed on to the
27 public.

28 (3)(a) The authority shall investigate and determine the need and
29 the feasibility of providing such bonds. As part of its review, the
30 authority must consider:

31 (i) Whether an applicant complied with the requirements under past
32 agreements with the authority to pass on aggregate savings from the
33 financing to the public; and

34 (ii) Public comments received by the authority, whether oral or in
35 writing, on the application.

36 (b) The authority may approve an application and adopt a resolution
37 authorizing the issuance of bonds for the requested financing if it
38 determines at least the following:

1 (i) The proposed project is necessary or advisable for the benefit
2 of the public health;

3 (ii) The applicant can reasonably be expected to achieve successful
4 completion of the health care facilities to be financed;

5 (iii) The proposed project and the issuance of bonds for the
6 project are economically feasible;

7 (iv) The proposed project will carry out the purposes of this
8 chapter;

9 (v) The applicant will provide the sworn public benefit
10 certifications required under section 2 of this act; and

11 (vi) The applicant has reasonably satisfied the requirements of
12 this chapter, and rules adopted under this chapter.

13 (4)(a) Whenever the authority deems it necessary or advisable for
14 the benefit of the public health to provide financing for a health care
15 facility, it shall adopt a financing plan therefor and shall declare
16 the estimated cost thereof, as near as may be, including as part of
17 such cost funds necessary for the expenses incurred in the financing as
18 well as in the construction or purchase or other acquisition or in
19 connection with the rental or other payment for the use thereof,
20 interest during construction, reserve funds and any funds necessary for
21 initial start-up costs, and shall issue and sell its bonds for the
22 purposes of carrying out the proposed financing plan(~~(+—PROVIDED,~~
23 ~~That)~~). However, if a certificate of need is required for the proposed
24 project, no such financing plan shall be adopted until such certificate
25 has been issued pursuant to chapter 70.38 RCW (~~(by the secretary of the~~
26 ~~department of social and health services)~~).

27 (b) The authority shall have power as a part of (~~(such)~~) a plan
28 adopted under this subsection to create a special fund or funds for the
29 purpose of defraying the cost of such project and for other projects of
30 the same participant subsequently or at the same time approved by it
31 and for their maintenance, improvement, reconstruction, remodeling and
32 rehabilitation, into which special fund or funds it shall obligate and
33 bind the participant to set aside and pay from the gross revenues of
34 the project or from other sources an amount sufficient to pay the
35 principal and interest of the bonds being issued, reserves and other
36 requirements of the special fund and to issue and sell bonds payable as
37 to both principal and interest out of such fund or funds relating to
38 the project or projects of such participant.

1 ((Such)) (c) Bonds issued under this subsection shall bear such
2 date or dates, mature at such time or times, be in such denominations,
3 be in such form, either coupon or registered, or both, as provided in
4 RCW 39.46.030, carry such registration privileges, be made
5 transferable, exchangeable, and interchangeable, be payable in such
6 medium of payment, at such place or places, be subject to such terms of
7 redemption, bear such fixed or variable rate or rates of interest, and
8 be sold in such manner, at such price, as the authority shall
9 determine. Such bonds shall be executed by the ((~~chairman~~)) chair, by
10 either its duly elected secretary or its executive director, and by the
11 trustee if the authority determines to utilize a trustee for the bonds.
12 Execution of the bonds may be by manual or facsimile signature:
13 PROVIDED, That at least one signature placed thereon shall be manually
14 subscribed. Any interest coupons appurtenant to the bonds shall be
15 executed by facsimile or manual signature or signatures, as the
16 authority shall determine.

17 NEW SECTION. Sec. 2. A new section is added to chapter 70.37 RCW
18 to read as follows:

19 (1) To further the public policy set forth in RCW 70.37.010, the
20 authority shall require participants to provide sworn public benefit
21 certifications as required by the authority. The authority must
22 establish the form, content, and submission intervals of the sworn
23 public benefit certifications. The sworn public benefit certifications
24 must:

25 (a) Describe the means by which the participant has passed on to
26 the public the benefits resulting from financing its project with
27 authority bonds through: (i) Foregone increases in rates and charges
28 or decreases in rates and charges resulting from the interest cost
29 avoided as compared to taxable financing; (ii) the provision of
30 services to underserved populations; (iii) the provision of charity
31 care in excess of any applicable legal requirements; or (iv) other
32 reasonable means allowed by the authority by rule; and

33 (b) Identify improvements in the quality of health care resulting
34 from the project.

35 (2) The sworn public benefit certifications are public records
36 subject to inspection and copying under chapter 42.56 RCW.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.37 RCW
2 to read as follows:

3 (1) The authority shall encourage and provide for public
4 participation in authority meetings and its project application review
5 under rules that establish reasonable time during each meeting for
6 public testimony, reasonable notice requirements to the authority from
7 those persons wishing to provide testimony, and reasonable deadlines
8 for submitting written testimony. This section does not limit the
9 authority chair's discretion to place reasonable time limits on public
10 testimony or to recognize persons to testify who have not given notice
11 of their testimony.

12 (2) All public comments, whether oral or in writing, related to a
13 specific application received by the authority by the deadlines
14 specified in rules must be transcribed and posted on the authority's
15 web site at least ten days before the meeting of the authority during
16 which the authority board will act on the resolution.

17 **Sec. 4.** RCW 70.37.090 and 1974 ex.s. c 147 s 9 are each amended to
18 read as follows:

19 The authority shall have power to:

20 (1) Require persons applying for its assistance in connection with
21 the investigation and financing of projects to pay fees and charges to
22 provide the authority with funds for investigation, financial
23 feasibility studies, evaluation and verification of sworn public
24 benefit certifications and related requirements, expenses of issuance
25 and sale of bonds, and other charges for services provided by the
26 authority in connection with such projects. All other expenses of the
27 authority including compensation of its employees and consultants,
28 expenses of administration and conduct of its work and business and
29 other expenses shall be paid out of such fees and charges, out of
30 contributions and grants to it, out of the proceeds of bonds issued for
31 projects of participants or out of revenues of such projects; none by
32 the state of Washington. (~~The authority shall have power to~~)

33 (2) Establish special funds into which such money shall be received
34 and out of which it may be disbursed by the persons and with the
35 procedure and in the manner established by the authority.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.37 RCW
2 to read as follows:

3 The total amount of outstanding indebtedness of the authority may
4 not exceed five billion five hundred million dollars at any time. The
5 calculation of outstanding indebtedness must include the initial
6 principal amount of an issue and may not include interest that is
7 either currently payable or that accrues as a part of the face amount
8 of an issue payable at maturity or earlier redemption. Outstanding
9 indebtedness does not include notes or bonds as to which the obligation
10 of the authority has been satisfied and discharged by refunding or for
11 which payment has been provided by reserves or otherwise.

12 NEW SECTION. **Sec. 6.** This act applies retroactively to
13 applications for financing filed under chapter 70.37 RCW for which
14 financing has not been awarded as of the effective date of this
15 section.

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