
HOUSE BILL 1846

State of Washington 60th Legislature 2007 Regular Session

By Representatives Cody, Sommers, Hunter, Fromhold, Kenney, Moeller, Simpson and Ormsby

Read first time 01/30/2007. Referred to Committee on Health Care & Wellness.

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 project for which financial assistance is
15 sought, including the status and result of reviews of the facility or
16 proposed project by other state or local regulatory agencies. If the
17 project, in whole or in part, is subject to certificate of need review
18 under chapter 70.38 RCW, the participant must include a detailed

1 description of that part subject to certificate of need review and
2 provide evidence that the required certificate of need has been issued;

3 (c) Debt to be refinanced with authority assistance;

4 (d) Finances of the applicant; and

5 (e) An estimate of the aggregate savings over the life of the
6 proposed financing to be realized by the applicant through authority
7 financing by tax-exempt bonds as compared to financing through taxable
8 obligations and a description of the applicant's plan to ensure that
9 these savings are returned to patients as required under section 2 of
10 this act.

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

14 (i) Whether an applicant complied with the requirements under past
15 financing agreements to return aggregate savings from the financing to
16 patients, and whether the applicant's plan developed under section 2 of
17 this act for returning savings is effective and verifiable; and

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

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

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

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

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

29 (iv) The proposed project will carry out the purposes of this
30 chapter;

31 (v) The applicant demonstrates that it can meet the requirements of
32 section 2 of this act; and

33 (vi) The applicant has reasonably satisfied the requirements of
34 this chapter, and rules adopted under this chapter, and other criteria
35 that the authority has determined are appropriate factors in its
36 decision-making process.

37 (4)(a) Whenever the authority deems it necessary or advisable for
38 the benefit of the public health to provide financing for a health care

1 facility, it shall adopt a financing plan therefor and shall declare
2 the estimated cost thereof, as near as may be, including as part of
3 such cost funds necessary for the expenses incurred in the financing as
4 well as in the construction or purchase or other acquisition or in
5 connection with the rental or other payment for the use thereof,
6 interest during construction, reserve funds and any funds necessary for
7 initial start-up costs, and shall issue and sell its bonds for the
8 purposes of carrying out the proposed financing plan(~~(+—PROVIDED,~~
9 ~~That~~)). However, if a certificate of need is required for the proposed
10 project, no such financing plan shall be adopted until such certificate
11 has been issued pursuant to chapter 70.38 RCW (~~by the secretary of the~~
12 ~~department of social and health services~~)).

13 (b) The authority shall have power as a part of (~~such~~) a plan
14 adopted under this subsection to create a special fund or funds for the
15 purpose of defraying the cost of such project and for other projects of
16 the same participant subsequently or at the same time approved by it
17 and for their maintenance, improvement, reconstruction, remodeling and
18 rehabilitation, into which special fund or funds it shall obligate and
19 bind the participant to set aside and pay from the gross revenues of
20 the project or from other sources an amount sufficient to pay the
21 principal and interest of the bonds being issued, reserves and other
22 requirements of the special fund and to issue and sell bonds payable as
23 to both principal and interest out of such fund or funds relating to
24 the project or projects of such participant.

25 (~~Such~~) (c) Bonds issued under this subsection shall bear such
26 date or dates, mature at such time or times, be in such denominations,
27 be in such form, either coupon or registered, or both, as provided in
28 RCW 39.46.030, carry such registration privileges, be made
29 transferable, exchangeable, and interchangeable, be payable in such
30 medium of payment, at such place or places, be subject to such terms of
31 redemption, bear such fixed or variable rate or rates of interest, and
32 be sold in such manner, at such price, as the authority shall
33 determine. Such bonds shall be executed by the (~~chairman~~) chair, by
34 either its duly elected secretary or its executive director, and by the
35 trustee if the authority determines to utilize a trustee for the bonds.
36 Execution of the bonds may be by manual or facsimile signature:
37 PROVIDED, That at least one signature placed thereon shall be manually

1 subscribed. Any interest coupons appurtenant to the bonds shall be
2 executed by facsimile or manual signature or signatures, as the
3 authority shall determine.

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

6 (1) Each participant awarded financing under this chapter must
7 agree to a savings covenant under which the participant must develop
8 and implement a plan to return the anticipated savings described in RCW
9 70.37.050(2)(e) to patients of the participant in the form of lower
10 rates or avoidance of rate increases. Such a plan may not use charity
11 care and bad debt cost to satisfy the obligation to return its savings
12 to patients.

13 (2)(a) Except as provided in (b) of this subsection, the authority
14 must annually verify and certify that each participant awarded
15 financing under this chapter has used the savings realized to date from
16 authority financing to reduce costs to patients as required by this
17 chapter. The authority may issue a conditional certification if a
18 participant failed to use all the savings realized to date to reduce
19 costs to patients if the participant agrees to return the shortfall in
20 reduced costs by the next annual report.

21 (b) For loan agreements in which the total projected or actual
22 savings realized through authority financing is five million dollars or
23 less, the participant is deemed to have met its obligation to return
24 savings to patients, and annual certification by the authority is not
25 required.

26 (3) If the authority does not certify that a participant has met
27 its obligation to return savings to patients as required by this
28 chapter, the participant is in default of its loan agreement with the
29 authority, and the entire amount of the loan is immediately due and
30 payable.

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

33 (1) The authority shall encourage and provide for public
34 participation in authority meetings and its project application review
35 under rules that establish reasonable time during each regular
36 scheduled meeting for public testimony, reasonable notice requirements

1 to the authority from those persons wishing to provide testimony, and
2 reasonable deadlines for submitting written testimony. This section
3 does not limit the authority chair's discretion to place reasonable
4 time limits on public testimony or to recognize persons to testify who
5 have not given notice of their testimony.

6 (2) All public comments, whether oral or in writing, related to a
7 specific application received by the authority by the deadlines
8 specified in rules must be transcribed and posted on the authority's
9 web site at least ten days before the regularly scheduled meeting of
10 the authority during which the authority board will act on the
11 application.

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

14 The authority shall have power to:

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

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

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

33 The total amount of outstanding indebtedness of the authority may
34 not exceed four billion dollars at any time. The calculation of
35 outstanding indebtedness must include the initial principal amount of
36 an issue and may not include interest that is either currently payable

1 or that accrues as a part of the face amount of an issue payable at
2 maturity or earlier redemption. Outstanding indebtedness does not
3 include notes or bonds as to which the obligation of the authority has
4 been satisfied and discharged by refunding or for which payment has
5 been provided by reserves or otherwise.

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

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