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**Health Care & Wellness  
Committee**

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**HB 1846**

**Brief Description:** Requiring participants seeking financing from the health care facilities authority to agree to return anticipated savings to patients in the form of lower rates or avoidance of rate increases.

**Sponsors:** Representatives Cody, Sommers, Hunter, Fromhold, Kenney, Moeller, Simpson and Ormsby.

**Brief Summary of Bill**

- Modifies regulation of the Health Care Facilities Authority (HCFA) by adopting various provisions in HCFA rules and by adding requirements, including specifying that loan participants must return all savings realized from HCFA financing to patients in the form of lower rates or avoidance of rate increases.

**Hearing Date:** 2/5/07

**Staff:** Chris Cordes (786-7103).

**Background:**

Health Care Facilities Authority

Since 1974, the Health Care Facilities Authority (HCFA) has been authorized to issue bonds for the construction, purchase, lease, or use by participants of health care facilities. Participants are political subdivisions of the state or nonprofit health care facilities.

The HCFA is organized as a political subdivision of the state with the following members: the Governor or designee, who is chair; the Lieutenant Governor, the Insurance Commissioner or designee, the Secretary of Health, and one member of the public.

Issuance of HCFA Bonds

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The HCFA receives requests for providing financing bonds, investigates and determines the necessity and feasibility of providing the bonds, and if deemed necessary or advisable for the benefit of the public health, adopts a financing plan, and issues and sells bonds. If the project requires a certificate of need, a financing plan may not be adopted until the certificate has been issued.

Under HCFA rules, an applicant seeking financing must furnish specified information in a loan application, including:

- name and address of the applicant and of certain officers of the applicant, and other specified information about the applicant;
- a description of the project, including the status of planning and certificate of need review;
- cost of the project and sources of funding;
- feasibility studies and other reviews; and
- an estimate of the aggregate savings to be realized over the life of the project because of HCFA financing with tax exempt bonds.

The rules specify that the HCFA may approve an application if it determines that:

- the project is necessary or advisable for the benefit of the public health;
- the applicant can reasonably be expected to achieve successful completion of the project;
- the project is economically feasible;
- the project will carry out the purposes of the financing law; and
- the applicant has satisfied the HCFA that substantially all savings realized will be passed on to patients.

Bonds issued by the HCFA are not obligations of the state, but are paid from special funds held by the HCFA. The HCFA is not subject to a statutory debt limit.

### Public Meetings

The HCFA provides for public participation in its meetings under rules establishing deadlines for requesting permission to make presentations and other related requirements.

### HCFA Administrative Costs

The HCFA may adopt fees that applicants pay for HCFA services, including investigation, feasibility studies, the expenses of issuing bonds, and other charges. All expenses of the HCFA must be paid from these fees.

### Recent HCFA Rule-Making Activity

In September 2006, the HCFA filed a preproposal statement of inquiry for possible rule-making. It cited a purpose of updating the rules to make the bond issuance process more streamlined and efficient, and stated the intention to use a collaborative rule process. Draft rules were presented to the HCFA, but have not been adopted.

### **Summary of Bill:**

The law regulating the Health Care Facilities Authority (HCFA) is modified by adopting some provisions in HCFA rules and by adding requirements, including specifying that loan participants must return all savings realized from HCFA financing to patients in the form of lower rates or avoidance of rate increases.

## Requests for Financing

An applicant seeking financing with the HCFA must furnish at least the following information in a loan application:

- identification of the applicant;
- a description of the project, including the status and reviews of the facility by other regulatory agencies, such as a certificate of need review;
- the debt to be refinanced;
- finances of the applicant; and
- an estimate of the aggregate savings to be realized over the life of the project because of HCFA financing with tax exempt bonds.

As part of its application review, the HCFA must review whether the applicant has complied with requirements under past financing agreements to return savings to patients and whether its current plan to do so is effective and verifiable.

The HCFA may approve an application if it determines that:

- the project is necessary or advisable for the benefit of the public health;
- the applicant can reasonably be expected to achieve successful completion of the project;
- the project is economically feasible;
- the project will carry out the purposes of the financing law; and
- the applicant demonstrates it can meet the requirements for returning savings to patients.

## Use of Savings

Participants awarded financing must develop and implement a plan to return all savings realized from HCFA financing to patients in the form of lower rates or avoidance of rate increases. The plan may not use charity care or bad debt to satisfy this obligation.

Except where savings are expected to be less than \$5 million, the HCFA must annually verify and certify that savings are being returned. The HCFA may issue conditional certifications if the participant has failed to return savings but agrees to do so by the next reporting period. If the participant is not certified, the participant is in default, and the loan is immediately due and payable.

## Public Meetings

The HCFA is required to encourage and provide for public participation in its meetings and project application review under rules establishing time at each meeting for public testimony and reasonable deadlines for submitting written comments or notice of testimony.

Comments received by the HCFA on a specific application for financing must be posted on the HCFA's website, and the HCFA must consider the comments in reviewing an application.

## Administrative Costs

The HCFA's authority to set applicant fees may take into consideration, in addition to current factors, the evaluation and enforcement of the requirements to return savings to patients.

## Debt Limit

The HCFA's debt limit is set at \$4 billion. The calculation of the debt limit includes the initial principal amount of an issue and may not include certain interest payments.

Application

These provisions apply retroactively to applications for financing that have been filed with the HCFA but for which financing has not been awarded by the bill's effective date.

**Appropriation:** None.

**Fiscal Note:** Requested on January 30, 2007.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.