GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SENATE BILL 681

June 24, 2019

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH THE RURAL HEALTH CARE STABILIZATION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 131A-1 through G.S. 131A-25 are designated as Article 1 of Chapter 131A of the General Statutes, which is entitled "Health Care Facilities Finance Act."

SECTION 1.(b) The Revisor of Statutes shall change any references in Article 1 of Chapter 131A of the General Statutes to "this Chapter" to "this Article".

SECTION 1.(c) G.S. 113A-12(3)e. reads as rewritten:
"e. A health care facility financed pursuant to Article 1 of Chapter 131A of the General Statutes or receiving a certificate of need under Article 9 of Chapter 131E of the General Statutes."

SECTION 1.(d) G.S. 142-15.16(3) reads as rewritten:
"(3) State-supported financing arrangement. – Any financing arrangement that requires payments that are payable, whether directly or indirectly, and whether or not subject to the appropriation of funds for payment, by payments from the General Fund, the Highway Fund, the Highway Trust Fund, or other funds and accounts of the State that are funded from the general revenues and other taxes and fees of the State or State entities. A State-supported financing arrangement does not include a financing arrangement where bonds or other obligations are issued or incurred to carry out a financing program authorized by the General Assembly under which the bonds or other obligations are payable from moneys derived from specified, limited, nontax sources, such as (i) loan payments made by a non-State entity receiving the benefit of financing by a State entity (including an "obligor" or "participating institution" within the meaning of Chapter 159D of the General Statutes, a "public agency" or a "nonprofit agency" within the meaning of Article 1 of Chapter 131A of the General Statutes and similar entities); (ii) revenues of a revenue-producing enterprise or activity (such as "revenues" within the meaning of Part 4 of Article 1 of Chapter 116 of the General Statutes and "obligated resources" within the meaning of Article 1 of Chapter 116D of the General Statutes); and (iii) loan payments received, loans owned, and other assets of a State entity that are pledged to secure bonds under programs to finance that type of assets and the associated activities (such as mortgage loans under Chapter 122A of the General Statutes and student loans under Article 23 of Chapter 116 of the General Statutes)."
SECTION 2. Chapter 131A of the General Statutes is amended by adding a new Article to read:

"Article 2.

"Rural Health Care Stabilization Program.

§ 131A-30. Definitions. The following definitions apply in this Article:

(1) Commission. – The Local Government Commission established pursuant to G.S. 159-3.

(2) Eligible applicant. – Any nonprofit agency or public agency, except for The University of North Carolina Health Care System, or partnership created by one or more agencies eligible under this subdivision, that is submitting an application for a loan to benefit an eligible hospital.

(3) Eligible hospital. – A health care facility located in a development tier one or two area, as defined in G.S. 143B-437.08, that is unable to sustain operations for more than three years from the date of application for a loan under the Program.

(4) Fund. – The Rural Health Care Stabilization Fund established in accordance with this Article.

(5) Health care facility. – Any one or more buildings, structures, additions, extensions, improvements or other facilities, whether or not located on the same site or sites, machinery, equipment, furnishings, or other real or personal property suitable for health care or medical care.

(6) Loan. – A sum of money loaned to an eligible applicant with an obligation on the part of the applicant to repay the sum.

(7) Nonprofit agency. – Any nonprofit corporation existing or hereafter created and empowered to acquire, by lease or otherwise, operate, or maintain health care facilities.

(8) Plan. – A hospital stabilization plan developed by an eligible applicant in accordance with G.S. 131A-33.

(9) Program. – Rural Health Care Stabilization Program established pursuant to this Article.

(10) Public agency. – Any county, city, town, hospital district, or other political subdivision of the State existing or hereafter created pursuant to the laws of the State authorized to acquire, by lease or otherwise, operate, or maintain health care facilities.

(11) UNC Health Care. – The University of North Carolina Health Care System established pursuant to G.S. 116-37.

§ 131A-31. The Rural Health Care Stabilization Program.

(a) Program Established; Purpose. – There is established the Rural Health Care Stabilization Program to provide loans to eligible applicants for the support of eligible hospitals located in rural areas of the State that are in financial crisis due to operation of oversized and outdated facilities and recent changes to the viability of health care delivery in their communities, including the demand for certain patient services and the composition of payer mixes and patient populations. Within the funds available in the Rural Health Care Stabilization Fund established pursuant to G.S. 131A-32, the Program shall provide for loans at below-market interest rates with structured repayment terms in order for these financially distressed eligible hospitals to transition to sustainable, efficient, and more proportionately sized health care service models in their communities. In meeting this goal, loan funds may be used to finance construction of new health care facilities or to provide for operational costs during this transition period, or both, including while the construction of new health care facilities is undertaken.
(b) Administration. – UNC Health Care, in collaboration with the Local Government Commission, shall administer the Program in accordance with this Article. UNC Health Care shall be responsible for assessing Plans submitted by eligible applicants for loans, negotiating the terms of proposed loan agreements, submitting recommendations to the Commission on eligible applicants for its approval of an issuance of a loan under the Program, administering the Fund, and implementing approved loan agreements, including monitoring repayment, collection, and otherwise enforcing those agreements. UNC Health Care shall also evaluate the applicant’s ability to repay the loan under the proposed Plan and what security interests are necessary to enforce repayment of the loan. The Commission shall review UNC Health Care’s recommendations, eligible applicants’ Plans, and provide approval or disapproval for the award of loans under the Program. UNC Health Care and the Commission are authorized to adopt any rules necessary for implementation of the Program, respectively.


There is established the Rural Health Care Stabilization Fund under the control and direction of The University of North Carolina Health Care System. The Fund shall be a nonreverting revolving fund consisting of (i) funds appropriated to, or otherwise received by, the Rural Health Care Stabilization Program, (ii) all funds received as repayment of the principal of or interest on a loan made from the Fund, and (iii) all interest credited to the Fund by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. Moneys from the Fund shall only be used for loans made pursuant to this Article.

§ 131A-33. Applications for loans; review.

(a) Application to UNC Health Care. – An eligible applicant seeking a loan under the Program shall submit its application to UNC Health Care during an application period established by UNC Health Care. The eligible applicant shall develop a hospital stabilization plan for an eligible hospital as part of the loan application. The Plan shall include, at a minimum, any proposed changes in governance or ownership for the eligible hospital and the eligible hospital’s financial projections, including a plan for repayment by the applicant of the requested loan and other sources of funds projected for support of the eligible hospital, such as local or federal funds. An applicant shall submit to UNC Health Care any additional information requested by UNC Health Care to enable it to determine whether to recommend the application to the Local Government Commission for approval.

(b) Evaluation. – UNC Health Care shall evaluate each Plan submitted by an eligible applicant to determine whether the applicant’s Plan demonstrates a financially sustainable health care service model for the community in which the eligible hospital is located. UNC Health Care may also assist an eligible applicant with revisions to its Plan, including negotiating loan terms. Upon conclusion of its review of an application, UNC Health Care shall notify the eligible applicant and the Commission of its recommendation on whether to approve or disapprove a loan application. If more than one eligible applicant applies during an application period, UNC Health Care may assign a priority order for approval of applications when submitting its recommendations to the Commission and reasons for the assigned order of priority.

(c) Request for Commission Review. – If UNC Health Care recommends disapproval of a loan application under subsection (b) of this section, an eligible applicant may request that the Commission review UNC Health Care’s determination and, upon a finding by the Commission that the eligible applicant demonstrates a financially sustainable health care service model for the community in which the eligible hospital is located, the Commission may approve the applicant for a loan under the Program. If a loan is approved pursuant to this subsection, the Commission shall require UNC Health Care to administer the loan agreement negotiated between the Commission and the approved applicant.

(d) Conflict of Interest. – UNC Health Care shall disclose to the Commission any potential conflict of interest in its review of an application and Plan pursuant to this section. The Commission shall not approve an eligible applicant if the issuance of a loan would result in a
material, direct financial benefit to UNC Health Care at the time the application and Plan are submitted to the Commission for its approval.

"§ 131A-34. Award of loans; terms.
(a) Award. – The Commission shall consider approval of a loan that is recommended to the Commission by UNC Health Care, including the terms of the loan agreement. In adopting terms of the loan agreement, the Commission may require changes to the governance structure of the eligible hospital. In considering approval or disapproval of a loan, the Commission may require the eligible applicant and eligible hospital, if different, to provide current and historical financial information.
(b) Reconsideration. – If the Commission determines that an applicant may qualify for approval but the Commission does not approve of the terms of the loan, the Commission shall provide recommendations to UNC Health Care on modifications to the agreement in order for the loan to be approved. UNC Health Care may resubmit its recommendations after modifying the agreement, and the Commission shall consider approval or disapproval of the loan based on the revised recommendation. The Commission shall also consider approval of an application for a loan submitted pursuant to G.S. 131A-33(c). Upon approval by the Commission of a loan award, UNC Health Care shall notify the applicant. The notification shall set out any conditions the applicant must meet to receive an award of a loan.
(c) Interest Rate and Maturity. – The interest rate payable on and the maximum maturity of a loan are subject to the following limitations:
(1) Interest rate. – The interest rate for a loan shall be below the market rate.
(2) Maturity. – The maximum maturity for a loan is seven years.
(d) Debt Instrument. – UNC Health Care shall execute a debt instrument with the recipient of the loan to evidence the obligation to repay the principal of and interest on the loan awarded under this Article to the State.

(a) Requirement. – UNC Health Care shall publish a report each year on the Rural Health Care Stabilization Fund. The report shall be published by November 1 of each year and cover the preceding fiscal year. UNC Health Care shall make the report available to the public and shall give a copy of the report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.
(b) Content. – The report required by this section shall contain the following information concerning the Fund:
(1) The beginning and ending balance of the Fund for the fiscal year.
(2) The amount of revenue credited to the Fund during the fiscal year, by source.
(3) The total amount of loans awarded from the Fund.
(4) For each loan awarded, the recipient of the award, the amount of the award, the amount of the award that was disbursed, and the amount of the award remaining to be disbursed in a subsequent fiscal year, if applicable."

SECTION 3. G.S. 116-37 reads as rewritten:

(e) Finances. – The University of North Carolina Health Care System shall be subject to the provisions of the State Budget Act, except for trust funds as provided in G.S. 116-36.1 and G.S. 116-37.2. The Chief Executive Officer, subject to the board of directors, shall be responsible for all aspects of budget preparation, budget execution, and expenditure reporting. All operating funds of The University of North Carolina Health Care System may be budgeted and disbursed through special fund codes, maintaining separate auditable accounts for the University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill. All receipts of The University of North Carolina Health Care System may be deposited directly to the special fund codes, and except for
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General Fund appropriations, all receipts of the University of North Carolina Hospitals at Chapel Hill may be invested pursuant to G.S. 116-37.2(h). General Fund appropriations for support of the University of North Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund code under a single purpose, "Contribution to University of North Carolina Hospitals at Chapel Hill Operations" and be transferable to a special fund operating code as receipts. General Fund appropriations for the Rural Health Care Stabilization Program shall be deposited in the Rural Health Care Stabilization Fund pursuant to G.S. 131A-32 and shall only be used for the purposes set forth in Article 2 of Chapter 131A of the General Statutes.

…

(l) Rural Health Care Stabilization Program. – The University of North Carolina Health Care System shall administer the Rural Health Care Stabilization Program in accordance with Article 2 of Chapter 131A of the General Statutes in order to further its mission to promote the health and well-being of the citizens of North Carolina.”

SECTION 4. This act becomes effective July 1, 2019, and applies to applications for a loan submitted on or after that date.