

SENATE, No. 1464

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 15, 2000

Sponsored by:

Senator JACK SINAGRA

District 18 (Middlesex)

Senator ROBERT W. SINGER

District 30 (Burlington, Monmouth and Ocean)

Co-Sponsored by:

Senator Girgenti

SYNOPSIS

Permits NJHCFFA to refinance outstanding bonded indebtedness of hospitals that cease acute care operations or transition to alternative services.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2000)

S1464 SINAGRA, SINGER

2

1 AN ACT concerning the New Jersey Health Care Facilities Financing
2 Authority and amending and supplementing P.L.1972, c.29.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.1972, c.29 (C.26:2I-1) is amended to read as
8 follows:

9 1. It is hereby declared that a serious public emergency exists
10 affecting the health, safety and welfare of the people of the State
11 resulting from the fact that many health care facilities throughout the
12 State are no longer adequate to meet the needs of modern health care.
13 Inadequate and outmoded facilities deny to the people of the State the
14 benefits of health care of the highest quality, efficiently and promptly
15 provided at a reasonable cost. As a result, health care providers are
16 restructuring their organizations, facilities and operations in order to
17 develop integrated health care delivery systems capable of providing
18 a full range of health care services in the most cost-effective manner.

19 It is the purpose of this act to ensure that all health care institutions
20 have access to financial resources to improve the health and welfare
21 of the citizens of the State. It is hereby declared to be the policy of
22 the State to encourage the provision of modern, well-equipped health
23 care facilities, and such provision is hereby declared to be a public use
24 and purpose.

25 It is also the purpose of this act to provide assistance in the
26 restructuring of the health care system of the State and to aid in the
27 termination of the provision of hospital acute care services at such
28 locations as may no longer be useful or necessary for this purpose.

29 (cf: P.L.1997, c.435, s.2)

30

31 2. Section 3 of P.L.1972, c.29 (C.26:2I-3) is amended to read as
32 follows:

33 3. As used in this act, the following words and terms shall have the
34 following meanings, unless the context indicates or requires another
35 or different meaning or intent:

36 "Authority" means the New Jersey Health Care Facilities Financing
37 Authority created by this act or any board, body, commission,
38 department or officer succeeding to the principal functions thereof or
39 to whom the powers conferred upon the authority by this act shall be
40 given by law.

41 "Bond" means bonds, notes or other evidences of indebtedness of
42 the authority issued pursuant to this act.

43 "Commissioner" means the Commissioner of Health and Senior

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Services.

2 "Credit agreement" means a loan agreement, revolving credit
3 agreement, agreement establishing a line of credit, letter of credit,
4 reimbursement agreement, interest exchange agreement, insurance
5 contract, surety bond, commitment to purchase bonds, purchase or
6 sale agreement, or commitment or other contract or agreement
7 authorized and approved by the authority in connection with the
8 authorization, issuance, security or payment of bonds.

9 "Health care organization" means an organization located in this
10 State which is authorized or permitted by law, whether directly or
11 indirectly through a holding corporation, partnership or other entity,
12 to provide health care-related services, including, but not limited to,
13 hospital, outpatient, public health, home health care, residential care,
14 assisted living, hospice, health maintenance organization, blood bank,
15 alcohol or drug abuse, half-way house, diagnostic, treatment,
16 rehabilitation, extended care, skilled nursing care, nursing care,
17 intermediate care, tuberculosis care, chronic disease care, maternity,
18 mental health, boarding or sheltered care or day care, services
19 provided by a physician in his office, or any other service offered in
20 connection with health care services or by an entity affiliated with a
21 health care organization or an integrated delivery system.

22 "Hospital asset transformation program" means the hospital asset
23 transformation program established pursuant to subsection g. of
24 section 7 of P.L.1972, c.29 (C.26:2I-7).

25 "Integrated delivery system" means a group of legally affiliated
26 health care organizations.

27 "Public health care organization" means a State, county or
28 municipal health care organization.

29 "Project" or "health care organization project" means the
30 acquisition, construction, improvement, renovation or rehabilitation of
31 lands, buildings, fixtures, equipment and articles of personal property,
32 or other tangible or intangible assets that are necessary or useful in the
33 development, establishment or operation of a health care organization
34 pursuant to this act, and "project" or "health care organization project"
35 may include: the financing, refinancing or consolidation of secured or
36 unsecured debt, borrowings or obligations, or the provision of
37 financing for any other expense incurred in the ordinary course of
38 business, all of which lands, buildings, fixtures, equipment and articles
39 of personal property are to be used or occupied by any person in the
40 health care organization; the acquisition of an entity interest, including
41 capital stock, in a corporation; or any combination thereof; and may
42 include any combination of the foregoing undertaken jointly by any
43 health care organization with one or more other health care
44 organizations.

45 "Project cost" or "health care organization project cost" means the
46 sum total of all or any part of costs incurred or estimated to be

1 incurred by the authority or by a health care organization which are
2 reasonable and necessary for carrying out all works and undertakings
3 and providing all necessary equipment for the development of a
4 project, exclusive of the amount of any private or federal, State or
5 local financial assistance for and received by a health care organization
6 for the payment of such project cost. Such costs shall include, but are
7 not necessarily limited to: interest prior to, during and for a reasonable
8 period after such development; start-up costs and costs of operation
9 and maintenance during the construction period and for a reasonable
10 additional period thereafter; organization, administration, operation
11 and other expenses of the health care organization prior to and during
12 construction; the cost of necessary studies, surveys, plans and
13 specifications, architectural, engineering, legal or other special
14 services; the cost of acquisition of land, buildings and improvements
15 thereon (including payments for the relocation of persons displaced by
16 such acquisition), site preparation and development, construction,
17 reconstruction, equipment, including fixtures, equipment, and cost of
18 demolition and removal, and articles of personal property required; the
19 reasonable cost of financing incurred by a health care organization or
20 the authority in the course of the development of the project; reserves
21 for debt service; the fees imposed upon a health care organization by
22 the commissioner and by the authority; other fees charged, and
23 necessary expenses incurred in connection with the initial occupancy
24 of the project; and the cost of such other items as may be reasonable
25 and necessary for the development of a project; as well as provision or
26 reserves for working capital, operating or maintenance or replacement
27 expenses, or for payment or security of principal of, or interest on,
28 bonds.

29 (cf: P.L.1997, c.435, s.3)

30

31 3. Section 5 of P.L.1972, c.29 (C.26:2I-5) is amended to read as
32 follows:

33 5. Powers of authority. The authority shall have power:

34 a. To adopt bylaws for the regulation of its affairs and the
35 conduct of its business and to alter and revise such bylaws from time
36 to time at its discretion.

37 b. To adopt and have an official seal and alter the same at
38 pleasure.

39 c. To maintain an office at such place or places within the State
40 as it may designate.

41 d. To sue and be sued in its own name.

42 e. To borrow money and to issue bonds of the authority and to
43 provide for the rights of the holders thereof as provided in this act.

44 f. To acquire, lease as lessee or lessor, hold and dispose of real
45 and personal property or any interest therein, in the exercise of its
46 powers and the performance of its duties under this act.

1 g. To acquire in the name of the authority by purchase or
2 otherwise, on such terms and conditions and in such manner as it may
3 deem proper, any land or interest therein and other property which it
4 may determine is reasonably necessary for any project; and to hold and
5 use the same and to sell, convey, lease or otherwise dispose of
6 property so acquired, no longer necessary for the authority's purposes,
7 for fair consideration after public notice.

8 h. To receive and accept, from any federal or other public agency
9 or governmental entity directly or through the Department of Health
10 and Senior Services or any other agency of the State or any health care
11 organization, grants or loans for or in aid of the acquisition or
12 construction of any project, and to receive and accept aid or
13 contributions from any other source, of either money, property, labor
14 or other things of value, to be held, used and applied only for the
15 purposes for which such grants, loans and contributions may be made.

16 i. To prepare or cause to be prepared plans, specifications,
17 designs and estimates of costs for the construction and equipment of
18 health care organization projects for health care organizations under
19 the provisions of this act, and from time to time to modify such plans,
20 specifications, designs or estimates.

21 j. By contract or contracts with and for health care organizations
22 only, to construct, acquire, reconstruct, rehabilitate and improve, and
23 furnish and equip health care organization projects. The authority, in
24 the exercise of its authority to make and enter into contracts and
25 agreements necessary or incidental to the performance of its duties and
26 the execution of its powers, shall adopt standing rules and procedures
27 providing that, except as hereinafter provided, no contract on behalf
28 of the authority shall be entered into for the doing of any work, or for
29 the hiring of equipment or vehicles, where the sum to be expended
30 exceeds the sum of \$7,500.00 or the amount determined as provided
31 in this subsection, unless the authority shall first publicly advertise for
32 bids therefor, and shall award the contract to the lowest responsible
33 bidder; provided, however, that such advertising shall not be required
34 where the contract to be entered into is one for the furnishing or
35 performing of services of a professional nature or for the supplying of
36 any product or the rendering of any service by a public utility subject
37 to the jurisdiction of the Board of Public Utilities, and tariffs and
38 schedules of the charges, made, charged, or exacted by the public
39 utility for any such products to be supplied or services to be rendered
40 are filed with said board. The Governor, in consultation with the
41 Department of the Treasury, shall, no later than March 1 of each
42 odd-numbered year, adjust the threshold amount set forth in this
43 subsection, or subsequent to 1985 the threshold amount resulting from
44 any adjustment under this subsection or section 17 of P.L.1985, c.469,
45 in direct proportion to the rise or fall of the Consumer Price Index for
46 all urban consumers in the New York City and the Philadelphia areas

1 as reported by the United States Department of Labor. The Governor
2 shall, no later than June 1 of each odd-numbered year, notify the
3 authority of the adjustment. The adjustment shall become effective
4 July 1 of each odd-numbered year.

5 k. To determine the location and character of any project to be
6 undertaken, subject to the provisions of this act, and subject to State
7 health and environmental laws, to construct, reconstruct, maintain,
8 repair, lease as lessee or lessor, and regulate the same and operate the
9 same in the event of default by a health care organization of its
10 obligations and agreements with the authority; to enter into contracts
11 for any or all such purposes; and to enter into contracts for the
12 management and operation of a project in the event of default as
13 herein provided. The authority shall use its best efforts to conclude its
14 position as an operator as herein provided as soon as is practicable.

15 l. To establish rules and regulations for the use of a project or
16 any portion thereof and to designate a health care organization as its
17 agent to establish rules and regulations for the use of a project
18 undertaken by such a health care organization.

19 m. Generally to fix and revise from time to time and to charge and
20 collect rates, rents, fees and other charges for the use of and for the
21 services furnished or to be furnished by a project or any portion
22 thereof and to contract with holders of its bonds and with any other
23 person, party, association, corporation or other body, public or
24 private, in respect thereof.

25 n. To enter into agreements, credit agreements or contracts,
26 execute any and all instruments, and do and perform any and all acts
27 or things necessary, convenient or desirable for the purposes of the
28 authority or to carry out any power expressly given in this act.

29 o. To invest any moneys held in reserve or sinking funds, or any
30 moneys not required for immediate use or disbursement, at the
31 discretion of the authority, in such obligations as are authorized by
32 resolution of the authority.

33 p. To obtain, or aid in obtaining, from any department or agency
34 of the United States any insurance or guarantee as to, or of, or for the
35 payment or repayment of interest or principal, or both, or any part
36 thereof, on any loan or any instrument evidencing or securing the
37 same, made or entered into pursuant to the provisions of this act; and
38 notwithstanding any other provisions of this act, to enter into
39 agreement, contract or any other instrument whatsoever with respect
40 to any such insurance or guarantee, and accept payment in such
41 manner and form as provided therein in the event of default by the
42 borrower.

43 q. To obtain from any department or agency of the United States
44 or a private insurance company any insurance or guarantee as to, or of,
45 or for the payment or repayment of interest or principal, or both, or
46 any part thereof, on any bonds issued by the authority pursuant to the

1 provisions of this act; and notwithstanding any other provisions of this
2 act, to enter into any agreement, contract or any other instrument
3 whatsoever with respect to any such insurance or guarantee, except to
4 the extent that such action would in any way impair or interfere with
5 the authority's ability to perform and fulfill the terms of any agreement
6 made with the holders of the bonds of the authority.

7 r. To receive and accept, from any department or agency of the
8 United States or of the State or from any other entity, any grant,
9 appropriation or other moneys to be used for or applied to any
10 corporate purpose of the authority, including without limitation the
11 meeting of debt service obligations of the authority in respect of its
12 bonds.

13 s. Subject to the approval of the State Treasurer, to grant or loan
14 all or any portion of the funds received pursuant to subsection g. of
15 section 7 of P.L.1972, c.29 (C.26:2I-7) in connection with the hospital
16 asset transformation program.

17 (cf: P.L.1997, c.435, s.5)

18

19 4. Section 7 of P.L.1972, c.29 (C.26:2I-7) is amended to read as
20 follows:

21 7. a. The authority is authorized from time to time to issue its
22 bonds for any corporate purpose and to fund and refund the same all
23 as provided in this act. Such bonds may, at the discretion of the
24 authority, be designated as "bonds," "notes," "bond anticipation
25 notes" or otherwise.

26 b. Except as may otherwise be expressly provided by the authority,
27 every issue of its bonds shall be general obligations of the authority
28 payable from any revenues or moneys of the authority, subject only to
29 any agreements with the holders of particular bonds pledging any
30 particular revenues or moneys. Notwithstanding that bonds may be
31 payable from a special fund, they shall be fully negotiable within the
32 meaning of Title 12A, the Uniform Commercial Code, of the New
33 Jersey Statutes, subject only to any provisions of the bonds for
34 registration.

35 c. The bonds may be issued as serial bonds or as term bonds, or the
36 authority, in its discretion, may issue bonds of both types. The bonds
37 shall be authorized by resolution of the members of the authority and
38 shall bear such date or dates, mature at such time or times, not
39 exceeding 50 years from their respective dates, bear interest at such
40 rate or rates, be payable at such time or times, be in such
41 denominations, be in such form, either coupon or registered, carry
42 such registration privileges, be executed in such manner, be payable
43 in lawful money of the United States of America at such place or
44 places, and be subject to such terms of redemption, as such resolution
45 or resolutions may provide. The bonds may be sold at public or
46 private sale for such price or prices as the authority shall determine.

1 Pending preparation of the definitive bonds, the authority may issue
2 interim receipts or certificates which shall be exchanged for such
3 definitive bonds.

4 d. Any resolution or resolutions authorizing any bonds or any issue
5 of bonds may contain provisions, which shall be a part of the contract
6 with the holders of the bonds to be authorized, as to:

7 (i) pledging all or any part of the revenues of a project or any
8 revenue producing contract or contracts made by the authority with
9 any individual, partnership, corporation or association or other body,
10 public or private, to secure the payment of the bonds or of any
11 particular issue of bonds, subject to such agreements with
12 bondholders as may then exist;

13 (ii) the rentals, fees and other charges to be charged, and the
14 amounts to be raised in each year thereby, and the use and disposition
15 of the revenues;

16 (iii) the setting aside of reserves or sinking funds, and the regulation
17 and disposition thereof;

18 (iv) limitations on the right of the authority or its agent to restrict
19 and regulate the use of a project;

20 (v) limitations on the purpose to which the proceeds of sale of any
21 issue of bonds then or thereafter to be issued may be applied and
22 pledging such proceeds to secure the payment of the bonds or any
23 issue of the bonds;

24 (vi) limitations on the issuance of additional bonds, the terms upon
25 which additional bonds may be issued and secured and the refunding
26 of outstanding bonds;

27 (vii) the procedure, if any, by which the terms of any contract with
28 bondholders may be amended or abrogated, the amount of bonds the
29 holders of which must consent thereto, and the manner in which such
30 consent may be given;

31 (viii) limitations on the amount of moneys derived from a project to
32 be expended for operating, administrative or other expenses of the
33 authority; and

34 (ix) defining the acts or omissions to act which shall constitute a
35 default in the duties of the authority to holders of its obligations and
36 providing the rights and remedies of such holders in the event of a
37 default.

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

41 f. The authority shall have power out of any funds available
42 therefor to purchase its bonds. The authority may hold, pledge, cancel
43 or resell such bonds, subject to and in accordance with agreements
44 with bondholders.

45 g. (1) There is established a hospital asset transformation program
46 in the authority for the purpose of providing financial assistance by the

1 authority to nonprofit hospitals in this State, from funds received
2 pursuant to and in accordance with the provisions of this subsection,
3 in connection with the termination of the provision of hospital acute
4 care services at a specific location that may no longer be necessary or
5 useful for this purpose.

6 (2) Subject to the approval of the State Treasurer, the authority
7 shall have the power to issue bonds and refunding bonds, incur
8 indebtedness and borrow money secured, in whole or in part, by
9 monies received pursuant to subsection a. of section 6 of P.L. , c.
10 (C.) (pending before the Legislature as this bill), in order to satisfy
11 the outstanding bonded indebtedness of any nonprofit hospital in the
12 State in connection with the hospital asset transformation program.
13 The authority may establish reserves or other funds to further secure
14 these bonds or refunding bonds.

15 (3) The authority may, in any resolution authorizing the issuance of
16 bonds or refunding bonds issued pursuant to this subsection, pledge
17 the contract with the State Treasurer provided for in subsection b. of
18 section 6 of P.L. , c. (C.) (pending before the Legislature as this
19 bill), or any part thereof, for the payment or redemption of the bonds
20 or refunding bonds, and covenant as to the use and disposition of
21 money available to the authority for payments of bonds and refunding
22 bonds. Subject to the approval of the State Treasurer, the authority
23 may pay the costs associated with the issuance of bonds or refunding
24 bonds by the authority for the purposes of this subsection from
25 amounts it receives from the proceeds of the bonds or refunding bonds
26 and from amounts it receives pursuant to subsection a. of section 6 of
27 P.L. , c. (C.) (pending before the Legislature as this bill), which
28 costs may include, but are not limited to, any costs relating to the
29 issuance of the bonds or refunding bonds and costs attributable to any
30 agreements securing, or providing for the payment of, these bonds or
31 refunding bonds. The authority is authorized to enter into any
32 agreement necessary or desirable to effectuate the purposes of this
33 subsection, including an agreement to sell bonds or refunding bonds
34 to any person and to comply with the laws of any jurisdiction relating
35 thereto.

36 (cf: P.L.1972, c.29, s.7)

37

38 5. Section 30 of P.L.1972, c.29 (C.26:2I-30) is amended to read as
39 follows:

40 30. For the purpose of obtaining and securing loans under section
41 29 of P.L.1972, c.29 (C.26:2I-29) or subsection s. of section 5 of
42 P.L.1972, c.29 (C.26:2I-5), every health care organization shall have
43 power to mortgage and pledge any of its real or personal property, and
44 to pledge any of its income from whatever source to repay the
45 principal of and interest on any loan made to it by the authority or to
46 pay the interest on and principal and redemption premium, if any, of

1 any bond or other evidence of indebtedness evidencing the debt
2 created by any such loan; provided that the foregoing shall not be
3 construed to authorize actions in conflict with specific legislation,
4 trusts, endowment, or other agreements relating to specific properties
5 or funds.

6 (cf: P.L.1997, c.435, s.15)

7

8 6. (New section) a. In each fiscal year, the State Treasurer shall
9 pay from the General Fund to the authority, in accordance with a
10 contract between the State Treasurer and the authority as provided in
11 subsection b. of this section, an amount equivalent to the amount due
12 to be paid in that fiscal year for the debt service on the bonds or
13 refunding bonds issued by the authority pursuant to subsection g. of
14 section 7 of P.L.1972, c.29 (C.26:2I-7) and any additional costs as
15 authorized pursuant thereto, including any agreement securing or
16 providing for the payment of the bonds or refunding bonds.

17 b. The State Treasurer and the authority are authorized to enter
18 into one or more contracts to implement the payment arrangement
19 provided for in subsection a. of this section. The contract shall
20 provide for payment by the State Treasurer of the amounts required to
21 be paid pursuant to subsection a. of this section and shall set forth the
22 procedure for the transfer of monies for the purpose of making that
23 payment. The contract shall contain such terms as are determined by
24 the State Treasurer and the authority and shall include, but not be
25 limited to, terms and conditions necessary and desirable to secure any
26 bonds or refunding bonds issued by the authority pursuant to
27 subsection g. of section 7 of P.L.1972, c.29 (C.26:2I-7); except that,
28 notwithstanding any provision of any law, rule or regulation to the
29 contrary, the State Treasurer shall pay the authority only such amounts
30 as shall be determined by the contract and the incurrence of any
31 obligation of the State under the contract, including any payment to be
32 made from the General Fund pursuant thereto, shall be subject to and
33 dependent upon appropriations made by the Legislature for the
34 purposes of this section.

35

36 7. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 This bill permits the New Jersey Health Care Facilities Financing
42 Authority (NJHCFFA), subject to the approval of the State Treasurer,
43 to issue bonds secured in whole or in part by the State in order to
44 implement a hospital asset transformation program.

45 The provisions of this bill are intended to implement the
46 recommendation of the New Jersey Hospital Advisory Commission in

1 its recent report, which concluded that part of the financial distress
2 experienced by the hospital industry in New Jersey is attributable to an
3 excessive number of underutilized beds. The commission called upon
4 the State to facilitate the restructuring of the hospital industry by
5 empowering NJHCFFA to issue, under limited circumstances, bonds
6 secured in part by State appropriations. Specifically, this bill allows
7 NJHCFFA to refinance outstanding bond indebtedness for nonprofit
8 hospitals that cease acute care operations at a specific location.

9 Under its current statute, NJHCFFA is authorized to finance the
10 acquisition, construction, improvement, renovation or rehabilitation of
11 assets that are necessary or useful in the development, establishment
12 or operation of a health care organization, and to issue bonds secured
13 by the revenues of the health care organization for which bonds are
14 being issued. This bill would permit NJHCFFA to issue bonds to
15 refinance outstanding debt on behalf of a hospital that will cease to
16 provide acute care services at a specific location and to secure those
17 bonds, in whole or in part, by a contract with the State Treasurer.