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SENATE BILL DRS35300-MK-194

Short Title: Rural Health Care Stabilization Act. (Public)

Sponsors: Senators Berger and Tillman (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE RURAL HEALTH CARE STABILIZATION PROGRAM.
3 The General Assembly of North Carolina enacts:
4 **SECTION 1.(a)** G.S. 131A-1 through G.S. 131A-25 are designated as Article 1 of
5 Chapter 131A of the General Statutes, which is entitled "Health Care Facilities Finance Act."
6 **SECTION 1.(b)** The Revisor of Statutes shall change any references in Article 1 of
7 Chapter 131A of the General Statutes to "this Chapter" to "this Article".
8 **SECTION 1.(c)** G.S. 113A-12(3)e. reads as rewritten:
9 "e. A health care facility financed pursuant to Article 1 of Chapter 131A
10 of the General Statutes or receiving a certificate of need under Article
11 9 of Chapter 131E of the General Statutes."
12 **SECTION 1.(d)** G.S. 142-15.16(3) reads as rewritten:
13 "(3) State-supported financing arrangement. – Any financing arrangement that
14 requires payments that are payable, whether directly or indirectly, and whether
15 or not subject to the appropriation of funds for payment, by payments from
16 the General Fund, the Highway Fund, the Highway Trust Fund, or other funds
17 and accounts of the State that are funded from the general revenues and other
18 taxes and fees of the State or State entities. A State-supported financing
19 arrangement does not include a financing arrangement where bonds or other
20 obligations are issued or incurred to carry out a financing program authorized
21 by the General Assembly under which the bonds or other obligations are
22 payable from moneys derived from specified, limited, nontax sources, such as
23 (i) loan payments made by a non-State entity receiving the benefit of financing
24 by a State entity (including an "obligor" or "participating institution" within
25 the meaning of Chapter 159D of the General Statutes, a "public agency" or a
26 "nonprofit agency" within the meaning of Article 1 of Chapter 131A of the
27 General Statutes, and similar entities); (ii) revenues of a revenue-producing
28 enterprise or activity (such as "revenues" within the meaning of Part 4 of
29 Article 1 of Chapter 116 of the General Statutes and "obligated resources"
30 within the meaning of Article 3 of Chapter 116D of the General Statutes); and
31 (iii) loan payments received, loans owned, and other assets of a State entity
32 that are pledged to secure bonds under programs to finance that type of assets
33 and the associated activities (such as mortgage loans under Chapter 122A of
34 the General Statutes and student loans under Article 23 of Chapter 116 of the
35 General Statutes)."



1 SECTION 2. Chapter 131A of the General Statutes is amended by adding a new
2 Article to read:

3 "Article 2.

4 "Rural Health Care Stabilization Program.

5 **"§ 131A-30. Definitions.**

6 The following definitions apply in this Article:

- 7 (1) Commission. – The Local Government Commission established pursuant to
8 G.S. 159-3.
- 9 (2) Eligible applicant. – Any nonprofit agency or public agency, except for The
10 University of North Carolina Health Care System, or partnership created by
11 one or more agencies eligible under this subdivision, that is submitting an
12 application for a loan to benefit an eligible hospital.
- 13 (3) Eligible hospital. – A health care facility located in a development tier one or
14 tier two area, as defined in G.S. 143B-437.08, that is unable to sustain
15 operations for more than three years from the date of application for a loan
16 under the Program.
- 17 (4) Fund. – The Rural Health Care Stabilization Fund established in accordance
18 with this Article.
- 19 (5) Health care facility. – Any one or more buildings, structures, additions,
20 extensions, improvements or other facilities, whether or not located on the
21 same site or sites, machinery, equipment, furnishings, or other real or personal
22 property suitable for health care or medical care.
- 23 (6) Loan. – A sum of money loaned to an eligible applicant with an obligation on
24 the part of the applicant to repay the sum.
- 25 (7) Nonprofit agency. – Any nonprofit corporation existing or hereafter created
26 and empowered to acquire, by lease or otherwise, operate, or maintain health
27 care facilities.
- 28 (8) Plan. – A hospital stabilization plan developed by an eligible applicant in
29 accordance with G.S. 131A-33.
- 30 (9) Program. – Rural Health Care Stabilization Program established pursuant to
31 this Article.
- 32 (10) Public agency. – Any county, city, town, hospital district, or other political
33 subdivision of the State existing or hereafter created pursuant to the laws of
34 the State authorized to acquire, by lease or otherwise, operate, or maintain
35 health care facilities.
- 36 (11) UNC Health Care. – The University of North Carolina Health Care System
37 established pursuant to G.S. 116-37.

38 **"§ 131A-31. The Rural Health Care Stabilization Program.**

39 (a) Program Established; Purpose. – There is established the Rural Health Care
40 Stabilization Program to provide loans to eligible applicants for the support of eligible hospitals
41 located in rural areas of the State that are in financial crisis due to operation of oversized and
42 outdated facilities and recent changes to the viability of health care delivery in their communities,
43 including the demand for certain patient services and the composition of payer mixes and patient
44 populations. Within the funds available in the Rural Health Care Stabilization Fund established
45 pursuant to G.S. 131A-32, the Program shall provide for loans at below-market interest rates with
46 structured repayment terms in order for these financially distressed eligible hospitals to transition
47 to sustainable, efficient, and more proportionately sized health care service models in their
48 communities. In meeting this goal, loan funds may be used to finance construction of new health
49 care facilities or to provide for operational costs during this transition period, or both, including
50 while the construction of new health care facilities is undertaken.

1 **(b) Administration.** – UNC Health Care, in collaboration with the Local Government
2 Commission, shall administer the Program in accordance with this Article. UNC Health Care
3 shall be responsible for assessing Plans submitted by eligible applicants for loans, negotiating
4 the terms of proposed loan agreements, submitting recommendations to the Commission on
5 eligible applicants for its approval of an issuance of a loan under the Program, administering the
6 Fund, and implementing approved loan agreements, including monitoring repayment, collection,
7 and otherwise enforcing those agreements. UNC Health Care shall also evaluate the applicant's
8 ability to repay the loan under the proposed Plan and what security interests are necessary to
9 enforce repayment of the loan. The Commission shall review UNC Health Care's
10 recommendations, eligible applicants' Plans, and provide approval or disapproval for the award
11 of loans under the Program. UNC Health Care and the Commission are authorized to adopt any
12 rules necessary for implementation of the Program, respectively.

13 **"§ 131A-32. The Rural Health Care Stabilization Fund.**

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

21 **"§ 131A-33. Applications for loans; review.**

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

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

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

49 **(d) Conflict of Interest.** – UNC Health Care shall disclose to the Commission any
50 potential conflict of interest in its review of an application and Plan pursuant to this section. The
51 Commission shall not approve an eligible applicant if the issuance of a loan would result in a

1 material, direct financial benefit to UNC Health Care at the time the application and Plan are
2 submitted to the Commission for its approval.

3 **"§ 131A-34. Award of loans; terms.**

4 (a) Award. – The Commission shall consider approval of a loan that is recommended to
5 the Commission by UNC Health Care, including the terms of the loan agreement. In adopting
6 terms of the loan agreement, the Commission may require changes to the governance structure
7 of the eligible hospital. In considering approval or disapproval of a loan, the Commission may
8 require the eligible applicant and eligible hospital, if different, to provide current and historical
9 financial information.

10 (b) Reconsideration. – If the Commission determines that an applicant may qualify for
11 approval but the Commission does not approve of the terms of the loan, the Commission shall
12 provide recommendations to UNC Health Care on modifications to the agreement in order for
13 the loan to be approved. UNC Health Care may resubmit its recommendations after modifying
14 the agreement, and the Commission shall consider approval or disapproval of the loan based on
15 the revised recommendation. The Commission shall also consider approval of an application for
16 a loan submitted pursuant to G.S. 131A-33(c). Upon approval by the Commission of a loan
17 award, UNC Health Care shall notify the applicant. The notification shall set out any conditions
18 the applicant must meet to receive an award of a loan.

19 (c) Interest Rate and Maturity. – The interest rate payable on and the maximum maturity
20 of a loan are subject to the following limitations:

21 (1) Interest rate. – The interest rate for a loan shall be below the market rate.

22 (2) Maturity. – The maximum maturity for a loan is seven years.

23 (d) Debt Instrument. – UNC Health Care shall execute a debt instrument with the
24 recipient of the loan to evidence the obligation to repay the principal of and interest on the loan
25 awarded under this Article to the State.

26 **"§ 131A-35. Annual reports on the Rural Health Care Stabilization Fund.**

27 (a) Requirement. – UNC Health Care shall publish a report each year on the Rural Health
28 Care Stabilization Fund. The report shall be published by November 1 of each year and cover the
29 preceding fiscal year. UNC Health Care shall make the report available to the public and shall
30 give a copy of the report to the Joint Legislative Commission on Governmental Operations and
31 the Fiscal Research Division.

32 (b) Content. – The report required by this section shall contain the following information
33 concerning the Fund:

34 (1) The beginning and ending balance of the Fund for the fiscal year.

35 (2) The amount of revenue credited to the Fund during the fiscal year, by source.

36 (3) The total amount of loans awarded from the Fund.

37 (4) For each loan awarded, the recipient of the award, the amount of the award,
38 the amount of the award that was disbursed, and the amount of the award
39 remaining to be disbursed in a subsequent fiscal year, if applicable."

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

41 **"§ 116-37. University of North Carolina Health Care System.**

42 ...

43 (e) Finances. – The University of North Carolina Health Care System shall be subject to
44 the provisions of the State Budget Act, except for trust funds as provided in G.S. 116-36.1 and
45 G.S. 116-37.2. The Chief Executive Officer, subject to the board of directors, shall be responsible
46 for all aspects of budget preparation, budget execution, and expenditure reporting. All operating
47 funds of The University of North Carolina Health Care System may be budgeted and disbursed
48 through special fund codes, maintaining separate auditable accounts for the University of North
49 Carolina Hospitals at Chapel Hill and the clinical patient care programs of the School of Medicine
50 of the University of North Carolina at Chapel Hill. All receipts of The University of North
51 Carolina Health Care System may be deposited directly to the special fund codes, and except for

1 General Fund appropriations, all receipts of the University of North Carolina Hospitals at Chapel
2 Hill may be invested pursuant to G.S. 116-37.2(h). General Fund appropriations for support of
3 the University of North Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund
4 code under a single purpose, "Contribution to University of North Carolina Hospitals at Chapel
5 Hill Operations" and be transferable to a special fund operating code as receipts. General Fund
6 appropriations for the Rural Health Care Stabilization Program shall be deposited in the Rural
7 Health Care Stabilization Fund pursuant to G.S. 131A-32 and shall only be used for the purposes
8 set forth in Article 2 of Chapter 131A of the General Statutes.

9 ...

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

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