



SPONSOR: Sen. Townsend & Rep. Romer

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 261

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE DELAWARE HEALTH FACILITIES AUTHORITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 92, Title 16 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 9203. Definitions.

4 In this chapter, the following words and terms shall, unless the context otherwise requires, have the following
5 meanings:

6 (6) "Project," in the case of a participating health-care facility, any activity whether a capital
7 improvement or otherwise, within the State, including any structure or structures suitable for use as a hospital,
8 clinic or other health-care facility, laboratory, laundry, nurses' or interns' residence as a part of the health-care
9 facility, or other multi-unit housing facility for staff, employees, patients or relatives of patients admitted for
10 treatment in such health-care facility, doctors' office building, administration building, research facility,
11 maintenance, storage or utility facility as a part of the health-care facility and other structures or facilities related to
12 any of the foregoing or required or useful for the operation of a health-care facility, including parking and other
13 facilities or structures essential or convenient for the orderly conduct of such health-care facility, and shall also
14 include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or
15 convenient for the operation of a particular health-care facility or structure in the manner for which its use is
16 intended; and "project" may include any combinations of 1 or more of the foregoing undertaken jointly by any
17 participating facility with 1 or more other participating facilities.

18 § 9204. Health Facilities Authority.

19 (a) There is hereby created a body politic and corporate to be known as the "Delaware Health Facilities
20 Authority," hereinafter in this chapter called the Authority. Said Authority is constituted a public instrumentality and the
21 exercise by the Authority of the powers conferred by this chapter shall be deemed and held to be the performance of an
22 essential public function. Said Authority shall consist of 7 members to be appointed by the Governor, 1 of which shall be a

23 resident of the City of Wilmington, 1 a resident of New Castle County, 1 a resident of Kent County, 1 a resident of Sussex
24 County and 3 members at large, all of whom shall be residents of the State. No more than 4 shall be members of the same
25 political party. At least 2 of the members shall be trustees, directors, officers or employees of a health care facility, at least
26 1 shall be a person having a favorable reputation for skill, knowledge and experience in the field of state and municipal
27 finance, either as a partner, officer or employee of an investment banking firm which originates and purchases state and
28 municipal securities, or as an officer or employee of an insurance company or bank whose duties relate to the purchase of
29 state and municipal securities as an investment and to the management and control of a state and municipal securities
30 portfolio and at least 1 shall be a person having a favorable reputation for skill, knowledge and experience in the building
31 construction field. The terms of the members of the Authority first appointed shall be designated by the Governor to
32 commence on June 1, 1976, and to expire, respectively, 1 on June 30th in each of the years 1977, 1978, 1979 and 1980 and
33 3 in the year 1981. A member of the Authority shall be eligible for reappointment and shall serve until such member's
34 successor shall have been appointed and accepted appointment. Upon the expiration of the term of any member the
35 member's successor shall be appointed for a term of 5 years. The Governor shall fill any vacancy for the remainder of the
36 unexpired term. Any member of the Authority may be removed by the Governor for misfeasance, malfeasance or wilful
37 neglect of duty or other cause after notice and a public hearing unless such notice and hearing shall be expressly waived in
38 writing. Each member of the Authority, before entering upon the member's duties, shall take an oath to administer the
39 duties of the member's office faithfully and impartially, and such oath shall be on file in the office of the Secretary of State.
40 For the purposes of this section, a member's residency, political affiliation, position or employment, skill, knowledge and
41 experience in a specified area shall be determined as of the date of the initial appointment of such member.

42 (b) The Authority shall annually elect 1 of its members as chairperson and 1 as vice chairperson. It may appoint
43 an executive director, assistant executive director, treasurer and secretary who ~~shall~~ need not be members of the Authority,
44 who shall serve at the pleasure of the Authority. They shall receive such compensation as shall be fixed by the Authority.

45 § 9205. General grant of powers.

46 (a) The purpose of the Authority shall be to assist health-care facilities in the acquisition, construction, financing
47 and refinancing of projects within the State, and for this purpose the Authority is authorized and empowered to:

- 48 (1) Adopt bylaws for the regulation of its affairs and the conduct of its business;
- 49 (2) Adopt an official seal and alter the same at pleasure;
- 50 (3) Maintain an office at such place or places as it may designate;
- 51 (4) Sue and be sued in its own name, plead and be impleaded;

(5) Determine the location and character of any project to be financed under this chapter, and to construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, to enter into contracts for any and all of such purposes, to enter into contracts for the management and operation of a project, and to designate a participating facility as its agent to determine the location and character of a project undertaken by such participating facility under this chapter and, as the agent of the Authority, to construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, and, as the agent of the Authority, to enter into contracts for any and all of such purposes, including contracts for the management and operation of such project;

(6) Issue bonds, bond anticipation notes and other obligations of the Authority for any of its corporate purposes, and to fund or refund the same all as provided in this chapter;

(7) Generally, fix and revise from time to time and charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with any person, partnership, association or corporation or other body public or private in respect thereof and to designate a participating facility as its agent to fix, revise, charge and collect such rates, rents, fees and charges and to make such contracts;

(8) Establish rules and regulations for the use of a project or any portion thereof and to designate a participating facility as its agent to establish rules and regulations for the use of a project in which such participating facility is participating;

(9) Employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

(10) Receive and accept from any public agency loans or grants for or in aid of the construction of a project or any portion thereof, and receive and accept loans, grants, aid or contributions from any source of either money, property, labor or other things of value to be held, used and applied only for the purposes for which such loans, grants, aid and contributions are made;

(11) Mortgage any project and the site thereof for the benefit of the holders of bonds issued to finance such project;

(12) Make loans to any participating facility for the cost of a project in accordance with an agreement between the Authority and 1 or more participating facilities; provided that no such loan shall exceed the total cost of the project as determined by such participating facility or facilities and approved by the Authority;

82 (13) Make loans to participating facilities to refund outstanding obligations, mortgages or advances
83 issued, made or given by such participating facilities for the cost of the project;

84 (14) Charge to and equitably apportion among participating facilities its administrative costs and
85 expenses reasonably incurred in the exercise of the powers and duties conferred by this chapter;

86 (15) Do all things necessary or convenient to carry out the purposes of this chapter.

87 (b) In carrying out the purposes of this chapter, the Authority may undertake a joint project or projects for 2 or
88 more participating facilities, and, thereupon, all other provisions of this chapter shall apply to and for the benefit of the
89 Authority and the participants in such joint project or projects.

90 § 9208. Title to projects.

91 When the principal of ~~an~~ and interest on bonds of the Authority issued to finance the cost of a particular project or
92 projects for 1 or more participating facilities, including any refunding bonds issued to refund and refinance such bonds,
93 have been fully paid and retired or when adequate provisions have been made to fully pay and retire the same, and all other
94 conditions of the resolution or trust agreement authorizing and securing the same have been satisfied and the lien of such
95 resolution or trust agreement has been released in accordance with the provisions thereof, the Authority shall promptly do
96 such things and execute such deeds and conveyances as are necessary and required to convey title to such project or
97 projects to such participating facility or facilities, all to the extent that title to such project or projects is not, at the time,
98 vested in such participating facility or facilities.

SYNOPSIS

This Act amends Delaware Code provisions which govern the Delaware Health Facilities Authority (DHFA).

The changes to Sections 9203(6) and 9205 confirm that the DHFA's purpose and authority is to finance projects in the State of Delaware and not elsewhere.

The change to Section 9204(a) confirms that appointed members of the DHFA "hold over" following the expiration of their terms until their successors have been appointed and accepted appointment, addressing a practical issue that has arisen previously.

The change to Section 9204(b) cures an arguable ambiguity, clarifying that appointed members of the DHFA also may hold positions as DHFA officers.

The change to Section 9208 corrects a minor technical error.

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