

## CHAPTER 231

## HEALTH AND EDUCATIONAL FACILITIES AUTHORITY

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**231.01 Definitions.** In this chapter:

(1) “Authority” means the Wisconsin Health and Educational Facilities Authority.

(2) “Bond resolution” means the resolution authorizing the issuance of, or providing terms and conditions related to, bonds issued under this chapter and includes, where appropriate, any trust agreement, trust indenture, indenture of mortgage or deed of trust providing terms and conditions for such bonds.

(3) “Bonds” means any bond, note or other obligation of the authority issued under this chapter, including any refunding bond.

(3c) “Child care center” means an institution, place, building or agency that satisfies all of the following:

- Is used exclusively to provide child care services.
- Is not operated for profit.

(3m) “Child care provider” means a person that satisfies all of the following:

(a) Holds a license under s. 48.65, is certified under s. 48.651, is provisionally licensed under s. 48.69 or is established or contracted for under s. 120.13 (14).

(b) Is described in section 501 (c) (3) of the internal revenue code as being exempt from federal income tax under section 501 (a) of that code.

(4) (a) “Cost” means the sum of all costs incurred by a participating health institution, participating educational institution or participating child care provider, as approved by the authority, as are reasonable and necessary to accomplish the project, exclusive of any private or federal, state or local financial assistance received by the participating health institution, participating educational institution or participating child care provider for the payment of the project cost.

(b) “Cost” includes, without limitation because of enumeration:

- The cost incurred by or on behalf of the participating health institution, participating educational institution or participating child care provider of all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, legal or other special services, the cost of acquisition of land and any buildings and improvements on the land, site preparation and development including demolition or removal of existing structures, construction, reconstruction and equipment, including machinery, fixed equipment and personal property.

- The reasonable cost of financing incurred by a participating health institution, participating educational institution or participating child care provider in the course of the development of the project to the occupancy date.

- Carrying charges during construction to the occupancy date.

- Interest on bonds issued to finance the project to a date 6 months subsequent to the estimated date of completion.

- Working capital not exceeding 3% of the estimated total project cost or 3% of the actual total final cost, whichever is larger.

- The fees and charges imposed by the authority or by others.

- Necessary expenses incurred in connection with the initial occupancy of the project and the cost of other items the authority determines to be reasonable.

- A reserve for payment of the principal of and interest on the bonds.

(c) All rents and other net revenues from the operation of the real property, improvements or personal property on the project site by a participating health institution, participating educational institution or participating child care provider on and after the date on which the contract between a participating health institution, participating educational institution or participating child care provider and the authority was entered into, but prior to the occupancy date, shall reduce the sum of all costs in this subsection.

(4m) “Educational facility” means a regionally accredited, private, postsecondary educational institution described in section 501 (c) (3) of the Internal Revenue Code, as defined in s. 71.22 (4), that is exempt from federal taxation under section 501 (a) of the Internal Revenue Code.

(5) (a) “Health facility” means a governmental facility or a facility described in section 501 (c) (3) of the Internal Revenue Code, as defined in s. 71.22 (4), that is exempt from federal taxation under section 501 (a) of the Internal Revenue Code, and which is one of the following:

- Any institution, place, building or agency required to be approved or licensed under either s. 50.02 or subch. II of ch. 50, and also means any such facility exempted from such approval or licensure when the secretary of health and family services attests that the exempted facility meets the statutory definition of a facility subject to approval or licensure.

- Any health service institution, place, building or agency not listed in subd. 1. and not subject to approval or licensure under state law which the secretary attests is subject to certification by the U.S. department of health and human services under the social security act, or which the secretary attests is subject to standard-setting by a recognized public or voluntary accrediting or standard-setting agency.

- Any institution, place, building or agency engaged solely in providing one or more supporting services to a health facility.

4. Any institution, place, building or agency that provides medical services, nursing services or personal care services, as defined in s. 647.01 (6) to (8), in addition to maintenance services, as defined in s. 647.01 (5), to a person under a contract for the duration of the person's life for a term of more than 12 months.

5. Any institution, place, building or agency that is engaged in providing health education.

6. The University of Wisconsin Hospitals and Clinics Authority.

(b) "Health facility" does not include any institution, place or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(5m) "Hospital" has the meaning specified in s. 50.33 (2), excluding the facilities exempted by s. 50.39 (3).

(5r) "Participating child care provider" means a child care provider that undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in this chapter.

(5w) "Participating educational institution" means a corporation, agency or association which is authorized by state law to provide or operate an educational facility and which undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in this chapter.

(6) "Participating health institution" means:

(a) A corporation, agency or association authorized by state law to provide or operate a health facility and which undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in this chapter.

(7) (a) "Project" means:

1. A specific health facility, educational facility or child care center work or improvement to be refinanced, acquired, constructed, enlarged, remodeled, renovated, improved, furnished or equipped by the authority with funds provided in whole or in part under this chapter.

2. One or more structures suitable for use as a child care center, health facility, laboratory, laundry, nurses' or interns' residence or other multi-unit housing facility for staff, employees, patients or relatives of patients admitted for treatment or care in a health facility, physician's facility, administration building, research facility, maintenance, storage or utility facility.

3. Any structure related to a structure listed in subd. 2.

4. Any structure useful for the operation of a health facility, educational facility or child care center, including facilities or supporting service structures essential or convenient for the orderly conduct of the health facility, educational facility or child care center.

(b) "Project" includes site preparation, landscaping, machinery, equipment and furnishings and other similar items for the operation of a particular facility or structure but does not include such items as fuel, supplies or other items, the costs of which result in a current operating cost.

(c) "Project" may include any combination of projects undertaken jointly by any participating health institution, participating educational institution or participating child care provider with one or more other participating health institutions, participating educational institutions or participating child care providers.

(d) "Project" does not include:

1. Any institution, place or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

2. Any office or clinic of a person licensed under ch. 446, 447, 448, 449 or 455.

(8) "Property" means any real, personal or mixed property, or any interest therein, including, without limitation because of enumeration, any real estate, appurtenances, buildings, easements,

equipment, furnishings, furniture, improvements, machinery, rights-of-way and structures, or any interest therein.

(9) "Revenues" means, with respect to any project, the rents, fees, charges, and other income or profit derived therefrom and, with respect to any bonds issued under s. 231.03 (6) (g), tobacco settlement revenues identified in the bond resolution.

(10) "State health planning and development agency" means the department of health and family services, as designated under s. 250.04 (12)

(11) "Tobacco settlement agreement" has the meaning given in s. 16.63 (1) (b).

(12) "Tobacco settlement revenues" has the meaning given in s. 16.63 (1) (c).

**History:** 1973 c. 304; 1975 c. 413 s. 18; 1977 c. 29; 1979 c. 221; 1981 c. 298; 1981 c. 314 s. 144; 1983 a. 27, 189; 1985 a. 29; 1987 a. 27; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 124, 438, 490, 491; 1995 a. 27 ss. 6296, 9126 (19); 1995 a. 332; 1997 a. 27; 2001 a. 16, 104.

**231.02 Creation and organization.** (1) There is created a public body politic and corporate to be known as the "Wisconsin Health and Educational Facilities Authority". The authority shall consist of 7 members nominated by the governor, and with the advice and consent of the senate appointed for staggered 7-year terms. Members shall be residents of the state, and not more than 4 may be members of the same political party. The terms of the members of the authority expire on June 30, one in each succeeding year. Each member's appointment remains in effect until a successor is appointed. Annually, the governor shall appoint one member as chairperson and the authority shall elect one member as vice chairperson.

(2) The authority shall appoint an executive director and associate executive director who shall not be members of the authority and who shall serve at the pleasure of the authority. They shall receive such compensation as the authority fixes, except that the compensation of the executive director shall not exceed the maximum of the salary range established under s. 20.923 (1) for positions assigned to executive salary group 4 and the compensation of each other employee of the authority shall not exceed the maximum of the salary range established under s. 20.923 (1) for positions assigned to executive salary group 3. The executive director or associate executive director or other person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be custodian of all books, documents and papers filed with the authority, the minute book or journal of the authority and its official seal. The executive director or associate executive director or other person may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

(3) Four members of the authority shall constitute a quorum. The affirmative vote of a majority of all the members of the authority shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Each meeting of the authority shall be open to the public. Notice of meetings, or waivers thereof, shall be as provided in the bylaws of the authority. Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it deems proper.

(5) The members of the authority shall receive no compensation for the performance of their duties as members, but each such member shall be reimbursed for the member's actual and necessary expenses while engaged in the performance of the member's duties.

(6) (a) Any member, officer, agent or employee of the authority who, directly or indirectly, has any financial interest in any bond issue or in any loan or any property to be included in, or any contract for property or materials to be furnished or used in connection with, any project of the authority, may be fined not less

than \$50 nor more than \$1,000, or imprisoned not more than 30 days or both.

(b) Notwithstanding any other provision of law, it is not a conflict of interest or violation of this section or of any other law for a trustee, director, officer or employee of a participating health institution, participating educational institution or participating child care provider or for a person having the required favorable reputation for skill, knowledge and experience in state and municipal finance or for a person having the required favorable reputation for skill, knowledge and experience in the field of health facility, educational facility or child care center architecture to serve as a member of the authority; if in each case to which par. (a) is applicable, the trustee, director, officer or employee of the participating health institution, participating educational institution or participating child care provider abstains from discussion, deliberation, action and vote by the authority in specific respect to any undertaking pursuant to this chapter in which his or her participating health institution, participating educational institution or participating child care provider has an interest, or the person having the required favorable reputation for skill, knowledge and experience in state and municipal finance abstains from discussion, deliberation, action and vote by the authority in specific respect to any sale, purchase or ownership of bonds of the authority in which any business of which such person is a participant, owner, officer or employee has a past, current or future interest, or such person having the required favorable reputation for skill, knowledge and experience in the field of health facility, educational facility or child care center architecture abstains from discussion, deliberation, action and vote by the authority in specific respect to construction or acquisition of any project of the authority in which any business of which such person is a participant, owner, officer or employee has a past, current or future interest.

**History:** 1973 c. 304; 1975 c. 224; 1977 c. 29; 1979 c. 221; 1983 a. 192; 1987 a. 27, 403; 1991 a. 39, 316; 1993 a. 124.

**231.03 Powers.** The authority has all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter. In addition to all other powers granted by this chapter, the authority may:

(1) Adopt bylaws and rules for the regulation of its affairs and the conduct of its business.

(2) Adopt an official seal and alter it at pleasure.

(3) Maintain an office.

(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 construct, reconstruct, remodel, maintain, enlarge, alter, add to, repair, lease as lessee or lessor and regulate the same, enter into contracts for any such purpose, enter into contracts for the management and operation of a project or other health facilities, educational facilities or child care centers owned by the authority, and designate a participating health institution, participating educational institution or participating child care provider as its agent to determine the location and character of a project undertaken by the participating health institution, participating educational institution or participating child care provider 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 such purpose, including contracts for the management and operation of such project or other health facilities, educational facilities or child care centers owned by the authority.

(6) Subject to s. 231.08 (7), issue bonds of the authority to do any of the following:

(a) Finance any project undertaken by a participating health institution if any of the following applies:

1. The department of health and family services approves the project under subch. II of ch. 150.

2. The department of health and family services need not approve the project under subch. II of ch. 150 because the cost of the project is equal to or less than the amount in s. 150.21 (3) or (4) and the cost of the project is equal to or greater than 5% of the annual operating expenses of the participating health institution.

3. The project is for any of the following purposes:

a. A capital expenditure, by or on behalf of a hospital, that under generally accepted accounting principles is not properly chargeable as an expense of operations or maintenance, including the cost of studies, surveys, plans and other activities essential to the proposed capital expenditure.

b. The addition of a service or unit or expansion of an existing service or unit by or on behalf of a hospital.

c. The expenditure, by or on behalf of a hospital, independent practitioner, partnership, unincorporated medical group or service corporation, as defined in s. 180.1901 (2), for clinical medical equipment.

d. The acquisition of a hospital.

e. An addition to a hospital's bed capacity.

f. The construction or operation of an ambulatory surgery center or a home health agency.

g. The acquisition, construction, renovation, improvement or equipping of a health facility described in s. 231.01 (5) (a) 4., including projects begun before August 1, 1987.

(b) Refinance outstanding debt of any participating health institution if the department of health and family services certifies that refinancing will result in a reduction in the participating health institution's rates below the rates which would have otherwise prevailed, except that the authority may not refinance any office or clinic of a person licensed under ch. 446, 447, 448, 449 or 455 and except that this certification is not required for the refinancing for a participating health institution that operates a facility as defined under s. 49.45 (6m) (a) 3.

(c) Finance any project undertaken for an educational facility.

(d) Refinance outstanding debt of any participating educational institution.

(g) Finance a purchase, or make a loan, under sub. (20). Bonds issued under this paragraph shall be payable from, or secured by interests in, tobacco settlement revenues and such other property pledged under the bond resolution and, notwithstanding s. 231.08 (3), are not required to mature in 30 years or less from the date of issue.

(7) 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 other health facilities, educational facilities or child care centers owned by the authority or any portion thereof, contract with any person in respect thereto and coordinate its policies and procedures and cooperate with recognized health facility, educational facility or child care center rate setting mechanisms.

(8) Adopt rules for the use of a project or other health facility, educational facility or child care center or any portion of the project or facility owned, financed or refinanced in whole or in part by the authority, including any property used as security for a loan secured through, from or with the assistance of the authority. The authority may designate a participating health institution, participating educational institution or participating child care provider as its agent to establish rules for the use of a project or other health facilities, educational facilities or child care centers undertaken for that participating health institution, participating educational institution or participating child care provider. The rules shall ensure that a project, health facility, educational facility, child care center or property may not be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(9) Employ or contract for consulting engineers, architects, attorneys, accountants, construction and financial experts and

such other employees and agents as it finds necessary and fix their compensation. Any employee of the authority shall be exempt from subch. II of ch. 230, except s. 230.40 shall apply.

(10) Appoint such technical or professional advisory committees as it finds necessary, define their duties and provide reimbursement of their expenses.

(11) Establish or contract with others to carry out on its behalf a health facility, educational facility or child care center project cost estimating service, and make this service available on all projects to provide expert cost estimates and guidance to the participating health institution, participating educational institution or participating child care provider and to the authority. To implement this service and, through it, to contribute to cost containment, the authority may require such reasonable reports and documents from health facility, educational facility or child care center projects as are required for this service and for the development of cost reports and guidelines. The authority shall appoint a technical committee on health facility, educational facility or child care center project costs and cost containment.

(12) Receive and accept from any source loans, contributions or grants for or in aid of the construction of a project or any portion thereof in either money, property, labor or other things of value and, when required, use such funds, property or labor only for the purposes for which it was loaned, contributed or granted.

(13) Make loans to any participating health institution, participating educational institution or, before May 1, 2000, participating child care provider for the cost of a project in accordance with an agreement between the authority and the participating health institution, participating educational institution or participating child care provider. The authority may secure the loan by a mortgage or other security arrangement on the health facility, educational facility or child care center granted by the participating health institution, participating educational institution or participating child care provider to the authority. The loan may not exceed the total cost of the project as determined by the participating health institution, participating educational institution or participating child care provider and approved by the authority.

(14) Make loans to a health facility, educational facility or, before May 1, 2000, child care center for which bonds may be issued under sub. (6) (b) or (d) or under s. 231.03 (6) (f), 1999 stats., to refinance the health facility's, educational facility's, or child care center's outstanding debt. The authority may secure the loan or bond by a mortgage or other security arrangement on the health facility, educational facility, or child care center granted by the participating health institution, participating educational institution, or participating child care provider to the authority.

(15) Mortgage all or any portion of a project and other health facilities, educational facilities or child care centers and the site thereof, whether owned or thereafter acquired, for the benefit of the holders of bonds issued to finance the project, health facilities, educational facilities or child care centers or any portion thereof or issued to refund or refinance outstanding indebtedness of participating health institutions, educational institutions or child care providers as permitted by this chapter.

(16) Lease to a participating health institution, participating educational institution or participating child care provider the project being financed or other health facilities, educational facilities or child care centers conveyed to the authority in connection with such financing, upon such terms and conditions as the authority deems proper, and charge and collect rents therefor and terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and include in any such lease, if desired, provisions that the lessee thereof shall have options to renew the term of the lease for such periods and at such rent as the authority determines or to purchase all or any part of the health facilities, educational facilities or child care centers or that, upon payment of all of the indebtedness incurred by the authority for the financing of such project or health facilities, educational facilities or child care centers or for refunding outstanding indebtedness of

a participating health institution, participating educational institution or participating child care provider, the authority may convey all or any part of the project or such other health facilities, educational facilities or child care centers to the lessees thereof with or without consideration.

(17) Charge to and apportion among participating health institutions, participating educational institutions and participating child care providers its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

(18) Make studies of needed health facilities, educational facilities and child care centers that could not sustain a loan were it made under this chapter and recommend remedial action to the legislature; and do the same with regard to any laws or rules that prevent health facilities, educational facilities and child care centers from benefiting from this chapter.

(19) Obtain, or aid in obtaining, from any department or agency of the United States or of this state or any private company, any insurance or guaranty concerning the payment or repayment of, interest or principal, or both, or any part thereof, on any loan, lease or obligation or any instrument evidencing or securing the same, made or entered into under the provisions of this chapter; and notwithstanding any other provisions of this chapter, to enter into any agreement, contract or any other instrument with respect to that insurance or guaranty, to accept payment in the manner and form provided therein in the event of default by a participating health institution, participating educational institution or participating child care provider, and to assign the insurance or guaranty as security for the authority's bonds.

(20) Purchase the state's right to receive any of the payments under the tobacco settlement agreement, or make a loan to be secured by the state's right to receive any of the payments under the tobacco settlement agreement, upon such terms and at such prices as the authority considers reasonable and as can be agreed upon between the authority and the other party to the transaction. The authority may issue certificates or other evidences of ownership interest in tobacco settlement revenues upon such terms and conditions as specified by the authority in the resolution under which the certificates or other evidences are issued or in a related trust agreement or trust indenture.

**History:** 1973 c. 304; 1975 c. 189; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1985 a. 29 ss. 2112 to 2115, 3202 (24); 1987 a. 27, 69; 1989 a. 303; 1993 a. 124; 1995 a. 27 s. 9126 (19); 1995 a. 332; 1999 a. 120; 2001 a. 16, 38, 105, 109.

This chapter does not violate the establishment of religion clause. The primary effect of ch. 231 does not advance religion, nor does the chapter foster excessive entanglement between church and state. *State ex rel. Wisconsin Health Facilities Authority v. Lindner*, 91 Wis. 2d 145, 280 N.W.2d 773 (1979).

**231.04 Expenses.** All expenses of the authority incurred in carrying out this chapter shall be payable solely from funds provided under the authority of this chapter, and no liability may be incurred by the authority beyond the extent to which moneys have been provided under this chapter except that, for the purposes of meeting the necessary expenses of initial organization and operation of the authority for the period commencing on June 19, 1974 and continuing until such date as the authority derives moneys from funds provided to it under the authority of this chapter, the authority may borrow such moneys as it requires to supplement the funds provided under s. 20.440. Such moneys borrowed by the authority shall subsequently be charged to and apportioned among participating health institutions, participating educational institutions and participating child care providers in an equitable manner, and repaid with appropriate interest over a reasonable period of time.

**History:** 1973 c. 304; 1987 a. 27; 1993 a. 124.

**231.05 Project applications. (1)** By means of this chapter, it is the intent of the legislature to provide assistance and alternative methods of financing to nonprofit health institutions to aid them in providing needed health services consistent with the state's health plan, to nonprofit educational institutions to aid them in providing needed educational services and to nonprofit

child care providers to aid them in providing needed child care services.

(3) With respect to an applicant requesting financing for health services, the authority shall, at the same time as it notifies the applicant of its action, notify the state health planning and development agency of its action, including data in support of its decision.

(4) Subject to the approval of the authority, an applicant may recommend to the authority an underwriter for the bonds or notes related to its project.

**History:** 1973 c. 304; 1979 c. 221; 1981 c. 20, 298; 1983 a. 27; 1987 a. 27; 1993 a. 124.

**231.06 Property acquisition.** The authority may acquire, directly or by and through a participating health institution, participating educational institution or participating child care provider as its agent, by purchase or by gift or devise, such lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within this state as it deems necessary or convenient for the construction or operation of a project, upon such terms and at such prices as it considers reasonable and can be agreed upon between it and the owner thereof, and take title thereto in the name of the authority or in the name of a health facility, educational facility or child care center as its agent.

**History:** 1973 c. 304; 1977 c. 29; 1987 a. 27; 1993 a. 124.

**231.07 Property conveyance.** (1) If the conditions of sub. (2) are satisfied, the authority shall:

(a) Release the lien of any mortgage, deed of trust or other security arrangement securing the bond; and

(b) Convey to the participating health institution, participating educational institution or participating child care provider the authority's interest in the project and in any other health facility, educational facility or child care center leased, mortgaged or subject to a deed of trust or any other form of security arrangement to secure the bond.

(2) The authority shall release the lien of the security arrangement and convey title under sub. (1) if:

(a) The principal of and interest on any bond issued by the authority to finance a project or to refinance or refund outstanding indebtedness of one or more participating health institutions, participating educational institutions or participating child care providers, including any refunding bonds issued to refund and refinance the bond, have been fully paid and the bonds retired or if the adequate provision has been made to pay fully and retire the bond; and

(b) The conveyance provides that the facility that was financed will not be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

**History:** 1973 c. 304; 1977 c. 29; 1979 c. 221; 1987 a. 27; 1993 a. 124.

**231.08 Issuance of bonds.** (1) Subject to sub. (7), the authority may from time to time issue bonds for any corporate purpose. All such bonds or other obligations of the authority issued under this chapter are declared to be negotiable for all purposes, notwithstanding their payment from a limited source and without regard to any other law. The authority shall employ the building commission as its financial consultant to assist and coordinate the issuance of bonds and notes of the authority.

(2) The bonds of each issue shall be payable solely out of revenues of the authority specified in the resolution under which they were issued or in a related trust agreement, trust indenture, indenture of mortgage or deed of trust.

(3) The bonds may be issued as serial bonds or as term bonds, or the authority may issue bonds of both types. The bonds shall be authorized by a bond resolution of the authority and shall bear such dates, mature at such times not exceeding 30 years from their respective dates of issue, bear interest at such rates, be payable at such times, be in such denominations, be in such form, either cou-

pon or fully registered, carry such registration and conversion privileges, be executed in such manner, be payable in lawful money of the United States at such places, and be subject to such terms of redemption as the bond resolution provides. The bonds or notes shall be executed by the manual or facsimile signatures of such officers of the authority as the authority designates. Coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the treasurer of the authority or such other officer as the authority designates. The bonds or notes may be sold at public or private sale for such price and in such manner and from time to time as the authority determines. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for the definitive bonds.

(4) Any bond resolution may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

(a) Pledging or assigning the revenues of the project with respect to which the bonds are to be issued or other specified revenues of the authority;

(b) The rentals, fees and other amounts to be charged, and the sums to be raised in each year thereby, and the use, investment and disposition of such sums;

(c) The setting aside of reserves or sinking funds, and the regulation, investment and disposition thereof;

(d) Limitations on the use of the project;

(e) Limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied;

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds;

(g) The refunding of outstanding bonds;

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

(i) Defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations, and providing the rights and remedies of such holders in the event of a default; and

(j) Any other matters relating to the bonds which the authority deems desirable.

(5) In addition to the other authorizations under this section, bonds of the authority may be secured by a pooling of leases whereby the authority may assign its rights, as lessor, and pledge rents under 2 or more leases of health facilities, educational facilities or child care centers with 2 or more health institutions, educational institutions or child care providers, as lessees respectively, upon such terms as may be provided for in bond resolutions of the authority.

(6) Neither the members of the authority nor any person executing the bonds are liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

(7) Beginning on May 23, 2000, the authority may not issue bonds for the purpose of purchasing a health maintenance organization, as defined in s. 609.01 (2), or any other insurer, as defined in s. 600.03 (27).

**History:** 1973 c. 304; 1977 c. 317; 1987 a. 27; 1993 a. 124; 1999 a. 120.

**231.09 Bond security.** The authority may secure any bonds issued under this chapter by a trust agreement, trust indenture, indenture of mortgage or deed of trust by and between the authority and one or more corporate trustees, which may be any trust company or bank in this state having the powers of a trust company. The bond resolution providing for the issuance of bonds so secured shall pledge the revenues to be received by the authority as a result of the terms of the financing referred to in the resolution,

and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including particularly such provisions as are specifically authorized by this chapter to be included in any bond resolution of the authority, and may restrict the individual right of action by bondholders. In addition, any bond resolution may contain such other provisions as the authority deems reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the bond resolution may be treated as a part of the cost of the operation of a project.

**History:** 1973 c. 304; 1977 c. 29.

**231.10 Bonds not public debt. (1)** The state is not liable on notes or bonds of the authority and the notes and bonds are not a debt of the state. All notes and bonds of the authority shall contain on the face thereof a statement to this effect. The issuance of bonds under this chapter shall not, directly or indirectly or contingently, obligate the state or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment. Nothing in this section prevents the authority from pledging its full faith and credit or the full faith and credit of a health institution, educational institution or child care provider to the payment of bonds authorized under this chapter.

**(2)** Nothing in this chapter authorizes the authority to create a debt of the state, and all bonds issued by the authority under this chapter are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the resolution authorizing their issuance or in any trust indenture or mortgage or deed of trust executed as security therefor. The state shall not in any event be liable for the payment of the principal of or interest on any bonds of the authority or for the performance of any pledge, mortgage, obligation or agreement which may be undertaken by the authority. No breach of any such pledge, mortgage, obligation or agreement may impose any pecuniary liability upon the state or any charge upon its general credit or against its taxing power.

**History:** 1973 c. 304; 1977 c. 29; 1987 a. 27; 1993 a. 124.

**231.11 State pledge.** The state pledges to and agrees with the holders of any obligations issued under this chapter, and with those parties who may enter into contracts with the authority under this chapter, that the state will not limit or alter the rights vested in the authority by this chapter until such obligations, together with the interest thereon, are fully met and discharged and such contracts are fully performed on the part of the authority, but nothing shall preclude such a limitation or alteration if adequate provision is made by law for the protection of the holders of such obligations of the authority or those entering into such contracts with the authority.

**History:** 1973 c. 304; 1977 c. 29.

**231.12 Studies and recommendations.** It is the intent and purpose of this chapter that the exercise by the authority of the powers granted to it shall be in all respects for the benefit of the people of this state to assist them to provide needed health facilities, educational facilities and child care centers of the number, size, type, distribution and operation that will assure admission and health care, education or child care of high quality to all who need it. The authority shall identify and study all projects which are determined by health planning agencies to be needed, but which could not sustain a loan were such to be made to it under this chapter. The authority shall formulate and recommend to the legislature such amendments to this and other laws, and such other specific measures as grants, loan guarantees, interest subsidies or other actions the state may provide which would render the construction and operation of needed health facilities, educational facilities and child care centers feasible and in the public interest. The authority also shall identify and study any laws or rules which it finds handicaps or bars a needed health facility, educational facility or child care center from participating in the benefits of

this chapter, and recommend to the legislature such actions as will remedy such situation.

**History:** 1973 c. 304; 1987 a. 27; 1993 a. 124.

**231.13 Project revenues. (1)** The authority shall collect rents for the use of, or other revenues relating to the financing of, each project. The authority shall contract with a participating health institution, participating educational institution or participating child care provider for each issuance of bonds. The contract shall provide that the rents or other revenues payable by the health facility, educational facility or child care center shall be sufficient at all times to:

(a) Pay its share of the administrative costs and expenses of the authority;

(b) Pay the principal of, the premium, if any, and the interest on outstanding bonds of the authority issued in respect of such project as they become due and payable; and

(c) Create and maintain reserves which may but need not be required or provided for in the bond resolution relating to such bonds of the authority.

**(2)** The authority shall pledge the revenues derived and to be derived from a project and other related health facilities, educational facilities or child care centers for the purposes specified in sub. (1), and additional bonds may be issued which may rank on a parity with other bonds relating to the project to the extent and on the terms and conditions provided in the bond resolution. Such pledge shall be valid and binding from the time when the pledge is made, the revenues so pledged by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the bond resolution nor any financing statement, continuation statement or other instrument by which a pledge is created or by which the authority's interest in revenues is assigned need be filed or recorded in any public records in order to perfect the lien thereof as against 3rd parties, except that a copy thereof shall be filed in the records of the authority and with the department of financial institutions.

**History:** 1973 c. 304; 1977 c. 29; 1979 c. 221; 1987 a. 27; 1993 a. 124; 1995 a. 27.

**231.14 Trust funds.** All moneys received under the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. Any officer with whom, or any bank or trust company with which, such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this chapter, subject to such regulations as this chapter and the bond resolution authorizing the bonds of any issue provide.

**History:** 1973 c. 304.

**231.15 Rights of bondholders.** Any holder of bonds issued under this chapter or a trustee under a trust agreement, trust indenture, indenture of mortgage or deed of trust entered into under this chapter, except to the extent that their rights are restricted by any bond resolution, may, by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by the bond resolution. Such rights include the right to compel the performance of all duties of the authority required by this chapter or the bond resolution; to enjoin unlawful activities; and in the event of default with respect to the payment of any principal of, premium, if any, and interest on any bond or in the performance of any covenant or agreement on the part of the authority in the bond resolution, to apply to a court to appoint a receiver to administer and operate the projects, the revenues of which are pledged to the payment of principal of, premium, if any, and interest on such bonds, with full power to pay, and to provide for payment of, principal of, premium, if any, and interest on such bonds,

and with such powers, subject to the direction of the court, as are permitted by law and are accorded receivers, excluding any power to pledge additional revenues of the authority to the payment of such principal, premium and interest.

**History:** 1973 c. 304.

**231.16 Refunding bonds.** (1) The authority may issue bonds to refund any outstanding bond of the authority or indebtedness that a participating health institution, participating educational institution, or participating child care provider may have incurred for the construction or acquisition of a project prior to or after April 30, 1980, including the payment of any redemption premium on the outstanding bond or indebtedness and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase, or maturity, or to pay all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion of a project. Except for bonds to refund bonds issued under s. 231.03 (6) (g), no bonds may be issued under this section unless the authority has first entered into a new or amended agreement with a participating health institution, participating educational institution, or participating child care provider to provide sufficient revenues to pay the costs and other items described in s. 231.13.

(2) The authority may apply the proceeds of the bonds issued to refund or refinance any outstanding bond or indebtedness to the purchase or retirement at maturity or redemption of the outstanding bond or indebtedness either on its earliest or any subsequent redemption date or upon the purchase or at the maturity of the bond or indebtedness. The authority may, pending application, place the proceeds in escrow to be applied to the purchase or retirement at maturity or redemption on any date the authority determines.

(3) All bonds issued under this section shall be subject to this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter, except that the limitations with respect to dates under s. 231.03 (6) (e) and (f), 1999 stats., and under s. 231.03 (14) do not apply to bonds issued under this section, and the requirement under s. 231.08 (3) that the bonds mature in 30 years or less from their date of issue does not apply to bonds issued under this section to refund bonds issued under s. 231.03 (6) (g).

**History:** 1973 c. 304; 1979 c. 221; 1987 a. 27; 1993 a. 124; 2001 a. 16, 105.

**231.17 Investment of funds.** The authority may invest any funds in bonds, notes, certificates of indebtedness, treasury bills, or other securities constituting direct obligations of, or obligations the principal and interest of which are guaranteed by, the United States; in those certificates of deposit or time deposits constituting direct obligations of any bank that are insured by the federal deposit insurance corporation; in certificates of deposit constituting direct obligations of any credit union that are insured by the Wisconsin credit union savings insurance corporation or the national board, as defined in s. 186.01 (3m); in certificates of deposit constituting direct obligations of any savings and loan association or savings bank that are insured by the federal deposit insurance corporation; in short-term discount obligations of the federal national mortgage association; or in any of the investments provided under s. 66.0603 (1m) (a). Any such securities may be purchased at the offering or market price thereof at the time of such purchase.

**History:** 1973 c. 304; 1977 c. 29; 1983 a. 368; 1985 a. 29; 1991 a. 39, 221; 1999 a. 150 s. 672; 2001 a. 30.

**231.18 Investment authorization.** The notes and bonds of the authority are securities in which all public officers and bodies of this state and all political subdivisions and public officers thereof, all banks, trust companies, savings banks and institutions, savings and loan associations, investment companies and all personal representatives, guardians, trustees and other fiduciaries

may legally invest any sinking funds, moneys or other funds belonging to them or within their control.

**History:** 1973 c. 304; 1979 c. 279.

**231.19 Annual reports.** (1) The authority shall keep an accurate account of all its activities and of all its receipts and expenditures, and shall annually in January make a report thereof to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2). The reports shall be in a form approved by the state auditor. The state auditor may investigate the affairs of the authority, may examine the properties and records of the authority and may prescribe methods of accounting and the rendering of periodical reports in relation to projects undertaken by the authority.

(2) The authority, annually on January 15, shall file with the department of administration and the joint legislative council a complete and current listing of all forms, reports and papers required by the authority to be completed by any person, other than a governmental body, as a condition of obtaining the approval of the authority or for any other reason. The authority shall attach a blank copy of each such form, report or paper to the listing.

**History:** 1973 c. 304; 1979 c. 221; 1987 a. 186; 1993 a. 52.

**231.20 Waiver of construction and bidding requirements.** In exercising its powers under s. 101.12, the department of commerce or any city, village, town or county may, within its discretion for proper cause shown, waive any particular requirements relating to public buildings, structures, grounds, works and improvements imposed by law upon projects under this chapter; the requirements of s. 101.13 may not be waived, however. If, however, the prospective lessee so requests in writing, the authority shall, through the participating health institution, participating educational institution or participating child care provider as its agent, call for construction bids in such manner as is determined by the authority with the approval of the lessee.

**History:** 1973 c. 304; 1983 a. 27; 1987 a. 27; 1993 a. 124; 1995 a. 27 ss. 6298, 9116 (5).

**231.21 Employees under social security.** The authority may take such action as it deems appropriate to enable its employees to come within the provisions and obtain the benefits of the federal social security act.

**History:** 1973 c. 304.

**231.215 Incorporator for purpose related to purchase or sale of right to payments.** The authority, or its executive director, may organize one or more nonstock corporations under ch. 181 or limited liability companies under ch. 183 for any purpose related to purchasing or selling the state's right to receive any of the payments under the tobacco settlement agreement and may take any action necessary to facilitate and complete the purchase or sale.

**History:** 2001 a. 16.

**231.22 Effect of chapter.** This chapter shall be deemed to provide a complete, additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds.

**History:** 1973 c. 304.

**231.23 Nonprofit institutions.** It is intended that all nonprofit health and educational institutions and child care providers in this state be enabled to benefit from and participate in this chapter. To this end, all nonprofit health and educational institutions and child care providers operating, or authorized to be operated, under any law of this state may undertake projects and utilize the capital financing sources and methods of repayment provided by

this chapter, the provisions of any other laws to the contrary notwithstanding.

**History:** 1973 c. 304; 1987 a. 27; 1993 a. 124.

**231.24 Liberal construction.** This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes.

**History:** 1973 c. 304.

**231.25 Tax exemption.** The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of a project undertaken pursuant to this chapter will constitute the performance of an essential public function, neither the authority nor any agent with which it contracts to operate or maintain a project is required to pay any taxes or assessments, including mortgage recording taxes, upon or in respect of a project or any property acquired or used by the authority or its agent under this chapter and the authority's income therefrom shall at all times be free from taxation of every kind by the state and by political subdivisions of the state.

**History:** 1973 c. 304; 1977 c. 29.

**231.26 Residential facility for the severely physically disabled.** (1) If proper application is made in accordance with this chapter for a project meeting the requirements of this section, the authority shall undertake a project to provide a residential facility for severely physically disabled persons utilizing any capital finance sources, methods of repayment and operation specified in this chapter.

(2) The proposed residential facility shall provide a stable, viable environment for severely physically disabled individuals in that, while attendants will be on call at all times and personal care assistance will be provided, the residents will be given the opportunity to fulfill useful and productive life styles.

(3) The facility's design features shall accommodate the specific needs of the residents and provide opportunities for:

- (a) Continuing education;
- (b) Counseling services;
- (c) Outpatient visits, as necessary;
- (d) Job opportunities;
- (e) Assisted living services performed by resident staff; and
- (f) Low-cost transportation.

**History:** 1973 c. 304; 1975 c. 277.

**231.27 Minority financial interests.** (1) In this section, "minority business", "minority financial adviser" and "minority investment firm" mean a business, financial adviser and investment firm, respectively, certified by the department of commerce under s. 560.036 (2).

(2) The authority shall annually report to the department of administration the total amount purchased from and contracted or subcontracted under contracts made by the authority to minority businesses, the total amount of bonds issued by the authority with the underwriting services of minority investment firms and the total amount of moneys expended by the authority for the services of minority financial advisers during the preceding state fiscal year.

**History:** 1987 a. 27; 1995 a. 27 s. 9116 (5).

**231.35 Rural hospital loan guarantee.** (1) In this section:

(a) "Guaranteed loan" means a loan that the authority guarantees under sub. (3).

(b) "Hospital services" means medical or social services provided by a hospital and includes day care, hospice care and outpatient treatment.

(c) "Participating lender" means any person, including the authority, who does all of the following:

1. Makes loans to rural hospitals.

2. Enters into a guarantee agreement with the authority under sub. (6).

(d) "Rural" means outside a metropolitan statistical area specified under 42 CFR 412.62 (ii) (A) or in a city, village or town with a population of not more than 14,000.

(e) "Rural hospital loan fund" means the fund established under s. 231.36.

(2) A person is eligible for a guarantee under this section if the person is one of the following:

(a) A nonprofit rural hospital with no more than 100 beds.

(b) A cooperative organized under ch. 185 that consists of one or more rural hospitals, each with no more than 100 beds.

(c) A nonprofit rural primary care provider.

(3) Subject to sub. (4), the authority may guarantee a loan under this section that is made on or before July 29, 1995, if all of the following apply:

(a) The borrower is eligible for a guarantee under sub. (2).

(b) The borrower will use the proceeds of the loan to finance the acquisition, construction, remodeling or conversion of space at a rural hospital, or the acquisition or construction of equipment for a rural hospital, to provide hospital services.

(c) Not more than 25% of the proceeds of the loan will be used to refinance a previous loan that financed the acquisition, construction, remodeling or conversion of space at a rural hospital to provide hospital services.

(d) The principal amount of the loan is at least \$100,000, but not more than \$1,500,000.

(e) The loan is made by a participating lender.

(f) The borrower pays to the authority, for deposit into the rural hospital loan fund, a service charge in an amount determined by the authority but not exceeding 0.5% of the total principal amount of the loan.

(g) The borrower provides proof of local community support for the acquisition, construction, remodeling or conversion to be financed by the loan proceeds by obtaining a loan guarantee of at least 20% of the loan principal from the community or another 3rd party that is acceptable to the participating lender and to the authority.

(h) The term of the loan is not longer than 10 years.

(i) The borrower establishes a reserve fund of not less than 10% of the loan principal.

(j) The total of the borrower's reserve fund under par. (i), the 3rd-party loan guarantee under par. (g) and the guarantee under sub. (4) (a) 1. will not exceed 90% of the loan principal.

(4) (a) 1. The authority shall guarantee payment or collection of 20% of the principal of loans guaranteed under sub. (3).

(b) The total principal amount of all loans that the authority may guarantee under sub. (3) may not exceed \$5,000,000.

(5) (a) A participating lender shall determine when a guaranteed loan is in default, except that a guaranteed loan that is not repaid in full at the end of the loan's term is in default.

(b) In the event of a default on a guaranteed loan, the authority shall pay to the participating lender, from the rural hospital loan fund and in accordance with the terms and conditions of the guarantee agreement entered into under sub. (6), 20% of the unpaid principal amount of the defaulted guaranteed loan.

(c) Payments under par. (b) may not include any interest, origination fees or other charges relating to the guaranteed loan or any collection costs incurred by the participating lender.

(6) (a) The authority shall enter into a guarantee agreement with any person who makes loans described under sub. (3) (b) and who wishes to have those loans guaranteed under this section. The guarantee agreement shall comply with the rules promulgated by the department of commerce under sub. (7) (b).

(b) The authority may use money from the rural hospital loan fund to guarantee loans made for the purposes described in sub. (3) (b), if the authority sets out the terms and conditions of the



guarantee in a guarantee agreement that complies with the rules promulgated by the department of commerce under sub. (7) (b).

(c) The authority may not use any moneys other than those in the rural hospital loan fund to guarantee a loan under this section.

(7) With the advice of the rural health development council, the department of commerce shall promulgate rules specifying all of the following:

(b) With respect to a guarantee agreement entered into by the authority under sub. (6):

1. The form of the agreement.
2. Any conditions upon which the authority may refuse to enter into such an agreement.
3. The procedure for making a demand for payment under the guarantee agreement, or for payment by the authority under the guarantee agreement, in the event of a default of a guaranteed loan.
4. Criteria for determining whether the guarantee is a guarantee of collection or payment.
5. Any procedures that the authority may impose to carry out

the agreement.

(9) Annually, the authority shall submit to the chief clerk of each house of the legislature for distribution under s. 13.172 (2) a report on the number of loans guaranteed under this section, the annual gross revenues of the borrowers who have received the guaranteed loans, the default rate on those loans and any other information on the program under this section which the authority determines is significant.

**History:** 1989 a. 317; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 6299, 6300, 9116 (5).

**Cross Reference:** See also ch. Comm 120, Wis. adm. code.

**231.36 Rural hospital loan fund.** There is established under the jurisdiction and control of the authority a rural hospital loan fund consisting of all of the following:

(1) Service charges received by the authority under s. 231.35 (3) (f).

(2) Any moneys appropriated to the authority under s. 20.440 (2) (a) or received by the authority for the rural hospital loan fund.

(3) Any income from investment of moneys in the rural hospital loan fund by the authority under s. 231.17.

**History:** 1989 a. 317.