

1989 Assembly Bill 700

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1989 Wisconsin Act 317

(Vetoed in Part)

AN ACT to create 15.157 (8), 20.143 (1) (fd), (fe) and (jm), 20.440 (2), 231.35, 231.36, 560.03 (21), 560.18, 560.185 and 600.01 (1) (b) 7 of the statutes, relating to creating a rural hospital loan guarantee program and a physician loan assistance program, creating a rural health development council, grant proposals for area health education centers, granting rule-making authority and making appropriations.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.157 (8) of the statutes is created to read:

15.157 (8) RURAL HEALTH DEVELOPMENT COUNCIL. There is created in the department of development a rural health development council consisting of 11 members nominated by the governor, and with the advice and consent of the senate appointed, for 5-year terms and the secretaries of development and health and social services, or their designees. The appointed members shall include all of the following:

- (a) A representative of the university of Wisconsin medical school.
- (b) A representative of the medical college of Wisconsin, inc.
- (c) A representative of the Wisconsin health and educational facilities authority.
- (d) A representative of the farmers home administration.
- (e) Two representatives of private lenders that make loans in rural areas.
- (f) Two representatives of health care facilities located in rural areas.

(g) A physician licensed under ch. 448 and a nurse licensed under ch. 441, both of whom practice in a rural area, and a representative of public health services.

SECTION 2. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

		<u>1989-90</u>	<u>1990-91</u>
20.143 Development, department of			
(1) ECONOMIC AND COMMUNITY DEVELOPMENT			
(fd)	Physician loan assistance program; contract	GPR B -0-	30,000
(fe)	Physician loan assistance program; repayments	GPR B 25,000	71,200
20.440 Health and educational facilities authority			
(2) RURAL HOSPITAL LOAN GUARANTEE			
(a)	Rural assistance loan fund	GPR C -0-	150,000

SECTION 3. 20.143 (1) (fd), (fe) and (jm) of the statutes are created to read:

20.143 (1) (fd) *Physician loan assistance program; contract.* Biennially, the amounts in the schedule for contracting under s. 560.18 (8).

(fe) *Physician loan assistance program; repayments.* Biennially, the amounts in the schedule for loan repayments under s. 560.18.

(jm) *Physician loan assistance program; local contributions.* All moneys received under s. 560.18 (6) to be used for loan repayments under s. 560.18.

SECTION 4. 20.440 (2) of the statutes is created to read:

20.440 (2) RURAL HOSPITAL LOAN GUARANTEE. (a) *Rural assistance loan fund.* As a continuing appropriation, the amounts in the schedule to be transferred by March 1, 1991, to the rural hospital loan fund under s. 231.36.

SECTION 5. 231.35 of the statutes is created to read:

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.

(3) Subject to sub. (4), the authority may guarantee a loan under this section 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 \$1,000,000.

(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, as required by the rules promulgated by the department of development under sub. (7) (a).

(4) (a) 1. Except as provided in subd. 2, the authority shall guarantee payment or collection of 90% of the principal of loans guaranteed under sub. (3).

2. The authority may guarantee payment or collection of the entire principal amount of a loan guaranteed under sub. (3), if the authority determines that guaranteeing the entire principal amount of the loan will increase the availability of credit to the borrower.

(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), whichever of the following applies:

1. For a loan guaranteed under sub. (4) (a) 1, 90% of the unpaid principal amount of the defaulted guaranteed loan.

2. For a loan guaranteed under sub. (4) (a) 2, all 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 development under sub. (7) (b).

(b) The authority may use money from the rural hospital loan fund to guarantee loans that it makes 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 development 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 development shall promulgate rules specifying all of the following:

(a) The type of proof of local community support that a borrower must provide to satisfy sub. (3) (g).

(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.

~~(8) Recognizing its moral obligation to do so, the legislature expresses its expectation and aspiration that, if ever called upon to do so, it shall make appropriations when and in the amounts necessary to make full and timely payment on guarantees under this section.~~

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(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.

SECTION 6. 231.36 of the statutes is created to read:

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.

SECTION 7. 560.03 (21) of the statutes is created to read:

560.03 (21) Promulgate rules for the rural hospital loan guarantee program, as required by s. 231.35 (7).

SECTION 8. 560.18 of the statutes is created to read:

560.18 Physician loan assistance program. (1) DEFINITIONS. In this section:

(a) "Council" means the rural health development council created under s. 15.157 (8).

(am) "Medical shortage area" means a county, or a service area established under sub. (7), in which the ratio of the population to the number of physicians who provide primary care is more than 2,500 to one, or an area that is in a health manpower shortage area as determined by the federal department of health and human services under 42 USC 254e.

(b) "Physician" has the meaning given in s. 448.01 (5).

(c) "Primary care" means family medical practice, general internal medicine and pediatrics.

(2) ELIGIBILITY. The department may repay, on behalf of a physician, up to \$50,000 in educational loans obtained by the physician from a public or private lending institution for education in an accredited school of medicine or for postgraduate medical training.

(3) AGREEMENT. (a) The department shall enter into a written agreement with the physician. In the agreement, the physician shall agree to practice pri-

mary care in this state exclusively in a medical shortage area, in a state or federal prison, in an area health education center program established under 42 USC 295g-1 or on an Indian reservation or trust lands of an Indian tribe. The physician shall also agree to care for patients who are insured or for whom health benefits are payable under medicare, medical assistance or any other governmental program.

(b) The agreement shall specify that the responsibility of the department to make the payments under the agreement is subject to the availability of funds in the appropriations under s. 20.143 (1) (fe) and (jm).

(4) **LOAN REPAYMENT.** Loans may be repaid by the department at the following rate:

(a) Ten percent of the principal of the loan or \$5,000, whichever is less, during the first year of practice.

(b) An additional 12.5% of the principal of the loan or \$6,250, whichever is less, during the 2nd year of practice.

(c) An additional 15% of the principal of the loan or \$7,500, whichever is less, during the 3rd year of practice.

(d) An additional 20% of the principal of the loan or \$10,000, whichever is less, during the 4th year of practice.

(e) An additional 42.5% of the principal of the loan or \$21,250, whichever is less, during the 5th year of practice.

(5) **AVAILABILITY OF FUNDS; RIGHT OF ACTION AGAINST STATE.** (a) The obligation of the department to make payments under an agreement entered into under sub. (3) (b) is subject to the availability of funds in the appropriations under s. 20.143 (1) (fe) and (jm).

(b) If the cost of repaying the loans of all eligible applicants, when added to the cost of loan repayments scheduled under existing agreements, would exceed the total amount in the appropriations under s. 20.143 (1) (fe) and (jm), the department shall give priority in entering into new agreements to all of the following:

1. Physicians who resided in a medical shortage area prior to attending a college, university or medical school.

2. Physicians who practice exclusively in cities, villages or towns with a per capita income of less than 75% of the statewide median per capita income.

3. Physicians practicing or who agree to practice exclusively in a county, city, village or town for which financial support has been offered or provided under sub. (6).

4. Physicians practicing or who agree to practice in communities with an extremely high need for medical care, as determined by the department with the approval of the council.

(c) The department may also enter into agreements with physicians who practice psychiatry, or obstetrics and gynecology, if the department determines, with the approval of the council, that there is an unmet

need for those services in a medical shortage area or on an Indian reservation or trust lands of an Indian tribe and the physician agrees to practice primarily in the medical shortage area or on an Indian reservation or trust lands.

(d) An agreement under sub. (3) does not create a right of action against the state on the part of the physician or the lending institution for failure to make the payments specified in the agreement.

(6) **LOCAL PARTICIPATION.** The department shall encourage contributions to the program under this section by counties, cities, villages and towns. Funds received under this subsection shall be deposited in the appropriation under s. 20.143 (1) (jm).

(7) **SERVICE AREAS.** With the approval of the council, the department may establish service areas for the purpose of sub. (1) (a).

(8) **ADMINISTRATIVE CONTRACT.** From the appropriation under s. 20.143 (1) (fd), the department shall contract with the board of regents of the university of Wisconsin system for administrative services from the office of rural health of the department of professional and community development of the university of Wisconsin hospital and clinics. Under the contract, the office of rural health shall do all of the following:

(a) Provide recommendations to the department and council regarding the establishment of service areas under sub. (7).

(b) Advise the department and council on the identification of communities with an extremely high need for medical care.

(c) Advise the department and council on the identification of medical shortage areas and Indian reservations or trust lands of an Indian tribe, in which there is an unmet need for the services of physicians who practice psychiatry or obstetrics and gynecology.

(d) Assist the department to publicize the program under this section to physicians and eligible communities.

(e) Assist physicians who are interested in applying for the program under this section.

(f) Assist communities in obtaining physicians' services through the program under this section.

(g) Assist the department with the general operation of the program under this section.

SECTION 9. 560.185 of the statutes is created to read:

560.185 Rural health development council. The rural health development council created under s. 15.157 (8) shall do all of the following:

(1) Advise the department as provided in s. 560.18 (5) (b) 4 and (c) and (7) and on other matters related to the physician loan assistance program under s. 560.18.

(2) Advise the department as it promulgates the rules required under s. 231.35 (7) for the rural hospital loan guarantee program.

(3) Make recommendations to the department on all of the following:

(a) Ways to improve the delivery of health care to persons living in rural areas of the state that qualify as medical shortage areas, as defined in s. 560.18 (1) (am).

(b) Ways to help communities evaluate the linkage between rural health facilities and economic development for purposes of determining the value of local support for rural health facilities.

(c) The coordination of state and federal programs available to assist rural health facilities.

(d) A rural health initiative for inclusion in the 1991-93 biennial budget that addresses all of the following issues:

1. Stronger coordination and maintenance of rural health services and delivery systems.

2. Development of mechanisms to reduce shortages of health care providers in rural areas.

3. Development of alternative state capital financing mechanisms for rural health facilities and services.

(4) Perform other advisory functions at the request of the secretary related to rural health development.

SECTION 10. 600.01 (1) (b) 7 of the statutes is created to read:

600.01 (1) (b) 7. Guarantees of the Wisconsin health and educational facilities authority under s. 231.35.

SECTION 11. **Nonstatutory provisions.** (1) APPOINTMENT OF RURAL HEALTH DEVELOPMENT COUNCIL. Notwithstanding section 15.157 (8) of the statutes, as created by this act, of the initial appointed members of the rural health development council, the following shall be appointed for the following terms:

(a) Two members, for terms expiring on July 1, 1991.

(b) Two members, for terms expiring on July 1, 1992.

(c) Two members, for terms expiring on July 1, 1993.

(d) Two members, for terms expiring on July 1, 1994.

(e) Three members, for terms expiring on July 1, 1995.

(2) REPORTS ON RURAL HEALTH CARE. (a) On or before December 1, 1990, the rural health development council created under section 15.157 (8) of the statutes, as created by this act, shall submit to the secretary of development a report on the recommendations required under section 560.185 (3) (d) of the statutes, as created by this act, which may also include any other recommendations made under section 560.185 (3) (a) to (c) of the statutes, as created by this act.

(b) On or before March 1, 1991, the secretary of development shall submit to the chief clerk of each

house of the legislature for distribution to the legislature a report summarizing and evaluating the recommendations made by the rural health development council in the report submitted under paragraph (a).

(3) RULES DEADLINE. The department of development shall submit the proposed rules required under section 231.35 (7) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than January 1, 1991.

SECTION 12. **Appropriation changes; department of development.** The dollar amounts in the schedule under section 20.005 (3) of the statutes for the appropriation to the department of development under section 20.143 (1) (a) of the statutes, as affected by the acts of 1989, are increased by \$63,000 for fiscal year 1990-91 to increase the authorized FTE positions of the department by 1.0 GPR position to perform services related to the rural health development council created under section 15.157 (8) of the statutes, as created by this act, to fund other expenses related to functions of the rural health development council, and to fund functions of the department related to administration of the physician loan assistance program under section 560.18 of the statutes, as created by this act, that are not contracted out under section 560.18 (8) of the statutes, as created by this act.

SECTION 13. **Appropriation changes; medical college of Wisconsin.** The dollar amounts in the schedule under section 20.005 (3) of the statutes for the appropriation to the medical college of Wisconsin, inc., under section 20.250 (1) (a) of the statutes, as affected by the acts of 1989, are increased by \$15,000 for fiscal year 1990-91 to jointly plan, with the university of Wisconsin medical school, an application for a federal grant to fund the development of area health education centers in medically underserved areas of this state, at least one of which shall be in a rural area.

SECTION 14. **Appropriation changes; university of Wisconsin system.** The dollar amounts in the schedule under section 20.005 (3) of the statutes for the appropriation to the board of regents of the university of Wisconsin system under section 20.285 (1) (a) of the statutes, as affected by the acts of 1989, are increased by \$15,000 for fiscal year 1990-91 to provide funds to the medical school to jointly plan, with the medical college of Wisconsin, inc., an application for a federal grant to fund the development of area health education centers in medically underserved areas of this state, at least one of which shall be in a rural area.

SECTION 15. **Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of section 231.35 (2) to (6), ~~(8)~~ Vetoed and (9) of the statutes takes effect on March 1, 1991. in Part