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1993 WISCONSIN ACT 124

AN ACT to amend 231.01 (4) (a), 231.01 (4) (b) 1, 231.01 (4) (b) 2, 231.01 (4) (c), 231.01 (7) (a) 1, 231.01 (7) (a) 2, 231.01 (7) (a) 4, 231.01 (7) (c), 231.02 (6) (b), 231.03 (5), 231.03 (7), 231.03 (8), 231.03 (11), 231.03 (13), 231.03 (14), 231.03 (15), 231.03 (16), 231.03 (17), 231.03 (18), 231.03 (19), 231.04, 231.05 (1), 231.06, 231.07 (1) (b), 231.07 (2) (a), 231.08 (5), 231.10 (1), 231.12, 231.13 (1) (intro.), 231.13 (2), 231.16 (1), 231.16 (3), 231.20 and 231.23; and to create 66.521 (2) (k) 22, 231.01 (3c), 231.01 (3m), 231.01 (5r), 231.03 (6) (e) and 231.03 (6) (f) of the statutes, relating to: authorizing the Wisconsin health and educational facilities authority to issue bonds to finance certain child care centers and authorizing a city, village or town to issue industrial revenue bonds to finance certain child care centers.

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

SECTION 1. 66.521 (2) (k) 22. of the statutes is created to read:

66.521 (2) (k) 22. Child care centers, as defined in s. 231.01 (3c), except that this subdivision does not apply on or after March 31, 1994.

SECTION 2. 231.01 (3c) of the statutes is created to read:

231.01 (3c) "Child care center" means an institution, place, building or agency that satisfies all of the following:

- (a) Is used exclusively to provide child care services.
- (b) Is not operated for profit.
- (c) Is located in a commercial or industrial park of a city, village or town.
- (d) Provides child care services to a significant number of persons employed by businesses located in the commercial or industrial park in which it is located.

SECTION 3. 231.01 (3m) of the statutes is created to read:

231.01 (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.

SECTION 4. 231.01 (4) (a) of the statutes is amended to read:

231.01 (4) (a) "Cost" means the sum of all costs incurred by a participating health institution or 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 or participating educational institution or participating child care provider for the payment of the project cost.

SECTION 5. 231.01 (4) (b) 1. of the statutes is amended to read:

231.01 (4) (b) 1. The cost incurred by or on behalf of the participating health institution or 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.

SECTION 6. 231.01 (4) (b) 2. of the statutes is amended to read:

231.01 (4) (b) 2. The reasonable cost of financing incurred by a participating health institution ~~or~~ participating educational institution or participating child care provider in the course of the development of the project to the occupancy date.

SECTION 7. 231.01 (4) (c) of the statutes is amended to read:

231.01 (4) (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 ~~or~~ participating educational institution or participating child care provider on and after the date on which the contract between a participating health institution ~~or~~ 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.

SECTION 8. 231.01 (5r) of the statutes is created to read:

231.01 (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.

SECTION 9. 231.01 (7) (a) 1. of the statutes is amended to read:

231.01 (7) (a) 1. A specific health facility ~~or~~ 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.

SECTION 10. 231.01 (7) (a) 2. of the statutes is amended to read:

231.01 (7) (a) 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, employes, 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.

SECTION 11. 231.01 (7) (a) 4. of the statutes is amended to read:

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

of the health facility ~~or~~ educational facility or child care center.

SECTION 12. 231.01 (7) (c) of the statutes is amended to read:

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

SECTION 13. 231.02 (6) (b) of the statutes is amended to read:

231.02 (6) (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 employe of a participating health institution ~~or~~ 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 ~~or~~ 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 employe of the participating health institution ~~or~~ 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 ~~or~~ 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 employe 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 ~~or~~ 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 employe has a past, current or future interest.

SECTION 14. 231.03 (5) of the statutes is amended to read:

231.03 (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

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or other health facilities ~~or~~ educational facilities or child care centers owned by the authority, and designate a participating health institution ~~or~~ 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 ~~or~~ 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 ~~or~~ educational facilities or child care centers owned by the authority.

SECTION 15. 231.03 (6) (e) of the statutes is created to read:

231.03 (6) (e) Finance any project undertaken for a child care center by a child care provider, except that this paragraph does not apply on or after March 31, 1994.

SECTION 16. 231.03 (6) (f) of the statutes is created to read:

231.03 (6) (f) Refinance outstanding debt of any participating child care provider, except that this paragraph does not apply on or after March 31, 1994.

SECTION 17. 231.03 (7) of the statutes is amended to read:

231.03 (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 ~~or~~ 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 ~~or~~ educational facility or child care center rate setting mechanisms.

SECTION 18. 231.03 (8) of the statutes is amended to read:

231.03 (8) Adopt rules for the use of a project or other health facility ~~or~~ 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 ~~or~~ participating educational institution or participating child care provider as its agent to establish rules for the use of a project or other health facilities ~~or~~ educational facilities or child care centers undertaken for that participating health institution ~~or~~ 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.

SECTION 19. 231.03 (11) of the statutes is amended to read:

231.03 (11) Establish or contract with others to carry out on its behalf a health facility ~~or~~ 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 ~~or~~ 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 ~~or~~ 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 ~~or~~ educational facility or child care center project costs and cost containment.

SECTION 20. 231.03 (13) of the statutes is amended to read:

231.03 (13) Make loans to any participating health institution ~~or~~ participating educational institution or, before March 31, 1994, participating child care provider for the cost of a project in accordance with an agreement between the authority and the participating health institution ~~or~~ 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 ~~or~~ educational facility or child care center granted by the participating health institution ~~or~~ 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 ~~or~~ participating educational institution or participating child care provider and approved by the authority.

SECTION 21. 231.03 (14) of the statutes is amended to read:

231.03 (14) Make loans to a health facility ~~or~~ educational facility or, before March 31, 1994, child care center for which bonds may be issued under sub. (6) (b) ~~or~~ (d) or (f) to refinance the health facility's ~~or~~ 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 ~~or~~ educational facility or child care center granted by the participating health institution ~~or~~ participating educational institution or participating child care provider to the authority.

SECTION 22. 231.03 (15) of the statutes is amended to read:

231.03 (15) Mortgage all or any portion of a project and other health facilities ~~or~~ 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 ~~or~~ educational facilities or child care centers or any portion thereof or issued to refund or refinance outstanding indebtedness of participating health institutions ~~or~~ educational institutions or child care providers as permitted by this chapter.

SECTION 23. 231.03 (16) of the statutes is amended to read:

231.03 (16) Lease to a participating health institution ~~or~~ participating educational institution or participating child care provider the project being financed or other health facilities ~~or~~ 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 ~~or~~ 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 ~~or~~ educational facilities or child care centers or for refunding outstanding indebtedness of a participating health institution ~~or~~ participating educational institution or participating child care provider, the authority may convey all or any part of the project or such other health facilities ~~or~~ educational facilities or child care centers to the lessees thereof with or without consideration.

SECTION 24. 231.03 (17) of the statutes is amended to read:

231.03 (17) Charge to and apportion among participating health institutions ~~and~~ 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.

SECTION 25. 231.03 (18) of the statutes is amended to read:

231.03 (18) Make studies of needed health facilities ~~and~~ 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 ~~and~~ educational facilities and child care centers from benefiting from this chapter.

SECTION 26. 231.03 (19) of the statutes is amended to read:

231.03 (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 ~~or~~ participating educational institution or participating child care provider, and to assign the insurance or guaranty as security for the authority's bonds.

SECTION 27. 231.04 of the statutes is amended to read:

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 facilities ~~and institutions~~, participating educational facilities ~~institutions and participating child care providers~~ in an equitable manner, and repaid with appropriate interest over a reasonable period of time.

SECTION 28. 231.05 (1) of the statutes is amended to read:

231.05 (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 ~~and~~ 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.

SECTION 29. 231.06 of the statutes is amended to read:

231.06 Property acquisition. The authority may acquire, directly or by and through a participating health institution ~~or~~ 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 ~~or~~ educational facility or child care center as its agent.

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SECTION 30. 231.07 (1) (b) of the statutes is amended to read:

231.07 (1) (b) Convey to the participating health institution ~~or~~ participating educational institution or participating child care provider the authority's interest in the project and in any other health facility ~~or~~ 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.

SECTION 31. 231.07 (2) (a) of the statutes is amended to read:

231.07 (2) (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 ~~or~~ 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

SECTION 32. 231.08 (5) of the statutes is amended to read:

231.08 (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 ~~or~~ educational facilities or child care centers with 2 or more health institutions ~~or~~ educational institutions or child care providers, as lessees respectively, upon such terms as may be provided for in bond resolutions of the authority.

SECTION 33. 231.10 (1) of the statutes is amended to read:

231.10 (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 ~~or~~ educational institution or child care provider to the payment of bonds authorized under this chapter.

SECTION 34. 231.12 of the statutes is amended to read:

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 ~~and~~ educational facilities and child care centers of the number, size, type, distribution and operation that will assure admission and health care ~~or~~ 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 ~~and~~ 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 ~~or~~ 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.

SECTION 35. 231.13 (1) (intro.) of the statutes is amended to read:

231.13 (1) (intro.) 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 ~~or~~ 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 ~~or~~ educational facility or child care center shall be sufficient at all times to:

SECTION 36. 231.13 (2) of the statutes is amended to read:

231.13 (2) The authority shall pledge the revenues derived and to be derived from a project and other related health facilities ~~or~~ 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 secretary of state.

SECTION 37. 231.16 (1) of the statutes is amended to read:

231.16 (1) The authority may issue bonds to refund any outstanding bond of the authority or indebtedness that a participating health institution ~~or~~ participating

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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. 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 ~~or~~ participating educational institution or participating child care provider to provide sufficient revenues to pay the costs and other items described in s. 231.13.

SECTION 37m. 231.16 (3) of the statutes is amended to read:

231.16 (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) and (14) do not apply to bonds issued under this section.

SECTION 38. 231.20 of the statutes is amended to read:

231.20 Waiver of construction and bidding

requirements. In exercising its powers under s. 101.12, the department of industry, labor and human relations 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 ~~or~~ 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.

SECTION 39. 231.23 of the statutes is amended to read:

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.