

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 1039

(Senator Currie, *et al.*)

Budget and Taxation

Health and Government Operations

Prince George's County Hospital Authority

This emergency bill alters the scope of the Prince George's County Hospital Authority by (1) authorizing the authority to extend the bidding process for the sale of the Prince George's County Health Care System (the system); (2) clarifying the duration of State and county funding commitments to the authority; (3) authorizing the Maryland Health Care Commission (MHCC) to issue an exemption from the certificate of need (CON) process and waive requirements of the State Health Plan; (4) requiring the authority to assess any bids to make specified determinations; (5) requiring the authority to complete its obligations by a specified date; and (6) requiring specified agencies to designate consultants to advise the authority.

Fiscal Summary

State Effect: The Governor's proposed FY 2010 budget includes \$12.0 million in operating support for the authority as required under Chapter 680 of 2008. The State has also committed to provide long-term financial support of \$75.0 million in operating funds (\$15.0 million in FY 2011 through 2015) and \$24.0 million in capital funds (\$4.0 million in FY 2012 and \$10.0 million in FY 2013 and 2014). Under Chapter 680, the State is relieved of this commitment as of March 15, 2009, in the absence of a final agreement on the transfer of the system. This bill reestablishes that commitment. However, as the State's funding commitment is not altered or expanded, the bill is not anticipated to have any additional fiscal impact on the State.

Local Effect: Prince George's County has agreed to match the \$75.0 million in operating funds committed by the State as long-term financial support to the system. This bill reestablishes that commitment. However, as the county's funding commitment is not altered or expanded, the bill is not anticipated to have any additional fiscal impact on the county.

Small Business Effect: None.

Analysis

Bill Summary: The bill expands the mission of the authority to include extending the bidding process. The State and Prince George's County must be relieved of some or all of their long-term funding obligations to support the system (1) only to the extent that any fund balance remains after the transfer of all of the system's components to a new owner(s); or (2) after the authority has expired without agreement on the transfer of all of the system's components to a new owner(s).

MHCC may issue a CON exemption and waive the requirements of the State Health Plan to facilitate a recommendation by the authority to relocate beds or services of all or part of a facility in the system.

The authority must assess any bid or combination of bids to determine (1) whether any bid or combination of bids satisfies the authority's mandate to transfer the system in its entirety to a new owner(s); and (2) whether one or more bidders would be capable of meeting specified requirements and has submitted a bid that meets those requirements. If the authority determines that any bid or combination of bids satisfies specified requirements, and after consultation with stakeholders, the authority must proceed toward a final agreement on the transfer of the system and notify stakeholders. The authority must complete these obligations prior to the expiration of the authority.

To facilitate the transfer of the system, multiple agencies have to designate individuals to serve as advisors to the authority. Advisers must, to the extent specifically requested by the authority, assist with (1) the evaluation of any proposals; and (2) discussions and negotiations with any bidders. Designated advisers are subject to confidentiality agreements. Agencies designating the advisers may adopt appropriate internal policies or restrictions to assure the integrity of any subsequent regulatory proceedings.

Uncodified language in the bill expresses legislative intent that the authority continue its bid review process and proceed toward a final agreement on the transfer of the system. Any agreements in effect on January 1, 2009, including financial commitments on the part of the State and county, relating to the transfer of the system must remain in effect.

Current Law: Chapter 680 of 2008 established the Prince George's County Hospital Authority as a State entity to implement a competitive bidding process for transferring the system to a new owner(s). The State must provide \$12.0 million in operating grant support in fiscal 2009 and 2010 to the authority. The authority terminates May 22, 2010.

Any agreement for the sale or transfer of the system may be made contingent on (1) the receipt of specific funding commitments from the State and county; (2) the transfer of title to all property, assets, and facilities; and (3) the development potential of real property consistent with surrounding areas. Any agreement must include a plan for the satisfaction of any indebtedness, liabilities, or encumbrances on the real property placed and held by Dimensions Healthcare System as of the effective date of the transfer.

The new owner(s) must (1) provide access to, improve, and deliver specified health and hospital services in the county; and (2) be a financially self-sustaining entity capable of operating and achieving specified goals, developing a specified plan, covering the operating and capital expenses from the system, and achieving access to long-term capital resources. Any health care entity that receives the transfer of the system must be recognized as a merged asset system for CON purposes under State health planning laws.

If the authority, acting in good faith and with all due diligence, is unable to make a final selection of a successful bidder and reach final agreement on the transfer of the system before the beginning of the 2009 legislative session, the authority must submit a report explaining why the authority is unable to make a timely selection of a successful bidder and reach a timely agreement on the transfer of the system. The authority may request an extension of up to 60 days. If, at the end of the extension and not more than 60 days from the beginning of the 2009 General Assembly, the authority has not reached a final agreement on the transfer of the system, the State and the county are relieved of their long-term obligation to commit financial support to the system.

Background: The Prince George's County Health System consists of a number of parts including (1) Prince George's Hospital Center, a 269-bed acute-care hospital and regional referral center; (2) Laurel Regional Hospital, a 138-bed acute-care community hospital; (3) the Gladys Spellman Specialty Hospital and Nursing Center, a 110-bed comprehensive care and chronic care facility; and (4) the Bowie Health Center. Prince George's County owns the majority of the facilities which are currently under the control of or operated by Dimensions Healthcare System, under a long-term lease agreement.

The system has been faced with financial difficulties for the past several years, experiencing lost market share, revenue losses, low liquidity, significant deferred capital needs, poor bond ratings, and a disadvantageous payor mix. Both the State and Prince George's County have provided significant financial support. Without that financial support, the system would have faced operational deficits of \$19.7 million in fiscal 2008, almost \$14.0 million in fiscal 2007, and just over \$6.8 million in fiscal 2006. As of October 2008, fiscal 2009 net income without government support was -\$8.2 million.

Chapter 680 included a specific timeframe for the process of transferring the system to a new owner. Until the most recent deadline, all statutory deadlines have been met. The latest deadline required a proposed agreement to transfer the system to a new owner(s) to be completed prior to the beginning of the 2009 legislative session. Although the authority and other agencies have worked diligently to fulfill both the intent and deadlines contained in Chapter 680, to date the work has not resulted in an agreement to transfer the system to a new owner(s). Nevertheless, as potential bidders have been identified, the authority needs more time to work toward a bid or combination of bids that results in transfer of the whole system. Thus, the authority submitted a request for a 60-day extension of the agreement deadline on January 14, 2009, and continues to deliberate on the responses it has received with regard to the sale of the system. If a final agreement has not been reached by the end of this extension, March 15, 2009, or no additional legislative action is taken, the State and county are relieved of their long-term financial obligations.

As no bidders are positioned to assume complete control over all of the components of the system, the authority seeks a change in its legislative mandate. The State recently agreed to provide \$75.0 million in operating support over five years and \$24.0 million in capital support over three years – to meet the long-term funding requirement under Chapter 680 in addition to the short-term amounts specified – as part of that effort to seek new ownership. Prince George’s County is matching the operating support.

Additional Information

Prior Introductions: None.

Cross File: HB 1486 (Delegate Hubbard, *et al.*) – Health and Government Operations.

Information Source(s): Prince George’s County, Governor’s Office, Department of Health and Mental Hygiene, Department of Legislative Services

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Analysis by: Jennifer B. Chasse

Direct Inquiries to:
(410) 946-5510
(301) 970-5510