

**CALIFORNIA CODES**  
**GOVERNMENT CODE**  
**SECTION 15438.5**  
(as of May 1, 2012)

15438.5. (a) It is the intent of the Legislature in enacting this part to provide financing only, and, except as provided in subdivisions (b), (c), and (d), only to participating health institutions that can demonstrate the financial feasibility of their projects. It is further the intent of the Legislature that all or part of any savings experienced by a participating health institution, as a result of that tax-exempt revenue bond funding, be passed on to the consuming public through lower charges or containment of the rate of increase in hospital rates. It is not the intent of the Legislature in enacting this part to encourage unneeded health facility construction. Further, it is not the intent of the Legislature to authorize the authority to control or participate in the operation of hospitals, except where default occurs under the terms of an agreement with the authority.

(b) When determining the financial feasibility of projects, the authority shall consider the more favorable interest rates reasonably anticipated through the issuance of revenue bonds under this part. It is the intent of the Legislature that the authority attempt in whatever ways possible to assist participating health institutions to finance projects that will meet the financial feasibility standards developed under this part.

(c) If a participating health institution seeking financing for a project pursuant to this part does not meet the guidelines established by the authority with respect to bond rating, the authority may nonetheless give special consideration, on a case-by-case basis, to financing the project if the participating health institution demonstrates to the satisfaction of the authority the financial feasibility of the project, and the performance of significant community service. For the purposes of this part, a participating health institution that performs a significant community service is one that contracts with Medi-Cal or that can demonstrate, with the burden of proof being on the participating health institution, that it has fulfilled at least two of the following criteria:

(1) On or before January 1, 1991, has established, and agrees to maintain, a 24-hour basic emergency medical service open to the public with a physician and surgeon on duty, or is a children's hospital as defined in Section 14087.21 of the Welfare and Institutions Code, that jointly provides basic or comprehensive emergency services in conjunction with another licensed hospital. This criterion shall not be utilized in a circumstance where a small and rural hospital, as defined in Section 442.2 of the Health and Safety Code, has not established a 24-hour basic emergency medical service with a physician and surgeon on duty or will operate a designated trauma center on a continuing basis during the life of the revenue bonds issued by the authority.

(2) Has adopted, and agrees to maintain on a continuing basis during the life of the revenue bonds issued by the authority, a policy, approved and recorded by the facility's board of directors, of treating all patients without regard to ability to pay, including, but not limited to, emergency room walk-in patients.

(3) Has provided and agrees to provide care, on a continuing basis during the life of the revenue bonds issued by the authority, to Medi-Cal and uninsured patients in an amount not less than 5 percent of the facility's adjusted inpatient days as reported on an annual basis to the Office of Statewide Health Planning and Development.

(4) Has budgeted at least 5 percent of its net operating income to meeting the medical needs of uninsured patients and to providing other services, including, but not limited to, community education, primary care outreach in ambulatory settings, and unmet nonmedical needs, such as food, shelter, clothing, or transportation for vulnerable populations in the community, and agrees to continue that policy during the life of the revenue bonds issued by the authority.

(d) Enforcement of the conditions under which the authority issues bonds pursuant to this section shall be governed by the enforcement conditions under Section 15459.4.