

SENATE, No. 2368

[Senate, October 22, 2007](#)

The committee on [Health Care Financing](#) to whom was referred the Senate bill (accompanied by bill, [Senate, No. 688](#)) relative to creating a community hospital capital reserve fund , reported, the accompanying bill of the same title (Senate, No. 2368).

[Richard T. Moore](#),
For the committee.

[Version with line numbers](#)



The Commonwealth of Massachusetts



In the Year Two Thousand and Seven.

AN ACT TO CREATE A COMMUNITY HOSPITAL CAPITAL RESERVE FUND

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The Health and Educational Facilities Authority Act, as enacted by Chapter 614 of the Massachusetts Acts of 1968, as previously amended, is hereby further amended by inserting the following after sections 2-10(f) thereof:

(g) Community Hospital Capital Reserve Fund.

(i) For the benefit of nonprofit community hospitals within the commonwealth licensed by the department of public health, the Authority may create and establish one or more special funds, herein individually referred to as a Community Hospital Capital Reserve Fund, and to the extent so created, shall pay into each such Community Hospital Capital Reserve Fund any monies appropriated and made available by the commonwealth for the purposes of such fund, any proceeds of sale of notes or bonds to the extent provided in the resolution, trust agreement, or indenture of the Authority authorizing issuance thereof, any other monies or funds of the Authority that the Authority determines to deposit in the fund and any other monies which may be available to the Authority only for the purpose of such fund from any other source or sources. All monies held in the Community Hospital Capital Reserve Fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the Authority which are secured by such Community Hospital Capital Reserve Fund as the same mature (which herein shall include becoming payable by sinking fund installment), the purchase of such bonds, the payment of interest on such bonds, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that, monies in a Community Hospital Capital Reserve Fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such Fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on outstanding bonds which are secured by such Community Hospital Capital Reserve Fund, except for the purpose of paying the principal of and interest on such bonds maturing and becoming due or for the retirement of such bonds in accordance with the terms of any contract between the Authority and its bondholders and for the payment of which other monies pledged to secure such bonds are not available. Any income or interest earned by, or increment to, a Community Hospital Capital Reserve Fund due to the investment thereof shall be used by the Authority for the purposes of such Community Hospital Capital Reserve Fund.

(ii) The Authority shall not issue bonds which are secured by a Community Hospital Capital Reserve Fund at any time if the maximum amount of principal and interest maturing or becoming due in a succeeding calendar year on such bonds then to be issued and on all other outstanding bonds of the Authority which are secured by such Community Hospital Capital Reserve Fund will exceed the amount of such Community Hospital Capital Reserve Fund at the time of issuance unless the Authority, at the time of issuance of such bonds, shall deposit in such Fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such Fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on such bonds then to be issued and on all other outstanding bonds of the Authority which are secured by such Community Hospital Capital Reserve Fund.

(iii) To assure the continued operation and solvency of the Authority for the carrying out of the public purposes of this act, provision is made in paragraph (i) for the accumulation in a Community Hospital Capital Reserve Fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all outstanding bonds which are secured by such Community Hospital Capital Reserve Fund. In order further to assure such maintenance of a Community Hospital Capital Reserve Fund there shall be annually appropriated and paid to the Authority for deposit in such Community Hospital Capital Reserve Fund such sum, if any, as shall be certified by the executive director of the Authority to the governor as necessary to restore such Community Hospital Capital Reserve Fund

to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the outstanding bonds which are secured by such Community Hospital Capital Reserve Fund. The executive director of the Authority shall annually, on or before December first, make and deliver to the governor his certificate stating the amount, if any, required to restore a Community Hospital Capital Reserve Fund to the amount aforesaid and the amount so stated, if any, shall be appropriated and paid to the Authority during the then current fiscal year of the commonwealth.

(iv) For the purposes of this subsection (g), in computing the amount of a Community Hospital Capital Reserve Fund, securities in which all or a portion of such Fund are invested shall be valued at par, or if purchased at less than par, at their cost to the Authority, unless otherwise provided in the resolution, trust agreement or indenture authorizing the issuance of bonds secured by the Fund.

(v) <![endif]> For the purposes of this subsection (g), the amount of any letter of credit, insurance contract, surety bond, or similar financial undertaking available to be drawn upon and applied to obligations to which money in the Community Hospital Capital Reserve Fund may be applied is deemed to be and shall be counted as money in said Fund. For the purposes of this subsection (g), in calculating the maximum amount of interest due in the future on variable rate bonds or bonds with respect to which the interest rate is not at the time of calculation determinable, the interest rate shall be calculated at the maximum interest rate on such bonds or such lesser interest rate as shall be certified by the Authority as an appropriate proxy for such variable or nondeterminable interest rate.”

(vi) Bonds secured by the Community Hospital Capital Reserve Fund shall be issued by the Authority solely for the benefit of nonprofit community hospitals within the commonwealth licensed by the department of public health.

SECTION 2. The Health and Educational Facilities Authority Act, as enacted by Chapter 614 of the Massachusetts Acts of 1968, as heretofor amended, is hereby further amended by deleting the last sentence of Section 2-12 thereof and inserting in its place the following: “Except as otherwise permitted pursuant to Section 2-10(g) of this act, the issuance of revenue bonds under the provision of this act shall not directly or indirectly or contingently obligate the commonwealth or any political subdivision thereof to levy or to pledge any form of taxation whatever therefore or to make any appropriation of their payment.”