

ONE HUNDRED SECOND LEGISLATURE - SECOND SESSION - 2012
COMMITTEE STATEMENT
LB995

Hearing Date: Monday February 13, 2012
Committee On: Health and Human Services
Introducer: Heidemann
One Liner: Change provisions relating to county medical facilities and public hospitals

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 7 Senators Bloomfield, Campbell, Cook, Gloor, Howard, Krist, Lambert
Nay:
Absent:
Present Not Voting:

Proponents: Senator Lavon Heidemann Larry Dix Marty Fattig Andrew Kloeckner	Representing: District #1 Nebraska Association of County Officials Nemaha County Hospital Baird Holm, LLP
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Opponents:	Representing:
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Neutral:	Representing:
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Summary of purpose and/or changes:

LB995 corrects, revises, updates and clarifies statutes applicable to county hospitals. The bill is intended to reconcile the statutes of county hospitals to regulate in a similar manner as currently relates to peer governmental and nonprofit hospitals. LB 995, also, addresses issues regarding peer review and open meetings laws; and harmonizes state law with federal law requirements for arms length bargaining.

Section Summary

Section 1. Amends the County Purchasing Act to clarify that purchases, or leases of personal property or services, by county hospitals and other section 23-3501 facilities are not purchases subject to the act.

Section 2. Clarifies that general obligation bonds may be issued to finance replacement facilities. This continues to require approval of county voters. Clarifies that bond proceeds may be used to operate clinics and to acquire equipment and other property necessary for hospital operations.

Section 3. Reorganizes existing language regarding the establishment of county hospital boards of trustees. Allows the county board to increase the number of hospital board trustees to nine. Makes individuals who have been excluded from participation in any federally funded health care program (e.g., Medicare or Medicaid) ineligible to serve as a hospital trustee. Requires dialogue between county boards and hospital boards of trustees regarding desired skills and qualifications of new appointees to the hospital board.

Section 4. Deletes existing language stating hospital trustee powers and replaces it with clearer and more current language. Some of the powers set forth in this section currently exist in section 23-3504 and other sections repealed by LB995, while other powers are new to county hospital boards. Significant additions and/or changes include the following:

(3) The power to sell, lease, exchange, encumber or otherwise dispose of the hospital's property. If the sale, lease, exchange or encumbrance is of all, or substantially all, of the hospital's property the hospital board may only take such action upon receiving the approval of the county board. Existing law provides no authority for a county hospital board to encumber hospital property.

(4) The power to borrow money on an unsecured basis (line of credit) and the power to borrow money secured by the facility or its revenues. Currently, the only method a county hospital may independently incur debt is through the warrant system. LB995 authorizes issuance of revenue bonds, previously no ability existed. This gives the county and county hospital the latitude to relieve taxpayers of the burdens of general obligation bonds by refinancing them using revenue bonds.

(6) The authority to make any and all improvements or additions to the hospital's facility and/or equipment. If the cost of the improvement or addition is greater than 50 percent of the replacement cost of the facility, the hospital board must obtain approval of the county board. Previously, if the hospital wished to improve the facility or purchase equipment at a cost greater than 50 percent of the replacement cost of the facility or equipment, county voter approval was required.

(8) The authority to pay all claims due and owing by the facility. Current language requires that each check be issued pursuant to "an order upon its treasurer, signed by the superintendent of such facility and countersigned by the chairperson and secretary of the board of trustees."

(11) The power to control, own, and operate clinics and other health care facilities outside the county hospital's jurisdiction. Hospital districts and nonprofit hospitals currently hold this power; this is intended to put county hospitals on similar footing.

Section 5. Consolidates all of the hospital board's duties into one section. Clarifies that county hospitals are subject to investment standards and guidelines established for political subdivisions.

Section 6. General obligation bonds may be issued upon the approval of the county board to finance the cost of improvements, additions, equipment and other property deemed necessary for hospital operations. This is different than the authority to issue bonds for the construction or replacement of a facility under section 23-3501. Changes the maximum repayment period from twenty to thirty years, consistent with the current market. Clarifies that county voters must approve the issuance of bonds if taxes will be levied to pay such debt in excess of the constitutional levy limitation.

Section 7. Clarifies that if gifts and donations are secured to help finance the construction or replacement of a county hospital, the rest of the necessary funds may be obtained using general obligation bonds under section 23-3501.

Section 8. Deletes contradictory language providing for management of the county hospital by the county board.

Section 9. Clarifies that any suit brought to recover the cost of care is to be initiated under the name of the county hospital board of trustees.

Section 10. Provides that the administrator of the county hospital, or his or her designee, may make decisions to compromise or waive hospital fees pursuant to hospital policy, such as a charity care policy.

Section 11. Clarifies that fees for hospital services are collected by the county hospital.

Section 12. Deletes antiquated language and an incorrect statutory reference.

Section 13. Defines "tangible benefit" as any activity that promotes health or furthers a provider's mission.

Section 14. Deletes existing powers that are clearly unconstitutional if exercised by a governmental hospital, such as authority to own or merge with for-profit corporations, LLCs, partnerships, etc. Adds specific authority for governmental hospitals to engage in contractual joint ventures with other governmental hospitals or nonprofit hospitals and health care organizations when doing so provides a tangible benefit. Provides that a governmental hospital may hold a membership interest in a nonprofit corporation when holding that membership interest provides a tangible benefit. Authorizes the operation of one or more medical offices outside a governmental hospital's jurisdiction.

Section 15. States legislative intent that holding a membership interest in a nonprofit corporation or participating in a contractual joint ventures does not make a governmental hospital a subscriber or owner of capital stock or an interest in a private corporation, which would run afoul of Nebraska Constitutional prohibitions. A membership interest in a nonprofit entity is not transferable and does not constitute equity of the nonprofit entity.

Section 16. Reconciles statutes regarding the exceptions and requirements of approval of the department and notice to the Attorney General to include the sale of a county hospital approved under the act.

Section 17. Provides an exception to open meetings requirements for public hospitals when they undertake a peer review or professional review activity or engage in any review or discussion of a medical staff investigation or disciplinary action. Provides an additional exception to open meetings requirements when federal law requires negotiation at arms length of a transaction with a referral source.

Section 18. Provides that if any provision of LB995 is held to be unconstitutional or invalid, the remaining sections shall remain valid.

Section 19. Repeals the statutes amended by LB995.

Section 20. Repeals outright sections 23-3506, 23-3507 and 23-3514, which were consolidated into new sections 23-3504 or 23-3505.

Section 21. Emergency clause causing the act to take effect when passed and approved.

Explanation of amendments:

The Committee Amendment adds that:

1. Any issuance of revenue bonds for which the revenue of the facility has been pledged shall be subject to approval by the county board; and
2. The board of trustee of the county hospital shall file bylaws, rules, and regulations with the county board.

Kathy Campbell, Chairperson