

ENGROSSED HOUSE  
BILL NO. 1579

BY: HUDSON, JOHNSON (Glen),  
HAMILTON (James), ADAIR,  
BENSON, COTNER, GLOVER,  
MITCHELL, NIEMI and  
SMITH (Bill) of the  
HOUSE

and

FISHER and WILLIAMS  
(Penny) of the SENATE

AN ACT RELATING TO SCHOOLS; AMENDING SECTION 44,  
CHAPTER 322, O.S.L. 1985, AS LAST AMENDED BY  
SECTION 1, CHAPTER 374, O.S.L. 1989 (60 O.S. SUPP.  
1990, SECTION 177.2), WHICH RELATES TO SCHOOL  
FINANCE; PROHIBITING SCHOOL DISTRICTS FROM  
PARTICIPATING IN CERTAIN SHORT-TERM CASH MANAGEMENT  
PROGRAMS UNLESS CERTAIN APPROVAL HAS BEEN GRANTED;  
DEFINING TERM; MODIFYING THE MEMBERSHIP OF THE  
OKLAHOMA COMMISSION ON SCHOOL AND COUNTY FUNDS  
MANAGEMENT; MODIFYING AND ADDING TO THE POWERS AND  
DUTIES OF THE OKLAHOMA COMMISSION ON SCHOOL AND  
COUNTY FUNDS MANAGEMENT; REQUIRING SCHOOL DISTRICTS  
AND COUNTIES TO FILE CERTAIN REQUESTS FOR  
PARTICIPATION IN CERTAIN PROGRAMS; REQUIRING SCHOOL  
DISTRICTS AND COUNTIES TO SUBMIT CERTAIN  
INFORMATION; REQUIRING OFFICE OF ATTORNEY GENERAL  
TO PROVIDE LEGAL ASSISTANCE; MAKING CERTAIN ACTS  
UNLAWFUL; PRESCRIBING PUNISHMENT THEREFOR;  
AUTHORIZING REMOVAL FROM OFFICE; REQUIRING  
REVOCATION OF CERTAIN LICENSES; PROHIBITING CERTAIN  
ENTITIES FROM ENGAGING IN CERTAIN ACTIVITIES;

AUTHORIZING REVOCATION OR FORFEITURE OF CERTAIN CERTIFICATES; AMENDING SECTION 123, CHAPTER 204, O.S.L. 1987 (70 O.S. SUPP. 1990, SECTION 5-136.1), WHICH RELATES TO SCHOOL FINANCE; AUTHORIZING SCHOOL DISTRICT AND COUNTY PARTICIPATION IN CERTAIN SHORT-TERM CASH MANAGEMENT PROGRAMS; PLACING LIMITATIONS ON PARTICIPATION IN CERTAIN SHORT-TERM CASH MANAGEMENT PROGRAMS; AMENDING 19 O.S. 1981, SECTION 347, AS AMENDED BY SECTION 23, CHAPTER 180, O.S.L. 1988 (19 O.S. SUPP. 1990, SECTION 347), WHICH RELATES TO CERTIFICATES OF INDEBTEDNESS OF COUNTIES; MODIFYING PROVISIONS RELATING TO CERTIFICATES OF INDEBTEDNESS; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 44, Chapter 322, O.S.L. 1985, as last amended by Section 1, Chapter 374, O.S.L. 1989 (60 O.S. Supp. 1990, Section 177.2), is amended to read as follows:

Section 177.2 A. No public trust, school district or county shall issue any bonds, notes, nonpayable warrants, certificates of participation, certificates of indebtedness or any other evidence of indebtedness ~~the proceeds of which are to be used to purchase the nonpayable warrants of~~ for the purpose of short-term cash management by any school district or county unless such school district or county shall have been approved for participation by the Oklahoma Commission on School and County Funds Management ~~as provided in this section.~~

As used in this section, the phrase "short-term cash management" shall mean investments or deposits of monies of the school district

or county for the purpose of managing cash flow which are outside of the perimeters of normal accounting and management procedures currently required by law and regulation for state, federal and local monies received by the district or county, and shall include, but shall not be limited to, issuance of certificates of indebtedness, bonds, notes, certificates of participation or any other evidence of indebtedness.

B. ~~There is hereby created the~~ The Oklahoma Commission on School and County Funds Management, which shall consist of the State Superintendent of Public Instruction, the Director of the State Department of Vocational and Technical Education, and the ~~Director of the Office of Public Affairs~~ State Bond Advisor. The Commission shall have the power and duty to:

1. Receive requests of school districts for authorization to participate in a ~~bond issue~~ short-term cash management program where the ~~bond~~ proceeds will be used to ~~purchase non-payable warrants;~~ provided, such facilitate cash-flow management from certifying authorities pursuant to subsection C of this section. The requests shall must be received by the Commission from the certifying authority on or before December 1 in order to be considered and approved for participation by the school district or county for the next fiscal year, unless such date is extended by the Commission;

~~2. Forward requests of school districts for authorization to the certifying authority deemed appropriate, which shall be the State Superintendent of Public Instruction or the Director of the State Department of Vocational and Technical Education; provided, that the certifying authority shall recommend approval or disapproval to the Commission on each request for authorization by December 31 following the date the request is received by the Commission;~~

~~3. Receive recommendations of approval or disapproval of school district requests to participate from the certifying authorities and~~

~~review such recommendations, hear appeals by school districts whose requests have been recommended for disapproval by the certifying authority, approve~~

2. Approve or reject each request for participation, and forward notice of its decisions the decision of the Commission to the requesting school districts district or county and to the Office of the Governor; provided, that the. The Commission shall approve or reject a request ~~by January 15~~ within sixty (60) days following the date it receives ~~a recommendation~~ the request and accompanying information from a certifying authority; ~~and~~

3. Certify the need for and use of funds generated by the proposed short-term cash management based on the financial projections of the school district or county, including the projected revenue shortfall, estimated income, and anticipated surplus balances on June 30 of the current fiscal year in the entity's general and building funds;

4. Establish reasonable limits for fees, commissions and other compensation paid to any person or firm involved with the proposed short-term cash management program;

5. Establish a scale which limits participation by a school district or county to a certain percentage of the estimated budget of the school district or county. In no event shall the scale so established authorize a school district or county to participate in a short-term cash management program in an amount which exceeds twenty-five percent (25%) of the entity's approved annual budget;

6. Establish limitations which prohibit school districts and counties which are participating in a short-term cash management program from incurring debt, excluding general obligation bonds, after the school district or county has begun participation in the program until the program has concluded;

7. Submit an annual report, by July 1 of each year, to the Speaker of the House of Representatives, the President Pro Tempore

of the Senate, the Governor, the State Auditor and Inspector and the Attorney General, detailing the participation of each school district and county for the prior fiscal year in the short-term cash management programs authorized by this act; and

~~4. On or before September 1, 1985, prescribe~~ 8. Prescribe methods and procedures by which school districts or counties may request authorization ~~as herein provided~~ to participate in short-term cash management programs.

C. ~~School~~ Beginning with fiscal year 1993, school districts and counties desiring to participate in a ~~bond issue as herein defined~~ short-term cash management program as provided in subsection A of this section shall file a request with the ~~Commission~~ certifying authority on such forms as the Commission shall prescribe. The certifying authority for school districts shall be the State Superintendent of Public Instruction and for area vocational-technical school districts, shall be the Director of the State Department of Vocational and Technical Education and for counties, shall be the State Board of Equalization. Such request shall be accompanied by:

1. a letter of intent signed by the majority of the members of the school district's board of education and by the school district's superintendent or by a majority of the county commissioners of a county. Such letter of intent shall state that the school district or county intends to and has need to participate in ~~the bond issue~~ a short-term cash management program and that the board of education or county commission has authorized the submission of such request;<sup>7i</sup>

2. the designation of all persons and firms receiving compensation, directly or indirectly, involved with the proposed short-term cash management program, and the name and address of the person or firm. All persons thus designated shall not be paid out of school or county funds;

3. a verification from the Administrator of the Oklahoma Department of Securities that all persons receiving compensation, directly or indirectly, for providing advice to the school districts or counties concerning participation in the program or for endorsing participation in the program are appropriately registered with the Oklahoma Department of Securities as investment advisers or investment adviser representatives, as applicable, and that all persons receiving compensation, directly or indirectly, for the placement of the securities are registered as broker-dealers or agents, as applicable;

4. the estimated income and expenditures of the school district or county for the year for which the school district or county wishes to participate in a short-term cash management program. The appropriate certifying authority shall develop and provide an income and expenditure disclosure form for use by a school district or county which desires to participate in a short-term cash management program and shall review the information provided by the school district or county. The information supplied in the disclosure form must reflect the ability of the school district or county to pay off an amount equal to the district's liability on the program from the income from the fiscal year of participation, prior to approval for participation by the Commission. If the Commission determines that a question exists concerning any information submitted pursuant to this subsection, the Commission may request any additional information from the school district or county that it deems necessary;

5. a copy of the financial disclosure statement required to be filed pursuant to Section 4223 of Title 74 of the Oklahoma Statutes, for each county commissioner of a county requesting to participate in a program and for each county treasurer who serves as a school district treasurer, in school districts requesting participation. School board members and school district treasurers who are not also

serving as county treasurers, shall be required to execute and forward to the certifying authority Financial Disclosure Statements as described in Section 4225 of Title 74 of the Oklahoma Statutes on forms supplied by the Oklahoma Council on Campaign Compliance;

6. a notarized sworn affidavit executed by each member of a board of education of a school district or by each county commissioner of a county, which states that such member or commissioner has no direct or indirect financial interest in the short-term cash management program being requested. The affidavit shall be on a form prescribed by the Commission on School and County Funds Management; and

7. any ~~required~~ application and other materials including any necessary financial information, as may be required by the Commission and by the public trust proposing to issue bonds for such purpose. Such letter of intent may designate an agent to assist the school district in preparing and submitting such applications and other materials, provided that any such agent so designated shall not be paid out of school funds for such assistance.

If the request and accompanying information meet the requirements of this section, the certifying authority shall forward the request and accompanying information to the Oklahoma Commission on School and County Funds Management.

D. If the information required to be submitted pursuant to this section meets all requirements established by the Commission and the Commission has approved such information and participation, and the participation is otherwise in accordance with law, the Oklahoma Commission on School and County Funds Management shall authorize the participation of the school district or county in the short-term cash management program. The Commission shall notify the school district or county in writing, whether the requirements of this section have been satisfied and approved.

E. School districts and counties participating in a short-term cash management program authorized by this section shall include as probable income in its annual estimate of needs, anticipated investment income from such participation.

F. The Office of the Attorney General shall provide legal assistance to the Oklahoma Commission on School and County Funds Management.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 177.3 of Title 60, unless there is created a duplication in numbering, reads as follows:

A. Any officer of a school district or county who authorizes the participation of the school district or county to participate in a short-term cash management program without the approval of the Oklahoma Commission on School and County Funds Management or who submits any false or misleading information required to be submitted to the Commission pursuant to Section 177.2 of Title 60 of the Oklahoma Statutes, shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) or imprisoned in the county jail for not to exceed one (1) year, or by both such fine and imprisonment, and shall forfeit and be removed from office pursuant to Section 1181 et seq. of Title 22 of the Oklahoma Statutes or Section 91 et seq. of Title 51 of the Oklahoma Statutes. In addition, any professional license issued to an officer by a state agency or instrumentality who has been convicted of a misdemeanor pursuant to this section shall be revoked.

B. Any person who receives any payment or compensation, indirectly or directly, for the endorsement of any short-term cash management program and who has not been properly designated or registered, if registration is required, pursuant to subsection C of Section 177.2 of Title 60 of the Oklahoma Statutes, shall be guilty

of a misdemeanor and upon conviction, shall be punished according to the penalties prescribed in subsection A of this section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 177.4 of Title 60, unless there is created a duplication in numbering, reads as follows:

Corporations, partnerships and other entities which derive income from public funds shall be prohibited from endorsing any short-term cash management program, as defined by Section 177.2 of Title 60 of the Oklahoma Statutes, and receiving any compensation for the endorsement thereof. Any corporation or partnership which violates the provisions of this section may have the certificate of incorporation or certificate of partnership of the entity revoked or forfeited pursuant to law.

SECTION 4. AMENDATORY Section 123, Chapter 204, O.S.L. 1987 (70 O.S. Supp. 1990, Section 5-136.1), is amended to read as follows:

Section 5-136.1 With respect to school districts seeking ~~cost recovery, interim or alternative means of funding~~ cash-flow management during any fiscal year, any ~~such~~ school district may issue and deliver certificates of indebtedness bearing a stated maturity date for the purpose of participating in a short-term cash management program pursuant to the provisions of Section 177.2 of Title 60 of the Oklahoma Statutes to fund the estimated costs of operations, capital expenditures or other lawful costs of the school district for the current fiscal year. ~~The~~ All certificates of indebtedness executed pursuant to a cash management program shall be issued, delivered and registered for payment in the manner and under the authority set forth for school district warrants; provided, any such certificates of indebtedness ~~may~~ shall be made payable on any date within the then current fiscal year and may be purchased for value through the funding of uncollateralized investments made for the benefit of and on behalf of the school district. ~~Interim~~

~~financing and cost recovery~~ Short-term cash management programs established ~~for the benefit~~ of any school district may lawfully provide for the investment of note or bond proceeds by the issuer of the obligations with the benefit and use of such proceeds assured to the school district ~~if, as and~~ when needed by the school district for that fiscal year and as approved by the Oklahoma Commission on School and County Funds Management. In no case may ~~certificates of indebtedness be issued, delivered and made payable on a date extending~~ a school district participate in a short-term cash management program in any given fiscal year beyond ~~the then current~~ that fiscal year, ~~and any such certificates of indebtedness.~~ The extent of the participation in any given fiscal year shall be within the estimates and appropriations approved and certified by the County Excise Board in accordance with Section 2499 of Title 68 of the Oklahoma Statutes for the appropriate fiscal year and within the approved request for participation issued by the Oklahoma Commission on School and County Funds Management. ~~This provision further broadens and expands upon the statutes pertaining to issuance of certificates of indebtedness and payable and nonpayable warrants within any fiscal year and those provisions dealing with the use and investment of funds provided for the use and benefit of school districts electing to participate in the above-mentioned programs.~~

SECTION 5. AMENDATORY 19 O.S. 1981, Section 347, as amended by Section 23, Chapter 180, O.S.L. 1988 (19 O.S. Supp. 1990, Section 347), is amended to read as follows:

Section 347. A. With respect to counties seeking ~~deficit,~~ interim or alternative means of funding cash-flow management during any fiscal year, any ~~such~~ county may issue and deliver certificates of indebtedness bearing a stated maturity date for the purpose of participating in a short-term cash management program pursuant to the provisions of Section 177.2 of Title 60 of the Oklahoma Statutes to fund the estimated costs of operations, capital expenditures or

other lawful costs of the county, or any of its public trusts as operator of its property, for the current fiscal year. ~~The~~ All certificates of indebtedness shall be issued, delivered and registered for payment in the manner and under the authority set forth for county warrants; provided, any such certificates of indebtedness ~~may~~ shall be made payable on any date within the then current fiscal year and may be purchased for value through the funding of uncollateralized investments made for the benefit of and on behalf of the county. ~~Interim or capital financing and cost recovery programs established for the benefit~~ Short-term cash management programs of any county may lawfully provide for the investment of note, bond or certificate proceeds by the issuer of the obligations with the benefit and use of such proceeds assured to the county ~~if, as and~~ when needed by the county. Monies remaining in any such investment agreement or investments may be applied to or credited for the payment of the certificate of indebtedness by trust instruction when due in a like and similar manner provided for the transfer of monies by subsection J of Section 5-135 of Title 70 of the Oklahoma Statutes. In no case may ~~certificates of indebtedness be issued, delivered and made payable on a date extending a county participate in a short-term cash management program in any given fiscal year beyond the then current that~~ certificates of indebtedness be issued, delivered and made payable on a date extending a county participate in a short-term cash management program in any given fiscal year beyond ~~the then current that~~ that fiscal year. ~~In the case of certificates of indebtedness issued by a county, any such certificate of indebtedness~~ The extent of the participation in any given fiscal year shall be within the estimates and appropriations approved and certified by the county excise board in accordance with Section 2499 of Title 68 of the Oklahoma Statutes for the appropriate fiscal year within the approved request for participation issued by the Oklahoma Commission on School and County Funds Management. ~~This provision further broadens and expands upon the statutes pertaining to issuance of certificates of indebtedness and payable and nonpayable warrants within any fiscal year and those~~

~~provisions dealing with the use and investment of funds provided for the use and benefit of any county electing to participate in the above-mentioned programs.~~

B. It shall be unlawful for the board of county commissioners to issue any certificate of indebtedness, in any form, in payment of or representing or acknowledging any account, claim, or indebtedness against the county, or to make any contracts for or incur any indebtedness against the county in excess of the amount then unexpended and unencumbered of the sum appropriated for the specific item of estimated needs for such purpose theretofore made, submitted, and approved or authorized for such purpose by a bond issue. All warrants upon the county treasurer, for a county purpose, shall be issued upon the order of the board of county commissioners, drawn by the county clerk, signed by the chairman of the board, and attested by the signature of the county clerk, with the county seal attached. Each warrant shall designate the fund, department and appropriation account, and shall further show the nature of the indebtedness acknowledged by the allowance of the claim so paid. Whenever a county officer holding an elective office will not immediately succeed himself in said office, it shall be unlawful for the board of county commissioners, during the first six months of the fiscal year in which said term of office expires, to approve claims for the operation of said office totaling in excess of one-half the amount allocated for the operation of said office during said fiscal year, unless approval in writing is obtained from the county excise board, and any claim in excess thereof and any warrant issued pursuant thereto shall be null and void.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 11th day of March, 1991.

Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1991.

President of the Senate