STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 47 BY: CAPPS of the SENATE

and

BENSON of the HOUSE

AS INTRODUCED

AN ACT RELATING TO PUBLIC FINANCE AND STATE GOVERNMENT; AMENDING SECTION 99, CHAPTER 222, O.S.L. 1987, AS LAST AMENDED BY SECTION 4, CHAPTER 342, O.S.L. 1990 (62 O.S. SUPP. 1990, SECTION 695.9), WHICH RELATES TO THE BOND OVERSIGHT COMMISSIONS AND SECTION 15, CHAPTER 342, O.S.L. 1990 (74 O.S. SUPP. 1990, SECTION 5063.4g), WHICH RELATES TO THE CREDIT ENHANCEMENT RESERVE FUND; MODIFYING DATE OF APPLICATION OF CERTAIN PROVISIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY Section 99, Chapter 222, O.S.L. 1987, as last amended by Section 4, Chapter 342, O.S.L. 1990 (62 O.S. Supp. 1990, Section 695.9), is amended to read as follows:

Section 695.9 A. No State Governmental Entity shall issue any obligations unless such obligations have been approved by the Executive Bond Oversight Commission and the Legislative Bond Oversight Commission as provided for in Section 695.8 of this title;

provided, however, that in no event shall the Commissions' approval be required for the issuance of any obligations pursuant to a remarketing or a change in interest rate or maturity under the terms of indentures or agreements securing obligations heretofore issued prior to July 1, 1987, or pursuant to the provisions of Section 695.1 et seq. of this title.

B. 1. Within ten (10) days following any formal preliminary action with respect to any financing proposed to be obtained through the issuance of its obligations, any State Governmental Entity shall file with the Executive Commission and the Legislative Commission on the same day a written description of the nature, need and purpose of such proposed financing. The Commissions shall review the description of the proposed financing in order to either approve or disapprove the purpose to be served by the issuance of said State Governmental Entity obligations and for compliance with any applicable provisions of federal, state or other laws. The review as to purpose shall be strictly limited to the determination provided for in Section 695.8 of this title. The proposed financing shall be deemed approved if neither the Executive Commission nor the Legislative Commission disapproves the proposed financing within the thirty-day period following such filing, unless the proposed financing involves bonds or indebtedness enhanced or supported pursuant to the Credit Enhancement Reserve Fund Act, Section 5063.1 et seq. of Title 74 of the Oklahoma Statutes.

2. Bonds or indebtedness proposed to be issued by the Oklahoma Development Finance Authority which will be enhanced or supported pursuant to the Credit Enhancement Reserve Fund Act shall require actual approval by the Commissions prior to issuance.

The Commissions shall review the description of such proposed financing in accordance with paragraph 1 of this subsection and additionally shall approve or disapprove the proposed financing on a determination of sufficient compliance with the Rules Regarding the

Administration of the Credit Enhancement Reserve Fund as implemented by the Oklahoma Development Finance Authority. Such determinations by the Commissions shall be based on a written report prepared for and provided to the Commissions by the Program Development and Credit Review Committee as provided in Section ~~6 of this act~~ 5062.6a of Title 74 of the Oklahoma Statutes, provided the Commissions shall not be bound to follow the conclusions reached by the committee in such reports. Provided, the provisions of this paragraph shall not apply to Credit Enhancement Reserve Fund applications approved by the Bond Oversight Commissions prior to ~~the effective date of this act~~ June 9, 1990.

All orders issued by the Commissions approving or disapproving bonds or indebtedness enhanced or supported pursuant to the Credit Enhancement Reserve Fund Act shall be final and shall not be subject to any type of appeal.

3. The approval provided for in paragraph 1 or paragraph 2 of this subsection shall expire one hundred eighty (180) days after such approval, provided that, if such approval expires, nothing shall prevent the State Governmental Entity from refiling with the Commissions for approval of such financing.

4. In the event there is a substantial change in the nature or purpose of a proposed financing after approval by the Commissions, the prior approval shall be void and the State Governmental Entity shall be required to seek approval from the Commissions in the manner provided in paragraph 1 of this subsection.

C. Local Governmental Entities that propose to issue obligations to fund capital additions or expenditures which obligations are to be retired by rental payments from the state, user fees from the state or any other such payment made by any officer, department, board, commission, institution or agency of the state when such payment is a direct and expressed pledge made by the state for the retirement of debt by a Local Governmental Entity

shall be governed by the provisions of subsections A and B of this section. Provided, funds which are collected by the state for distribution to a Local Governmental Entity or are appropriated or dedicated by the state to a Local Governmental Entity without the expressed purpose of retiring debt of said Local Governmental Entity shall not constitute a pledge as provided in this subsection.

D. Except for the entities specified in subsection C of this section, Local Governmental Entities, within ten (10) days following any formal preliminary action with respect to any financing proposed to be obtained through the issuance of its obligations, shall file with the Executive Commission and the Legislative Commission a written description of the nature, need and purpose of the proposed financing and any other information concerning the proposed financing required by either of the Commissions.

E. Upon the request of a Local Governmental Entity, the State Bond Advisor may provide advice and assistance to the Local Governmental Entity with respect to the issuance of obligations. The State Bond Advisor may assess reasonable fees for such services.

SECTION 2. AMENDATORY Section 15, Chapter 342, O.S.L. 1990 (74 O.S. Supp. 1990, Section 5063.4g), is amended to read as follows:

Section 5063.4g The provisions of Section ~~6, subsection B of Section 7 and Sections 9, 10, 11, 12, 13 and 14 of this act~~ 5062.6a, subsection B of Section 5063.3 and Sections 5063.4a through 5063.4f of this title shall not apply to Credit Enhancement Reserve Fund applications approved by the Bond Oversight Commissions prior to ~~the effective date of this act~~ June 9, 1990, and such previously approved applications are confirmed, validated and ratified.

SECTION 3. 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.

43-1-323 JY