

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 560

BY: ROBERTS

AS INTRODUCED

AN ACT RELATING TO PUBLIC FINANCE; AUTHORIZING OKLAHOMA CAPITOL IMPROVEMENT AUTHORITY TO ISSUE NEGOTIABLE BONDS ON BEHALF OF THE STATE; PLEDGING CERTAIN REVENUE TO PAYMENT OF INTEREST AND PRINCIPAL; SPECIFYING AMOUNTS AND PURPOSE AND PROVIDING FOR APPROPRIATION OF PROCEEDS; PROVIDING FOR BOND RESOLUTION AND ISSUANCE AND CERTAIN TERMS, CONDITIONS AND COVENANTS; LIMITING INTEREST COST; PROVIDING FOR SECURITY OF BONDS BY TRUST INDENTURE AND SPECIFYING PROCEDURES THEREFOR; AUTHORIZING DEPOSITORY TO FURNISH INDEMNIFYING BONDS OR PLEDGE SECURITIES; SPECIFYING ALLOWABLE CONTENTS OF TRUST INDENTURE; PROVIDING PROCEDURES UPON RECEIPT OF MONIES; SPECIFYING CIRCUMSTANCES OF VALIDITY OR REGULARITY OF BONDS; SPECIFYING REVENUES WHICH MAY BE USED FOR PAYMENT OF PRINCIPAL AND INTEREST ON BONDS; REQUIRING CERTAIN RECITATION ON BONDS; ALLOWING BOND RESOLUTION TO PROVIDE FOR DEFAULT IN PAYMENT OF PRINCIPAL OR INTEREST ON BONDS AND SPECIFYING PROCEDURES THEREFOR; AUTHORIZING ISSUANCE OF BONDS UNLESS CERTAIN ACTION FILED; REQUIRING APPROVAL OF ATTORNEY GENERAL AND FILING AND REGISTRATION WITH STATE AUDITOR AND INSPECTOR; CLARIFYING THAT ACT DOES NOT AUTHORIZE AUTHORITY TO

MORTGAGE OR ENCUMBER PROPERTY; EXEMPTING STATE PROPERTY FROM FORCED SALE; EXEMPTING BONDS FROM CERTAIN TAXATION; REQUIRING CERTIFICATE ON BACKS OF BONDS; AUTHORIZING CERTAIN ENTITIES TO INVEST IN BONDS AND APPROVING BONDS AS COLLATERAL FOR DEPOSIT AND INVESTMENT OF CERTAIN FUNDS; AUTHORIZING AUTHORITY TO ISSUE BONDS FOR REFUNDING OBLIGATIONS AND PROVIDING PROCEDURES THEREFOR; PROVIDING PROCEDURES FOR APPLICATION AND HEARING BEFORE SUPREME COURT; SPECIFYING DUTY OF COURT; REQUIRING NOTICE; PROVIDING THAT BONDS APPROVED BE INCONTESTABLE; PROVIDING FOR HOLDING AND DEPOSIT OF REVENUES; PROVIDING FOR ANNUAL AUDIT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.251 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Capitol Improvement Authority, acting for and on behalf of the State of Oklahoma, shall be the agency by and through which the State of Oklahoma shall issue negotiable bonds in anticipation of the collection of revenues lawfully levied and collected by the State of Oklahoma on the sale of cigarettes and not already committed, as of the effective date of this act, to retire other obligations of the State of Oklahoma. The Oklahoma State Legislature shall pledge such revenues to the payment of the interest and principal of such bonds. The bonds shall be issued only for the following purposes and amounts:

1. An amount not to exceed Fifty Million Dollars (\$50,000,000.00) for the purpose of planning, developing, constructing, improving, modernizing and repairing any and all new and existing water resource and sewage treatment works, facilities and projects. The proceeds from the sale of the bonds issued for this purpose shall be appropriated by the Legislature to the Oklahoma Water Resources Board and administered by the Board only to effectuate said purpose; and

2. An amount not to exceed Fifteen Million Dollars (\$15,000,000.00) for the purpose of constructing and operating a food processing center. The proceeds from the sale of bonds issued for this purpose shall be appropriated by the Legislature to the State Department of Agriculture and administered by the Department only to effectuate said purpose.

B. The bonds authorized by this section shall be authorized by resolution of the Authority and may, as provided in such resolution:

1. Be issued in one or more series;
2. Bear such date or dates and may mature at such time not exceeding twenty-five (25) years from their respective dates;
3. Bear interest at such rate or rates not exceeding ten percent (10%) per annum; and
4. Contain such terms, covenants and conditions.

Said bonds may be sold in such manner and upon such terms as the Authority shall determine; provided, the interest cost yield to maturity of any issue of said bonds shall not exceed ten percent (10%) per annum, payable semi-annually.

C. Any resolution authorizing the issuance of bonds under this act may contain covenants, including, but not limited to:

1. The purpose or purposes to which the proceeds of the sale of bonds may be applied, and the deposit, use, and disposition thereof;
2. The setting aside of reserves or sinking funds and the regulations and disposition thereof;

3. The issuance of additional bonds payable from the revenues specified herein and available to the Legislature;

4. The pledging of revenues specified herein and available to the Legislature to secure the payment of the bonds;

5. The insurance to be carried on the bonds, and the use, deposit and disposition of insurance monies; and

6. Any other matters, of like or different character, which in any way affect the security or protection of the owners of the bonds.

D. In the discretion of the Authority, any bonds issued under the provisions of this act may be secured by a trust indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state. Any such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. It shall be lawful for any bank or trust company incorporated under the laws of the state, which may act as depository of the proceeds of bonds or of revenues, to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any such trust indenture may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust indenture may be treated as a part of the cost of operation of the improvements for which the bonds are authorized.

E. Monies received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues from the

tax on cigarettes which have been identified for bond repayment purposes, shall be deemed to be trust funds, to be held and applied solely as provided in this act. The resolution authorizing the issuance of bonds of any issue, or the trust indenture securing such bonds, shall provide that any officer to whom, or any bank or trust company to which, such monies shall be paid, shall act as trustee of such monies and shall hold and apply the same for the purpose hereof, subject to such regulations as this act and such resolution or trust indenture may provide.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.252 of Title 62, unless there is created a duplication in numbering, reads as follows:

Bonds bearing the signatures of officers of the Oklahoma Capitol Improvement Authority on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery of the bonds, any or all the persons whose signatures appear thereon shall have ceased to be officers of the Authority. The validity of such bonds shall not be dependent upon nor affected by the validity or regularity of any proceedings relating to the projects for which the bonds are issued. The resolution authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.253 of Title 62, unless there is created a duplication in numbering, reads as follows:

Any revenues lawfully levied and collected by the State of Oklahoma on the sale of cigarettes and not already committed, as of the effective date of this act, to retire other obligations of the State of Oklahoma shall be subject to be pledged to the payment of bonds issued pursuant to this act. Each bond shall recite in

substance that such bond and the interest thereon is payable solely from the revenues pledged to the payment thereof, and that such bond does not constitute a debt of the State of Oklahoma within the meaning of any constitutional or statutory limitation.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.254 of Title 62, unless there is created a duplication in numbering, reads as follows:

It may be provided in any resolution authorizing bonds under this act that, in the event of a default in the payment of principal or interest on the bonds or in the performance of any agreement or covenant contained in the resolution, and if such default shall have continued for a prescribed period, then the holders of a specified percentage of the outstanding bonds, or a trustee acting in their behalf, may for the equal and proportion benefit of the holders of all of the bonds and with or without possession thereof:

1. By mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the holders of such bonds;

2. Bring suit upon the defaulted bonds or coupons;

3. By action or suit in equity require the Oklahoma Capitol Improvement Authority to act as if it were the trustee or an express trust for the bondholders;

4. By action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds; or

5. After such notice to the Authority as the resolution may provide, declare the principal of all of the bonds due and payable.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.255 of Title 62, unless there is created a duplication in numbering, reads as follows:

Unless an action shall be filed in the Supreme Court for validation of the bonds in the manner hereinafter provided, no bonds shall be issued hereunder until a certified copy of the proceedings

authorizing the issuance thereof, together with any other information which the Attorney General may require, shall be submitted to the Attorney General. If the Attorney General shall find that such bonds have been authorized in accordance with law, the Attorney General shall approve such bonds and shall execute a certificate to that effect, which shall be filed in the office of the State Auditor and Inspector. All bonds so approved by the Attorney General, registered by the State Auditor and Inspector, and issued in accordance with the approved proceedings shall be valid and binding obligations of the Oklahoma Capitol Improvement Authority, and the bonds and all of the provisions securing the bonds shall be incontestable for any cause in any court in Oklahoma unless suit thereon shall be brought in a court having jurisdiction within thirty (30) days from the date of the approval.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.256 of Title 62, unless there is created a duplication in numbering, reads as follows:

Nothing in this act shall be construed to authorize the Oklahoma Capitol Improvement Authority to mortgage or otherwise encumber any state property of any kind, except that the revenues from the tax on cigarettes may be pledged as herein provided.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.257 of Title 62, unless there is created a duplication in numbering, reads as follows:

All property controlled and operated by the State of Oklahoma shall at all times be exempted from forced sale and nothing in this act shall authorize the sale of any such property under any judgment rendered in any suit, and such sales are hereby prohibited and forbidden.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.258 of Title 62, unless there is created a duplication in numbering, reads as follows:

All bonds issued pursuant to the provisions of this act and the interest thereon shall be exempt from taxation by the State of Oklahoma or by any municipal corporation, county or other political subdivision or taxing district of the state, except that the bonds shall be subject to the payment of inheritance taxes.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.259 of Title 62, unless there is created a duplication in numbering, reads as follows:

All bonds issued pursuant to the provisions of this act shall have on the backs the certificate required by Section 29 of Article X of the Constitution of the State of Oklahoma.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.260 of Title 62, unless there is created a duplication in numbering, reads as follows:

Any bank, trust or insurance company organized under the laws of Oklahoma may invest its capital, and surplus and reserves in bonds issued pursuant to the provisions of this act. Such bonds are also approved as collateral security for the deposit of any public funds and for the investment of trust funds.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.261 of Title 62, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Capitol Improvement Authority may issue bonds under this act for the purpose of refunding any obligations of the Authority previously issued under this act, or may authorize and deliver a single issue of bonds hereunder, in part for the purpose of refunding such obligations and in part for additional capital improvements which meet the purposes of this act. Where bonds are issued under this section solely for refunding purposes, such bonds may either be sold as above provided or delivered in exchange for the outstanding obligations. If sold, the proceeds may be either applied to the payment of the obligations, refunded or deposited in

escrow for the retirement of the bond obligations. Nothing contained in this act shall be construed to authorize the refunding of any outstanding obligations which are not either maturing, callable for redemption under their terms or voluntarily surrendered by their holders for cancellation. All bonds issued under this section shall in all respects be authorized, issued, and secured in the manner provided for other bonds issued under this act and shall have all of the attributes of such bonds. The Authority may provide that any refunding bonds shall have the same priority of lien on the revenues pledged for their payment as was enjoyed by the obligations which are refunded.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.262 of Title 62, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Capitol Improvement Authority is authorized in its discretion to file an application with the Supreme Court of Oklahoma for the approval of any series of bonds to be issued hereunder, and exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine each such application. It shall be the duty of the Court to give such applications precedence over the other business of the Court and to consider and pass upon the applications any protests which may be filed thereto as speedily as possible. Notice of the hearing on each application shall be given by a notice published in a newspaper of general circulation in the state informing that, on a day named, the Authority will ask the Court to hear its application and approve bonds. Such notice shall inform all persons interested that they may file protest against the issuance of the bonds and be present at the hearing and contest the legality thereof. Such notice shall be published one (1) time not less than ten (10) days prior to the date named for the hearing and the hearing may be adjourned from time to time in the discretion of the Court. If the Court shall be satisfied that the bonds have been

properly authorized in accordance with this act and that when issued they will constitute valid obligations in accordance with their terms, the Court shall render its written opinion approving the bonds and shall fix the time within which a petition for rehearing may be filed. The decision of the Court shall be a judicial determination of the validity of the bonds and shall be conclusive as to the Authority, its officers and agents. Thereafter, the bonds so approved and the revenue pledged to their payment and the provision and agreements contained in the bond resolution for the security of such bonds shall be incontestable in any court in the State of Oklahoma.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.263 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. All revenues collected or received by the Oklahoma Capitol Improvement Authority under the provisions hereof shall be held in such separate fund or funds and deposited with the State Treasurer or in such bank or banks as the Authority may from time to time direct. All such revenues shall be subjected to payment out of such fund or funds from time to time as the Authority may direct.

B. The Office of the State Auditor and Inspector shall perform an annual audit of any accounts of funds or expenditures from funds raised through bond issues.

SECTION 14. This act shall become effective July 1, 1991.

SECTION 15. 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.

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