

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)
2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1577

By: Hamilton (James),
Langmacher, Glover and
Ferguson of the House

and

Williams (Don) and Taylor
of the Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to schools; amending 62 O.S. 1991, Section 362, which relates to judgments against governmental entities; providing for issuance of certain school bonds; defining terms; providing for guarantee; prohibiting certain approval; providing for application procedures; requiring certain agreements; providing for review; providing for approval process; requiring certain notification; requiring certain transfers, payments and bond cancellations; providing for nonacceleration of certain bonds; providing for repayments to permanent school fund; providing for treatment of certain apportionments; providing for promulgation of rules; modifying provisions related to final judgments against municipalities; providing for codification; and providing for effective date based upon approval of certain constitutional amendment.

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 15-201 of Title 70, unless there is created a duplication in numbering, reads as follows:

For the purposes of this act:

1. "School bonds" means bonds issued pursuant to the provisions of Sections 15-101 through 15-109 of Title 70 of the Oklahoma Statutes;

2. "Commissioners" means Commissioners of the Land Office of the State of Oklahoma; and

3. "Fund" means permanent school fund for the support of common schools of the State of Oklahoma.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-202 of Title 70, unless there is created a duplication in numbering, reads as follows:

On approval by the Commissioners, bonds issued pursuant to Sections 15-101 through 15-109 of Title 70 of Oklahoma Statutes are guaranteed by the corpus of the permanent school fund for the support of common schools.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-203 of Title 70, unless there is created a duplication in numbering, reads as follows:

The Commissioners shall not approve bonds for guarantee if the approval would result in the total amount of outstanding guaranteed bonds to exceed an amount equal to twice the cost value or twice the market value of the assets of the permanent school fund whichever is lower, exclusive of real estate as calculated by the annual audit of the Commissioners of the Land Office.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-204 of Title 70, unless there is created a duplication in numbering, reads as follows:

A school district seeking the guarantee of eligible bonds shall apply to the Commissioners on an application which must include:

1. The name of the school district and the principal amount of the bonds to be issued;
2. The maturity schedule, estimated interest rate and date of the bonds; and
3. Any other information as deemed necessary and appropriate by the Commissioners of the Land Office.

The application must be accompanied by a fee set by the Commissioners in an amount to cover costs of administering the guarantee program. The Commissioners and the State Bond Advisor shall enter into an interagency agreement in order to administer their responsibilities pursuant to the provisions of this act.

From the fees collected, the Commissioners shall enter into a cooperative agreement with the State Bond Advisor to defray any

administrative costs of his office in carrying out the provisions of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-205 of Title 70, unless there is created a duplication in numbering, reads as follows:

It shall be the duty of the State Bond Advisor to review the bond applications and to advise the Commissioners of the validity of the guarantee application.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-206 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Any district applying to utilize the provisions of this act for its bonded indebtedness shall:

1. Be certified to be in good standing and be accredited without probation by the State Board of Education;

2. Verify to the Commissioners that the bond issue involved is within any limitation provided by law;

3. Comply with such criteria or other requirements deemed necessary by the Commissioners; and

4. Fully comply with all provisions of the rules promulgated by the Commissioners pursuant to this act.

B. No guarantee of bonds shall be effective unless approved by a majority of the Commissioners.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-207 of Title 70, unless there is created a duplication in numbering, reads as follows:

Immediately following a determination that a school district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, but not later than the fifth business day before the maturity date, the district shall notify the State Bond Advisor and the Commissioners of the Land Office.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-208 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Following receipt of notice, the Commissioners shall cause to be transferred from the permanent school fund the necessary funding to pay the maturing or matured principal or interest.

B. Immediately following receipt of the funds for payment of the principal or interest, the district treasurer shall pay the amount due and forward the canceled bond or coupon to the Commissioners of the Land Office.

C. Following full reimbursement to the fund with interest, the Commissioners shall forward the canceled bond to the school district for which the payment was made.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-209 of Title 70, unless there is created a duplication in numbering, reads as follows:

If a school district fails to pay principal or interest on a bond guaranteed by the fund when it matures, other amounts not yet mature are not accelerated and do not become due by virtue of the school district default.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-210 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. If the Commissioners make payment from the fund on behalf of a school district, the Commissioners shall withhold from any trust fund apportionment payable to the school district until the amount paid, plus interest, is repaid in full or the Commissioners may proceed to collect the deficient payments plus interest and reasonable attorney fees as provided by Section 365.5 of Title 62 of the Oklahoma Statutes. Monies collected from said school district for deficient payments shall be forwarded to the Commissioners within thirty (30) days of collection. In the determination of State Aid pursuant to Section 18-200 of Title 70 of the Oklahoma Statutes the State Apportionment component of the Foundation Program Income shall be determined as if the school district had received all state apportionment funds withheld pursuant to this section.

B. The amount withheld shall be deposited to the credit of the permanent school fund.

C. Immediately following any payments from the fund on behalf of a school district pursuant to this section, the Commissioners shall notify the State Treasurer of the payment for purposes of taking any action as is required by Section 8 of this act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-211 of Title 70, unless there is created a duplication in numbering, reads as follows:

The Commissioners of the Land Office shall adopt rules necessary to implement the provisions of this act.

SECTION 12. AMENDATORY 62 O.S. 1991, Section 362, is amended to read as follows:

Section 362. Before final judgment in any suit based on contract, including but not limited to proceedings by the Commissioners of the Land Office to collect deficient payments plus interest and reasonable attorney fees related to bonds or other types of indebtedness guaranteed by the corpus of the permanent school fund for the support of common schools pursuant to Section 10 of this act, shall be rendered against any municipality by any court of any county in the State of Oklahoma, except in proceedings to refund any indebtedness of said municipality, proof shall be made to the court, of the existence, character and amount of the outstanding legal indebtedness of said municipality, which proof shall include a statement compiled by the various officers having custody of the records from which the information required in the statement is taken, under oath, showing the following:

1. An itemized statement of the bonded indebtedness of said municipality.

2. An itemized statement of the legal indebtedness of said municipality, exclusive of the bonded indebtedness and the alleged indebtedness proposed to be converted into a judgment.

3. An itemized statement of the indebtedness proposed to be converted into a judgment, so classified as to show, in separate

exhibits, all items of questionable legality, if any, and the reasons of said officer or officers therefor:

(a.) The appropriations against which each warrant was drawn or claim accrued if in judgment, and if within the limits and purposes thereof as provided by law;

(b.) The income and revenue provided for the respective years, consisting of taxes levied and the actual collections of "estimated income"; the total warrants issued against the same or the accumulated accruals as the case may be, and the amount, if any, in excess of the total income and revenue of the year;

(c.) The condition of each fund from which such indebtedness is payable as of the close of the month next preceding the filing of application.

Appeals from the judgment of the court shall be allowed as provided by law upon the giving of a bond for cost and damages in such sum as the court shall require; provided, that the county attorney of any county may, without the consent of the board of county commissioners of said county, take an appeal from said judgment on behalf of said county and without bond for costs and damages.

SECTION 13. This act shall become effective only upon the approval of the constitutional amendment contained in Enrolled House Joint Resolution No. 1028 of the 2nd Session of the 44th Oklahoma Legislature.

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