

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1626

By: Vaughn and Hamilton of  
the House

and

Stipe of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to roads, bridges and ferries; amending Section 1, Chapter 303, O.S.L. 1996, as amended by Section 8, Chapter 218, O.S.L. 1997 (69 O.S. Supp. 1997, Section 403), which relates to the State Infrastructure Bank; modifying reference to certain federal act; authorizing the Oklahoma Transportation Commission to make certain loans; amending Section 2, Chapter 303, O.S.L. 1996 (69 O.S. Supp. 1997, Section 404), which relates to the State Infrastructure Bank Revolving Fund; modifying monies to be deposited into the State Infrastructure Bank Revolving Fund; authorizing the State Treasurer to invest certain funds; requiring certain interest earned to be deposited into the State Infrastructure Bank Revolving Fund; authorizing certain funds to be available to meet certain needs; defining terms; authorizing the Oklahoma Department of Transportation to use certain funds for certain purposes; establishing certain powers and duties of the Oklahoma Department of Transportation; requiring Oklahoma Department of Transportation to establish certain rules; setting forth minimum standards for rules; granting the Oklahoma Department of Transportation certain powers and duties to manage monies, accounts and loans; requiring the Oklahoma Department of Transportation to provide certain financial review guidelines by certain date; requiring certain evaluation to include certain information; establishing procedure for application and financial review; establishing procedure for rejection and approval of loan application; creating certain loan application fee; setting forth procedure for final loan application; authorizing release of certain funds; requiring loan payments be made to certain fund; authorizing the State Auditor and Inspector to perform audit; authorizing the Attorney General to take certain action to collect monies in event of payment default; setting forth jurisdiction of certain action; permitting use of certain revenues for administration purposes; amending 62 O.S. 1991, Section 203, as last amended by Section 7, Chapter 186, O.S.L. 1997 (62 O.S. Supp. 1997, Section 203), which relates to apportionment of monies; adding exception; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY Section 1, Chapter 303, O.S.L. 1996, as amended by Section 8, Chapter 218, O.S.L. 1997 (69 O.S. Supp. 1997, Section 403), is amended to read as follows:

Section 403. A. The Transportation Commission is hereby authorized to create a "State Infrastructure Bank", pursuant to the federal National Highway System Designation Act of 1995, for the purpose of pooling available federal, private and state appropriated or revolving fund monies specifically authorized by the Legislature for such use. The Commission shall be the instrumentality to make application to the Federal Highway Administration for the capitalization grant which is to be placed in the State Infrastructure Bank. The Commission shall adopt all rules necessary to implement and effectuate the provisions of this act.

B. The State Infrastructure Bank authorized by this section may be utilized by the various counties of Oklahoma for pooling available federal, private and state appropriated or revolving fund monies specifically authorized by the Legislature for capital improvements. The various counties of Oklahoma are authorized to receive and repay monies from the Oklahoma Department of Transportation revolving fund designated as the "State Infrastructure Bank Revolving Fund" for the purpose specifically authorized by the Legislature.

C. The Transportation Commission shall be authorized to make loans from the State Infrastructure Bank to qualified applicants as provided in this act in order to implement the provisions of the National Highway System Designation Act of 1995.

SECTION 2. AMENDATORY Section 2, Chapter 303, O.S.L. 1996 (69 O.S. Supp. 1997, Section 404), is amended to read as follows:

Section 404. A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Transportation to be designated the "State Infrastructure Bank Revolving Fund". The fund shall be a continuing fund, not subject

to fiscal year limitations, and shall consist of ~~all~~ the following:

1. All monies received by the Department of Transportation as provided in Section ~~4~~ 403 of this ~~act~~ title;

2. All monies received pursuant and subject to the provisions of the National Highway System Designation Act of 1995 which are eligible for use in state revolving loan funds established to meet the requirements of that act;

3. All monies appropriated to this fund;

4. Payments of principal and interest and penalty payments on loans made directly from federal monies and appropriated monies in this fund;

5. Annual state administration fees of one-half percent (1/2%) on the outstanding loan balance; and

6. Any other sums designated for deposit to this fund from any source, public or private.

All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Transportation for the purposes of effectuating the provisions of ~~Section 1~~ of this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. The monies placed in the State Infrastructure Bank Revolving Fund shall be invested by the State Treasurer as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes. Any interest earned by the State Treasurer shall be deposited to the credit of the State Infrastructure Bank Revolving Fund. Monies invested by the State Treasurer shall be available to meet the program funding needs established by the Department of Transportation pursuant to this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 403.1 of Title 69, unless there is created a duplication in numbering, reads as follows:

For the purposes of this act:

1. "Eligible project" means the construction, restoration, or replacement of a public transportation facility, limited to highways, bridges, roads, streets, rail crossings, and right-of-way acquisition that would enhance the economic development of this state and provide safety to the citizens of this state;

2. "Eligible applicant" means state agencies, counties, cities, special districts, municipal corporations, and Indian tribal governments;

3. "Commission" means the Oklahoma Transportation Commission;

4. "Department" means the Oklahoma Department of Transportation; and

5. "Director" means the Director of the Oklahoma Department of Transportation.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 405 of Title 69, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Department of Transportation shall use the State Infrastructure Bank Revolving Fund only as provided by the National Highway System Designation Act of 1995 for the following purposes:

1. To make a loan to an eligible entity if:
  - a. the loan application, project and planning documents have been approved by the Department or the Oklahoma Transportation Commission,
  - b. the loan is made at or below market interest rates,
  - c. principal and interest payments will begin no later than the month following the completion of the project,
  - d. the State Infrastructure Bank Revolving Fund will be credited with all payments of principal and interest on all loans,
  - e. the applicant demonstrates to the satisfaction of the Department the financial capability to assure sufficient revenues to pay debt service,

- f. the recipient of the loan establishes a dedicated source of revenue for payment of debt service for the loan, and
- g. the recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the construction project, and to submit the audit report to the Department on a scheduled annual basis;

2. To guarantee or purchase insurance for eligible entities if the guarantee or insurance would improve access to market credit or reduce interest rates;

3. To provide loan guarantees to similar revolving loan accounts or funds established by eligible entities;

4. To administer the State Infrastructure Bank Revolving Fund pursuant to the provisions in this act. All funds to be utilized for administrative costs from the State Infrastructure Bank Revolving Fund shall be subject to annual appropriation by the Legislature; and

5. For such other purpose or in such manner as is determined by the Commission or the Director to be an appropriate use of the State Infrastructure Bank Revolving Fund and which has been specifically approved by the Federal Highway Administration pursuant to the National Highway System Designation Act of 1995.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 406 of Title 69, unless there is created a duplication in numbering, reads as follows:

In addition to other powers and duties provided by law, the Oklahoma Department of Transportation shall have the power and duty to:

- 1. Review, assess, and prioritize the preliminary applications received from eligible applicants;
- 2. Determine the feasibility of each transportation project and the eligibility of the entity to receive funding from the State Infrastructure Bank Revolving Fund;

3. Determine which applications should be referred to the Commission for loans from the State Infrastructure Bank Revolving Fund; and

4. Provide oversight and technical assistance during the planning, design, and construction phases of the transportation project for which the entity is applying for the loan.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 407 of Title 69, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Department of Transportation shall prescribe such rules as may be necessary for determining the eligibility and priority of such entities for transportation projects in order to receive loans made pursuant to the National Highway System Designation Act of 1995 and the State Infrastructure Bank Revolving Fund. At a minimum, such rules shall:

1. Ensure the fair and equitable prioritization of entities eligible for loans made pursuant to the provisions of this act;

2. Be in conformance with applicable provisions of the National Highway System Designation Act of 1995;

3. Require that, to be approved, an applicant needs or will need the transportation project loan to comply with regulations and standards adopted by the Department; and

4. Require the transportation project to:

a. be designed to enhance the economic development of this state and provide safety to its citizens,

b. meet the established criteria of the Department as provided for by the National Highway System Designation Act of 1995,

c. comply with all applicable federal, state, and local laws and rules, and

d. meet any other consideration deemed necessary by the Department.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 408 of Title 69, unless there is created a duplication in numbering, reads as follows:

In addition to the other powers and duties provided by law, the Oklahoma Department of Transportation shall have the power and duty to:

1. Manage, maintain, expend and otherwise administer monies in the State Infrastructure Bank Revolving Fund and any accounts or subaccounts in the Fund, pursuant to the provisions of this act. The Department shall manage the Fund so as to make available the amounts necessary to fund loans to the eligible entities entitled to receive funding pursuant to the provisions of this act;

2. Establish separate accounts and subaccounts within the State Infrastructure Bank and provide that such accounts be segregated and used for specified purposes or held as security for designated obligations; and

3. Enter into binding loan agreements with the eligible entities as specified by the Department.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 409 of Title 69, unless there is created a duplication in numbering, reads as follows:

- A. By May 1, 1999, the Oklahoma Transportation Commission shall provide financial review guidelines to the Oklahoma Department of Transportation for use by the Department in preliminary evaluations of transportation projects. The evaluation shall include such information as required by the Department and the Commission, including but not limited to:

1. Cost of the proposed transportation project;
2. Amount of the loan requested;
3. Repayment schedule; and
4. Existing and anticipated assets and liabilities of the applicant.

- B. Upon a determination of the Department that an entity meets the criteria to receive funding pursuant to the provisions of this act, the Department shall forward to the Commission the preliminary application for an initial financial review.

C. Upon receipt of the preliminary application, the Commission shall prepare an initial financial review of the entity based upon:

1. The documents submitted by the Department and any additional information requested by the Commission through the Department, necessary to make a financial review of such entity; and

2. The proposed loan amount and interest rate for which the entity qualifies.

Upon conclusion of the initial financial review, the Commission may either recommend approval or rejection of the proposed loan.

D. The Commission shall return the preliminary application to the Department with a written recommendation of approval or rejection. If the Commission recommends rejection, the written recommendation shall include the reason for the rejection. The Commission shall forward a written copy of the rejection notice to the entity. The entity may then be allowed to modify any such documents in order to comply with the requirements of the Commission and may resubmit the necessary financial documents to the Department.

E. If the Commission recommends approval, the Commission shall notify the Department of the acceptance. Upon receipt of the notice and upon approval of the planning documents by the Department, the Department shall notify the entity of the approval and request the entity to prepare and submit the final loan application and a nonrefundable loan application processing fee in the amount of Five Hundred Dollars (\$500.00).

F. Upon a determination of compliance with the state and federal laws, the Department is authorized to approve, refer and forward the final loan application and necessary documents to the Commission with the recommendation that a loan be made to the eligible entity pursuant to the federal National Highway System Designation Act of 1995 from the State Infrastructure Bank Revolving Fund.

G. Upon review of the final loan application and applicable documents, the Commission shall either approve or reject the loan

application. The Commission may request additional information from the applicant or the Department in order to complete the financial review of the application for the loan. The Commission shall notify the applicant of any rejection of the final loan application. Notification of approval of such entity for a loan shall be sent to the Department and the Department shall notify the applicant. The Department shall have the authority to grant final approval for disbursement of loan proceeds by the State Infrastructure Bank and to present the proceeds at the closing of the loan. Upon request for disbursement of funds from the account pursuant to the provisions of this act, the Commission shall provide for the release of the loan proceeds.

H. Payment on loans shall be made to the State Infrastructure Bank as provided in the loan documents.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 410 of Title 69, unless there is created a duplication in numbering, reads as follows:

The State Auditor and Inspector shall perform an annual audit of any revenues and expenditures from the State Infrastructure Bank Revolving Fund.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 411 of Title 69, unless there is created a duplication in numbering, reads as follows:

In the event of a default in payment of the principal or interest on loans made from the State Infrastructure Bank Revolving Fund pursuant to this act, the Attorney General is empowered and it shall be the duty of the Attorney General to take actions to collect any amounts due or owing to the Fund. The Attorney General shall institute appropriate proceedings to compel the defaulting party and its officers, agents, and employees to cure the default. Jurisdiction of any proceedings shall be in the district court of Oklahoma County.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 412 of Title 69,

unless there is created a duplication in numbering, reads as follows:

A. In order to administer the State Infrastructure Bank, the following sources of revenues may be utilized:

1. Monies from the State Infrastructure Bank Revolving Fund pursuant to the federal National Highway System Designation Act of 1995;

2. Loan processing fees; and

3. Appropriations from the General Revenue Fund or other funds as may be provided for this purpose.

B. All funds to be utilized for administration by the Oklahoma Department of Transportation shall be subject to annual appropriation by the Legislature.

SECTION 12. AMENDATORY 62 O.S. 1991, Section 203, as last amended by Section 7, Chapter 186, O.S.L. 1997 (62 O.S. Supp. 1997, Section 203), is amended to read as follows:

Section 203. A. Except as otherwise provided by subsection B of this section, all monies that may come into the State Treasury, pursuant to the provisions of Section 201 et seq. of this title, together with all amounts that may be received by the State Treasurer as investment income or as interest on average daily bank balances, including investment income or interest on deposits from funds deposited to the credit of the Constitutional Reserve Fund created pursuant to Section 23 of Article 10 of the Oklahoma Constitution, shall be apportioned and credited to the General Revenue Fund for the current year.

B. The provisions of subsection A of this section shall not apply to:

1. Interest received on deposits from funds under the control of the Commissioners of the Land Office;

2. Funds in the Department of Human Services Federal Disallowance Fund;

3. Interest received on deposits from funds under the control of the Santa Claus Commission;

4. The Risk Management Revolving Fund;

5. Investment income and interest received from funds in the Quartz Mountain Revolving Fund from insurance claims;

6. The Drinking Water Treatment Revolving Loan Account and the Drinking Water Treatment Loan Administrative Fund; ~~and~~

7. The Wastewater Facility Construction Revolving Loan Account; and

8. The State Infrastructure Bank Revolving Fund.

SECTION 13. This act shall become effective November 1, 1998.

46-2-11578          JAF