

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)
2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1992

By: Hamilton and Langmacher
of the House

and

Rozell of the Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public finance; amending 62 O.S. 1991, Sections 695.7 and 695.8, as last amended by Section 1, Chapter 285, O.S.L. 1994 (62 O.S. Supp. 1996, Section 695.8), which relate to the Executive and Legislative Bond Oversight Commissions; modifying circumstances under which entities must request proposals for certain services; modifying duties of Commissions to review transactions involving certain types of payments; and providing an effective date.

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

SECTION 1. AMENDATORY 62 O.S. 1991, Section 695.7, is amended to read as follows:

Section 695.7 A. The Commissions jointly shall engage the services of a person knowledgeable in the current state of the art of national and international standards for the issuance of obligations by governmental entities and experienced in the negotiation of fees for various goods and services requisite to or deemed desirable in the issuance of such obligations as well as the negotiation of other matters essential to provide the best current price and terms of the issuance of such obligations for the benefit of Oklahoma firms, farms, individuals and local communities, with said consultant having the title "Oklahoma State Bond Advisor". The Commissions shall conduct a national search in seeking requests for proposals for the position of Oklahoma State Bond Advisor. The person selected as the Oklahoma State Bond Advisor shall be approved by an affirmative vote of the Executive

Commission and the Legislative Commission at a joint meeting of the Commissions. The Oklahoma State Bond Advisor may be removed upon an affirmative vote of the Executive Commission and the Legislative Commission at a joint meeting of the Commissions.

B. The Oklahoma State Bond Advisor shall be an independent position within the Office of Public Affairs. The Oklahoma State Bond Advisor may employ the necessary staff to carry out the duties of the Bond Advisor and the duties of the Commissions, with approval of the Commissions.

C. Prior to engaging the services of underwriters, bond or other legal counsel, financial advisors, consultants, a financial institution to serve as trustee, paying agent or in any fiduciary capacity in connection with any program, indenture or general resolution of the State Governmental Entity, or any other experts, except as provided in Section 5062.8 of Title 74 of the Oklahoma Statutes, the State Governmental Entity shall request proposals for such services from a plurality of persons engaged in the particular activity for such services and the selection of such persons shall be made on the basis of the response to the request which is the most economical and will provide competent service which furthers the best interest of the State Governmental Entity and the state. In negotiating requests for proposals to engage such services, the State Governmental Entity shall seek the advice and assistance of the Oklahoma State Bond Advisor. Under no circumstances shall proprietary inducements be granted. The Oklahoma State Bond Advisor shall provide assistance and advice to State Governmental Entities with respect to the issuance of obligations by said State Governmental Entities, review, negotiate, and approve or disapprove the fees and expenses for goods and services requisite to or deemed desirable in the issuance of State Governmental Entity obligations and represent the interests of the state before rating agencies and credit enhancement providers.

The provisions of this subsection shall apply to any Local Governmental Entity that proposes 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. 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. No Local Governmental Entity may utilize a lease, contract, or other agreement with a State Governmental Entity as collateral or security for a proposed Local Governmental Entity obligation unless such obligation has satisfied all of the provisions of this section.~~

D. The Oklahoma State Bond Advisor shall serve as an advisor to the Governor and to the Legislature with respect to issuance of indebtedness reviewed by the Commissions and shall prepare an annual report to be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives as of January 15 each year. The report shall contain a summary of the issuance of indebtedness by State Governmental Entities and Local Governmental Entities during the preceding year and such other information as the State Bond Advisor may be required to submit or as may be relevant. The State Bond Advisor shall assist Oklahoma Futures with respect to information, advice or assistance as may be required.

E. The Oklahoma State Bond Advisor or any member of the immediate family of the Oklahoma State Bond Advisor shall not have any direct or indirect financial or contractual relationship with any firm or corporation or any officer, partner or principal stockholder of any firm or corporation directly involved in public finance.

SECTION 2. AMENDATORY 62 O.S. 1991, Section 695.8, as last amended by Section 1, Chapter 285, O.S.L. 1994 (62 O.S. Supp. 1996, Section 695.8), is amended to read as follows:

Section 695.8 A. The Executive Bond Oversight Commission and the Legislative Bond Oversight Commission shall:

1. Make determinations as to whether the purposes for which obligations proposed to be issued by a state governmental entity are for the furtherance and accomplishment of authorized and proper public functions or purposes of the state or of any county or municipality, as specified in the statutes governing public trusts organized pursuant to Title 60 of the Oklahoma Statutes;

2. Review proposed issuance of debt by State Governmental Entities for compliance with any applicable provisions of federal, state or other laws;

3. Review proposed issuances of obligations to fund capital additions or expenditures by local governmental entities ~~which obligations are to be retired by rental~~ when there is a lease, contract, or other agreement used as collateral or security under which 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, ~~for compliance with any applicable provisions of federal, state or other laws, when such payment is a direct and expressed pledge for the then current fiscal year made by the state for the retirement of debt by a local governmental entity~~ are for the retirement of such obligations. ~~Provided, The provisions of this section do not apply to~~ 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~~ when there is no lease, contract, or other agreement used as collateral or security requiring payments by the state, which will be used to retire obligations of said local governmental entity shall not constitute a pledge as provided in this paragraph;

4. a. Except as provided in subparagraph b of this paragraph, review the findings of the Program Development and Credit Review Committee to determine if the Rules Regarding the Administration of the Credit Enhancement Reserve Fund and related

regulations and policies as implemented by the Oklahoma Development Finance Authority adequately and sufficiently fulfill the intents and purposes of the Credit Enhancement Reserve Fund Act, Section 5063.1 et seq. of Title 74 of the Oklahoma Statutes, provided such provision shall not apply to Credit Enhancement Reserve Fund applications approved by the Bond Oversight Commissions prior to the effective date of this act; and, except as provided in subparagraph b of this paragraph, approve or disapprove any bonds or indebtedness being issued by the Oklahoma Development Finance Authority to the extent said bonds or indebtedness are enhanced or supported pursuant to the Credit Enhancement Reserve Fund Act, Section 5063.1 et seq. of Title 74 of the Oklahoma Statutes.

- b. The Bond Oversight Commissions shall not be required to review or approve individual projects or loans under the Small Business Credit Enhancement Program created by Section 5063.4b of Title 74 of the Oklahoma Statutes, or the Oklahoma Beginning Agricultural Producer Pool Act, Section 5063.21 et seq. of Title 74 of the Oklahoma Statutes, but may approve a package of such projects or loans in advance. Each project or loan shall be individually listed in the package and the dollar amount of the project or loan shall be specifically set out together with the total dollar amount involved in the package. The Commissions or the State Bond Advisor may, in their discretion, remove any such individual project or loan from the package submitted, for individual action. Should the Oklahoma Development Finance Authority submit an application to the Commissions for the approval of an obligation or credit enhancement under these two programs, the application shall be deemed approved

if not disapproved by the Commissions within forty-five (45) days of filing such an application or, as to an individual project or loan, removed from the submitted package within such forty-five-day period; and

5. Adopt, amend and repeal rules and regulations to regulate affairs of the Commissions and to implement the powers and purposes of the Commissions.

B. The Commissions may establish budgets in order to fulfill their duties pursuant to Section 695.1 et seq. of this title and shall be authorized to charge and collect a fee, in accordance with the rules and regulations of the Commissions, derived from proceeds of bond issues approved by the Commissions.

SECTION 3. This act shall become effective January 1, 1998.

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