

1 STATE OF OKLAHOMA

2 2nd Session of the 47th Legislature (2000)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL 902

By: Haney and Hobson of the
Senate

6 and

7 Settle and Begley of the
8 House

9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to property; amending 60 O.S. 1991,
12 Section 177.2, which relates to the issuance of bonds
13 and indebtedness; modifying dates for participation
14 in short-term cash management program; and providing
15 an effective date.

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

17 SECTION 1. AMENDATORY 60 O.S. 1991, Section 177.2, is
18 amended to read as follows:

19 Section 177.2 A. No public trust, school district or county
20 shall issue any bonds, notes, nonpayable warrants, certificates of
21 participation, certificates of indebtedness or any other evidence of
22 indebtedness for the purpose of short-term cash management by any
23 school district or county unless such school district or county
24 shall have been approved for participation by the Oklahoma
25 Commission on School and County Funds Management.

26 As used in this section, "short-term cash management" means any
27 borrowing or any method employed by a school district or county to
28 obtain funds in advance of the receipt of tax revenue, and shall
29 include, but not be limited to, the issuance of certificates of
30 indebtedness, certificates of participation, tax-anticipation notes,
31 bonds, notes, or any other evidence of indebtedness. It shall not
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1 include debt issued pursuant to a vote of the electors of the school
2 district or county pursuant to the Constitution.

3 B. The Oklahoma Commission on School and County Funds
4 Management, shall consist of the State Superintendent of Public
5 Instruction, the Director of the State Department of Vocational and
6 Technical Education, and the State Bond Advisor. The Commission
7 shall:

8 1. Receive requests of school districts and counties for
9 authorization to participate in a short-term cash management program
10 where the proceeds will be used to facilitate cash-flow management.
11 The requests must be received by the Commission on or before
12 ~~December 1~~ April 1 in order for the school district or county to be
13 considered for participation during the next fiscal year, unless
14 such date is extended by the Commission;

15 2. Within five (5) business days of receiving a request,
16 forward the request to the appropriate certifying authority. If the
17 request and accompanying material meet the requirements of this act,
18 the certifying authority must return the request and accompanying
19 information to the Commission with a written review and comment
20 within sixty (60) days of receipt of the request from the
21 Commission. The certifying authority for school districts shall be
22 the State Superintendent of Public Instruction and for area
23 vocational-technical school districts, shall be the Director of the
24 State Department of Vocational and Technical Education and for
25 counties, shall be the State Board of Equalization;

26 3. Approve or reject each request for participation, and
27 forward notice of the decision of the Commission to the requesting
28 school district or county and to the Office of the Governor. The
29 Commission shall approve or reject a request within thirty (30) days
30 following the date it receives the request and accompanying
31 information with a written review and comment from a certifying
32 authority;

1 4. Certify the need for funds generated by the proposed short-
2 term cash management based on the financial projections of the
3 school district or county, including the projected cash-flow
4 shortfall, estimated income, and anticipated surplus balances on
5 June 30 of the current fiscal year in the general and building funds
6 of the school district or county. Accumulative cash-flow shortfall
7 projections must be determined using the method specified by Section
8 148 of the Internal Revenue Code;

9 5. Establish reasonable limits for fees, commissions and other
10 compensation paid to any person or firm involved with the proposed
11 short-term cash management program;

12 6. Establish participation limitations for a school district or
13 a county using the method specified in Section 148 of the Internal
14 Revenue Code. No school district or county shall participate in a
15 short-term cash management program in an amount which exceeds the
16 determination of need pursuant to the accumulative cash-flow
17 projections as specified in paragraph 4 of this subsection or forty
18 percent (40%) of the approved annual budget of the school district
19 or county, whichever is less;

20 7. Establish limitations which prohibit school districts and
21 counties which are participating in a short-term cash management
22 program from issuing nonpayable warrants if proceeds are available
23 from the short-term cash management program;

24 8. Submit an annual report, by ~~October 15~~ December 15 of each
25 year, to the Speaker of the House of Representatives, the President
26 Pro Tempore of the Senate, the Governor, the State Auditor and
27 Inspector and the Attorney General, detailing the participation of
28 each school district and county for the prior fiscal year in the
29 short-term cash management programs authorized by this act; and

30 9. Prescribe methods and procedures by which school districts
31 or counties may request authorization to participate in short-term
32 cash management programs.

1 C. School districts and counties desiring to participate in a
2 short-term cash management program as provided in subsection A of
3 this section shall file a request with the Commission on such forms
4 as the Commission shall prescribe. Such request shall be
5 accompanied by:

6 1. A resolution adopted by the board of education of the school
7 district or by the county commissioners of a county. Such
8 resolution shall state that the school district or county intends to
9 and has need to participate in a short-term cash management program
10 and that the board of education or county commission has authorized
11 the submission of such request;

12 2. A letter signed by the underwriter of the short-term cash
13 management program that specifies the name and address of all
14 persons and firms receiving compensation, directly or indirectly,
15 involved with the proposed short-term cash management program. All
16 persons and firms designated shall not be paid out of school or
17 county funds. For purposes of this paragraph, school or county
18 funds shall not include the proceeds from certificates of
19 indebtedness or certificates of participation generated from a
20 short-term cash management program;

21 3. A verification from the Administrator of the Oklahoma
22 Department of Securities that all persons receiving compensation,
23 directly or indirectly, for providing advice to the school districts
24 or counties concerning participation in the program or for endorsing
25 participation in the program are appropriately registered with the
26 Oklahoma Department of Securities as investment advisers or
27 investment adviser representatives, as applicable, and that all
28 persons receiving compensation, directly or indirectly, for the
29 placement of the certificates of participation or like securities
30 with investors are registered as broker-dealers or agents, as
31 applicable;

1 4. The estimated income and expenditures of the school district
2 or county for the year for which the school district or county
3 wishes to participate in a short-term cash management program. The
4 appropriate certifying authority shall develop and provide an income
5 and expenditure disclosure form for use by a school district or
6 county which desires to participate in a short-term cash management
7 program which follows the applicable portions of the information
8 return required by Section 148 of the Internal Revenue Code. The
9 information supplied in the disclosure form must reflect the ability
10 of the school district or county to pay off an amount equal to the
11 district's or county's liability on the program from the income from
12 the fiscal year of participation, prior to approval for
13 participation by the Commission. If the Commission determines that
14 a question exists concerning any information submitted pursuant to
15 this subsection, the Commission may request any additional
16 information from the school district or county that it deems
17 necessary;

18 5. A copy of the most recent information return for a short-
19 term cash management program filed with the Internal Revenue Service
20 pursuant to Section 149(e) of the Internal Revenue Code;

21 6. An affidavit by all persons, firms, corporations or business
22 enterprises of any kind which provide services for compensation on
23 any financing to implement a short-term cash management program,
24 which shall be signed under oath on a form approved by the
25 Commission and which shall state that such persons, firms,
26 corporations or business enterprises have not given any money or
27 other thing of value, other than a bona fide campaign contribution,
28 to any public official or to any public employee of a school
29 district or county participating in such a cash management program.
30 Any such person, firm, corporation or business enterprise shall also
31 file a disclosure statement on a form approved by the Commission,
32 which shall disclose all campaign contributions of any kind made to

1 any public official of a school district or county participating in
2 such a short-term cash management program and shall also disclose
3 the identity of any officer, director, agent or employee of such
4 person, firm, corporation or business enterprise who is an officer
5 or employee of a school or county participating in a short-term cash
6 management program, or who is related to such officers or employees
7 within the third degree of affinity or consanguinity;

8 7. A notarized sworn affidavit executed by each member of a
9 board of education of a school district, the superintendent of
10 schools and the treasurer of the school district or by each county
11 commissioner of a county and the county treasurer, which states that
12 the person or any member of the immediate family of the person has
13 no direct or indirect financial interest in the short-term cash
14 management program being requested. The affidavit shall be on a
15 form prescribed by the Commission;

16 8. A summary report detailing all expenses incurred by a school
17 district or county in participating in a short-term cash management
18 program. The report shall be on a form prescribed by the
19 Commission; and

20 9. Any application and other materials including any other
21 necessary financial information, as may be required by the
22 Commission.

23 D. If the information required to be submitted pursuant to this
24 section meets all requirements established by the Commission and the
25 Commission has approved such information and participation, and the
26 participation is otherwise in accordance with law, the Oklahoma
27 Commission on School and County Funds Management shall authorize the
28 participation of the school district or county in the short-term
29 cash management program. The Commission shall notify the school
30 district or county in writing, whether the requirements of this
31 section have been satisfied and approved.

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1 E. School districts and counties participating in a short-term
2 cash management program authorized by this section shall report to
3 the Commission the probable income and expenses of anticipated
4 investment income. The report shall not include probable income or
5 expenses related to participation in a short-term cash management
6 program.

7 F. The ability of a school district or county to issue general
8 obligation bonds shall not be modified by this act.

9 G. The Office of the Attorney General shall provide legal
10 assistance to the Oklahoma Commission on School and County Funds
11 Management.

12 SECTION 2. This act shall become effective September 1, 2000.

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