

ENROLLED SENATE
BILL NO. 409

By: Mickle and Snyder of the
Senate

and

Dunegan, Braddock,
Beutler, Thomas and
Matlock of the House

An Act relating to public finance; amending Section 2, Chapter 283, O.S.L. 1998, as amended by Section 6, Chapter 400, O.S.L. 1998 (18 O.S. Supp. 1998, Section 868), which relates to nonprofit corporations; modifying criteria required for issuance of indebtedness; clarifying language pertaining to exemption from certain provisions; amending 62 O.S. 1991, Sections 695.23, as last amended by Section 3, Chapter 400, O.S.L. 1998 and 695.24, as last amended by Section 4, Chapter 400, O.S.L. 1998 (62 O.S. Supp. 1998, Sections 695.23 and 695.24), which relate to definitions and private activity bond allocations; deleting definition; modifying criteria for allocations under the state ceiling for private activity bond allocations; amending 70 O.S. 1991, Section 4002.1, as amended by Section 122, Chapter 189, O.S.L. 1993 (70 O.S. Supp. 1998, Section 4002.1), which relates to providing exemption from legislative approval requirements for certain bonds; amending 74 O.S. 1991, Section 6002, which relates to designations of technology transfer centers and payroll systems; updating name of entity; removing designation of entity as technology transfer center; designating entity as instrumentality of the state; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 2, Chapter 283, O.S.L. 1998, as amended by Section 6, Chapter 400, O.S.L. 1998 (18 O.S. Supp. 1998, Section 868), is amended to read as follows:

Section 868. A. A corporation organized not for profit pursuant to the provisions of the Oklahoma General Corporation Act and that holds a valid exemption from federal income taxation issued pursuant to Section 501(a) of the Internal Revenue Code (26 U.S.C. Section 501(a)) and is listed as an exempt organization in Section 501(c) of the Internal Revenue Code (26 U.S.C. Section 501(c)) and has been statutorily designated as an instrumentality of the State

of Oklahoma is hereby authorized to issue indebtedness for the purpose of providing funds on behalf of and for the benefit of towns, cities and counties and their citizens throughout the state and to issue such indebtedness on a tax-exempt or taxable basis, as applicable under the Internal Revenue Code (26 U.S.C. Section 1, et seq.) as amended. Such not for profit corporations shall not be subject to the provisions of Sections 695.7, 695.8 and 695.9 of Title 62 of the Oklahoma Statutes, or similar laws thereto. Public trust authorities issuing debt for the benefit of any nonprofit corporation shall not be subject to the provisions of Sections 695.7, 695.8 and 695.9 of Title 62 of the Oklahoma Statutes, or similar laws thereof, in regard to the issuance of said debt.

B. The interest on any indebtedness or obligations issued by any public trust or other entity authorized to issue obligations on which the interest thereon is exempt from federal income taxation and whose purpose includes providing safe, decent and affordable single family or multifamily housing, shall not be subject to taxation by the State of Oklahoma or by any county, municipality, or political subdivision therein when such indebtedness or obligation is issued to provide decent and affordable single family or multifamily housing.

SECTION 2. AMENDATORY 62 O.S. 1991, Section 695.23, as last amended by Section 3, Chapter 400, O.S.L. 1998 (62 O.S. Supp. 1998, Section 695.23), is amended to read as follows:

Section 695.23 As used in the Oklahoma Private Activity Bond Allocation Act:

1. "Application for state ceiling allocation" means the written application form provided by the State Bond Advisor which shall be filed by or on behalf of the issuer in compliance with the requirements of this act;

2. "Beginning Agricultural Producer Pool" means the portion of the state ceiling reserved for bonds relating to the Oklahoma Beginning Agricultural Producer Pool Act;

3. "Carryforward" shall have the same meaning as in Section 146(f) of the Internal Revenue Code;

4. "Confirmation" means a written confirmation of allocation issued by the State Bond Advisor;

~~5. "Consolidated Pool" means an aggregation of unallocated sums of the state ceiling derived from pools as set forth in subsection I of Section 695.24 of this title;~~

~~6.~~ "Economic Development Pool" means that portion of the state ceiling reserved for projects specifically authorized by the Executive and Legislative Bond Oversight Commissions, as provided for in subsection A of Section 695.24 of this title;

~~7.~~ 6. "Exempt facility bonds" means exempt facility bonds as defined in Section 142(a) of the Internal Revenue Code;

~~8.~~ 7. "Exempt Facility Pool" means the portion of the state ceiling reserved for exempt facility bonds;

~~9.~~ 8. "Final certification" or "final certificate" means a certification or certificate filed with the State Bond Advisor by or on behalf of the issuer specifying the exact amount of indebtedness issued by an issuer, or, in the case of mortgage credit certificates, a copy of the document or election filed with the Internal Revenue Service exchanging bond issuance authority for mortgage credit certificate issuance authority;

~~10.~~ 9. "Internal Revenue Code" means the Internal Revenue Code of 1986 (26 U.S.C., Section 1 et seq.), as amended;

~~11.~~ 10. "Issued" means any issue of bonds which have been delivered and the purchase price therefor remitted to or for the account of the issuer, or a copy of the document or election filed with the Internal Revenue Service exchanging bond issuance authority for mortgage credit certificate issuance authority;

~~12.~~ 11. "Issuer" or "issuing authority" means any public trust or other entity which is authorized to issue tax-exempt bonds, notes and other like obligations, or has the authority to exchange single-family mortgage bond authority for mortgage credit certificate authority, under the Constitution or laws of the state;

~~13.~~ 12. "Local issuer" means any municipality, county or public trust having counties or municipalities or combinations thereof as beneficiary, or a public trust having the state as beneficiary with jurisdiction limited to one county of the state;

~~14.~~ 13. "Local Issuer Single Family Pool" means the portion of the state ceiling reserved for local issuers of single-family, revenue bonds and mortgage credit certificates;

~~15.~~ 14. "Mortgage credit certificate election" means a document or election filed by an issuer with the Internal Revenue Service exchanging single-family mortgage bond issuance authority for mortgage credit certificate issuance authority;

~~16.~~ 15. "Mortgage credit certificates" shall have the same meaning as in Section 25(c) of the Internal Revenue Code;

~~17.~~ 16. "Oklahoma Housing Finance Agency Pool" means that portion of the state ceiling reserved for single family bonds, multifamily bonds, and mortgage credit certificates issued by the Oklahoma Housing Finance Agency;

~~18.~~ 17. "Private activity bonds" or "bonds" means any bonds or notes or other evidence of indebtedness, the interest on which is exempt from tax pursuant to the Internal Revenue Code, and mortgage credit certificates, except those bonds or certificates specifically excluded from the state ceiling under the terms of federal legislation;

~~19.~~ 18. "Qualified small issue" used in the context of "bond" or "bonds" or the "Qualified Small Issue Pool" shall have the meaning as in Section 144(a) of the Internal Revenue Code;

~~20.~~ 19. "Qualified Small Issue Pool" means the portion of the state ceiling reserved for qualified small issue bonds;

~~21.~~ 20. "Qualified student loan bonds" shall have the same meaning as in Section 144(b) of the Internal Revenue Code;

~~22.~~ 21. "State" means the State of Oklahoma;

~~23.~~ 22. "State Bond Advisor" means the Oklahoma State Bond Advisor or his or her designee;

~~24.~~ 23. "State ceiling" means the limit which is prescribed by the Internal Revenue Code in Section 146 and in such other applicable sections of the Internal Revenue Code on the amount of private activity bonds which may be issued collectively by all of the issuers of the state during a calendar year;

~~25.~~ 24. "State issuer" means any public trust having the state as beneficiary or any state agency or other entity with powers to issue private activity bonds, provided that the term shall not include a public trust or any local issuer with the state as beneficiary whose jurisdiction is limited to one county;

~~26.~~ 25. "State Issuer Pool" means the portion of the state ceiling reserved for state issuers of qualified small issuer projects; and

~~27.~~ 26. "Student Loan Pool" means the portion of the state ceiling reserved for qualified student loan bonds.

SECTION 3. AMENDATORY 62 O.S. 1991, Section 695.24, as last amended by Section 4, Chapter 400, O.S.L. 1998 (62 O.S. Supp. 1998, Section 695.24), is amended to read as follows:

Section 695.24 A. 1. The first Thirty Million Dollars (\$30,000,000.00) of any portion of the state ceiling which is in excess of One Hundred Seventy Million Dollars (\$170,000,000.00) shall be reserved and placed in the Student Loan Pool.

2. a. The second Thirty Million Dollars (\$30,000,000.00) which is in excess of One Hundred Seventy Million Dollars (\$170,000,000.00) shall be reserved and placed in a pool designated as the Economic Development Pool. For the period January 1 through ~~September 1~~ December 20 of each calendar year, allocations from this pool may be made only upon the recommendation of the Director of the Oklahoma Department of Commerce and following review and approval by the Executive and Legislative Bond Oversight Commissions. In order to approve the recommendation, the Bond Oversight Commissions must find that the project seeking an allocation from this pool will result in the creation of manufacturing jobs in this state or will in some

other way contribute to an economic development objective of this state.

- b. For purposes of this subsection, "manufacturing jobs" means jobs created by manufacturing facilities as that term is defined in subparagraphs a, b, and c of paragraph 1 of subsection B of Section 2902 of Title 68 of the Oklahoma Statutes.
- c. The amount reserved and placed in the Economic Development Pool shall be excluded from the calculation of the state ceiling for the purposes of determining the amounts to be reserved and placed in the other Pools set forth in this section.

3. Any remainder of the state ceiling which is in excess of the amounts reserved pursuant to paragraphs 1 and 2 of this subsection shall be reserved and placed in the Local Issuer Single Family Pool to be utilized pursuant to subsection G of this section.

B. 1. Eighteen and seventy-five one hundredths percent (18.75%) of the state ceiling shall be reserved and placed in a pool to be designated the Qualified Small Issue Pool.

2. For the period January 1 through September 1 of each calendar year, the Qualified Small Issue Pool shall be allocated to qualified small issue bond projects undertaken by either state or local issuers. Allocations will be available to issuers on a first-come, first-serve basis.

C. 1. Eight percent (8%) of the state ceiling shall be reserved and placed in a pool to be designated the Beginning Agricultural Producer and Exempt Facility Pools.

2. For the period January 1 through September 1 of each calendar year, the Beginning Agricultural Producer Pool shall be allocated pursuant to the criteria established in Section 5063.23 of Title 74 of the Oklahoma Statutes according to a ratio of fifty percent (50%) of the total amount allocated for the combined purposes, not to exceed Two Million Seven Hundred Fifty Thousand Dollars (\$2,750,000.00), the remainder to be allocated for a period January 1 through September 1 of each calendar year to exempt facility bonds issued by either state or local issuers. Allocations will be available to issuers on a first-come, first-serve basis.

D. 1. In addition to the amount set forth in Section 695.24 of this title, six and twenty-five one-hundredths percent (6.25%) of the state ceiling is hereby set aside for student loan bonds and, annually, shall be reserved and placed in a pool to be designated the Student Loan Pool.

2. For the period January 1 through September 1 of each calendar year, the Student Loan Pool shall be allocated to qualified student loan bonds issued by eligible state issuers. Allocations will be available to issuers on a first-come, first-serve basis.

E. 1. Fourteen and seventy-five one-hundredths percent (14.75%) of the state ceiling shall be reserved and placed in a pool to be designated the Oklahoma Housing Finance Agency Pool.

2. a. For the period January 1 through September 1 of each year, the Oklahoma Housing Finance Agency Pool shall be allocated to qualified single family bonds, multifamily bonds, or mortgage credit certificates issued by the Oklahoma Housing Finance Agency.
- b. Provided, twenty-five percent (25%) of the allocation from the Oklahoma Housing Finance Agency Pool shall be set aside for at least three (3) months for the origination of single family loans in counties with populations of three hundred thousand (300,000) or less.

F. 1. Six percent (6%) of the state ceiling shall be reserved and placed in a pool to be designated the State Issuer Pool. For the period commencing January 1 of each calendar year through September 1 of the same year, the State Issuer Pool shall be allocated to those qualified small issuer projects undertaken by state issuers which have issued in excess of Seventy-five Million Dollars (\$75,000,000.00) in qualified small issue bonds.

2. Notwithstanding the provisions of this section, a state issuer specifically limited in jurisdiction to one county shall be treated as a local issuer for the purposes of allocation.

G. ~~1.~~ The balance of the state ceiling shall be reserved and placed in a pool to be designated the Local Issuer Single Family Pool. For the period commencing January 1 of each calendar year through September 1 of the same year, the Local Issuer Single Family Pool shall be allocated first, Fifteen Million Dollars (\$15,000,000.00) to any public trust created to provide single family housing having a county with a population in excess of three hundred thousand (300,000) as its sole beneficiary and which has issued tax exempt single family housing revenue bonds in the amount of at least Four Hundred Million Dollars (\$400,000,000.00). Second, Five Million Dollars (\$5,000,000.00) shall be allocated to any public trust created to provide single family housing having a county with a population between one hundred thousand (100,000) and three hundred thousand (300,000) as its sole beneficiary and which has issued tax exempt single family housing revenue bonds. The balance of this pool shall be allocated to single family projects undertaken by any other local issuers in counties with which have been statutorily designated as instrumentalities of the state and which have not received any allocation from the State Issuer Pool and having a single family project available for one or more counties in the state each of which have populations of three one hundred thousand (300,000) (100,000) or less on a first-come, first-serve basis with no single local issuer or project to receive an allocation in excess of Seven Million Five Hundred Thousand Dollars (\$7,500,000.00) from the Local Issuer Single Family Pool and which issuers shall be considered a local issuer for purposes of this section.

~~2. An issuer which has not received any allocation from the State Issuer Pool and having a single family project limited in jurisdiction to twenty counties or less, each of which has a population of three hundred thousand (300,000) or less, shall be considered a local issuer for the purposes of this subsection.~~

H. The state ceiling for each calendar year shall be allocated within the categories set forth in subsections A, B, C, D, E, F and G of this section to all private activity bonds, as follows:

1. Except as provided in Section 695.21 et seq. of this title, the state ceiling shall be allocated in the order in which confirmations are issued;

2. The State Bond Advisor shall issue confirmations in the order in which fully and properly completed applications for state ceiling allocation are received. The State Bond Advisor shall have the limited authority to defer or deny confirmation on applications for state ceiling allocation which appear to be incomplete or premature based upon information submitted or which fail to show demand for funds pursuant to subsections F and G of Section 695.25 of this title; and

3. The State Bond Advisor shall have no discretionary control regarding the issuance of confirmations, except as specifically provided in the Oklahoma Private Activity Bond Allocation Act.

In the event a confirmation or application is denied, the State Bond Advisor, within five (5) business days following such denial, shall send written notice of such denial to the applicant together with a brief recital of the reason therefor.

I. ~~1.~~ On December 21 of each calendar year, nonallocated sums remaining in the Economic Development Pool and on September 2 of each calendar year, nonallocated sums remaining in the Economic Development Pool, Qualified Small Issue Pool, the Beginning Agricultural Producer Pool, the Exempt Facility Pool, the Student Loan Pool, the Oklahoma Housing Finance Agency Pool, and the State Issuer Pool shall be consolidated into the Local Issuer Single Family Pool shall be consolidated into the Consolidated Pool to be utilized pursuant to subsection G of this section by statutorily designated instrumentalities of the State of Oklahoma.

~~2. All local issuers and state issuers shall be entitled to obtain allocations from the Consolidated Pool for any private activity bond or mortgage credit certificate program based on the chronological order of completed applications received after January 1 of each calendar year which applications have not received an allocation.~~

SECTION 4. AMENDATORY 70 O.S. 1991, Section 4002.1, as amended by Section 122, Chapter 189, O.S.L. 1993 (70 O.S. Supp. 1998, Section 4002.1), is amended to read as follows:

Section 4002.1 Legislative approval expressed by concurrent resolution, except as provided by Section 121 ~~of this act, Chapter 189, O.S.L. 1993,~~ shall be required prior to commencing any action in anticipation of issuance by a Board of Regents of revenue bonds

authorized by Section 4002 of Title 70 of the Oklahoma Statutes or any other bonds authorized by law to be issued by such Boards. The provisions of this section shall not apply to revenue bonds issued for the purpose of refundings or defeasance of existing revenue bonds.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 6002, is amended to read as follows:

Section 6002. Rural Enterprises of Oklahoma, Inc. and the Central Industrial Applications Center ~~are~~ is hereby designated as a technology transfer ~~centers~~ center and as an instrumentality of the State of Oklahoma.

SECTION 6. Sections 2 and 3 of this act shall become effective January 1, 2000.

SECTION 7. Sections 1, 4 and 5 of this act shall become effective July 1, 1999.

SECTION 8. 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.

Passed the Senate the 19th day of May, 1999.

President of the Senate

Passed the House of Representatives the 19th day of May, 1999.

Speaker of the House of Representatives