

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1377

By: Wright

AS INTRODUCED

An Act relating to public finance; authorizing the Teachers' Retirement System of Oklahoma to enter into certain agreement with the Oklahoma Transportation Authority; providing for asset transfer to the Oklahoma Transportation Authority; providing for adequate rate of return on transferred assets; requiring computations of certain debt amount; requiring computation of asset values; requiring establishment of reserve amount; providing for transfer of assets; requiring establishment of separate asset account for receipt of certain income; providing for payment of certain tolls and charges related to turnpikes to the Teachers' Retirement System of Oklahoma; amending 69 O.S. 2001, Section 1709 and 1711, which relate to bonds or other obligations of the Oklahoma Transportation Authority; modifying provisions related to payment of debt service; modifying provisions related to use of turnpike tolls; providing for codification; providing an effective date; and declaring an emergency.

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 5001 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall be authorized to enter into agreement with the Oklahoma Transportation Authority pursuant to which the Teachers' Retirement System of Oklahoma may transfer assets not exceeding One Billion Two Hundred Million Dollars (\$1,200,000,000.00) to the Oklahoma Transportation Authority in order to defease all debt obligations of the Authority or such amount as may be determined by the Board of Trustees and the Oklahoma Transportation Authority to be required in order to defease such debt obligations.

B. No provision of this act shall be construed as mandatory for the asset transfer authorized by this section.

C. The Board of Trustees shall ensure that if the transfer of assets authorized by this section is made to the Oklahoma Transportation Authority, the revenues which would otherwise be used by the Oklahoma Transportation Authority for the repayment of principal and interest of the debt obligations defeased pursuant to the provisions of this act are sufficient to provide the Teachers' Retirement System with an adequate rate of return on the assets consistent with the obligation of the Board of Trustees as fiduciaries of the Teachers' Retirement System and with the applicable standards imposed by law for the management of funds under their control.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5002 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Transportation Authority shall determine, as of the date upon which the Board of Trustees of the Teachers' Retirement System of Oklahoma may designate, the total amount of principal and interest due and owing with respect to the debt obligations issued and outstanding by the Authority.

B. The Oklahoma Transportation Authority shall determine the total amount of assets, other than real property or tangible personal property, it owns as of the date specified in subsection A of this section. As used in this subsection, "assets" includes cash, cash equivalents, securities, stocks, bonds, or other intangible personal property having an economic value.

C. The Oklahoma Transportation Authority shall determine a reasonable reserve amount representing one year of maintenance expense, operations expenses and interest expense that the Authority shall maintain in a separate account from all other similar assets of the Authority. The amount so determined shall be subtracted from

the computation of the value of intangible personal property and other value computed pursuant to subsection B of this section.

D. The Authority shall determine the total amount of indebtedness represented by the issued and outstanding obligations of the Authority and shall use the assets described in subsection B of this section, less the reserve account amount, in order to defease such obligations as may be paid with such assets prior to the transfer of any assets from the Teachers' Retirement System of Oklahoma.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5003 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. After the defeasance of issued and outstanding obligations of the Oklahoma Transportation Authority using assets of the Oklahoma Transportation Authority pursuant to subsection B of Section 2 of this act, the Board of Trustees of the Teachers' Retirement System of Oklahoma shall transfer such assets of its System as may be required in order to fully defease the remaining issued and outstanding obligations of the Oklahoma Transportation Authority.

B. The Teachers' Retirement System of Oklahoma shall establish a separate asset account for the receipt of all income and other monies pursuant to subsection C of this section and other provisions of this act.

C. On and after the date as of which the Teachers' Retirement System makes a transfer of its assets to the Oklahoma Transportation Authority, all tolls and other charges associated with turnpikes or other road segments under the jurisdiction of the Oklahoma Transportation Authority shall be paid to the Teachers' Retirement System of Oklahoma and deposited in the special account created pursuant to subsection B of this section.

SECTION 4. AMENDATORY 69 O.S. 2001, Section 1709, is amended to read as follows:

Section 1709. A. The Authority may provide by resolution, at one time or from time to time, for the issuance of turnpike revenue bonds of the Authority for the purpose of paying all or any part of the cost of any one or more turnpike projects. The Authority, when it finds that it would be economical and beneficial to do so, may combine two or more, or any part thereof, or all of its proposed projects into one unit and consider the same as one project to the same extent and with like effect as if the same were a single project. ~~The~~ Except as otherwise provided by Section 1 of this act, the principal of and the interest on the bonds shall be payable solely from the funds provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding the limitations pertaining to public trust indebtedness from time to time expressed in subsection (e) of Section 176 of Title 60 of the Oklahoma Statutes, shall mature at such time or times not exceeding forty (40) years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity at the option of the Authority at such price or prices and pursuant to such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. If any officer whose signature or facsimile of whose signature appears on any bonds or coupons shall cease to be said officer before the delivery of the bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes the same as if the person had remained in office until such delivery. All bonds

issued pursuant to the provisions of this article shall have all the qualities and incidents of negotiable instruments subject to the negotiable instruments law of this state. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell the bonds in such amounts and in such manner, either at public or private sale, and for such price, as it may determine to be in the best interest of this state, but in no event at a discount in excess of that from time to time expressed in said subsection (e) of Section 176 of Title 60 of the Oklahoma Statutes.

B. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the turnpike project for which such bonds have been issued, and shall be disbursed in such manner and pursuant to such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds, or shall be used by the Authority in implementing any other power expressly granted to the Authority in this article.

C. Prior to the preparation of definitive bonds, the Authority, subject to like restrictions, may issue interim receipts or

temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which have become mutilated or were destroyed or lost. Bonds may be issued pursuant to the provisions of this article without obtaining the consent of any department, division, commission, board, bureau, or agency of this state, and without any other proceedings or the occurrence of any other conditions or things than those proceedings, conditions, or things that are specifically required by this article.

D. The Authority is hereby authorized to provide that the bonds:

(1) Be made payable from time to time on demand or tender for purchase by the owner provided a credit facility supports such bonds, unless the Authority specifically determines that a credit facility is not required.

(2) Be additionally supported by a credit facility.

(3) Be made subject to redemption prior to maturity, with or without premium, on such notice and at such time or times and with such redemption provisions as may be determined by the Authority or with such variations as may be permitted in connection with a par formula.

(4) Bear interest at a rate or rates that may vary as permitted pursuant to a par formula and for such period or periods of time, all as may be determined by the Authority.

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket the bonds to new purchasers prior to their presentment for payment to the provider of the credit facility or to the Authority.

No credit facility, repayment agreement, par formula or remarketing agreement shall become effective without the approval of the Authority.

E. As used in this section, the following terms shall have the following meanings:

(1) "Credit facility" means an agreement entered into by the Authority with any bank, savings and loan association or other banking institution; an insurance company, reinsurance company, surety company, or other insurance institution; a corporation, investment banker or other investment institution; or any other financial institution providing for prompt payment of all or any part of the principal, whether at maturity, presentment for purchase, redemption or acceleration, redemption premium, if any, and interest on any bonds payable on demand or tender by the owner issued in accordance with this section, in consideration of the Authority's agreeing to repay the provider of such credit facility in accordance with the terms and provisions of such repayment agreement, provided, that any such repayment agreement shall provide that the obligation of the Authority thereunder shall have only such sources of payment as are permitted for the payment of the bonds issued under this article; and

(2) "Par formula" means any provision or formula adopted by the Authority to provide for the adjustment, from time to time, of the interest rate or rates borne by any such bonds so that the purchase price of such bonds in the open market would be as close to par as possible.

F. Nothing in any law heretofore enacted or enacted at the present session of the Legislature shall be deemed to limit or restrict the right of the Authority to issue bonds or other obligations the interest income, in whole or in part, on which is subject, directly or indirectly, to federal income taxation.

SECTION 5. AMENDATORY 69 O.S. 2001, Section 1711, is amended to read as follows:

Section 1711. The Authority, subject to the provisions hereof, is hereby authorized to fix, revise, charge and collect tolls for

the use of each turnpike project and the different parts or sections thereof, except for use by law enforcement officers responsible for enforcing the traffic laws and the general laws of the state and federal governments on turnpikes, who shall be entitled to free use of every such project in the performance of official duties connected with such turnpike project, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon telephone, telegraph, electric light or power lines, gas stations, garages, stores, hotels, restaurants and advertising signs, or for any other purpose except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of charges for such use. Such tolls, subject to the other restrictions hereof, shall be so fixed and adjusted in respect of the aggregate of tolls from the turnpike project or projects in connection with which the bonds of any issue shall have been issued as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing, and operating such turnpike project or projects, and (b) the principal of and the interest of such bonds as the same shall become due and payable, and to create reserves for such purposes. ~~The~~ Except as otherwise provided by this act, the tolls and all other revenues derived from the turnpike project or projects in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of (a) the interest upon such bonds as such interest shall fall due, (b) the principal of such bonds as the same

shall fall due, (c) the necessary charges of paying agents for paying principal and interest, and (d) the redemption price or the purchase price of bonds retired by call or purchase as therein provided, which are a charge against such fund. The use and disposition of monies to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. The monies in the sinking fund, less such reserve as may be provided in such resolution or trust agreement, if not used within a reasonable time for the purchase of bonds for cancellation as above provided, shall be applied to the redemption of bonds at the redemption price then applicable. Any person who leases, rents, or acquires control of any gas station, garage, store, hotel, or restaurant must have been a resident of, or been doing business in, Oklahoma for the past five (5) years. Notwithstanding anything else herein contained to the contrary, the Corporation Commission of the State of Oklahoma shall exercise the jurisdiction now or hereafter vested in it to regulate and control the operation of motor carriers of passengers and freight, using or desiring to use any turnpike project, in the manner and to the extent that it regulates or controls such carriers using the highways of the state. The Authority shall not discriminate against any group or class or individual member thereof in fixing the amount of toll, rents, or charge for the use of the turnpike project. On and after the date as of which the assets of the Teachers' Retirement System of Oklahoma are used to defease the issued and outstanding obligations of the Oklahoma Transportation Authority, the tolls and other charges authorized pursuant to this section shall be paid directly to the Teachers' Retirement System of

Oklahoma according to the agreement described in subsection A of
Section 1 of this act.

SECTION 6. This act shall become effective July 1, 2003.

SECTION 7. 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.

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