ENROLLED HOUSE
BILL NO. 2474

By: Perry of the House

and

Hobson of the Senate

An Act relating to roads, bridges and ferries; amending 69 O.S. 2001, Section 1709, which relates to turnpikes; authorizing the Oklahoma Turnpike Authority to enter into certain transactions; requiring certain approval by the Oklahoma State Bond Advisor and the Council of Bond Oversight; and declaring an emergency.

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

SECTION 1. 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 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 ~~(c)~~ 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)~~ 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)~~ 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)~~ 2. Be additionally supported by a credit facility~~.~~;

~~(3)~~ 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)~~ 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~~.~~; and

~~(5)~~ 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)~~ 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)~~ 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.

G. The Authority may enter into transactions utilizing derivative products, and other financial products intended to hedge interest rate risk, including any option to enter into or terminate any of them, that the Authority deems to be necessary or desirable in connection with any bonds issued prior to, at the same time as, or after entering into such arrangement and containing terms and provisions, and may be with such parties, as determined by the Authority. Provided, any action taken by the Authority pursuant to this subsection must first be approved by the Oklahoma State Bond Advisor and the Council of Bond Oversight pursuant to the provisions of the Oklahoma Bond Oversight and Reform Act.

SECTION 2. 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 House of Representatives the 16th day of March, 2006.

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Presiding Officer of the House of Representatives

Passed the Senate the 5th day of April, 2006.

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Presiding Officer of the Senate