

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1371

By: Crain

AS INTRODUCED

An Act relating to public finance; amending 62 O.S. 2001, Section 863, as last amended by Section 6, Chapter 210, O.S.L. 2005 (62 O.S. Supp. 2005, Section 863), which relates to tax apportionment bonds; requiring certain approval prior to issuance of bonds; and providing an effective date.

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

SECTION 1. AMENDATORY 62 O.S. 2001, Section 863, as last amended by Section 6, Chapter 210, O.S.L. 2005 (62 O.S. Supp. 2005, Section 863), is amended to read as follows:

Section 863. A. With the approval of the governing body, a public entity, other than a city, town or county, may issue tax apportionment bonds or notes, other bonds or notes, or both, the proceeds of which may be used to pay project costs pursuant to the plan notwithstanding any other statutory provision to the contrary. Subject to the approval of the governing body, such public entity may issue refunding bonds or notes for the payment or retirement of bonds or notes previously issued by the public entity to pay project costs pursuant to the plan.

B. The public entity issuing tax apportionment bonds or notes may, as authorized by the governing body pursuant to Section 6C of Article X of the Constitution of the State of Oklahoma, irrevocably pledge all or part of the apportioned increments and other revenue for payment of the tax apportionment bonds or notes. The part of the apportioned increments pledged in payment may be used only for the payment of the bonds or notes or interest on the bonds or notes until the bonds or notes have been fully paid. A holder of the

bonds or notes or of coupons issued on the bonds has a lien to the extent authorized by the pledge against the apportionment fund and the future increments for payment of the bonds or notes and interest on the bonds or notes and may protect or enforce the lien at law or in equity.

C. The issuing public entity may provide in the contract with the owners or holders of tax apportionment bonds that they will pay into the apportionment fund all or any part of the revenue produced or received from the operation or sale of a facility acquired, improved, or constructed pursuant to a project plan, to be used to pay principal and interest on the bonds. If the public entity agrees, the owners or holders of these bonds may have a lien or mortgage on a facility acquired, improved, or constructed with the proceeds of the bonds.

D. Tax apportionment bonds may be issued to mature in a period not to exceed twenty-five (25) years in one or more series; provided, however, that for any increment district established after November 1, 1992, such time period shall be tolled for a period of time equal to the pendency of any litigation directly or indirectly challenging the increment district or apportionment or disbursement. The trust indenture, ordinance, or resolution approved, issued in connection with such bond or note, shall provide:

1. The date that the bond or note bears;
2. That the bond or note is payable on demand or at a specified time;
3. The interest rate that the bond or note bears;
4. The denomination of the bond or note;
5. Whether the bond or note is in coupon or registered form;
6. The conversion or registration privileges of the bond or note;
7. The manner of execution of the bond or note;

8. The medium of payment in which and the place or places at which the bond or note is payable;

9. The terms of redemption, with or without premium, to which the bond or note is subject;

10. The manner in which the bond or note is secured; and

11. Any other characteristic of the bond or note.

E. A bond or note issued pursuant to the provisions of the Local Development Act is fully negotiable. In a suit, action, or other proceeding involving the validity or enforceability of a bond or note issued pursuant to the provisions of the Local Development Act or the security of a bond or note issued pursuant to the provisions of the Local Development Act, if the bond or note recites in substance that it was issued by the public entity pursuant to the Local Development Act, the bond or note is deemed to have been issued for that purpose, and the recital shall be conclusive of its validity and the regularity of its issuance.

F. A bank, trust company, savings bank or institution, savings and loan association, investment company or other person carrying on a banking or investment business; an insurance company, insurance association, or other person carrying on an insurance business; or an executor, administrator, curator, trustee, or other fiduciary may invest any sinking funds, money, or other funds belonging to it or in its control in tax apportionment bonds or notes issued under the Local Development Act. This act does not relieve any person of the duty to exercise reasonable care in selecting securities or of complying with other applicable laws.

G. A tax apportionment bond or note issued pursuant to the provisions of this section is not a debt, liability, or obligation of the city, town or county creating or approving the plan, project or increment district. The bond or note does not give rise to a charge against the general credit or taxing powers of such city, town or county and is not payable except as provided by the Local

Development Act. Bonds or notes issued pursuant to the provisions of this section are not general obligations of the state and have no claim on the revenues or resources of the state. A bond or note issued pursuant to the provisions of this section must state the restrictions of this subsection on its face.

H. A tax apportionment bond or note issued pursuant to the provisions of this section may not be included in any computation of the general obligation debt of the city, town or county creating or approving the plan, project or increment district.

I. A public entity may not issue bonds or notes, pursuant to the provisions of this section, providing for repayment of any portion of the principal from apportioned tax increments in an amount that exceeds the total cost of implementing the project plan for which the bonds or notes are issued except to the extent that bond or notes issues may be sized to include costs of issuance, credit enhancement fees or premiums, and reasonably required reserves or amounts to be repaid from sources other than apportioned tax increments.

J. All bonds issued pursuant to the provisions of this section ~~shall be reviewed by the Oklahoma State Bond Advisor who will give a recommendation on such bonds to the issuing entity~~ must first be approved by the Office of the State Bond Advisor and the Council of Bond Oversight pursuant to the provisions of the Oklahoma Bond Oversight and Reform Act.

SECTION 2. This act shall become effective November 1, 2006.

50-2-2421

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