

SB 1731

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THE STATE SENATE
Monday, February 25, 2008

Senate Bill No. 1731
As Amended

SENATE BILL NO. 1731 - By: LERBLANCE of the Senate and CAREY of the House.

[roads, bridges and ferries - creating the Local Transportation Act - conditional effective date]

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 1531.1 of Title 69, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Local Transportation Act".

B. It shall be the policy of this state to encourage and promote the development and renovation of local roadways within this state. It is the purpose of this act to provide or assist in the design, engineering, construction and improvement of new roads and highways; and the design, engineering, construction, improvement, enlargement, reconstruction, renovation and relocation of roads, highways, bridges, the acquisition of rights-of-way and all other related infrastructure including drainage.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1531.2 of Title 69, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in the Local Transportation Act:

5 1. "Project" means any design, engineering or construction work
6 pursuant to this act;

7 2. "Investment certificate" means any note or bond, including
8 any renewal note or refunding bond, authorized and issued by the
9 Department of Transportation for the purposes set forth in this act;

10 3. "Eligible entity" means any city, town or county and any
11 combination thereof; and

12 4. "Commission" means the Transportation Commission.

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1531.3 of Title 69, unless there
15 is created a duplication in numbering, reads as follows:

16 A. There is hereby created in the State Treasury the Local
17 Transportation Revolving Fund, which shall be used by the
18 Transportation Commission for those purposes stated in Section 1 of
19 this act. To provide necessary funds, the Commission is hereby
20 authorized to issue by public sale investment certificates from time
21 to time, as may be required, to provide an adequate amount of cash
22 in such fund which may be necessary to meet the anticipated needs
23 for the funding of properly approved projects. The Commission is

1 authorized to provide for the payment of such investment
2 certificates and the rights of the holders thereof, as hereinafter
3 provided.

4 B. The investment certificates shall be awarded to the lowest
5 and best bidder based upon open competitive public offering,
6 advertised at least once a week for two (2) successive weeks in a
7 newspaper in general circulation in Oklahoma County, Oklahoma, prior
8 to the date on which bids are received and opened, except, on issues
9 with the approval of three-fourths (3/4) of the membership of the
10 Commission, competitive bidding may be waived. No investment
11 certificates shall be sold for less than par value, except upon
12 approval of three-fourths (3/4) of the membership of the Commission.
13 Provided, however, in no event shall any investment certificates be
14 sold at a discount in excess of four percent (4%), which shall
15 include any fees, discounts and any other remuneration received
16 directly or indirectly by the purchaser.

17 C. The investment certificates may be issued in one or more
18 series; may bear such date or dates; may mature at such time or
19 times, not to exceed fifty (50) years from their date; may be in
20 such denomination or denominations; may be in such form may carry
21 such registration or conversion privileges; may be executed in such
22 manner; may be payable in such medium of payments, at such place or
23 places; may be subject to such term of redemption, with or without

1 premium; and may bear such rate or rates of interest not to exceed
2 fifteen percent (15%) as may be provided by resolution or
3 resolutions to be adopted by the Commission.

4 D. The investment certificates shall have all of the qualities
5 and incidents of negotiable paper, and shall not be subject to
6 taxation by the state, or by any county, municipality or political
7 subdivision therein. The Commission is hereby authorized to
8 defease, call and redeem all or any portion of any investment
9 certificates issued hereunder, the detailed provisions for such
10 defeasance, call and redemption to be fixed by the Commission in the
11 resolution or resolutions authorizing such defeasance, call and
12 redemption.

13 E. Obligations issued under the provisions of this section are
14 hereby made securities in which all public officers and public
15 bodies of the state, all insurance companies, trust companies,
16 banking associations, investment companies, executors,
17 administrators, trustees and other fiduciaries may legally invest
18 funds, including capital in their control or belonging to them. The
19 obligations are hereby made securities which may legally be
20 deposited with and received by any public body of the state for any
21 purpose for which the deposit of obligations of the state is now or
22 may hereafter be authorized by law, and are hereby declared to be

1 securities classified as provided by law, and are authorized to be
2 evidenced by a joint-custody receipt.

3 F. The investment certificates issued pursuant to the
4 provisions of this section shall not be an indebtedness of the state
5 or general obligations of the Commission, but shall be special
6 obligations payable solely from the revenues to be derived from the
7 project or such other revenues as may be pledged by the applicant
8 for such purposes. The Commission is authorized and directed to
9 pledge all or any part of such revenues to the payment of principal
10 and interest on the investment certificates and to create a reserve.
11 Such pledge shall be valid and binding from the time the pledge is
12 made.

13 G. The revenues so pledged and thereafter received by the
14 Commission shall immediately be subject to the lien of such pledge
15 without any physical delivery, filing or further act. The lien of
16 such pledge shall be valid and binding against all parties having
17 claims of any kind in tort, contract or otherwise against the
18 Commission arising from the bond proceedings irrespective of whether
19 these parties have notice thereof.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1531.4 of Title 69, unless there
22 is created a duplication in numbering, reads as follows:

1 The State Treasurer is hereby authorized, at his or her
2 discretion, to purchase from the Transportation Commission at
3 private sale not to exceed One Million Five Hundred Thousand Dollars
4 (\$1,500,000.00) in investment certificates or interim investment
5 certificates for each project, provided that the rate of interest
6 agreed upon by the Commission and the State Treasurer shall not be
7 less than seven percent (7%). Provided, the State Treasurer is
8 hereby authorized, at his or her discretion, to sell any investment
9 certificates so purchased with any of said sales not to be less than
10 par, plus interest as accrued.

11 SECTION 5. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1531.5 of Title 69, unless there
13 is created a duplication in numbering, reads as follows:

14 Except as provided in the rules of the Municipal Securities
15 Rulemaking Board no broker, dealer, or investment certificates
16 dealer that has a financial advisory relationship with respect to a
17 new issue of investment certificates shall acquire as principal
18 either alone or as a participant in a syndicate or other similar
19 account formed for the purpose of purchasing, directly or
20 indirectly, from the issuer all or any portion of such issue, or
21 arrange for such acquisition or participation by a person
22 controlling, controlled by, or under common control with such
23 broker, dealer, or investment certificates dealer.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1531.6 of Title 69, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Transportation Commission is hereby authorized to
5 advance to any city, town or county or combination thereof
6 sufficient funds to acquire or construct a project and/or refinance
7 any indebtedness originally incurred to acquire or construct a
8 project.

9 B. Such loans by the Commission shall be made pursuant to
10 notes, bonds, revenue bonds or other appropriate form of evidence of
11 indebtedness to the Commission by the eligible entity.

12 C. The interest rate and loan term shall be determined by the
13 Commission, provided, however, that the interest rate for loans
14 shall not exceed fourteen percent (14%) per annum.

15 D. As security, the Commission may take a mortgage on the
16 entire project and such other revenues as may be pledged by the
17 applicant for such purposes.

18 E. The Commission, in its discretion, may defer the principal
19 or an installment on such loans but the total cumulating time such
20 payment may be deferred shall not exceed five (5) years.

21 SECTION 7. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1531.7 of Title 69, unless there
23 is created a duplication in numbering, reads as follows:

1 In the issuance of investment certificates, it shall be the duty
2 and responsibility of the Transportation Commission to consider the
3 relative needs of all eligible entities in the state and to ensure
4 that sufficient monies are made available from each issuance to
5 satisfy such proportionate share of the overall needs as are
6 attributable to the eligible entities.

7 SECTION 8. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1531.8 of Title 69, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Within ten (10) days of receipt of the transcript of
11 proceedings on said investment certificates, the Attorney General
12 shall examine and approve or disapprove all of the proceedings of
13 the Commission and all resolutions passed and actions taken by it in
14 connection with the authorization, issuance and sale of such
15 investment certificates.

16 B. The Attorney General shall execute a certificate and file it
17 with the Secretary of State if the Attorney General finds such
18 investment certificate proceedings and sale to be constitutional and
19 lawful.

20 C. The certificate shall read substantially as follows:
21 I have examined all proceedings had in connection with the issuance
22 of the Transportation Commission Certificates in the aggregate
23 principal amount of \$ _____, dated _____, authorized and

1 sold pursuant to _____, and find said proceedings and sale to
2 be constitutional, lawful and regular in all particulars and that
3 said investment certificates will be valid obligations of the
4 Transportation Commission. Unless suit thereon shall be brought in
5 the Supreme Court within thirty (30) days from the date of this
6 certificate, said investment certificates shall be incontestable for
7 all purposes.

8 _____
9 Date Attorney General

10 D. A facsimile of such Attorney General's certificate shall
11 appear on each investment certificate so issued.

12 E. Upon the filing of such certificate, investment certificates
13 issued pursuant to proceedings so examined by the Attorney General
14 shall be incontestable for all purposes upon the expiration of
15 thirty (30) days from the date of such certificate, unless suit be
16 brought in the Supreme Court prior to the expiration of said period.

17 F. Failure of the Attorney General to approve or otherwise act
18 upon such proceedings as required herein shall, for all purposes, be
19 deemed an approval of such proceedings and a waiver of the
20 requirement for certification.

21 G. In the absence of an express certification, the thirty-day
22 period for the filing of suit in the Supreme Court shall commence

1 upon the eleventh day following receipt of the transcript of
2 proceedings in the Office of the Attorney General.

3 H. The Supreme Court is hereby vested with exclusive
4 jurisdiction over any litigation involving the validity of any
5 investment certificates issued under the provisions of this act.

6 SECTION 9. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1531.9 of Title 69, unless there
8 is created a duplication in numbering, reads as follows:

9 A. The Transportation Commission is authorized in its
10 discretion to file an application with the Supreme Court for
11 approval by the Court of any investment certificates to be issued
12 under the provisions of this act.

13 B. The Commission is further authorized to file a petition for
14 a judgment determining the validity of any proposed contract or
15 action arising from the exercise of any of the powers, rights,
16 privileges and functions conferred upon the Commission, eligible
17 entities under the provisions of this act.

18 C. Exclusive original jurisdiction is hereby conferred upon the
19 Supreme Court to hear and determine each such application or
20 petition.

21 D. Notice of the hearing on each application and petition shall
22 be given by a notice published in a newspaper of general circulation
23 in the state, which shall state that on a day named the Commission,

1 it will ask the Court to hear its application and approve the
2 investment certificates, or hear its petition and enter a
3 declaratory judgment.

4 E. The notice shall inform property owners, taxpayers, citizens
5 and all persons having or claiming any right, title or interest in
6 such matter or properties or funds to be affected by the issuance of
7 such investment certificates, or proposed contract or action, or
8 affected in any way thereby, that they may file protests against the
9 issuance of the investment certificates, the validity of the
10 contracts or action, or the declaratory judgment, and be present at
11 the hearings and contest the legality thereof.

12 F. The notice shall be published one time not less than ten
13 (10) days prior to the date named for the hearing and the hearing
14 may be adjourned from time to time in the discretion of the Court.

15 G. If the Court is satisfied that the investment certificates
16 described in the application have been properly authorized in
17 accordance with this act and that, when issued, they will constitute
18 valid obligations in accordance with their terms, the Court shall:

19 1. Render its written opinion approving the investment
20 certificates;

21 2. Upon application of the Commission, issue an order
22 permanently enjoining all persons described in the notice from
23 instituting any action or proceeding contesting the validity of:

- 1 a. the investment certificates,
- 2 b. the rates, fees or charges authorized to be charged
- 3 for the payment thereof, or
- 4 c. the pledge of revenues, monies, securities, contract
- 5 rights or other personal property to secure such
- 6 payment; and

7 3. Fix the time within which a petition for rehearing may be
8 filed.

9 H. If the Court is satisfied that a proposed contract or action
10 described in a petition filed pursuant to this section is in
11 accordance with the provisions of this act, the Court shall enter a
12 judgment approving and declaring such contract or action to be
13 valid, and shall, upon application of the Commission, also issue an
14 order permanently enjoining all persons described in the notice from
15 thereafter instituting any action or proceeding contesting the
16 validity of such contract or action, and shall fix the time within
17 which the petition for rehearing may be filed.

18 I. The decision of the Court shall be a judicial determination
19 of the validity of the investment certificates, shall be conclusive
20 as to the Commission, its officers and agents, and thereafter the
21 obligations so approved and the revenues, monies, securities,
22 contract rights or other personal property pledged to their payments
23 shall be incontestable in any court in the State of Oklahoma, and

1 any declaratory judgment on any contract or action of the
2 Commission, any eligible public agency or any public trust entered
3 pursuant to this section shall have the force and effect of a final
4 judgment or decree.

5 SECTION 10. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1531.10 of Title 69, unless
7 there is created a duplication in numbering, reads as follows:

8 The provisions of this act shall become effective contingent
9 upon the approval by the people of a constitutional amendment
10 authorizing the use of state monies for furnishing financial
11 assistance to eligible entities.

12 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-19-08 - DO PASS,
13 As Amended and Coauthored.