

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1731

By: Lerblance

4  
5  
6 AS INTRODUCED

7 An Act relating to roads, bridges and ferries;  
8 creating the Local Transportation Act; providing  
9 short title; stating public policy; stating purpose;  
10 defining terms; creating the Local Transportation  
11 Revolving Fund; providing for issuance of certain  
12 investment certificates; providing for repayment  
13 obligations; stating certain activities unlawful for  
14 certain persons; authorizing the State Treasurer to  
15 purchase certain investment certificates; stating  
16 limitations; prohibiting certain financial dealings;  
17 authorizing the Transportation Commission to loan  
18 monies to cities, towns or counties for certain  
19 purposes; requiring Commission to consider local  
20 needs relating to issuance of certificates; stating  
21 duties of the Attorney General; authorizing  
22 Transportation Commission to file approval  
23 application with the Supreme Court; stating  
24 procedures; providing for codification; and providing  
effective date contingent upon passage of  
constitutional amendment.

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".

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

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

12 As used in the Local Transportation Act:

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

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

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

20 4. "Commission" means the Transportation Commission.

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

24

1       A. There is hereby created in the State Treasury the Local  
2 Transportation Revolving Fund, which shall be used by the  
3 Transportation Commission for those purposes stated in Section 1 of  
4 this act. To provide necessary funds, the Commission is hereby  
5 authorized to issue by public sale investment certificates from time  
6 to time, as may be required, to provide an adequate amount of cash  
7 in such fund which may be necessary to meet the anticipated needs  
8 for the funding of properly approved projects. The Commission is  
9 authorized to provide for the payment of such investment  
10 certificates and the rights of the holders thereof, as hereinafter  
11 provided.

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

1 C. The investment certificates may be issued in one or more  
2 series; may bear such date or dates; may mature at such time or  
3 times, not to exceed fifty (50) years from their date; may be in  
4 such denomination or denominations; may be in such form may carry  
5 such registration or conversion privileges; may be executed in such  
6 manner; may be payable in such medium of payments, at such place or  
7 places; may be subject to such term of redemption, with or without  
8 premium; and may bear such rate or rates of interest not to exceed  
9 fifteen percent (15%) as may be provided by resolution or  
10 resolutions to be adopted by the Commission.

11 D. The investment certificates shall have all of the qualities  
12 and incidents of negotiable paper, and shall not be subject to  
13 taxation by the state, or by any county, municipality or political  
14 subdivision therein. The Commission is hereby authorized to  
15 defease, call and redeem all or any portion of any investment  
16 certificates issued hereunder, the detailed provisions for such  
17 defeasance, call and redemption to be fixed by the Commission in the  
18 resolution or resolutions authorizing such defeasance, call and  
19 redemption.

20 E. Obligations issued under the provisions of this section are  
21 hereby made securities in which all public officers and public  
22 bodies of the state, all insurance companies, trust companies,  
23 banking associations, investment companies, executors,  
24 administrators, trustees and other fiduciaries may legally invest

1 funds, including capital in their control or belonging to them. The  
2 obligations are hereby made securities which may legally be  
3 deposited with and received by any public body of the state for any  
4 purpose for which the deposit of obligations of the state is now or  
5 may hereafter be authorized by law, and are hereby declared to be  
6 securities classified as provided by law, and are authorized to be  
7 evidenced by a joint-custody receipt.

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

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

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

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

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

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

1 controlling, controlled by, or under common control with such  
2 broker, dealer, or investment certificates dealer.

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

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

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

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

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

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

23

24

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

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

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

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

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

23           C.   The certificate shall read substantially as follows:  
24

1 I have examined all proceedings had in connection with the issuance  
2 of the Transportation Commission Certificates in the aggregate  
3 principal amount of \$ \_\_\_\_\_, dated \_\_\_\_\_, authorized and  
4 sold pursuant to \_\_\_\_\_, and find said proceedings and sale to  
5 be constitutional, lawful and regular in all particulars and that  
6 said investment certificates will be valid obligations of the  
7 Transportation Commission. Unless suit thereon shall be brought in  
8 the Supreme Court within thirty (30) days from the date of this  
9 certificate, said investment certificates shall be incontestable for  
10 all purposes.

11 \_\_\_\_\_

12 Date Attorney General

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

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

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

24

1 G. In the absence of an express certification, the thirty-day  
2 period for the filing of suit in the Supreme Court shall commence  
3 upon the eleventh day following receipt of the transcript of  
4 proceedings in the Office of the Attorney General.

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

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

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

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

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

23 D. Notice of the hearing on each application and petition shall  
24 be given by a notice published in a newspaper of general circulation

1 in the state, which shall state that on a day named the Commission,  
2 it will ask the Court to hear its application and approve the  
3 investment certificates, or hear its petition and enter a  
4 declaratory judgment.

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

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

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

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

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

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

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

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

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

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

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

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

11  
12 51-2-2866 MJM 1/22/2008 7:38:01 PM

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24