

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 1585

By: Johnson (Mike) and Myers of
the Senate

6 and

7 Miller and Martin (Scott)
8 of the House

9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to financing school construction;
12 creating the Qualified School Construction Bonds Act;
13 providing short title; stating findings; designating
14 Department of Education as administrator of certain
15 allotment; providing for application and selection
16 process; authorizing the Oklahoma Capitol Improvement
17 Authority to issue certain obligations; providing for
18 use of proceeds; providing for lease or use
19 agreements; providing for retirement of debt; stating
20 Legislative intent; authorizing the Authority to
21 borrow certain monies; providing for payment of
22 certain fees and costs; authorizing hiring of certain
23 professionals; authorizing certain agreements;
24 authorizing use of interest earnings; providing for
tax exempt status of obligations; providing for
investment of monies; creating Qualified School
Construction Bonds Project Fund and Qualified School
Construction Bonds Bond Fund; stating purposes;
providing for codification; and declaring an
emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 15-301 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Qualified
5 School Construction Bonds Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 15-302 of Title 70, unless there
8 is created a duplication in numbering, reads as follows:

9 The Legislature finds the following:

10 1. New and rehabilitated school facilities are urgently needed
11 across the state;

12 2. A part of the American Recovery and Reinvestment Act of 2009
13 (ARRA), codified at 26 U.S.C. 54F, can provide a new source of
14 assistance for construction, rehabilitation, or repair of public
15 school facilities or for acquisition of land for public school
16 facilities through the issuance of Qualified School Construction
17 Bonds (QSCBs). Bond issuers are entitled to direct federal payments
18 equal to approximately one hundred percent (100%) of the interest on
19 those bonds. The effect of these payments is to make QSCBs
20 effectively zero-interest bonds;

21 3. Applicable federal law limits the dollar amount of QSCB
22 obligations that may be issued in Oklahoma in a calendar year. The
23 amount of QSCBs that may be issued in the state is divided between
24 an amount specifically designated for identified local school

1 districts pursuant to ARRA (local allocation) and amounts allocated
2 to the entire state for use throughout the state (statewide
3 allocation). Oklahoma has received local and statewide allotments
4 for 2009 and 2010 that total Two Hundred Forty-four Million One
5 Hundred Ninety-eight Thousand Dollars (\$244,198,000.00), which the
6 state may allocate among school districts seeking capital for school
7 construction projects; and

8 4. This act will facilitate the use of ARRA financing of new
9 and refurbished schools with review and coordination at the state
10 level. Such coordination can allow for review of these transactions
11 by the Council on Bond Oversight and help make financing available to
12 the school districts of this state due to the low and zero-interest-
13 rate financing allocated to Oklahoma under ARRA.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 15-303 of Title 70, unless there
16 is created a duplication in numbering, reads as follows:

17 A. The State Department of Education is hereby designated the
18 state education agency responsible for administering the statewide
19 allocation of authority to issue QSCB financing under 26 U.S.C.
20 Section 54F. The Department shall perform the activities required
21 to implement and carry out the statewide allocation for the
22 qualified school construction bond program in Oklahoma. Those
23 activities include:

24

1 1. The Department, in consultation with the State Bond Advisor,
2 shall set dates for the application and selection process for the
3 Department and the Oklahoma Capitol Improvement Authority to
4 identify selected projects within the necessary timeframe for
5 issuance of the obligations authorized in Section 4 of this act
6 prior to the deadline established by federal law;

7 2. The Department shall solicit requests from school districts
8 for financial assistance for specified projects eligible for QSCB
9 financing;

10 3. The Department shall design an application process including
11 the requirements for applications and other information necessary
12 for the Department to evaluate, prioritize and approve requests for
13 financial assistance from school districts. Such process shall
14 incorporate the timeframes provided for in paragraph 1 of this
15 subsection to allow for the Authority to issue QSCBs before their
16 expiration;

17 4. In prioritizing projects the Department's consideration
18 shall include:

- 19 a. the age and condition of existing facilities,
20 b. the need for new facilities to accommodate growth in
21 student population,
22 c. the ability of the school district to successfully
23 finance the facilities without assistance, and
24

1 d. the cost of the facilities relative to the
2 availability of funds;

3 5. The Department shall select school districts for use of the
4 statewide QSCB allocation and establish conditions for the use of
5 the allocation. These conditions shall include:

6 a. requiring that the bond proceeds be used for purposes
7 permitted under 26 U.S.C. Section 54F,

8 b. conditions designed to assure that the allocation is
9 used in a timely manner and that the allocations are
10 made in accordance with the requirements of federal
11 law, and

12 c. as an additional condition, school districts shall
13 acknowledge and agree that the Department may collect
14 payments due pursuant to the Agreements authorized in
15 Section 4 of this act from the district's allocation
16 of State Aid, if the district does not have other
17 revenue designated for such payment, and the
18 Department is hereby granted authority to capture such
19 payments, notwithstanding any other provision of law;

20 6. The Department shall confirm that the terms of any QSCB
21 financing issued in accordance with this program are consistent with
22 the terms of the federal program; and

23 7. The Department shall act as the state entity designated to
24 receive notice from any local school district that it will not use

1 its local allocation so that the unused resource will become part of
2 the statewide allocation. Local school districts receiving a local
3 allocation are hereby directed to coordinate the use of such
4 allocation with the Department so that any local allocation that
5 will not be used by the local school district becomes eligible for
6 use as part of the statewide allocation.

7 B. The Department shall notify the Authority and the State Bond
8 Advisor of the QSCB financing it has approved, and provide all
9 material needed for the Bond Advisor to approve the issuance of
10 QSCBs to finance projects pursuant to Section 4 of this act.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 342 of Title 73, unless there is
13 created a duplication in numbering, reads as follows:

14 A. Contingent on the receipt and approval of notification from
15 the State Department of Education and the Bond Advisor pursuant to
16 Section 3 of this act, the Oklahoma Capitol Improvement Authority is
17 authorized to issue bonds, notes, or other QSCB obligations in an
18 amount necessary to generate net proceeds not to exceed Two Hundred
19 Forty-four Million One Hundred Ninety-eight Thousand Dollars
20 (\$244,198,000.00) after providing for costs of issuance, credit
21 enhancement, reserves, and other associated expenses related to the
22 financing of a project to finance school improvements pursuant to 26
23 USCA Section 54F (the Project). Such authorization to issue QSCB
24 bonds shall be in effect through December 31, 2010, and afterward,

1 to the extent that federal law may permit or extend QSCB issuance
2 after that date. Net proceeds of the financing will be deposited
3 into the Qualified School Construction Bonds Project Fund (Project
4 Fund) created in Section 5 of this act and shall be used for the
5 construction, rehabilitation, or repair of selected public school
6 facilities and equipment used in those portions of school facilities
7 constructed, rehabilitated or repaired with the proceeds of the
8 financing, or the acquisition of land on which such facilities are
9 to be constructed, as permitted by federal law for QSCBs, and for
10 associated costs of issuance. Earnings that result from the
11 investment of the Project Fund may be used for the Project
12 authorized in this section.

13 B. The Authority, the Department, and respective school
14 districts shall enter into lease or use agreements with respect to
15 the use of school facilities, the construction, rehabilitation, or
16 repair of which is financed with any proceeds from the issuance of
17 obligations authorized in subsection A of this section.

18 C. The obligations issued pursuant to subsection A of this
19 section shall be retired by payments to the Authority from funds in
20 the Qualified School Construction Bonds Bond Fund (Bond Fund),
21 created in Section 5 of this act, in the manner specified by the
22 Agreement. The Department shall deposit in the Bond Fund funds it
23 receives or collects from the school districts for the use or lease
24 of any school facilities constructed, rehabilitated or repaired with

1 the proceeds of the obligations authorized in subsection A of this
2 section pursuant to the Agreement. Notwithstanding other provisions
3 of law, for any district that does not have revenue available for
4 this purpose, the Department is hereby authorized to collect and
5 capture from the district's allocation of State Aid the district's
6 periodic payment due under the relevant Agreement.

7 It is the intent of the Legislature that the Department receive
8 or collect sufficient monies pursuant to the Agreements to make
9 payments for the purposes of retiring the obligations created
10 pursuant to this section. It is the further intent of the
11 Legislature to appropriate additional monies for such purpose only
12 in the event that no other funds are available for such purpose.

13 The Department shall submit requests to the federal Internal
14 Revenue Service for refundable credit payment to ensure the receipt
15 of timely payments with respect to bond interest payment dates.

16 D. For the purpose of paying the costs for acquisition of the
17 Project authorized in subsection A of this section, and for the
18 purpose authorized in subsection E of this section, the Authority is
19 hereby authorized to borrow monies on the credit of the income and
20 revenues to be derived from the leasing of such real property and
21 improvements and, in anticipation of the collection of such income
22 and revenues, to issue negotiable obligations in one or more series.

23 E. To the extent funds are available from the proceeds of the
24 borrowing authorized by subsection D of this section, the Authority

1 shall provide for the payment of professional fees and associated
2 costs related to the Project authorized in subsection A of this
3 section.

4 F. The Authority may issue obligations in one or more series
5 and in conjunction with other issues of the Authority. The
6 Authority is authorized to hire bond counsel, financial consultants,
7 and such other professionals as it may deem necessary to provide for
8 the efficient sale of the obligations and may utilize a portion of
9 the proceeds of any borrowing to create such reserves as may be
10 deemed necessary and to pay costs associated with the issuance and
11 administration of such obligations.

12 G. The obligations authorized under this section may be sold at
13 either competitive or negotiated sale, as determined by the
14 Authority, and in such form and at such prices as may be authorized
15 by the Authority. The Authority may enter into agreements with such
16 credit enhancers and liquidity providers as may be determined
17 necessary to efficiently market the obligations. The obligations
18 may mature and have such provisions for redemption as shall be
19 determined by the Authority, but in no event shall the final
20 maturity of such obligations occur later than twenty (20) years from
21 the first principal maturity date or as required by federal law.

22 H. Any interest earnings on funds or accounts created for the
23 purposes of this section may be utilized as partial payment of the
24 annual debt service or for the purposes directed by the Authority.

1 I. The obligations issued under this section, the transfer
2 thereof and the interest earned on such obligations, including any
3 profit derived from the sale thereof, shall not be subject to
4 taxation of any kind by the State of Oklahoma, or by any county,
5 municipality or political subdivision therein.

6 J. The Authority may direct the investment of all monies in any
7 funds or accounts created in connection with the offering of the
8 obligations authorized under this section. Such investments shall
9 be made in a manner consistent with the investment guidelines of the
10 State Treasurer. The Authority may place additional restrictions on
11 the investment of such monies if necessary to enhance the
12 marketability of the obligations.

13 K. Insofar as they are not in conflict with the provisions of
14 this section, the provisions of Section 151 et seq. of Title 73 of
15 the Oklahoma Statutes shall apply to this section.

16 SECTION 5. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 343 of Title 73, unless there is
18 created a duplication in numbering, reads as follows:

19 A. There is hereby created in the State Treasury a special fund
20 for the Oklahoma Capitol Improvement Authority to be designated the
21 Qualified School Construction Bonds Project Fund (Project Fund).
22 All monies deposited into the Project Fund shall be used and
23 expended by the Authority for the purposes specified in this act and
24 the Agreement between school districts, the Department, and the

1 Authority. The Authority may establish separate accounts within the
2 Project Fund as may be required to identify separate transactions
3 involving each school district participating in the program created
4 by this act and to provide for the distribution of moneys deposited
5 in the fund.

6 B. There is hereby created in the State Treasury for the
7 Authority a special fund to be designated the Qualified School
8 Construction Bonds Bond Fund (Bond Fund). The Authority shall use
9 the moneys in the Bond Fund to pay the principal, interest, and
10 other costs associated with the issuance of obligations pursuant to
11 the provisions of the Qualified School Construction Bonds Act.

12 C. In addition to the funds created in subsections A and B of
13 this section, the Authority is authorized to establish a Reserve
14 Fund to efficiently market the bonds authorized by this act.

15 SECTION 6. It being immediately necessary for the preservation
16 of the public peace, health and safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

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