STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

CONFERENCE COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1583

By: Caldwell, Cleveland, Dunnington, Virgin, Bennett (Forrest), Echols, Osborn (Leslie) and Martin of the House

and

Loveless, Sparks, Griffin and Sharp of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public finance; providing for consolidation of the Office of the State Bond Advisor with the Office of the State Treasurer; providing for transfer of funds; providing for transfer of books, papers, records, property, functions, powers, duties and obligations; providing for transfer of personnel; providing for continuation of rules, regulations, acts, orders, determinations and decisions; amending Section 4, Chapter 275, O.S.L. 2012 (62 O.S. Supp. 2016, Section 695.6a), which relates to the Council of Bond Oversight; modifying membership of Council of Bond Oversight; amending 62 O.S. 2011, Sections 695.7, as amended by Section 5, Chapter 275, O.S.L. 2012 and 695.8a, as amended by Section 466, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2016, Sections 695.7 and 695.8a), which relate to the Oklahoma State Bond Advisor and the Bond Oversight Revolving Fund; providing for employment of the State Bond Advisor by the State Treasurer; modifying provisions related to the selection of the State Bond Advisor by the Council of Bond Oversight; modifying provisions related to confirmation; modifying references to State Bond Advisor; defining term; requiring certain disclosure by public finance service providers; providing for disclosure of financial contributions in excess of specified dollar amount; imposing deadline; prescribing required content; requiring disclosure of financial contributions prior to selection of public finance service providers by certain governmental entities; requiring disclosure to be made to certain persons; providing exception; repealing 62 O.S. 2011, Section 695.7a, as amended by Section 6, Chapter 275, O.S.L. 2012 (62 O.S. Supp. 2016, Section 695.7a), which relates to the administration of the Office of the State Bond Advisor; providing for codification; and providing an 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 373 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Office of the State Bond Advisor is hereby consolidated into the Office of the State Treasurer.

B. Any funds appropriated to, in the possession of, or allocated to the Office of the State Bond Advisor shall be deemed to be funds of and shall be transferred to the Office of the State Treasurer.

C. All books, papers, records, property, functions, powers, duties and obligations of the Office of the State Bond Advisor are hereby transferred to the Office of the State Treasurer.

D. All personnel of the Office of the State Bond Advisor are hereby transferred to the Office of the State Treasurer.

E. All rules, regulations, acts, orders, determinations and decisions pertaining to the functions and powers herein transferred and assigned to the Office of the State Treasurer, in force at the time of such transfer or assignment, shall continue in force and effect until duly modified or abrogated by the State Treasurer or until otherwise provided by law.

SECTION 2. AMENDATORY Section 4, Chapter 275, O.S.L. 2012 (62 O.S. Supp. 2016, Section 695.6a), is amended to read as follows:

Section 695.6a A. The Council of Bond Oversight shall consist of five (5) members as follows:

1. One member shall be appointed by the President Pro Tempore of the Senate;

2. One member shall be appointed by the Speaker of the House of Representatives;

3. Two members shall be appointed by the Governor, with the advice and consent of the Senate; and

4. The ~~Director of State Finance~~ State Treasurer or his or her designee shall be a member.

B. Three members shall constitute a quorum. The affirmative vote of three members shall be necessary for any action to be taken by the Council.

C. Members appointed to the Council shall serve a term of four (4) years and may be removed for cause by the appointing authority. Members may be reappointed for additional terms.

D. A vacancy on the Council shall be filled in the same manner as the original appointment, to hold office during the unexpired term for which the member was appointed. The Council shall elect one of its members chair and may elect such other officers as it deems necessary. No vacancy in the membership of the Council shall impair the right of the Council to exercise all duties of the Council.

E. The Oklahoma State Bond Advisor, as provided in Section 695.7 of Title 62 of the Oklahoma Statutes, shall provide support staff as necessary to implement the purposes and functions of the Council.

F. The Attorney General shall provide legal counsel to the Council.

G. No member of the Oklahoma State Legislature shall be eligible to serve as a member of the Council.

SECTION 3. AMENDATORY 62 O.S. 2011, Section 695.7, as amended by Section 5, Chapter 275, O.S.L. 2012 (62 O.S. Supp. 2016, Section 695.7), is amended to read as follows:

Section 695.7 A. ~~1.~~ The ~~Council of Bond Oversight~~ State Treasurer shall engage the services of a person knowledgeable in the current state of the art of national and international standards for the issuance of obligations by governmental entities and experienced in the negotiation of fees for various goods and services requisite to or deemed desirable in the issuance of such obligations as well as the negotiation of other matters essential to provide the best current price and terms of the issuance of such obligations for the benefit of the State of Oklahoma ~~firms, farms, individuals and local communities~~, who shall have the title "Oklahoma State Bond Advisor".

~~2.~~ When ~~appointing~~ hiring a person to the position of Oklahoma State Bond Advisor, the ~~Council~~ State Treasurer shall conduct a national search in seeking requests for proposals for the position. ~~The person selected as the Oklahoma State Bond Advisor shall be approved by an affirmative vote of three of the members of the Council and appointed to the position, subject to the advice and consent of the Senate.~~

~~3. The Oklahoma State Bond Advisor may be removed for cause by an affirmative vote of three of the members of the Council, after a public hearing.~~

B. The Oklahoma State Bond Advisor may employ the necessary staff to carry out the duties of the Bond Advisor and the duties of the Council of Bond Oversight, with approval of the ~~Council. The Office of the State Bond Advisor shall be a separate state agency as set forth in Section 695.7a of this title~~ State Treasurer.

C. 1. Except as provided in Section 695.8 of this title, prior to engaging the services of underwriters, bond or other legal counsel, financial advisors, consultants, a financial institution to serve as trustee, paying agent or in any fiduciary capacity in connection with any program, indenture or general resolution of the State Governmental Entity, or any other experts, except as provided in Section 5062.8 of Title 74 of the Oklahoma Statutes, the State Governmental Entity shall, in conjunction with a State Governmental Entity Financing, request proposals for such services from a plurality of persons engaged in the particular activity for such services and the selection of such persons shall be made on the basis of the response to the request which is the most economical and will provide competent service which furthers the best interest of the State Governmental Entity and the state. In negotiating requests for proposals to engage such services, the State Governmental Entity shall seek the advice and assistance of the Oklahoma State Bond Advisor. Under no circumstances shall proprietary inducements be granted. The Oklahoma State Bond Advisor shall provide assistance and advice to State Governmental Entities with respect to the issuance of obligations by the State Governmental Entities, review, negotiate, and approve or disapprove the fees and expenses for goods and services requisite to or deemed desirable in the issuance of State Governmental Entity obligations and State Governmental Entity Financing and shall represent the interests of the state before rating agencies and credit enhancement providers.

2. Any State Governmental Entity or Local Governmental Entity proposing to make a significant modification to the terms of any State Governmental Entity Financing, including modification of collateral by substitution, swap, or other derivative product shall first obtain the written approval of the Oklahoma State Bond Advisor. If the Oklahoma State Bond Advisor denies approval, the State Governmental Entity or Local Governmental Entity may request the Council of Bond Oversight to review and approve proposed modifications.

D. The Oklahoma State Bond Advisor shall serve as an advisor to the Governor and to the Legislature with respect to issuance of indebtedness reviewed by the Council and shall prepare an annual report to be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives as of January 15 each year. The report shall contain a summary of the issuance of indebtedness by State Governmental Entities ~~and Local Governmental Entities~~ during the preceding year ~~and such other information as the State Bond Advisor may be required to submit or as may be relevant~~.

E. The Oklahoma State Bond Advisor or any member of the immediate family of the Oklahoma State Bond Advisor shall not have any direct or indirect financial or contractual relationship with any firm or corporation or any officer, partner or principal stockholder of any firm or corporation directly involved in public finance.

SECTION 4. AMENDATORY 62 O.S. 2011, Section 695.8a, as amended by Section 466, Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2016, Section 695.8a), is amended to read as follows:

Section 695.8a There is hereby created in the State Treasury a revolving fund for the Office of the State ~~Bond Advisor~~ Treasurer, to be designated the "Bond Oversight Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of fees collected pursuant to Section 695.8 of this title and any other monies provided for by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Office of the State ~~Bond Advisor~~ Treasurer for expenses related to the Oklahoma Bond Oversight and Reform Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 695.10A of Title 62, unless there is created a duplication in numbering, reads as follows:

A. As used in this section, "public finance service provider" means underwriters, bond or other legal counsel, financial advisors, consultants, and financial institutions who serve as trustee, paying agent or in any fiduciary capacity, who seek to provide services to State Governmental Entities or Local Governmental Entities with regard to the issuance of bonds, notes or other evidences of indebtedness.

B. Any public finance service provider shall be required to make a disclosure, upon such form as the State Bond Advisor may prescribe, of any and all direct financial contributions made by the public finance service provider which exceed Five Thousand Dollars ($5,000.00) in any calendar year on a cumulative basis to any nonprofit organization, regardless of its exempt status pursuant to the provisions of the Internal Revenue Code of 1986, as amended, the primary purpose of which is to provide services to one or more political subdivisions of the state or the membership of which consists primarily of public school administrators, common school districts or common school district boards of education, common school superintendents, career technology districts or career technology district governing boards, municipal government entities, county commissioners or other public officials or local government entity having authority to issue debt obligations either directly or which is the beneficiary of a public trust organized pursuant to the provisions of Section 176 et. seq. of Title 60 of the Oklahoma Statutes.

C. In addition, the public finance service provider shall be required to make disclosure of any and all direct financial contributions which exceed One Hundred Dollars ($100.00) on a cumulative basis during any calendar year made to any elected officials or employees of a State Governmental Entity or Local Governmental Entity to which financial services are to be provided in connection with issuance of debt obligations or contributions made to any individuals associated with any of the nonprofit organizations described by subsection B of this section.

D. The disclosure shall be filed annually with the Oklahoma State Bond Advisor not later than January 15, or the first business day after such date if January 15 is not a date upon which the State Treasurer's office is open for business, and shall include an itemized description of all direct financial contributions made to any and all of the entities described by subsections B and C of this section by the public finance service provider during the immediately preceding calendar year.

E. Any public finance service provider shall submit a copy of the most recent disclosure document on file with the Oklahoma State Bond Advisor as required pursuant to subsection D of this section prior to the selection of a public finance service provider by any county, city, town, common school district, career technology district or other local government entity or any public trust organized pursuant to the provisions of Section 176 et seq. of Title 60 of the Oklahoma Statutes having one or more political subdivisions as its beneficiary or beneficiaries, with respect to the issuance of any obligations described by subsection A of this section. The disclosure document shall be provided to each member of the governing board of the unit of local government to which services will be provided and, if applicable, to each member of the board of trustees of any public trust as described in this subsection to which public finance services will be provided. If the board of trustees of such public trust is comprised of persons who are also members of the governing board of the unit of local government, the disclosure document may be provided to the members of the governing board of the unit of local government and the document will not be required to be provided to any member of the board of trustees of the public trust unless such person is not a member of the governing board of the unit of local government.

SECTION 6. REPEALER 62 O.S. 2011, Section 695.7a, as amended by Section 6, Chapter 275, O.S.L. 2012 (62 O.S. Supp. 2016, Section 695.7a), is hereby repealed.

SECTION 7. This act shall become effective November 1, 2017.

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