

SECOND REGULAR SESSION

SENATE BILL NO. 947

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS KLINDT AND STOLL.

Read 1st time January 16, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3773L.011

AN ACT

To repeal sections 360.106, 360.111, 360.112, 360.113, 360.114, 360.116, and 360.118, RSMo, and to enact in lieu thereof seven new sections relating to the Missouri health and educational facilities act.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 360.106, 360.111, 360.112, 360.113, 360.114, 360.116, and 360.118, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 360.106, 360.111, 360.112, 360.113, 360.114, 360.116, and 360.118, to read as follows:

360.106. 1. As used in this section and sections 360.111 to 360.118, the following terms mean:

(1) "Funding agreement", any loan agreement, financing agreement or other agreement between the authority and a participating district under this section, providing for the use of proceeds of, security for, and the repayment of, school district bonds, and shall include a complete waiver by the participating district of all powers, rights and privileges conferred upon the participating district to institute any action authorized by any act of the Congress of the United States relating to bankruptcy on the part of the participating district;

(2) "Participating district", with respect to a particular issue of bonds, notes or other financial obligations, any school district and any public community junior college in this state which voluntarily enters into a funding agreement with the authority pursuant to this section;

(3) "School district bonds", any bonds, notes or other obligations issued by the authority for the purpose of making loans to, purchasing the bonds or notes of or otherwise by agreement using or providing for the use of the proceeds of the obligations by a participating district under this section and all related costs of issuance of the obligations including, but not limited to, all

costs, charges, fees and expenses of underwriters, financial advisors, attorneys, consultants, accountants and of the authority.

2. In addition to other powers granted to the authority by sections 360.010 to 360.140, the authority shall have the power to issue school district bonds or notes for the purpose of making loans to, or purchasing the bonds, notes or other financial instruments of:

(1) Any school district or any public community junior college in this state for the use of the various funds of such school district or public community junior college for any lawful purpose; and

(2) Any school district in this state with respect to obligations issued by such school district pursuant to sections 164.121 to 164.301, RSMo, or otherwise by law.

3. In connection with the issuance of school district bonds pursuant to the powers granted in this section, the authority shall have all powers as set forth elsewhere in sections 360.010 to 360.140, and the provisions of sections 360.010 to 360.140 shall be applicable to the issuance of school district bonds to the extent that they are not inconsistent with the provisions of this section.

4. School district bonds issued pursuant to this section may be secured by a pledge of payments made to the authority by the participating district, by the bonds or notes of the participating district, or by a pooling of such payments, bonds or notes of two or more of such participating districts or as otherwise set forth in the funding agreements.

5. The authority may invest any funds held pursuant to powers granted under this section, which are not required for immediate disbursement, in any investment approved by the authority and specified in the trust indenture or resolution pursuant to which such bonds or notes are issued without regard to any limitation otherwise imposed by section 360.120 or otherwise by law; provided, however, that each participating district shall receive the earnings, or a credit for such earnings, to the extent any such amounts invested are attributable to a particular participating district.

6. (1) In connection with school district bonds, upon certification by the authority to the commissioner of education and the state treasurer that the funding agreement provides for consent by a participating district for direct deposit of its state payments to the trustee, the state treasurer shall transfer, but only out of funds described in this section, directly to the trustee for such school district bonds, the amounts needed to pay the principal and interest when due on the school district bonds attributable to a particular participating district. Such transfers for any school district bonds attributable to a particular participating district shall only be made out of, and to the extent of, the state payments and distributions from all funds to be made by the state to such participating district pursuant to sections 163.011 to 163.195, RSMo, and the distributions from the fair share fund to be made by the state to such participating district pursuant to section 149.015, RSMo. Any such transfer by the state on behalf of a participating district shall

discharge the state's obligation to make such state payments to such participating district to the extent of such transfer;

(2) A participating district shall withdraw amounts from any of its funds established pursuant to section 165.011, RSMo, to the extent such amounts could have been used to make the payments made on its behalf by the state treasurer as provided in subdivision (1) of this subsection. Notwithstanding any provisions of section 108.180, RSMo, to the contrary, such amounts shall be deposited into the participating district's funds as provided by law in lieu of the state payments transferred to the trustee under the funding agreement;

(3) The authority shall from time to time develop guidelines containing certain criteria with respect to participating school districts and with respect to the issuance of school district bonds;

(4) Transfers made under this subsection pursuant to a school district's participation in a funding agreement under this section shall be made at no cost to the school district.

7. The authority shall provide for the payment of costs of issuance, costs of credit enhancement and any other costs or fees related to the issuance of any school district bonds other than reserve funds, out of the proceeds thereof or out of amounts distributed annually to the authority pursuant to sections 160.534 and 164.303, RSMo. The authority shall annually submit a request for funding of such costs to the commissioner of education in such form and at such time as he may request. A copy of such request shall be forwarded to the commissioner of administration. The authority shall provide for the payment of costs pursuant to this subsection only for bonds issued for the purpose of financing construction or renovation projects approved by voters after January 1, 1995, or refinancing construction or renovation projects or for refinance of lease purchase obligations with general obligation bonds.

8. Any refunding or refinancing of existing bonds of a school district under this section shall have a net present value savings of at least one and one-half percent of the par amount of the refunded bonds.

9. The commissioner of education shall serve as an ex officio, nonvoting, advisory member of the authority solely with regard to the exercise of powers granted pursuant to this section.

10. Nothing in this section or sections 360.111 to 360.118 shall be construed to relieve a school district **or public community junior college** of its obligation to levy a debt service levy or capital projects levy sufficient to retire any obligation of the district **or college** as otherwise provided by law.

11. Any professional services provided in connection with the sale of such bonds pursuant to this section, including, but not limited to, underwriters, bond counsel, underwriters' counsel, trustee and financial advisors, shall be obtained through competitive bidding. The initial bid for professional services shall be for a period of not longer than two years, and thereafter such bids shall be awarded for a period not longer than one year.

12. The authority shall review the cost effectiveness of the program established under this section and sections 360.111 to 360.118 and shall, on or before the fifteenth of August of each year, provide a report to the general assembly which shall contain a report on the program, the authority's findings and a recommendation of whether this section should be repealed, strengthened or otherwise amended.

360.111. Any school district **or public community junior college** which is not a participating district, as defined in section 360.106, with respect to a particular issue of its bonds, notes or other financial obligations may participate with the authority in a direct deposit agreement with respect to such issue of bonds, notes or other financial obligations. A direct deposit agreement under sections 360.111 to 360.118 shall satisfy all requirements of subsection 6 of section 360.106 with regard to funding agreements of participating districts, and such school district shall be subject to all requirements applicable to participating districts under subsections 6 and 9 of section 360.106 and shall have all powers granted to participating districts under subsection 6 of section 360.106. A direct deposit agreement under sections 360.111 to 360.118 shall include a complete waiver by the school district **or public community junior college** of all powers, rights and privileges conferred upon the school district **or public community junior college** to institute any action authorized by any act of the Congress of the United States relating to bankruptcy on the part of the school district **or public community junior college**. No school district **or public community junior college** shall be precluded from participation with the authority pursuant to section 360.106 with respect to any particular issue of bonds, notes or other financial obligations on the basis of the district's **or college's** participation with the authority in a direct deposit agreement pursuant to sections 360.111 to 360.118 with respect to any other issue of bonds, notes or other financial obligations.

360.112. The authority shall serve as administrator for any issuance pursuant to sections 360.111 to 360.118. The authority, the commissioner of education and the state treasurer shall be authorized to take all actions with regard to a school district **or public community junior college** which has a direct deposit agreement under sections 360.111 to 360.118 as such persons are authorized to take such actions with respect to a participating district under subsection 6 of section 360.106.

360.113. 1. Any school district **or public community junior college** which has a direct deposit agreement with the authority pursuant to sections 360.111 to 360.118 shall be eligible to receive a one-time grant for each issue based upon the par amount of general obligation bonds issued for the purpose of financing construction or renovation projects approved by voters after January 1, 1995, or refinancing construction or renovation projects or for refinance of lease purchase obligations with general obligation bonds.

2. Until July 1, 1997, the grant amount for a school district **or public community junior college** under subsection 1 of this section shall be the lesser of two percent of the par

amount of the bonds issued or the actual costs of issuance as determined by the authority.

360.114. 1. On or before July 1, 1997, and every two years thereafter, the authority shall determine the weighted average, actual cost of issuance percentage for issuances under section 360.106 during the two years immediately preceding the date such determination is required.

2. On and after July 1, 1997, the grant amount for a school district **or public community junior college** under subsection 1 of section 360.113 shall be the lesser of the most recent weighted average, actual cost of issuance percentage, as determined by the authority pursuant to subsection 1 of this section, times the par amount of the bonds issued or the actual costs of issuance as determined by the authority.

3. Transfers made pursuant to a school district's **or public community junior college's** participation in a direct deposit agreement under sections 360.111 to 360.118 shall be made at no cost to the school district **or public community junior college**.

360.116. 1. Payment of grants under sections 360.111 to 360.118 shall be made from funds appropriated for such purpose under section 164.303, RSMo. Payment shall be authorized by the commissioner of education upon receipt of the closing legal opinion for the bonds by the commissioner of education and a certification by the school district **or public community junior college** that the funds will be used for costs relating to projects approved under and satisfying the qualifications and requirements of subsection 1 of section 360.113.

2. Any refunding or refinancing of existing bonds of a school district **or public community junior college** under sections 360.111 to 360.118 shall have a net present value savings of at least one and one-half percent of the par amount of the refunded bonds.

360.118. 1. The authority may invest any funds held pursuant to powers granted under sections 360.111 to 360.118, which are not required for immediate disbursement, in any investment approved by the authority; provided, however, that each school district **or public community junior college** shall receive the earnings, or a credit for such earnings, for any such amounts invested which are attributable to the district **or college**.

2. Nothing in sections 360.106 and 360.111 to 360.118 shall be construed to apply to obligations issued to finance new lease purchase agreements.