

House Substitute for SENATE BILL No. 235

By Committee on Taxation

5-21

1 AN ACT concerning state finances; relating to bonding authority;
2 municipal interest rate limitations; short-term no-fund warrant
3 financing during an emergency; development finance authority bond
4 issuance; amending K.S.A. 74-8905 and K.S.A. 2019 Supp. 10-1009
5 and 10-1116a and repealing the existing sections.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2019 Supp. 10-1009 is hereby amended to read as
9 follows: 10-1009. (a) The maximum stated rate of interest ~~which that~~ may
10 be fixed on fixed-rate bonds issued by a municipality or taxing subdivision
11 of the state of Kansas shall be determined on the day the bonds are sold
12 and shall not exceed the daily yield for the ~~ten-year~~ 10-year treasury bonds
13 ~~published provided by The Bond Buyer, in New York, New York, the~~
14 *United States department of the treasury on its official website* on the
15 ~~Monday next last business day of the week immediately~~ preceding the day
16 ~~on which~~ the bonds are sold, plus (1) ~~three percent~~ 6%, if the interest on
17 the bonds is excluded from gross income for federal income tax purposes
18 or (2) ~~four percent~~ 7%, if the interest on the bonds is included in gross
19 income for federal income tax purposes.

20 (b) The maximum stated rate of interest ~~which that~~ may be fixed on
21 variable-rate bonds issued by a municipality or taxing subdivision of the
22 state of Kansas shall be determined on the date ~~on which~~ the rate is
23 determined in accordance with the resolution or ordinance of the issuer
24 and shall not exceed the daily yield for the ~~ten-year~~ 10-year treasury bonds
25 ~~published provided by The Bond Buyer, in New York, New York, the~~
26 *United States department of the treasury on its official website* on the
27 ~~Monday next last business day of the week immediately~~ preceding such
28 date, plus (1) ~~three percent~~ 6%, if the interest on the bonds is excluded
29 from gross income for federal income tax purposes or (2) ~~four percent~~ 7%,
30 if the interest on the bonds is included in gross income for federal income
31 tax purposes.

32 (c) Except as provided for variable-rate bonds, the maximum rate of
33 interest specified in this section shall be applicable to bonds issued after
34 the effective date of this act. The maximum rate of interest on variable-rate
35 bonds issued prior to the effective date of this act shall be the higher of (1)
36 the maximum rate of interest specified by subsection (a) or (b) ~~of this~~

1 section, as in effect prior to the effective date of this act, (2) the maximum
2 rate of interest specified in this section or (3) the rate for such variable-rate
3 bonds specified in the documents authorizing the issuance thereof.

4 ~~(d) Notwithstanding the foregoing, for the period from the effective~~
5 ~~date of this act until and including June 30, 2017, the maximum stated rate~~
6 ~~of interest which may be fixed on fixed-rate or variable-rate bonds issued~~
7 ~~by a municipality or taxing subdivision of the state of Kansas shall be~~
8 ~~determined on the day the bonds are sold and shall not exceed the daily~~
9 ~~yield for the ten-year treasury bonds published by The Bond Buyer, in~~
10 ~~New York, New York, on the Monday next preceding the day on which the~~
11 ~~bonds are sold, plus (1) 6%, if the interest on the bonds is excluded from~~
12 ~~gross income for federal income tax purposes or (2) 7%, if the interest on~~
13 ~~the bonds is included in gross income for federal income tax purposes.~~

14 Sec. 2. K.S.A. 2019 Supp. 10-1116a is hereby amended to read as
15 follows: 10-1116a. The limitations on expenditures imposed under the
16 cash-basis law shall not apply to:

17 (a) Expenditures in excess of current revenues made for municipally
18 owned and operated utilities out of the fund of such utilities caused by, or
19 resulting from the meeting of, extraordinary emergencies including
20 drought emergencies. In such cases expenditures in excess of current
21 revenues may be made by declaring an extraordinary emergency by
22 resolution adopted by the governing body and such resolution shall be
23 published at least once in a newspaper of general circulation in such city.
24 Thereupon, such governing body may issue interest bearing no-fund
25 warrants on such utility fund in an amount, including outstanding
26 previously issued no-fund warrants, not to exceed 25% of the revenues
27 from sales of service of such utility for the preceding year. Such warrants
28 shall be redeemed within three years from date of issuance and shall bear
29 interest at a rate of not to exceed the maximum rate of interest prescribed
30 by K.S.A. 10-1009, and amendments thereto. Upon the declaration of a
31 drought emergency, the governing body may issue such warrants for water
32 system improvement purposes in an amount not to exceed 50% of the
33 revenue received from the sale of water for the preceding year. Such
34 warrants shall be redeemed within five years from the date of issuance and
35 shall bear interest at a rate not to exceed the maximum rate of interest
36 prescribed by K.S.A. 10-1009, and amendments thereto.

37 (b) Expenditures in any month by school districts ~~which~~ *that* are in
38 excess of current revenues if the deficit or shortage in revenues is caused
39 by, or a result of, the payment of state aid after the date prescribed for the
40 payment of state aid during such month under K.S.A. 72-5135, and
41 amendments thereto.

42 (c) *Actual or anticipated expenditures in excess of current revenues*
43 *made by a municipality, as defined in K.S.A. 10-1101, and amendments*

1 *thereto, caused by, or resulting from, a federal, state or local disaster or*
2 *federal, state or local emergency, including, but not limited to, a financial,*
3 *public health or disaster emergency, declared by a federal or state official.*
4 *In such cases, actual or anticipated expenditures in excess of current*
5 *revenues may be made by declaring an extraordinary emergency by*
6 *resolution adopted by the governing body of the municipality and such*
7 *resolution shall be published at least once in a newspaper of general*
8 *circulation in such municipality. Thereupon, such municipality may issue*
9 *interest bearing no-fund warrants in an amount, including outstanding no-*
10 *fund warrants previously issued pursuant to this section, that does not*
11 *exceed the amount deemed necessary for such purposes. Such warrants*
12 *shall be redeemed within five years from the date of issuance and shall*
13 *bear interest at a rate not to exceed the maximum rate of interest*
14 *prescribed by K.S.A. 10-1009, and amendments thereto. Whenever no-fund*
15 *warrants are issued under the authority of this section, the municipality*
16 *each year shall make a tax levy, in addition to all other tax levies*
17 *authorized to be made by such municipality, sufficient to pay not less than*
18 *the total amount of all warrants issued under this section to become due in*
19 *such year and the interest to become due in such year on all warrants*
20 *issued under this section, until all of the warrants and the interest thereon*
21 *have been paid.*

22 Sec. 3. K.S.A. 74-8905 is hereby amended to read as follows: 74-
23 8905. (a) The authority may issue bonds, either for a specific activity or on
24 a pooled basis for a series of related or unrelated activities or projects duly
25 authorized by a political subdivision or group of political subdivisions of
26 the state in amounts determined by the authority for the purpose of
27 financing projects of statewide as well as local importance, capital
28 improvement facilities, educational facilities, health care facilities and
29 housing developments. Nothing in this act shall be construed to authorize
30 the authority to issue bonds or use the proceeds thereof to:

31 (1) Purchase, condemn or otherwise acquire a utility plant or
32 distribution system owned or operated by a regulated public utility;

33 (2) finance any capital improvement facilities or educational facilities
34 ~~which~~ *that* are being financed by the issuance of general obligation or
35 utility revenue bonds of a political subdivision, except that the acquisition
36 by the authority of general obligation or utility revenue bonds issued by
37 political subdivisions with the proceeds of pooled bonds shall not violate
38 the provisions of the foregoing; or

39 (3) purchase, acquire, construct, reconstruct, improve, equip, furnish,
40 repair, enlarge or remodel property for any swine production facility on
41 agricultural land ~~which~~ *that* is owned, acquired, obtained or leased by a
42 corporation, limited liability company, limited partnership, corporate
43 partnership or trust.

1 Nothing in this subsection~~(a)~~ shall prohibit the issuance of bonds by
2 the authority when any statute specifically authorizes the issuance of
3 bonds by the authority or approves any activity or project of a state agency
4 for purposes of authorizing any such issuance of bonds in accordance with
5 this section and provides an exemption from the provisions of this
6 subsection~~(a)~~.

7 (b) The authority may issue bonds for activities and projects of state
8 agencies as requested by the secretary of administration. Research
9 facilities of state educational institutions shall be subject to the provisions
10 of this subsection~~(b)~~. No bonds may be issued pursuant to this act for any
11 activity or project of a state agency unless the activity or project either has
12 been approved by an appropriation or other act of the legislature or has
13 been approved by the state finance council acting on this matter, which is
14 hereby characterized as a matter of legislative delegation and subject to the
15 guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and
16 amendments thereto. When requested to do so by the secretary of
17 administration, the authority may issue bonds for the purpose of refunding,
18 whether at maturity or in advance of maturity, any outstanding bonded
19 indebtedness of any state agency. The revenues of any state agency~~which~~
20 *that* are pledged as security for any bonds of such state agency~~which that~~
21 are refunded by refunding bonds of the authority may be pledged to the
22 authority as security for the refunding bonds.

23 (c) The authority may issue bonds for the purpose of financing
24 industrial enterprises, transportation facilities, agricultural business
25 enterprises, educational facilities, health care facilities, housing
26 developments, research facilities or any combination of such facilities, or
27 any interest in facilities, including without limitation leasehold interests in
28 and mortgages on such facilities, whether located within or outside of
29 Kansas. The authority may additionally issue bonds for the purpose of
30 financing a hall of fame, museum or tourist destination of national
31 significance, as determined by the secretary of commerce. Such authority
32 to issue bonds for a hall of fame, museum or tourist destination of national
33 significance shall expire on December 31, 2007. No less than 30 days prior
34 to the issuance of any bonds authorized under this act with respect to any
35 project or activity within Kansas which is to be undertaken for the direct
36 benefit of any person or entity which is not a state agency or a political
37 subdivision, written notice of the intention of the authority to provide
38 financing and issue bonds therefor shall be given by the president of the
39 authority to the governing body of the city in which the project or activity
40 is to be located. If the project or activity is not proposed to be located
41 within a city, such notice shall be given to the governing body of the
42 county. No bonds for the financing of the project or activity shall be issued
43 by the authority for a one-year period if, within 15 days after the giving of

1 such notice, the governing body of the political subdivision in which the
2 project or activity within Kansas is proposed to be located shall have
3 adopted an ordinance or resolution stating express disapproval of the
4 project or activity and shall have notified the president of the authority of
5 such disapproval. The authority shall not issue bonds for the purpose of
6 financing a project or activity outside Kansas unless the authority has
7 determined that the issuance of such bonds provides a benefit to Kansas or
8 its people and that the owner or operator thereof or an affiliate has a
9 presence or impact in Kansas.

10 (d) The authority may issue bonds for the purpose of establishing and
11 funding one or more series of venture capital funds in such principal
12 amounts, at such interest rates, in such maturities, with such security, and
13 upon such other terms and in such manner as is approved by resolution of
14 the authority. The proceeds of such bonds not placed in a venture capital
15 fund or used to pay or reimburse organizational, offering and
16 administrative expenses and fees necessary to the issuance and sale of such
17 bonds shall be invested and reinvested in such securities and other
18 instruments as shall be provided in the resolution under which such bonds
19 are issued. Moneys in a venture capital fund shall be used to make venture
20 capital investments in new, expanding or developing businesses, including,
21 but not limited to, equity and debt securities, warrants, options and other
22 rights to acquire such securities, subject to the provisions of the resolution
23 of the authority. The authority shall establish an investment policy with
24 respect to the investment of the funds in a venture capital fund not
25 inconsistent with the purposes of this act. The authority shall enter into an
26 agreement with a management company experienced in venture capital
27 investments to manage and administer each venture capital fund upon
28 terms not inconsistent with the purposes of this act and such investment
29 policy. The authority may establish an advisory board to provide advice
30 and consulting assistance to the authority and the management company
31 with respect to the management and administration of each venture capital
32 fund and the establishment of its investment policy. All fees and expenses
33 incurred in the management and administration of a venture capital fund
34 not paid or reimbursed out of the proceeds of the bonds issued by the
35 authority shall be paid or reimbursed out of such venture capital fund.

36 (e) The authority may issue bonds in one or more series for the
37 purpose of financing a redevelopment plan project that is approved by the
38 authority in accordance with K.S.A. 74-8921 and 74-8922, and
39 amendments thereto, or by Johnson or Labette county in accordance with
40 the provisions of this act.

41 (f) After receiving and approving the feasibility study required
42 pursuant to K.S.A. 74-8936, and amendments thereto, the authority may
43 issue bonds in one or more series for the purpose of financing a multi-sport

1 athletic project in accordance with K.S.A. 74-8936 through 74-8938, and
2 amendments thereto. If the project is to be constructed in phases, a similar
3 feasibility study shall be performed prior to issuing bonds for the purpose
4 of financing each subsequent phase.

5 (g) The authority may issue bonds for the purpose of financing resort
6 facilities, as defined in ~~subsection (a) of~~ K.S.A. 32-867(a), and
7 amendments thereto, in an amount or amounts not to exceed \$30,000,000
8 for any one resort. The bonds and the interest thereon shall be payable
9 solely from revenues of the resort and shall not be deemed to be an
10 obligation or indebtedness of the state within the meaning of section 6 of
11 article 11 of the constitution of the state of Kansas. The authority may
12 contract with a subsidiary corporation formed pursuant to ~~subsection (v) of~~
13 K.S.A. 74-8904(v), and amendments thereto, or others to lease or operate
14 such resort. The provisions of K.S.A. 32-867, 32-868, 32-870 through 32-
15 873 and 32-874a through 32-874d, and amendments thereto, shall apply to
16 resorts and bonds issued pursuant to this subsection.

17 (h) *The authority may issue bonds for the purpose of financing*
18 *transfers or expenditures of the state, a state agency or a political*
19 *subdivision, or providing working capital necessary as a result of*
20 *increased expenditures or decreased revenues of the state, a state agency*
21 *or a political subdivision, in each case caused by, or resulting from, a*
22 *federal, state or local disaster or federal, state or local emergency,*
23 *including, but not limited to, a financial, public health or disaster*
24 *emergency, declared by a federal or state official. Such bonds may include*
25 *financing the acquisition of obligations issued by a political subdivision*
26 *for such purpose, including no-fund warrants that are issued pursuant to*
27 *K.S.A. 10-1116a, and amendments thereto. Political subdivisions may*
28 *enter into agreements with the authority to effect the purposes of this*
29 *section.*

30 (i) The authority may use the proceeds of any bond issues herein
31 authorized, together with any other available funds, for venture capital
32 investments or for purchasing, leasing, constructing, restoring, renovating,
33 altering or repairing facilities as herein authorized, for making loans,
34 purchasing mortgages or security interests in loan participations and
35 paying all incidental expenses therewith, paying expenses of authorizing
36 and issuing the bonds, paying interest on the bonds until revenues thereof
37 are available in sufficient amounts, purchasing bond insurance or other
38 credit enhancements on the bonds, and funding such reserves as the
39 authority deems necessary and desirable. All moneys received by the
40 authority, other than moneys received by virtue of an appropriation, are
41 hereby specifically declared to be cash funds, restricted in their use and to
42 be used solely as provided herein. No moneys of the authority other than
43 moneys received by appropriation shall be deposited with the state

1 treasurer.

2 ~~(j)~~ Any time the authority is required to publish a notification
3 pursuant to the tax equity and fiscal responsibility act of 1982, the
4 authority shall further publish such notification in the Kansas register and
5 on the Kansas development finance authority website.

6 ~~(k)~~ Any time the authority issues private activity bonds, as defined
7 in K.S.A. 74-5059, and amendments thereto, pursuant to this section, the
8 authority shall publish notification of such issuance at least 14 days prior
9 to any bond hearing in the official county newspaper of the county in
10 which the project or activity financed by such bonds are located and in the
11 Kansas register.

12 Sec. 4. K.S.A. 74-8905 and K.S.A. 2019 Supp. 10-1009 and 10-1116a
13 are hereby repealed.

14 Sec. 5. This act shall take effect and be in force from and after its
15 publication in the Kansas register.