

HOUSE BILL No. 2578

By Committee on Environment

1-22

AN ACT concerning issuance of bonds by certain state agencies to fund capital improvements for water-related infrastructure; amending K.S.A. 82a-1360, 82a-1361, 82a-1362, 82a-1363, 82a-1364, 82a-1367 and 82a-1368 and repealing the existing sections; also repealing K.S.A. 82a-1365.

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

Section 1. K.S.A. 82a-1360 is hereby amended to read as follows: 82a-1360. As used in K.S.A. 82a-1360 to ~~82a-1368, inclusive through 82a-1364 and 82a-1366 through 82a-1368, and amendments thereto,~~ unless the context otherwise requires:

~~(a) "Director" means the director of the Kansas water office.~~

(a) "Agency head" means the director of the Kansas water office, the administrative officer ("executive director") of the state conservation commission, the secretary of agriculture or the secretary of wildlife and parks.

(b) "Capital improvements for water-related infrastructure projects" includes, but is not limited to:

(1) Purchase of reservoir storage in a structure which has been planned, authorized and constructed by the federal government or the state of Kansas and which contains waters for conservation storage water supply;

(2) purchase of federal or state reservoir storage for fish, wildlife and recreational purposes;

(3) purchase of ground water rights and overlying land rights from willing sellers for municipal, industrial, aquifer preservation and fish, wildlife and recreational purposes;

(4) construction of multipurpose small lake projects or addition of water supply capacity to proposed multipurpose small lake projects, including engineering services and land acquisition; and

(5) reservoir protection, restoration and enhancement for long-term water quality and quantity assurance.

~~(b)~~ (c) "Revenue bonds" means bonds issued pursuant to this act and the Kansas development finance authority act, payable as to both principal and interest from: (1) The revenue derived from water supply contracts with water users who will derive benefits from the construction of a large

1 reservoir project or from the purchase of space in existing reservoirs; (2)
2 the revenue from participants in water assurance programs; (3) in the
3 discretion of the ~~director~~ *head of a water-related agency*, the proceeds of
4 any ~~grant-in-aid gift, loan or grant-in-aid which is made in furtherance~~
5 ~~of any of the authorized goals or purposes found in the state water plan-~~
6 ~~ning act, K.S.A. 82a-901 et seq., and amendments thereto, and which may~~
7 ~~be received from any source; or~~ (4) *the state water plan fund created by*
8 *K.S.A. 82a-951, and amendments thereto; or* (5) any one or more of the
9 foregoing.

10 (c) ~~“Large reservoir project” means a structure that has been~~
11 ~~planned, authorized and constructed by the federal government or the~~
12 ~~state of Kansas which contains waters for conservation storage water~~
13 ~~supply.~~

14 (d) *“Water-related agency” means the Kansas water office, the state*
15 *conservation commission, the Kansas department of agriculture or the*
16 *Kansas department of wildlife and parks.*

17 Sec. 2. K.S.A. 82a-1361 is hereby amended to read as follows: 82a-
18 1361. (a) ~~The Kansas water office is~~ *Any water-related agency, or two or*
19 *more water-related agencies jointly, are hereby authorized to request the*
20 *Kansas development finance authority to issue and sell revenue bonds for*
21 *the purpose of paying all or part of the cost of acquiring a site or sites,*
22 *constructing, reconstructing, improving and expanding large reservoir*
23 *projects or to finance the purchase of storage in existing reservoirs capital*
24 *improvements for water-related infrastructure projects. The revenue*
25 *bonds may be issued from time to time and sold in amounts which the*
26 ~~director deems~~ *agency head or heads deem* necessary for such purposes.

27 (b) Prior to the issuance of the revenue bonds, ~~the director and pur-~~
28 ~~suant to a request from agency head or heads, the Kansas development~~
29 ~~finance authority shall adopt a resolution or resolutions in the name and~~
30 ~~on behalf of the Kansas water office water-related agency or agencies,~~
31 ~~which resolution or resolutions, unless otherwise provided therein, shall~~
32 ~~take effect immediately and:~~

33 (1) Determine an interest rate or rates to be paid on the principal of
34 the revenue bonds not in excess of the maximum rate of interest pre-
35 scribed by K.S.A. 10-1009, and amendments thereto;

36 (2) determine that the revenue bonds will be term or serial bonds or
37 any combination thereof maturing not later than 40 years from the date
38 of issuance;

39 (3) (A) make provision for charges in water supply contracts with
40 water users who will derive benefits from the construction of a large
41 reservoir project or from the purchase of space in existing reservoirs ~~and,~~
42 (B) fix charges to participants in water assurance programs *and* (C) *make*
43 *provision for charges to beneficiaries of other capital improvements for*

1 *water-related infrastructure projects* in an amount necessary to assure the
2 prompt payment of the principal of and interest on the revenue bonds as
3 they become due, to maintain any required reserves and to provide for
4 any deficits resulting from failure to receive sums payable to the ~~Kansas~~
5 ~~water office~~ *water-related agency or agencies* by such water users or,
6 participants in water assurance programs or *beneficiaries of capital im-*
7 *provements for water-related infrastructure projects*, or resulting from
8 any other cause, and shall sell the revenue bonds in the manner provided
9 by K.S.A. 10-106, and amendments thereto, at a price of not less than
10 90% of the par value thereof; and

11 (4) register the revenue bonds with the state treasurer.

12 (c) Prior to the issuance of the revenue bonds, the ~~director~~ *agency*
13 *head or heads* may:

14 (1) Pledge to the payment of the principal and interest on the revenue
15 bonds *for the purchase of large reservoir conservation storage capacity*
16 the gross revenues derived from water supply contracts with water users
17 from revenue from participants in water assurance programs or from any
18 one or more or all of such sources;

19 (2) pledge to the payment of the principal of and interest on the
20 revenue bonds the proceeds of any grant-in-aid, gift, donation, bequest
21 or other such fund, or the income from any of such sources, obtained by
22 the ~~Kansas water office~~ *water-related agency or agencies* directly or in
23 trust;

24 (3) pledge to the payment of the principal of and interest on any
25 revenue bonds issued ~~to acquire conservation water supply storage ca-~~
26 ~~capacity in federal reservoirs~~ *for capital improvements for water-related*
27 *infrastructure projects*, if moneys otherwise authorized to be pledged are
28 insufficient, moneys appropriated from the following, in descending order
29 of priority: The state water plan fund created by K.S.A. 82a-951, and
30 amendments thereto, the state economic development initiatives fund
31 created by K.S.A. 79-4804, and amendments thereto or the state general
32 fund;

33 (4) create and maintain (A) revenue bond funds adequate to promptly
34 pay both the principal of and interest on the revenue bonds when they
35 become due and (B) a reasonable reserve fund; and

36 (5) covenant or contract with respect to any and all matters consistent
37 with the authority granted herein necessary and convenient in the deter-
38 mination of the ~~director~~ *agency head or heads* to sell the revenue bonds
39 and obtain the most favorable interest rate thereon, including, but not
40 limited to, maturities, priority of liens, number of issuances, special funds
41 for security, redemption privileges, investments of the proceeds of the
42 revenue bonds and any other funds pledged to the payment thereof or
43 held as security therefor, security agreements, trust indentures, paying

1 agencies, registration provisions and conversion privileges.

2 Sec. 3. K.S.A. 82a-1362 is hereby amended to read as follows: 82a-
3 1362. (a) Revenue bonds issued hereunder, including refunding revenue
4 bonds authorized hereunder, shall be special obligations of the Kansas
5 ~~water office~~ *development finance authority* in accordance with their terms
6 and shall not constitute an indebtedness of the state of Kansas or the
7 ~~Kansas water office~~ *water-related agency or agencies*, nor shall they con-
8 stitute indebtedness within the meaning of any constitutional or statutory
9 provision limiting the incurring of indebtedness.

10 (b) All contracts, agreements and covenants contained in the reso-
11 lution authorizing the issuance of revenue bonds shall be binding in all
12 respects upon the ~~Kansas water office, its water-related agency or agen-~~
13 *cies and their* officials, agents, employees and successors. Such agree-
14 ments, contracts and covenants shall be enforceable by appropriate legal
15 action brought pursuant to the terms of the resolution authorizing the
16 issuance of revenue bonds.

17 Sec. 4. K.S.A. 82a-1363 is hereby amended to read as follows: 82a-
18 1363. The Kansas ~~water office~~ *development finance authority* may issue
19 revenue bonds for the purpose of refunding revenue bonds issued here-
20 under pursuant to the terms and authority of K.S.A. ~~10-116a~~ *74-8912*,
21 and amendments thereto.

22 Sec. 5. K.S.A. 82a-1364 is hereby amended to read as follows: 82a-
23 1364. The proceeds derived from the sale of ~~all any~~ revenue bonds issued
24 under this act shall be *divided, if necessary, according to the bond agree-*
25 *ment and* deposited to the credit of the ~~Kansas water office~~ *appropriate*
26 *water-related agency or agencies* in either an account administered pur-
27 suant to K.S.A. 75-4251 *et seq.*, and amendments thereto, or in an account
28 arranged pursuant to K.S.A. 75-3799, and amendments thereto, and used
29 solely for the purposes for which the revenue bonds are authorized. The
30 ~~director is~~ *agency head or heads* are authorized to make all contracts and
31 execute all instruments which, in the ~~director's~~ *discretion of the agency*
32 *head or heads*, may be deemed necessary or advisable for the ~~purpose of~~
33 *either or both of the following purposes: (a) Acquiring a site or sites,*
34 *constructing, reconstructing, improving and expanding large reservoir*
35 *projects or to finance financing the purchase of space in existing reservoirs*
36 *and to provide providing for the manner of disbursement of the funds*
37 *for such purposes; or (b) funding capital improvements for other water-*
38 *related infrastructure projects.* Other than contracts with federal, state or
39 local governmental units, contracts authorized by this act shall be made
40 pursuant to K.S.A. 75-3739 or 75-3799, and amendments thereto. Noth-
41 ing contained in this act shall be construed as placing in the state treasury
42 any money collected under this act or requiring such action, and the
43 legislature hereby declares that funds deposited under this section shall

1 not be subject to the provisions of section 24 of article 2 of the Kansas
2 constitution.

3 Sec. 6. K.S.A. 82a-1367 is hereby amended to read as follows: 82a-
4 1367. (a) This act constitutes full and complete authority for the purposes
5 set out in this act, and no procedure or proceedings other than those
6 required by this act shall be necessary for the performance of the provi-
7 sions thereof. The powers conferred by this act shall be in addition and
8 supplemental to and not in substitution for, and the limitations imposed
9 by this act shall not affect, the powers conferred on ~~the Kansas water~~
10 ~~office~~ *any water-related agency* by any other law.

11 (b) The provisions of this act are severable, and if any provision, sec-
12 tion, subsection, sentence, clause or phrase of this act, including, but not
13 limited to, the provisions relating to any of the sources of revenues for
14 payment of bonds authorized pursuant to this act are for any reason held
15 to be unconstitutional or otherwise invalid by any court of competent
16 jurisdiction, such decision shall not affect the validity of the remaining
17 portions of this act. The legislature hereby declares that it would have
18 passed this act and each provision, section, subsection, sentence, clause
19 or phrase thereof irrespective of the fact that any one or more of the same
20 are declared invalid.

21 Sec. 7. K.S.A. 82a-1368 is hereby amended to read as follows: 82a-
22 1368. Prior to the issuance of any revenue bonds under authority of this
23 act and after the adoption of a resolution authorizing any revenue bonds
24 under this act, the ~~director~~ *appropriate agency head or heads* shall cause
25 to be published once in the Kansas register a notice to all persons inter-
26 ested that the Kansas ~~water office~~ *development finance authority* has de-
27 termined to issue revenue bonds under authority of this act. The notice
28 shall state the amount or maximum amount of revenue bonds to be issued
29 pursuant to such resolution, together with a brief statement of the pur-
30 poses for which the proceeds are to be used, and further, that unless an
31 action to contest the legality of the proposed revenue bonds shall be filed
32 in a court of law within 30 days from the date of such publication, the
33 right to contest the legality of any revenue bonds issued in compliance
34 with the proceedings taken by the ~~Kansas water office~~ *water-related*
35 *agency or agencies* prior to the date of such publication and the right to
36 contest the validity of the provisions of such proceedings shall cease to
37 exist and no court shall thereafter have authority to inquire into such
38 matters. After the expiration of the 30 days, no one shall have any right
39 to commence an action contesting the validity of such revenue bonds or
40 the provisions of such proceedings and all revenue bonds shall be con-
41 clusively presumed to be legal, and no court shall thereafter have au-
42 thority to inquire into such matters.

43 Sec. 8. K.S.A. 82a-1360, 82a-1361, 82a-1362, 82a-1363, 82a-1364,

1 82a-1365, 82a-1367 and 82a-1368 are hereby repealed.

2 Sec. 9. This act shall take effect and be in force from and after its
3 publication in the statute book.

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