

SENATE BILL No. 539

By Committee on Ways and Means

2-20

9 AN ACT concerning issuance of bonds by certain state agencies to fund
10 capital improvements for water-related infrastructure; amending
11 K.S.A. 82a-1360, 82a-1361, 82a-1362, 82a-1363, 82a-1364, 82a-1367
12 and 82a-1368 and repealing the existing sections; also repealing K.S.A.
13 82a-1365.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 82a-1360 is hereby amended to read as follows:
17 82a-1360. As used in K.S.A. 82a-1360 to ~~82a-1368, inclusive through 82a-~~
18 ~~1364 and 82a-1366 through 82a-1368, and amendments thereto~~, unless
19 the context otherwise requires:

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

21 (a) "Agency head" means the director of the Kansas water office, the
22 administrative officer ("executive director") of the state conservation com-
23 mission, the secretary of agriculture or the secretary of wildlife and parks.

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

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

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

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

35 (4) construction of multipurpose small lake projects or addition of
36 water supply capacity to proposed multipurpose small lake projects, in-
37 cluding engineering services and land acquisition; and

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

40 ~~(b)~~ (c) "Revenue bonds" means bonds issued pursuant to this act and
41 the Kansas development finance authority act, payable as to both principal
42 and interest from: (1) The revenue derived from water supply contracts
43 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 *No such bonds shall be issued unless the issuance is approved by the*
28 *governor and specifically approved by appropriation or other act of the*
29 *legislature, other than this act.*

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

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

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

42 (3) (A) *make provision for charges in water supply contracts with*
43 *water users who will derive benefits from the construction of a large*

1 reservoir project or from the purchase of space in existing reservoirs ~~and~~,
2 (B) fix charges to participants in water assurance programs *and* (C) *make*
3 *provision for charges to beneficiaries of other capital improvements for*
4 *water-related infrastructure projects* in an amount necessary to assure the
5 prompt payment of the principal of and interest on the revenue bonds as
6 they become due, to maintain any required reserves and to provide for
7 any deficits resulting from failure to receive sums payable to the ~~Kansas~~
8 ~~water office~~ *water-related agency or agencies* by such water users ~~or~~,
9 participants in water assurance programs *or beneficiaries of capital im-*
10 *provements for water-related infrastructure projects*, or resulting from
11 any other cause, and shall sell the revenue bonds in the manner provided
12 by K.S.A. 10-106, and amendments thereto, at a price of not less than
13 90% of the par value thereof; and

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

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

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

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

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

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

39 (5) covenant or contract with respect to any and all matters consistent
40 with the authority granted herein necessary and convenient in the deter-
41 mination of the ~~director~~ *agency head or heads* to sell the revenue bonds
42 and obtain the most favorable interest rate thereon, including, but not
43 limited to, maturities, priority of liens, number of issuances, special funds

1 for security, redemption privileges, investments of the proceeds of the
2 revenue bonds and any other funds pledged to the payment thereof or
3 held as security therefor, security agreements, trust indentures, paying
4 agencies, registration provisions and conversion privileges.

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

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

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

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

1 ing contained in this act shall be construed as placing in the state treasury
2 any money collected under this act or requiring such action, and the
3 legislature hereby declares that funds deposited under this section shall
4 not be subject to the provisions of section 24 of article 2 of the Kansas
5 constitution.

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

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

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

1 clusively presumed to be legal, and no court shall thereafter have au-
2 thority to inquire into such matters.

3 Sec. 8. K.S.A. 82a-1360, 82a-1361, 82a-1362, 82a-1363, 82a-1364,
4 82a-1365, 82a-1367 and 82a-1368 are hereby repealed.

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