

Proposed legislation re: short-term no fund warrant financings during emergency; KDFA financing authority; interest rate limitations

Section 1. K.S.A. 10-1116a is hereby amended to read as follows: K.S.A. 10-1116a. The limitations on expenditures imposed under the cash-basis law shall not apply to:

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

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

(c) *Actual or anticipated expenditures in excess of current revenues made by a municipality, as defined in K.S.A. 10-1101, and amendments thereto, caused by, or resulting from, a federal, state or local disaster or federal, state or local emergency, including, but not limited to, a financial, public health or disaster emergency, declared by a federal or state official. In such cases, actual or anticipated expenditures in excess of current revenues may be made by declaring an extraordinary emergency by resolution adopted by the governing body of the municipality and such resolution shall be published at least once in a newspaper of general circulation in such municipality. Thereupon, such municipality may issue interest bearing no-fund warrants in an amount, including outstanding no-fund warrants previously issued pursuant to this section, that does not exceed the amount deemed necessary for such purposes. Such warrants shall be redeemed within five years from the date of issuance and shall bear interest at a rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto. Whenever no-fund warrants are issued under the authority of this section, the municipality each year shall make a tax levy, in addition to all other tax levies authorized to be made by such municipality, sufficient to pay not less than the total amount of all warrants issued under this section to become due in such year and the interest to become due in such year on all warrants issued under this section, until all of the warrants and the interest thereon has been paid.*

Section 2. K.S.A. 74-8905 is hereby amended to read as follows: K.S.A. 74-8905. (a) The authority may issue bonds, either for a specific activity or on a pooled basis for a series of related or unrelated activities or projects duly authorized by a political subdivision or group of political subdivisions of the state in amounts determined by the authority for the purpose of financing projects of statewide as well as local importance, capital improvement facilities, educational facilities, health care facilities and housing developments. Nothing in this act shall be construed to authorize the authority to issue bonds or use the proceeds thereof to:

- (1) Purchase, condemn or otherwise acquire a utility plant or distribution system owned or operated by a regulated public utility;
- (2) finance any capital improvement facilities or educational facilities which are being financed by the issuance of general obligation or utility revenue bonds of a political subdivision, except that the acquisition by the authority of general obligation or utility revenue bonds issued by

political subdivisions with the proceeds of pooled bonds shall not violate the provisions of the foregoing; or

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

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

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

(c) The authority may issue bonds for the purpose of financing industrial enterprises, transportation facilities, agricultural business enterprises, educational facilities, health care facilities, housing developments, research facilities or any combination of such facilities, or any interest in facilities, including without limitation leasehold interests in and mortgages on such facilities, whether located within or outside of Kansas. The authority may additionally issue bonds for the purpose of financing a hall of fame, museum or tourist destination of national significance, as determined by the secretary of commerce. Such authority to issue bonds for a hall of fame, museum or tourist destination of national significance shall expire on December 31, 2007. No less than 30 days prior to the issuance of any bonds authorized under this act with respect to any project or activity within Kansas which is to be undertaken for the direct benefit of any person or entity which is not a state agency or a political subdivision, written notice of the intention of the authority to provide financing and issue bonds therefor shall be given by the president of the authority to the governing body of the city in which the project or activity is to be located. If the project or activity is not proposed to be located within a city, such notice shall be given to the governing body of the county. No bonds for the financing of the project or activity shall be issued by the authority for a one-year period if, within 15 days after the giving of such notice, the governing body of the political subdivision in which the project or activity within Kansas is proposed to be located shall have adopted an ordinance or resolution stating express disapproval of the project or activity and shall have notified the president of the authority of such disapproval. The authority shall not issue bonds for the purpose of financing a project or activity outside Kansas unless the authority has determined that the issuance of such bonds provides a benefit to Kansas or its people and that the owner or operator thereof or an affiliate has a presence or impact in Kansas.

(d) The authority may issue bonds for the purpose of establishing and funding one or more series of venture capital funds in such principal amounts, at such interest rates, in such maturities, with such security, and upon such other terms and in such manner as is approved by resolution of the authority. The proceeds of such bonds not placed in a venture capital fund or used to pay or reimburse organizational, offering and administrative expenses and fees necessary to the issuance and sale of such bonds shall be invested and reinvested in such securities and other instruments as shall be provided in the resolution under which such bonds are issued. Moneys in a venture capital fund shall be used to make venture capital investments in new, expanding or developing businesses, including, but not limited to, equity and debt securities, warrants, options and other rights to acquire such securities, subject to the provisions of the resolution of the authority. The authority shall establish an investment policy with respect to the investment

of the funds in a venture capital fund not inconsistent with the purposes of this act. The authority shall enter into an agreement with a management company experienced in venture capital investments to manage and administer each venture capital fund upon terms not inconsistent with the purposes of this act and such investment policy. The authority may establish an advisory board to provide advice and consulting assistance to the authority and the management company with respect to the management and administration of each venture capital fund and the establishment of its investment policy. All fees and expenses incurred in the management and administration of a venture capital fund not paid or reimbursed out of the proceeds of the bonds issued by the authority shall be paid or reimbursed out of such venture capital fund.

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

(f) After receiving and approving the feasibility study required pursuant to K.S.A. 74-8936, and amendments thereto, the authority may issue bonds in one or more series for the purpose of financing a multi-sport athletic project in accordance with K.S.A. 74-8936 through 74-8938, and amendments thereto. If the project is to be constructed in phases, a similar feasibility study shall be performed prior to issuing bonds for the purpose of financing each subsequent phase.

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

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

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

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

(jk) Any time the authority issues private activity bonds, as defined in K.S.A. 74-5059, and amendments thereto, pursuant to this section, the authority shall publish notification of such issuance at

least 14 days prior to any bond hearing in the official county newspaper of the county in which the project or activity financed by such bonds are located and in the Kansas register.

Section 3. K.S.A. 10-1009 is hereby amended to read as follows: K.S.A. 10-1009. (a) The maximum stated rate of interest which may be fixed on fixed-rate bonds issued by a municipality or taxing subdivision of the state of Kansas shall be determined on the day the bonds are sold and shall not exceed the daily yield for the ten-year treasury bonds ~~published provided by The Bond Buyer, in New York, New York, the United States Department of the Treasury on its official website on the Monday last business day of the week immediately~~ next preceding the day on which the bonds are sold, plus (1) ~~three percent~~ 6%, if the interest on the bonds is excluded from gross income for federal income tax purposes or (2) ~~four percent~~ 7%, if the interest on the bonds is included in gross income for federal income tax purposes.

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

(c) Except as provided for variable-rate bonds, the maximum rate of interest specified in this section shall be applicable to bonds issued after the effective date of this act. The maximum rate of interest on variable-rate bonds issued prior to the effective date of this act shall be the higher of (1) the maximum rate of interest specified by subsection (a) or (b) of this section, as in effect prior to the effective date of this act, (2) the maximum rate of interest specified in this section or (3) the rate for such variable-rate bonds specified in the documents authorizing the issuance thereof.

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