



Rep. Frank J. Mautino

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LRB096 09046 JAM 24752 a

1 AMENDMENT TO HOUSE BILL 1200

2 AMENDMENT NO. _____. Amend House Bill 1200 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the State
5 University Certificates of Participation Act.

6 Section 5. Definitions. As used in this Act:

7 "Board" means the Board of Trustees of a State University.

8 "Commission" means the Commission on Government
9 Forecasting and Accountability.

10 "State University" means the University of Illinois,
11 Southern Illinois University, Chicago State University,
12 Eastern Illinois University, Governors State University,
13 Illinois State University, Northeastern Illinois University,
14 Northern Illinois University, and Western Illinois University
15 and any of their successors.

1 Section 10. Certificates of participation.

2 (a) The power of the Board of any State University to enter
3 into contracts includes the power to enter into financing
4 agreements in connection with the financing of capital
5 improvements (including technology or other related
6 improvements) by selling certificates of participation in the
7 installment payments made under such financing agreements.
8 Such financing agreements may be entered into for any period of
9 time less than or equal to 30 years, but not to exceed the
10 useful life of the capital improvement. Nothing in this Act
11 authorizes the Board of any State University to incur "State
12 debt" as that term is defined in subsection (a) of Section 9 of
13 Article IX of the Illinois Constitution of 1970. This
14 subsection (a) is declaratory of existing law.

15 (b) Upon determination by the Board of a State University
16 to undertake a transaction for the sale of certificates of
17 participation and enter into related financing agreements in
18 connection with the financing of capital improvements, the
19 Board shall adopt a resolution or resolutions describing in a
20 general way the contemplated facilities or a combination
21 thereof designated as the project, the estimated cost thereof,
22 and any additional relevant information.

23 Section 15. Accountability and review of proposed
24 certificate issuance. Before issuance of any certificate of
25 participation, a State University shall appear before the

1 Commission and present the details of the proposal. This
2 presentation shall include such information as the Commission
3 may request in relation to the proposed certificate of
4 participation issuance. This information shall include, but is
5 not limited to, the amount being financed, the nature of the
6 project being financed, the proposed funding stream to pay for
7 the certificate issuance, the current outstanding indebtedness
8 of the State University, and the status of all currently issued
9 certificates of participation.

10 Upon receipt of a request by a State University for a
11 certificate of participation presentation, the Commission
12 shall hold a public hearing and, upon adoption by a vote of the
13 majority of appointed members, issue a record of findings in
14 regards to the issuance of the certificate within 60 days after
15 the request.

16 As part of the Commission's considerations and findings,
17 the Commission shall consider the effect the issuance of a
18 certificate of participation shall have on the State
19 University's annual debt service and overall fiscal condition.

20 Within the Commission's findings shall be a statement in
21 which the Commission makes a recommendation to the State
22 University as to proceeding with the certificate issuance. The
23 recommendation shall be either (i) "favorably recommended",
24 (ii) "recommended with concerns", or (iii) "non-support of
25 issuance".

26 The Commission shall report the findings within 15 days

1 after the hearing to all of the following:

2 (1) The Speaker of the House of Representatives.

3 (2) The Minority Leader of the House of
4 Representatives.

5 (3) The President of the Senate.

6 (4) The Minority Leader of the Senate.

7 (5) The Governor's Office of Management and Budget.

8 (6) The President of the State University that had
9 requested the certificate presentation.

10 Upon a finding of "non-support of issuance", a State
11 University may not proceed with the issuance of the certificate
12 involved in the finding without the approval of the General
13 Assembly through the adoption of a joint resolution.

14 Section 20. Annual reporting. Prior to December 31 of each
15 year, each State University shall file with the Commission a
16 report stating the status of all outstanding certificates of
17 participation the State University has issued and a copy of the
18 annual budget as approved by the Board.

19 Section 25. Required statement on certificate of
20 participation documents. Each issuance of a certificate of
21 participation shall include within the appropriate documents
22 related to its execution the following statement, which sets
23 forth required limitations in relation to the certificate:

1 THE BOARD OF TRUSTEES' OBLIGATION TO MAKE INSTALLMENT
2 PAYMENTS DOES NOT CONSTITUTE A DEBT OF THE BOARD OR THE STATE
3 OF ILLINOIS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR
4 STATUTORY LIMITATION. THE INSTALLMENT PAYMENTS REQUIRED UNDER
5 CERTIFICATES OF PARTICIPATION INCURRED BY THE UNIVERSITY ARE
6 NOT SECURED BY THE FULL FAITH AND CREDIT OF THE STATE AND ARE
7 NOT REQUIRED TO BE REPAID AND MAY NOT BE REPAID, DIRECTLY OR
8 INDIRECTLY, FROM TAX REVENUE.

9 Section 30. Debt limit. The maximum annual debt service for
10 a State University's total certificate of participation
11 obligation must not exceed the following:

- 12 (1) For the University of Illinois, \$100,000,000.
- 13 (2) For Southern Illinois University, \$20,000,000.
- 14 (3) For Northern Illinois University, \$20,000,000.
- 15 (4) For Illinois State University, \$10,000,000.
- 16 (5) For Western Illinois University, \$10,000,000.
- 17 (6) For Eastern Illinois University, \$10,000,000.
- 18 (7) For Northeastern Illinois University, \$5,000,000.
- 19 (8) For Chicago State University, \$0.
- 20 (9) For Governors State University, \$5,000,000.

21 Section 90. Expiration of Act. This Act applies until
22 December 31, 2014. However, the refunding of certificates of
23 participation issued prior to December 31, 2014 in accordance
24 with the Act is permitted.

1 Section 95. The Statute on Statutes is amended by changing
2 Section 8 as follows:

3 (5 ILCS 70/8) (from Ch. 1, par. 1107)

4 Sec. 8. Omnibus Bond Acts.

5 (a) A citation to the Omnibus Bond Acts is a citation to
6 all of the following Acts, collectively, as amended from time
7 to time: the Bond Authorization Act, the Registered Bond Act,
8 the Municipal Bond Reform Act, the Local Government Debt Reform
9 Act, subsection (a) of Section 1-7 of the Property Tax
10 Extension Limitation Act, subsection (a) of Section 18-190 of
11 the Property Tax Code, the Uniform Facsimile Signature of
12 Public Officials Act, the Local Government Bond Validity Act,
13 the Illinois Finance Authority Act, the Public Funds Investment
14 Act, the Local Government Credit Enhancement Act, the Local
15 Government Defeasance of Debt Law, the Intergovernmental
16 Cooperation Act, the Local Government Financial Planning and
17 Supervision Act, the Special Assessment Supplemental Bond and
18 Procedure Act, Section 12-5 of the Election Code, the State
19 University Certificates of Participation Act, and any similar
20 Act granting additional omnibus bond powers to governmental
21 entities generally, whether enacted before, on, or after the
22 effective date of this amendatory Act of 1989.

23 (b) The General Assembly recognizes that the proliferation
24 of governmental entities has resulted in the enactment of

1 hundreds of statutory provisions relating to the borrowing and
2 other powers of governmental entities. The General Assembly
3 addresses and has addressed problems common to all such
4 governmental entities so that they have equal access to the
5 municipal bond market. It has been, and will continue to be,
6 the intention of the General Assembly to enact legislation
7 applicable to governmental entities in an omnibus fashion, as
8 has been done in the provisions of the Omnibus Bond Acts.

9 (c) It is and always has been the intention of the General
10 Assembly that the Omnibus Bond Acts are and always have been
11 supplementary grants of power, cumulative in nature and in
12 addition to any power or authority granted in any other laws of
13 the State. The Omnibus Bond Acts are supplementary grants of
14 power when applied in connection with any similar grant of
15 power or limitation contained in any other law of the State,
16 whether or not the other law is enacted or amended after an
17 Omnibus Bond Act or appears to be more restrictive than an
18 Omnibus Bond Act, unless the General Assembly expressly
19 declares in such other law that a specifically named Omnibus
20 Bond Act does not apply.

21 (d) All instruments providing for the payment of money
22 executed by or on behalf of any governmental entity organized
23 by or under the laws of this State, including without
24 limitation the State, to carry out a public governmental or
25 proprietary function, acting through its corporate
26 authorities, or which any governmental entity has assumed or

1 agreed to pay, which were:

2 (1) issued or authorized to be issued by proceedings
3 adopted by such corporate authorities before the effective
4 date of this amendatory Act of 1989;

5 (2) issued or authorized to be issued in accordance
6 with the procedures set forth in or pursuant to any
7 authorization contained in any of the Omnibus Bond Acts;
8 and

9 (3) issued or authorized to be issued for any purpose
10 authorized by the laws of this State, are valid and legally
11 binding obligations of the governmental entity issuing
12 such instruments, payable in accordance with their terms.

13 (Source: P.A. 93-205, eff. 1-1-04.)

14 Section 97. The Illinois Procurement Code is amended by
15 changing Sections 20-60 and 40-25 as follows:

16 (30 ILCS 500/20-60)

17 Sec. 20-60. Duration of contracts.

18 (a) Maximum duration. A contract, other than a contract
19 entered into pursuant to the State University Certificates of
20 Participation Act, may be entered into for any period of time
21 deemed to be in the best interests of the State but not
22 exceeding 10 years inclusive, beginning January 1, 2010, of
23 proposed contract renewals. The length of a lease for real
24 property or capital improvements shall be in accordance with

1 the provisions of Section 40-25. A contract for bond or
2 mortgage insurance awarded by the Illinois Housing Development
3 Authority, however, may be entered into for any period of time
4 less than or equal to the maximum period of time that the
5 subject bond or mortgage may remain outstanding.

6 (b) Subject to appropriation. All contracts made or entered
7 into shall recite that they are subject to termination and
8 cancellation in any year for which the General Assembly fails
9 to make an appropriation to make payments under the terms of
10 the contract.

11 (Source: P.A. 95-344, eff. 8-21-07.)

12 (30 ILCS 500/40-25)

13 Sec. 40-25. Length of leases.

14 (a) Maximum term. Leases shall be for a term not to exceed
15 10 years inclusive, beginning January 1, 2010, of proposed
16 contract renewals and shall include a termination option in
17 favor of the State after 5 years.

18 (b) Renewal. Leases may include a renewal option. An option
19 to renew may be exercised only when a State purchasing officer
20 determines in writing that renewal is in the best interest of
21 the State and notice of the exercise of the option is published
22 in the appropriate volume of the Procurement Bulletin at least
23 60 days prior to the exercise of the option.

24 (c) Subject to appropriation. All leases shall recite that
25 they are subject to termination and cancellation in any year

1 for which the General Assembly fails to make an appropriation
2 to make payments under the terms of the lease.

3 (d) Holdover. Beginning January 1, 2010 no lease may
4 continue on a month-to-month or other holdover basis for a
5 total of more than 6 months. Beginning July 1, 2010, the
6 Comptroller shall withhold payment of leases beyond this
7 holdover period.

8 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".