

AN ACT concerning finance.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

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

Section 5. Definitions. As used in this Act:

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

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

"State University" means the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, and Western Illinois University and any of their successors.

Section 10. Certificates of participation.

(a) The power of the Board of any State University to enter into contracts includes the power to enter into financing agreements in connection with the financing of capital improvements (including technology or other related improvements) by selling certificates of participation in the installment payments made under such financing agreements.

Such financing agreements may be entered into for any period of time less than or equal to 30 years, but not to exceed the useful life of the capital improvement. Nothing in this Act authorizes the Board of any State University to incur "State debt" as that term is defined in subsection (a) of Section 9 of Article IX of the Illinois Constitution of 1970. This subsection (a) is declaratory of existing law.

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

Section 15. Accountability and review of proposed certificate issuance. Before issuance of any certificate of participation, a State University shall appear before the Commission and present the details of the proposal. This presentation shall include such information as the Commission may request in relation to the proposed certificate of participation issuance. This information shall include, but is not limited to, the amount being financed, the nature of the project being financed, the proposed funding stream to pay for the certificate issuance, the current outstanding indebtedness

of the State University, and the status of all currently issued certificates of participation.

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

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

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

The Commission shall report the findings within 15 days after the hearing to all of the following:

- (1) The Speaker of the House of Representatives.
- (2) The Minority Leader of the House of Representatives.
- (3) The President of the Senate.
- (4) The Minority Leader of the Senate.
- (5) The Governor's Office of Management and Budget.

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

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

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

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

THE BOARD OF TRUSTEES' OBLIGATION TO MAKE INSTALLMENT PAYMENTS DOES NOT CONSTITUTE A DEBT OF THE BOARD OR THE STATE OF ILLINOIS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION. THE INSTALLMENT PAYMENTS REQUIRED UNDER CERTIFICATES OF PARTICIPATION INCURRED BY THE UNIVERSITY ARE NOT SECURED BY THE FULL FAITH AND CREDIT OF THE STATE AND ARE NOT REQUIRED TO BE REPAYED AND MAY NOT BE REPAYED, DIRECTLY OR

INDIRECTLY, FROM TAX REVENUE.

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

- (1) For the University of Illinois, \$100,000,000.
- (2) For Southern Illinois University, \$20,000,000.
- (3) For Northern Illinois University, \$20,000,000.
- (4) For Illinois State University, \$10,000,000.
- (5) For Western Illinois University, \$10,000,000.
- (6) For Eastern Illinois University, \$10,000,000.
- (7) For Northeastern Illinois University, \$5,000,000.
- (8) For Chicago State University, \$5,000,000.
- (9) For Governors State University, \$5,000,000.

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

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

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

Sec. 8. Omnibus Bond Acts.

(a) A citation to the Omnibus Bond Acts is a citation to

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

(b) The General Assembly recognizes that the proliferation of governmental entities has resulted in the enactment of hundreds of statutory provisions relating to the borrowing and other powers of governmental entities. The General Assembly addresses and has addressed problems common to all such governmental entities so that they have equal access to the municipal bond market. It has been, and will continue to be, the intention of the General Assembly to enact legislation applicable to governmental entities in an omnibus fashion, as

has been done in the provisions of the Omnibus Bond Acts.

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

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

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

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

and

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

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

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

(30 ILCS 500/20-60)

Sec. 20-60. Duration of contracts.

(a) Maximum duration. A contract, other than a contract entered into pursuant to the State University Certificates of Participation Act, may be entered into for any period of time deemed to be in the best interests of the State but not exceeding 10 years inclusive, beginning January 1, 2010, of proposed contract renewals. The length of a lease for real property or capital improvements shall be in accordance with the provisions of Section 40-25. A contract for bond or mortgage insurance awarded by the Illinois Housing Development Authority, however, may be entered into for any period of time less than or equal to the maximum period of time that the subject bond or mortgage may remain outstanding.

(b) Subject to appropriation. All contracts made or entered into shall recite that they are subject to termination and

cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the contract.

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

(30 ILCS 500/40-25)

Sec. 40-25. Length of leases.

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

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

(c) Subject to appropriation. All leases shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the lease.

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

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HB1200 Enrolled

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

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