Legislative Council Staff

Research Note

Version: Final

Date: 7/19/2016

Bill Number

Senate Bill 16-121

Sponsors

Senator Tate
Representative Garnett

Short Title

Higher Education Tuition Pledged for Bonding

Research Analyst

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Status

This research note reflects the final version of the bill, which became effective upon the signature of the Governor on March 31, 2016.

Summary

The bill allows the governing board of a higher education institution or institutions to pledge up to 100 percent of tuition revenues, excluding any General Fund appropriations, when it issues bonds to pay the costs of a capital project. Institutions that participate in the Higher Education Revenue Bond Intercept Program (intercept program) are only allowed to pledge up to 10 percent of tuition revenues, which is the amount permitted in current law. A higher education institution is only permitted to issue bonds if it has been granted enterprise status.

Background

State enterprises. State agencies that have been granted enterprise status, including higher education institutions, are permitted to issue revenue bonds. Additionally, state enterprises are exempt from the requirement in TABOR to seek voter approval prior to issuing multi-year fiscal debt. Enterprise status is statutorily granted to government-owned businesses so long as they receive less than 10 percent of their annual revenues from state and local government sources combined. Although entities with enterprise status may bond for projects without a prior vote of the people, many of these transactions still require some level of legislative approval. In recent years, higher education institutions have used revenue bonds to finance a growing number of capital projects.

Higher Education Revenue Bond Intercept Program. When a higher education institution issues bonds for a project, it may do so using the state's credit rating through the intercept program, provided certain criteria are met, including: (1) the institution must have a credit rating or ratings from one or more nationally recognized statistical rating agencies in one of the three highest rating categories; and (2) the institution must have a debt service coverage ratio of greater than 1.5 percent, which is calculated by dividing the net revenue available for debt service by the total amount of new and existing debt subject to the intercept program. The intercept program directs the State Treasurer to make payments of principal or interest on bonds on behalf of a state-supported institution of higher education in the event a higher education institution does not make a scheduled payment, unless the institution adopts a resolution stating that it will not accept such payment prior to the issuance of the bonds for a project. With the exception of the University of Colorado System, every state higher education governing board is currently participating or plans to participate in the intercept program.

Senate Action

Senate Finance Committee (February 11, 2016). Two individuals representing the University of Colorado System testified in support of the bill. The committee adopted amendment L.002, which replaced the safety clause with a petition clause. The committee referred the bill, as amended, to the Senate Committee of the Whole.

Senate second reading (February 18, 2016). The Senate adopted the Senate Finance Committee report and passed the bill on second reading with no additional amendments.

Senate third reading (February 19, 2016). The Senate passed the bill on third reading with no amendments.

Senate consideration of House amendments (March 18, 2016). The Senate voted to concur with the House amendment and repassed the bill.

House Action

House Finance Committee (March 9, 2016). Two individuals representing the University of Colorado System testified in support of the bill. The committee adopted amendment L.003, which replaced the petition clause added by amendment L.002 with a safety clause. The committee referred the bill, as amended, to the House Committee of the Whole.

House second reading (March 15, 2016). The House passed the bill on second reading with no amendments.

House third reading (March 16, 2016). The House passed the bill on third reading with no amendments.