



State of Tennessee

PUBLIC CHAPTER NO. 176

SENATE BILL NO. 999

By McNally

Substituted for: House Bill No. 58

By Roach, Sargent

AN ACT to amend Tennessee Code Annotated, Title 9, relative to public finances.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Hawkins-Wilson Act".

SECTION 2. Tennessee Code Annotated, Section 9-9-101, is amended by deleting subsection (b).

SECTION 3. Tennessee Code Annotated, Section 9-9-102, is amended by deleting the existing language and substituting the following:

The commissioner of finance and administration shall maintain, or cause to be maintained, records on the condition of all debt obligations described in § 9-9-105(a) and of the payment of the principal of and premium, if any, and interest on such obligations.

SECTION 4. Tennessee Code Annotated, Section 9-9-103, is amended by deleting subsection (a).

SECTION 5. Tennessee Code Annotated, Sections 9-9-104 through 107, are amended by deleting the existing language and substituting the following:

9-9-104.

(a) For the payment of the principal of and interest on the bonds of the state of Tennessee issued under this chapter outstanding as of the effective date of this act, there is hereby pledged the annual proceeds of a tax of not less than five cents (5¢) per gallon upon gasoline, the annual proceeds of the special tax on petroleum products provided for by § 67-3-203, one half (1/2) of the annual proceeds of motor vehicle registration fees now or hereafter required to be paid to the state, and the entire annual proceeds of franchise taxes imposed by the franchise tax law, compiled in title 67, chapter 4, part 21. This pledge shall not extend to any bonds issued under this chapter after the effective date of this act.

(b) As long as any bonds issued under this chapter that were outstanding as of the effective date of this act remain outstanding, the state of Tennessee hereby covenants with the persons who now or may hereafter hold such bonds that it will not decrease by legislative action any of the fees or taxes that constitute the special revenues pledged by this section, or eliminate from the requirement to pay such fees or taxes any substance, motor vehicle or corporation on account of which the payment of such fees or taxes is now required, and that it will levy a tax of not less than five cents (5¢) per gallon upon gasoline or other motor vehicle fuel, unless the state funding board shall certify that all payments due the state funding board under the provisions of this chapter have been made in full, that the state is not in default in the payment of any outstanding debt or in the payment of interest thereon, and that such fees and taxes at lower rates to be specified by the state funding board, in such year or years (not exceeding two (2) years), will be sufficient to provide funds adequate to meet all payments required to be made by the state funding board in such year or years, as well as to provide for the other obligations and expenses of the state for such year or years, to be defrayed therefrom, in which event the state of Tennessee shall be under no obligation to charge or levy in such year or years fees or taxes in excess of the rates so certified by the state funding board.

(c) In no event shall the pledge and covenants set forth in this section extend past or be effective after June 30, 2033.

9-9-105.

(a) All bonds issued (and to be issued) under this chapter, all notes issued (and to be issued) in anticipation of such bonds, and all tax revenue anticipation notes issued (and to be issued) under this chapter shall constitute direct general obligations of the state of Tennessee for the payment of the principal of and premium, if any, and interest on which there is also pledged the full faith and credit of the state of Tennessee. Subject only to § 9-9-104(a), all such debt obligations shall constitute a charge and lien upon the entire fees, taxes and other revenues and funds allocated to the general fund, the debt service fund, and the highway fund; and, if necessary, upon the first such fees, taxes, revenues and funds thereafter received and allocated to such funds, except only such fees, taxes, revenues and funds as may be otherwise legally restricted.

(b) The state of Tennessee hereby covenants with the persons who now or may hereafter hold any debt obligations described in § 9-9-105(a) that it will raise fees, taxes and other revenues sufficient, together with funds on hand derived from all sources, to pay the principal of and premium, if any, and interest on such obligations as and when due and payable.

(c) The state of Tennessee hereby covenants with the persons who now or may hereafter hold any bonds issued under this chapter that no bonds shall be issued under this chapter after the effective date of this act unless the following debt service coverage test is satisfied: the amount necessary to pay the maximum annual debt service payable in the then current or any future fiscal year, is not greater than ten percent (10%) of the amount of total state tax revenue allocated to the general fund, to the debt service fund, and to the highway fund for the immediately preceding fiscal year. For purposes of satisfying this test, "state tax revenues" are defined as those taxes, licenses, fees, fines, and permits collected by the Department of Revenue and allocated to the general fund, the debt service fund, and the highway fund excluding the portion of those taxes shared with local governments. "Debt service", for this purpose, means and includes principal of and interest on all outstanding bonds issued under this chapter and the bonds then proposed to be issued under this chapter, in the aggregate; provided, that in determining the outstanding bonds, there shall be excluded any outstanding bonds the payment of which has been fully provided for by funds or securities (including expected income therefrom), or both, set aside for that purpose.

9-9-106.

The state funding board shall certify to the commissioner of finance and administration from time to time, but not less than annually, the amount necessary, together with funds on hand derived from all sources, to enable the board to provide for the payment of the principal of and premium, if any, and interest on all debt obligations described in § 9-9-105(a) as and when the same shall become due and payable.

9-9-107.

The state funding board shall provide for the payment of the principal of and premium, if any, and interest on all bonds issued under this chapter, all notes issued in anticipation of such bonds and all tax revenue anticipation notes issued under this chapter, amounts due on contracts or agreements described in § 9-9-202(g) and (h) or other contracts or agreements relating to such debt obligations, and necessary related expenses incurred under this chapter as the same shall become due, out of the fees, taxes and other revenues and funds available for such purposes.

SECTION 6. Tennessee Code Annotated, Sections 9-9-111 and 112, are amended by deleting the existing language and substituting the following:

9-9-111.

The holders of all debt obligations of the state of Tennessee described in § 9-9-105(a) and all persons who may hereafter purchase such obligations shall have, and are hereby declared to have, a vested right in the performance of the covenants and pledges contained in this chapter, and the performance of the duties imposed upon any officer or agency of the state of Tennessee by or pursuant to the provisions of this chapter may be enforced by the holder of any such obligation by appropriate proceedings; provided, no such

holders or purchasers of debt obligations issued after the effective date of this act shall have any such rights with respect to § 9-9-104.

9-9-112.

Principal of and interest on debt obligations issued under this chapter shall be exempt from taxation by the state, or by any county, municipality or taxing district of the state, except inheritance, transfer and estate taxes.

SECTION 7. Tennessee Code Annotated, Section 9-9-118, is amended by deleting the section.

SECTION 8. Tennessee Code Annotated, Section 9-9-119, is amended by deleting the section.

SECTION 9. Tennessee Code Annotated, Section 9-9-207(a), is amended by deleting subsection (a) in its entirety and by substituting instead the following language:

(a) The funding board may issue general obligation refunding bonds to refund outstanding obligations previously issued under the authority of this chapter, upon the determination by the board that such bonds are necessary:

(1) To accomplish cost savings to the public; or

(2) For the administrative convenience of the board; or

(3) To pay or discharge all or any part of an issue or series of bonds, including any interest thereon, in arrears or to become due and for the payment of which sufficient funds are not available; or

(4) To eliminate bond covenants that have been determined to be burdensome to the state due to a change in circumstances if such elimination is not otherwise prohibited by law. Such determination shall be clearly stated in any resolution authorizing such refunding bonds and shall be conclusive.

SECTION 10. Tennessee Code Annotated, Section 9-10-101, is amended by deleting subsections (d) and (e) and by moving the section to part 3 of title 9, chapter 9.

SECTION 11. Nothing in this act shall be construed so as to impair the obligation of any contract made by the state of Tennessee upon any bond of the state issued under title 9, chapter 9 outstanding as of the effective date of this act.

SECTION 12. This act shall take effect July 1, 2013, the public welfare requiring it.

SENATE BILL NO. 999

PASSED: April 15, 2013



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 23rd day of April 2013



BILL HASLAM, GOVERNOR