

UNIVERSITY BUILDINGS, FACILITIES, AND SERVICES REVENUE BONDS

262A.1 Declaration of insufficient state revenue.

The general assembly hereby determines that the annual revenues of the state are insufficient to finance the immediate building requirements and other facilities and utilities services requirements of the institutions of higher learning under the jurisdiction of the state board of regents and in order to provide these buildings, facilities and utilities services when they are needed, it is necessary to authorize the issuance of revenue bonds by the state board of regents, subject to the restrictions and limitations hereinafter set forth. It is the intent of the general assembly that revenue bonds issued for academic and administrative buildings and facilities and utilities services shall supplement and not supplant legislative appropriations for the same or similar purposes.

[C71, 73, 75, 77, 79, 81, § 262A.1]

262A.2 Definitions.

The following words or terms, as used in this chapter, shall have the respective meanings as stated:

1. "*Board*" shall mean the state board of regents.
2. "*Bonds*" shall mean revenue bonds which are payable solely and only from student fees and charges and institutional income received by the institution at which the project is being undertaken.
3. "*Buildings and facilities*" shall mean those academic buildings and other facilities used primarily for instructional and research purposes, including libraries, and such other administrative and service buildings and facilities as are deemed necessary by the board to provide supporting services to the instructional and research programs and activities of the institutions, including, without limiting the generality of the foregoing, administrative offices, facilities for business services, student services and extension and continuing education services, off-street parking areas and structures incidental to other buildings and facilities which are not primarily for parking purposes, garages, and storage and warehouse facilities, or any combination thereof. This phrase shall also include works and facilities deemed necessary by the board for furnishing utilities services to any buildings or structures operated by the institutions, including, without limiting the generality of the foregoing, water, electric, gas, communications, sewer and heating facilities, together with all necessary structures, buildings, tunnels, lines, reservoirs, mains, filters, pipes, sewers, boilers, generators, fixtures, wires, poles, equipment, treatment facilities and all other appurtenances in connection therewith, or any combination of the foregoing.
4. "*Institution*" or "*institutions*" shall mean the state university of Iowa, the Iowa state university of science and technology, the university of northern Iowa, and any other institution of higher learning under the jurisdiction of the state board of regents which offers a college program of four years or more, including any such institution the creation of which is hereafter authorized by the general assembly or which is placed under the jurisdiction of said board.
5. "*Institutional income*" shall mean income received by an institution from sources other than (a) student fees and charges, (b) rates, fees, rentals or charges imposed and collected under the provisions of (1) sections 262.35 through 262.42, (2) sections 262.44 through 262.53, and (3) sections 262.55 through 262.66, (c) state appropriations, and (d) "*hospital income*", as that term is defined in subsection 4 of section 263A.1.
6. "*Project*" shall mean the acquisition by gift, purchase, lease or construction of buildings and facilities which are deemed necessary by the board for the proper performance of the instructional, research and service functions of the institutions, and additions to buildings and facilities, the reconstruction, completion, equipment, improvement, repair or remodeling of buildings and facilities, including the demolition of

existing buildings and facilities which are to be replaced, the acquisition of air rights and the construction of projects thereon, and the acquisition of property of every kind and description, whether real, personal or mixed, for buildings and facilities by gift, purchase, lease, condemnation or otherwise and the improvement of the same, or any combination of the foregoing.

7. "*Student fees and charges*" shall mean all tuitions, fees and charges for general or special purposes levied against and collected from students attending the institutions except rates, fees, rentals or charges imposed and collected under the provisions of (a) sections 262.35 through 262.42, (b) sections 262.44 through 262.53, and (c) sections 262.55 through 262.66.

[C71, 73, 75, 77, 79, 81, § 262A.2]

262A.3 Five-year program and two-year bond proposal submitted each year.

The board shall prepare and submit to the general assembly for approval or rejection a proposed five-year building program for each institution, including an estimate of the maximum amount of bonds which the board expects to issue under the provisions of this chapter during each year of the ensuing biennium. The program and estimate shall be submitted no later than seven days after the convening of each regular annual session of the general assembly. The building program shall contain a list of the buildings and facilities which the board deems necessary to further the educational objectives of the institutions. This list shall be revised annually, but no project shall be eliminated from the list when bonds have previously been issued by the board to pay the cost of the project. Each list shall contain an estimate of the cost of each of the buildings and facilities referred to in the list. If the general assembly rejects or fails to approve any proposed five-year building program, this action or inaction shall not affect the status or legality of any project previously or subsequently authorized by the general assembly as provided in section 262A.4.

[C71, 73, 75, 77, 79, 81, § 262A.3]

91 Acts, ch 268, §609

262A.4 Authorization of general assembly and governor.

Subject to and in accordance with the provisions of this chapter, the state board of regents after authorization by a constitutional majority of each house of the general assembly and approval by the governor may undertake and carry out any project as defined in this chapter at the institutions now or hereafter under the jurisdiction of the board. The state board of regents is authorized to operate, control, maintain, and manage buildings and facilities and additions to such buildings and facilities at each of said institutions. All contracts for the construction, reconstruction, completion, equipment, improvement, repair or remodeling of any buildings, additions, or facilities shall be let in accordance with the provisions of section 262.34. The title to all real estate acquired under the provisions of this chapter and the improvements erected thereon shall be taken and held in the name of the state of Iowa.

[C71, 73, 75, 77, 79, 81, § 262A.4]

262A.5 Borrowing money and issuing bonds.

The board is authorized to borrow money under this chapter, and the board may issue and sell negotiable bonds to pay all or any part of the cost of carrying out any project at any institution and may refund and refinance bonds issued for any project or for refunding purposes at the same rate or at a higher or lower rate or rates of interest. Bonds issued under the provisions of this chapter shall be sold by said board at public sale on the basis of sealed proposals received pursuant to a notice specifying the time and place of sale and the amount of bonds to be sold which shall be published at least once not less than seven days prior to the date of sale in a newspaper published in the state of Iowa and having a general circulation in said state. The

provisions of chapter 75 shall not apply to bonds issued under authority contained in this chapter, but such bonds shall be sold upon terms of not less than par plus accrued interest. Bonds issued to refund other bonds issued under the provisions of this chapter may either be sold in the manner hereinbefore specified and the proceeds thereof applied to the payment of the obligations being refunded, or the refunding bonds may be exchanged for and in payment and discharge of the obligations being refunded. The refunding bonds may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds may be exchanged in part or sold in parts in installments at different times or at one time. The refunding bonds may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding bonds or other obligations to be refinanced thereby and may be issued for the purpose of refunding a like or greater principal amount of bonds, except that the principal amount of the refunding bonds may exceed the principal amount of the bonds to be refunded to the extent necessary to pay any premium due on the call of the bonds to be refunded or to fund interest in arrears or which is to become due.

All bonds issued under the provisions of this chapter shall be payable solely and only from and shall be secured by an irrevocable pledge of a sufficient portion of the student fees and charges and institutional income received by the particular institution. All bonds issued under the provisions of this chapter shall have all the qualities of a negotiable investment security under the laws of this state.

[C71, 73, 75, 77, 79, 81, § 262A.5]

86 Acts, ch 1246, § 128

262A.6 Form and condition of bonds.

Such bonds may bear such date or dates, may bear interest at such rate or rates, payable semiannually, may mature at such time or times, may be in such form and denominations, may carry such registration privileges, may be payable at such place or places, may be subject to such terms of redemption prior to maturity with or without premium, if so stated on the face thereof, and may contain such terms and covenants, including the establishment of reserves, all as may be provided by the resolution of the board authorizing the issuance of the bonds. In addition to the estimated cost of construction, including site costs, the cost of the project may include interest upon the bonds during construction and for six months after the estimated completion date, the compensation of a fiscal agent or adviser, engineering, architectural, administrative and legal expenses and provision for contingencies. Such bonds shall be executed by the president of the state board of regents and attested by the executive secretary, secretary or other official thereof performing the duties of secretary, and the coupons thereto attached shall be executed with the original or facsimile signatures of said president, executive secretary, secretary or other official; provided, however, that the facsimile signature of either of such officers executing such bonds may be imprinted on the face of the bonds in lieu of the manual signature of such officer, but at least one of the signatures appearing on the face of each bond shall be a manual signature. Any bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes, notwithstanding that before delivery thereof any or all such persons whose signatures appear thereon shall have ceased to be such officers. Each such bond shall state upon its face the name of the institution on behalf of which it is issued, that it is payable solely and only from the student fees and charges and institutional income received by such institution as hereinbefore provided, and that it does not constitute a debt of or charge against the state of Iowa within the meaning or application of any constitutional or statutory limitation or provision. The issuance of such bonds shall be recorded in the office of the treasurer of the institution on behalf of which the same are issued, and a certificate by such treasurer to this effect shall be printed on the back of each such bond.

[C71, 73, 75, 77, 79, 81, § 262A.6]

262A.6A Iowa college super savings plan.

1. The board shall issue bonds in an amount not exceeding fifty percent of the amount of bonds authorized pursuant to section 262A.4 by the Seventy-fifth General Assembly during the 1994 regular session* in the form of capital appreciation bonds as provided in this section rather than the form prescribed in sections 262A.5 and 262A.6. The capital appreciation bonds shall be designed to be marketed primarily to Iowans to facilitate savings for future higher education costs.

2. Bonds issued under this section shall be sold by the board at private sale without published notice of any kind or the taking of competitive bids in a manner and upon terms as may be provided in the resolution of the board authorizing the issuance of the bonds. Chapter 75 does not apply to bonds issued under this section, but the bonds shall be sold upon terms of not less than ninety-seven percent of par plus accrued interest. Bonds issued to refund other bonds issued under this section may either be sold at public or private sale in the manner specified in this section and the proceeds applied to the payment of the obligations being refunded, or the refunding bonds may be exchanged for and in payment and discharge of the obligations being refunded. The refunding bonds may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. An issue or series of refunding bonds may be exchanged in part or sold in parts in installments at different times or at one time. The refunding bonds may be sold or exchanged at any time on, before, or after the maturity of the outstanding bonds or other obligations to be refinanced and may be issued for the purpose of refunding a like or greater principal amount of bonds, except that the principal amount of the refunding bonds may exceed the principal amount of the bonds to be refunded to the extent necessary to pay any premium due on the call of the bonds to be refunded or to fund interest in arrears or which is to become due.

Bonds issued under this section are payable solely and only from and shall be secured by an irrevocable pledge of a sufficient portion of the student fees and charges and institutional income received by the particular institution. Bonds issued under this section have all the qualities of a negotiable investment security under the laws of this state.

3. The bonds may bear a date or dates, may bear interest at a rate or rates, payable at a time or times, may mature at a time or times, may be in a form and denominations, may carry registration privileges, may be payable at a place or places, may be subject to terms of redemption prior to maturity with or without premium, if so stated on their face, and may contain terms and covenants, including the establishment of reserves, all as may be provided by the resolution of the board authorizing the issuance of the bonds. In addition to the estimated cost of construction, including site costs, the cost of the project may include interest upon the bonds during construction and for six months after the estimated completion date, the compensation of a fiscal agent or adviser, engineering, architectural, administrative and legal expenses and provision for contingencies. The bonds shall be executed by the president of the state board of regents and attested by the executive secretary, secretary or other official of the state board performing the duties of secretary, and the coupons attached to the bonds shall be executed with the original or facsimile signatures of the president, executive secretary, secretary or other official. The facsimile signatures of the officers executing the bonds may be imprinted on the face of the bonds in lieu of the manual signature of the officer, but at least one of the signatures appearing on the face of each bond shall be a manual signature. Bonds bearing the signatures of officers in office on the date of the signing are valid and binding for all purposes, notwithstanding that before delivery any or all of the persons whose signatures appear have ceased to be officers. Each bond shall state upon its face the name of the institution on behalf of which it is issued, that it is payable solely and only from the student fees and charges and institutional income received by the institution, and that it does not constitute a debt of or charge against the state of Iowa within the meaning or application of a constitutional or statutory limitation or provision. The issuance of these bonds shall be recorded in the office of the treasurer of the institution on behalf of which the bonds are issued, and a certificate by the treasurer to this effect shall be printed on the back of each bond.

4. In negotiating a private sale of the bonds under this section the board shall assign preference to a syndicate of underwriters which is led by an Iowa domiciled underwriting firm to facilitate selling the marketing of the bonds to Iowans within the plan for the bonds. The plan shall include:

a. Provisions for advertisements in Iowa newspapers which precede, by at least two weeks, the date the bonds will go on sale to the public.

b. The advertisements shall include the date the bonds will go on sale and a list of offices where investors may purchase the bonds.

c. The bond issue shall be structured so that at least fifty percent of the bonds are sold at a price to the initial purchaser, not including an underwriter or bond house, of one thousand dollars or less. The board shall make a report of sale to the general assembly within ninety days of sale date. The report shall specify the terms and conditions of the sale as well as the placement of the bonds by denomination and by county.

88 Acts, ch 1261, §3; 90 Acts, ch 1271, § 1001; 91 Acts, ch 97, §37; 94 Acts, ch 1084, §1

Footnotes

*See 94 Acts, ch 1195

Legislative intent; 88 Acts, ch 1261, § 1

262A.7 Resolution of board and covenants undertaken.

Upon the determination by the state board of regents to undertake and carry out any project or to refund outstanding bonds, said board shall adopt a resolution describing generally the contemplated project and setting forth the estimated cost thereof, or describing the obligations to be refunded, fixing the amount of bonds to be issued, the maturity or maturities, the interest rate or rates and all details in respect thereof. Such resolution shall contain such covenants as may be determined by the board as to the issuance of additional bonds that may thereafter be issued payable from the student fees and charges and institutional income received by the particular institution, the amendment or modification of the resolution authorizing the issuance of any bonds, the manner, terms, and conditions and the amount or percentage of assenting bonds necessary to effectuate such amendment or modification, and such other covenants as may be deemed necessary or desirable. In the discretion of the board any bonds issued under the terms of this chapter may be secured by a trust indenture by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the boundaries of the state of Iowa, but no such trust indenture shall convey or mortgage the buildings and facilities or any part thereof. The provisions of this chapter and of any resolution or other proceedings authorizing the issuance of bonds and providing for the establishment and maintenance of adequate student fees and charges and the application of the proceeds thereof, together with institutional income, shall constitute a contract with the holders of such bonds.

[C71, 73, 75, 77, 79, 81, § 262A.7]

262A.8 Student fees to pay bonds.

Whenever bonds are issued by the state board of regents, it shall be the duty of said board to establish, impose, and collect student fees and charges at the institution on behalf of which such bonds are issued, and to adjust such student fees and charges from time to time, in order always to provide amounts which, together with the institutional income, will be sufficient to pay the principal of and interest on such bonds as the same become due and to maintain a reserve therefor, and said board is authorized to pledge a sufficient amount of the student fees and charges and institutional income received by such institution for this purpose. Student fees and charges and institutional income received by one institution shall not be used to discharge bonds issued for or on account of another institution. All bonds issued under the terms of this chapter shall be exempt from taxation by the state of Iowa and the interest thereon shall be exempt from the state income tax.

[C71, 73, 75, 77, 79, 81, § 262A.8]

262A.9 Bond fund account.

A certified copy of each resolution providing for the issuance of bonds under this chapter shall be filed with the treasurer of the institution on behalf of which the bonds are issued and it shall be the duty of said treasurer to keep and maintain separate accounts for each issue of bonds in accordance with the covenants and directions set out in the resolution providing for the issuance thereof. A sufficient portion of the student fees and charges and institutional income received by each institution shall be held in trust by the treasurer thereof, separate and apart from all other funds, to be used solely and only for the purposes specified in this chapter and as may be required and provided for by the proceedings of the board authorizing the issuance of bonds. It shall be the duty of the treasurer of each institution to disburse funds from the proper account for the payment of the principal of and interest on the bonds in accordance with the directions and covenants of the resolution authorizing the issuance thereof.

If the amount of bonds issued under this chapter exceeds the actual costs of the projects for which bonds were issued, the amount of the difference shall be used to pay the principal and interest due on bonds issued under this chapter.

[C71, 73, 75, 77, 79, 81, § 262A.9]

87 Acts, ch 233, §469

262A.10 Bonds not state obligation.

Under no circumstances shall any bonds issued under the terms of this chapter be or become or be construed to constitute a debt of or a charge against the state of Iowa within the purview of any constitutional or statutory limitation or provision. No taxes, appropriations, or other funds of the state of Iowa may be pledged for or used to pay such bonds or the interest thereon but any such bonds shall be payable solely and only as to both principal and interest from the student fees and charges and institutional income received by the institutions of higher learning under the control of the state board of regents as provided in this chapter, and the sole remedy for any breach or default of the terms of any such bonds or proceedings for their issuance shall be a proceeding either in law or in equity by suit, action, or mandamus to enforce and compel performance of the duties required by this chapter and the terms of the resolution under which such bonds are issued.

[C71, 73, 75, 77, 79, 81, § 262A.10]

262A.11 Bonds as security for investments.

All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds issued pursuant to this chapter; provided, however, that nothing contained in this section may be construed as relieving any persons from any duty of exercising reasonable care in selecting securities for purchase or investment.

[C71, 73, 75, 77, 79, 81, § 262A.11]

262A.12 Application for gifts, loans or grants.

The state board of regents is authorized to apply for and accept federal or nonfederal gifts, loans, or grants of

funds and to use the same to pay all or any part of the cost of carrying out any project at any institution under the terms of this chapter or to use the same, together with student fees and charges and institutional income, for the payment of debt service on bonds issued and to be issued by the board pursuant to authority contained in this chapter, in such manner as may be provided in the resolution authorizing the issuance of the bonds, which grants of funds or other aid shall be considered to constitute and may be commingled with student fees and charges and institutional income and may, together with such student fees and charges and institutional income, be pledged by the board in accordance with the provisions of this chapter and the bond resolution to the payment of debt service on bonds issued by the board under the authority contained in this chapter.

[C71, 73, 75, 77, 79, 81, § 262A.12]

262A.13 Reports to general assembly.

The state board of regents shall determine, in consultation with the legislative services agency, the financial information to be included in line item budget information for projects funded by the issuance of bonds or notes under this chapter and shall submit the line item budget information to the general assembly as requested. The state board of regents shall submit quarterly reports to the general assembly concerning the projects funded by the issuance of bonds or notes under this chapter as follows:

1. Identification of both undercharges and overcharges for line items of projects.
2. Identification of contracts in which any line item for a project exceeds the adopted budget for that line item by ten percent or more.
3. Identification of complaints received by an institution regarding the construction of a project.

If the state board of regents approves a change in the amount of the line item of a budget for a project, the change shall be transmitted to the appropriations committees of the house of representatives and senate, while the general assembly is in session, and to the legislative council, when the general assembly is not in session, for review.

86 Acts, ch 1246, § 129; 2003 Acts, ch 35, §45, 49

262A.14 Alternative and independent method.

This chapter shall be construed as providing an alternative and independent method for carrying out any project at any institution of higher learning under the control of the state board of regents, for the issuance and sale or exchange of bonds in connection therewith and for refunding bonds pertinent thereto, without reference to any other statute, and shall not be construed as an amendment of or subject to the provisions of any other law, and no publication of any notice, whether under section 73A.12 or otherwise, and no other or further proceedings in respect to the issuance or sale or exchange of bonds under this chapter shall be required except such as are prescribed by this chapter, any provisions of other statutes of the state to the contrary notwithstanding.

[C71, 73, 75, 77, 79, 81, § 262A.13]

C87, § 262A.14