

Senate File 539 - Enrolled

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SENATE FILE 539

AN ACT

ESTABLISHING UNIFORM FINANCE PROCEDURES FOR OBLIGATIONS
ISSUED BY THE STATE.

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

Section 1. NEW SECTION. 12F.1 DEFINITIONS.

As used in this chapter, unless the context otherwise
requires:

1. "Authorizing document" means the resolution of the
issuer, indenture of trust, or other instrument setting forth
the terms and conditions of obligations issued in accordance
with the provisions of this chapter.

2. "Enabling legislation" means legislation enabling the
issuance by an issuer of obligations in accordance with the
provisions of this chapter.

3. "Issuer" means the state, a department or public or
quasi-public agency or instrumentality of the state, or an
authority of the state authorized to issue obligations and
enabled to issue the obligations in accordance with the
provisions of this chapter.

4. "Obligations" means notes, bonds, including refunding
bonds, and other evidences of indebtedness of an issuer.

Sec. 2. NEW SECTION. 12F.2 PROVISIONS APPLICABLE.

An issuer may issue obligations in accordance with the
provisions of this chapter if enabling legislation enacted on
or after the effective date of this Act provides that the
obligations shall or may be issued in accordance with the
provisions of this chapter. This chapter establishes the
terms, conditions, and procedures applicable to the issuance
of obligations by an issuer enabled to issue obligations under
this chapter.

Sec. 3. NEW SECTION. 12F.3 LIMITED OBLIGATIONS.

Obligations issued under this chapter are payable solely
out of the moneys, assets, or revenues pledged to the payment
of the obligations pursuant to the enabling legislation and
any bond reserve funds established in accordance with this
chapter, all of which may be deposited with trustees or
depositories in accordance with the authorizing documents and
pledged by the issuer to the payment thereof. Obligations
issued under this chapter shall contain a statement that the
obligations are issued pursuant to this chapter; are payable
solely from the moneys, assets, and revenues pledged for their
payment and any bond reserve funds established; and that such
obligations do not constitute an indebtedness of the state.
The issuer shall not pledge the credit or taxing power of this
state or any political subdivision of this state or make
obligations issued pursuant to this chapter payable out of any
moneys except those pledged in the enabling legislation and
any bond reserve funds established by the issuer.

Sec. 4. NEW SECTION. 12F.4 GENERAL POWERS.

1. An issuer may issue obligations under this chapter and
do all things necessary with respect to the issuance of the
obligations. An issuer shall have all of the powers necessary
to issue and secure obligations and carry out the purposes for
which the obligations are to be issued, including the power to
secure credit enhancement or support and to enter into
agreements providing interest rate protection, as deemed
appropriate by the issuer. The issuer may issue obligations
in principal amounts consistent with the enabling legislation
and which the issuer determines are necessary to provide
sufficient funds for the purposes for which the obligations
are issued, and to provide for the payment of capitalized
interest on the obligations, the establishment of reserves to
secure the obligations, the payment of the costs of issuance
of the obligations, the payment of other expenditures of the
issuer incident to and necessary or convenient to carry out
the issue, and the payment of all other expenditures necessary
or convenient to the purposes for which the obligations are
issued.

2. The proceeds of obligations issued by the issuer and

3 4 not required for immediate disbursement may be deposited with
3 5 a trustee or depository or the treasurer of state as provided
3 6 in the authorizing documents. Proceeds shall be invested or
3 7 reinvested as directed by the treasurer of state and specified
3 8 in the authorizing documents without regard to any limitation
3 9 otherwise provided by law.

3 10 3. Obligations shall be issued as follows:

3 11 a. In a form, issued in denominations, executed in a
3 12 manner, and payable over terms and with rights of redemption,
3 13 and subject to such other terms and conditions as prescribed
3 14 in the authorizing documents.

3 15 b. Sold at prices, at public or private sale, and in a
3 16 manner, as prescribed by the issuer. Chapters 73A, 74, 74A,
3 17 75, and 76 do not apply to the sale, issuance, or retirement
3 18 of the obligations if this chapter is utilized.

3 19 c. Subject to the terms, conditions, and covenants
3 20 providing for the payment of the principal, redemption
3 21 premiums, if any, interest, and other terms, conditions,
3 22 covenants, and protective provisions safeguarding payment, not
3 23 inconsistent with this chapter and as determined by the
3 24 authorizing documents.

3 25 4. Obligations issued under this chapter are investment
3 26 securities and negotiable instruments within the meaning of
3 27 and for purposes of the uniform commercial code, chapter 554.
3 28 Obligations are securities in which public officers and bodies
3 29 of this state; political subdivisions of this state; insurance
3 30 companies and associations and other persons carrying on an
3 31 insurance business; banks, trust companies, savings
3 32 associations, savings and loan associations, and investment
3 33 companies; administrators, guardians, executors, trustees, and
3 34 other fiduciaries; and other persons authorized to invest in
3 35 obligations of the state, may properly and legally invest
4 1 funds, including capital, in their control or belonging to
4 2 them.

4 3 5. Obligations must be authorized by a trust indenture,
4 4 resolution, or other instrument of the issuer. A trust
4 5 indenture, resolution, or other instrument authorizing the
4 6 issuance of obligations may, however, delegate to an officer
4 7 of a board or of a governing body of an issuer the power to
4 8 negotiate and fix the details of an issue of obligations.

4 9 6. A resolution, trust agreement, or any other instrument
4 10 by which a pledge is created shall not be required to be
4 11 recorded or filed under the uniform commercial code, chapter
4 12 554, to be valid, binding, or effective.

4 13 7. Subject to the terms of the authorizing documents, the
4 14 proceeds of obligations may be expended for administrative
4 15 expenses.

4 16 8. An issuer may issue obligations for the purpose of
4 17 refunding any obligations then outstanding, including the
4 18 payment of any redemption premiums thereon and any interest
4 19 accrued or to accrue to the date of redemption of the
4 20 outstanding obligations. Until the proceeds of obligations
4 21 issued for the purpose of refunding outstanding obligations
4 22 are applied to the purchase or retirement of outstanding
4 23 obligations or the redemption of outstanding obligations, the
4 24 proceeds may be placed in escrow and be invested and
4 25 reinvested in accordance with the provisions of this chapter,
4 26 the authorizing documents, and any applicable escrow
4 27 agreement. The interest, income, and profits earned or
4 28 realized on an investment may also be applied to the payment
4 29 of the outstanding obligations to be refunded by purchase,
4 30 retirement, or redemption. After the terms of the escrow have
4 31 been fully satisfied and carried out, any balance of proceeds
4 32 and interest earned or realized on the investments may be
4 33 returned to the issuer. All refunding obligations shall be
4 34 issued and secured and subject to the provisions of this
4 35 chapter in the same manner and to the same extent as other
5 1 obligations issued pursuant to this chapter.

5 2 Sec. 5. NEW SECTION. 12F.5 RESERVE FUNDS.

5 3 1. An issuer may create and establish one or more special
5 4 funds, to be known as bond reserve funds, to secure one or
5 5 more issues of obligations. The issuer shall pay into each
5 6 bond reserve fund any moneys appropriated and made available
5 7 by the state for the purpose of that reserve fund, any
5 8 proceeds of the sale of obligations to the extent provided in
5 9 the authorizing documents, and any other moneys which may be
5 10 available from any other sources and which the issuer
5 11 determines to deposit in the reserve fund. All moneys held in
5 12 a bond reserve fund, except as otherwise provided in this
5 13 chapter, shall be used as required solely for the payment of
5 14 the principal of obligations secured in whole or in part by

5 15 the fund or of the sinking fund or other payments with respect
5 16 to the obligations, the purchase or redemption of the
5 17 obligations, the payment of interest on the obligations, or
5 18 the payments of any redemption premium required to be paid
5 19 when the obligations are redeemed prior to maturity.

5 20 2. Moneys in a bond reserve fund shall not be withdrawn at
5 21 any time in an amount that will reduce the amount of the fund
5 22 to less than the bond reserve fund requirement established for
5 23 the fund, except for the purpose of making, with respect to
5 24 obligations secured in whole or in part by the fund, payment
5 25 when due of principal, interest, redemption premiums, and the
5 26 sinking fund and other payments with respect to the
5 27 obligations for which other moneys are not available, all in
5 28 accordance with the authorizing documents. For the purposes
5 29 of this chapter, "bond reserve fund requirement" means, as of
5 30 any particular date of computation, the amount of moneys,
5 31 provided in the authorizing documents with respect to which
5 32 the fund is established. Any income or interest earned by, or
5 33 incremental to, a bond reserve fund due to its investment may
5 34 be transferred to other funds or accounts as provided in the
5 35 authorizing documents to the extent the transfer does not
6 1 reduce the amount of that bond reserve fund below its bond
6 2 reserve fund requirement.

6 3 3. The issuer shall not at any time issue obligations,
6 4 secured in whole or in part by a bond reserve fund if, upon
6 5 the issuance of the obligations, the amount in the bond
6 6 reserve fund for the obligations will be less than the bond
6 7 reserve fund requirement for the fund, unless the issuer at
6 8 the time of issuance of the obligations deposits in the fund
6 9 from the proceeds of the obligations issued or from other
6 10 sources an amount which, together with the amount then in the
6 11 fund, will not be less than the bond reserve fund requirement
6 12 for the fund.

6 13 4. In order to assure maintenance of bond reserve funds,
6 14 an issuer shall, on or before January 1 of each calendar year,
6 15 make and deliver to the governor the issuer's certificate
6 16 stating the sum, if any, required to restore each bond reserve
6 17 fund to the bond reserve fund requirement for that fund.
6 18 Within thirty days after the beginning of the session of the
6 19 general assembly next following the delivery of the
6 20 certificate, the governor shall submit to both houses printed
6 21 copies of a budget including the sum, if any, required to
6 22 restore each bond reserve fund to the bond reserve fund
6 23 requirement for that fund. Any sums appropriated by the
6 24 general assembly and paid to the issuer pursuant to this
6 25 subsection shall be deposited by the issuer in the applicable
6 26 bond reserve fund.

6 27 Sec. 6. NEW SECTION. 12F.6 PLEDGE OF FUNDS.

6 28 1. Amounts authorized to be pledged as security for
6 29 obligations shall be held in separate and distinct funds in
6 30 the state treasury. Moneys in a fund shall not be subject to
6 31 appropriation for any other purpose by the general assembly,
6 32 but shall be used only for debt service on the obligations and
6 33 other amounts as set forth in the authorizing documents. The
6 34 treasurer of state shall act as custodian of the funds and
6 35 disburse moneys contained in the funds as directed by the
7 1 authorizing documents.

7 2 2. Moneys in any fund pledged as security for obligations
7 3 are not subject to section 8.33. Notwithstanding section
7 4 12C.7, subsection 2, interest or earnings on moneys in the
7 5 funds shall be credited to the applicable fund.

7 6 Sec. 7. NEW SECTION. 12F.7 RESOLUTION PROVISIONS.

7 7 Authorizing document provisions, which shall be a part of
7 8 the contract with the holders of the obligations to be issued,
7 9 may contain the following:

7 10 1. Pledging or assigning the revenue of a project with
7 11 respect to which the obligations are to be issued or the
7 12 revenue of other property or facilities.

7 13 2. Setting aside reserves or sinking funds, and their
7 14 regulation, investment, and disposition.

7 15 3. Limitations on the use of a project.

7 16 4. Limitations on the purpose to which or the investments
7 17 in which the proceeds of sale of an issue of obligations then
7 18 or thereafter to be issued may be applied and pledging the
7 19 proceeds to secure the payment of the obligations or an issue
7 20 of the obligations.

7 21 5. Limitations on the issuance of additional obligations,
7 22 the terms upon which additional obligations may be issued and
7 23 secured, and the refunding of outstanding obligations.

7 24 6. The procedure, if any, by which the terms of any
7 25 contract with the holder of an obligation may be amended or

7 26 abrogated, the amount of obligations may be specified for
7 27 which the holders must consent to amendment or abrogation, and
7 28 the manner in which the consent may be given.

7 29 7. Defining the acts or omissions to act which constitute
7 30 a default in the duties of the issuer to holders of
7 31 obligations and providing the rights and remedies of the
7 32 holders in the event of a default.

7 33 8. Other matters relating to the obligations as may be
7 34 provided by the issuer.

7 35 Sec. 8. NEW SECTION. 12F.8 OBLIGATIONS SECURED BY TRUST
8 1 AGREEMENT.

8 2 Obligations issued under this chapter may be secured by a
8 3 trust agreement by and between the issuer and an incorporated
8 4 trustee, which may be a trust company or bank having the
8 5 powers of a trust company in this state or another state. The
8 6 trust agreement or the resolution providing for the issuance
8 7 of the obligations may pledge or assign the revenue to be
8 8 received for payment of the obligations or the proceeds of any
8 9 contract pledged. A pledge or assignment made by the issuer
8 10 pursuant to this chapter is valid and binding from the time
8 11 that the pledge or assignment is made, and the revenue pledged
8 12 and thereafter received by the issuer is immediately subject
8 13 to the lien of the pledge or assignment without physical
8 14 delivery or any further act. The lien of the pledge or
8 15 assignment is valid and binding against all parties having
8 16 claims of any kind in tort, contract, or otherwise against the
8 17 issuer irrespective of whether the parties have notice of the
8 18 lien. The trust agreement or resolution by which a pledge is
8 19 created or an assignment made shall be filed in the records of
8 20 the issuer. The trust agreement or resolution providing for
8 21 the issuance of the obligations may contain provisions for
8 22 protecting and enforcing the rights and remedies of the
8 23 holders of an obligation as are reasonable and proper, not in
8 24 violation of law, or provided for in this chapter. A bank or
8 25 trust company incorporated under the laws of this state or
8 26 another state which acts as depository of proceeds of the
8 27 obligations, revenue, or other moneys shall furnish the
8 28 indemnifying obligations or pledge securities as and to the
8 29 extent required by the issuer. The trust agreement or
8 30 resolution may set forth the rights and remedies of the
8 31 holders of an obligation and of the trustee, and may restrict
8 32 the individual right of action by holders of an obligation.
8 33 The trust agreement or resolution may contain other provisions
8 34 the issuer deems reasonable and proper for the security of the
8 35 obligation holders.

9 1 Sec. 9. NEW SECTION. 12F.9 STATE TAX.

9 2 Obligations issued under the provisions of this chapter are
9 3 declared to be issued for a general public and governmental
9 4 purpose and the obligations and interest on the obligations
9 5 shall be exempt from state income and inheritance tax.

9 6 Sec. 10. NEW SECTION. 12F.10 AGREEMENT OF THE STATE.

9 7 The state pledges to and agrees with the holders of any
9 8 obligations issued under this chapter, and with those parties
9 9 who enter into contracts with an issuer pursuant to this
9 10 chapter, that the state will not limit or alter the rights
9 11 vested in the issuer until the obligations, together with the
9 12 interest on the obligations, are fully met and discharged and
9 13 the contracts are fully performed on the part of the issuer,
9 14 except that this chapter does not preclude a limitation or
9 15 alteration if adequate provision is made by law for the
9 16 protection of the rights of the holders of the obligations of
9 17 the issuer or those entering into contracts with the issuer.

9 18 Sec. 11. NEW SECTION. 12F.11 PROVISIONS CONTROLLING.

9 19 The powers granted issuers under this chapter are in
9 20 addition to the powers of each issuer contained elsewhere in
9 21 the Code. Nothing in this chapter limits the powers of an
9 22 issuer to issue obligations under any other applicable
9 23 provisions of the Code or to otherwise carry out its
9 24 responsibilities as otherwise set forth in the Code.

9 25 Sec. 12. NEW SECTION. 12F.12 CONSTRUCTION.

9 26 This chapter, being necessary for the welfare of this state
9 27 and its inhabitants, shall be liberally construed to effect
9 28 its purpose.

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JOHN P. KIBBIE
President of the Senate

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PATRICK J. MURPHY
Speaker of the House

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10 5 I hereby certify that this bill originated in the Senate and
10 6 is known as Senate File 539, Eighty-second General Assembly.
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10 10 _____
10 11 MICHAEL E. MARSHALL
10 12 Secretary of the Senate

10 12 Approved _____, 2007
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10 15 _____
10 16 CHESTER J. CULVER
10 17 Governor