

Senate Study Bill 1290

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON CONNOLLY)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing uniform finance procedures for obligations
2 issued by the state.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2443SC 82
5 rn/gg/14

PAG LIN

1 1 Section 1. NEW SECTION. 12F.1 DEFINITIONS.
1 2 As used in this chapter, unless the context otherwise
1 3 requires:
1 4 1. "Authorizing document" means the resolution of the
1 5 issuer, indenture of trust, or other instrument setting forth
1 6 the terms and conditions of obligations issued in accordance
1 7 with the provisions of this chapter.
1 8 2. "Enabling legislation" means legislation enabling the
1 9 issuance by an issuer of obligations in accordance with the
1 10 provisions of this chapter.
1 11 3. "Issuer" means the state, a department or public or
1 12 quasi-public agency or instrumentality of the state, or an
1 13 authority of the state authorized to issue obligations and
1 14 enabled to issue the obligations in accordance with the
1 15 provisions of this chapter.
1 16 4. "Obligations" means notes, bonds, including refunding
1 17 bonds, and other evidences of indebtedness of an issuer.
1 18 Sec. 2. NEW SECTION. 12F.2 PROVISIONS APPLICABLE.
1 19 An issuer may issue obligations in accordance with the
1 20 provisions of this chapter if enabling legislation enacted on
1 21 or after the effective date of this Act provides that the
1 22 obligations shall or may be issued in accordance with the
1 23 provisions of this chapter. This chapter establishes the
1 24 terms, conditions, and procedures applicable to the issuance
1 25 of obligations by an issuer enabled to issue obligations under
1 26 this chapter.
1 27 Sec. 3. NEW SECTION. 12F.3 LIMITED OBLIGATIONS.
1 28 Obligations issued under this chapter are payable solely
1 29 out of the moneys, assets, or revenues pledged to the payment
1 30 of the obligations pursuant to the enabling legislation and
1 31 any bond reserve funds established in accordance with this
1 32 chapter, all of which may be deposited with trustees or
1 33 depositories in accordance with the authorizing documents and
1 34 pledged by the issuer to the payment thereof. Obligations
1 35 issued under this chapter shall contain a statement that the
2 1 obligations are issued pursuant to this chapter; are payable
2 2 solely from the moneys, assets, and revenues pledged for their
2 3 payment and any bond reserve funds established; and that such
2 4 obligations do not constitute an indebtedness of the state.
2 5 The issuer shall not pledge the credit or taxing power of this
2 6 state or any political subdivision of this state or make
2 7 obligations issued pursuant to this chapter payable out of any
2 8 moneys except those pledged in the enabling legislation and
2 9 any bond reserve funds established by the issuer.
2 10 Sec. 4. NEW SECTION. 12F.4 GENERAL POWERS.
2 11 1. An issuer may issue obligations under this chapter and
2 12 do all things necessary with respect to the issuance of the
2 13 obligations. An issuer shall have all of the powers necessary
2 14 to issue and secure obligations and carry out the purposes for
2 15 which the obligations are to be issued, including the power to
2 16 secure credit enhancement or support and to enter into
2 17 agreements providing interest rate protection, as deemed
2 18 appropriate by the issuer. The issuer may issue obligations

2 19 in principal amounts consistent with the enabling legislation
2 20 and which the issuer determines are necessary to provide
2 21 sufficient funds for the purposes for which the obligations
2 22 are issued, and to provide for the payment of capitalized
2 23 interest on the obligations, the establishment of reserves to
2 24 secure the obligations, the payment of the costs of issuance
2 25 of the obligations, the payment of other expenditures of the
2 26 issuer incident to and necessary or convenient to carry out
2 27 the issue, and the payment of all other expenditures necessary
2 28 or convenient to the purposes for which the obligations are
2 29 issued.

2 30 2. The proceeds of obligations issued by the issuer and
2 31 not required for immediate disbursement may be deposited with
2 32 a trustee or depository or the treasurer of state as provided
2 33 in the authorizing documents. Proceeds shall be invested or
2 34 reinvested as directed by the treasurer of state and specified
2 35 in the authorizing documents without regard to any limitation

3 1 otherwise provided by law.

3 2 3. Obligations shall be issued as follows:

3 3 a. In a form, issued in denominations, executed in a
3 4 manner, and payable over terms and with rights of redemption,
3 5 and subject to such other terms and conditions as prescribed
3 6 in the authorizing documents.

3 7 b. Sold at prices, at public or private sale, and in a
3 8 manner, as prescribed by the issuer. Chapters 73A, 74, 74A,
3 9 75, and 76 do not apply to the sale, issuance, or retirement
3 10 of the obligations if this chapter is utilized.

3 11 c. Subject to the terms, conditions, and covenants
3 12 providing for the payment of the principal, redemption
3 13 premiums, if any, interest, and other terms, conditions,
3 14 covenants, and protective provisions safeguarding payment, not
3 15 inconsistent with this chapter and as determined by the
3 16 authorizing documents.

3 17 4. Obligations issued under this chapter are investment
3 18 securities and negotiable instruments within the meaning of
3 19 and for purposes of the uniform commercial code, chapter 554.
3 20 Obligations are securities in which public officers and bodies
3 21 of this state; political subdivisions of this state; insurance
3 22 companies and associations and other persons carrying on an
3 23 insurance business; banks, trust companies, savings
3 24 associations, savings and loan associations, and investment
3 25 companies; administrators, guardians, executors, trustees, and
3 26 other fiduciaries; and other persons authorized to invest in
3 27 obligations of the state, may properly and legally invest
3 28 funds, including capital, in their control or belonging to
3 29 them.

3 30 5. Obligations must be authorized by a trust indenture,
3 31 resolution, or other instrument of the issuer. A trust
3 32 indenture, resolution, or other instrument authorizing the
3 33 issuance of obligations may, however, delegate to an officer
3 34 of a board or of a governing body of an issuer the power to
3 35 negotiate and fix the details of an issue of obligations.

4 1 6. A resolution, trust agreement, or any other instrument
4 2 by which a pledge is created shall not be required to be
4 3 recorded or filed under the uniform commercial code, chapter
4 4 554, to be valid, binding, or effective.

4 5 7. Subject to the terms of the authorizing documents, the
4 6 proceeds of obligations may be expended for administrative
4 7 expenses.

4 8 8. An issuer may issue obligations for the purpose of
4 9 refunding any obligations then outstanding, including the
4 10 payment of any redemption premiums thereon and any interest
4 11 accrued or to accrue to the date of redemption of the
4 12 outstanding obligations. Until the proceeds of obligations
4 13 issued for the purpose of refunding outstanding obligations
4 14 are applied to the purchase or retirement of outstanding
4 15 obligations or the redemption of outstanding obligations, the
4 16 proceeds may be placed in escrow and be invested and
4 17 reinvested in accordance with the provisions of this chapter,
4 18 the authorizing documents, and any applicable escrow
4 19 agreement. The interest, income, and profits earned or
4 20 realized on an investment may also be applied to the payment
4 21 of the outstanding obligations to be refunded by purchase,
4 22 retirement, or redemption. After the terms of the escrow have
4 23 been fully satisfied and carried out, any balance of proceeds
4 24 and interest earned or realized on the investments may be
4 25 returned to the issuer. All refunding obligations shall be
4 26 issued and secured and subject to the provisions of this
4 27 chapter in the same manner and to the same extent as other
4 28 obligations issued pursuant to this chapter.

4 29 Sec. 5. NEW SECTION. 12F.5 RESERVE FUNDS.

4 30 1. An issuer may create and establish one or more special
4 31 funds, to be known as bond reserve funds, to secure one or
4 32 more issues of obligations. The issuer shall pay into each
4 33 bond reserve fund any moneys appropriated and made available
4 34 by the state for the purpose of that reserve fund, any
4 35 proceeds of the sale of obligations to the extent provided in
5 1 the authorizing documents, and any other moneys which may be
5 2 available from any other sources and which the issuer
5 3 determines to deposit in the reserve fund. All moneys held in
5 4 a bond reserve fund, except as otherwise provided in this
5 5 chapter, shall be used as required solely for the payment of
5 6 the principal of obligations secured in whole or in part by
5 7 the fund or of the sinking fund or other payments with respect
5 8 to the obligations, the purchase or redemption of the
5 9 obligations, the payment of interest on the obligations, or
5 10 the payments of any redemption premium required to be paid
5 11 when the obligations are redeemed prior to maturity.

5 12 2. Moneys in a bond reserve fund shall not be withdrawn at
5 13 any time in an amount that will reduce the amount of the fund
5 14 to less than the bond reserve fund requirement established for
5 15 the fund, except for the purpose of making, with respect to
5 16 obligations secured in whole or in part by the fund, payment
5 17 when due of principal, interest, redemption premiums, and the
5 18 sinking fund and other payments with respect to the
5 19 obligations for which other moneys are not available, all in
5 20 accordance with the authorizing documents. For the purposes
5 21 of this chapter, "bond reserve fund requirement" means, as of
5 22 any particular date of computation, the amount of moneys,
5 23 provided in the authorizing documents with respect to which
5 24 the fund is established. Any income or interest earned by, or
5 25 incremental to, a bond reserve fund due to its investment may
5 26 be transferred to other funds or accounts as provided in the
5 27 authorizing documents to the extent the transfer does not
5 28 reduce the amount of that bond reserve fund below its bond
5 29 reserve fund requirement.

5 30 3. The issuer shall not at any time issue obligations,
5 31 secured in whole or in part by a bond reserve fund if, upon
5 32 the issuance of the obligations, the amount in the bond
5 33 reserve fund for the obligations will be less than the bond
5 34 reserve fund requirement for the fund, unless the issuer at
5 35 the time of issuance of the obligations deposits in the fund
6 1 from the proceeds of the obligations issued or from other
6 2 sources an amount which, together with the amount then in the
6 3 fund, will not be less than the bond reserve fund requirement
6 4 for the fund.

6 5 4. In order to assure maintenance of bond reserve funds,
6 6 an issuer shall, on or before January 1 of each calendar year,
6 7 make and deliver to the governor the issuer's certificate
6 8 stating the sum, if any, required to restore each bond reserve
6 9 fund to the bond reserve fund requirement for that fund.
6 10 Within thirty days after the beginning of the session of the
6 11 general assembly next following the delivery of the
6 12 certificate, the governor shall submit to both houses printed
6 13 copies of a budget including the sum, if any, required to
6 14 restore each bond reserve fund to the bond reserve fund
6 15 requirement for that fund. Any sums appropriated by the
6 16 general assembly and paid to the issuer pursuant to this
6 17 subsection shall be deposited by the issuer in the applicable
6 18 bond reserve fund.

6 19 Sec. 6. NEW SECTION. 12F.6 PLEDGE OF FUNDS.

6 20 1. Amounts authorized to be pledged as security for
6 21 obligations shall be held in separate and distinct funds in
6 22 the state treasury. Moneys in a fund shall not be subject to
6 23 appropriation for any other purpose by the general assembly,
6 24 but shall be used only for debt service on the obligations and
6 25 other amounts as set forth in the authorizing documents. The
6 26 treasurer of state shall act as custodian of the funds and
6 27 disburse moneys contained in the funds as directed by the
6 28 authorizing documents.

6 29 2. Moneys in any fund pledged as security for obligations
6 30 are not subject to section 8.33. Notwithstanding section
6 31 12C.7, subsection 2, interest or earnings on moneys in the
6 32 funds shall be credited to the applicable fund.

6 33 Sec. 7. NEW SECTION. 12F.7 RESOLUTION PROVISIONS.

6 34 Authorizing document provisions, which shall be a part of
6 35 the contract with the holders of the obligations to be issued,
7 1 may contain the following:

7 2 1. Pledging or assigning the revenue of a project with
7 3 respect to which the obligations are to be issued or the
7 4 revenue of other property or facilities.

7 5 2. Setting aside reserves or sinking funds, and their

7 6 regulation, investment, and disposition.

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

7 8 4. Limitations on the purpose to which or the investments
7 9 in which the proceeds of sale of an issue of obligations then
7 10 or thereafter to be issued may be applied and pledging the
7 11 proceeds to secure the payment of the obligations or an issue
7 12 of the obligations.

7 13 5. Limitations on the issuance of additional obligations,
7 14 the terms upon which additional obligations may be issued and
7 15 secured, and the refunding of outstanding obligations.

7 16 6. The procedure, if any, by which the terms of any
7 17 contract with the holder of an obligation may be amended or
7 18 abrogated, the amount of obligations may be specified for
7 19 which the holders must consent to amendment or abrogation, and
7 20 the manner in which the consent may be given.

7 21 7. Defining the acts or omissions to act which constitute
7 22 a default in the duties of the issuer to holders of
7 23 obligations and providing the rights and remedies of the
7 24 holders in the event of a default.

7 25 8. Other matters relating to the obligations as may be
7 26 provided by the issuer.

7 27 Sec. 8. NEW SECTION. 12F.8 OBLIGATIONS SECURED BY TRUST
7 28 AGREEMENT.

7 29 Obligations issued under this chapter may be secured by a
7 30 trust agreement by and between the issuer and an incorporated
7 31 trustee, which may be a trust company or bank having the
7 32 powers of a trust company in this state or another state. The
7 33 trust agreement or the resolution providing for the issuance
7 34 of the obligations may pledge or assign the revenue to be
7 35 received for payment of the obligations or the proceeds of any
8 1 contract pledged. A pledge or assignment made by the issuer
8 2 pursuant to this chapter is valid and binding from the time
8 3 that the pledge or assignment is made, and the revenue pledged
8 4 and thereafter received by the issuer is immediately subject
8 5 to the lien of the pledge or assignment without physical
8 6 delivery or any further act. The lien of the pledge or
8 7 assignment is valid and binding against all parties having
8 8 claims of any kind in tort, contract, or otherwise against the
8 9 issuer irrespective of whether the parties have notice of the
8 10 lien. The trust agreement or resolution by which a pledge is
8 11 created or an assignment made shall be filed in the records of
8 12 the issuer. The trust agreement or resolution providing for
8 13 the issuance of the obligations may contain provisions for
8 14 protecting and enforcing the rights and remedies of the
8 15 holders of an obligation as are reasonable and proper, not in
8 16 violation of law, or provided for in this chapter. A bank or
8 17 trust company incorporated under the laws of this state or
8 18 another state which acts as depository of proceeds of the
8 19 obligations, revenue, or other moneys shall furnish the
8 20 indemnifying obligations or pledge securities as and to the
8 21 extent required by the issuer. The trust agreement or
8 22 resolution may set forth the rights and remedies of the
8 23 holders of an obligation and of the trustee, and may restrict
8 24 the individual right of action by holders of an obligation.
8 25 The trust agreement or resolution may contain other provisions
8 26 the issuer deems reasonable and proper for the security of the
8 27 obligation holders.

8 28 Sec. 9. NEW SECTION. 12F.9 STATE TAX.

8 29 Obligations issued under the provisions of this chapter are
8 30 declared to be issued for a general public and governmental
8 31 purpose and the obligations and interest on the obligations
8 32 shall be exempt from state income and inheritance tax.

8 33 Sec. 10. NEW SECTION. 12F.10 AGREEMENT OF THE STATE.

8 34 The state pledges to and agrees with the holders of any
8 35 obligations issued under this chapter, and with those parties
9 1 who enter into contracts with an issuer pursuant to this
9 2 chapter, that the state will not limit or alter the rights
9 3 vested in the issuer until the obligations, together with the
9 4 interest on the obligations, are fully met and discharged and
9 5 the contracts are fully performed on the part of the issuer,
9 6 except that this chapter does not preclude a limitation or
9 7 alteration if adequate provision is made by law for the
9 8 protection of the rights of the holders of the obligations of
9 9 the issuer or those entering into contracts with the issuer.

9 10 Sec. 11. NEW SECTION. 12F.11 PROVISIONS CONTROLLING.

9 11 The powers granted issuers under this chapter are in
9 12 addition to the powers of each issuer contained elsewhere in
9 13 the Code. Nothing in this chapter limits the powers of an
9 14 issuer to issue obligations under any other applicable
9 15 provisions of the Code or to otherwise carry out its
9 16 responsibilities as otherwise set forth in the Code.

9 17 Sec. 12. NEW SECTION. 12F.12 CONSTRUCTION.
9 18 This chapter, being necessary for the welfare of this state
9 19 and its inhabitants, shall be liberally construed to effect
9 20 its purpose.

9 21 EXPLANATION

9 22 This bill establishes uniform procedures applicable to the
9 23 issuance of notes, bonds, and other evidences of indebtedness
9 24 by the state or a department, agency, instrumentality, or
9 25 authority of the state. The bill is applicable if enabling
9 26 legislation enacted on or after the bill's effective date
9 27 provides that obligations shall or may be issued pursuant to
9 28 its provisions, but the bill states that it does not limit the
9 29 authority of any other applicable provisions of the Code and
9 30 that such other provisions may continue to be utilized for the
9 31 issuance of notes, bonds, and other evidences of indebtedness
9 32 in lieu of new Code chapter 12F as established in the bill.

9 33 The bill provides several definitions, including a
9 34 definition of "issuer" to mean the state, a department or
9 35 public or quasi-public agency or instrumentality of the state,
10 1 and an authority of the state, authorized to issue obligations
10 2 and enabled to issue them pursuant to the bill's provisions.
10 3 The bill defines "obligations" to mean notes, bonds, including
10 4 refunding bonds, and other evidences of indebtedness of an
10 5 issuer.

10 6 The bill provides that obligations issued pursuant to new
10 7 Code chapter 12F as created in the bill are payable solely out
10 8 of the moneys, assets, or revenues pledged to their payment in
10 9 enabling legislation and any bond reserve funds established in
10 10 accordance with the new Code chapter, which may be deposited
10 11 with trustees or depositories. The bill provides that
10 12 obligations shall contain a statement that the obligations are
10 13 payable solely from pledged funds and bond reserve funds and
10 14 that they do not constitute an indebtedness of the state, and
10 15 that an issuer shall not pledge the credit or taxing power of
10 16 the state or any political subdivision of the state, or make
10 17 obligations payable out of any moneys except those pledged in
10 18 the enabling legislation and any bond reserve funds
10 19 established by the issuer.

10 20 The bill specifies general powers applicable to the
10 21 issuance of obligations, including the authority of an issuer
10 22 to issue and secure obligations, deposit of proceeds of
10 23 obligations not required for immediate disbursement with a
10 24 trustee or depository or the treasurer of state, issuance and
10 25 execution of obligations in a form as provided in the
10 26 authorizing documents, sale of obligations as prescribed by
10 27 the issuer, inapplicability of Code chapters 73A, 74, 74A, 75,
10 28 and 76 dealing with public obligations and bonds to the sale,
10 29 issuance, or retirement of obligations if the provisions of
10 30 new Code chapter 12F are utilized, and that obligations shall
10 31 be subject to terms, conditions, and covenants providing for
10 32 the payment of the principal, redemption premiums, interest
10 33 and other terms as determined by the authorizing documents.
10 34 Additional provisions in the general powers portion of the
10 35 bill include that obligations are investment securities and
11 1 negotiable instruments within the meaning of the uniform
11 2 commercial code contained in Code chapter 554, that they must
11 3 be authorized by a trust indenture, resolution, or other
11 4 instrument of the issuer, that a resolution, trust agreement,
11 5 or any other instrument by which a pledge is created shall not
11 6 be required to be recorded or filed under the uniform
11 7 commercial code to be valid, binding, or effective, that
11 8 authorized proceeds of obligations may be expended for
11 9 administrative expenses, and that obligations may be issued
11 10 for the purpose of refunding any obligations then outstanding,
11 11 including the payment of any redemption premiums and interest
11 12 accrued or to accrue to the date of redemption of the
11 13 outstanding obligations.

11 14 The bill provides for the creation of bond reserve funds,
11 15 and states that moneys in a bond reserve fund shall not be
11 16 withdrawn at any time in an amount that will reduce the amount
11 17 of the fund to less than the bond reserve fund requirement
11 18 established for the fund, except for the purpose of making,
11 19 with respect to obligations secured in whole or in part by the
11 20 fund, payment when due of principal, interest, redemption
11 21 premiums, and the sinking fund and other payments with respect
11 22 to the obligations for which other moneys are not available.
11 23 The bill prohibits the issuance of obligations secured by a
11 24 bond reserve fund if, upon the issuance of the obligations,
11 25 the amount in the bond reserve fund for the obligations will
11 26 be less than the bond reserve fund requirement for the fund,
11 27 unless the issuer at the time of issuance of the obligations

11 28 deposits in the fund from the proceeds of the obligations
11 29 issued or from other sources an amount which, together with
11 30 the amount then in the fund, will not be less than the bond
11 31 reserve fund requirement for the fund. The bill provides that
11 32 to demonstrate that bond reserve funds are being maintained,
11 33 an issuer shall on or before January 1 of each year make and
11 34 deliver to the governor the issuer's certificate stating the
11 35 sum, if any, required to restore each bond reserve fund to the
12 1 bond reserve fund requirement for that fund.

12 2 The bill requires that amounts pledged as security for
12 3 obligations be held in separate and distinct funds in the
12 4 state treasury, and states that moneys in a fund shall not be
12 5 subject to appropriation for any other purpose by the general
12 6 assembly, but shall be used only for debt service on the
12 7 obligations and other amounts as set forth in the authorizing
12 8 documents. The bill specifies provisions which may be
12 9 contained within a document or resolution authorizing issuance
12 10 of obligations.

12 11 The bill provides that obligations may be secured by a
12 12 trust agreement by and between the issuer and an incorporated
12 13 trustee, which may be a trust company or bank having the
12 14 powers of a trust company in this state or another state, and
12 15 that the agreement or resolution providing for the issuance of
12 16 the obligations may pledge or assign the revenue to be
12 17 received for payment of the obligations or the proceeds of any
12 18 contract pledged. Additionally, the bill provides that
12 19 obligations issued under the provisions of the new Code
12 20 chapter shall be declared to be issued for a general public
12 21 and governmental purpose and the obligations and interest on
12 22 the obligations shall be exempt from state income and
12 23 inheritance tax. The bill provides that the state pledges to
12 24 and agrees with the holders of any obligations and with
12 25 parties who enter into contracts with an issuer that the state
12 26 will not limit or alter the rights vested in the issuer until
12 27 the obligations, together with the interest on the
12 28 obligations, are fully met and discharged and the contracts
12 29 are fully performed on the part of the issuer, unless adequate
12 30 provision is made by law for the protection of the rights of
12 31 the holders of the obligations of the issuer or those entering
12 32 into contracts with the issuer.

12 33 The bill concludes with a statutory construction statement
12 34 that the new Code chapter shall be liberally construed to
12 35 effect its purpose.

13 1 LSB 2443SC 82
13 2 rn:rj/gg/14