

CHAPTER 34
IOWA ADVANCE FUNDING AUTHORITY
S.F. 79

AN ACT to establish an Iowa advance funding authority, providing for the authority to issue revenue bonds, defining its powers and duties, and providing for the issuance of tax and revenue anticipation notes for certain purposes, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 442A.1 SHORT TITLE.

This chapter may be cited as the "Iowa Advance Funding Authority Act."

Sec. 2. NEW SECTION. 442A.2 LEGISLATIVE FINDINGS.

The general assembly finds as follows:

1. The establishment of the authority is in all respects for the benefit of the people of the state of Iowa and the improvement of the financing procedures for Iowa's schools.
2. The authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter.
3. Iowa schools face a serious and increasing problem with cash flow difficulties caused, among other factors, by increasing reliance on state school foundation aid, delays in the payment of state school foundation aid, and the periodic payment of property taxes for school purposes.
4. As a result of their increasing cash flow difficulties, Iowa schools have had to borrow on a short-term basis larger amounts of funds more often, thus increasing their borrowing costs significantly.
5. The short-term borrowing costs of Iowa schools are a direct burden on the taxpayers of the state.
6. It is necessary to create the authority to provide a means for Iowa schools to reduce substantially or eliminate their short-term borrowing costs and thus reduce costs to the taxpayers.
7. All of the purposes stated in this section are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned or granted.

Sec. 3. NEW SECTION. 442A.3 DEFINITIONS.

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

1. "School" includes each public school district as defined in chapter 274, area education agency as defined in chapter 273 and merged area school as defined in chapter 280A.
2. "Authority" means the Iowa advance funding authority created by this chapter.
3. "Board" means the governing board of the authority created in section 442A.5.
4. "Notes" means notes, warrants, loan agreements, and all other forms of evidence of indebtedness now or hereafter authorized for schools. "Purchase of notes" includes lending money to schools or any other forms of financing of schools by the authority.
5. "Bonds" means bonds, notes and other obligations issued by the authority pursuant to this chapter.

Sec. 4. NEW SECTION. 442A.4 IOWA ADVANCE FUNDING AUTHORITY.

The Iowa advance funding authority is created. It is a public instrumentality and agency of the state exercising public and essential governmental functions, established for the purposes of reducing the cash flow difficulties faced by Iowa schools, improving the financial procedures of Iowa schools, and reducing the short-term borrowing costs of Iowa schools.

Sec. 5. NEW SECTION. 442A.5 GOVERNING BOARD.

1. The powers of the authority are vested in and exercised by a board consisting of five members, including the treasurer of state, the superintendent of public instruction, and the state comptroller, and two members appointed by the governor, subject to confirmation by the senate. The state officials may designate representatives to serve on the board for them. As far as possible, the governor shall appoint members who are knowledgeable or experienced in the school systems of this state or finance.

2. The governor shall appoint the members of the authority for terms of six years, beginning and ending as provided in section 69.19. An appointed member of the authority may be removed from office by the governor for misfeasance, malfeasance, or willful neglect of duty or other just cause, after notice and hearing, unless the notice and hearing are expressly waived in writing by the member.

3. Three members of the board constitute a quorum.

4. The appointed members of the authority receive forty dollars per diem for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

5. The appointed members of the authority shall give bond as required for public officers in chapter 64.

6. Meetings of the authority shall be held at the call of the chairperson or when a majority of the members so request.

7. The members shall elect a chairperson, vice chairperson and secretary annually, and other officers as they determine necessary.

Sec. 6. NEW SECTION. 442A.6 GENERAL POWERS.

The board has all of the general powers needed to carry out its purposes and duties and exercise its specific powers, including but not limited to the power to:

1. Issue its negotiable bonds as provided in this chapter in order to finance its programs.

2. Have perpetual succession as a public authority.

3. Sue and be sued in its own name.

4. Make and execute agreements, contracts, and other instruments, with any public or private entity.

5. Hire and compensate legal counsel, notwithstanding chapter 13.

6. Invest or deposit moneys of the authority, subject to any agreement with bondholders, in any manner determined by the authority, notwithstanding chapters 452 and 453.

7. Procure insurance and other credit enhancement arrangements including but not limited to municipal bond insurance and letters of credit.

8. Fix and collect fees and charges for its services.

9. Accept appropriations, gifts, grants, loans, or other aid from public or private entities.

10. Adopt rules consistent with this chapter, and subject to chapter 17A.

11. The authority is exempt from chapter 18.

Sec. 7. NEW SECTION. 442A.6A STAFF.

The executive director and staff of the Iowa housing *finance authority, pursuant to chapter 220, shall also serve as executive director and staff of the advance funding authority, respectively. The executive director shall not, directly or indirectly, exert influence to induce any other officers or employees of the state to adopt a political view, or to favor a political candidate for office.

*See ch 252, §26, 56

Sec. 8. NEW SECTION. 442A.7 ADVANCE FUNDING PROGRAM.

1. The authority shall establish a statewide advance funding program for the purchase from schools of notes issued in anticipation of the receipt of moneys for school purposes or for making loans to schools to alleviate cash flow difficulties and to otherwise improve the financial well-being of the schools.

2. The authority may issue its bonds and use the proceeds from the bonds for the purpose of making loans to or purchasing the notes of any school for the use of the various funds of the school for any lawful school purpose excluding debt service. Bonds issued pursuant to this section may be secured by a pledge of payments made to the authority by the school, to be derived from the receipt of anticipated funds evidenced by the notes of the school, including a pooling of payments of notes from two or more participating schools. The authority may also issue refunding bonds, including advance refunding bonds, for the purpose of refunding previously issued bonds.

3. The authority may issue its bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds, the establishment of reserves to secure its bonds, the costs of issuance of its bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code.

4. Bonds issued under this section are payable solely and only out of the moneys, assets, or revenues of the authority and are not an indebtedness of this state, and this state is not liable on the bonds. Bonds issued under this chapter shall contain on their face a statement that the state is not liable.

5. The proceeds of bonds issued by the authority and not required for immediate disbursement may be invested in any investment approved by the board and specified in the trust indenture or resolution pursuant to which the bonds are issued without regard to any limitation otherwise provided by law.

6. The bonds of the authority shall be:

a. In a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, as the board prescribes in the resolution authorizing their issuance.

b. Negotiable instruments under the laws of the state and may be sold at prices, at public or private sale, and in a manner, as prescribed by the board. Chapters 23, 74, 74A and 75 do not apply to their sale or issuance.

c. Subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this chapter and as determined by resolution of the board.

7. The bonds of the authority are securities in which public officers and bodies of this state; political subdivisions of this state; insurance companies and associations and other persons carrying on an insurance business; banks, trust companies, savings associations, savings and loan associations, and investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

8. Bonds must be authorized by a resolution of the board. However, a resolution authorizing the issuance of bonds may delegate to an officer of the authority the power to negotiate and fix the details of an issue of bonds by an appropriate certificate of the authorized officer.

Sec. 9. NEW SECTION. 442A.8 MONEYS OF THE AUTHORITY.

1. Moneys of the authority, except as otherwise provided in this chapter, shall be paid to the authority and shall be deposited in a bank or other financial institution designated by the authority. The moneys shall be withdrawn on the order of the person authorized by the authority. Deposits shall be secured in the manner determined by the authority. The auditor of state or the auditor's legally authorized representatives may periodically examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other records and papers relating to its financial standing, and the authority is not required to pay a fee for the examination.

2. The authority may contract with the holders of its bonds as to the custody, collection, security, investment, and payment of moneys of the authority, of moneys held in trust or otherwise for the payment of bonds, and to carry out the contract. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of the moneys may be secured in the same manner as moneys of the authority, and banks and trust companies may give security for the deposits.

3. Subject to a contract with bondholders, and to the approval of the state comptroller, the authority shall prescribe a system of accounts.

4. The authority shall submit to the governor, the auditor of state, and the state comptroller, within thirty days of its receipt, a copy of the report of every external examination of the books and accounts of the authority other than copies of the reports of examinations made by the auditor of state.

Sec. 10. NEW SECTION. 442A.9 POWERS NOT RESTRICTED — LAW COMPLETE IN ITSELF.

This chapter is not a restriction or limitation on powers which the authority or a school has under the laws of this state, but is cumulative to any such powers. No proceedings, referendum, notice, or approval is required for the creation of the authority or the issuance of obligations or an instrument as security except as provided in this chapter.

Sec. 11. NEW SECTION. 442A.10 LIMITATION OF LIABILITY.

Members of the board and persons acting in the authority's behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties given in this chapter.

Sec. 12. NEW SECTION. 442A.11 CONFLICTS OF INTEREST.

1. If a member or employee other than the executive director of the authority has an interest, either direct or indirect, in a contract to which the authority is or is to be a party, the interest shall be disclosed to the authority in writing and shall be set forth in the minutes of a meeting of the authority. The member having the interest shall not participate in action by the board with respect to that contract.

2. This section does not limit the right of a member of the board to acquire an interest in bonds, or limit the right of a member to have an interest in a bank or other financial institution in which the funds of the authority are deposited or which is acting as trustee or paying agent under a trust indenture to which the authority is a party.

3. The executive director shall not have an interest in a bank or other financial institution in which the funds of the authority are deposited or which is acting as trustee or paying agent under a trust indenture to which the authority is a party. The executive director shall not receive, in addition to fixed salary or compensation, any money or valuable thing, either directly or indirectly, or through any substantial interest in any other corporation or business unit, for negotiating, procuring, recommending, or aiding in any loan made by the authority,

nor shall the executive director be pecuniarily interested, either as principal, co-principal, agent, or beneficiary, either directly or indirectly or through any substantial interest in any other corporation or business unit, in any loan.

Sec. 13. NEW SECTION. 442A.12 EXEMPTION FROM COMPETITIVE BID LAWS.

The authority and contracts made by it in carrying out its public and essential governmental functions under sections 442A.6 and 442A.7 are exempt from the laws of the state which provide for competitive bids and hearings in connection with contracts.

Sec. 14. NEW SECTION. 442A.13 ANNUAL REPORT.

1. The authority shall submit to the governor and the general assembly, not later than December 31 of each year, a report setting forth:

- a. Its operations and accomplishments.
- b. Its receipts and expenditures during the previous fiscal year, in accordance with the classifications it establishes for its operating and capital accounts.
- c. Its assets and liabilities at the end of the previous fiscal year and the status of reserve, special, and other funds.
- d. A schedule of its bonds outstanding at the end of the previous fiscal year, together with a statement of the amounts redeemed and issued during the fiscal year.
- e. A statement of its proposed and projected activities.
- f. Recommendations to the governor and general assembly, as it deems necessary.

2. The annual report shall identify performance goals of the authority, and clearly indicate the extent of progress during the reporting period, in attaining the goals.

Sec. 15. NEW SECTION. 442A.14 ASSISTANCE BY STATE OFFICERS, AGENCIES AND DEPARTMENTS.

State officers and state departments and agencies may render services to the authority within their respective functions as requested by the authority.

Sec. 16. NEW SECTION. 442A.15 AUTHORITY OF SCHOOLS.

A school may issue and sell or pledge its notes to the authority or the authority's designated agent or trustee. Schools may enter into contracts and agreements with the authority to effectuate the purposes of this chapter. In acting pursuant to this section, schools are exempt from all laws of the state which provide for competitive bids and hearings in connection with such sales, pledges, contracts and agreements.

Sec. 17. NEW SECTION. 442A.16 LIBERAL INTERPRETATION.

This chapter, being necessary for the welfare of this state and its people, shall be liberally construed to effect its purpose.

Sec. 18. NEW SECTION. 12.25 LEGISLATIVE FINDINGS.

The general assembly finds and declares that because of differences in the timing of the receipt of tax and other revenues and the expenditure of funds by the state, the state has been unable to remain timely on its obligations, including its payments of school aid; the untimely payment of state aid has created a hardship for schools by increasing their costs and hindering their ability to remain timely on their obligations; it would be advantageous to the state to be able to issue notes in anticipation of its tax and other revenues in order to coordinate its cash flow; and pending their use, the proceeds of notes issued in anticipation of tax and other revenues should be invested in order to pay the cost of issuing the notes and as a benefit to the state. It is the purpose of this section and section 12.26 to enable the state to make timely payments of its obligations, including its school aid payments, by securing funds through the issuance of notes in anticipation of the state's tax and other revenues.

Sec. 19. NEW SECTION. 12.26 ISSUANCE OF TAX AND REVENUE ANTICIPATION NOTES.

1. In anticipation of the collection of revenues in and for a fiscal year, the treasurer of state may borrow money, and issue notes for the money, in an amount not exceeding the estimated state revenues for that year. The sums so anticipated are appropriated for the payment of the notes with interest at maturity. The notes may be issued prior to the beginning of a fiscal year, but the notes shall be payable not later than the end of the fiscal year for which they are issued. More than one series of notes may be issued in a fiscal year and the proceeds of notes may be used to retire a prior issue of notes provided that the total outstanding at any one time shall not exceed the limit prescribed in this section. The proceeds from the issuance of notes shall be invested in the same manner as other public funds and shall be used only for the purposes for which the anticipated tax revenues were levied, collected, and appropriated.

2. The principal of and the interest on notes shall be payable solely out of the taxes and revenues of the state for the fiscal year for which the notes are issued. The notes of each issue shall be dated, shall bear interest at the rate or rates which may be variable according to a method approved by the treasurer of state, without regard to any limit contained in chapter 74A or any other law of this state, and shall mature at such time or times not later than the end of the fiscal year, all as may be determined by the treasurer of state. The notes may be made redeemable before maturity, at the option of the treasurer of state, at the price and under the terms and conditions as provided by the treasurer of state. The treasurer of state shall determine the form of the notes and shall fix the denomination of the notes and the place of payment of principal and interest which may be at any bank within or without the state. The notes shall be executed by the manual or facsimile signatures of the treasurer of state and the state comptroller. If any official whose signature or a facsimile of whose signature appears on any notes ceases to hold office before the delivery of the notes, the signature or the facsimile is valid and sufficient for all purposes the same as if the official had remained in office until the delivery. All notes issued under this section have the qualities and incidents of negotiable instruments under the laws of this state and without regard to any other law. The notes shall be issued in registered form. The notes may be sold in the manner, at public or private sale, as the treasurer of state may determine without regard to chapter 75.

3. Notes may be issued under this section without obtaining the consent of any officer or agency of this state, and without any other proceedings or conditions other than those proceedings and conditions which are specifically required by this section. The treasurer of state or the state comptroller is not liable personally on the notes or subject to any personal liability or accountability by reason of the issuance of the notes.

4. As used in this section, "notes" means notes and other obligations, including short term obligations backed by a commercial letter of credit, issued by the treasurer of state pursuant to this section.

Sec. 20. Notwithstanding section 442A.5, subsection 2, the terms of the initial appointed members of the board of the authority appointed pursuant to section 442A.5, subsection 2, shall be as follows: one member shall serve until April 30, 1987 and one member shall serve until April 30, 1991. Members of the board shall commence serving their terms July 1, 1985.

Sec. 21. This Act, being deemed of immediate importance, takes effect from and after its publication in the Grinnell Herald-Register, a newspaper published in Grinnell, Iowa, and in the Buena Vista County Journal, a newspaper published in Newell, Iowa.

Approved April 22, 1985

I hereby certify that the foregoing Act was published in the Grinnell Herald-Register, Grinnell, Iowa on April 29, 1985 and in the Buena Vista County Journal, Newell, Iowa on May 2, 1985.

MARY JANE ODELL, *Secretary of State*