

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 10-205

BY SENATOR(S) Bacon, Scheffel, Hudak, King K., Morse, Newell, Spence, Steadman, Williams;
also REPRESENTATIVE(S) Scanlan and Murray, Ferrandino, Labuda, Merrifield, Todd, Court, Fischer, Gagliardi, Hulinghorst, Kerr A., Massey, McCann, Ryden, Solano, Vigil.

CONCERNING THE AUTHORITY OF A SCHOOL DISTRICT TO SUBMIT TO THE ELIGIBLE ELECTORS OF THE DISTRICT THE QUESTION OF CONTRACTING A BONDED INDEBTEDNESS FOR THE PURPOSE OF PAYING COSTS THAT MAY BE PAID FROM THE GENERAL FUND OF THE SCHOOL DISTRICT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) School districts in the state have ongoing fiscal obligations throughout the year but do not receive their property tax revenues, and therefore the majority of their local share of total program funding, until April;

(b) Due to the timing of property tax collections, a school district whose total program funding amount is comprised largely of local share

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

may experience a temporary cash flow deficit until it receives its property tax revenues;

(c) The state has instituted an interest-free loan program for school districts to alleviate their temporary cash flow deficits until the districts collect their property tax revenues, at which point the districts repay the interest-free loans;

(d) Approximately thirty school districts in the state take advantage of the interest-free loan program each year, and the state loans approximately four hundred seventy-one million dollars to districts through the interest-free loan program annually;

(e) To provide interest-free loans to school districts, the state treasurer issues tax and revenue anticipation notes, a form of short-term borrowing through which the state sells notes and repays them within the same fiscal year;

(f) Amendment 61, concerning state and local debt limitations, which will be presented to voters statewide on the November 2010 ballot, would prohibit the state from issuing any kind of debt and therefore would render unconstitutional the mechanism that the state uses to help school districts alleviate temporary cash flow deficits; and

(g) If Amendment 61 is approved by the voters in November 2010, it will prevent school districts that currently participate in the interest-free loan program from managing their cash flow and will likely result in drastic changes to the school year for those school districts.

(2) The general assembly further finds and declares that the purpose of this act is to provide affected school districts with a revenue-neutral option to address their temporary cash flow deficits if Amendment 61 is approved by the voters at the November 2010 general election and becomes law by allowing such districts to ask their voters for permission to issue bonded debt for the purpose of paying costs that may be paid from the general fund of the school district.

SECTION 2. 22-42-102 (2) (a) (VII) and (2) (a) (VIII), Colorado Revised Statutes, are amended, and the said 22-42-102 (2) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

22-42-102. Bonded indebtedness - elections. (2) (a) The board of education of any school district, at any regular biennial school election or at a special election called for the purpose, shall submit to the eligible electors of the district the question of contracting a bonded indebtedness for one or more of the following purposes:

(VII) For acquiring, constructing, or improving any capital asset that the district is authorized by law to own; or

(VIII) For supporting charter school capital construction as defined in section 22-30.5-403 (4) or the land and facilities needs of a charter school as defined in section 22-30.5-403 (3), without title or ownership of charter school capital assets being held by the school district or ownership or use restrictions placed on the charter school by the school district; OR

(IX) (A) SUBJECT TO THE PROVISIONS OF SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (IX), FOR PAYING THE COSTS THAT MAY BE PAID FROM THE GENERAL FUND OF THE SCHOOL DISTRICT; EXCEPT THAT BONDED INDEBTEDNESS MAY BE ISSUED FOR SUCH PURPOSE ONLY IF AMENDMENT 61 IS APPROVED BY THE VOTERS AT THE GENERAL ELECTION HELD ON NOVEMBER 2, 2010, AND THE ELIGIBLE ELECTORS OF THE SCHOOL DISTRICT APPROVE A QUESTION TO CREATE DEBT FOR SUCH PURPOSE AT AN ELECTION HELD ON OR AFTER NOVEMBER 2, 2010.

(B) THE BOARD OF EDUCATION OF A DISTRICT THAT ISSUES BONDED INDEBTEDNESS PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (IX) SHALL DEPOSIT ANY MONEYS FROM SUCH BONDED INDEBTEDNESS INTO A CASH FLOW DEFICIT RESTRICTED RESERVE IN THE GENERAL FUND OF THE DISTRICT. THE BOARD OF EDUCATION OF SUCH A DISTRICT MAY EXPEND THE MONEYS DEPOSITED IN THE RESERVE ONLY FOR THE PURPOSE OF ALLEVIATING THE DISTRICT'S ANNUAL TEMPORARY CASH FLOW DEFICIT AND SHALL REPAY, FROM THE PROPERTY TAX REVENUES OF THE DISTRICT, THE TOTAL AMOUNT EXPENDED FROM THE RESERVE IN ANY FISCAL YEAR ON OR BEFORE JUNE 30 OF THE APPLICABLE FISCAL YEAR; EXCEPT THAT SUCH BOARD OF EDUCATION MAY REQUEST THAT THE DEPARTMENT OF EDUCATION WAIVE THE REQUIREMENT TO REPAY THE RESERVE BY JUNE 30 OF THE APPLICABLE FISCAL YEAR. IF THE DEPARTMENT GRANTS SUCH A WAIVER, THE BOARD OF EDUCATION OF THE DISTRICT SHALL REPAY THE TOTAL AMOUNT EXPENDED FROM THE RESERVE ON OR BEFORE JUNE 30 OF THE FISCAL YEAR FOLLOWING THE FISCAL YEAR IN WHICH THE

BOARD EXPENDED MONEYS FROM THE RESERVE. NOTWITHSTANDING THE PROVISIONS OF THIS SUB-SUBPARAGRAPH (B), IF A DISTRICT THAT HAS ISSUED BONDED INDEBTEDNESS PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (IX) NO LONGER EXPERIENCES AN ANNUAL TEMPORARY CASH FLOW DEFICIT, THE DISTRICT SHALL USE THE MONEYS IN THE RESERVE TO REPAY OUTSTANDING BONDED INDEBTEDNESS ISSUED PURSUANT TO THIS SECTION.

SECTION 3. 22-41-110 (1) (b) (I), Colorado Revised Statutes, is amended to read:

22-41-110. Timely payment of school district obligations.

(1) (b) This section applies to:

(I) General obligation bonds issued by a school district on or after July 1, 1991, pursuant to article 42 or 43 of this title; EXCEPT THAT THIS SECTION SHALL NOT APPLY TO BONDS ISSUED BY A SCHOOL DISTRICT PURSUANT TO SECTION 22-42-102 (2) (a) (IX);

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO