State of Tennessee

PUBLIC CHAPTER NO. 467

SENATE BILL NO. 875

By Henry, Johnson

Substituted for: House Bill No. 724

By Stewart, Powell, Sargent

AN ACT to amend Tennessee Code Annotated, Title 9, Chapter 21, relative to the definition of "certain unfunded pension obligations" for which local governments may issue bonds.

WHEREAS, pension liabilities for local governments are increasing and becoming a growing financial burden for local governments in this state; and

WHEREAS, it would be in the public interest for local governments to have additional means by which to fund their increasing pension liabilities; and

WHEREAS, state law currently permits local governments to issue their general obligation bonds and revenue bonds for "certain unfunded pension obligations," as such term is defined in the Tennessee Code Annotated; and

WHEREAS, the current historically low interest-rate environment presents local governments with a unique opportunity to borrow monies at a rate cheaper than the rate on which they would earn on the investment of such funds; and

WHEREAS, the issuance of bonds by local governments and the subsequent investment of such bond proceeds at a rate higher than the rate at which they were borrowed would provide local governments with profit earnings with which to fund their pension liabilities; and

WHEREAS, to permit the greatest number of local governments to take advantage of the opportunities presented by this interest-rate environment to fund their pension liabilities, it is necessary to expand the definition of "certain unfunded pension obligations" for which local governments may issue their bonds; and

WHEREAS, the State Funding Board and the Comptroller of the Treasury shall retain their ability under Tennessee Code Annotated, Section 9-21-127, to reject any proposed issuance of bonds by local governments to fund their pension obligations; and

WHEREAS, to provide local governments with additional means by which to fund their increasing pension liabilities, the Tennessee General Assembly desires to expand the definition of "certain unfunded pension obligations" in Tennessee Code Annotated, Section 9-21-105, for which local governments may issue their bonds; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Section 9-21-105(4)(A), is amended by inserting the following as a new subdivision:

> (iv) Pension benefits for past service of employees of a local government which is either (A) a metropolitan government with a general obligation rating of at least Aa1 (or its equivalent) from one or more nationally recognized rating agencies or (B) a municipality with a general obligation rating of Aaa (or its equivalent) from one or more nationally recognized rating agencies that is located within a county with a general obligation rating of Aaa (or its equivalent) from one or more nationally recognized rating agencies and, in either case, whose pension benefits arise from a defined benefit plan administered by the local government;

SECTION 2. Tennessee Code Annotated, Section 9-21-105(4)(A)(ii), is amended by deleting the language "or" after the semi-colon at the end of the subdivision.

SECTION 3. Tennessee Code Annotated, Section 9-21-105(4)(A)(iii), is amended by adding the language "or" after the semi-colon at the end of the subdivision.

SECTION 4. Tennessee Code Annotated, Section 9-21-105(4), is amended by inserting the following as a new subdivision:

(D) Subdivision (4)(A)(iv) shall cease to be effective on July 1, 2015; provided, that no bonds issued pursuant to this subdivision (4) prior to July 1, 2015, shall be rendered ineffectual;

SECTION 5. Tennessee Code Annotated, Section 9-21-127, is amended by inserting the following after the first sentence:

A local government that issues bonds for certain unfunded pension obligations pursuant to § 9-21-105(4)(A)(iv) shall not be required to receive a recommendation by the comptroller of the treasury or the comptroller's designee or the approval of the state funding board if (A) the principal amount of the bonds is amortized over the term of the bonds such that the bonds are not balloon indebtedness (as defined below) and (B) the local government has (i) adopted a debt management policy in compliance with guidelines promulgated by the state funding board; (ii) available for public inspection its financial statements prepared in compliance with generally accepted accounting principles for state and local governments with an unqualified auditor's opinion for the two most recent fiscal years; (iii) presented to its governing body at a public hearing an explanation of the risk exposure associated with such bonds, economic and demographic assumptions used in the funding assumptions, alternative funding options considered, issuance costs associated with the proposed bonds and any conflicts of interest among the professionals involved (if disclosing such conflicts would not violate any rules of professional conduct); (iv) engaged or will engage a financial advisor, bond counsel and actuarial consultant in connection with the issuance of such bonds; (v) a full-time finance staff of at least three (3) persons; and (vi) an audit committee. As used herein, the term "balloon indebtedness" shall mean any bond (A) twenty percent (20%) or more of the principal amount of which is payable during any twelve month period or (B) fifty percent (50%) or more of the principal amount of which is payable in the aggregate twenty (20) years or more after the date of issuance.

SECTION 6. This act shall take effect upon becoming law, the public welfare requiring it.

SENATE BILL NO. 875

PASSED: April 19, 2013

RON RAMSEY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 20th day of May 2013

BILL HASLAM, *GOVERNOR*