Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2178
(Senators Schaible, Heckaman, G. Lee, Rust)
(Representatives Kempenich, Rohr)

AN ACT to create and enact a new section to chapter 15.1-36 and a new section to chapter 26.1-22 of the North Dakota Century Code, relating to school construction loans and insurance coverage for real property and improvements leased by a school district; to amend and reenact sections 15.1-36-01 and 16.1-01-11 of the North Dakota Century Code, relating to the approval of school construction projects and to bond elections; to provide for a transfer; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-36-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-36-01. School construction projects - Approval.

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of one hundred thousand dollars.

2. The superintendent of public instruction may not approve a project unless the school district proposing the project:

   a. Demonstrates the need for the project and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district;

   b. ~~In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing student population~~

      (1) Demonstrates that the student population has been stable or has increased during the preceding five school years and is expected to be stable or to increase during the ensuing five school years; or

      (2) Demonstrates by clear and convincing evidence that, despite a declining student population, there are no feasible alternatives to the proposed project; and

   c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.

3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:

      (1) The need for the project;

      (2) The educational utility of the project;

      (3) The potential use of the project by a future reorganized school district;

      (4) The capacity of the district to pay for the project; and

(5) Any other objective factors relative to the appeal.

b. The decision of the state board is final.

4. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization, even if the school board pays for the project in whole or in part with moneys received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3 or in accordance with moneys received under the American Recovery and Reinvestment Act of 2009.

5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.

SECTION 2. A new section to chapter 15.1-36 of the North Dakota Century Code is created and enacted as follows:

School construction loans - Bank of North Dakota.

1. In addition to any construction loans made available under section 15.1-36-02, the Bank of North Dakota may provide up to two hundred fifty million dollars to eligible school districts for school construction loans, except that the total of all loans provided under this section during the first year of the 2015-17 biennium may not exceed fifty percent of the total amount authorized under this subsection.

2. To be eligible for a loan under this section, the board of a school district shall:

   a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;

   b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;

   c. (1) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to a residential parcel of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;

      (2) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to an acre of cropland and to an acre of noncropland, of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;

      (3) Publish in the official newspaper of the district the information from the statements required by this subdivision with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and

      (4) Post on the school district's website the information from the statements preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;

   d. Receive authorization for a bond issue in accordance with chapter 21-03; and

   e. Submit a completed application to the Bank of North Dakota.

3. With the advice and consent of the superintendent of public instruction, the Bank of North Dakota shall award the loans in accordance with a prioritization system that is based on a

review of all applications filed during the twelve-month period preceding April first and gives consideration to:

a. Student occupancy and academic needs in the district;

b. The age of existing structures to be replaced or remodeled;

c. Building design proposals that are based on safety and vulnerability assessments;

d. Community support;

e. Cost; and

f. Any other criteria established in rule by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.

4. The term of a loan under this section is twenty years, unless a shorter term is requested by the board of a school district in its application.

5. The interest rate on a loan under this section may not exceed two percent, until July 1, 2025. Thereafter, the interest rate on the remainder of a loan under this section:

a. May not exceed the Bank of North Dakota's base rate; or

b. May be a fixed rate.

6. If a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation set forth under section 15.1-27-35.3, the loan amount to which that district is entitled under this section may not exceed eighty percent of the project's cost.

7. The maximum loan amount to which a school district is entitled under this section is twenty million dollars.

SECTION 3. AMENDMENT. Section 16.1-01-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-11. Certain questions not to be voted upon for three months.

1. Whenever at any election a bond issue or mill levy question has failed to receive the required number of votes for approval by the electors, the matter may not again be submitted to a vote until a period of at least three months has expired~~, and in no event may more~~.

2. a. More than two elections on the same general matter may not be held within twelve consecutive calendar months.

b. If the matter to be placed before the electors for a third or subsequent time involves authorization for a school construction bond issuance in accordance with chapter 21-03, the board of the school district shall resubmit its school construction proposal to the superintendent of public instruction for the purpose of obtaining the superintendent's approval, in the same manner as required for an initial approval in accordance with section 15.1-36-01.

SECTION 4. A new section to chapter 26.1-22 of the North Dakota Century Code is created and enacted as follows:

School district - Leased property - Insurability.

1. Notwithstanding any other provision of law, if the board of a school district entered a contract with a nonprofit corporation in this state during the period beginning November 1, 2013, and ending December 31, 2013, and if in accordance with the terms of that contract the nonprofit

corporation acquired and constructed a school facility that the nonprofit corporation in turn leases back to the district for use in the provision of educational services, that facility is designated as a public facility owned by the school district for purposes of insurability under this chapter.

2. For purposes of this section, "school facility" means the real property referenced in the contract and all buildings, improvements, and fixtures on the real property.

SECTION 5. TRANSFER. There is transferred from the Bank of North Dakota's current earnings and undivided profits the sum of $7,875,000, or so much of the sum as may be necessary, to the Bank of North Dakota for the purpose of providing interest rate buydowns on construction loans awarded to school districts under section 2 of this Act, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 6. EXPIRATION DATE. Section 4 of this Act is effective through June 30, 2017, and after that date is ineffective.

SECTION 7. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2178 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 87 Nays 0 Absent 7

Speaker of the House

Chief Clerk of the House

Received by the Governor at 4:59 P.M. on April 27, 2015.

Approved at 3:18 P.M. on April 28, 2015.

Governor

Filed in this office this 28th day of April, 2015,

at 4:30 o'clock P.M.

Secretary of State