



Rep. Gary Hannig

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1 AMENDMENT TO SENATE BILL 2263

2 AMENDMENT NO. _____. Amend Senate Bill 2263 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Findings; purpose; validation.

5 (a) The General Assembly finds and declares that:

6 (1) Public Act 88-669, effective November 29, 1994,
7 contained provisions amending the Casual Deficit Act,
8 including changing the name of that Act to the Short Term
9 Borrowing Act. Public Act 88-669 also contained other
10 provisions. The Short Term Borrowing Act has subsequently
11 been amended by Public Act 93-674.

12 (2) Questions have been raised concerning the validity
13 and content of the Short Term Borrowing Act. The provisions
14 of the Short Term Borrowing Act are of vital concern to the
15 people of this State. Prompt legislative action concerning
16 those provisions is necessary to ensure their continued
17 effect.

18 (b) The purpose of this Act is to re-enact the Short Term
19 Borrowing Act, as amended by Public Acts 88-669 and 93-674, and
20 to make revisory changes. This re-enactment is intended to
21 remove any question as to the validity and content of those
22 provisions and to validate all actions taken in reliance on
23 those provisions; it is not intended to supersede any other
24 Public Act that amends the text of the Short Term Borrowing Act
25 as set forth in this Act. The re-enacted material is shown in

1 this Act as existing text (i.e., without underscoring), and the
2 revisory changes are shown by striking and underscoring.

3 (c) The re-enactment by this amendatory Act of the 93rd
4 General Assembly of the Short Term Borrowing Act is not
5 intended, and shall not be construed, to imply that Public Act
6 88-669 or 93-674 is invalid or to limit or impair any legal
7 argument concerning whether those provisions were
8 substantially re-enacted by other Public Acts.

9 (d) All otherwise lawful actions taken before the effective
10 date of this amendatory Act of the 93rd General Assembly in
11 reliance on or pursuant to the provisions re-enacted by this
12 amendatory Act of the 93rd General Assembly, as set forth in
13 Public Act 88-669, or as subsequently amended, by any officer,
14 employee, or agency of State government or by any other person
15 or entity, are hereby validated. These actions include, but are
16 not limited to: borrowing; bidding, awarding, contracting, and
17 incurring debt; issuance and sale of certificates, bonds, and
18 other instruments for the payment of money; application of
19 moneys; transfer and deposit of moneys; and repayment of
20 principal and interest and other legal costs and expenses.

21 (e) This amendatory Act of the 93rd General Assembly
22 applies, without limitation, to actions pending on or after the
23 effective date of this amendatory Act.

24 Section 5. The Short Term Borrowing Act is amended by
25 re-enacting Sections 0.01, 1, and 1.1 and by re-enacting and
26 changing Sections 2 and 3 as follows:

27 (30 ILCS 340/0.01) (from Ch. 120, par. 405H)

28 Sec. 0.01. Short title. This Act may be cited as the Short
29 Term Borrowing Act.

30 (Source: P.A. 88-669, eff. 11-29-94.)

31 (30 ILCS 340/1) (from Ch. 120, par. 406)

1 Sec. 1. Cash flow borrowing. Whenever significant timing
2 variations occur between disbursement and receipt of budgeted
3 funds within a fiscal year, making it necessary to borrow in
4 anticipation of revenues to be collected in a fiscal year, in
5 order to meet the same, the Governor, Comptroller and Treasurer
6 may contract debts, in an amount not exceeding 5% of the
7 State's appropriations for that fiscal year, and moneys thus
8 borrowed shall be applied to the purpose for which they were
9 obtained, or to pay the debts thus created, and to no other
10 purpose. All moneys so borrowed shall be repaid by the close of
11 the fiscal year in which borrowed.

12 (Source: P.A. 88-669, eff. 11-29-94.)

13 (30 ILCS 340/1.1)

14 Sec. 1.1. Borrowing upon failures in revenue. Whenever
15 failures in revenues of the State occur, in order to meet those
16 failures, the Governor, Comptroller, and Treasurer may
17 contract debts in an amount not exceeding 15% of the State's
18 appropriations for that fiscal year. The moneys thus borrowed
19 shall be applied to the purposes for which they were obtained,
20 or to pay the debts thus created by the borrowing, and to no
21 other purpose. Before incurring debt under this Section, the
22 Governor shall give written notice to the Clerk of the House of
23 Representatives, the Secretary of the Senate, and the Secretary
24 of State setting forth the reasons for the proposed borrowing
25 and the corrective measures recommended to restore the State's
26 fiscal soundness. The notice shall be a public record and open
27 for inspection at the offices of the Secretary of State during
28 normal business hours. No debt may be incurred under this
29 Section until 30 days after the notice is served. All moneys so
30 borrowed shall be borrowed for no longer time than one year.

31 (Source: P.A. 88-669, eff. 11-29-94.)

32 (30 ILCS 340/2) (from Ch. 120, par. 407)

1 Sec. 2. Sale of certificates. For borrowing authorized
2 under Sections 1 and 1.1 of this Act, certificates may be
3 issued and sold from time to time, in one or more series, in
4 amounts, at prices and at interest rates, all as directed by
5 the Governor, Comptroller, and Treasurer. Bidders shall submit
6 sealed bids to the Director of the Governor's Office of
7 Management and Budget ~~Bureau of the Budget~~ upon such terms as
8 shall be approved by the Governor, Comptroller, and Treasurer
9 after such notice as shall be determined to be reasonable by
10 the Director of the Governor's Office of Management and Budget
11 ~~Bureau of the Budget~~. The loan shall be awarded to the bidder
12 offering the lowest effective rate of interest not exceeding
13 the maximum rate authorized by the Bond Authorization Act as
14 amended at the time of the making of the contract.

15 With respect to instruments for the payment of money issued
16 under this Section either before, on, or after the effective
17 date of this amendatory Act of 1989, it is and always has been
18 the intention of the General Assembly (i) that the Omnibus Bond
19 Acts are and always have been supplementary grants of power to
20 issue instruments in accordance with the Omnibus Bond Acts,
21 regardless of any provision of this Act that may appear to be
22 or to have been more restrictive than those Acts, (ii) that the
23 provisions of this Section are not a limitation on the
24 supplementary authority granted by the Omnibus Bond Acts, and
25 (iii) that instruments issued under this Section within the
26 supplementary authority granted by the Omnibus Bond Acts are
27 not invalid because of any provision of this Act that may
28 appear to be or to have been more restrictive than those Acts.
29 (Source: P.A. 88-669, eff. 11-29-94; revised 8-23-03.)

30 (30 ILCS 340/3) (from Ch. 120, par. 408)

31 Sec. 3. There shall be prepared under the direction of the
32 officers named in this Act such form of bonds or certificates
33 as they shall deem advisable, which, when issued, shall be

1 signed by the Governor, Comptroller and Treasurer, and shall be
2 recorded by the Comptroller in a book to be kept by him or her
3 for that purpose. The interest and principal of such loan shall
4 be paid by the treasurer out of the General Obligation Bond
5 Retirement and Interest Fund.

6 There is hereby appropriated out of any money in the
7 Treasury a sum sufficient for the payment of the interest and
8 principal of any debts contracted under this Act.

9 The Governor, Comptroller, and Treasurer are authorized to
10 order pursuant to the proceedings authorizing those debts the
11 transfer of any moneys on deposit in the treasury into the
12 General Obligation Bond Retirement and Interest Fund at times
13 and in amounts they deem necessary to provide for the payment
14 of that interest and principal.

15 The Comptroller is hereby authorized and directed to draw
16 his warrant on the State Treasurer for the amount of all such
17 payments.

18 The directive authorizing borrowing under Section 1 or 1.1
19 of this Act shall set forth a pro forma cash flow statement
20 that identifies estimated monthly receipts and expenditures
21 with identification of sources for repaying the borrowed funds.

22 All proceeds from any borrowing under this Act received by
23 the State on or after June 10, 2004 ~~the effective date of this~~
24 ~~amendatory Act of the 93rd General Assembly~~ and before July 1,
25 2004 shall be deposited into the Medicaid Provider Relief Fund.
26 (Source: P.A. 88-669, eff. 11-29-94; 93-674, eff. 6-10-04.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law."