

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the State
5 University Certificates of Participation Act.

6 Section 5. Definitions. As used in this Act:

7 "Board" means the Board of Trustees of a State University.

8 "Commission" means the Commission on Government
9 Forecasting and Accountability.

10 "State University" means the University of Illinois,
11 Southern Illinois University, Chicago State University,
12 Eastern Illinois University, Governors State University,
13 Illinois State University, Northeastern Illinois University,
14 Northern Illinois University, and Western Illinois University
15 and any of their successors.

16 Section 10. Certificates of participation.

17 (a) The power of the Board of any State University to enter
18 into contracts includes the power to enter into financing
19 agreements in connection with the financing of capital
20 improvements (including technology or other related
21 improvements) by selling certificates of participation in the
22 installment payments made under such financing agreements.

1 Such financing agreements may be entered into for any period of
2 time less than or equal to 30 years, but not to exceed the
3 useful life of the capital improvement. Nothing in this Act
4 authorizes the Board of any State University to incur "State
5 debt" as that term is defined in subsection (a) of Section 9 of
6 Article IX of the Illinois Constitution of 1970. This
7 subsection (a) is declaratory of existing law.

8 (b) Upon determination by the Board of a State University
9 to undertake a transaction for the sale of certificates of
10 participation and enter into related financing agreements in
11 connection with the financing of capital improvements, the
12 Board shall adopt a resolution or resolutions describing in a
13 general way the contemplated facilities or a combination
14 thereof designated as the project, the estimated cost thereof,
15 and any additional relevant information.

16 Section 15. Accountability and review of proposed
17 certificate issuance. Before issuance of any certificate of
18 participation, a State University shall appear before the
19 Commission and present the details of the proposal. This
20 presentation shall include such information as the Commission
21 may request in relation to the proposed certificate of
22 participation issuance. This information shall include, but is
23 not limited to, the amount being financed, the nature of the
24 project being financed, the proposed funding stream to pay for
25 the certificate issuance, the current outstanding indebtedness

1 of the State University, and the status of all currently issued
2 certificates of participation.

3 Upon receipt of a request by a State University for a
4 certificate of participation presentation, the Commission
5 shall hold a public hearing and, upon adoption by a vote of the
6 majority of appointed members, issue a record of findings in
7 regards to the issuance of the certificate within 60 days after
8 the request.

9 As part of the Commission's considerations and findings,
10 the Commission shall consider the effect the issuance of a
11 certificate of participation shall have on the State
12 University's annual debt service and overall fiscal condition.

13 Within the Commission's findings shall be a statement in
14 which the Commission makes a recommendation to the State
15 University as to proceeding with the certificate issuance. The
16 recommendation shall be either (i) "favorably recommended",
17 (ii) "recommended with concerns", or (iii) "non-support of
18 issuance".

19 The Commission shall report the findings within 15 days
20 after the hearing to all of the following:

- 21 (1) The Speaker of the House of Representatives.
- 22 (2) The Minority Leader of the House of
23 Representatives.
- 24 (3) The President of the Senate.
- 25 (4) The Minority Leader of the Senate.
- 26 (5) The Governor's Office of Management and Budget.

1 (6) The President of the State University that had
2 requested the certificate presentation.

3 Upon a finding of "non-support of issuance", a State
4 University may not proceed with the issuance of the certificate
5 involved in the finding without the approval of the General
6 Assembly through the adoption of a joint resolution.

7 Section 20. Annual reporting. Prior to December 31 of each
8 year, each State University shall file with the Commission a
9 report stating the status of all outstanding certificates of
10 participation the State University has issued and a copy of the
11 annual budget as approved by the Board.

12 Section 25. Required statement on certificate of
13 participation documents. Each issuance of a certificate of
14 participation shall include within the appropriate documents
15 related to its execution the following statement, which sets
16 forth required limitations in relation to the certificate:

17 THE BOARD OF TRUSTEES' OBLIGATION TO MAKE INSTALLMENT
18 PAYMENTS DOES NOT CONSTITUTE A DEBT OF THE BOARD OR THE STATE
19 OF ILLINOIS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR
20 STATUTORY LIMITATION. THE INSTALLMENT PAYMENTS REQUIRED UNDER
21 CERTIFICATES OF PARTICIPATION INCURRED BY THE UNIVERSITY ARE
22 NOT SECURED BY THE FULL FAITH AND CREDIT OF THE STATE AND ARE
23 NOT REQUIRED TO BE REPAYED AND MAY NOT BE REPAYED, DIRECTLY OR

1 INDIRECTLY, FROM TAX REVENUE.

2 Section 30. Debt limit. The maximum annual debt service for
3 a State University's total certificate of participation
4 obligation must not exceed the following:

- 5 (1) For the University of Illinois, \$100,000,000.
6 (2) For Southern Illinois University, \$20,000,000.
7 (3) For Northern Illinois University, \$20,000,000.
8 (4) For Illinois State University, \$10,000,000.
9 (5) For Western Illinois University, \$10,000,000.
10 (6) For Eastern Illinois University, \$10,000,000.
11 (7) For Northeastern Illinois University, \$5,000,000.
12 (8) For Chicago State University, \$5,000,000.
13 (9) For Governors State University, \$5,000,000.

14 Section 90. Expiration of Act. This Act applies until
15 December 31, 2014. However, the refunding of certificates of
16 participation issued prior to December 31, 2014 in accordance
17 with the Act is permitted.

18 Section 95. The Statute on Statutes is amended by changing
19 Section 8 as follows:

20 (5 ILCS 70/8) (from Ch. 1, par. 1107)

21 Sec. 8. Omnibus Bond Acts.

22 (a) A citation to the Omnibus Bond Acts is a citation to

1 all of the following Acts, collectively, as amended from time
2 to time: the Bond Authorization Act, the Registered Bond Act,
3 the Municipal Bond Reform Act, the Local Government Debt Reform
4 Act, subsection (a) of Section 1-7 of the Property Tax
5 Extension Limitation Act, subsection (a) of Section 18-190 of
6 the Property Tax Code, the Uniform Facsimile Signature of
7 Public Officials Act, the Local Government Bond Validity Act,
8 the Illinois Finance Authority Act, the Public Funds Investment
9 Act, the Local Government Credit Enhancement Act, the Local
10 Government Defeasance of Debt Law, the Intergovernmental
11 Cooperation Act, the Local Government Financial Planning and
12 Supervision Act, the Special Assessment Supplemental Bond and
13 Procedure Act, Section 12-5 of the Election Code, the State
14 University Certificates of Participation Act, and any similar
15 Act granting additional omnibus bond powers to governmental
16 entities generally, whether enacted before, on, or after the
17 effective date of this amendatory Act of 1989.

18 (b) The General Assembly recognizes that the proliferation
19 of governmental entities has resulted in the enactment of
20 hundreds of statutory provisions relating to the borrowing and
21 other powers of governmental entities. The General Assembly
22 addresses and has addressed problems common to all such
23 governmental entities so that they have equal access to the
24 municipal bond market. It has been, and will continue to be,
25 the intention of the General Assembly to enact legislation
26 applicable to governmental entities in an omnibus fashion, as

1 has been done in the provisions of the Omnibus Bond Acts.

2 (c) It is and always has been the intention of the General
3 Assembly that the Omnibus Bond Acts are and always have been
4 supplementary grants of power, cumulative in nature and in
5 addition to any power or authority granted in any other laws of
6 the State. The Omnibus Bond Acts are supplementary grants of
7 power when applied in connection with any similar grant of
8 power or limitation contained in any other law of the State,
9 whether or not the other law is enacted or amended after an
10 Omnibus Bond Act or appears to be more restrictive than an
11 Omnibus Bond Act, unless the General Assembly expressly
12 declares in such other law that a specifically named Omnibus
13 Bond Act does not apply.

14 (d) All instruments providing for the payment of money
15 executed by or on behalf of any governmental entity organized
16 by or under the laws of this State, including without
17 limitation the State, to carry out a public governmental or
18 proprietary function, acting through its corporate
19 authorities, or which any governmental entity has assumed or
20 agreed to pay, which were:

21 (1) issued or authorized to be issued by proceedings
22 adopted by such corporate authorities before the effective
23 date of this amendatory Act of 1989;

24 (2) issued or authorized to be issued in accordance
25 with the procedures set forth in or pursuant to any
26 authorization contained in any of the Omnibus Bond Acts;

1 and

2 (3) issued or authorized to be issued for any purpose
3 authorized by the laws of this State, are valid and legally
4 binding obligations of the governmental entity issuing
5 such instruments, payable in accordance with their terms.

6 (Source: P.A. 93-205, eff. 1-1-04.)

7 Section 97. The Illinois Procurement Code is amended by
8 changing Sections 20-60 and 40-25 as follows:

9 (30 ILCS 500/20-60)

10 Sec. 20-60. Duration of contracts.

11 (a) Maximum duration. A contract, other than a contract
12 entered into pursuant to the State University Certificates of
13 Participation Act, may be entered into for any period of time
14 deemed to be in the best interests of the State but not
15 exceeding 10 years inclusive, beginning January 1, 2010, of
16 proposed contract renewals. The length of a lease for real
17 property or capital improvements shall be in accordance with
18 the provisions of Section 40-25. A contract for bond or
19 mortgage insurance awarded by the Illinois Housing Development
20 Authority, however, may be entered into for any period of time
21 less than or equal to the maximum period of time that the
22 subject bond or mortgage may remain outstanding.

23 (b) Subject to appropriation. All contracts made or entered
24 into shall recite that they are subject to termination and

1 cancellation in any year for which the General Assembly fails
2 to make an appropriation to make payments under the terms of
3 the contract.

4 (Source: P.A. 95-344, eff. 8-21-07.)

5 (30 ILCS 500/40-25)

6 Sec. 40-25. Length of leases.

7 (a) Maximum term. Leases shall be for a term not to exceed
8 10 years inclusive, beginning January, 1, 2010, of proposed
9 contract renewals and shall include a termination option in
10 favor of the State after 5 years.

11 (b) Renewal. Leases may include a renewal option. An option
12 to renew may be exercised only when a State purchasing officer
13 determines in writing that renewal is in the best interest of
14 the State and notice of the exercise of the option is published
15 in the appropriate volume of the Procurement Bulletin at least
16 60 days prior to the exercise of the option.

17 (c) Subject to appropriation. All leases shall recite that
18 they are subject to termination and cancellation in any year
19 for which the General Assembly fails to make an appropriation
20 to make payments under the terms of the lease.

21 (d) Holdover. Beginning January 1, 2010, no lease may
22 continue on a month-to-month or other holdover basis for a
23 total of more than 6 months. Beginning July 1, 2010, the
24 Comptroller shall withhold payment of leases beyond this
25 holdover period.

1 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.