



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5616

Introduced 2/15/2012, by Rep. Frank J. Mautino

SYNOPSIS AS INTRODUCED:

70 ILCS 535/7

from Ch. 85, par. 7457

70 ILCS 535/14 new

Amends the Will-Kankakee Regional Development Authority Law. Provides that the Will-Kankakee Regional Development Authority may issue bonds, notes, or other evidences of indebtedness in an aggregate amount outstanding not to exceed \$250,000,000 (now, \$100,000,000). Provides that certain provisions concerning the State's moral obligation for the bonds of the Authority shall not apply to bonds issued by the Authority on or after the effective date of the amendatory Act. Provides that the notes and bonds issued by the Authority and the income from these notes and bonds may be free from all taxation by the State or its political subdivisions, except for estate, transfer, and inheritance taxes. Provides that the exemption from taxation shall apply to the income on any notes or bonds of the Authority only if the Authority in its sole judgment determines that the exemption enhances the marketability of the bonds or notes or reduces the interest rates that would otherwise be borne by the bonds or notes. Effective immediately.

LRB097 18446 KMW 63673 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Will-Kankakee Regional Development
5 Authority Law is amended by changing Section 7 and by adding
6 Section 14 as follows:

7 (70 ILCS 535/7) (from Ch. 85, par. 7457)

8 Sec. 7. Bonds.

9 (a) The Authority, with the written approval of the
10 Governor, shall have the continuing power to issue bonds,
11 notes, or other evidences of indebtedness in an aggregate
12 amount outstanding not to exceed \$250,000,000 ~~\$100,000,000~~ for
13 the purpose of developing, constructing, acquiring or
14 improving projects, including those established by business
15 entities locating or expanding property within the territorial
16 jurisdiction of the Authority, for entering into venture
17 capital agreements with businesses locating or expanding
18 within the territorial jurisdiction of the Authority, for
19 acquiring and improving any property necessary and useful in
20 connection therewith and for the purposes of the Employee
21 Ownership Assistance Act. For the purpose of evidencing the
22 obligations of the Authority to repay any money borrowed, the
23 Authority may, pursuant to resolution, from time to time issue

1 and dispose of its interest bearing revenue bonds, notes or
2 other evidences of indebtedness and may also from time to time
3 issue and dispose of such bonds, notes or other evidences of
4 indebtedness to refund, at maturity, at a redemption date or in
5 advance of either, any bonds, notes or other evidences of
6 indebtedness pursuant to redemption provisions or at any time
7 before maturity. All such bonds, notes or other evidences of
8 indebtedness shall be payable from the revenues or income to be
9 derived from loans made with respect to projects, from the
10 leasing or sale of the projects or from any other funds
11 available to the Authority for such purposes. The bonds, notes
12 or other evidences of indebtedness may bear such date or dates,
13 may mature at such time or times not exceeding 40 years from
14 their respective dates, may bear interest at such rate or rates
15 not exceeding the maximum rate permitted by the Bond
16 Authorization Act, may be in such form, may carry such
17 registration privileges, may be executed in such manner, may be
18 payable at such place or places, may be made subject to
19 redemption in such manner and upon such terms, with or without
20 premium as is stated on the face thereof, may be authenticated
21 in such manner and may contain such terms and covenants as may
22 be provided by an applicable resolution.

23 (b-1) The holder or holders of any bonds, notes or other
24 evidences of indebtedness issued by the Authority may bring
25 suits at law or proceedings in equity to compel the performance
26 and observance by any corporation or person or by the Authority

1 or any of its agents or employees of any contract or covenant
2 made with the holders of such bonds, notes or other evidences
3 of indebtedness, to compel such corporation, person, the
4 Authority and any of its agents or employees to perform any
5 duties required to be performed for the benefit of the holders
6 of any such bonds, notes or other evidences of indebtedness by
7 the provision of the resolution authorizing their issuance and
8 to enjoin such corporation, person, the Authority and any of
9 its agents or employees from taking any action in conflict with
10 any such contract or covenant.

11 (b-2) If the Authority fails to pay the principal of or
12 interest on any of the bonds or premium, if any, as the same
13 become due, a civil action to compel payment may be instituted
14 in the appropriate circuit court by the holder or holders of
15 the bonds on which such default of payment exists or by an
16 indenture trustee acting on behalf of such holders. Delivery of
17 a summons and a copy of the complaint to the Chairman of the
18 Board shall constitute sufficient service to give the circuit
19 court jurisdiction of the subject matter of such a suit and
20 jurisdiction over the Authority and its officers named as
21 defendants for the purpose of compelling such payment. Any
22 case, controversy or cause of action concerning the validity of
23 this Act relates to the revenue of the State of Illinois.

24 (c) Notwithstanding the form and tenor of any such bonds,
25 notes or other evidences of indebtedness and in the absence of
26 any express recital on the face thereof that it is

1 non-negotiable, all such bonds, notes and other evidences of
2 indebtedness shall be negotiable instruments. Pending the
3 preparation and execution of any such bonds, notes or other
4 evidences of indebtedness, temporary bonds, notes or evidences
5 of indebtedness may be issued as provided by ordinance.

6 (d) To secure the payment of any or all of such bonds,
7 notes or other evidences of indebtedness, the revenues to be
8 received by the Authority from a lease agreement or loan
9 agreement shall be pledged, and, for the purpose of setting
10 forth the covenants and undertakings of the Authority in
11 connection with the issuance thereof and the issuance of any
12 additional bonds, notes or other evidences of indebtedness
13 payable from such revenues, income or other funds to be derived
14 from projects, the Authority may execute and deliver a mortgage
15 or trust agreement. A remedy for any breach or default of the
16 terms of any such mortgage or trust agreement by the Authority
17 may be by mandamus proceedings in the appropriate circuit court
18 to compel the performance and compliance therewith, but the
19 trust agreement may prescribe by whom or on whose behalf such
20 action may be instituted.

21 (e) Such bonds or notes shall be secured as provided in the
22 authorizing ordinance which may, notwithstanding any other
23 provision of this Act, include in addition to any other
24 security a specific pledge or assignment of and lien on or
25 security interest in any or all revenues or money of the
26 Authority from whatever source which may by law be used for

1 debt service purposes and a specific pledge or assignment of
2 and lien on or security interest in any funds or accounts
3 established or provided for by ordinance of the Authority
4 authorizing the issuance of such bonds or notes.

5 (f) In the event that the Authority determines that monies
6 of the Authority will not be sufficient for the payment of the
7 principal of and interest on its bonds during the next State
8 fiscal year, the Chairman, as soon as practicable, shall
9 certify to the Governor the amount required by the Authority to
10 enable it to pay such principal of and interest on the bonds.
11 The Governor shall submit the amount so certified to the
12 General Assembly as soon as practicable, but no later than the
13 end of the current State fiscal year. This subsection shall not
14 apply to any bonds or notes as to which the Authority shall
15 have determined, in the resolution authorizing the issuance of
16 the bonds or notes, that this subsection shall not apply.
17 Whenever the Authority makes such a determination, that fact
18 shall be plainly stated on the face of the bonds or notes and
19 that fact shall also be reported to the Governor. This
20 subsection (f) shall not apply to any bond issued on or after
21 the effective date of this amendatory Act of the 97th General
22 Assembly.

23 In the event of a withdrawal of moneys from a reserve fund
24 established with respect to any issue or issues of bonds of the
25 Authority to pay principal or interest on those bonds, the
26 Chairman of the Authority, as soon as practicable, shall

1 certify to the Governor the amount required to restore the
2 reserve fund to the level required in the resolution or
3 indenture securing those bonds. The Governor shall submit the
4 amount so certified to the General Assembly as soon as
5 practicable, but no later than the end of the current State
6 fiscal year.

7 (g) The State of Illinois pledges to and agrees with the
8 holders of the bonds and notes of the Authority issued pursuant
9 to this Section that the State will not limit or alter the
10 rights and powers vested in the Authority by this Act so as to
11 impair the terms of any contract made by the Authority with
12 such holders or in any way impair the rights and remedies of
13 such holders until such bonds and notes, together with interest
14 thereon, with interest on any unpaid installments of interest,
15 and all costs and expenses in connection with any action or
16 proceedings by or on behalf of such holders, are fully met and
17 discharged. In addition, the State pledges to and agrees with
18 the holders of the bonds and notes of the Authority issued
19 pursuant to this Section that the State will not limit or alter
20 the basis on which State funds are to be paid to the Authority
21 as provided in this Act, or the use of such funds, so as to
22 impair the terms of any such contract. The Authority is
23 authorized to include these pledges and agreements of the State
24 in any contract with the holders of bonds or notes issued
25 pursuant to this Section.

26 (Source: P.A. 86-1481; 87-778.)

1 (70 ILCS 535/14 new)

2 Sec. 14. Bonds and notes; exemption from taxation. The
3 creation of the Authority is in all respects for the benefit of
4 the people of Illinois and for the improvement of their health,
5 safety, welfare, comfort, and security, and its purposes are
6 public purposes. In consideration thereof, the notes and bonds
7 of the Authority issued pursuant to this Act and the income
8 from these notes and bonds may be free from all taxation by the
9 State or its political subdivisions, except for estate,
10 transfer, and inheritance taxes. The exemption from taxation
11 set forth in this Section shall apply to the income on any
12 notes or bonds of the Authority only if the Authority in its
13 sole judgment determines that the exemption enhances the
14 marketability of the bonds or notes or reduces the interest
15 rates that would otherwise be borne by the bonds or notes. For
16 purposes of Section 250 of the Illinois Income Tax Act, the
17 exemption of the Authority shall terminate after all of the
18 bonds have been paid. The amount of the income that shall be
19 added and then subtracted on the Illinois income tax return of
20 a taxpayer, subject to Section 203 of the Illinois Income Tax
21 Act, from federal adjusted gross income or federal taxable
22 income in computing Illinois base income shall be the interest
23 net of any bond premium amortization.

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.