

FIRST REGULAR SESSION

HOUSE BILL NO. 1132

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HOLSMAN (Sponsor), OXFORD, JONES (63), ATKINS,
CARTER, LAMPE AND TALBOY (Co-sponsors).

2337L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 360.106, RSMo, and to enact in lieu thereof one new section relating to the construction or renovation of public school buildings.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 360.106, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 360.106, to read as follows:

360.106. 1. As used in this section and sections 360.111 to 360.118, the following terms mean:

(1) "Funding agreement", any loan agreement, financing agreement or other agreement between the authority and a participating district under this section, providing for the use of proceeds of, security for, and the repayment of, school district bonds, and shall include a complete waiver by the participating district of all powers, rights and privileges conferred upon the participating district to institute any action authorized by any act of the Congress of the United States relating to bankruptcy on the part of the participating district;

(2) "Participating district", with respect to a particular issue of bonds, notes or other financial obligations, any school district and any public community college in this state which voluntarily enters into a funding agreement with the authority pursuant to this section;

(3) "School district bonds", any bonds, notes or other obligations issued by the authority for the purpose of making loans to, purchasing the bonds or notes of or otherwise by agreement using or providing for the use of the proceeds of the obligations by a participating district under this section and all related costs of issuance of the obligations including, but not limited to, all

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 costs, charges, fees and expenses of underwriters, financial advisors, attorneys, consultants,
17 accountants and of the authority.

18 2. In addition to other powers granted to the authority by sections 360.010 to 360.140,
19 the authority shall have the power to issue school district bonds or notes for the purpose of
20 making loans to, or purchasing the bonds, notes or other financial instruments of:

21 (1) Any school district or any public community college in this state for the use of the
22 various funds of such school district or public community college for any lawful purpose; and

23 (2) Any school district in this state with respect to obligations issued by such school
24 district pursuant to sections 164.121 to 164.301, RSMo, or otherwise by law.

25 3. In connection with the issuance of school district bonds pursuant to the powers
26 granted in this section, the authority shall have all powers as set forth elsewhere in sections
27 360.010 to 360.140, and the provisions of sections 360.010 to 360.140 shall be applicable to the
28 issuance of school district bonds to the extent that they are not inconsistent with the provisions
29 of this section.

30 4. School district bonds issued pursuant to this section may be secured by a pledge of
31 payments made to the authority by the participating district, by the bonds or notes of the
32 participating district, or by a pooling of such payments, bonds or notes of two or more of such
33 participating districts or as otherwise set forth in the funding agreements.

34 5. The authority may invest any funds held pursuant to powers granted under this section,
35 which are not required for immediate disbursement, in any investment approved by the authority
36 and specified in the trust indenture or resolution pursuant to which such bonds or notes are issued
37 without regard to any limitation otherwise imposed by section 360.120 or otherwise by law;
38 provided, however, that each participating district shall receive the earnings, or a credit for such
39 earnings, to the extent any such amounts invested are attributable to a particular participating
40 district.

41 6. (1) In connection with school district bonds, upon certification by the authority to the
42 commissioner of education and the state treasurer that the funding agreement provides for
43 consent by a participating district for direct deposit of its state payments to the trustee, the state
44 treasurer shall transfer, but only out of funds described in this section, directly to the trustee for
45 such school district bonds, the amounts needed to pay the principal and interest when due on the
46 school district bonds attributable to a particular participating district. Such transfers for any
47 school district bonds attributable to a particular participating district shall only be made out of,
48 and to the extent of, the state payments and distributions from all funds to be made by the state
49 to such participating district pursuant to sections 163.011 to 163.195, RSMo. Any such transfer
50 by the state on behalf of a participating district shall discharge the state's obligation to make such
51 state payments to such participating district to the extent of such transfer;

52 (2) A participating district shall withdraw amounts from any of its funds established
53 pursuant to section 165.011, RSMo, to the extent such amounts could have been used to make
54 the payments made on its behalf by the state treasurer as provided in subdivision (1) of this
55 subsection. Notwithstanding any provisions of section 108.180, RSMo, to the contrary, such
56 amounts shall be deposited into the participating district's funds as provided by law in lieu of the
57 state payments transferred to the trustee under the funding agreement;

58 (3) The authority shall from time to time develop guidelines containing certain criteria
59 with respect to participating school districts and with respect to the issuance of school district
60 bonds;

61 (4) Transfers made under this subsection pursuant to a school district's participation in
62 a funding agreement under this section shall be made at no cost to the school district.

63 7. The authority shall provide for the payment of costs of issuance, costs of credit
64 enhancement and any other costs or fees related to the issuance of any school district bonds other
65 than reserve funds, out of the proceeds thereof or out of amounts distributed annually to the
66 authority pursuant to sections 160.534 and 164.303, RSMo. The authority shall annually submit
67 a request for funding of such costs to the commissioner of education in such form and at such
68 time as he may request. A copy of such request shall be forwarded to the commissioner of
69 administration. The authority shall provide for the payment of costs pursuant to this subsection
70 only for bonds issued for the purpose of financing construction or renovation projects approved
71 by voters after January 1, 1995, or refinancing construction or renovation projects or for
72 refinance of lease purchase obligations with general obligation bonds.

73 8. Any refunding or refinancing of existing bonds of a school district under this section
74 shall have a net present value savings of at least one and one-half percent of the par amount of
75 the refunded bonds.

76 9. The commissioner of education shall serve as an ex officio, nonvoting, advisory
77 member of the authority solely with regard to the exercise of powers granted pursuant to this
78 section.

79 10. Nothing in this section or sections 360.111 to 360.118 shall be construed to relieve
80 a school district or public community college of its obligation to levy a debt service levy or
81 capital projects levy sufficient to retire any obligation of the district or college as otherwise
82 provided by law.

83 11. Any professional services provided in connection with the sale of such bonds
84 pursuant to this section, including, but not limited to, underwriters, bond counsel, underwriters'
85 counsel, trustee and financial advisors, shall be obtained through competitive bidding. The
86 initial bid for professional services shall be for a period of not longer than two years, and
87 thereafter such bids shall be awarded for a period not longer than one year.

88 12. The authority shall review the cost effectiveness of the program established under
89 this section and sections 360.111 to 360.118 and shall, on or before the fifteenth of August of
90 each year, provide a report to the general assembly which shall contain a report on the program,
91 the authority's findings and a recommendation of whether this section should be repealed,
92 strengthened or otherwise amended.

93 **13. Notwithstanding any other law, no funding of any type shall be provided to a**
94 **public school district under the provisions of this section for new construction or**
95 **renovation of any public school building unless the public school district obtains LEED**
96 **certification for the new construction or renovation. For purposes of this section, "LEED**
97 **certification" shall mean any certification issued by the United States Green Building**
98 **Council under the Leadership in Energy and Environmental Design Green Building Rating**
99 **System.**

✓