

HOUSE BILL 58

By Roach

AN ACT, to amend Tennessee Code Annotated, Title 9,
relative to public finances.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 9-9-101, is amended by deleting subsection (b) in its entirety.

SECTION 2. Tennessee Code Annotated, Title 9, Chapter 9, Part 1, is amended by deleting §§ 9-9-102 through 9-9-107 and by substituting instead the following:

9-9-102. Records of state debt service fund

The commissioner of finance and administration shall maintain, or cause to be maintained, records on the obligations of the state issued for any purpose, showing the amount of interest due and any payments made into and disbursements made out of the state debt service fund. The commissioner of finance and administration shall cause records to be kept so as to furnish satisfactory information as to the condition of the state's indebtedness at the end of each fiscal year.

9-9-103. Pledge of special revenues

For the payment of the principal of and interest on the bonds of the state issued under this chapter outstanding as of the effective date of this act, there is pledged the annual proceeds of a tax of not less than five cents (5¢) per gallon upon gasoline, the annual proceeds of the special tax on petroleum products provided for by § 67-3-203, one half (½) of the annual proceeds of motor vehicle registration fees now or hereafter required to be paid to the state, and the entire annual proceeds of franchise taxes imposed by the franchise tax law, compiled in title 67, chapter 4, part 21.

9-9-104. Covenant not to make bonds charge upon special revenues

(a) As long as the bonds of the state issued under this chapter outstanding as of the effective date of this act remain outstanding, the state covenants that no bonds issued pursuant to this chapter will be made a charge upon the special revenues pledged by § 9-9-103, except as provided by § 9-9-105, unless the following debt service coverage test is satisfied: The lesser of:

(1) The special revenues pledged by § 9-9-103; or

(2) The aggregate of the pledged gasoline tax, pledged special tax on petroleum products and pledged motor vehicle registration fees and one third ($\frac{1}{3}$) of the entire annual proceeds of franchise and excise taxes imposed by the franchise and excise tax laws, compiled in title 67, chapter 4, parts 21 and 20, for the last preceding fiscal year aggregated at least one hundred fifty percent (150%) of the amount necessary to pay the maximum debt service payable in the then current or any future fiscal year.

(b) "Debt service", for purposes of this section, means and includes principal, including sinking fund amortization, of and interest on all outstanding bonds issued under this chapter and the bonds then proposed to be issued under this chapter, in the aggregate; provided, that in determining the outstanding bonds, there shall be excluded any outstanding bonds with respect to which refunding bonds have been issued and sold and the proceeds of which are to be applied to retire the outstanding bonds.

9-9-105. Bonds as charges on tax revenues

(a) All bonds issued under this chapter, all notes issued in anticipation of such bonds, and all tax revenue anticipation notes issued pursuant to title 9, chapter 10 shall constitute direct general obligations of the state for the payment of the principal of and interest on which there is also pledged the full faith and credit of the state. All such obligations shall constitute a charge upon the entire fees, taxes and other revenues and funds allocated to the general fund, and if necessary, the first such fees, taxes, revenues

and funds thereafter received and allocated to the general fund, except only such fees, taxes, revenues and funds as may be otherwise legally restricted.

(b) There is appropriated to the state funding board on a direct and continuing basis a sum sufficient for the payment of principal, including mandatory sinking fund amortization, of and premium, if any, and interest on outstanding debt obligations described in § 9-9-105(a), amounts due on contracts or agreements described in §§ 9-9-202(g) and 9-9-202(h) or other contracts or agreements relating to such debt obligation, and necessary related expenses incurred under this chapter, from any funds held in the state treasury not otherwise legally restricted, independent of an appropriation bill as contemplated by title 9, chapter 4, part 51.

(c) The state covenants with the persons who now or may hereafter hold any debt obligations described in § 9-9-105(a) that it will raise fees, taxes and other revenues sufficient, together with funds on hand derived from all sources, to pay the principal, including mandatory sinking fund amortization, of and premium, if any, and interest on such obligations as and when due and payable.

(d)

(1) The state covenants with the persons who now or may hereafter hold any bonds issued under this chapter that no bonds shall be issued under this chapter after the effective date of this act unless the debt service coverage test in subdivision (d)(2) is satisfied:

(2) The amount necessary to pay the maximum annual debt service payable in the then current or any future fiscal year, is not greater than twelve percent (12%) of the amount of total state tax revenue allocated to the general fund for the last preceding fiscal year.

(3) "Debt service", for purposes of this subsection, means and includes principal, including mandatory sinking fund amortization, of and interest on all outstanding bonds issued under this chapter and the bonds then proposed to be issued under this chapter, in the aggregate; provided, that in determining the outstanding obligations, there shall be excluded any outstanding bonds with respect to which refunding bonds have been issued and sold and the proceeds of which are to be applied to retire the outstanding bonds.

9-9-106. Payments to state funding board

The state funding board shall certify to the commissioner of finance and administration from time to time, but not less than annually, the amount necessary, together with funds on hand derived from all sources, to enable the board to provide for the payment of the principal of and interest on all debt obligations described in § 9-9-105(a) as and when the same shall become due and payable. Upon recommendation from the commissioner of finance and administration, the state funding board shall determine the monthly portion of fees, taxes and other revenues or funds on hand to be paid to the board. All such fees, taxes and other revenues and funds are charged with a lien for the payment of the full amount required by the state funding board for the payment of such debt obligations and shall be so applied in any event. All funds paid to the state funding board by the state treasurer or other appropriate authority shall be paid through the office of the state treasurer, who shall make and preserve a record of such payment. Whenever there shall have been paid into the hands of the state funding board the amount certified by it as necessary to meet the monthly requirements of the board, the remainder of the fees, taxes and other revenues and funds pledged and accruing during such month may be applied to such other purposes as may be provided by law.

9-9-107. Payments from state funding board

The state funding board shall provide for the payment of the principal of and premium, if any, and interest on all bonds issued under this chapter, all notes issued in anticipation of such bonds and all tax revenue anticipation notes issued pursuant to § 9-10-101, amounts due on contracts or agreements described in §§ 9-9-202(g) and 9-9-202(h) or other contracts or agreements relating to such debt obligations, and necessary related expenses incurred under this chapter as the same shall become due, out of revenues and funds available for such purposes. All funds paid to the state funding board under the provisions of this chapter shall be dedicated to and applied solely to such purposes or as otherwise specified in this chapter.

SECTION 3. Tennessee Code Annotated, Title 9, Chapter 9, Part 1, is amended by deleting §§ 9-9-111 and 9-9-112 and by substituting instead the following language:

9-9-111. Covenant with bondholders not to decrease fees and taxes; Enforcement

(a) Except as otherwise provided in this section, so long as any bonds issued under this chapter outstanding as of the effective date of this act remain outstanding, the state covenants with the persons who now or may hereafter hold those bonds that it will not decrease by legislative action the motor vehicle registration fees, the special tax on petroleum products provided for by § 67-3-203, or the franchise taxes now required by law to be paid, or eliminate from the requirement to pay such fees or taxes any substance, motor vehicle or corporation on account of which the payment of such fees or taxes is now required, and that it will levy a tax of not less than five cents (5¢) per gallon upon gasoline or other motor vehicle fuel, unless the state funding board shall certify that all payments due the state funding board under the provisions of this chapter have been made in full, that the state is not in default in the payment of any outstanding debt or in the payment of interest thereon, and that such fees and taxes at lower rates to be specified by the state funding board, in such year or years, not exceeding two (2) years,

will be sufficient to provide funds adequate to meet all payments required to be made by the state funding board in such year or years, as well as to provide for the other obligations and expenses of the state for such year or years to be defrayed therefrom, in which event the state shall be under no obligation to charge or levy in such year or years fees or taxes in excess of the rates so certified by the state funding board.

(b) The holders of all debt obligations of the state described in § 9-9-105(a) and all persons who may hereafter purchase such obligations shall have, and are declared to have, a vested right in the performance of the covenants and pledges contained in this chapter, and the performance of the duties imposed upon any officer or agency of the state by or pursuant to the provisions of this chapter may be enforced by the holder of any such obligation by appropriate proceedings; provided, no such holders or purchasers of debt obligations issued after the effective date of this act shall have any such rights with respect to §§ 9-9-103, 9-9-104 or 9-9-111(a).

9-9-112. Tax exemption

Principal of and interest on debt obligations issued under this chapter shall be exempt from taxation by the state, or by any county, municipality or taxing district of the state, except inheritance, transfer and estate taxes.

SECTION 4. Tennessee Code Annotated, Section 9-9-118, is amended by deleting the section in its entirety.

SECTION 5. Tennessee Code Annotated, Section 9-9-119, is amended by deleting the section in its entirety.

SECTION 6. Tennessee Code Annotated, Section 9-9-207(a) is amended by deleting subsection (a) in its entirety and by substituting instead the following language:

(a) The funding board may issue general obligation refunding bonds to refund outstanding obligations previously issued under the authority of this chapter, upon the determination by the board that such bonds are necessary:

(1) To accomplish cost savings to the public;

(2) For the administrative convenience of the board;

(3) To pay or discharge all or any part of an issue or series of bonds, including any interest thereon, in arrears or to become due and for the payment of which sufficient funds are not available; or

(4) To eliminate bond covenants that have been determined to be burdensome to the state due to a change in circumstances if such elimination is not otherwise prohibited by law. Such determination shall be clearly stated in any resolution authorizing such refunding bonds and shall be conclusive.

SECTION 7. Tennessee Code Annotated, Section 9-10-101(e) is amended by deleting the language "All notes issued hereunder and the interest thereon" and by substituting instead the language "Principal of and interest on notes issued under this chapter".

SECTION 8. Nothing in this act shall be construed so as to impair the obligation of any contract made by the state upon any bond of the state issued under title 9, chapter 9 outstanding as of the effective date of this act.

SECTION 9. This act shall take effect upon becoming law, the public welfare requiring it.