

1975 S.C. Op. Atty. Gen. 54 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3983, 1975 WL 22281

Office of the Attorney General

State of South Carolina

Opinion No. 3983

March 3, 1975

***1 The issuance by Oconee County of bond anticipation notes in order to renew its originally issued notes requires the prior approval of the State Budget and Control Board as provided by Section 14 of Act No. 156 of 1971.**

State Auditor
Columbia, S. C.

You have requested my opinion as to whether or not the renewal of bond anticipation notes issued by Oconee County, South Carolina, pursuant to Act No. 156 of 1971 (57 STAT. 134) requires the prior approval of the State Budget and Control Board.

Section 4 of that Act provides, *inter alia*:

Pending the issuance of bonds, bond anticipation notes may be issued, and to the end that a vehicle be provided therefor, the provisions of Act 116 of 1965 as now or hereinafter amended, shall be applicable to such bond anticipatory borrowing.

Act No. 116 of 1965 (54 STAT. 150) authorizes the State of South Carolina, its agencies and political subdivisions to borrow in anticipation of the issuance of bonds by means of bond anticipation notes. Section 6 of that Act states: Prior to the issuance of notes pursuant to this chapter, the governing body of the borrower shall adopt a resolution obligating the borrower to issue and sell, in the manner prescribed by law, bonds of the borrower in a specified amount and notes of the borrower may be issued pursuant to this chapter to the extent of not exceeding the amount of bonds so specified.

Provided, however, if any consent or approval shall be necessary prior to the issuance of bonds by the borrower, the borrower must obtain the same consent or approval prior to the issuance of temporary financing as provided herein.

All notes issued pursuant to this chapter may from time to time be renewed or refunded. [Emphasis added.]

The intent of the underlined language is clear that, if Act No. 156 of 1971, the bond act in question, requires any consent or approval prior to the issuance of bonds by the borrower, the same consent or approval must be obtained before the borrower can issue bond anticipation notes. Section 14 of the Act does require the approval of the State Budget and Control Board as follows:

No bonds shall be issued pursuant to the provisions of this act until the proposal of the governing board to issue the bonds shall receive the approval of the State Board.

My understanding is that the governing board of Oconee County did submit its proposal regarding the original issuance of bond anticipation notes, which notes are scheduled to mature on March 11, 1975, to the State Budget and Control Board and did receive that Board's approval.

Whether or not the renewal of those notes is, in all cases, subject to the approval of the State Board is a closer question. Here, however, the governing board of Oconee County contemplates the renewal of the original bond anticipation notes by the issuance of additional notes, the '1975 series,' in the same amount as the original ones. In my opinion, therefore, the issuance by Oconee County of bond anticipation notes in order to renew its originally issued notes requires the prior approval of the State Budget and Control Board as provided by Section 14 of Act No. 156 of 1971.

*2 Daniel R. McLeod
Attorney General

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