



House of Representatives

File No. 749

General Assembly

January Session, 2007

(Reprint of File No. 362)

Substitute House Bill No. 5728
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
May 3, 2007

**AN ACT CONCERNING BONDS OF MUNICIPAL WATER POLLUTION
CONTROL AUTHORITIES.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

- 1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section:
- 2 (1) "Bonds" means any bonds, notes or other obligations authorized
- 3 to be issued by a municipality pursuant to this section;
- 4 (2) "Legislative body" means (A) the board of selectmen in a town
- 5 that does not have a charter, special act or home rule ordinance
- 6 relating to its government, (B) the council, board of aldermen,
- 7 representative town meeting, board of selectmen or other elected
- 8 legislative body described in a charter, special act or home rule
- 9 ordinance relating to government in a city, consolidated town and city,
- 10 consolidated town and borough or a town having a charter, special act,
- 11 consolidation ordinance or home rule ordinance relating to its
- 12 government, and (C) the board of burgesses or other elected legislative
- 13 body in a borough;

14 (3) "Sewage system project" means the acquisition, purchase,
15 construction, reconstruction, improvement or extension of a sewage
16 system or sewage system facility and includes repair, improvement,
17 acquisition or extension, and road, water and drainage improvements
18 customarily made in connection therewith; and

19 (4) "Sewer revenue" means revenue derived by a water pollution
20 control authority from the operation of a sewage system, including,
21 but not limited to, revenue from sewage system use or connections and
22 benefit assessments.

23 (b) For the purpose of financing any portion of a sewage system
24 project under this section, a municipality may authorize and issue
25 general obligation bonds in the principal amount not exceeding three
26 million dollars, provided (1) such bonds are secured by a pledge of
27 sewer system revenue to pay the bonds when due, or (2) the water
28 pollution control authority agrees to levy, collect and pay to the
29 municipality the amount of debt service on the bonds from sewer
30 revenues. If the legislative body of the municipality is a town meeting,
31 no bonds shall be issued under this section except upon
32 recommendation of the board of finance of the municipality. An
33 agreement pursuant to subdivision (2) of this subsection may provide
34 that the water pollution control authority shall pay the municipality at
35 such times and in such amounts that vary from the debt service
36 payments, except that the total amount to be paid by the water
37 pollution control authority over the term of the bonds shall be not less
38 than the total amount due on the general obligation bonds issued
39 pursuant to this section. The bonds authorized under this section may
40 be issued pursuant to the terms, conditions and provisions applicable
41 to other bonds authorized under chapter 103 of the general statutes.

42 (c) (1) If the water pollution control authority does not comply with
43 the provisions of subsection (b) of this section, the municipality may
44 seek reimbursement from the water pollution control authority and
45 such municipality possesses and may exercise all rights against the
46 water pollution control authority to enforce said subsection (b) that a

47 bond holder would have under chapter 103 of the general statutes.

48 (2) Any agreement under subsection (b) of this section may (A)
49 contain any provision, term or covenant, including provisions for a
50 pledge of and lien upon sewer revenues, (B) be executed by any
51 member, director or agent, (C) be evidenced by any document or
52 agreement, and (D) have the same effect that would be authorized or
53 effected if the agreement were made to bond holders.

54 (3) The water pollution control authority shall be liable for all costs
55 of collection, including attorney's fees, in any action brought by a
56 municipality to enforce the provisions of subsection (b) of this section.

57 (d) Notwithstanding any provisions of the general statutes or any
58 charter or special act, bonds issued pursuant to this section may be
59 authorized, after a public hearing conducted by the water pollution
60 control agency, upon a two-thirds vote of such legislative body and a
61 two-thirds vote of the water pollution control authority. Notice of the
62 time, place and purpose of such hearing shall be published at least five
63 days before the date thereof in a newspaper having a general
64 circulation in the municipality. Such hearing may be conducted in
65 conjunction with any other public hearing required under this chapter.

66 (e) The provisions of this section shall apply to municipal water
67 supply system improvements and bonds issued under chapter 102 of
68 the general statutes except that (1) the votes shall be taken and the
69 public hearings conducted by the agency having authority to
70 implement water improvements and set water rates, (2) the term
71 "water revenue" shall be substituted for "sewer revenue", and (3) the
72 terms and conditions of bonds, notes and other obligations issued for
73 sewer projects shall apply to water supply system improvements.

74 Sec. 2. Section 7-261 of the general statutes is repealed and the
75 following is substituted in lieu thereof (*Effective from passage*):

76 Bonds or notes issued under the authority of this chapter or section
77 1 of this act, except those which are secured only by sewerage system

78 use charges, shall be obligatory upon the municipality and the
79 inhabitants and property thereof according to the tenor and purport of
80 the same and the full faith and credit of the municipality shall be
81 pledged to the payment thereof, whether or not such pledge is stated
82 in the bonds or notes or in the vote authorizing their issuance, and
83 thereafter the municipality shall appropriate in each year during which
84 any such bonds or notes are outstanding, and there shall be available
85 on or before the date when the same are payable, an amount of money
86 which, together with other revenue available for such purpose, shall be
87 sufficient to pay the principal and interest on such bonds or notes
88 payable in that year, and there shall be included in the tax levy for
89 each such year an amount which, together with other revenues
90 available for such purpose, shall be sufficient to meet such
91 appropriation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	7-261

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect
Various Municipalities	Potential Cost Saving

Explanation

The bill provides municipalities with a less expensive and less time consuming option for financing small water and sewer projects. It permits municipalities to issue up to \$3 million in General Obligation¹ (GO) bonds for a water or sewage system provided that either: (1) the bonds secured by a pledge of water or sewage system revenue to pay the debt service or (2) the water authority or water pollution control authority agrees to collect and pay the municipality the amount of debt service due on the bonds from the water or sewer revenues. The advantages of this financing option² are: (1) the municipality doesn't have to hold a referendum to issue the GO bonds, which is required in most municipalities, (2) the debt service on the bonds will be paid by water or sewer levies so the mill rate in the town will not be affected, and (3) GO bonds qualify for lower interest rates in the bond market than revenue bonds so the cost of financing the project will be lower.

¹ General Obligation (GO) bonds are backed by the full faith and credit of the municipality. The debt service on GO bonds is paid out of the general revenues of the town, which are primarily derived from property taxes.

² This type of bond is commonly called a double-barreled bond. Double-barreled bonds are municipal revenue bonds whose principal and interest are guaranteed by a larger municipal entity. For example, a bridge authority might issue revenue bonds payable out of revenue from bridge tolls. If the city or state were to guarantee the bonds, they would be double-barreled, and the investor would be protected against default in the event that bridge usage is disappointing and revenue proves inadequate.

The bill requires municipalities with a town meeting type of legislative body to obtain a recommendation from the board of finance before issuing the new type of hybrid bond. If a town does not receive the recommendation and it is required under its charter to hold a voter referendum before issuing General Obligation (GO) bonds, it will incur the cost to hold a referendum before issuing the hybrid bonds.

House "A" adds the provision requiring municipalities with a town meeting type of legislative body to obtain a recommendation from the board of finance before issuing the new type of hybrid bond.

Background

Currently, municipalities have two options for financing water or sewer projects: (1) GO bonds, which are repaid out of the town's general revenues, and (2) revenue bonds, which are repaid out of water or sewer system levies.

1. Towns that choose to finance projects with GO bonds are generally required by their charter to hold a voter referendum³. Since this is a time consuming and expensive process, many towns delay the projects until several are accumulated. The projects are then bundled together and one referendum is held for all of them. The main advantage of GO bonds is that they qualify for lower interest rates in the bond market than revenue bonds because they are backed by a more secure revenue stream. Thus, the cost of financing a project with GO bonds is lower than financing it with revenue bonds.

³ The cost of a referendum will depend on the population of the town, and whether the referendum is submitted to electors at a regular election or at a special election. The cost for a referendum at a regular election is minimal, relating to the printing of referendum ballots and associated referendum signage. The cost to conduct a referendum at a special election varies by town population. Small towns, such as Andover and Roxbury, can hold a referendum for \$1, 000. Large cities, such as Bridgeport and Stamford, could incur costs ranging from \$45,000 to \$85,000, to hold a referendum at a special election.

2. Towns that choose to finance projects with revenue bonds pay a higher financing cost for two reasons. First, the interest rates for revenue bonds are higher than GO bonds. Second, the issuing process for revenue bonds is more expensive and time consuming than the process for GO bonds because the reliability of the revenue stream must be investigated and documented before the bonds can be issued.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5728 (as amended by House "A")******AN ACT CONCERNING BONDS OF MUNICIPAL WATER
POLLUTION CONTROL AUTHORITIES.*****SUMMARY:**

This bill allows towns to finance relatively small-scale sewer and water system improvements with bonds combining the elements of general obligation (GO) and revenue bonds. A town secures GO bonds with all the revenue available to it; it secures revenue bonds only with the charges, fees, and assessments imposed on those parties that directly benefit from an improvement. Current law allows towns to finance sewer and water system improvements with separate GO or revenue bonds.

The bill allows a town to issue up to \$3 million in GO bonds to finance sewer and water system improvements, but still requires the agency operating the system (i.e., operating agency) to back the bonds with income the system generates or money the agency raises from its customers specifically for that purpose. Like other bonds, these hybrid bonds must be repaid according to a set schedule. But the town may vary that schedule over the bonds' term as long as the agency repays the town the full amount of the bonds.

The bill specifies the procedure for approving the bonds and town's rights and remedies to secure payment from the operating agencies. Towns must follow this procedure for approving the bonds, regardless of any contrary statutory, special act, or charter provision.

*House Amendment "A" allows towns where the town meeting is the legislative body to issue GO bonds for sewer and water system improvements only if the town's board of finance recommends it.

EFFECTIVE DATE: Upon passage

ELIGIBLE PROJECTS

The bill allows towns to issue the hybrid bonds for acquiring, purchasing, constructing, improving, or extending a sewage or water system or system facility. These activities include related road, water, and drainage improvements.

APPROVING BONDS

The bill specifies the process the town must follow before it can issue the bonds. The town's legislative body must hold a joint hearing on the bonds. It must publish a notice of the hearing in a newspaper at least five days before holding it. It may hold this hearing in conjunction with any other hearing the law requires for approving sewer and water projects.

The legislative body and the agency's governing board must vote separately on the project and may issue the bonds if two-thirds of their respective members agree. The legislative body is the board of selectmen in towns operating under the statutes. In other towns, it is the elected legislative body described in the charter, special act, or home rule ordinance. These towns include cities, consolidated cities and towns, and consolidated towns and boroughs. In a borough, the legislative body is the board of burgesses or other elected body.

The operating agency for a sewer system project could be the legislative body in towns organized under any form of government except a town meeting. It could also be an existing board or commission the legislative body designated to serve as the town's water pollution control authority or a new board or commission that body established by ordinance (CGS § 7-246).

Towns may establish corporations for operating water systems (CGS § 7-148ee). Under the bill, the corporation's board of directors would be responsible for deciding whether to approve the bond authorization.

AGREEMENT BETWEEN TOWN AND OPERATING AGENCY

The bill allows the town and the operating agency to enter into an agreement specifying any terms and conditions for issuing the hybrid bond, including pledging or imposing a lien on the water or sewer system revenue. Any member, director, or agent of the town or agency may execute the agreement, which may be evidenced by any document or agreement. The bill specifies that the agreement has the same effect as one the town or the agency makes with bond holders.

ISSUING BONDS

The town can issue the hybrid bonds with the same terms, conditions, and provisions the law allows for GO and revenue bonds issued for sewerage and water system projects.

REPAYMENT

The bill allows the town to issue a GO bond for system improvements, but requires the operating agency to repay them with its own revenue. If the town's legislative body is a town meeting, the town can issue the bond only if its board of finance recommends it. The town can secure the bond (1) by pledging the revenue the system generates from its users or (2) with money the agency agrees to levy, collect, and pay to the town.

If the town uses the second method, the agreement may allow the town to vary the amount the agency must pay during the period for repaying the bonds, but not the total amount the agency must pay. In other words, the town may allow the agency to pay less than the scheduled amount one month and recover the difference by requiring the agency to pay more the next month.

The bill gives the town the same statutory rights as bond holders to secure payment from the operating agency, which is liable for all costs the town incurred to secure the payment. These costs include attorney fees.

BACKGROUND

Legislative History

The House referred the bill (File 362) to the Finance, Revenue and Bonding Committee and the Government Administration and Elections Committee, and both reported favorably it without any changes.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 20 Nay 0 (03/19/2007)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 53 Nay 0 (04/17/2007)

Government Administration and Elections Committee

Joint Favorable

Yea 10 Nay 0 (04/25/2007)