



House of Representatives

General Assembly

File No. 527

January Session, 2015

House Bill No. 6907

House of Representatives, April 8, 2015

The Committee on Higher Education and Employment Advancement reported through REP. WILLIS, R. of the 64th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE DUTIES AND AUTHORITY OF THE CONNECTICUT HIGHER EDUCATION SUPPLEMENTAL LOAN AUTHORITY.

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

1 Section 1. Section 10a-223 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2015*):

3 In this chapter, the following words and terms shall have the
4 following meanings unless the context indicates another or different
5 meaning or intent:

6 (1) "Authority" means the Connecticut Higher Education
7 Supplemental Loan Authority constituted as a subsidiary of the
8 Connecticut Health and Educational Facilities Authority as provided
9 in section 10a-179a;

10 (2) "Authorized officer" means an employee of the Connecticut
11 Health and Educational Facilities Authority or of the authority who is

12 authorized by the board of directors of the authority to execute and
13 deliver documents and papers and to act in the name of and on behalf
14 of the authority;

15 (3) "Authority loans" means education loans by the authority, or
16 loans by the authority from the proceeds of bonds for the purpose of
17 funding education loans;

18 (4) "Board" means the board of directors of the authority;

19 (5) "Bonds" or "revenue bonds" means revenue bonds or notes of the
20 authority issued under the provisions of this chapter, including
21 revenue refunding bonds or notes;

22 (6) "Bond resolution" means the resolution or resolutions of the
23 authority and the trust agreement, if any, authorizing the issuance of
24 and providing for the terms and conditions applicable to bonds;

25 (7) "Borrower" means [a student and any parent who has received or
26 agreed to pay an education loan] (A) an individual who has an
27 outstanding loan from the authority, (B) an individual who attends a
28 Connecticut institution for higher education or currently resides in the
29 state, and has received or agreed to pay an education loan, or (C) any
30 parent who has received or agreed to pay an education loan on behalf
31 of an individual who attends a Connecticut institution for higher
32 education or currently resides in the state;

33 (8) "Connecticut Health and Educational Facilities Authority" means
34 the quasi-public authority established pursuant to section 10a-179;

35 (9) "Connecticut institution for higher education" means an
36 institution for higher education within the state;

37 (10) "Default insurance" means insurance insuring education loans,
38 authority loans or bonds against default;

39 (11) "Default reserve fund" means a fund established pursuant to a
40 bond resolution for the purpose of securing education loans, authority

41 loans or bonds;

42 (12) "Education loan" means a loan which is made [by the authority
43 to a student in or from the state, or the parents of such a student, or
44 both, to finance the attendance of the student at an institution for
45 higher education, or a loan by or on behalf of a participating institution
46 for higher education from the proceeds of an authority loan, to a
47 student, or the parents of a student, or both, to finance the student's
48 attendance at such institution] to a student in or from the state or a
49 parent of such student to finance attendance at an institution for higher
50 education or to a borrower to refinance one or more eligible loans;

51 (13) "Loan funding deposit" means moneys or other property
52 deposited by a Connecticut institution for higher education with the
53 authority, a guarantor or a trustee for the purpose of (A) providing
54 security for bonds, (B) funding a default reserve fund, (C) acquiring
55 default insurance, or (D) defraying costs of the authority, such moneys
56 or properties to be in such amounts as deemed necessary by the
57 authority or guarantor as a condition for such institution's
58 participation in the authority's programs;

59 (14) "Institution for higher education" means a degree-granting
60 educational institution within the United States authorized by
61 applicable law to provide a program of education beyond the high
62 school level and (A) described in Section 501(c)(3) of the Internal
63 Revenue Code of 1986, or any subsequent corresponding internal
64 revenue code of the United States, as from time to time amended, and
65 exempt from taxation under Section 501(a) of said code with respect to
66 a trade or business carried on by such institution which is not an
67 unrelated trade or business, determined by applying Section 513(a) of
68 said code to such organization or a foundation established for its
69 benefit, or (B) exempt from taxation under said code as a governmental
70 unit;

71 (15) "Participating institution for higher education" means a
72 Connecticut institution for higher education which, pursuant to the
73 provisions of this chapter, undertakes the financing directly or

74 indirectly of education loans as provided in this chapter;

75 (16) "Parent" means any parent, legal guardian or sponsor of a
76 student at an institution for higher education;

77 (17) "Education loan series portfolio" means all education loans
78 made by the authority or by or on behalf of a specific participating
79 institution for higher education which are funded from the proceeds of
80 a related specific bond issue of the authority; [.]

81 (18) "Education assistance program" means a program to assist in
82 financing the costs of education through education loans or education
83 grants, or both;

84 (19) "Education grant" means a grant, scholarship, fellowship or
85 other nonrepayable assistance awarded by the authority to a student
86 currently residing in the state to finance the attendance of the student
87 at a Connecticut institution for higher education, or a grant,
88 scholarship, fellowship or other nonrepayable assistance awarded by
89 or on behalf of a Connecticut institution for higher education from the
90 proceeds of funds provided by the authority to a student from the state
91 to finance the student's attendance at such institution; and

92 (20) "Eligible loan" means any loan that is in repayment that was (A)
93 made by the authority, or (B) made to a borrower by any other private
94 or governmental lender to finance attendance at an institution for
95 higher education.

96 Sec. 2. Section 10a-225 of the general statutes is repealed and the
97 following is substituted in lieu thereof (*Effective July 1, 2015*):

98 (a) The purpose of the authority shall be to assist borrowers and
99 Connecticut institutions for higher education in the financing and
100 refinancing of the costs of education and for this purpose the authority
101 is authorized and empowered:

102 (1) To adopt bylaws for the regulation of its affairs and the conduct
103 of its business.

- 104 (2) To adopt an official seal and alter the same at pleasure.
- 105 (3) To maintain an office at such place or places in the state as it may
106 designate.
- 107 (4) To sue and be sued in its own name, plead and be impleaded.
- 108 (5) To establish criteria and guidelines for education [loan financing]
109 assistance programs. Such criteria and guidelines shall include such
110 eligibility standards for students and borrowers as the authority shall
111 determine are necessary or desirable in order to effectuate the
112 purposes of this chapter, including the following: (A) Each student
113 [shall have a certificate of admission or enrollment at an institution for
114 higher education, (B) each student, or the parents of each student,] and
115 borrower shall satisfy such financial qualifications as the authority
116 shall establish to effectuate the purposes of this chapter, and [(C)] (B)
117 each student [, and the parents of each student,] and borrower shall
118 submit to the student's institution for higher education or to the
119 authority, as the authority may determine, such information as may be
120 required by the authority.
- 121 (6) To establish specific criteria governing (A) the eligibility of
122 Connecticut institutions for higher education to participate in its
123 programs, (B) the making of authority loans, education grants and
124 education loans, (C) provisions for default, (D) the establishment of
125 default reserve funds, (E) the purchase of default insurance, (F) the
126 provision by such institutions of prudent debt service reserves, (G) the
127 furnishing by Connecticut institutions for higher education and others
128 of such additional guarantees of the education loans, authority loans or
129 the bonds as the authority shall determine, and (H) any procedures for
130 allocating authority loans and education grants among Connecticut
131 institutions for higher education eligible for the [program] programs of
132 the authority in order to effectuate the purpose of this chapter. All
133 such criteria shall be established to assure the marketability of the
134 bonds and the adequacy of the security for the bonds. The criteria
135 governing the eligibility of Connecticut institutions for higher
136 education shall include limitations upon the principal amounts and the

137 terms of education loans, the amounts and terms of education grants
138 and qualifications and characteristics of borrowers and grant
139 recipients.

140 (7) To establish guidelines, criteria and procedures not in conflict
141 with existing statutes with respect to authority loans, education grants,
142 education loans and education loan series portfolios. Such guidelines,
143 criteria and procedures shall not be construed as regulations within the
144 scope of chapter 54.

145 (8) To receive and accept from any source loans, contributions or
146 grants, including money, property, labor, and other things of value
147 from any source for or in aid of an authority education [loan financing]
148 assistance program or any portion thereof and, when desirable, to use
149 such funds, property or labor only for the purposes for which it was
150 loaned, contributed or granted.

151 (9) To contract with guarantors, financial institutions or other
152 qualified loan origination and servicing organizations, which shall
153 assist in prequalifying borrowers for education loans and which shall
154 service and administer each education loan. The authority may require
155 that each borrower be charged a fee to defray the costs of origination,
156 servicing and administration of education loans. The amount and
157 method of collection of such fee shall be determined by the authority.
158 Participating institutions for higher education may perform any of the
159 acts described in this subdivision, or contract for their performance by
160 others, if these acts are authorized by the authority.

161 (10) To contract with a guarantor to provide security for the
162 payment of education loans through the issuance of insurance against
163 default or to provide a guarantee of payment covering all or a portion
164 of any education loan made by or on behalf of the authority or by or on
165 behalf of a participating institution for higher education from the
166 proceeds of an authority loan.

167 (11) To employ attorneys, accountants, consultants, financial
168 experts, loan processors, banks, managers, and such other employees

169 and agents as may be necessary in its judgment, and to fix their
170 compensation.

171 (12) To make authority loans, including loans on which interest may
172 accrue and periodically be added to the principal of such loan and be
173 subject to additional interest, and to require that the proceeds be used
174 in accordance with guidelines established by the authority for making
175 education loans and paying costs and fees in connection therewith.

176 (13) To charge and equitably apportion among participating
177 institutions for higher education its administrative costs and expenses
178 incurred in the exercise of the powers and duties granted by this
179 chapter.

180 (14) To borrow working capital funds and other funds as may be
181 necessary for start-up and continuing operations, as long as such funds
182 are borrowed in the name of the authority only. Such borrowings shall
183 be limited obligations of the character described in section 10a-232 and
184 shall be payable solely from revenues of the authority or the proceeds
185 of bonds pledged for that purpose.

186 (15) Notwithstanding any other provisions of this chapter, to
187 commingle and pledge as security for a series or issue of bonds, only
188 with the consent of all of the Connecticut institutions for higher
189 education which are participating in such series or issue: (A) The
190 education loan series portfolios and some or all future education loan
191 series portfolios of the authority or of such institutions for higher
192 education, and (B) the loan funding deposits of such institutions,
193 provided education loan series portfolios and other security and
194 moneys set aside in any fund or funds pledged for any series of bonds
195 or issue of bonds shall be held for the sole benefit of such series or
196 issues separate and apart from education loan series portfolios and
197 other security and moneys pledged for any other series or issue of
198 bonds of the authority. Bonds may be issued in series under one or
199 more resolutions or trust agreements in the discretion of the authority.

200 (16) To examine records and financial reports of institutions for

201 higher education, and to examine records and financial reports of any
202 person, organization or institution retained under subdivision (9), (10)
203 or (11) of this subsection.

204 (17) To do all things necessary or convenient to carry out the
205 purposes of this chapter. In carrying out the purposes of this chapter,
206 the authority may issue bonds, the proceeds of which are used to make
207 authority loans. In the event all or a portion of such proceeds are
208 loaned to one or more participating institutions for higher education or
209 to any combination of participating institutions for higher education,
210 all other provisions of this chapter shall apply to and for the benefit of
211 the authority and the participants in such joint project or projects. Any
212 such joint participation requires the express approval of all
213 participants.

214 (18) To make and enter into all contracts and agreements necessary
215 or incidental to the performance of its duties and the execution of its
216 powers under this chapter, including contracts and agreements for
217 such professional services as the board of directors shall deem
218 necessary, including, but not limited to, financial consultants, bond
219 counsel, underwriters and technical specialists and investment
220 agreements, as provided in section 10a-238.

221 (b) The authority shall require that authority loans be (1) used solely
222 for the purpose of education loans, and (2) in an amount not to exceed
223 the total cost of attendance, or, in the case of an education loan made to
224 refinance an eligible loan, in an amount not to exceed the outstanding
225 aggregate principal amount of such eligible loan, less other forms of
226 student assistance, as defined by the authority. In determining "other
227 forms of student assistance" the authority may consider [(1)] (A) grants
228 received under any federal or state grant programs, [(2)] (B) loan
229 proceeds received under any federal or other state loan program, [(3)]
230 (C) scholarship, grants or other nonrepayable assistance received from
231 government agencies, educational institutions or organizations,
232 including, but not limited to, the authority, and [(4)] (D) expected
233 family contributions. The authority shall require that each borrower

234 under an education loan shall use the proceeds solely for educational
235 purposes and purposes reasonably related thereto, or for the
236 refinancing of an eligible loan.

237 (c) Whenever refunding bonds are issued to refund bonds the
238 proceeds of which were used to make authority loans, the authority
239 may reduce the amounts of principal or interest, or both, it is owed by
240 the participating institution for higher education which had received
241 authority loans from the proceeds of the refunded bonds. Such
242 institutions may, or in accordance with guidelines established by the
243 authority shall, use any reduced amount to reduce the amount of
244 interest being paid on education loans which the institution has made
245 pursuant to the authority loans from the proceeds of the refunded
246 bonds.

247 (d) (1) The authority may develop and require the use of a master
248 promissory note for education loans. Each master promissory note
249 shall allow borrowers to receive, in addition to initial education loans,
250 additional education loans for the same or subsequent periods of
251 enrollment. Each master promissory note shall include a provision
252 stating that the note shall be governed by and construed pursuant to
253 the laws of the state of Connecticut.

254 (2) Notwithstanding any provision of the general statutes or any
255 regulation adopted pursuant to said statutes, each education loan
256 made under a master promissory note pursuant to this subsection may
257 be sold or assigned independently of any other education loan made
258 under the same master promissory note and each such loan shall be
259 separately enforceable on the basis of an original or copy of the master
260 promissory note in accordance with the terms of the master
261 promissory note.

262 (3) Notwithstanding any provision of the general statutes, each such
263 master promissory note shall be fully negotiable within the meaning
264 and for all purposes of title 42a, regardless of whether the form and
265 character of such master promissory note qualifies under the terms of
266 the provisions of title 42a.

267 (4) The authority may pledge all or any part of its interest in any
268 such master promissory note or the education loan evidenced by such
269 note as security for any issue of bonds or notes or any other
270 obligations. Such pledge shall be valid and binding from the time
271 when the pledge is made; the interest so pledged by the authority shall
272 immediately be subject to the lien of such pledge without any physical
273 delivery thereof or further act, and the lien of any such pledge shall be
274 valid and binding against all parties having claims of any kind in tort,
275 contract or otherwise against the authority or any participating
276 institution for higher education, irrespective of whether such parties
277 have notice of the lien. Such lien shall have priority over all other liens,
278 including, without limitation, the lien of any person who in the
279 ordinary course of business furnishes services or materials to the
280 authority. Notwithstanding the provisions of title 42a, neither the bond
281 resolution nor any financing statement, continuation statement or
282 other instrument by which a pledge or security interest is created or by
283 which the authority's interest in such master promissory notes is
284 assigned need be filed in any public records in order to perfect the
285 security interest or lien thereof as against third parties. Any outright
286 sale by the authority of any education loan evidenced by such a master
287 promissory note shall be effective and perfected automatically upon
288 attachment as defined in title 42a.

289 Sec. 3. Section 10a-230 of the general statutes is amended by adding
290 subsection (h) as follows (*Effective July 1, 2015*):

291 (NEW) (h) The authority is authorized and empowered to issue
292 bonds, notes or other obligations under this section, the interest on
293 which may be includable in the gross income of the holder or holders
294 of such bonds, notes or obligations under the Internal Revenue Code of
295 1986, or any subsequent corresponding internal revenue code of the
296 United States, as from time to time amended, to the same extent and in
297 the same manner that interest on bills, notes, bonds or other
298 obligations of the United States is includable in the gross income of the
299 holder or holders of such bonds, notes or obligations under any such
300 internal revenue code, and to issue bonds, notes or other obligations

301 under this section that may be eligible for tax credits or exemptions or
 302 payments from the federal government, or any other desired federal
 303 income tax treatment of such bonds, notes or other obligations. Any
 304 such bonds, notes or other obligations may be issued only upon a
 305 finding by the authority that such issuance is necessary, is in the public
 306 interest, and is in furtherance of the purposes and powers of the
 307 authority. The state hereby consents to such inclusion only for the
 308 bonds, notes or other obligations of the authority so authorized.

309 Sec. 4. (NEW) (*Effective July 1, 2015*) Notwithstanding the provisions
 310 of chapter 187b of the general statutes, the rate of interest for any
 311 authority loan, as defined in section 10a-223 of the general statutes, as
 312 amended by this act, made to finance attendance at an institution for
 313 higher education, for which the first disbursement is made on or after
 314 July 1, 2015, shall not exceed the high yield of the ten-year United
 315 States Treasury note auctioned at the final auction held prior to June
 316 first of the fiscal year preceding the fiscal year in which such loan was
 317 first disbursed plus two and five-hundredths per cent. Any reserve fee
 318 charged by the authority, as defined in said section, for administrative
 319 expenses and accounted for in such rate of interest shall not exceed
 320 two per cent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2015</i>	10a-223
Sec. 2	<i>July 1, 2015</i>	10a-225
Sec. 3	<i>July 1, 2015</i>	10a-230
Sec. 4	<i>July 1, 2015</i>	New section

HED *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Treasurer	GF - Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

Imposing an interest rate cap on the Connecticut Higher Education Supplemental Loan Authority (CHESLA) higher education loans and a 2 percent cap on CHESLA reserve fees could result in CHESLA having insufficient funds to cover debt service on its bonds. Since CHESLA's bonds are backed by the state's special capital reserve fund (SCRF), a deficiency in CHESLA's ability to pay debt service could result in a draw on the SCRF and a cost to the General Fund because the state would subsequently be obligated to replenish the SCRF from the resources of the General Fund.

BACKGROUND

The state permits quasi-public authorities to issue SCRF-backed bonds because the SCRF provides a higher level of repayment security, which results in a lower rate of interest on the bond issuance. SCRF-backed bonds are a contingent liability of the state, which does not count against the state's statutory limit on General Obligation (GO) bonds in CGS Sec. 3-21.¹ In the event that the SCRF is drawn down in

¹ CGS Sec. 3-21 imposes a ceiling on the amount of General Fund-supported debt that the Legislature may authorize that is equal to 1.6 times net General Fund tax receipts projected by the Finance, Revenue and Bonding Committee for the fiscal year in which the bonds are authorized.

part or completely, a draw on the General Fund is authorized and the SCRF is fully restored. The draw on the General Fund is deemed to be appropriated and is not subject to the constitutional or statutory appropriations cap. All that is required is a certification by the issuing authority of the amount required. If draws on a SCRF continue, the annual draws on the General Fund required to refill it also continue. CHESLA had a \$159.3 million outstanding balance of SCRF- backed bonds as of January 15, 2015.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future as long as the CHESLA SCRF is required to be replenished from the General Fund.

OLR Bill Analysis**HB 6907*****AN ACT CONCERNING THE DUTIES AND AUTHORITY OF THE CONNECTICUT HIGHER EDUCATION SUPPLEMENTAL LOAN AUTHORITY.*****SUMMARY:**

This bill allows the Connecticut Higher Education Supplemental Loan Authority (CHESLA) to issue loans to certain borrowers to refinance public or private student loans, including CHESLA loans (i.e., “eligible loans”). It also appears to allow Connecticut higher education institutions to similarly issue refinancing loans. The bill requires that refinancing loans not exceed the outstanding aggregate principal amount of the original loan. It allows CHESLA to establish guidelines, criteria, and procedures for issuing refinancing loans.

The bill caps the interest rate that CHESLA may charge borrowers for loans (1) first disbursed on or after July 1, 2015 and (2) made to finance attendance at a higher education institution. The bill also caps at 2% any reserve fees charged by CHESLA for administrative expenses and incorporated into the interest rate. The caps do not apply to refinancing loans.

By law, CHESLA may issue tax-exempt bonds backed by the authority’s revenues. The bill additionally allows CHESLA to issue taxable revenue bonds, including bonds that are eligible for federal tax credits, exemptions, and payments. Before issuing such bonds, CHESLA must find that their issuance is necessary, in the public interest, and in furtherance of the authority’s powers and purposes. (Under the federal Internal Revenue Code, tax-exempt bonds cannot be used to refinance student loans.)

Under the bill, CHESLA must incorporate information about

refinancing loans (e.g., number of applications received, number of students assisted) in its annual report. By law, CHESLA must provide the report to its board of directors, the governor, auditors of public accounts, and the Education and Finance, Revenue and Bonding committees (CGS § 10a-240).

The bill also (1) allows CHESLA to issue education grants and (2) makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2015

REFINANCING LOANS

The bill allows CHESLA to issue loans to certain borrowers in order to refinance student loans (i.e., “eligible loans”). Under the bill, an “eligible loan” is a loan that is in repayment that was made (1) by CHESLA or (2) to a “borrower” by any other private or governmental lender to finance attendance at a higher education institution. A “borrower” is:

1. someone who has an outstanding CHESLA loan,
2. an individual who (a) attends a Connecticut higher education institution or who currently resides in the state and (b) has received or agreed to pay an “education loan” or
3. a parent who has received or agreed to pay an “education loan” on behalf of a student who attends a Connecticut higher education institution or currently resides in the state.

An “education loan” is a loan to (1) a student in or from Connecticut, or a parent of such a student, to finance attendance at a higher education institution, or (2) a “borrower” to refinance one or more “eligible loans.”

By law, higher education institutions in Connecticut may issue loans using proceeds from CHESLA (CGS § 10a-241). By authorizing CHESLA to issue refinancing loans, the bill appears to similarly authorize Connecticut higher education institutions to use proceeds

from CHESLA to issue refinancing loans.

INTEREST RATE CAP

The bill caps the interest rate that CHESLA may charge borrowers for loans (1) first disbursed on or after July 1, 2015 and (2) made to finance attendance at a higher education institution. It limits the rate to the high yield of the 10-year U.S. Treasury note at the final auction held before June 1 of the fiscal year before the fiscal year in which the loan was first disbursed, plus 2.05% (see BACKGROUND).

In 2014, the 10-year U.S. Treasury note had a high yield of 2.61% at the final auction held before June 1. Thus, if the cap established by the bill were currently in effect, the interest rate on CHESLA loans first disbursed in FY 15 would be limited to 4.66%.

EDUCATION GRANTS

The bill allows CHESLA to issue education grants, which the bill defines as grants, scholarships, fellowships, or other nonrepayable assistance awarded (1) by CHESLA to a student currently residing in Connecticut to finance his or her attendance at a Connecticut higher education institution or (2) by or on behalf of such an institution to a Connecticut resident from the proceeds of funds provided by CHESLA. The bill allows CHESLA to establish guidelines, criteria, and procedures for issuing education grants.

BACKGROUND

Treasury Notes

Treasury notes are interest-bearing securities issued by the U.S. Treasury Department. The notes (1) earn a fixed rate of interest every six months until maturity, (2) have a fixed maturity of between one and 10 years, and (3) are auctioned monthly by the department.

Related Bill

SB 950, reported favorably by the Higher Education Committee, also allows CHESLA to refinance loans, but does not cap the interest rate CHESLA may charge borrowers.

COMMITTEE ACTION

Higher Education and Employment Advancement Committee

Joint Favorable

Yea 14 Nay 4 (03/24/2015)