

Bond Case Briefs

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Kansas Lawmakers Scrutinize KU's Out-of-State Bond Issue.

The University of Kansas borrowed \$330 million to build facilities without the approval of the Kansas Legislature.

KU used a Wisconsin agency to issue \$326.9 million in bonds last month, setting up a private corporation to serve as the debtor so it would not have to seek legislative permission.

University officials say they followed the law.

But House Speaker Ray Merrick, R-Stilwell, criticized the arrangement as “circumventing legislative oversight and escaping the public view.”

House Republicans are drafting legislation to prevent state universities from making similar arrangements in the future.

“Kansas taxpayers deserve for their elected representatives to be involved in substantial financial deals to make certain there is transparency and accountability wherever state assets are involved,” Merrick said in an e-mail.

Lawmakers have expressed concern that students will be forced to pay off the debt through tuition increases, a fear that KU officials say is unfounded.

The \$326.9 million in bonds was issued on behalf of the KU Campus Development Corporation, a nonprofit corporation the university established in October that is led by KU chancellor Bernadette Gray-Little and other high-level university administrators. Another \$56 million was collected from premiums that investors paid for the bonds.

The money will be used to finance the construction of a science building, a dormitory, a student union and other facilities on the university's Lawrence campus as part of a revitalization plan. Maryland-based Edgemoor Infrastructure and Real Estate will design and build the facilities for \$350 million.

To pay for the project, KU relied on the Public Finance Authority in Wisconsin to issue the bonds during the first week of January – instead of the Kansas Development Finance Authority, the agency that typically handles Kansas bond issues. A bond issue by the finance authority would have required legislative approval; going out of state to borrow money did not.

Structuring the bonds this way “protects the state from liability for that debt,” said Tim Caboni, KU's vice chancellor for public affairs.

The corporation will have to pay back the bonds over 30 years at a 3.76 percent interest rate. It will get that money from KU, which will lease the newly constructed buildings from the corporation at a cost of \$21.85 million a year.

‘They rushed’

Rep. Mark Hutton, R-Wichita, said he and other lawmakers had raised concerns about the project in recent months. The university issued the bonds in the first week of January, shortly before lawmakers returned for the session.

"I would maintain that they rushed to do the project before we gaveled in for session, because they knew we were going to raise those issues and try to block the project," Hutton said. "We have not been given adequate information to be able to justify or validate whether the need is there or not."

Caboni said the university tried to issue the bonds through the state finance authority. The agency said that would have required legislative approval.

Although the state finance authority was required to get legislative approval, the university was not, Caboni said. He added that state law "says if we're not using state funds, there's no requirement to get approval of the Legislature. So, No. 1, we followed the law. There was no need for legislative approval."

The university chose to issue the bonds through a Wisconsin agency instead so that the new residential facility can open in time for the 2017 fall semester, Caboni said. He added that the university has a great need for more bed space.

"We know the Legislature has said to us over and over again 'Don't come to us and ask for investment. We don't have the funds to do that right now,' " Caboni said, noting that the governor and other policymakers have challenged the university to act more like a business in recent years. "We were creative. We operated like a business, and we did what institutions across the nation have done: partnered with a private entity and bundled projects together to get a great deal for the families and students of the University of Kansas and for the state of Kansas."

Moody's Investor Services downgraded the university's credit outlook from stable to negative in December, citing the risks of the large capital expansion financed through bonds.

Tuition concerns

Hutton expressed concern that the university would rely on student tuition to pay off the bonds.

"This is \$22 million a year in debt service that the university is going to have to come up with. They've made it clear they're not asking for money from us. So where it's coming from?" Hutton said. "It's going to come from students. We asked them in Joint Committee (on State Building Construction) if they had any studies as to how the impact of this debt would be on tuition, and they said they had done no studies on that."

Caboni disputed the notion that the bonds would cause tuition to increase. He said some of the projects paid for by the bonds will be self-financing, such as the new dorm and parking garage.

Caboni said tuition would go to cover some of the cost of paying off the bonds but that it would come from expected enrollment increases by international students rather than a tuition increase.

About \$6.4 million of the annual cost is expected to be covered by nonresident enrollment growth, according to the university. The remaining cost will be covered by revenue generated by the facilities, operational savings and an \$18.70 per semester student fee that was passed by the Student Senate to finance the construction of the student union, the university said.

"Look, I know there's been some suggestion that this will raise tuition at the university. What really drives tuition (is that) ... the per-student subsidy by the state is down 40 percent since 2000. That's

the main driver of tuition increases. It's not this project. We have a \$1.2 billion budget, of which \$20 million is going to pay off these bonds," Caboni said. "If we can't make our budget, that means we've got bigger problems - not as an institution but as a state. Because what that means is the small percentage of our budget which we get from the state will have cratered."

Hutton called KU's bypassing of the Legislature a "slap in the face to every legislator."

"If this is such a great project, if this is going to enhance KU and the regents universities so much that it's worth all this to go through, then surely you trust it enough to bring it to the Legislature," Hutton said.

Regents OK project

The project received approval from the Kansas Board of Regents in December.

Rep. Ron Ryckman, R-Olathe, House budget committee chairman, said lawmakers had raised concerns about the cost of the project at a November meeting of the Joint Legislative Budget Committee. He said the Board of Regents was supposed to get answers to lawmakers' questions before the bonds were approved, but that did not happen.

Breeze Richardson, spokeswoman for the regents, said in an e-mail that her office was "unaware of any requests that were not met. The Board Office has confirmed with the University of Kansas, following the meeting of the Legislative Budget Committee on Monday, November 9, all questions asked of the University were answered."

Meeting notes taken by Ryckman's staff show the committee raised numerous concerns that were to receive further clarification - about the cost of the project, whether the state and students would be liable for the debt and that, unlike a typical public-private partnership, the corporation formed by the university would be bringing no capital to the project. Ryckman and his staff said those concerns were not addressed.

The KU bond sale comes at a time when lawmakers have called for more oversight of the state's finances in the wake of financing arrangements made by the Brownback administration.

"It's the same thing. It's all one thing to me," Ryckman said. "More accountability, more oversight, more structure."

Hutton said the House speaker has tapped him to write a bill to prevent state universities and state agencies from circumventing the Legislature on bond issues in the future. He hopes to introduce legislation this week.

Passing legislation to prevent state universities from doing this in the future would be an "awful message to be sending to the national business community that actually is looking at this project as an innovation," Caboni said. "The way the university has done this has made us a national leader in the relationship between universities and private entities."

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