

SENATE BILL 2975

By Harper

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 89 and Title 47, Chapter 14, relative to certain bonds issued by convention center authorities.

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

WHEREAS, the Federal government of the United States of America enacted the American Recovery and Reinvestment Act of 2009 ("ARRA"), on February 17, 2009, in an effort to stimulate the national economy in the wake of a severe economic crisis; and

WHEREAS, ARRA amended the Internal Revenue Code of 1986 (the "Code") to add Sections 54AA and 6431, creating direct-payment Build America Bonds ("BABs"); and

WHEREAS, state and local governments may issue BABs in 2009 and 2010 to finance capital expenditures otherwise eligible to be financed by tax-exempt governmental bonds; and

WHEREAS, interest on BABs is taxable to the holders of BABs, but the United States Treasury is obligated to make payments to the governmental issuer on each interest payment date equal to thirty-five percent (35%) of the interest paid on such date; and

WHEREAS, the net interest cost of BABs, which is interest paid to bondholders less the direct payments received from the U.S. Treasury, may be lower than the interest cost of similarly structured tax-exempt bonds, and thus BABs are desirable financing options for state and local governments; and

WHEREAS, convention center authorities formed pursuant to Tennessee Code Annotated, Title 7, Chapter 89, may also issue BABs and thereby finance many of their capital projects at lower borrowing costs; and

WHEREAS, despite the savings they may provide, all BABs are issued as taxable bonds and, therefore, have nominal interest rates higher than those for tax-exempt bonds; and

WHEREAS, Tennessee Code Annotated, section 47-14-103(2) provides that the maximum effective rate of interest for obligations issued by or on behalf of Tennessee governmental entities is the “applicable formula rate”; and

WHEREAS, under Tennessee Code Annotated, section 47-14-102, the “applicable formula rate” is an annual rate of interest at the time of determination that is four percentage points above the average prime loan rate for the most recent week for which such an average rate has been published by the board of governors of the Federal Reserve System; and

WHEREAS, the effective rate of interest on certain long-term BABs issued by convention center authorities to finance long-term facilities may, if calculated without giving effect to the subsidy payments expected to be made to the convention center authority by the U.S. Treasury, be in excess of the applicable formula rate; and

WHEREAS, to more accurately represent the true borrowing costs associated with BABs and thereby allow convention center authorities to take advantage of the interest cost savings provided by BABS, the Tennessee Legislature desires to amend Tennessee Code Annotated Title 7, Chapter 89, as set forth below; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Section 7-89-112, is amended by adding the following language as a new subsection:

(m) In applying § 47-14-103, and related provisions of title 47, chapter 14, to bonds issued by an authority pursuant to this section, the effective rate of interest on any such bond with respect to which the authority has made elections under § 54AA(d)(1)(C) of the Internal Revenue Code of 1986, to have § 54AA of apply to such bond, and § 54AA(g)(2)(B) of the Internal Revenue Code of 1986 to have Section 54AA(g) apply to

such bond, shall be determined by reducing the interest payable by the authority with respect to such bond by the amount of payments from the treasury department of the United States of America that the authority expected, at the time of the issuance of such bond, to receive with respect to such bond under § 6431(b) of the Internal Revenue Code of 1986, as a result of the foregoing elections.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.