

HB 1161
Senate Education Committee
March 1, 2023

Mr. Chairman and members of the Committee:

My name is Scott Wegner. I am a member of the law firm of Arntson Stewart Wegner PC (701.255.1008 / swegner@aswbondlaw.com). We serve as bond counsel to school districts.

HB 1161 deals with three provisions of law:

- A. State School Construction Fund (N.D.C.C. § 15.1-36-08)
- 1953
 - low interest rate (2%) loans to school districts for construction and remodeling projects
 - currently, the School Construction Assistance Revolving Loan Fund (SCARLF)
 - including coal development trust fund loans, total is 73 active loans, \$300m+ outstanding
 - DPI approves loans and BND administers the loan fund
 - to make loans, BND purchases bonds issued by school districts pursuant to Chapter 21-03
 - there are **2 types of school district bonds under Chapter 21-03:**
- B. General Obligation Bonds (N.D.C.C. § 21-03-06(4))
- 1927
 - requires voter approval (60% super majority)
 - voters approval dollar amount of bonds, unlimited excess mill levy to pay debt service
 - issue bonds for up to 20 years subject to debt limit (5% of assessed value, 10% /w vote)
- C. Building Fund Bonds (N.D.C.C. § 21-03-07(7))
- 1929
 - requires 60 day protest period (5% assessed value threshold), but no vote
 - borrow against building fund levy (up to 20 mills with voter 60% approval)
 - issue bonds for up to 20 years subject to debt limit
 - building fund bonds *specifically authorized* for state loans (21-03-07(7))
 - state loans *specifically authorized* for districts issuing bonds per ch. 21-03 (15.1-36-04)

2015 legislation requires **publication** of tax impact information in the notice of election and **posting** on the school district website as an eligibility requirement for a state loan.

“The School District intends to issue the \$7,900,000 general obligation bonds resulting in an additional millage of 39.50 mills, equal to \$39.50 on each \$1,000 of taxable valuation for the first taxable year after all of the bonds are issued.” (\$602,520 annual bond debt service divided by \$15,252 (value of 1 mill) = 39.50 mills).

The 2015 legislation has been interpreted as limiting state loans to school districts issuing general obligation bonds only, thus excluding building fund bonds. There is no reason to require school districts using building fund bonds to borrow at higher market rates.

HB 1161 clarifies the use of building fund bonds for state loans by requiring publication of tax impact information in the notice of opportunity to protest.