MINUTES

HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

December 14, 2017

The Higher Education Student Assistance Authority (HESAA) Board held a meeting by conference call on December 14, 2017 at 10:00 am at the HESAA offices in Hamilton.

PRESENT: Ms. Audrey Bennerson, Secretary of Higher Education Designee; Ms. Gabrielle Charette, Esq.; Mr. Anthony Falcone; Dr. Jon Larson; Ms. Jean McDonald Rash; Mr. Corey Amon; Treasurer's Designee; Mr. Bader Qarmout; Mr. Rbrey Singleton; Ms. Maria Torres, and Ms. Christy Van Horn Members.

ABSENT: Ms. Stephanie Berdugo-Hernandez

CALL TO ORDER

Christy Van Horn called the meeting to order at 10:02 am. Gabrielle Charette stated that the meeting had been noticed in compliance with the requirements of the Open Public Meetings Act.

Ms. Van Horn welcomed the Board members.

Ms. Van Horn welcomed Geoffrey Stark, Esq., Deputy Attorney General.

Ms. Van Horn also introduced Leah Sandbank, Esq., McManimon, Scotland and Baumann, LLC, Bond Counsel; Joseph Santoro, Bank of America Merrill Lynch and Tim Webb, Hilltop Securities.

Ms. Van Horn advised that no members of the public registered to speak.

Ms. Van Horn asked Roseann Sorrentino to call the roll.

RESOLUTION 23:17 A RESOLUTION OF THE NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY DECLARING ITS OFFICIAL INTENT TO ISSUE AN ADDITIONAL SERIES OF TAX-EXEMPT STUDENT LOAN REVENUE BONDS RELATING TO THE NJCLASS LOAN PROGRAM AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

Leah Sandbank presented Resolution 23:17 to the Board.

I am here to present Resolution 23:17 the New Jersey Higher Education Student Assistance Authority declaring its official intent to issue an additional series of tax-exempt bonds. The reason why this Resolution is titled this way, and the reason why it's before for you today is for one specific reason, and that is because in the proposed House tax reform bill eliminates Private Activity Bonds (PABs), which include the type of student loan revenue bonds that HESAA has used every year to finance its program. The Senate bill that was proposed does not eliminate PABs and at some point these bills need to be reconciled to have one tax reform bill that would go to the President for enactment. There is a very good chance that the final tax reform bill does get enacted this year, and though I have heard rumors that PABs are likely to be preserved and not repealed, there is still a chance that they could be eliminated.

This Resolution accounts for the event that a tax reform bill is enacted and PABs are eliminated for all bond issues starting January 1, 2018 but provides a transition rule for some period of time that allows PABs that were authorized before the tax reform bill is enacted to be issued. That is why we are considering this Resolution today. It acts as the Authority's authorization before the tax reform bill is enacted; it gives you a tax-exempt issue of PABs. The reason why I called it a declaration of official intent is because that means something very specific in the tax code. In order for any issuer of tax-exempt bonds to be reimbursed with proceeds of tax-exempt bonds they have to adopt an official intent resolution. The code is very clear about what goes into an official intent resolution and I wanted to do this because you were not in a position to adopt a full bond resolution. We do not know what indenture we are issuing out of; we do not know exactly how much we are going to issue; we do not know exactly the details of our program requirements, so it is not possible to put into the bond resolution. Throughout the State level, the local level and throughout the country at various governmental levels, issuers who have a project that they know they want to authorize and they know they are eventually going to issue tax-exempt bonds for adopt this type of declaration of official intent as an initial step. For example, both the NJEDA and NJ Housing and Mortgage Finance agencies, adopt declarations of official intent. That's why I put it in this form, because I think it would be honored by the IRS as evidence of the Authority's authorization to issue tax-exempt bonds.

We know we have $74 million of volume cap from 2017 that remains, that we will be able to carry over into 2018. The Resolution authorizes the bonds at a maximum amount $250 million, that's the normal not to exceed amount that we have been authorizing from year-to-year. We would need to receive an allocation of 2018 volume cap that would be an addition to the $74 million to make up the difference between the $74 million and what we eventually want to issue.

The Resolution also authorizes HESAA to expend an amount up to about $3 million in reserves. It is also customary in your bond resolutions to authorize a certain amount for reserves to act as either equity or over-collateralization in our bond indentures, in order for the rating agencies to give us the rating that we want. Because it is an intent resolution, the intent is that we have a program, we want to continue the program, and should we need to spend our own monies to do so, before we get to the point of issuing a tax-exempt bonds, we are authorizing a small amount of funds that can be issued to continue the program. I do not expect that you will actually expend those monies for a programmatic reason because I think we will be able to do a full bond transaction soon enough. With that normal course, the Resolution authorizes certain authorized officials, the ones we always authorize, Executive Director, CFO, to expend those funds and take actions to continue the program to spend the monies if necessary. The real key is in Section 6 where the Resolution is intended to be the Authority's declaration of its official intent to issue tax-exempt bonds and to use the proceeds to reimburse itself with funds that it spends on tax-exempt projects, or in this case continuation of NJCLASS program. That is the whole purpose of this Resolution.

A motion to approve this Resolution 23:17 was made by Dr. Jon Larson and seconded by Mr. Corey Amon.

Anthony Falcone questioned whether this would only effect 2018. Ms. Sandbank explained that the tax language that is currently proposed in the House bill says that no PABs can be issued after 2017. She explained that in 1986 when there were repeals there were transition rules that allowed bonds that were pre-1986 to continue for six months to a year. While the current version of the bill does not contain transition language she believes that it would be included and it is better to protect the Authority.

Corey Amon asked if HESAA is providing enough "headroom" as possible if this is enacted. Ms. Sandbank responded that the Resolution authorized an amount not to exceed $250 million, which is the amount the Authority generally issues.

Jon Larson asked what would happen if there is a repeal, and how would it effect HESAA's mission. Ms. Sandbank explained that if PABs are repealed and there is no transition rule HESAA would have to look at the cost. She explained that depending on market conditions it might mean a smaller program or higher interest rates. Joe Santoro added that the Authority has had to deal with other issues over the years, such as the cost of Alternative Minimum Tax (AMT), but the good news is that if AMT goes away that will help with the cost if there is a switch to PABs becoming taxable. He explained that HESAA's mission stays the same but the cost will be higher if either PABs are eliminated, or alternatively if the subsection of PABs for qualified student loans is eliminated.

Christy Van Horn aske who benefits from having the private activity bond eliminated. Joe Santoro explained that the Federal government considers the elimination of PABs as resulting in income to the Treasury as they are now no longer tax exempt. He advised however, that his firm has researched the possible income and found that the amount is overblown.

Rbrey Singleton asked about the reconciliation of the two bills, and whether counsel believes the repeal of PABs will remain in the final bill. Ms. Sandbank responded that the rumors that have been floating around the last couple days seem to indicate that the repeal of the PABs is not expected to be in the final form of the bill that goes to the President for approval.

Tim Webb added that while on this teleconference, it came across the wire from the Educational Finance Council (EFC) that the elimination of tax exempt PABS will be pulled from the bill.

The motion passed unanimously.

Rbrey Singleton brought up New Business to advise that Board that a borrower reached out to him personally on Facebook.

Gabrielle Charette thanked Mr. Singleton for advising the Board and staff and announced that there will be an Executive closed session following the HESAA Board meeting in January to discuss individual borrowers reaching out. She explained that staff cannot speak about an individual borrower's account in an open session. Deputy Attorney General Geoffrey Stark advised that Board members should not respond to individuals on behalf of the Board.

ADJOURNMENT

Chair Van Horn announced the next HESAA Board meeting will be held on January 24, 2018.

The meeting adjourned at 10:25 am.

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

GABRIELLE CHARETTE, ESQ.
Executive Director

MEMORANDUM

TO: Members, Higher Education Student Assistance Authority

THROUGH: Gabrielle Charette, Esq.
Executive Director

FROM: Jerry Traino
Chief Financial Officer

SUBJECT: Resolution 23:17 - A Resolution of the New Jersey Higher Education Student Assistance Authority Declaring its Official Intent to Issue An Additional Series of Tax-Exempt Student Loan Revenue Bonds Relating to the NJCLASS Loan Program and Determining Other Matters in Connection Therewith

DATE: December 14, 2017

Summary

Enclosed is the proposed declaration of official intent resolution for adoption (the "Resolution"). The Resolution declares the reasonable expectation of the Authority to issue an amount of tax-exempt Student Loan Revenue Bonds in a maximum principal amount not to exceed $250,000,000, subject to availability of Volume Cap in excess of $74,343,464, to originate student loans under the NJCLASS Loan Program and pilot loan refinance program, which programs HESAA has implemented pursuant to the Higher Education Student Assistance Authority Law (N.J.S.A. 18A:71A-1 et seq.) as amended and supplemented and constitute supplemental loan programs of the State of New Jersey.

The Resolution further authorizes HESAA to expend an amount up to $3.0 million from reserves, including the Guaranty Agency Operating Fund, the NJCLASS Life of Loan Servicing Reserves and NJBEST Scholarship Administrative reserves, in order to fund NJCLASS Loan program and pilot loan refinance program originations in anticipation of a future bond issue which would utilize (a) the remaining $74,343,464 of 2017 Volume Cap for private activity bonds allocated to HESAA at the beginning of 2017 and (b) any additional 2018 Volume Cap allocated to HESAA in early 2018. The maximum amount of bonds HESAA could issue, subject to the availability of volume cap, is $250,000,000.

Counsel has advised HESAA staff that the resolution contains language necessary to meet the requirements under the Internal Revenue Code of 1986, as amended and currently in effect, to be a declaration of an issuer's official intent to issue tax-exempt obligations. As you may be aware, the proposed House Congressional Tax Reform bill eliminates private activity bonds, such as HESAA's Student Loan Revenue Bonds, from being issued on a tax-exempt basis after December 31, 2017. If private activity bonds are repealed for 2018 and future years, but the tax reform bill permits the issuance of private activity bonds authorized prior to enactment of the repeal, counsel believes this resolution should be respected by the Internal Revenue Service as evidence of such authorization. Please note that this resolution is not a bond resolution and no bonds of HESAA may be issued until (i) HESAA receives an allocation of volume cap sufficient to issue its tax-exempt private activity bonds and (ii) a bond resolution including all the customary parameters, provisions and authorizations is presented to this board for review and adoption.

Ms. Leah Sandbank representing McManimon, Scotland and Baumann, LLC, Bond Counsel, will review the bond resolution with the Board.

Mr. Joseph Santoro of Bank of America Merrill Lynch and Mr. Steven Kantor of Hilltop Securities, will also be available at the Authority meeting to answer any questions from members of the Board.

It is recommended that the Board approve the attached Resolution 23:17.

Attachments

RESOLUTION 23:17

RESOLUTION OF THE NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY DECLARING ITS OFFICIAL INTENT TO ISSUE AN ADDITIONAL SERIES OF TAX-EXEMPT STUDENT LOAN REVENUE BONDS RELATING TO THE NJCLASS LOAN PROGRAM AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

Moved: Dr. Jon Larson
Seconded: Mr. Corey Amon

WHEREAS: The Higher Education Student Assistance Authority (the "*Authority*") is a body corporate and politic constituting an instrumentality of the State of New Jersey (the "*State*") established and created under and by virtue of the provisions of the Higher Education Student Assistance Authority Law, constituting Chapter 46 of the Pamphlet Laws of 1999 of the State of New Jersey, as amended and supplemented and any successor legislation (the "*Act*"); and

WHEREAS: The Authority has heretofore established its supplemental student loan program known as New Jersey College Loans to Assist State Students (NJCLASS) (the "*NJCLASS Loan Program*"); and

WHEREAS: The Authority has, from time to time, issued its various series of Student Loan Revenue Bonds (the "*Bonds*") to finance the NJCLASS Loan Program, the interest on which is excludable from the gross income of the holders of such bonds pursuant to Section 144(b)(B) of the Internal Revenue Code of 1986, as amended, as in effect on the date hereof (the "*Code*"); and

WHEREAS: The Authority has received an allocation of $199,412,655 of 2017 Volume Cap from the State, of which $74,343,464 has not been applied to any Bonds as of this date; and

WHEREAS: Subject to approval by the Authority of a Bond Resolution therefore, the Authority intends to issue a maximum amount of $250,000,000 aggregate principal amount of its tax-exempt bonds to be designated Student Loan Revenue Bonds, Series 2018 (the "*2018 Bonds*") to finance the NJCLASS Program; provided that the issuance of 2018 Bonds in excess of $74,343,464 is subject to the Authority's receipt of an allocation of 2018 State Volume Cap; and

WHEREAS: The Authority has determined to authorize the use of certain reserves, and any other source of temporary financing, to the extent necessary, to make NJCLASS loans until the proceeds of the 2018 Bonds become available; and

WHEREAS: The Authority expects and intends to treat an allocation of the proceeds of the 2018 Bonds to reimburse expenditures spent to originate new NJCLASS loans prior to the issue date of the 2018 Bonds as an expenditure of qualified student loans to be reimbursed for purposes of Sections 103 and 141 through 150, inclusive of the Code, with proceeds of the 2018 Bonds when issued;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY (not less than a majority of a quorum thereof affirmatively concurring) **AS FOLLOWS:**

Section 1. The Authority reasonably expects to issue the 2018 Bonds to originate student loans under the NJCLASS Loan Program and pilot loan refinance program.

Section 2. The maximum principal amount of the 2018 Bonds expected to be issued is $250,000,000 (subject to availability of Volume Cap in excess of $74,343,464).

Section 3. The eligible students under the NJCLASS Loan Program for which the 2018 Bonds will be issued are students who are or were enrolled as undergraduate or graduate students at a degree-granting college or university and students enrolled in post-secondary programs of study, in each case located within or outside the State of New Jersey and who meet the other eligibility criteria of the NJCLASS Loan Programs. The eligible students under the pilot loan refinance program for which the Bonds will be issued are students who were residents of the State of New Jersey or were enrolled as undergraduate or graduate students at a degree-granting college or university and students enrolled in post-secondary programs of study, in each case located within New Jersey or who are residents of New Jersey and in either case who meet the other eligibility criteria of the pilot refinance loan program. The NJCLASS Loan Program and pilot loan refinance program are implemented pursuant to the Higher Education Student Assistance Authority Law (N.J.S.A. 18A:71A-1 et seq.) as amended and supplemented and any successor legislation and the regulations thereunder and constitute supplemental loan programs of the State of New Jersey.

Section 4. The Authority hereby authorizes the expenditure of an amount to be determined by the Chairperson, Vice Chairperson, Secretary-Treasurer, Executive Director and Chief Financial Officer or other authorized representative or designee (each an "Authorized Authority Official" and, collectively, the "Authorized Authority Officials") to be necessary to continue the NJCLASS Loan Program until the proceeds of the 2018 Bonds become available, which aggregate amount shall not exceed $3,000,000, some or all of which shall consist of amounts transferred from any or all of the NJCLASS Life of Loan Servicing Reserves, the Guaranty Agency Operating Fund, the Direct Loan Servicing Fund or the NJBEST Scholarship Administrative Reserves. All such amounts shall be applied to originate student loans in accordance with the requirements of the Code, the NJCLASS Loan Program and Authority regulations. The Authority shall replenish such reserves from revenues and recoveries of principal on the student loans originated with such reserves.

Section 5. The Authority reasonably expects to reimburse its expenditure of NJCLASS loans paid prior to the issuance of the 2018 Bonds with proceeds of the 2018 Bonds.

Section 6. This resolution is intended to be and hereby is a declaration of the Authority's official intent to reimburse the expenditure of funds from reserves incurred and paid prior to the issuance of the 2018 Bonds with the proceeds of a borrowing to be incurred by the Authority, in accordance with §150.2 of the Treasury Regulations.

Section 7. The expenditures to be reimbursed with the proceeds of the 2018 Bonds will be expenditures to originate "qualified student loans", in accordance with the meaning of Section 150 of the Code.

Section 8. No reimbursement allocation will employ an "abusive arbitrage device" under §1.148-10 of the Treasury Regulations to avoid arbitrage restrictions or to avoid the restrictions under Sections 142 through 147 of the Code. The proceeds of the 2018 Bonds used to reimburse the Authority for costs of originating NJCLASS Loans, or funds corresponding to such amounts, will not be used in a manner that results in the creation of "replacement proceeds", including "sinking funds", "pledged funds" or funds subject to a "negative pledge" (as such terms are defined in §1.148-1 of the Treasury Regulations), of the 2018 Bonds or another issue of debt obligations of the Authority, other than amounts deposited into a "bona fide debt service fund" (as defined in §1.148-1 of the Treasury Regulations).

Section 9. All reimbursement allocations will occur not later than 18 months after the NJCLASS Loans are made with Authority funds.

Section 10. Any Authorized Authority Official or other authorized representative or designee are hereby authorized and directed to take such action as may be necessary or appropriate in order to effectuate the intent of this resolution.

Section 11. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor of the State for his approval, unless during such 10-day period the Governor shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

Adopted: December 14, 2017