Proposed Changes to Administrative Rules

The following is a marked draft of proposed changes to Administrative Rules, Title 90, Chapter 10, Subchapter 5, relating to the following change: (i) revising the fees assessed by the Council of Bond Oversight.

An impact statement is included as a result of these proposed changes.

Title 90. Council of Bond Oversight

Editor's Note: *Title 90 was previously assigned to the Oklahoma Executive and Legislative Bond Oversight Commissions. However, on 9-24-02, the Oklahoma Supreme Court ruled that the Oklahoma Legislative Bond Oversight Commission violated the separation of powers doctrine of the Oklahoma Constitution, "caus[ing] . . . the powers, duties, and responsibilities of the [Commissions] to devolve upon the Council of Bond Oversight." [See 2002 OK 74, 64 P.3d 546, Case No. 97419 (Supreme Court of the State of Oklahoma, 9-24-02] Pursuant to 62 O.S., Section 695.11A, "in the event either of the [Commissions] is found unconstitutional by a . . . court of competent jurisdiction, all powers, duties and responsibilities of the Commissions shall devolve upon the Council of Bond Oversight, and previous joint or individual actions, approvals or disapprovals of the Executive and Legislative Bond Oversight Commissions are hereby confirmed, ratified, validated and deemed incontestable." Following the ruling by the Supreme Court, the Council of Bond Oversight promulgated emergency amendments to certain rules in Title 90, effective 1-2-03. The Council then promulgated permanent amendments to supersede those emergency amendments, as well as permanent amendments to numerous other rules in Title 90, effective 7-11-03, as published herein. For the text of emergency rules promulgated by the Council of Bond Oversight and effective from 1-2-03 through 7-10-03, see 20 Ok Reg 453, 455, and 462. For the text of rules in Title 90 that have not been amended by the Council, see Title 90 in the 2001 Edition of the OAC.*

Chapter 10. Administration of the Oklahoma Bond Oversight and Reform Act

Subchapter 1	General Provisions
Subchapter 3	Application Procedure
Subchapter 5	Fees
Subchapter 7	Evaluation Standards and Criteria
Subchapter 9	Reporting
Subchapter 11	Credit Enhancement Reserve Fund Applications

Subchapter 5. Fees

90:10-5-1. Fee payment requirements

(a) Applicants must pay a fee to the Council if their submitted application is approved by the Council or if their application is deemed approved by operation of law, but only if the financing subject to an application is issued and closed. The State Bond Advisor may enter into written agreements with issuers to provide for periodic payment if the approved obligation will be in the form of draws or a line of credit. The State Bond Advisor may waive fee payment if the issue is a conduit financing with a state entity loan program financed with bond proceeds.

(b The fee shall be paid to the Council by means of a check or negotiable instrument upon receipt of an invoice from the official office of the Council and shall be paid within two weeks.

[**Source:** Amended at 8 Ok Reg 2531, eff 6-27-91; Amended at 9 Ok Reg 2251, eff 6-25-92; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-5-2. Fee schedule

(a) Fees (calculated by multiplying the principal amount times the applicable fee, as shown in the table below):

Principal Amount	**Fee** (expressed as basis points times principal amount of issuance or obligation
First $5 million	3 basis points (.0003)
In excess of $5 million, up to and including $50 million	2 basis points (.0002)
All amounts in excess of $50 million	1 basis point (.0001)
~~$200,000 or less~~	~~No Fee~~

~~Greater than $200,000~~
~~up to and including $2 million~~ ~~5 basis points (.0005)~~

~~Next $3 million~~ ~~3 basis points (.0003)~~

~~Next $10 million~~ ~~2 basis points (.0002)~~

~~Over $15 million~~ ~~1 basis point (.0001)~~

~~(b) Examples reflecting the calculation of fees are:~~
~~(1) The fee for a $205,000 lease purchase obligation is calculated as follows:~~
~~$205,000 x .0005 = $102.50 (fee due)~~
~~(2) The fee for a $5,500,000 bond issue or lease purchase obligation is calculated as follows:~~

~~$2,000,000 x .0005~~	~~=~~	~~$1,000~~
~~$3,000,000 x .0003~~		~~$ 900~~
~~$500,000 x .0002~~		~~$ 100~~
~~Fee due =~~		~~$2,000~~

-	~~$2,000,000 x .0005~~	~~=~~	~~$1,000~~ -
-	~~$3,000,000 x .0003~~	~~=~~	~~$ 900~~ -
-	~~$500,000 x .0002~~	~~=~~	~~$ 100~~ -
-	~~Fee due =~~	-	~~$2000~~ -

[**Source:** Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 12 Ok Reg 1991, eff 7-14-95; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

TITLE 90. COUNCIL OF BOND OVERSIGHT
CHAPTER 10. ADMINISTRATION OF THE OKLAHOMA BOND OVERSIGHT AND REFORM ACT
SUBCHAPTER 5. FEES

RULE IMPACT STATEMENT

A. Brief description of the purpose of the proposed rule.

The proposed rule is a revision of the fees assessed to bond issues and other borrowings that are subject to the Council of Bond Oversight's approval under the Oklahoma Bond Oversight and Reform Act The revised fees are intended to increase support for the operation of the State Bond Advisor's Office, which provides staff support to the Council of Bond Oversight.

B. Description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the agency from any private or public entities.

The proposed rule change will impact state entities that issue bonds and other obligations that are subject to the review and approval of the Council of Bond Oversight. Some entities may pay lower fees, depending on the size of their borrowings.

C. Description of the classes of persons who will benefit from the proposed rule.

The proposed revision will result in lower fees for all borrowings of $250,000 to $2,000,000. Certain other borrowings in the $2 million to $10 million range may also pay lower fees.

D. Description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change.

It is not expected that the fee will have any material economic impact on persons or political subdivisions. The fee is not assessed against individuals. In a few, limited cases, political subdivisions will be minimally affected if they participate in the Oklahoma Development Finance Authority's Credit Enhancement Reserve Program, a state bond guarantee program.

E. Probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency.

The revision of fees will benefit the State Bond Advisor's Office by providing additional income to the Bond Oversight Revolving Fund. That fund provides over two-thirds of the budget support for the State Bond Advisor's Office. Depending on the annual bond volume, against which the fee is assessed, the increase in receipts is expected to be in the 14%-18% range.

F. Determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule.

The proposed rule changes should not have an economic impact on any political subdivisions.

G. Determination of whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.

The proposed revision of fees will have no adverse impact upon Small Business.

H. Explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule.

The proposed changes are necessary to replace lost appropriated dollars. Absent an increase in appropriations to the State Bond Advisor's Office, there is no less costly approach available.

I. Determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk.

The proposed rule should have no effect on the public health, safety, and environment.

J. Determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented.

No effect on the public health, safety, or the environment will result if these rule amendments are not implemented.

K. Date the rule impact statement was prepared and if modified, the date modified.

December 4, 2015.