

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/12/13

SPONSOR Rue LAST UPDATED _____ HB _____

SHORT TITLE Public Securities Delegation of Duties SB 346

ANALYST Weber

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 Department of Finance and Administration (DFA)
 New Mexico Finance Authority (NMFA)
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

Senate Bill 346 allows public body in an authorizing instrument authorize one or more designated officers or employees of the public body to act on behalf of the public body within the terms and conditions established in the authorizing instrument and to determine certain provisions of the public securities pursuant to this section. The authorizing instrument must include: (a) the purpose for which the public securities are being issued; (b) the maximum amount of the public securities to be issued; (c) the maximum term for which the public securities issued may be outstanding; (d) the maximum interest rate that any such public securities may bear; (e) each tax or revenue source pledged or securing payment of the public securities; (f) subject to Paragraph (2) of this subsection and the requirements of other applicable law, the method of public or private sale of the public securities, the minimum and maximum sale price of the public securities and the form of the public securities; and (g) if the public securities are to be issued, in whole or in part, to refund other obligations, the potential general or special obligations that may be refunded;

In addition it may establish parameters for the designated officer or employee of the public body including setting, determining and certifying in writing: (a) interest and principal payment dates; (b) principal amount and maturity amortization; (c) sale price; (d) interest rates; (e) interest payment periods; (f) redemption and tender provisions; (g) procurement of municipal bond insurance and any related covenants or agreements; (h) creation of debt service reserve funds, including the size and funding of the funds; (i) other procedures, terms and details relating to the issuance of public securities as specified in the authorizing instrument; and (j) if the public securities are to be issued, in whole or in part, to refund all or a portion of the eligible obligations set forth in the authorizing instrument, the specific obligations to be refunded, including specific maturities or partial maturities.

It further provides that a written certification of the designated officer or employee shall have the same effect as a finding or determination made by the public body.

SB 346 contemplates that the delegation of authority granted in the authorizing instrument expires 180 days from the date of adoption of the authorizing instrument or a shorter period if provided in the authorizing instrument.

FISCAL IMPLICATIONS

No fiscal implications identified.

However, the DFA notes that allowing this type of flexibility for the sale of securities could feasibly allow bond sales to be completed under more favorable market conditions, thereby reducing the cost of borrowing on municipal bonds.

SIGNIFICANT ISSUES

The DFA continues that the bill attempts to allow public bodies that issue securities (for example the State Board of Finance) authority to delegate certain provisions of their bond sales and other securities sales to an authorized employee. This could feasibly be a useful tool, especially if market conditions are volatile at the time bonds are sold. Delegation could allow additional flexibility to ensure bonds are priced under the most favorable market conditions possible. However, if expansive duties are delegated to an employee who lacks securities market knowledge or experience, the results may not be as intended.

If given this authority, the State Board of Finance could, for example, pass a resolution delegating its Executive Officer (the Secretary of the DFA) to take bids and sell bonds within a certain time period and within certain parameters.

The New Mexico Finance Authority (NMFA) reports it has sales that include a package of loans to various New Mexico public bodies and it requires that included loans of more than \$5 million in amount take place simultaneously with the bond sale to limit interest rate risk for the NMFA. To be able to sell the bonds with assurance that \$5 million or more borrowers will actually close on their loans, the NMFA requires that those borrowers have, on the day of the bond sale, a special meeting of their governing body to provide final authorization for the loan. There may be 4 or 5 simultaneous borrowers in a NMFA bond issue so each of those public bodies must have special meeting with a quorum on the day of the sale to give final authorizations to terms and conditions or the NMFA is at risk that it will over bond. By borrowers being able to

delegate authority to one or more representatives, the NMFA bond sales would be able to proceed with less risk and less inconvenience to many governing bodies without loss of oversight.

Furthermore, the NMFA sells conduit bonds for various State bodies including the Department of Transportation for the GRIP program. When a State Transportation Commission (STC) bond sale cannot coincide with a NMFA regular Board meeting, a Special Meeting of the NMFA Board must be called to approve the bond sale. The NMFA has members from around the State and such a Special Board meeting needs only a few minutes to determine that the terms and conditions of the sale are within the authorizing parameters. Approval of the bond sale would be more efficiently accomplished if the NMFA could designate representatives to make the same determination. Not having to coordinate Board or Commission meetings around bond sales would provide both STC and the NMFA with more flexibility to better manage bond sales.

TECHNICAL ISSUES

The AGO offers the following technical that may deserve attention for changes:

Page 2, lines 21-22 read in part “when in effecting . . .” The word “in” should be deleted so that it reads “when effecting . . .”

Page 3, lines 24 and 25 refer to a finding or determination made “pursuant to Paragraph (2) of Subsection A of this section . . .” It should read “pursuant to Paragraph (2) of Subsection B of this section . . .”

Page 4, lines 23-24 reads “the provisions of this section shall be applicable, notwithstanding any conflicting . . .” To be clear, it should “the provisions of this section shall be applicable to all public bodies, notwithstanding any conflicting . . .”

MW/svb