NEW MEXICO FINANCE AUTHORITY

Senate Bill 346 – Allows Public Bodies to Delegate Bond Approval Authority to One or More Officers or Employees

Who would benefit:

- All bond issuers in the State including the Finance Authority

What are the benefits:

- More efficient use of time – reduce limited purpose Special Meetings
- Flexibility to react to market conditions to move up or delay sales
- Designees more informed, able to make better pricing decisions

What are the Safeguards:

- Parameters set in public meetings determine what can be approved
- Bond counsel will not allow closing to take place outside parameters
- Designees report back results in a public meeting
- Entities are not required to delegate authority

SENATE BILL 346

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Sander Rue

AN ACT

RELATING TO PUBLIC SECURITIES; ALLOWING PUBLIC BODIES IN THE AUTHORIZING INSTRUMENT TO DELEGATE CERTAIN DUTIES TO OFFICERS OR EMPLOYEES OF THE PUBLIC BODY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Supplemental Public Securities Act is enacted to read:

"[NEW MATERIAL] DELEGATION.--

A. A public body may 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.

B. The authorizing instrument:

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(1) shall establish:

(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;

(2) may establish parameters for the designated officer or employee of the public body when in effecting the sale and delivery of the public securities, including setting, determining and certifying in writing:

(a) interest and principal payment dates;

(b) principal amount and maturity

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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.

C. The public body may provide for the designation of and agreements with a trustee, paying agent, registrar, escrow agent, tender agent, remarketing agent or any other agent or service provider required for the sale, issuance and delivery of the public securities.

D. A finding or determination made and certified by an officer or employee pursuant to Paragraph (2) of Subsection A of this section and the related authorizing instrument has

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the same effect as a finding or determination made by the public body, and the certification shall be incorporated into and be part of the authorizing instrument. The designated officer or employee shall not exceed the authority delegated to the officer or employee in the authorizing instrument.

E. Adoption of an authorizing instrument that includes delegation pursuant to this section constitutes final passage of the authorizing instrument for the purposes of any applicable general or special law or any constitutional or statutory provision or municipal charter related to any referendum or petition right.

F. For the purposes of the Public Securities Limitation of Action Act or other similar limitation of action statute, publication of notice of adoption of the authorizing instrument shall not occur prior to the determination and certification of terms and details of the public security within the conditions and parameters established in the authorizing instrument.

G. The delegation authority granted in an authorizing instrument expires one hundred eighty days from the date of adoption of the authorizing instrument or a shorter period if provided in the authorizing instrument.

H. The provisions of this section shall be expressly applicable, notwithstanding any conflicting provision of law or municipal charter to the contrary."

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SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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