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BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC SECURITIES; ALLOWING PUBLIC BODIES TO
DELEGATE AUTHORITY FOR MAKING CERTAIN DETERMINATIONS REGARDING
SALES OF PUBLIC SECURITIES; CLARIFYING THE DEFINITIONS OF
"PUBLIC BODY" AND "PUBLIC SECURITIES".

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

SECTION 1. Section 6-14-9 NMSA 1978 (being Laws 1983,
Chapter 265, Section 2) is amended to read:

"6-14-9. DEFINITIONS.--As used in the Supplemental Public
Securities Act:

A. "authorizing instrument" means the ordinance,
resolution, other official action or any applicable combination
thereof by which public securities are authorized to be issued
by a public body;

B. "public body" means this state or any

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1 department, board, agency or instrumentality of the state, any
2 county, city, town, village, school district, other district or
3 educational institution, the New Mexico finance authority or
4 any other governmental agency or political subdivision of the
5 state;

6 C. "public securities" means any bonds, notes,
7 loans, warrants or other obligations now or hereafter
8 authorized to be issued by any public body pursuant to the
9 provisions of any general or special statute, any
10 constitutional or statutory charter or any other law; and

11 D. "registrar" means the treasurer or any other
12 officer of the public body or of any other public body or any
13 corporate or other trustee, registrar, paying agent, transfer
14 agent, custodian or other financial intermediary within the
15 United States as may be appointed or designated in the
16 authorizing instrument."

17 SECTION 2. A new section of the Supplemental Public
18 Securities Act is enacted to read:

19 "[NEW MATERIAL] DELEGATION OF AUTHORITY BY PUBLIC BODY--
20 AUTHORIZING INSTRUMENT.--

21 A. A public body may adopt an authorizing
22 instrument that delegates to one or more members, officers or
23 employees of the public body the authority to sign a contract
24 for the purchase or sale of public securities or to accept a
25 binding bid for public securities and to determine the final

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1 terms for public securities to be issued pursuant to Subsection
2 C of this section. The authorizing instrument shall be
3 effective for one hundred eighty days or for a specified
4 shorter period.

5 B. An authorizing instrument delegating authority
6 pursuant to Subsection A of this section shall establish the
7 conditions for the public securities, including:

8 (1) the public purpose for which the public
9 securities are to be issued;

10 (2) the maximum par amount of the public
11 securities;

12 (3) the maximum term for which the public
13 securities may be outstanding;

14 (4) the maximum interest rate that the public
15 securities may bear;

16 (5) each tax or revenue source that is pledged
17 to or that shall secure payment for the public securities;

18 (6) whether the public securities will be sold
19 at a public or a private sale;

20 (7) the minimum sales price or the maximum
21 sales price of the public securities;

22 (8) the maximum amount of underwriting
23 discount, if any, as a percentage of the aggregate principal
24 amount of the public securities;

25 (9) the form of the public securities, subject

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1 to the final terms described in Subsection C of this section;

2 (10) the public securities that may be
3 refunded, if any; and

4 (11) the appointment of a trustee, paying
5 agent, registrar, escrow agent, tender agent, remarketing
6 agent, dissemination agent or any other agent or service
7 provider required for the sale, issuance and delivery of the
8 public securities and the form of agreement for each
9 appointment.

10 C. Subject to the conditions established in
11 Subsection B of this section, a delegatee may be authorized,
12 pursuant to the authorizing instrument, to determine any or all
13 of the following final terms of the public securities:

14 (1) the interest and principal payment dates;

15 (2) the principal amount, denominations and
16 maturity amortization;

17 (3) the sale price;

18 (4) the interest rate;

19 (5) the interest payment periods;

20 (6) the redemption and tender provisions;

21 (7) the procurement of municipal bond
22 insurance and any related covenants or agreements;

23 (8) the creation of any capitalized interest
24 or debt service reserve funds, including the size and funding
25 of the funds;

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1 (9) the amount of underwriting discount, if
2 any;

3 (10) the public securities to be refunded, if
4 any; and

5 (11) the final terms of agreements, if any,
6 with one or more trustee, paying agent, registrar, escrow
7 agent, tender agent, remarketing agent, dissemination agent or
8 any other agent or service provider required for the purchase,
9 sale, issuance and delivery of the public securities.

10 D. The public body shall determine and approve any
11 terms not listed in Subsection C of this section.

12 E. The delegatee shall certify in writing, prior to
13 the delivery of the public securities, that the terms
14 determined pursuant to Subsection C of this section comply with
15 the conditions established in the authorizing instrument
16 pursuant to Subsection B of this section. The delegatee shall
17 present the written certification containing the final terms of
18 the public securities to the public body in a timely manner,
19 before or after the delivery of the public securities, at a
20 regularly scheduled meeting of the public body held in
21 compliance with the Open Meetings Act.

22 F. A public body need not approve a determination
23 made by the delegatee pursuant to Subsection C of this section
24 if the determination complies with the conditions established
25 in the authorizing instrument pursuant to Subsection B of this

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1 section. A determination made by the delegatee pursuant to
2 this section has the same force and effect as a determination
3 made by the public body.

4 G. A public body's adoption of an authorizing
5 instrument that includes a delegation of authority pursuant to
6 this section constitutes final passage of the authorizing
7 instrument for the purposes of any applicable general or
8 special law or any constitutional or statutory provision or
9 municipal charter related to any referendum or petition right."

10 SECTION 3. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2015.