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SENATE BILL 670

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

John T. L. Grubesi c

AN ACT

RELATING TO PUBLIC FINANCE; PROVIDING FOR THE SALE OF GENERAL OBLIGATION BONDS TO THE STATE OF NEW MEXICO; PROVIDING FOR THE SALE OF SHORT-TERM AND VARIABLE RATE DEMAND GENERAL OBLIGATION BONDS BY NEGOTIATED SALE.

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

Section 1. Section 6-15-5 NMSA 1978 (being Laws 1929, Chapter 201, Section 3, as amended) is amended to read:

"6-15-5. SALE OF BONDS. --

A. Before any bonds issued by a municipal corporation are offered for public sale, the corporate authorities issuing the bonds shall designate the maximum net effective interest rate the bonds shall bear, which shall not exceed the maximum permitted by the Public Securities Act.

Except as provided in Subsection B of this section and in

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1 Sections 6-18-6, 6-18-7 and 6-21-9 NMSA 1978, all the bonds
2 shall be offered and sold at public sale pursuant to this
3 section.

4 B. Bonds may be sold at private sale to the state
5 of New Mexico at the price and upon such terms and conditions
6 as a municipal corporation and the state of New Mexico may
7 determine.

8 [~~B.~~] C. A notice calling for bids for the purchase
9 of the bonds shall be published once at least one week prior to
10 the date of the sale in a newspaper having local circulation.
11 The notice shall specify a place and designate a day and hour
12 subsequent to the date of the publication when bids shall be
13 received and publicly opened for the purchase of the bonds.
14 The notice shall specify the maximum net effective interest
15 rate permitted for the bonds and the maximum discount if a
16 discount is allowed by the governing body and shall require
17 bidders to submit a bid specifying the lowest rate of interest
18 and any premium or discount if allowed by the governing body
19 at, above or below par at which the bidder will purchase the
20 bonds. The bonds shall be sold to the responsible bidder
21 making the best bid determined by the municipal corporation as
22 set forth in the notice, subject to the right of the governing
23 body to reject any and all bids and readvertise. All bids
24 shall be sealed or sent by facsimile or other electronic
25 transmission to the municipal corporation as set forth in the

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1 notice. Except for the bid of the state of New Mexico or the
2 United States, if one is received, all bids shall be
3 accompanied by a deposit of not less than two percent of the
4 principal amount of the bonds, either in the form of a
5 financial security bond or in cash or by cashier's or
6 treasurer's check of, or by certified check drawn on, a solvent
7 commercial bank or trust company in the United States, which
8 deposit shall be returned if the bid is not accepted. The
9 financial surety bond or the long-term debt obligations of the
10 issuer or person guarantying the obligations of the issuer of
11 the financial surety bond shall be rated in one of the top two
12 rating categories of a nationally recognized rating agency,
13 without regard to any modification of the rating, and the
14 financial surety bond must be issued by an insurance company
15 licensed to issue such a bond in New Mexico. If the successful
16 bidder does not complete the purchase of the bonds within
17 thirty days following the acceptance of his bid or within ten
18 days after the bonds are made ready and are offered by the
19 municipal corporation for delivery, whichever is later, the
20 amount of his deposit shall be forfeited to the municipal
21 corporation issuing the bonds, and, in that event, the
22 governing body may accept the bid of the bidder making the next
23 best bid. If all bids are rejected, the governing body may
24 readvertise the bonds for sale in the same manner as for the
25 original advertisement or sell the bonds at private sale to the

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1 state of New Mexico or the United States. If there are two or
2 more equal bids and the bids are the best bids received, the
3 governing body shall determine which bid shall be accepted.

4 ~~[B-]~~ D. Except as provided in this section, bonds
5 to be issued by a municipal corporation for various purposes
6 may be sold and issued as a single combined issue even though
7 they may have been authorized by separate votes at an election
8 or elections. Bonds authorized by any city, town or village
9 for the construction or purchase of a system for supplying
10 water, a sanitary sewer system or a storm sewer system may be
11 combined with each other and sold and issued as a single issue
12 but may not be combined with bonds to be issued for any other
13 purpose that may be subject to the debt limitation of Article
14 9, Section 13 of the constitution of New Mexico. "

15 Section 2. Section 6-18-6 NMSA 1978 (being Laws 1983,
16 Chapter 161, Section 6, as amended) is amended to read:

17 "6-18-6. SHORT-TERM BONDS. -- A public body may authorize
18 short-term bonds, ~~[which]~~ including short-term general
19 obligation bonds, that provide for any or all of the following
20 in or pursuant to the bond legislation:

21 A. principal maturities may be for any one or more
22 periods of two years or less from the respective dates of
23 issuance;

24 B. interest may be payable on any one or more
25 dates, or at principal maturity;

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1 C. interest may but need not be represented by
2 coupons;

3 D. the bonds may be in coupon form, in form
4 registered as to principal or registered as to both principal
5 and interest, or in book entry form, and provision may be made
6 for exchange of one form for another;

7 E. the bonds may be in form with stated interest or
8 in discount form without stated interest, or a combination
9 thereof;

10 F. the bond legislation may provide for the renewal
11 or refunding of such bonds, at or before maturity, by the
12 issuance or successive issuance of renewal or refunding bonds
13 under that bond legislation without necessity for further act
14 by the governing body, provided that the maturities of such
15 renewal or refunding bonds shall not exceed two years from
16 their respective dates of issuance. In the bond legislation
17 approved by the governing body, the governing body may
18 authorize or direct one or more officers of the public body to:

19 (1) fix the interest rate or rates for each
20 issue of bonds and renewal or refunding issues, subject to a
21 maximum rate or rates as a stated interest rate or net
22 effective interest rate, which maximum shall be set forth in
23 such bond legislation or determined from time to time in
24 accordance with a formula, index, data or procedure as provided
25 for in the bond legislation, provided that, whether or not such

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1 a formula, index, data or procedure is provided for, bond
2 legislation with respect to indebtedness shall set forth stated
3 maximums of net effective interest rates;

4 (2) determine the discount for bonds with
5 stated interest and for bonds without stated interest, subject
6 to any limitations thereon provided in the bond legislation;

7 (3) fix the date of such bonds, which may be
8 stated in such bond legislation as the date or dates of issue
9 and which may be a date on or before the respective date or
10 dates of issuance;

11 (4) fix the maturity date or dates of such
12 bonds, which shall be within minimum and maximum periods
13 described in such bond legislation; and

14 (5) designate the denomination of such bonds,
15 subject to minimums and integral multiples of stated amounts
16 provided in such bond legislation;

17 G. the public body may contract with agents or
18 trustees for services in connection with the issuance,
19 transfer, exchange, registration, record keeping for and the
20 payment of such bonds and matters incidental thereto, and the
21 public body has authority to act under such contracts. Without
22 limiting the generality of the preceding sentence, such
23 contracts may provide:

24 (1) for the maintenance of a supply of bond
25 forms with the agent or trustee, which forms bear the facsimile

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1 of all signatures of officers of the public body necessary for
2 the purpose and, if applicable, the facsimile of the seal of
3 the public body, contain blanks as to owner, date, maturity,
4 denomination, interest rates and original issue discount as
5 appropriate, and provide a form of authentication by the agent
6 or trustee upon issuance;

7 (2) for the officer or officers of the public
8 body, authorized by the governing body to do so, to direct the
9 agent or trustee with respect to the completion of such blanks
10 and the delivery of the bonds, by oral, electronic or written
11 communication prior to the authentication and delivery of such
12 bonds, and that any such oral or electronic communication
13 thereafter shall be confirmed in writing; and

14 (3) for the establishment with the agent or
15 trustee of funds, in trust, for payment of the principal of and
16 interest on the bonds and for payments by and on behalf of the
17 public body into such funds, including payments thereto from
18 the proceeds of renewal or refunding bonds;

19 H. notwithstanding any other provision of law to
20 the contrary, the public body may contract with banks or
21 investment bankers, or others with appropriate capabilities, to
22 provide services, which may be on an exclusive basis, in the
23 placement of the bonds with purchasers, or to purchase the
24 bonds, or both, which contract may provide for all matters
25 incidental thereto and may be a negotiated contract. Contracts

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1 pursuant to this subsection may include services for the
2 placement or purchase of short-term general obligation bonds
3 and, for purposes of Section 6-18-7 NMSA 1978, variable rate
4 demand general obligation bonds;

5 I. the public body may covenant, in the bond
6 legislation, to the holders or owners of the bonds and to the
7 trustee, if any, for the benefit of such holders and owners,
8 that it will issue bonds to renew, or fund or refund, the bonds
9 and any accrued interest thereon, at or before maturity to the
10 extent not provided for from money otherwise available for the
11 purpose. In addition to other reductions permitted in the levy
12 of property taxes for principal or interest on indebtedness,
13 reduction may be made to the extent that principal or interest
14 thereon is to be covered by the proceeds of refunding or
15 renewal bonds;

16 J. in addition to the authority to issue bonds for
17 such purposes under the Public Securities Short-Term Interest
18 Rate Act, the public body may, to the extent not prohibited by
19 the bond legislation, retire or provide for the payment at any
20 time of the bonds authorized under that act by the issuance of
21 bonds under authority of any other law consistent with the
22 maturities and other terms authorized by such laws and without
23 impediment or other effect thereunder by reason of previously
24 having issued the bonds under the Public Securities Short-Term
25 Interest Rate Act, except as stated in Subsection B of Section

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1 6-18-10 NMSA 1978; and

2 K. the provisions of Section 6-18-7 NMSA 1978 may
3 be used with respect to any bonds issued pursuant to this
4 section. "

5 Section 3. Section 6-18-7 NMSA 1978 (being Laws 1983,
6 Chapter 161, Section 7) is amended to read:

7 "6-18-7. VARIABLE RATE DEMAND BONDS. --A public body may
8 issue bonds, including variable rate demand general obligation
9 bonds, with any of the following provisions:

10 A. the owners or holders of the bonds may be
11 granted the right to demand payment of principal and accrued
12 interest prior to the maturity of such bonds at a designated
13 time or at designated times, or upon a specified period of
14 notice by such owner or holder, at par or at such other amount
15 as is provided for in or pursuant to the bond legislation;

16 B. the owners or holders of the bonds may be
17 granted the right to deliver, or put, the bonds to the public
18 body or to a designated party for purchase by the public body
19 or such party at par and accrued interest or such other price
20 as is provided for in or pursuant to the bond legislation;

21 C. the public body may contract with a bank,
22 investment banker or other capable party for the remarketing of
23 bonds as to which the owners or holders have exercised such
24 demand or put rights;

25 D. the bond legislation may provide for variable

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1 interest rates to be paid on the bonds, changing from time to
2 time in accordance with one or more formulas, indices, data or
3 procedures as provided for in the bond legislation, provided
4 that where variable interest rates are provided for with
5 respect to indebtedness, the bond legislation shall also
6 prescribe a stated maximum net effective interest rate or rates
7 for different maturities and, if necessary, for credit
8 facilities used pursuant to the authority granted by Section [8
9 of the Public Securities Short-Term Interest Rate Act] 6-18-8
10 NMSA 1978;

11 E. the public body may contract with a competent
12 party to provide an index or indices in relation to which the
13 interest rate of the bonds may be determined from time to time;

14 F. bonds with provisions under which the holders or
15 owners may demand payment or put the bonds for purchase or
16 repurchase at any time within one year from the date of such
17 bonds, whether or not such rights may also be exercised after
18 such period, may be sold by competitive or negotiated sale;

19 G. the public body may contract with others to
20 provide to the public body or to the holders or owners of the
21 bonds, or to a trustee or agent on their behalf, a standby or
22 fixed commitment to purchase those bonds at prices provided in
23 or pursuant to such contracts; and

24 H. the provisions of Subsections B, C, D, E, G, H,
25 I and J of Section [~~6 of the Public Securities Short-Term~~

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1 ~~Interest Rate Act]~~ 6-18-6 NMSA 1978 are applicable to bonds
2 issued under this section, notwithstanding such bonds may have
3 maturities in excess of two years."

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