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

B. Bonds maturing in less than thirty days may be sold at private sale to the state of New Mexico at the price and upon such terms and conditions as a municipal corporation and the state of New Mexico may determine.

C. A notice calling for bids for the purchase of the bonds shall be published once at least one week prior to

1 the date of the sale in a newspaper having local circulation.
2 The notice shall specify a place and designate a day and hour
3 subsequent to the date of the publication when bids shall be
4 received and publicly opened for the purchase of the bonds.
5 The notice shall specify the maximum net effective interest
6 rate permitted for the bonds and the maximum discount if a
7 discount is allowed by the governing body and shall require
8 bidders to submit a bid specifying the lowest rate of
9 interest and any premium or discount if allowed by the
10 governing body at, above or below par at which the bidder
11 will purchase the bonds. The bonds shall be sold to the
12 responsible bidder making the best bid determined by the
13 municipal corporation as set forth in the notice, subject to
14 the right of the governing body to reject any and all bids
15 and readvertise. All bids shall be sealed or sent by
16 facsimile or other electronic transmission to the municipal
17 corporation as set forth in the notice. Except for the bid
18 of the state of New Mexico or the United States, if one is
19 received, all bids shall be accompanied by a deposit of not
20 less than two percent of the principal amount of the bonds,
21 either in the form of a financial security bond or in cash or
22 by cashier's or treasurer's check of, or by certified check
23 drawn on, a solvent commercial bank or trust company in the
24 United States, which deposit shall be returned if the bid is
25 not accepted. The financial surety bond or the long-term

1 debt obligations of the issuer or person guarantying the
2 obligations of the issuer of the financial surety bond shall
3 be rated in one of the top two rating categories of a
4 nationally recognized rating agency, without regard to any
5 modification of the rating, and the financial surety bond
6 must be issued by an insurance company licensed to issue such
7 a bond in New Mexico. If the successful bidder does not
8 complete the purchase of the bonds within thirty days
9 following the acceptance of his bid or within ten days after
10 the bonds are made ready and are offered by the municipal
11 corporation for delivery, whichever is later, the amount of
12 his deposit shall be forfeited to the municipal corporation
13 issuing the bonds, and, in that event, the governing body may
14 accept the bid of the bidder making the next best bid. If
15 all bids are rejected, the governing body may readvertise the
16 bonds for sale in the same manner as for the original
17 advertisement or sell the bonds at private sale to the state
18 of New Mexico or the United States. If there are two or more
19 equal bids and the bids are the best bids received, the
20 governing body shall determine which bid shall be accepted.

21 D. Except as provided in this section, bonds to be
22 issued by a municipal corporation for various purposes may be
23 sold and issued as a single combined issue even though they
24 may have been authorized by separate votes at an election or
25 elections. Bonds authorized by any city, town or village for

1 the construction or purchase of a system for supplying water,
2 a sanitary sewer system or a storm sewer system may be
3 combined with each other and sold and issued as a single
4 issue but may not be combined with bonds to be issued for any
5 other purpose that may be subject to the debt limitation of
6 Article 9, Section 13 of the constitution of New Mexico."

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

9 "6-18-6. SHORT-TERM BONDS.--A public body may authorize
10 short-term bonds, including short-term general obligation
11 bonds, that provide for any or all of the following in or
12 pursuant to the bond legislation:

13 A. principal maturities may be for any one or more
14 periods of two years or less from the respective dates of
15 issuance;

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

18 C. interest may but need not be represented by
19 coupons;

20 D. the bonds may be in coupon form, in form
21 registered as to principal or registered as to both principal
22 and interest, or in book entry form, and provision may be
23 made for exchange of one form for another;

24 E. the bonds may be in form with stated interest
25 or in discount form without stated interest, or a combination

1 thereof;

2 F. the bond legislation may provide for the
3 renewal or refunding of such bonds, at or before maturity, by
4 the issuance or successive issuance of renewal or refunding
5 bonds under that bond legislation without necessity for
6 further act by the governing body, provided that the
7 maturities of such renewal or refunding bonds shall not
8 exceed two years from their respective dates of issuance. In
9 the bond legislation approved by the governing body, the
10 governing body may authorize or direct one or more officers
11 of the public body to:

12 (1) fix the interest rate or rates for each
13 issue of bonds and renewal or refunding issues, subject to a
14 maximum rate or rates as a stated interest rate or net
15 effective interest rate, which maximum shall be set forth in
16 such bond legislation or determined from time to time in
17 accordance with a formula, index, data or procedure as
18 provided for in the bond legislation, provided that, whether
19 or not such a formula, index, data or procedure is provided
20 for, bond legislation with respect to indebtedness shall set
21 forth stated maximums of net effective interest rates;

22 (2) determine the discount for bonds with
23 stated interest and for bonds without stated interest,
24 subject to any limitations thereon provided in the bond
25 legislation;

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

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

8 (5) designate the denomination of such
9 bonds, subject to minimums and integral multiples of stated
10 amounts provided in such bond legislation;

11 G. the public body may contract with agents or
12 trustees for services in connection with the issuance,
13 transfer, exchange, registration, record keeping for and the
14 payment of such bonds and matters incidental thereto, and the
15 public body has authority to act under such contracts.

16 Without limiting the generality of the preceding sentence,
17 such contracts may provide:

18 (1) for the maintenance of a supply of bond
19 forms with the agent or trustee, which forms bear the
20 facsimile of all signatures of officers of the public body
21 necessary for the purpose and, if applicable, the facsimile
22 of the seal of the public body, contain blanks as to owner,
23 date, maturity, denomination, interest rates and original
24 issue discount as appropriate, and provide a form of
25 authentication by the agent or trustee upon issuance;

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

9 (3) for the establishment with the agent or
10 trustee of funds, in trust, for payment of the principal of
11 and interest on the bonds and for payments by and on behalf
12 of the public body into such funds, including payments
13 thereto from the proceeds of renewal or refunding bonds;

14 H. notwithstanding any other provision of law to
15 the contrary, the public body may contract with banks or
16 investment bankers, or others with appropriate capabilities,
17 to provide services, which may be on an exclusive basis, in
18 the placement of the bonds with purchasers, or to purchase
19 the bonds, or both, which contract may provide for all
20 matters incidental thereto and may be a negotiated contract.
21 Contracts pursuant to this subsection may include services
22 for the placement or purchase of short-term general
23 obligation bonds and, for purposes of Section 6-18-7 NMSA
24 1978, variable rate demand general obligation bonds;

25 I. the public body may covenant, in the bond

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

11 J. in addition to the authority to issue bonds for
12 such purposes under the Public Securities Short-Term Interest
13 Rate Act, the public body may, to the extent not prohibited
14 by the bond legislation, retire or provide for the payment at
15 any time of the bonds authorized under that act by the
16 issuance of bonds under authority of any other law consistent
17 with the maturities and other terms authorized by such laws
18 and without impediment or other effect thereunder by reason
19 of previously having issued the bonds under the Public
20 Securities Short-Term Interest Rate Act, except as stated in
21 Subsection B of Section 6-18-10 NMSA 1978; and

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

25 Section 3. Section 6-18-7 NMSA 1978 (being Laws 1983,

1 Chapter 161, Section 7) is amended to read:

2 "6-18-7. VARIABLE RATE DEMAND BONDS.--A public body may
3 issue bonds, including variable rate demand general
4 obligation bonds, with any of the following provisions:

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

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

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

21 D. the bond legislation may provide for variable
22 interest rates to be paid on the bonds, changing from time to
23 time in accordance with one or more formulas, indices, data
24 or procedures as provided for in the bond legislation,
25 provided that where variable interest rates are provided for

1 with respect to indebtedness, the bond legislation shall also
2 prescribe a stated maximum net effective interest rate or
3 rates for different maturities and, if necessary, for credit
4 facilities used pursuant to the authority granted by Section
5 6-18-8 NMSA 1978;

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

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

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

20 H. the provisions of Subsections B, C, D, E, G, H,
21 I and J of Section 6-18-6 NMSA 1978 are applicable to bonds
22 issued under this section, notwithstanding such bonds may have
23 maturities in excess of two years."_____