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SENATE BILL 520

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Sue Wilson Beffort

AN ACT

RELATING TO PUBLIC FINANCE; ELIMINATING THE REQUIREMENT THAT ALL BIDS FOR MUNICIPAL CORPORATION BONDS BE ACCOMPANIED BY DEPOSITS; REQUIRING ONLY THE BEST BIDDER TO MAKE A DEPOSIT PRIOR TO ACCEPTANCE OF THE BID.

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 or C 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 maturing in less than thirty days may be
5 sold at private sale to the state [~~of New Mexico~~] at the price
6 and upon such terms and conditions as a municipal corporation
7 and the state [~~of New Mexico~~] may determine.

8 C. Notwithstanding any law requiring bonds to be
9 sold at a public sale, the following bonds may be sold at a
10 public or private sale:

11 (1) bonds designated as build America bonds
12 pursuant to Section 1531 of the federal American Recovery and
13 Reinvestment Act of 2009; and

14 (2) qualified school construction bonds issued
15 pursuant to the Qualified School Construction Bonds Act and
16 Section 1521 of the federal American Recovery and Reinvestment
17 Act of 2009.

18 D. A notice calling for bids for the purchase of
19 the bonds shall be published once at least one week prior to
20 the date of the sale in a newspaper having local circulation.
21 The notice shall specify a place and designate a day and hour
22 subsequent to the date of the publication when bids shall be
23 received and publicly opened for the purchase of the bonds.
24 The notice shall specify the maximum net effective interest
25 rate permitted for the bonds and the maximum discount if a

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1 discount is allowed by the governing body and shall require
2 bidders to submit a bid specifying the lowest rate of interest
3 and any premium or discount if allowed by the governing body
4 at, above or below par at which the bidder will purchase the
5 bonds. The bonds shall be sold to the responsible bidder
6 making the best bid determined by the municipal corporation as
7 set forth in the notice, subject to the right of the governing
8 body to reject any and all bids and readvertise. All bids
9 shall be sealed or sent by facsimile or other electronic
10 transmission to the municipal corporation as set forth in the
11 notice. Except for the bid of the state [~~of New Mexico~~] or the
12 United States, if one is received [~~all bids shall be~~
13 ~~accompanied by~~] prior to acceptance by the governing body of
14 the best bid, the best bidder shall make a deposit of not less
15 than two percent of the principal amount of the bonds, either
16 in the form of a financial security bond or in cash or by
17 cashier's or treasurer's check of, or by certified check drawn
18 on, a solvent commercial bank or trust company in the United
19 States, which deposit shall be returned if the bid is not
20 accepted. The financial surety bond or the long-term debt
21 obligations of the issuer or person guarantying the obligations
22 of the issuer of the financial surety bond shall be rated in
23 one of the top two rating categories of a nationally recognized
24 rating agency, without regard to any modification of the
25 rating, and the financial surety bond must be issued by an

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1 insurance company licensed to issue such a bond in New Mexico.
2 If the successful bidder does not complete the purchase of the
3 bonds within thirty days following the acceptance of the
4 bidder's bid or within ten days after the bonds are made ready
5 and are offered by the municipal corporation for delivery,
6 whichever is later, the amount of the bidder's deposit shall be
7 forfeited to the municipal corporation issuing the bonds, and,
8 in that event, the governing body may accept the bid of the
9 bidder making the next best bid. If all bids are rejected, the
10 governing body may readvertise the bonds for sale in the same
11 manner as for the original advertisement or sell the bonds at
12 private sale to the state [~~of New Mexico~~] or the United States.
13 If there are two or more equal bids and the bids are the best
14 bids received, the governing body shall determine which bid
15 shall be accepted.

16 E. Except as provided in this section, bonds to be
17 issued by a municipal corporation for various purposes may be
18 sold and issued as a single combined issue even though they may
19 have been authorized by separate votes at an election or
20 elections. Bonds authorized by any incorporated city, town or
21 village for the construction or purchase of a system for
22 supplying water, a sanitary sewer system or a storm sewer
23 system may be combined with each other and sold and issued as a
24 single issue but may not be combined with bonds to be issued
25 for any other purpose that may be subject to the debt

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1 limitation of Article 9, Section 13 of the constitution of New
2 Mexico."

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