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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 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 at the price and upon such terms and conditions as a municipal corporation and the state may determine.

C. Notwithstanding any law requiring bonds to be sold at a public sale, the following bonds may be sold at a

1 public or private sale:

2 (1) bonds designated as build America bonds  
3 pursuant to Section 1531 of the federal American Recovery and  
4 Reinvestment Act of 2009; and

5 (2) qualified school construction bonds  
6 issued pursuant to the Qualified School Construction Bonds  
7 Act and Section 1521 of the federal American Recovery and  
8 Reinvestment Act of 2009.

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

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

1 the next best bid. If all bids are rejected, the governing  
2 body may readvertise the bonds for sale in the same manner as  
3 for the original advertisement or sell the bonds at private  
4 sale to the state or the United States. If there are two or  
5 more equal bids and the bids are the best bids received, the  
6 governing body shall determine which bid shall be accepted.

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

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