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HOUSE BILL 815

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

James G. Taylor

AN ACT

RELATING TO PUBLIC SECURITIES; AMENDING SECTIONS OF THE NMSA
1978.

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

Section 1. Section 6-14-2 NMSA 1978 (being Laws 1970,
Chapter 10, Section 2, as amended) is amended to read:

"6-14-2. DEFINITIONS. -- As used in the Public Securities
Act:

A. "net effective interest rate" means the
interest rate [~~based on the actual price paid to a public body
for its~~] of public securities, [calculated to maturity
according to standard tables of bond values] compounded
semiannually, necessary to discount the scheduled debt service
payments of principal and interest to the date of the public
securities and to the price paid to the public body for the

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1 public securities, excluding any interest accrued to the date
2 of delivery and based upon a year with the same number of days
3 as the number of days for which interest is computed on the
4 public securities;

5 B. "public body" means this state or any
6 department, board, agency or instrumentality of the state, any
7 county, city, town, village, school district, other district,
8 educational institution or any other governmental agency or
9 political subdivision of the state; and

10 C. "public securities" means any bonds, notes,
11 warrants or other obligations now or hereafter authorized to
12 be issued by any public body pursuant to the provisions of any
13 general or special law enacted by the legislature, but does
14 not include bonds, notes, warrants or other obligations issued
15 pursuant to:

- 16 (1) the Industrial Revenue Bond Act;
- 17 (2) the County Improvement District Act;
- 18 (3) Sections 3-33-1 through 3-33-43 NMSA
19 1978;
- 20 (4) the Pollution Control Revenue Bond Act;
- 21 (5) the County Pollution Control Revenue Bond
22 Act;
- 23 (6) the County Industrial Revenue Bond Act;
- 24 (7) the Metropolitan Redevelopment Code;
- 25 (8) the Supplemental Municipal Gross Receipts

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1 Tax Act;

2 (9) the Hospital Equipment Loan Act; or

3 (10) the New Mexico Finance Authority Act. "

4 Section 2. Section 6-15-5 NMSA 1978 (being Laws 1929,
5 Chapter 201, Section 3, as amended) is amended to read:

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

7 A. [~~Except as provided in Subsection B of this~~
8 ~~section~~] Before any bonds issued by a municipal corporation
9 are offered for public sale, the corporate authorities issuing
10 the bonds shall designate the maximum [~~rate of interest the~~
11 ~~bonds shall bear and shall designate the maximum~~] net
12 effective interest rate the bonds shall bear, which shall not
13 exceed the maximum permitted by the Public Securities Act.

14 All the bonds shall be sold at public sale. [~~and~~]

15 B. A notice calling for bids for the purchase of
16 the bonds shall be published once [~~a week for two consecutive~~
17 ~~weeks~~] at least one week prior to the date of the sale in a
18 newspaper having local circulation. The notice shall specify
19 a place and designate a day and hour subsequent to the date of
20 the publication when [~~sealed~~] bids shall be received and
21 publicly opened for the purchase of the bonds. The notice
22 shall specify the maximum [~~rate of interest the bonds shall~~
23 ~~bear, the maximum~~] net effective interest rate permitted for
24 the bonds and the maximum discount if a discount is allowed by
25 the governing body and shall require bidders to submit a bid

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

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1 within thirty days following the acceptance of his bid or
2 within ten days after the bonds are made ready and are offered
3 by the municipal corporation for delivery, whichever is later,
4 the amount of his deposit shall be forfeited to the municipal
5 corporation issuing the bonds, and, in that event, the
6 governing body may accept the bid of the bidder making the
7 next best bid. If all bids are rejected, the governing body
8 [~~shall~~] may readvertise the bonds for sale in the same manner
9 as for the original advertisement or sell the bonds at private
10 sale to the state of New Mexico or the United States. If
11 there are two or more equal bids and the bids are the best
12 bids received, the governing body shall determine which bid
13 shall be accepted.

14 [~~B. Bonds issued by a municipal corporation may be~~
15 ~~sold to the state at private sale without advertisement.~~

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

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

2 Section 3. Section 6-15-9 NMSA 1978 (being Laws 1933,
3 Chapter 114, Section 1, as amended) is amended to read:

4 "6-15-9. BONDS AUTHORIZED AT ELECTION--TIME LIMIT ON
5 ISSUANCE--EXCEPTIONS.--No bonds shall be issued or sold by any
6 school district, county or municipality after the expiration
7 of three years from the date of [~~initiation of proceedings~~
8 ~~for~~] the election authorizing the issue, except for the
9 purpose of refunding previous bond issues or in payment of
10 judgments or if the issuance of the bonds has been authorized
11 at a regular election for officers of any such school
12 district, county or municipality or, where authorized by
13 statute, at a special election held for that purpose [~~such~~].
14 The bonds may be sold to the United States or to the state of
15 New Mexico in any case in which the state of New Mexico or the
16 United States has made an offer to purchase the bonds and the
17 offer was accepted prior to the expiration of the three-year
18 period. Any period of time when the validity of bonds or the
19 election therefor is in litigation shall be excluded from the
20 three-year period. "

21 Section 4. Section 6-15-10 NMSA 1978 (being Laws 1933,
22 Chapter 114, Section 2, as amended) is amended to read:

23 "6-15-10. UNISSUED BONDS AUTHORIZED AT ELECTION--WHEN
24 VOID--EXCEPTIONS.--In all cases where bond issues by the
25 school districts, counties or municipalities have been

underscored material = new
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1 authorized by special election and the bonds have not been
2 issued and sold within three years from the date of the
3 [~~initiation of proceedings for the~~] special election
4 authorizing the proposed issue, the proposed bond issue is
5 void, except where issued for refunding bonded debt or for
6 payment of judgments against the district, county or
7 municipality and, except where the issuance of the bonds has
8 been authorized at a regular election for officers of any
9 school district, county or municipality or, where authorized
10 by statute, at a special election held for those purposes.
11 Such bonds may be sold to the United States or to the state of
12 New Mexico at private sale in any case in which the state of
13 New Mexico or the United States has made an offer to purchase
14 the bonds and the offer was accepted prior to the expiration
15 of the three-year period. "

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

18 "6-18-6. SHORT-TERM BONDS. -- A public body may authorize
19 short-term bonds which 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;

underscored material = new
[bracketed material] = delete

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
8 or in discount form without stated interest, or a combination
9 thereof;

10 F. the bond legislation may provide for the
11 renewal or refunding of such bonds, at or before maturity, by
12 the issuance or successive issuance of renewal or refunding
13 bonds under that bond legislation without necessity for
14 further act by the governing body, provided that the
15 maturities of such renewal or refunding bonds shall not exceed
16 two years from their respective dates of issuance [and no
17 bonds may be issued under authority of a bond legislation more
18 than three years following action of the governing body on
19 that bond legislation unless the governing body further acts
20 to extend such authorization within three years prior to the
21 issuance of such renewal bonds]. In the bond legislation
22 approved by the governing body, the governing body may
23 authorize or direct one or more officers of the public body
24 to:

25 (1) fix the interest rate or rates for each

underscored material = new
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1 issue of bonds and renewal or refunding issues, subject to a
2 maximum rate or rates as a stated interest rate or net
3 effective interest rate, which maximum shall be set forth in
4 such bond legislation or determined from time to time in
5 accordance with a formula, index, data or procedure as
6 provided for in the bond legislation, provided that, whether
7 or not such a formula, index, data or procedure is provided
8 for, bond legislation with respect to indebtedness shall set
9 forth stated maximums of net effective interest rates;

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

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

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

20 (5) designate the denomination of such bonds,
21 subject to minimums and integral multiples of stated amounts
22 provided in such bond legislation;

23 G. the public body may contract with agents or
24 trustees for services in connection with the issuance,
25 transfer, exchange, registration, record keeping for and the

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1 payment of such bonds and matters incidental thereto, and the
2 public body has authority to act under such contracts.

3 Without limiting the generality of the preceding sentence,
4 such contracts may provide:

5 (1) for the maintenance of a supply of bond
6 forms with the agent or trustee, which forms bear the
7 facsimile of all signatures of officers of the public body
8 necessary for the purpose and, if applicable, the facsimile of
9 the seal of the public body, contain blanks as to owner, date,
10 maturity, denomination, interest rates and original issue
11 discount as appropriate, and provide a form of authentication
12 by the agent or trustee upon issuance;

13 (2) for the officer or officers of the public
14 body, authorized by the governing body to do so, to direct the
15 agent or trustee with respect to the completion of such blanks
16 and the delivery of the bonds, by oral, electronic or written
17 communication prior to the authentication and delivery of such
18 bonds, and that any such oral or electronic communication
19 thereafter shall be confirmed in writing; and

20 (3) for the establishment with the agent or
21 trustee of funds, in trust, for payment of the principal of
22 and interest on the bonds and for payments by and on behalf of
23 the public body into such funds, including payments thereto
24 from the proceeds of renewal or refunding bonds;

25 H. the public body may contract with banks or

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1 investment bankers, or others with appropriate capabilities,
2 to provide services, which may be on an exclusive basis, in
3 the placement of the bonds with purchasers, or to purchase the
4 bonds, or both, which contract may provide for all matters
5 incidental thereto and may be a negotiated contract;

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

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

1 Interest Rate Act, except as stated in Subsection B of Section
2 [~~10 of that act~~] 6-18-10 NMSA 1978; and

3 K. the provisions of Section [~~7 of the Public~~
4 ~~Securities Short-Term Interest Rate Act~~] 6-18-7 NMSA 1978 may
5 be used with respect to any bonds issued pursuant to this
6 section. "

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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4
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6 February 26, 1999

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8 Mr. Speaker:

9
10 Your TAXATION AND REVENUE COMMITTEE, to whom has
11 been referred

12
13 HOUSE BILL 815

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 APPROPRIATIONS AND FINANCE COMMITTEE.

18 Respectfully submitted,

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22 _____
23 Jerry W. Sandel, Chairman
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25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HTRC/HB 815

Page 14

4 Adopted _____ Not Adopted _____

6 (Chief Clerk)

(Chief Clerk)

8 Date _____

10 The roll call vote was 10 For 0 Against

11 Yes: 10

12 Excused: Gonzal es, Gubbel s, Hanosh, Hawki ns, Luj an

13 Absent: None

15 J: \99Bill sWP\H0815

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3
4 March 2, 1999

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6
7 Mr. Speaker:

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9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to
10 whom has been referred

11 HOUSE BILL 815

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13 has had it under consideration and reports same with
14 recommendation that it DO PASS.

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16 Respectfully submitted,

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21 Max Coll, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

Page 16

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 15 For 0 Against

Yes: 15

Excused: Abeyta, Saavedra

Absent: None

J: \99Bill\SWP\H0815

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

March 12, 1999

Mr. President:

Your WAYS & MEANS COMMITTEE, to whom has been referred

HOUSE BILL 815

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Carlos R. Cisneros, Chairman

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Carraro, Duran, Kidd

Absent: None

H0815WM1

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