

SENATE, No. 1812

STATE OF NEW JERSEY

INTRODUCED JANUARY 27, 1997

By Senator BENNETT

1 AN ACT concerning local unit bonds and amending various sections of
2 statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. N.J.S.40A:2-29 is amended to read as follows:

8 40A:2-29. No obligations shall be sold for less than 99% of par
9 value and interest accrued to date of delivery.

10 (cf: N.J.S.40A:2-29)

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12 2. N.J.S.40A:2-30 is amended to read as follows:

13 40A:2-30. a. A notice of public sale of bonds containing the
14 provisions described in subsection a. of N.J.S. 40A:2-31 shall be
15 advertised at least once at least seven days prior thereto in a
16 newspaper qualified for publication of a bond ordinance of the local
17 unit. A summary of the notice of public sale of bonds as provided for
18 in subsection b. of N.J.S.40A:2-31 shall be advertised at least once at
19 least seven days prior thereto in a publication carrying municipal bond
20 notices and devoted primarily to financial news or the subject of state
21 and municipal bonds and published in the City of New York or in New
22 Jersey.

23 b. If a notice of public sale or a summary of the notice of public
24 sale contains a provision that the issuance may be postponed upon not
25 less than 24 hours' notice, as permitted pursuant to subsection c. of
26 N.J.S.40A:2-31, the local unit may conduct the sale upon not less than
27 48 hours' notice to the prospective bidders and without further
28 publication of a notice of sale or a summary of the notice of sale.

29 (cf: P.L.1992, c.178, s.3)

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31 3. N.J.S.40A:2-31 is amended to read as follows:

32 40A:2-31. a. A notice of public sale of bonds required to be
33 advertised pursuant to N.J.S.40A:2-30 shall set forth:

34 (1) the principal amount, date, denomination and maturities of the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 bonds offered for sale; however, the local unit may adjust the maturity
2 schedule of the bonds up to 24 hours prior to the time set for the
3 receipt of bids and within 24 hours after the award of bonds, provided
4 that no maturity schedule adjustment after the award of the bonds shall
5 exceed 10% for each issue and 10% for the overall issue;

6 (2) the rate or rates of interest or maximum rate or rates of interest
7 to be borne by the bonds;

8 (3) the terms and conditions of such public sale; and

9 (4) such other provisions as may be determined by the governing
10 body.

11 b. A summary of the notice of public sale of bonds required to be
12 advertised pursuant to N.J.S.40A:2-30 shall set forth:

13 (1) the principal amount, date, denomination and maturities of the
14 bonds offered for sale; however, the local unit may adjust the maturity
15 schedule of the bonds up to 24 hours prior to the time set for the
16 receipt of bids and within 24 hours after the award of bonds, provided
17 that no maturity schedule adjustment after the award of the bonds shall
18 exceed 10% for each issue and 10% for the overall issue;

19 (2) the rate or rates of interest or maximum rate or rates of interest
20 to be borne by the bonds; and

21 (3) a reference to where additional terms and conditions of the
22 public sale may be obtained.

23 c. In addition to the requirements of subsections a. and b. of this
24 section, a notice of public sale of bonds and a summary of the notice
25 of public sale of bonds may contain provisions informing prospective
26 bidders that the public sale may be postponed upon not less than 24
27 hours' notice, and that if the public sale is postponed, it may be
28 recommenced upon not less than 48 hours' notice without further
29 notice of sale.

30 (cf: P.L.1992, c.178, s.4)

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32 4. N.J.S.40A:2-32 is amended to read as follows:

33 40A:2-32. a. All bidders shall be required to deposit a certified or
34 cashier's or treasurer's check, drawn upon a bank or trust company, or
35 submit a financial surety bond, equal to not less than ~~[2%]~~1% of the
36 bonds to secure the local unit in part from any loss resulting from the
37 failure of the bidder to comply with the terms of his bid, or as
38 liquidated damages for such failure. If a financial surety bond is used,
39 it must be from an insurance company licensed to do business in the
40 State of New Jersey and rated at least either Aaa by Moody's Investors
41 Service or AAA by Standard and Poors Corporation, or the equivalent
42 rating by any successor nationally recognized rating agency. The
43 financial surety bond must identify each bidder whose deposit is
44 guaranteed by such financial surety bond. If the winning bidder uses
45 the financial surety bond, then it shall be required to submit its deposit
46 to the local unit in the form of a wire transfer no later than 12:00 noon

1 of the day after the opening of bids. If such deposit is not received by
2 that time, the financial surety bond may be drawn down by the local
3 unit to satisfy the deposit requirement.

4 b. All bids for bonds shall be publicly opened and announced at the
5 advertised time and place of sale, except upon a postponement and
6 recommencement of the public sale in accordance with the provisions
7 of subsection c. of N.J.S.40A:2-31. Such bids as comply with the
8 terms of the notice of sale shall be considered, and any bid not
9 complying with the terms of such notice may be rejected. All bids
10 received may be rejected.

11 c. Bonds of 2 or more issues may be sold on the basis of combined
12 maturities, or the maturities of each issue offered for sale.

13 d. Bonds may be offered for sale at a single rate of interest, or
14 bidders may be requested to name a single rate of interest, but no
15 proposal shall be considered which offers to pay less than the principal
16 amount of bonds offered for sale or which names a rate of interest
17 higher than the lowest rate of interest stated in any legally acceptable
18 proposal. As between proposals naming the same lowest rate of
19 interest, the proposal offering to accept the least amount of bonds
20 shall be accepted, the bonds to be accepted shall be those first
21 maturing, and as between such proposals, the proposal offering to pay
22 the greatest premium shall be accepted. The amount of premium bid
23 for the bonds shall in no event exceed \$1,000.00 for the principal
24 amount of bonds offered for sale. In order to effect the foregoing, a
25 sufficient number of the last maturing bonds shall be of the
26 denomination of \$1,000.00 or less.

27 e. Bonds may be offered for sale at different rates of interest for
28 the same issue or different rates of interest for different issues, or parts
29 thereof, or bidders may be requested to name any such rates of
30 interest. No proposal shall be considered [which offers to pay an
31 amount less than the principal amount of bonds offered for sale or]
32 under which the total loan is made at an interest cost higher than the
33 lowest net interest cost or true interest cost to the local unit under any
34 legally acceptable proposal. [Such] The net interest cost shall be
35 computed in each instance by adding to the total principal amount of
36 bonds bid for, the total interest cost to maturity in accordance with
37 such bid and by deduction therefrom of the amount of premium, if any,
38 bid or the addition thereto of the amount of discount, if any, bid. The
39 true interest cost shall be computed in each instance by determining
40 the interest rate, compounded semi-annually, necessary to discount the
41 debt service payments to the date of the bonds and to the price bid,
42 excluding interest accrued to the delivery date.

43 f. The governing body may establish additional terms or conditions
44 of sale.

45 g. The governing body may permit bidders to aggregate
46 consecutive principal maturities into a term bond. For the purposes of

1 this subsection "term bond" means a bond that is due in a certain year
2 but has mandatory retirement provisions for portions of the term bond
3 on specified dates prior to the maturity date of the term bond itself.

4 h. A local unit may offer for sale variable rate debt. However, no
5 more than 10% of its debt outstanding may be in variable rate debt.
6 (cf: N.J.S.40A:2-32)

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8 5. N.J.S.40A:2-51 is amended to read as follows:

9 40A:2-51. Any local unit may incur indebtedness, borrow money,
10 authorize and issue [negotiable] refunding bonds, notwithstanding any
11 provision or limitation contained in this chapter or in any other law,
12 and in any amount determined to be necessary by the governing body
13 of the local unit and approved by the Local Finance Board, except as
14 provided in subsection c. of this section, to effect the refunding for the
15 purpose of:

16 a. Paying, funding or refunding outstanding bonds of the local unit,
17 including emergency appropriations and amounts owing to others for
18 taxes levied in the local unit, or any renewals or extensions thereof, or
19 any bonds issued to fund or refund the same and whether or not prior
20 to the maturity or earliest redemption date of the bonds to be
21 refunded, and

22 b. Paying the cost of the issuance of such refunding bonds,
23 including printing, advertising, accounting and financial and legal
24 expenses.

25 c. A local unit may issue refunding bonds for the purpose of
26 realizing debt service savings without approval by the Local Finance
27 Board if (1) the refunding will produce debt service savings in each
28 year, comparing the refunded debt with the refunding debt, and (2) the
29 present value savings ratio, being the present value of the savings
30 divided by the par amount of the refunded bonds, will exceed three
31 percent. The Local Finance Board may establish by rule or regulation
32 such other requirements as it deems prudent.

33 (cf: P.L.1978, c.36, s.1)

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35 6. This act shall take effect immediately.

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38 STATEMENT

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40 This bill would revise certain parts of the "Local Bond Law,"
41 N.J.S.40A:2-1 et seq., in recognition of the changes in the functioning
42 of the municipal bond market due to nearly universal computerization,
43 efficient communications and the introduction of new products that
44 effectively lower an issuer's cost of funds. Specifically, the bill would
45 amend N.J.S.40A:2-29 to permit discount bids. The bill would also
46 amend N.J.S.40A:2-31 to permit a local unit to adjust the maturity

1 schedule of a bond up to 24 hours prior to the time set for the receipt
2 of bids and within 24 hours after the award of the bonds. The purpose
3 of this amendment is to allow the local unit flexibility to account for
4 changes in the market from the time of advertisement to the time of
5 sale. No maturity schedule adjustment greater than 10% would be
6 permitted within the 24 hours after the award of the bonds.
7 N.J.S.40A:2-31 also would be amended to permit the postponement
8 of a public sale up to 24 hours prior to the sale and then the
9 recommencement of the sale upon at least 48 hours notice without
10 further advertisement.

11 The bill also proposes to amend N.J.S.40A:2-32 to permit the
12 determination of the lowest bidder by using a "true interest cost," as
13 well as to permit up to 10% of an issuer's total outstanding debt to be
14 offered at a variable rate of interest. Currently, the lowest bidder is
15 selected by either selection of the bidder presenting the lowest rate of
16 interest or by using a "net interest cost" method. The true interest
17 cost method is used by the State of New Jersey for its bond sales and
18 differs from the other methods in that it accounts for the time value of
19 money. This statute also would be amended to permit the aggregation
20 of bonds with consecutive maturities by bidders into a term bond
21 which could be marketed at a lower cost. Further N.J.S.40A:2-32
22 would be amended to permit the use of surety bonds in lieu of a good
23 faith deposit in order to facilitate the bid process. The amount
24 required to be deposited or for which a surety bond would be
25 submitted would be reduced from 2% to 1% of the par amount of the
26 bonds.

27 Finally, the bill also amends N.J.S.40A:2-51 to permit a local unit
28 to issue refunding bonds without the approval of the Local Finance
29 Board when the refunding will produce debt service savings in each
30 year and when the present value savings ratio will exceed 3%. The bill
31 also permits the Local Finance Board to establish such other
32 requirements as it deems prudent.

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37 Revises "Local Bond Law."