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Senate Engrossed House Bill

State of Arizona
House of Representatives
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1996

FILED

Jane Dee Hull
Secretary of State

CHAPTER 332

HOUSE BILL 2253

AN ACT

AMENDING SECTIONS 15-1024, 35-457, 35-471, 35-472, 35-473.01 AND 35-501, ARIZONA REVISED STATUTES; AMENDING TITLE 35, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 35-503; RELATING TO BONDS.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 15-1024, Arizona Revised Statutes, is amended to read:

15-1024. Interest on bonds; sale; disposition of proceeds; definition

A. The bonds shall bear interest, payable semiannually at the rate or rates set by the accepted bid, which shall not exceed the maximum rate of interest set forth in the resolution calling the election. The bonds may be made payable at such place within the United States as the board of supervisors directs and shall be sold in the manner prescribed by the board of supervisors for not less than par.

B. The proceeds of the sale of the bonds shall be deposited in the county treasury to the credit of the bond building fund of the school district. Such deposits may be drawn out for the purposes authorized by this article as other school monies are drawn. If a balance remains in the bond building fund after the acquisition or construction of facilities is completed for which the bonds were issued and upon written request of the governing board:

1. If the school district has outstanding bonded indebtedness, the balance remaining in the bond building fund shall be transferred to the debt service fund of the district.

2. If the district has no outstanding bonded indebtedness, the balance remaining in the bond building fund shall be transferred to the general fund of the district.

C. When bonds are sold and the proceeds are not required to be used for a period of ten days or more, such proceeds may be invested as provided by section 15-1025, subsection B. All monies earned as interest or otherwise derived from the investment of the proceeds of the sale of the bonds shall be credited to the debt service fund, except that the monies shall be credited to the bond building fund if the voters authorized such use of the monies in a separate question at the bond election. The separate question shall inform the voters that the monies will be credited to the debt service fund, and may therefore reduce the amount of the secondary property tax, if the measure authorizing the monies to be credited to the bond building fund does not pass.

D. THE AMOUNT OF NET PREMIUM ASSOCIATED WITH A BOND ISSUE MAY NOT EXCEED THE GREATER OF:

1. TWO PER CENT OF THE PAR VALUE OF THE BOND ISSUE.

2. ONE HUNDRED THOUSAND DOLLARS.

E. ANY NET PREMIUM NOT USED TO PAY THE COSTS OF THE BOND ISSUE SHALL BE DEPOSITED IN A DEBT SERVICE FUND AND USED TO PAY INTEREST ON THE BONDS.

F. FOR PURPOSES OF THIS SECTION "NET PREMIUM" MEANS THE DIFFERENCE BETWEEN THE PAR AMOUNT OF THE BOND ISSUE AND THE BOND ISSUE PRICE DETERMINED PURSUANT TO UNITED STATES TREASURY REGULATIONS.

Sec. 2. Section 35-457, Arizona Revised Statutes, is amended to read:

35-457. <u>Sale of bonds; notice; bids; forfeiture of deposit; definition</u>

A. Any or all of the bonds may be sold by calling for bids at public sale or bonds may be sold under an accelerated bidding process. If sold under an accelerated bidding process, the bonds shall be sold at the lowest cost the governing body deems then available after having received at least three pricing quotations from recognized purchasers of bonds of the type being sold. ~~The bonds may be sold below, at or above par. If the bonds are sold below par, the aggregate amount of discount plus interest to be paid on the bonds must not exceed the amount of interest that would be payable on the bonds over the maturity schedule prescribed by the governing body at the maximum rate set out in the resolution calling the election at which the bonds were voted.~~ If sold by public sale before the sale of any bonds the governing body or board shall at a meeting thereof enter upon its record an order directing the sale of the bonds and the date and hour of the sale, and cause a copy of the order to be published at least once a week for two successive weeks in cities having a population of fifteen thousand or more

persons according to the most recent federal census, and once a week for four successive weeks in all other political subdivisions before the sale in one or more designated daily or weekly newspapers, together with a notice that sealed proposals will be received for purchase of the bonds on the date and hour named in the order.

B. If the bonds are sold by public sale, all sealed proposals shall be received on the date and hour named in the order and the governing body or board shall award the bonds to the highest and most responsible bidder. All bids shall be accompanied by a certified check for not less than two per cent of the total par value of the bonds. The governing body or board may reject any and all bids and return such certified checks. If the successful bidder does not carry out the terms of the proposal to purchase the bonds, the certified check deposited by such bidder shall be cashed and the amount thereof forfeited as stipulated and liquidated damages.

C. Notwithstanding any other provision of this section, bonds may be sold to natural persons residing in this state by negotiated sale on terms the governing body deems to be the best then available and may bear interest payable at such times as shall be determined by the governing body. ~~Bonds may be sold below, at or above par, provided that if the bonds are sold below par, the aggregate amount of discount plus interest to be paid on the bonds must not exceed the amount of interest that would be payable on the bonds over the maturity schedule prescribed by the governing body at the maximum rate set out in the resolution calling the election at which the bonds were voted.~~

D. THE BONDS MAY BE SOLD BELOW, AT OR ABOVE PAR. IF THE BONDS ARE SOLD BELOW PAR, THE AGGREGATE AMOUNT OF DISCOUNT PLUS INTEREST TO BE PAID ON THE BONDS MUST NOT EXCEED THE AMOUNT OF INTEREST THAT WOULD BE PAYABLE ON THE BONDS OVER THE MATURITY SCHEDULE PRESCRIBED BY THE GOVERNING BODY AT THE MAXIMUM RATE SET OUT IN THE RESOLUTION CALLING THE ELECTION AT WHICH THE BONDS WERE VOTED. THE AMOUNT OF NET PREMIUM ASSOCIATED WITH A BOND ISSUE MAY NOT EXCEED THE GREATER OF:

1. TWO PER CENT OF THE PAR VALUE OF THE BOND ISSUE.

2. ONE HUNDRED THOUSAND DOLLARS.

E. ANY NET PREMIUM NOT USED TO PAY THE COSTS OF THE BOND ISSUE SHALL BE DEPOSITED IN A DEBT SERVICE FUND AND USED TO PAY INTEREST ON THE BONDS.

F. FOR PURPOSES OF THIS SECTION "NET PREMIUM" MEANS THE DIFFERENCE BETWEEN THE PAR AMOUNT OF THE BOND ISSUE AND THE BOND ISSUE PRICE DETERMINED PURSUANT TO UNITED STATES TREASURY REGULATIONS.

Sec. 3. Section 35-471, Arizona Revised Statutes, is amended to read:

35-471. <u>Refunding bonds; resolution authorizing issuance; definition</u>

A. The board of supervisors, on behalf of the county or a school district in such county, and the governing body of a city or town or similar municipal corporation may issue refunding bonds to refund the bonded

indebtedness of such county, school district, city or town or other similar municipal corporation when it is expedient to do so.

B. The board of supervisors or other governing body desiring to issue refunding bonds shall adopt and ~~spread upon~~ INCLUDE IN its minutes a resolution stating:

1. The facts and determination of the necessity or advisability of refunding such bonded indebtedness, INCLUDING AN ESTIMATE OF THE PRESENT VALUE OF THE DEBT SERVICE SAVINGS, NET OF ALL COSTS ASSOCIATED WITH THE REFUNDING BONDS, THAT WILL OCCUR.

2. The amount of bonds to be issued, the date of such bonds and the denominations.

3. The rate of interest and the maturity date.

4. The place of payment, within or without the state, of the principal and interest.

C. THE AMOUNT OF NET PREMIUM ASSOCIATED WITH A REFUNDING BOND ISSUE MAY NOT EXCEED THE TOTAL OF THE FOLLOWING:

1. THE DIFFERENCE BETWEEN THE AMOUNT REQUIRED TO FUND THE ESCROW ACCOUNT AND THE PAR AMOUNT OF THE REFUNDED BONDS.

2. THE COSTS OF THE ISSUANCE OF THE REFUNDING BONDS THAT MAY BE PAID FROM PREMIUM, UP TO TWO PER CENT OF THE PAR VALUE OF THE REFUNDED BONDS.

D. ANY NET PREMIUM NOT USED TO PAY THE COSTS OF THE BOND ISSUE OR TO FUND THE ESCROW ACCOUNT SHALL BE DEPOSITED IN A DEBT SERVICE FUND AND USED TO PAY INTEREST ON THE BONDS.

E. FOR PURPOSES OF THIS SECTION "NET PREMIUM" MEANS THE DIFFERENCE BETWEEN THE PAR AMOUNT OF THE BOND ISSUE AND THE BOND ISSUE PRICE DETERMINED PURSUANT TO UNITED STATES TREASURY REGULATIONS.

Sec. 4. Section 35-472, Arizona Revised Statutes, is amended to read:

35-472. Form and contents of bonds; payment of principal and interest

A. The refunding bonds shall be negotiable in form, executed in the name of the county, school district, city or town or similar municipal corporation, signed by the chairman of the governing board or body, countersigned by the county or municipal treasurer, sealed with the seal of the county or municipality and attested by the clerk.

~~B. The interest on such bonds shall be payable semiannually, evidenced by semiannual interest coupons attached to the bond, bearing the facsimile signature of the chairman of the governing board or body.~~

~~C.~~ B. The principal and interest of the bonds shall be payable at the office of the county or municipal treasurer or at such other place as designated in the bonds and coupons, at the option of the holder.

~~D. The form, whether registrable as to principal or as to principal and interest, denomination, term and manner of execution of bonds issued to refund tax secured bonds issued pursuant to both article 3 of this chapter~~

~~and title 9, chapter 5, article 3 shall be governed by title 9, chapter 5, article 3.~~

Sec. 5. Section 35-473.01, Arizona Revised Statutes, is amended to read:

35-473.01. Refunding bonds issued in advance of maturity of the bonds to be refunded; definition

A. Refunding bonds, designated as such, may also be authorized, issued and sold pursuant to the provisions of this article for the purpose of refunding any bonds theretofore issued under the authority of article 3 of this chapter or under the authority of both article 3 of this chapter and title 9, chapter 5, article 3 or under the authority of title 15, chapter 4, article 5 and chapter 9, article 7 or by any political subdivision which is a public, corporate body under the laws of this state the property of which is exempt from taxation, for the purpose of refunding any bonds, theretofore issued under authority of law and payable from the proceeds of taxes, including assessments, which may be levied annually at uniform rates and are secured by property subject thereto in the political subdivision, in advance of the maturity or call date of such bonds to be refunded. No election on the issuance of the refunding bonds shall be required, but if the refunding bonds are combined into a single issue with bonds authorized for nonrefunding purposes, the bonds so authorized for nonrefunding purposes shall have been submitted at an election as otherwise provided by law.

B. When refunding bonds issued pursuant to this section are sold, the net proceeds shall be invested in obligations issued by or guaranteed by the United States government, so long as such investments will mature with interest so as to provide funds to pay when due, or called for redemption, the bonds to be refunded together with interest thereon and redemption premiums, if any, and such proceeds or obligations shall, and other funds legally available for such purposes may, be deposited in the respective principal and interest redemption funds and shall be held in trust for the payment of the refunded bonds with interest and redemption premiums, if any, on maturity or upon an available redemption date or upon an earlier voluntary surrender with the consent of the issuer.

C. When bonds are issued in advance of maturity of the bonds being refunded the holder of the refunding bonds shall rely upon the sufficiency of the funds or securities held in trust for the payment of the refunded bonds. The issuance of refunding bonds shall in no way infringe upon the rights of the holder of the refunded bonds to rely upon a tax levy for the payment of principal and interest on the refunded bonds if the investments in the redemption funds prove insufficient. The total aggregate of taxes levied to pay principal and interest on the refunding bonds in the aggregate shall not exceed the total aggregate principal and interest to become due on the refunded bonds from the date of issuance of the refunding bonds to the final date of maturity on the bonds being refunded. Subject to such

limitation, taxes in an amount sufficient to pay the interest on all refunding bonds issued pursuant to this section, then outstanding, the installments of the principal thereof becoming due and payable in the ensuing year, and the annual portion of such sinking fund as may be set up for retirement thereof, shall be levied, assessed and collected as other taxes of the political subdivision and the proceeds therefrom kept in a special fund and used only for the purposes for which collected.

D. Proceedings pursuant to this section shall be had by the board or boards which would be authorized to issue and sell the bonds to be refunded if such bonds were then to be issued and sold. The refunding bonds to be issued pursuant hereto may be of serial, including semiannual, or term maturities payable at any time on or before the maximum maturity date otherwise authorized by this article, and the provisions relating to execution, validity, records, place of payment and payment, cancellation and destruction upon maturity of the bonds to be refunded shall apply to such refunding bonds.

E. Refunding bonds to be issued pursuant to this section may be combined with bonds otherwise authorized provided that they are of equal priority.

F. The powers conferred by this section are in addition to, and not in substitution of, and the limitations imposed by this section shall not affect the powers conferred by any other law.

G. THE AMOUNT OF NET PREMIUM ASSOCIATED WITH A REFUNDING BOND ISSUE MAY NOT EXCEED THE TOTAL OF THE FOLLOWING:

1. THE DIFFERENCE BETWEEN THE AMOUNT REQUIRED TO FUND THE ESCROW ACCOUNT AND THE PAR AMOUNT OF THE REFUNDED BONDS.

2. THE COSTS OF THE ISSUANCE OF THE REFUNDING BONDS THAT MAY BE PAID FROM PREMIUM, UP TO TWO PER CENT OF THE PAR VALUE OF THE REFUNDED BONDS.

H. ANY NET PREMIUM NOT USED TO PAY THE COSTS OF THE BOND ISSUE OR TO FUND THE ESCROW ACCOUNT SHALL BE DEPOSITED IN A DEBT SERVICE FUND AND USED TO PAY INTEREST ON THE BONDS.

I. FOR PURPOSES OF THIS SECTION "NET PREMIUM" MEANS THE DIFFERENCE BETWEEN THE PAR AMOUNT OF THE BOND ISSUE AND THE BOND ISSUE PRICE DETERMINED PURSUANT TO UNITED STATES TREASURY REGULATIONS.

Sec. 6. Section 35-501, Arizona Revised Statutes, is amended to read:

35-501. <u>Department of revenue records of bond issues; report; debt level analysis; definition of outstanding indebtedness</u>

A. BY JUNE 30 OF EACH YEAR, the department of revenue shall ascertain and record in its office all issues of bonds, certificates of participation or other securities issued for a term in excess of one year by the state or a county, city, town, school district, irrigation district, other political subdivision or municipal property corporation within the state. The record shall show the date of issuance, amount, denomination, rates of interest,

maturity, dates of the bonds, certificates of participation or securities and other information the department requires.

B. THE REPORTS RELATING TO THE ISSUANCE OF BONDS AND SECURITIES REQUIRED UNDER SUBSECTION A SHALL BE FILED WITH THE DEPARTMENT OF REVENUE WITHIN SIXTY DAYS OF THE ISSUANCE AND SHALL CONTAIN THE FOLLOWING INFORMATION:

1. THE PAR AMOUNT OF THE BONDS OR SECURITIES.

2. THE INTEREST RATE, BY MATURITY OF THE BONDS OR SECURITIES.

3. THE REPAYMENT SCHEDULE, SHOWING BOTH PRINCIPAL AND INTEREST FOR THE ISSUE.

4. THE SOURCES OF REPAYMENT.

5. THE ORIGINAL ISSUE PRICE AND ANY PREMIUM OR DISCOUNT, BY MATURITY, FOR THE ISSUE.

6. A DETAILED LISTING OF ALL ISSUANCE COSTS, REGARDLESS OF SOURCE OF PAYMENT, INCLUDING UNDERWRITER'S COMPENSATION, BOND COUNSEL FEES, FINANCIAL ADVISOR FEES, VERIFICATION AGENT FEES, PLACEMENT AGENT FEES, INVESTMENT SECURITIES BROKERAGE FEES, REGISTRAR FEES, TRUSTEE FEES, CREDIT ENHANCEMENT FEES, RATING AGENCY FEES, PRINTING COSTS, REGISTRATION FEES, TRANSFER AND RECORDING FEES AND ANY OTHER COSTS DIRECTLY OR INDIRECTLY EARNED OR PAID AS A RESULT OF THE ISSUANCE OF THE BONDS OR SECURITIES, AS DETERMINED BY THE DEPARTMENT.

7. THE TOTAL AMOUNT OF PARITY BONDS OR SECURITIES OUTSTANDING, INCLUDING THE ISSUE, AT THE TIME OF ISSUANCE.

8. THE TOTAL AMOUNT OF ANY BONDS OR SECURITIES, SENIOR OR SUBORDINATE TO THE ISSUE OUTSTANDING AT THE TIME OF ISSUANCE.

9. THE AMOUNT OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION ON THE ISSUANCE OF BONDS OR SECURITIES OF THE TYPE ISSUED.

10. THE REMAINING AMOUNT OF BONDS OR SECURITIES THAT MAY BE ISSUED WITHIN THE LIMITATION DETERMINED IN PARAGRAPH 9 OF THIS SUBSECTION.

11. THE AMOUNT OF ANY CONSTITUTIONAL OR STATUTORY VOTER AUTHORIZATION APPLICABLE TO THE ISSUANCE OF BONDS OR SECURITIES OF THE TYPE ISSUED.

12. THE REMAINING AMOUNT OF BONDS OR SECURITIES THAT MAY BE ISSUED WITHIN THE AUTHORIZATION DETERMINED IN PARAGRAPH 9 OF THIS SUBSECTION.

13. ANY OTHER SIMILAR OR RELATED INFORMATION THE DEPARTMENT MAY DETERMINE.

C. BY DECEMBER 15 OF EACH YEAR, THE DEPARTMENT OF REVENUE SHALL PROVIDE TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES A REPORT OF THE INFORMATION COLLECTED PURSUANT TO SUBSECTION A. THIS REPORT SHALL INCLUDE AN ANALYSIS OF THE OUTSTANDING INDEBTEDNESS OF EACH JURISDICTION AND THE RELATIONSHIP OF THE OUTSTANDING INDEBTEDNESS TO THE APPROPRIATE DEBT LIMITATIONS IN ARTICLE IX, SECTIONS 5, 8 AND 8.1, CONSTITUTION OF ARIZONA.

D. IF AS A RESULT OF THE ANALYSIS CONDUCTED PURSUANT TO SUBSECTION C THE DEPARTMENT OF REVENUE DETERMINES THAT THE OUTSTANDING INDEBTEDNESS OF A JURISDICTION IS IN EXCESS OF THE DEBT LIMITATION PRESCRIBED BY THE CONSTITUTION OF ARIZONA, THE DEPARTMENT OF REVENUE SHALL NOTIFY THE GOVERNING BODY OR BOARD OF THE JURISDICTION, THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND, IN THE CASE OF A SCHOOL DISTRICT, THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

E. THE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL NOTIFY THE PERSON OR GOVERNING BODY RESPONSIBLE FOR COMPLYING WITH THIS SECTION OF A FAILURE TO COMPLY IN WHOLE OR IN PART WITH THE REQUIREMENTS OF THIS SECTION. ANY PERSON OR GOVERNING BODY SO NOTIFIED SHALL COMPLY WITHIN THIRTY DAYS. ANY COUNTY, CITY, TOWN, SCHOOL DISTRICT, IRRIGATION DISTRICT OR OTHER POLITICAL SUBDIVISION OF THE STATE THAT FAILS TO COMPLY FULLY WITH THE PROVISIONS OF THIS ARTICLE SHALL NOT ISSUE ANY ADDITIONAL BONDS OR OTHER SECURITIES.

Sec. 7. Title 35, chapter 5, article 1, Arizona Revised Statutes, is amended by adding section 35-503, to read:

35-503. Calculation of debt limits

A. FOR PURPOSES OF CALCULATING ALL DEBT LIMITS PURSUANT TO ARTICLE IX, SECTION 8 OR 8.1, CONSTITUTION OF ARIZONA, THE OUTSTANDING INDEBTEDNESS OF A JURISDICTION SHALL EQUAL THE TOTAL PRINCIPAL AMOUNT OF ALL BONDS OUTSTANDING AT THE TIME OF CALCULATION. BONDS OUTSTANDING SHALL INCLUDE THE PRINCIPAL AMOUNT OF ALL BONDS ISSUED BY THE JURISDICTION EXCEPT PRINCIPAL THAT HAS BEEN PAID OR FOR WHICH MONIES HAVE BEEN DEPOSITED INTO A DEDICATED FUND FOR THE PAYMENT OF THE PRINCIPAL. THE PRINCIPAL AMOUNT OF A BOND SHALL EQUAL THE PAR AMOUNT OF THE BOND EXCLUSIVE OF ANY PREMIUM OR DISCOUNT.

B. THE VALUE OF TAXABLE PROPERTY FOR THE PURPOSES OF THIS SECTION AND ARTICLE IX, SECTION 8 OR 8.1, CONSTITUTION OF ARIZONA SHALL BE THE AGGREGATE NET ASSESSED VALUE OF PROPERTY WITHIN THE JURISDICTION USED FOR THE LEVY OF SECONDARY PROPERTY TAXES, AS DETERMINED PURSUANT TO TITLE 42.

Sec. 8. Confirmation of existing bonds

All bonds issued on or before March 31, 1996 pursuant to title 15, chapter 7, article 9 or title 35, chapter 3, article 3 or 4, Arizona Revised Statutes, are legal and binding obligations from and after the date of their issuance and shall be paid in accordance with their terms. This act is intended to protect the credit worthiness of this state and its political subdivisions to the fullest extent of legislative authority. The rights of any person, public officer, board or agency to take advice to reclaim damages or acts, advice or counsel remain intact.

Sec. 9. Prohibition on use of premium related capacity

Bonds shall not be issued if the bonds would be valid within constitutional debt limits only by virtue of unused debt capacity available on March 31, 1996 as a result of the issuance of refunding bonds with a par amount less than the par amount of the bonds refunded. Debt capacity

1 resulting from the repayment of bonds, increase in value of taxable property
2 or changes in law may be utilized.
3 Sec. 10. Retroactive effective dates
4 Sections 15-1024, 35-457, 35-471 and 35-473.01, Arizona Revised
5 Statutes, as amended by this act, and section 9 of this act are effective
6 retroactively from and after March 31, 1996.

APPROVED BY THE GOVERNOR MAY 1, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1,1996