House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 140

HOUSE BILL 2360

AN ACT

AMENDING SECTIONS 35-454, 35-455 AND 35-473.01, ARIZONA REVISED STATUTES; RELATING TO GENERAL OBLIGATION BONDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 35-454, Arizona Revised Statutes, is amended to read:

35-454. Informational pamphlet for election; review; election; return; canvass of vote; certificate of election

A. The governing body or board of the political subdivision shall:

1. Not less than thirty-five days before the bond election, mail a copy of an informational pamphlet to every household within the political subdivision that contains a registered voter. The pamphlet shall contain information on the:

(a) Amount of the bond authorization.

(b) Maximum interest rate of the bonds.

(c) Estimated debt retirement schedule for the current amount of bonds outstanding, showing both principal and interest payments, the current secondary assessed valuation as reported by the department of revenue or the county assessor and the current adopted and estimated tax rates. ~~In~~ FOR THE PURPOSES OF this paragraph, "secondary assessed valuation" may include the values used to determine voluntary contributions collected pursuant to title 9, chapter 4, article 3 and title 48, chapter 1, article 8.

(d) Estimated debt retirement schedule for the proposed bond authorization, showing both the estimated principal and interest payments and the estimated average annual tax rate for the proposed bond authorization. In preparing this information and the information prescribed by subdivision (c), the projected total annual increase in secondary assessed valuation for any future year shall not exceed:

(i) For the first five years of the estimated debt retirement schedule, the average of the annual percentage growth for the previous ten years in the secondary assessed valuation of the political subdivision.

(ii) For the remaining years of the estimated debt retirement schedule, twenty per cent of the average of the annual percentage growth for the previous ten years in the secondary assessed valuation of the political subdivision.

(e) Source of repayment.

(f) Estimated issuance costs.

(g) Estimated tax impact of debt service for the bonds on an owner-occupied residence classified as class three pursuant to section 42-12003 and on commercial property classified as class one pursuant to section 42-12001, paragraph 12, assuming the assessed valuation of the property ~~remains constant~~ INCREASES ANNUALLY AT FIFTY PER CENT OF THE PROJECTED TOTAL ANNUAL INCREASE IN SECONDARY ASSESSED VALUATION AS DETERMINED PURSUANT TO SUBDIVISION (d) over the term of the bonds using the same average annual tax rate as under subdivision (d), as follows:

The tax impact over the term of the bonds on an owner-occupied residence valued by the county assessor at $250,000 is estimated to be $___ per year for __ years, or $___ total cost.

The tax impact over the term of the bonds on commercial property valued by the county assessor at $2,500,000 is estimated to be $____ per year for __ years, or $_____ total cost.

(h) In bold-faced type, estimated total cost of the proposed bond authorization, including principal and interest.

(i) Current outstanding general obligation debt and constitutional debt limitation.

(j) Purpose for which the bonds are to be issued AND, IF APPLICABLE, IN BOLD-FACED TYPE, THAT THE AMOUNT OF THE PROPOSED BOND AUTHORIZATION COMBINED WITH THE CURRENT OUTSTANDING DEBT EXCEEDS THE POLITICAL SUBDIVISION'S CONSTITUTIONAL DEBT LIMIT.

(k) Polling location for the addressee.

(l) Hours during the day when the polls will be open.

(m) Arguments for and against the authorization of one or more of the bond propositions.

2. Submit a copy of the informational pamphlet to the department of revenue within thirty days after the bond election. The department of revenue shall maintain copies of the pamphlets.

B. The failure of any one or more electors to receive the informational pamphlet shall not be grounds to invalidate the election. The election shall conform with the general election laws of the state. The return of the election held in a county shall be made to the board of supervisors and, in any other case, to the governing body or board of the municipal corporation or district within twelve days after the election.

C. For any proposed general obligation bond authorization where the principal and interest will be paid by a levy of property taxes, the ballot shall contain the phrase "the issuance of these bonds will result in ~~an annual levy of property taxes sufficient to pay the debt on the bonds~~ A PROPERTY TAX INCREASE SUFFICIENT TO PAY THE ANNUAL DEBT SERVICE ON BONDS". Any written information provided by the political subdivision pertaining to the bond election shall include financial information showing the estimated average tax rate for the proposed bond authorization.

D. If the governing body intends to use revenues other than property taxes to pay the debt on proposed general obligation bonds, the ballot shall contain the phrase "the issuance of these bonds will result in ~~an annual levy of property taxes sufficient to pay the debt on the bonds~~ A PROPERTY TAX INCREASE SUFFICIENT TO PAY THE ANNUAL DEBT SERVICE ON BONDS, unless the governing body provides for payment from other sources".

E. The board of supervisors, governing body or governing board shall hold a special meeting within twenty days after the election to canvass the

votes cast and certify the result. The certificate of the result shall be prima facie evidence of full performance of all conditions and requirements precedent to holding the election.

F. The governing board or body shall file and record in the office of the county recorder a certificate disclosing the purpose of the election, the total number of votes cast and the total number of votes for and against creating the indebtedness, and stating whether or not the indebtedness is ordered. Upon filing and recording the certificate, the governing board or body shall carry out the purpose of the election.

G. Variations between the estimates required by subsection A OF THIS SECTION and the actual debt retirement schedules, issuance costs, annual and total costs and tax rates shall not invalidate either the election or the bonds.

Sec. 2. Section 35-455, Arizona Revised Statutes, is amended to read:

35-455. Issuance and sale of bonds; call for election

A. When the political subdivision designated in this article desires to issue bonds or other evidences of indebtedness, the governing body or board thereof ~~may~~, with the assent of a majority of the qualified electors therein voting at the election held as provided by section 35-454, MAY issue and sell bonds in the amount authorized at the election.

B. The call for the election shall set forth the aggregate amount of the bonds, the maximum rate of interest to be paid thereon, the MINIMUM AND maximum number of years bonds of any issue or series may run from their date, ~~and~~ the purposes for which the money derived from the sale of the bonds will be expended, THE CURRENT OUTSTANDING GENERAL OBLIGATION DEBT AND THE CONSTITUTIONAL DEBT LIMITATION OF THE POLITICAL SUBDIVISION.

C. Bonds of any issue or series of bonds voted under this section may run for any number of years not exceeding the longest period permitted by the voted proposition.

D. The governing body or board may expend the monies received from the sale of the bonds only for the purposes stated in the ballot and for the necessary costs and expenses of the issuance and sale of the bonds. If an unexpended balance remains after satisfying the purposes of the bonds, the balance shall be used to retire the bonded indebtedness.

Sec. 3. 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. IF THE WEIGHTED AVERAGE MATURITY OF THE REFUNDING BONDS IS AT LEAST SEVENTY-FIVE PER CENT OF THE WEIGHTED AVERAGE MATURITY OF THE BONDS BEING 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~~ IF THESE 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 THE 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.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.

Passed the House June 17, 2009

by the following vote: 34 Ayes,

19 Nays, 7 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate June 26, 2009

by the following vote: 17 Ayes,

7 Nays, 6 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

1st day of July, 2009

at 8:25 o'clock A. M.

Secretary to the Governor

Approved this 13th day of

July 2009

at 10:00 o'clock A M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13 day of July, 2009

at 3:20 o'clock P. M.

Secretary of State

H.B. 2360