House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 109

SENATE BILL 1164

AN ACT

AMENDING TITLE 48, CHAPTER 14, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-2011.03; AMENDING SECTIONS 48-2021, 48-2064, 48-2065 AND 48-2067, ARIZONA REVISED STATUTES; RELATING TO SANITARY DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 48, chapter 14, article 1, Arizona Revised Statutes, is amended by adding section 48-2011.03, to read:

48-2011.03. Issuance of bonds; notice; hearing

NOTWITHSTANDING ANY OTHER LAW, A SANITARY DISTRICT MAY ISSUE BONDS THAT REFINANCE EXISTING DEBT AND THAT MATURE OVER A PERIOD OF FORTY-ONE YEARS ONLY IF THE SANITARY DISTRICT COMPLIES WITH BOTH OF THE FOLLOWING BEFORE ISSUANCE OF THE BONDS:

1. THE NEW BONDS DO NOT CAUSE AN INCREASE IN THE SANITARY DISTRICT'S BONDING CAPACITY.

2. THE SANITARY DISTRICT'S BOARD OF DIRECTORS HOLDS A PUBLIC HEARING REGARDING THE ISSUANCE OF THE BONDS. THE SANITARY DISTRICT'S BOARD OF DIRECTORS SHALL PROVIDE PUBLIC NOTICE OF THE HEARING AS OTHERWISE PRESCRIBED BY LAW.

Sec. 2. Section 48-2021, Arizona Revised Statutes, is amended to read:

48-2021. Issuance of bonds; subsequent bond issues

A. If a majority of the votes cast at a bond election favors the bonded indebtedness proposed, bonds of the district for the amount stated shall be issued and sold.

B. The board of directors, subject to this article, shall prescribe by resolution the form of the bonds and interest coupons attached thereto. The bonds shall be payable serially over a period of not more than ~~twenty~~ THIRTY years from the date thereof at a place fixed by the board and designated in the bonds, together with the interest thereon from the date of the bonds until paid, except that if the initial purchaser of the bonds is the United States of America or any department, division or agency of the United States of America, the bonds may mature over a period that does not exceed ~~forty~~ FORTY-ONE years ~~and three months~~. Interest shall be 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 refunded. The board of directors may provide for their redemption before maturity on giving ~~such~~ notice as the board determines to be reasonable and for the payment of a premium at redemption if the board determines the premium to be reasonable or advisable.

C. The bonds may be issued in ~~such~~ denominations as the board of directors determines, except that no bond shall be of a denomination less than five hundred nor more than ten thousand dollars. Each bond shall be signed by the chairman of the board of directors and countersigned by the auditor of the sanitary district, and the seal of the district shall be affixed thereto. The interest coupons of the bonds, if any, shall be numbered consecutively and shall be signed by the chairman of the board of directors and the auditor of the district by their engraved or lithographed signatures. If any officer whose signature or countersignature appears on a bond or interest coupon ceases to be such officer, either before or after

delivery of the bond to the purchaser, the signature or countersignature shall be valid for all purposes as if the officer had remained in office.

D. The validity of the bonds, after their issuance, shall not be questioned in any court, except on the ground that a provision of this article authorizing their issuance is unconstitutional or that proper notice of the bond election was not given.

E. When bonds have been issued by a sanitary district and the proceeds of the sale thereof have been expended as authorized by this article, the board of directors may, by resolution passed by a vote of ~~not less than~~ AT LEAST two-thirds of its members, determine that additional bonds for carrying out the purposes of the district should be issued. Thereupon the board of directors shall cause another survey and report to be made. On approval thereof as provided by this article for an original report, the board shall submit to the qualified electors of the district, in the manner prescribed by section 48-2020, the question of issuing additional bonds. If a majority of the votes cast ~~thereon~~ is in favor of issuing the additional bonds, they may be issued and sold and the proceeds disposed of in the manner prescribed by subsections A, B, C and D of this section and by section 48-2022.

F. The district may issue refunding bonds to refund all or any portion of an issue of bonds issued pursuant to this section in the manner prescribed by title 35, chapter 3, article 4.

Sec. 3. Section 48-2064, Arizona Revised Statutes, is amended to read:

48-2064. <u>Description of improvement bonds in resolution and notices</u>

A. If the board ~~determines that~~ DECIDES TO ISSUE improvement bonds ~~shall be issued~~, it shall so declare in the resolution of intention for the work and shall specify the maximum rate of interest which the bonds shall bear. A similar description of the bonds shall be inserted in all notices of the proceedings required to be published or posted and a notice that the bonds will be paid from a special fund collected in not ~~to exceed twenty-five~~ MORE THAN THIRTY annual installments from the assessments of twenty-five dollars or more remaining unpaid at the date of the issuance of the bonds or thirty days after the date of the warrant, or five days after the decision of the board on an objection, EXCEPT THAT IF THE INITIAL PURCHASER OF THE BONDS IS THE UNITED STATES OF AMERICA OR ANY DEPARTMENT, DIVISION OR AGENCY OF THE UNITED STATES OF AMERICA, THE BONDS MAY MATURE OVER A PERIOD THAT DOES NOT EXCEED FORTY-ONE YEARS AND THE BONDS WILL BE PAID FROM A SPECIAL FUND COLLECTED IN NOT MORE THAN FORTY-ONE ANNUAL INSTALLMENTS. A description of the bonds shall be included in the warrant.

B. All other proceedings for the work up to and including the approval of the assessment by the board, including delivery of the assessment to the contractor, demand of payment of the several assessments and the return and recording, shall be ~~in all respects~~ conducted as provided in this article.

Sec. 4. Section 48-2065, Arizona Revised Statutes, is amended to read:

48-2065. List of unpaid assessments; issuance of bonds; denominations; due date

A. After the prescribed time from the date of the warrant has expired and after the sanitary district has recorded the return, the board shall make and certify a complete list of all unpaid assessments that amount to twenty-five dollars or more on any assessment.

B. If any person, before certification of the list, presents to the board an affidavit that he is the owner of a lot on the list, accompanied by the certificate of a searcher of record that the person is the owner of record, and notifies the board, in writing, that he desires no bond to be issued for the assessment on the lot, the assessment shall not be included in the list and shall remain collectible as provided in this article. The failure to file the notice bars any defense against the bonds, except for the defense that the board did not have authority to issue the bonds.

C. The clerk shall present the list to the district at its next meeting after the return has been recorded. At any time after awarding a contract for construction or acquisition, the district by resolution, may direct improvement bonds to be issued in an amount, ~~which~~ THAT shall not exceed the amount of unpaid assessments exceeding twenty-five dollars as may be shown on the certified list. The resolution shall prescribe the maximum number and denomination of the bonds, and the times when payable, which shall be so fixed that an approximately equal amount of principal shall be paid each year or any approximately equal aggregate amount of principal and interest shall be paid each year until the whole amount is paid. The bonds shall mature in a period that does not exceed ~~twenty-five~~ THIRTY years and three months from the date of the bonds, except that if the initial purchaser of the bonds is the United States of America or any department, division or agency of the United States of America, the bonds may mature over a period that does not exceed ~~forty~~ FORTY-ONE years ~~and three months~~. The denominations of the bonds shall be fixed by the district. The district may provide in the form of the bond for redemption before maturity by giving ~~such~~ notice as the district determines to be reasonable and by the payment of a premium at redemption if the district determines a premium is advisable. The resolution shall also fix the place, if any, other than the office of the treasurer, at which the bonds and the interest are payable.

D. The bonds shall be issued as of the date determined by the district and shall bear interest from ~~such~~ THE date at the rate not ~~to exceed~~ MORE THAN that specified in the resolution of intention. They shall have semiannual interest payments, the first of which is payable on January 1 or July 1, as the case may be, occurring no earlier than ninety days after the later of the date of the bond or the expected completion of the work, and shall be for the interest accrued at that time.

E. The due date of all bonds is January 1 or July 1, as stated on the face of the bonds, in the years in which they respectively become due.

F. The district may sell the bonds at public sale, or if the district has a population of more than two thousand persons and has been in existence for ten or more years at public or private sale, at a price at or above par and accrued interest to the date of payment, and at an interest rate not exceeding the maximum rate set in the resolution of intention. If the bonds are not sold by the district they shall be delivered to the contractor for the amount of the assessments remaining unpaid, and the bonds shall bear interest at the maximum interest rate set forth in the resolution of intention.

G. If the bonds are sold before the work or acquisition is completed, the proceeds from the sale of the bonds shall be placed in a special fund to be held by the treasurer and to be used to pay incidental expenses and payments for construction or acquisition. Proceeds from the sale of the bonds shall be used for the acquisition mentioned in the resolution of intention or to make semimonthly or monthly payments to the contractor on a basis of ninety per cent of the value of the work actually performed as estimated by the district or engineer employed for ~~such~~ THOSE purposes to and including the fifteenth or last day of each calendar month. The balance shall be paid after the district has recorded a certificate of substantial completion of the work described in the resolution of intention, in the same manner as the recording of the assessment. The district shall record the certificate after the work has been completed to its satisfaction. The district shall also cause a copy of the notice of completion to be mailed to each property owner in the same manner as the notice of hearing on the assessment. Pending use of the bond proceeds, the treasurer may invest the proceeds in any investments for which sinking funds of this state may be invested or in the pooled investment fund established under section 35-326. Notwithstanding the foregoing, if bond anticipation notes have been issued, the bond proceeds, or ~~so~~ AS much as are necessary, shall be used to redeem the notes.

H. Refunding bonds may be issued to refund all or any portion of an issue of bonds issued and sold pursuant to this section in the manner prescribed by title 35, chapter 3, article 4.

Sec. 5. Section 48-2067, Arizona Revised Statutes, is amended to read:

48-2067. <u>Certification of unpaid assessments; payments by installment; interest; payments in advance</u>

A. The board, at the time it certifies the list of unpaid assessments, shall write the word "certified" on the record of the assessment opposite each unpaid assessment included in the list, and all assessments of twenty-five dollars or more cease to be payable in cash and are thereafter payable only in equal annual installments on January 1 of each year in which the bonds become due. The board may provide a plan by which the annual installment plus an additional over levy as determined by the board to cover the anticipated delinquencies in the collection of the assessment may be collected in partial payments before the installment is due, and the lien of

each assessment on the property assessed is valid for two years after the last installment on the assessment becomes due, or until the assessment is fully paid.

B. An uncollected installment shall be added to the succeeding installment and paid, together with interest and penalties.

C. The number of installments in which the assessment is payable shall correspond to the number of years in which there are bonds to be paid. The total number of installments shall not exceed ~~twenty-five~~ THIRTY, EXCEPT THAT IF THE INITIAL PURCHASER OF THE BONDS IS THE UNITED STATES OF AMERICA OR ANY DEPARTMENT, DIVISION OR AGENCY OF THE UNITED STATES OF AMERICA, THE BONDS MAY MATURE OVER A PERIOD THAT DOES NOT EXCEED FORTY-ONE YEARS AND THE TOTAL NUMBER OF INSTALLMENTS SHALL NOT EXCEED FORTY-ONE.

D. All assessments of twenty-five dollars or more not paid before the certification of the list of unpaid assessments bear interest from the date of the warrant at the same rate as that specified for the bonds in the resolution of intention. The interest is payable on July 1 and January 1 of each year, immediately before the interest becomes due on the bonds. The board may provide a plan by which the interest is collected in partial payments before the date it becomes due.

E. The board may provide for receiving payment of the installments of the assessments before they become due and may use the proceeds to redeem the bonds presented for redemption by the bond owners or invest the proceeds in improvement bonds for other work or other satisfactory investment. ~~No~~ Investment of these monies may NOT be made so as to prejudice the prompt payment of the bonds on the date they become due.

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.

Passed the House April 15, 2014,

by the following vote: 34 Ayes,

26 Nays, 0 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 3, 2014,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

President of the Senate

Susan Anables

Assistant Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1164

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 16, 2014

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

17 day of April, 2014

at 8:20 o'clock A M.

Mikhaila Howard
Secretary to the Governor

Approved this 22 day of

April

at 4:58 o'clock P M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 23rd day of April, 2014

at 9:40 o'clock a M.

Ken Bennett
Secretary of State

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