

6371

I N S E N A T E

February 1, 2012

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the local finance law, in relation to the electronic public bond sale pilot program; and to amend chapter 304 of the laws of 2009, amending the local finance law relating to the establishment of an electronic public bond sale pilot program for Westchester county, in relation to extending the expiration date of the provisions thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 58.10 of the local finance law, as added by chapter
2 304 of the laws of 2009, is amended to read as follows:
3 S 58.10 Electronic public bond sale pilot program. a. AS USED IN THIS
4 SECTION, THE FOLLOWING TERMS SHALL MEAN:
5 1. "CLOSED AUCTION" MEANS A BOND SALE PROCEDURE THAT DOES NOT ALLOW A
6 BIDDER TO RECEIVE INFORMATION WITH RESPECT TO THE RANKING OR ITS BIDS
7 PRIOR TO THE CONCLUSION OF THE BIDDING PERIOD.
8 2. "COUNTY" MEANS THE COUNTY OF WESTCHESTER.
9 3. "NATIONALLY RECOGNIZED ELECTRONIC SECURITIES BIDDING SERVICE" MEANS
10 A BIDDING SERVICE THAT IS RECOGNIZED NATIONALLY BY THE PREDOMINANT USERS
11 OF ELECTRONIC SECURITIES BIDDING SERVICES AS PROVIDING AN ACCURATE,
12 SECURE AND RELIABLE ON-LINE BIDDING SYSTEM.
13 4. "OPEN AUCTION" MEANS A BOND SALE PROCEDURE THAT ALLOWS A BIDDER TO
14 RECEIVE INFORMATION WITH RESPECT TO THE RANKING OF ITS BIDS PRIOR TO THE
15 CONCLUSION OF THE BIDDING PERIOD IN ACCORDANCE WITH THE COUNTY'S NOTICE
16 OF SUCH BOND SALE CIRCULATED IN ACCORDANCE WITH APPLICABLE REQUIREMENTS
17 OF THIS CHAPTER.
18 5. "PROGRAM" MEANS THE ELECTRONIC PUBLIC BOND SALE PILOT PROGRAM
19 ESTABLISHED PURSUANT TO THIS SECTION.
20 B. There is hereby established an electronic public bond sale pilot
21 program [(referred to in this section as the "program")] solely for the
22 county [of Westchester (referred to in this section as the "county")]
23 authorizing the county to conduct public bond sales through any [bidding
24 services that are recognized nationally by the predominant users of
25 electronic securities bidding services as providing an accurate, secure
26 and reliable on-line bidding system (referred to in this section as "a]
27 nationally recognized electronic securities bidding [service")] SERVICE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 [b.] C. If the finance board of the county has authorized the receipt
2 of bids in electronic format, such electronic bids may be submitted in
3 the form of open auctions or closed auctions conducted through a
4 nationally recognized electronic securities bidding service which shall
5 be deemed to be the designated receiving device. ["Open auction" shall
6 mean a bond sale procedure that allows a bidder to receive information
7 with respect to the ranking of its bids prior to the conclusion of the
8 bidding period in accordance with the provisions of the county's notice
9 of such bond sale circulated in accordance with applicable requirements
10 of this chapter. "Closed auction" shall mean a bond sale procedure that
11 does not allow a bidder to receive information with respect to the rank-
12 ing of its bids prior to the conclusion of the bidding period. Such] THE
13 notice OF SUCH BOND SALE shall provide for the manner in which the
14 bidding period may be extended and the basis for determination of the
15 winning bidder.

16 [c.] D. Notwithstanding the provisions of section three hundred five
17 of the state technology law or any other law, if the notice of sale
18 contains a provision that bids will only be accepted electronically in
19 the manner provided in such notice of sale, the county shall not be
20 required to accept non-electronic bids in any form.

21 [d.] E. The county's chief fiscal officer shall administer the program
22 and shall publish its policies and procedures for the procurement of
23 electronic securities bidding services on the county's internet website
24 and in a nationally recognized publication used by professionals in the
25 bond market. Except as modified by this section, the county program
26 shall comply with this chapter and all other applicable laws, rules and
27 regulations related to the sale of bonds.

28 [e.] F. The county's chief fiscal officer shall review the electronic
29 bidding process to ensure that the bond sale was completed in a timely
30 fashion; the sale was completed without errors; and the results achieved
31 were favorable as compared to the manual method currently used by the
32 county.

33 [f.] G. The county shall conduct evaluations of the pilot program
34 [annually] BIENNIALY with a summary evaluation [at] ON OR BEFORE THE
35 FIRST OF APRIL PRECEDING the end of the [three year] pilot program. The
36 county will submit the evaluations to the state comptroller, the tempo-
37 rary president of the senate and the speaker of the assembly. Such
38 report shall include, but not be limited to, any demonstrated evidence
39 that sale of public bonds using electronic auctions is comparable to the
40 cost of issuing public bonds through the current sealed bid process,
41 that the use of electronic auctions resulted in an increased number of
42 bidders and whether the results achieved for public bond sales conducted
43 through electronic auctions achieved savings compared to the current bid
44 process used by the county.

45 S 2. Section 2 of chapter 304 of the laws of 2009, amending the local
46 finance law relating to the establishment of an electronic public bond
47 sale pilot program for Westchester county, is amended to read as
48 follows:

49 S 2. This act shall take effect immediately and shall expire [3 years
50 after such effective date] JANUARY 1, 2017, when upon such date the
51 provisions of this act shall be deemed repealed.

52 S 3. This act shall take effect immediately; provided that the amend-
53 ments to section 58.10 of the local finance law, made by section one of
54 this act, shall not affect the expiration and repeal of such section
55 pursuant to section 2 of chapter 304 of the laws of 2009, as amended,
56 and shall expire and be deemed repealed therewith.