S T A T E O F N E W Y O R K

9537

I N A S S E M B L Y

March 12, 2012

Introduced by M. of A. PAULIN, ABINANTI, GALEF -- read once and referred to the Committee on Local Governments

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:

Section 1. Section 58.10 of the local finance law, as added by chapter 304 of the laws of 2009, is amended to read as follows:

S 58.10 Electronic public bond sale pilot program. a. AS USED IN THIS SECTION:

1. "CLOSED AUCTION" MEANS A BOND SALE PROCEDURE THAT DOES NOT ALLOW A BIDDER TO RECEIVE INFORMATION WITH RESPECT TO THE RANKING OF ITS BIDS PRIOR TO THE CONCLUSION OF THE BIDDING PERIOD.

2. "COUNTY" MEANS THE COUNTY OF WESTCHESTER.

3. "NATIONALLY RECOGNIZED ELECTRONIC SECURITIES BIDDING SERVICE" MEANS A BIDDING SERVICE THAT IS RECOGNIZED NATIONALLY BY THE PREDOMINANT USERS OF ELECTRONIC SECURITIES BIDDING SERVICES AS PROVIDING AN ACCURATE, SECURE AND RELIABLE ON-LINE BIDDING SYSTEM.

4. "OPEN AUCTION" MEANS A BOND SALE PROCEDURE THAT ALLOWS A BIDDER TO RECEIVE INFORMATION WITH RESPECT TO THE RANKING OF ITS BIDS PRIOR TO THE CONCLUSION OF THE BIDDING PERIOD IN ACCORDANCE WITH THE COUNTY'S NOTICE OF SUCH BOND SALE CIRCULATED IN ACCORDANCE WITH APPLICABLE REQUIREMENTS OF THIS CHAPTER.

5. "PROGRAM" MEANS THE ELECTRONIC PUBLIC BOND SALE PILOT PROGRAM ESTABLISHED PURSUANT TO THIS SECTION.

B. There is hereby established an electronic public bond sale pilot program [(referred to in this section as the "program")] solely for the county [of Westchester (referred to in this section as the "county")] authorizing the county to conduct public bond sales through any [bidding services that are recognized nationally by the predominant users of electronic securities bidding services as providing an accurate, secure and reliable on-line bidding system (referred to in this section as "a] 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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[b.] C. If the finance [board] COMMISSIONER of the county has authorized the receipt of bids in electronic format, such electronic bids may be submitted in the form of open auctions or closed auctions conducted through a nationally recognized electronic securities bidding service which shall be deemed to be the designated receiving device. ["Open auction" shall mean a bond sale procedure that allows a bidder to receive information with respect to the ranking of its bids prior to the conclusion of the bidding period in accordance with the provisions of the county's notice of such bond sale circulated in accordance with applicable requirements of this chapter. "Closed auction" shall mean a bond sale procedure that does not allow a bidder to receive information with respect to the ranking of its bids prior to the conclusion of the bidding period. Such notice] NOTICE OF ANY BOND SALE shall provide for the manner in which the bidding period may be extended and the basis for determination of the winning bidder.

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

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

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

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

S 2. Section 2 of 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, is amended to read as follows:

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

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