

S T A T E   O F   N E W   Y O R K

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6371--A

I N   S E N A T E

February 1, 2012

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Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:  
5     1. "CLOSED AUCTION" MEANS A BOND SALE PROCEDURE THAT DOES NOT ALLOW A  
6     BIDDER TO RECEIVE INFORMATION WITH RESPECT TO THE RANKING OF 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")]

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

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1 authorizing the county to conduct public bond sales through any [bidding  
2 services that are recognized nationally by the predominant users of  
3 electronic securities bidding services as providing an accurate, secure  
4 and reliable on-line bidding system (referred to in this section as "a]  
5 nationally recognized electronic securities bidding [service")] SERVICE.  
6 [b.] C. If the finance [board] COMMISSIONER of the county has author-  
7 ized the receipt of bids in electronic format, such electronic bids may  
8 be submitted in the form of open auctions or closed auctions conducted  
9 through a nationally recognized electronic securities bidding service  
10 which shall be deemed to be the designated receiving device. ["Open  
11 auction" shall mean a bond sale procedure that allows a bidder to  
12 receive information with respect to the ranking of its bids prior to the  
13 conclusion of the bidding period in accordance with the provisions of  
14 the county's notice of such bond sale circulated in accordance with  
15 applicable requirements of this chapter. "Closed auction" shall mean a  
16 bond sale procedure that does not allow a bidder to receive information  
17 with respect to the ranking of its bids prior to the conclusion of the  
18 bidding period. Such notice] NOTICE OF ANY BOND SALE shall provide for  
19 the manner in which the bidding period may be extended and the basis for  
20 determination of the winning bidder.

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

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

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

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

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

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

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