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

2369--A

Cal. No. 326

2013-2014 Regular Sessions

I N S E N A T E

January 16, 2013

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the local finance law, in relation to the notice of sale of bonds

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

Section 1. Paragraph a of section 58.00 of the local finance law, as amended by section 6 of part X of chapter 62 of the laws of 2003, is amended to read as follows:

a. There shall be published, at least once, not less than five nor more than thirty days before the date fixed for the public sale of bonds, a notice of such public sale or a summary thereof in accordance with one of the following methods: (1) the notice of sale shall be published in any financial newspaper published and circulated in the city of New York which the state comptroller, in the rule or order referred to in paragraph d of section 57.00 of this chapter, shall designate for such publication; (2) the notice of sale shall be circularized in such manner as the state comptroller shall prescribe in such rule or order and shall be published in any newspaper or newspapers which the finance board of the municipality, school district or district corporation may designate for such purpose; or (3) (i) a summary of the notice of sale shall be published in both the financial newspaper published and circulated in the city of New York which the state comptroller has designated in the rule or order referred to in paragraph d of section 57.00 of this chapter, and (ii) any newspaper or newspapers which the finance board of the municipality, school district or district

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

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corporation may designate for such purpose. A summary of the notice of sale shall at a minimum contain the name of the issuer, the amount, date, and maturities of the bonds, the frequency of interest payments, the place where bids will be received, the designation of the receiving device if the finance board of the issuing municipality, school district or district corporation has authorized OR REQUIRED the receipt of bids in an electronic format, the time and date for the opening of the bids, including circumstances under which such time and date may be changed in accordance with law, the method of award and a procedure for promptly obtaining the complete notice of sale and any preliminary official statement prepared in connection with the sale, and such other information as the state comptroller may prescribe by rule or order.

S 2. Subdivision 1 of paragraph b of section 58.00 of the local finance law, as amended by section 7 of part X of chapter 62 of the laws of 2003, is amended to read as follows:

1. The place where bids will be received and considered, and the designation of the receiving device if the finance board of the issuing municipality, school district or district corporation has authorized OR REQUIRED the receipt of bids in an electronic format.

S 3. Paragraphs d, e, and f of section 58.00 of the local finance law, paragraph d as amended by chapter 581 of the laws of 1949, paragraph e as added by chapter 663 of the laws of 1949, and paragraph f as amended by chapter 741 of the laws of 2005, are amended to read as follows:

d. It may be a condition of the sale of bonds that every bidder may be required to accept a portion of the whole amount of the bonds for which he OR SHE has bid, at the same rate for such portion as may be specified in his OR HER bid for the full amount. If such condition is imposed, the notice of sale shall so state and such notice also shall state that, in addition, any bidder may offer to purchase all or none of such bonds on different terms.

e. The notice of sale may provide that the bidder to whom the bonds are to be awarded, at his OR HER option, may refuse to accept the bonds if prior to the delivery of the bonds any income tax law of the United States of America shall provide that the interest on such bonds is taxable, or shall be taxable at a future date, for federal income tax purposes.

f. For purposes of this section and section 59.00 of this chapter, "sealed bids" shall include bids submitted in an electronic format, provided that the finance board of the issuing municipality, school district or district corporation, by resolution, has authorized the receipt of bids in such format. Submission in electronic format may [not, however,] be required as the sole method for the submission of bids. Bids submitted in an electronic format shall be transmitted by bidders to the receiving device designated by the issuing municipality, school district or district corporation. Any method used to receive electronic bids shall comply with article three of the state technology law and any rules and regulations promulgated and guidelines developed thereunder and, at a minimum, must: (a) document the time and date of receipt of each bid received electronically; (b) authenticate the identity of the sender; (c) ensure the security of the information transmitted; and (d) ensure the confidentiality of the bid until the time and date established for the opening of bids. The timely submission of an electronic bid in compliance with instructions provided for such submission in the notice of sale and any supplemental notice of sale shall be the responsibility solely of each bidder or prospective bidder. No issuing municipality, school district or district corporation shall

incur any liability from delays of or interruptions in the receiving device designated for the submission and receipt of electronic bids.

S 4. This act shall take effect January 1, 2014; provided, however, that the amendments to paragraph a, subdivision 1 of paragraph b, and paragraph f of section 58.00 of the local finance law made by sections one, two, and three of this act shall not affect the expiration of such paragraphs or subdivision and shall expire and be deemed repealed therewith.