

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:

1 Section 1. Paragraph a of section 58.00 of the local finance law, as
2 amended by section 6 of part X of chapter 62 of the laws of 2003, is
3 amended to read as follows:
4 a. There shall be published, at least once, not less than five nor
5 more than thirty days before the date fixed for the public sale of
6 bonds, a notice of such public sale or a summary thereof in accordance
7 with one of the following methods: (1) the notice of sale shall be
8 published in any financial newspaper published and circulated in the
9 city of New York which the state comptroller, in the rule or order
10 referred to in paragraph d of section 57.00 of this chapter, shall
11 designate for such publication; (2) the notice of sale shall be circu-
12 larized in such manner as the state comptroller shall prescribe in such
13 rule or order and shall be published in any newspaper or newspapers
14 which the finance board of the municipality, school district or district
15 corporation may designate for such purpose; or (3) (i) a summary of the
16 notice of sale shall be published in both the financial newspaper
17 published and circulated in the city of New York which the state comp-
18 troller has designated in the rule or order referred to in paragraph d
19 of section 57.00 of this chapter, and (ii) any newspaper or newspapers
20 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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1 corporation may designate for such purpose. A summary of the notice of
2 sale shall at a minimum contain the name of the issuer, the amount,
3 date, and maturities of the bonds, the frequency of interest payments,
4 the place where bids will be received, the designation of the receiving
5 device if the finance board of the issuing municipality, school district
6 or district corporation has authorized OR REQUIRED the receipt of bids
7 in an electronic format, the time and date for the opening of the bids,
8 including circumstances under which such time and date may be changed in
9 accordance with law, the method of award and a procedure for promptly
10 obtaining the complete notice of sale and any preliminary official
11 statement prepared in connection with the sale, and such other informa-
12 tion as the state comptroller may prescribe by rule or order.

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

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

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

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

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

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

1 incur any liability from delays of or interruptions in the receiving
2 device designated for the submission and receipt of electronic bids.
3 S 4. This act shall take effect January 1, 2014; provided, however,
4 that the amendments to paragraph a, subdivision 1 of paragraph b, and
5 paragraph f of section 58.00 of the local finance law made by sections
6 one, two, and three of this act shall not affect the expiration of such
7 paragraphs or subdivision and shall expire and be deemed repealed there-
8 with.