

6579--A

I N   S E N A T E

February 7, 2014

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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 establishment of an electronic open auction public bond sale pilot program for municipalities; and providing for the repeal of such provisions upon expiration thereof

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

- 1     Section 1. The local finance law is amended by adding a new section  
2     58.20 to read as follows:  
3     S 58.20 ELECTRONIC OPEN AUCTION PUBLIC BOND SALE PILOT PROGRAM; MUNI-  
4     CIPALITIES. A. AS USED IN THIS SECTION:  
5     1. "CLOSED AUCTION" MEANS A BOND SALE PROCEDURE THAT DOES NOT ALLOW A  
6     BIDDER TO RECEIVE INFORMATION WITH RESPECT TO THE STATUS OR RANK OF ITS  
7     BIDS PRIOR TO THE CONCLUSION OF THE BID SUBMISSION PERIOD.  
8     2. "MUNICIPALITY" MEANS A COUNTY, CITY, TOWN, VILLAGE OR SCHOOL  
9     DISTRICT.  
10    3. "NATIONALLY RECOGNIZED ELECTRONIC SECURITIES BIDDING SERVICE" MEANS  
11    A BIDDING SERVICE THAT IS RECOGNIZED NATIONALLY BY THE PREDOMINANT USERS  
12    OF ELECTRONIC SECURITIES BIDDING SERVICES AS PROVIDING AN ACCURATE,  
13    SECURE AND RELIABLE ON-LINE BIDDING SYSTEM.  
14    4. "OPEN AUCTION" MEANS A BOND SALE PROCEDURE THAT ALLOWS A BIDDER TO  
15    RECEIVE INFORMATION WITH RESPECT TO THE STATUS OR RANK OF ITS BIDS PRIOR  
16    TO THE CONCLUSION OF THE BID SUBMISSION PERIOD AND IMPROVE ITS BID AS A  
17    RESULT OF THE RECEIVED INFORMATION IN ACCORDANCE WITH THE MUNICIPALITY'S  
18    NOTICE OF SUCH BOND SALE CIRCULATED IN ACCORDANCE WITH APPLICABLE  
19    REQUIREMENTS OF THIS CHAPTER.  
20    5. "PROGRAM" MEANS THE ELECTRONIC OPEN AUCTION PUBLIC BOND SALE PILOT  
21    PROGRAM ESTABLISHED PURSUANT TO THIS SECTION.  
22    B. THERE IS HEREBY ESTABLISHED AN ELECTRONIC OPEN AUCTION PUBLIC BOND  
23    SALE PILOT PROGRAM AUTHORIZING MUNICIPALITIES TO CONDUCT OPEN AUCTION

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

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1 PUBLIC BOND SALES THROUGH ANY NATIONALLY RECOGNIZED ELECTRONIC SECURI-  
2 TIES BIDDING SERVICE.

3 C. THE FINANCE COMMISSIONER OF A MUNICIPALITY MAY ACCEPT ELECTRONIC  
4 BIDS SUBMITTED IN THE FORM OF OPEN AUCTIONS CONDUCTED THROUGH A  
5 NATIONALLY RECOGNIZED ELECTRONIC SECURITIES BIDDING SERVICE WHICH SHALL  
6 BE DEEMED TO BE THE DESIGNATED RECEIVING DEVICE. NOTICE OF ANY BOND  
7 SALE SHALL PROVIDE FOR THE MANNER IN WHICH THE BID SUBMISSION PERIOD MAY  
8 BE EXTENDED AND THE BASIS FOR DETERMINATION OF THE WINNING BIDDER.

9 D. NOTWITHSTANDING THE PROVISIONS OF SECTION THREE HUNDRED FIVE OF THE  
10 STATE TECHNOLOGY LAW OR ANY OTHER LAW, THE NOTICE OF SALE MAY CONTAIN A  
11 PROVISION THAT BIDS WILL ONLY BE ACCEPTED ELECTRONICALLY IN THE MANNER  
12 PROVIDED IN SUCH NOTICE OF SALE.

13 E. THE MUNICIPALITY'S CHIEF FISCAL OFFICER SHALL ADMINISTER THE  
14 PROGRAM AND SHALL PUBLISH ITS POLICIES AND PROCEDURES FOR THE PROCURE-  
15 MENT OF ELECTRONIC SECURITIES BIDDING SERVICES ON THE MUNICIPALITY'S  
16 INTERNET WEBSITE AND IN A NATIONALLY RECOGNIZED PUBLICATION USED BY  
17 PROFESSIONALS IN THE BOND MARKET. EXCEPT AS MODIFIED BY THIS SECTION,  
18 EACH MUNICIPAL PROGRAM SHALL COMPLY WITH THIS CHAPTER AND ALL OTHER  
19 APPLICABLE LAWS RELATED TO THE SALE OF BONDS.

20 F. THE MUNICIPALITY'S CHIEF FISCAL OFFICER SHALL REVIEW THE ELECTRONIC  
21 OPEN AUCTION BIDDING PROCESS TO ENSURE THAT THE BOND SALE WAS COMPLETED  
22 IN A TIMELY FASHION; AND THE SALE WAS COMPLETED WITHOUT ERRORS.

23 G. EACH MUNICIPALITY, OR TWO OR MORE MUNICIPALITIES ACTING JOINTLY OR  
24 IN COOPERATION WITH ANY ENTITY REPRESENTING MUNICIPALITIES, SHALL, ON OR  
25 BEFORE FEBRUARY FIRST, CONDUCT ANNUAL EVALUATIONS OF THEIR PILOT PROGRAM  
26 OR PROGRAMS WITH A SUMMARY EVALUATION AT THE END OF THE THREE YEAR OPEN  
27 AUCTION PILOT PROGRAM. THE MUNICIPALITY OR MUNICIPALITIES WILL SUBMIT  
28 THE EVALUATIONS TO THE STATE COMPTROLLER. SUCH REPORT SHALL INCLUDE,  
29 BUT NOT BE LIMITED TO, ANY DEMONSTRATED EVIDENCE THAT SALE OF PUBLIC  
30 BONDS USING ELECTRONIC OPEN AUCTIONS IS COMPARABLE TO THE COST OF ISSU-  
31 ING PUBLIC BONDS THROUGH THE CURRENT CLOSED AUCTION PROCESS, THAT THE  
32 USE OF ELECTRONIC OPEN AUCTIONS RESULTED IN AN INCREASED NUMBER OF BIDS  
33 AND WHETHER THE RESULTS ACHIEVED FOR PUBLIC BOND SALES CONDUCTED THROUGH  
34 ELECTRONIC OPEN AUCTIONS ACHIEVED SAVINGS COMPARED TO THE PREVIOUS BID  
35 PROCESS USED BY THE MUNICIPALITY. ANNUALLY, THE STATE COMPTROLLER SHALL  
36 COMPILE ALL THE INFORMATION RECEIVED FROM MUNICIPALITIES PURSUANT TO  
37 THIS PARAGRAPH, AND, ON OR BEFORE APRIL FIRST, SUBMIT SUCH COMPILED  
38 INFORMATION TO THE LEGISLATURE, THE TEMPORARY PRESIDENT OF THE SENATE,  
39 THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE  
40 MINORITY LEADER OF THE ASSEMBLY.

41 S 2. This act shall take effect immediately, and shall expire and be  
42 deemed repealed 3 years after such effective date.