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I N  A S S E M B L Y

April 7, 2014

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

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:

Section 1. The local finance law is amended by adding a new section 58.20 to read as follows:

S 58.20 ELECTRONIC OPEN AUCTION PUBLIC BOND SALE PILOT PROGRAM; MUNICIPALITIES. 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 STATUS OR RANK OF ITS BIDS PRIOR TO THE CONCLUSION OF THE BID SUBMISSION PERIOD.

2. "MUNICIPALITY" MEANS A COUNTY, CITY, TOWN, VILLAGE OR SCHOOL DISTRICT.

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 STATUS OR RANK OF ITS BIDS PRIOR TO THE CONCLUSION OF THE BID SUBMISSION PERIOD AND IMPROVE ITS BID AS A RESULT OF THE RECEIVED INFORMATION IN ACCORDANCE WITH THE MUNICIPALITY'S NOTICE OF SUCH BOND SALE CIRCULATED IN ACCORDANCE WITH APPLICABLE REQUIREMENTS OF THIS CHAPTER.

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

B. THERE IS HEREBY ESTABLISHED AN ELECTRONIC OPEN AUCTION PUBLIC BOND SALE PILOT PROGRAM AUTHORIZING MUNICIPALITIES TO CONDUCT OPEN AUCTION PUBLIC BOND SALES THROUGH ANY NATIONALLY RECOGNIZED ELECTRONIC SECURITIES BIDDING SERVICE.

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

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

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

E. THE MUNICIPALITY'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 MUNICIPALITY'S INTERNET WEBSITE AND IN A NATIONALLY RECOGNIZED PUBLICATION USED BY PROFESSIONALS IN THE BOND MARKET. EXCEPT AS MODIFIED BY THIS SECTION, EACH MUNICIPAL PROGRAM SHALL COMPLY WITH THIS CHAPTER AND ALL OTHER APPLICABLE LAWS RELATED TO THE SALE OF BONDS.

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

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

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