

STATE OF NEW YORK

10593

IN ASSEMBLY

June 5, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Hawley) --
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 solely for certain municipalities; and providing for the repeal of such provisions upon the 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 58.11 to read as follows:

3 § 58.11 Electronic open auction public bond sale pilot program. a. As
4 used in this section:

5 1. "Municipality" means a county with a population greater than
6 fifty-seven thousand, and less than sixty-one thousand, that has issued
7 at least three million five hundred thousand dollars in bonds within at
8 least one of the preceding three years.

9 2. "Nationally recognized electronic securities bidding service" means
10 a bidding service that is approved by the superintendent pursuant to
11 subdivision b of this section.

12 3. "Open auction" means a bond sale procedure that allows a bidder to
13 receive information with respect to the ranking of its bids prior to the
14 conclusion of the bidding period in accordance with the municipality's
15 notice of such bond sale circulated in accordance with applicable
16 requirements of this chapter.

17 4. "Program" means the electronic open auction public bond sale pilot
18 program established pursuant to this section.

19 5. "Superintendent" means the superintendent of financial services.

20 b. 1. There is hereby established an electronic open auction bond sale
21 pilot program authorizing municipalities to conduct open auction public
22 bond sales through any nationally recognized electronic securities
23 bidding service approved by the superintendent. Nationally recognized
24 electronic securities bidding services desiring to operate an electronic
25 open auction shall apply to the superintendent for authorization to do
26 so by filing an application with the superintendent. The superintendent

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

LBD16600-01-0

1 shall make available an application form that provides the superinten-
2 dent with information regarding the technology and security practices
3 maintained by the nationally recognized electronic securities bidding
4 service, the requirements to be established for bidding by bidders, the
5 methods by which auction sales are conducted, the experience of the
6 nationally recognized electronic securities bidding service in conduct-
7 ing electronic open auctions of bonds, and other information the super-
8 intendent may deem relevant.

9 2. If the superintendent determines that the requirements and condi-
10 tions of the open auction are in accordance with the provisions of this
11 chapter and the bidding service provides a secure, open and competitive
12 opportunity for qualified bidders to submit proposals, the application
13 shall be deemed approved.

14 3. The superintendent shall post information regarding the nationally
15 recognized electronic securities bidding services that have been
16 approved for use by municipalities on the department of financial
17 services website.

18 c. If the chief fiscal officer of the municipality has authorized the
19 receipt of bids in an electronic open auction format, such electronic
20 bids may be submitted in the form of open auctions conducted through a
21 nationally recognized electronic securities bidding service which entity
22 shall be deemed to be the designated receiving device pursuant to
23 section 58.00 of this title. Notice of any bond sale shall provide for
24 the manner in which the bidding period may be extended and the basis for
25 determination of the winning bidder.

26 d. Notwithstanding the provisions of subdivision one of section three
27 hundred five of the state technology law, if the notice of sale for the
28 open auction public bond contains a provision that bids will only be
29 accepted electronically in the manner provided in such notice of sale,
30 the municipality shall not be required to accept non-electronic bids in
31 any form.

32 e. The municipality's chief fiscal officer shall administer the
33 program and shall publish its policies and procedures for the procure-
34 ment of nationally recognized electronic securities bidding services on
35 the municipality's internet website. Such policies and procedures shall
36 include policies to prevent fraud. Except as modified by this section,
37 the municipal program shall comply with this chapter and all other
38 applicable laws, rules and regulations related to the sale of bonds.

39 f. The municipality's chief fiscal officer shall review the electronic
40 open auction bidding process to ensure that the bond sale was completed
41 in a timely fashion; the sale was completed without errors; and the
42 process was favorable as compared to the method currently used by the
43 municipality.

44 g. The municipality shall conduct evaluations of the program annually
45 with a summary evaluation at the end of the two year program. The muni-
46 cipality shall submit the evaluations to the superintendent, the tempo-
47 rary president of the senate and the speaker of the assembly. Such
48 report shall include, but not be limited to, any demonstrated evidence
49 that sale of public bonds using electronic open auctions is comparable
50 to the cost of issuing public bonds through the current sealed bid proc-
51 ess, the fees associated with nationally recognized electronic securi-
52 ties bidding services, whether the use of electronic open auctions
53 resulted in an increased number of bidders and whether the process was
54 favorable as compared to the method currently used by the municipality.

1 § 2. This act shall take effect immediately and shall expire January
2 1, 2023 when upon such date the provisions of this act shall be deemed
3 repealed.