STATE OF NEW YORK

5886

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

Introduced by Sen. GAUGHRAN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

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 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 58.10 to read as follows:

§ 58.10 Electronic open auction public bond sale pilot program; municipalities. a. As used in this section:

1. "Municipality" means a county, city, town, village, fire district, or school district.

2. "Nationally recognized electronic securities bidding service" means a bidding service that is recognized nationally by municipal users of electronic securities bidding services as providing an accurate, secure and reliable online bidding system.

3. "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, by submitting a bid at a lower interest rate, 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.

4. "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 for municipalities. Such public bond sale pilot program shall authorize municipalities to conduct open auction public

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

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bond sales through any nationally recognized electronic securities bidding service.

c. The chief fiscal officer 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 bid selected.

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 chief fiscal officer of a municipality shall administer the pilot program, and may utilize the program in accordance with the powers delegated to the chief fiscal officer by the legislative body of such municipality. Except as modified by this section, each municipal pilot program shall comply with this section and all other applicable laws related to the sale of bonds.

f. The chief fiscal officer of a municipality shall review the electronic open auction bidding process to ensure that the bond sale was:

1. completed in a timely fashion; and

2. completed without errors.

g. 1. Each municipality, or two or more municipalities acting jointly or in cooperation with any entity representing municipalities, shall conduct annual evaluations of such pilot program or programs with a summary evaluation at the end of the two year open auction pilot program. Such annual evaluations shall be conducted on or before February first of each year. The municipality or municipalities shall submit such annual evaluations to the state comptroller.

2. Such annual report shall include, but not be limited to: (i) the cost of using an open auction platform; (ii) a bidding activity report detailing the winning bidder, the number of bidders, the number of bids, the number of bid improvements, and the number of auction extensions, if any; and (iii) any savings achieved through the open auction, provided that such savings shall be calculated by determining the cost differential between the initial bid submitted and the winning bid in an open auction. If the initial bid submitted is the ultimate winning bid, the open auction savings would be zero dollars ($0.00).

3. Annually, the state comptroller shall compile all the information received from municipalities pursuant to this subdivision, and, on or before April first of each year, 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.

§ 2. This act shall take effect immediately and shall expire and be deemed repealed two years after such date.