

40A:3-4 et al

LEGISLATIVE HISTORY CHECKLIST

NTSA 40A:3-4 et al (Amends "Municipal Qualified Bond Act"--permits municipalities to issue qualified bonds for purpose of refunding certain outstanding bonds)

LAWS OF 1978 CHAPTER 35

Bill No. S954

Sponsor(s) Weiss, Lipman, Rodgers

Date Introduced February 27, 1978

Committee: Assembly Municipal Government

Senate Revenue, Finance, Appropriations

Amended during passage Yes [X] Amendments during passage denoted by asterisks

Date of Passage: Assembly June 5, 1978

Senate May 1, 1978

Date of approval June 19, 1978

Following statements are attached if available:

Sponsor statement Yes [X] (Below)

Committee Statement: Assembly Yes [X] No

Senate Yes [X]

Fiscal Note Yes [X] No

Veto Message Yes [X] No

Message on signing Yes [X] No

Following were printed:

Reports Yes [X] No

Hearings Yes [X] No

Sponsor's statement:

This bill enables municipalities to issue qualified bonds, at low interest rates, for the purpose of refunding more costly, outstanding bonds; and it also clarifies procedures for issuing qualified bonds. Also, this bill adds State revenue sharing funds to the flow of State aid which supports the municipal qualified bond program. This addition of revenue sharing funds significantly expands opportunities for municipalities to issue qualified bonds.

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SENATE, No. 954

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1978

By Senators WEISS, LIPMAN and RODGERS

Referred to Committee on Revenue, Finance and Appropriations

AN ACT to amend and supplement the "Municipal Qualified Bond Act" approved June 28, 1976 (P. L. 1976, c. 38).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. (New section) a. Qualified bonds may be issued pursuant to
2 the provisions hereof for the purpose of funding ordinances which
3 have been adopted in the absence of compliance by the municipality
4 with the provisions as to approval for qualification set forth herein,
5 even if notes have been sold or other obligations incurred pursuant
6 to said ordinance, provided that prior to the issuance of such bonds
7 the municipality shall have complied with such provisions. In
8 addition, outstanding bonds of a local unit may be refunded by
9 the issuance of qualified refunding bonds whether or not in
10 advance of the maturity or redemption date of the outstanding
11 bonds in any amount determined to be necessary by the governing
12 body of the municipality to effect the refunding. A bond ordinance
13 authorizing qualified refunding bonds shall become effective and
14 qualified refunding bonds shall be sold and issued in the manner
15 provided in N. J. S. 40A:2-52 to 40A:2-60, both inclusive, and the
16 provisions of said sections shall be applicable thereto and to such
17 refunding bonds and such refunding bonds shall recite that they
18 are issued pursuant to said provisions and this act.

19 b. The Local Finance Board shall in undertaking the investiga-
20 tion required by subsection b of section 3 of P. L. 1976, c. 38
21 (C. 40A:3-3, take into consideration the probable capacity of the
22 municipality to pay at maturity the qualified refunding bonds
23 proposed to be issued and all other obligations thereof then

27 connection with such qualified refunding bonds and the obligations
28 theretofore outstanding or which may necessarily thereafter be
29 incurred.

1 2. Section 2 of P. L. 1976, c. 38 (C. 40A:3-4) is amended to
2 read as follows:

3 2. For the purposes of this act, unless the context clearly requires
4 a different meaning:

5 a. "Business Personal Property Tax Replacement Revenues"
6 means the funds distributed to municipalities pursuant to P. L.
7 1966, c. 135 (C. 54:11D-1 et seq.) or pursuant to any other law
8 hereinafter enacted providing for funds to municipalities in lieu
9 of or in substitution for or supplementing the funds presently
10 provided pursuant to P. L. 1966, c. 135 (C. 54:11D-1 et seq.);

11 b. "Debt service" means and includes payments of principal
12 and interest upon qualified bonds issued pursuant to the terms
13 of this act **or amounts required in order to satisfy sinking fund*
13A *payment requirements with respect to such bonds**;

14 c. "Director" means Director of the Division of Local Govern-
15 ment Services in the Department of Community Affairs, estab-
16 lished pursuant to P. L. 1974, c. 35 (C. 52:27D-18.1);

17 d. "Local Finance Board" means the Local Finance Board in
18 the Division of Local Government Services in the Department of
19 Community Affairs, established pursuant to P. L. 1974, c. 35
20 (C. 52:27D-18.1);

21 e. "Paying agent" means any bank, trust company or national
22 banking association having the power to accept and administer
23 trusts, named or designated in any qualified bond of a municipality
24 as the agent for the payment of the principal of and interest
25 thereon **and shall include the holder of any sinking fund established*
25A *for the payment of such bonds**;

26 f. "Qualified bonds" means those bonds of a municipality autho-
27 rized and issued in conformity with the provisions of this act;

28 g. "State urban aid" means the funds made available to munici-
29 palities pursuant to P. L. 1971, c. 64 and all acts supplementing
30 that act or pursuant to any other law hereinafter enacted providing
31 for funds to municipalities in lieu of or in substitution for the
32 funds presently provided pursuant to acts supplementing
33 P. L. 1971, c. 64.

34 h. "State revenue sharing" means the funds made available to

1 3. Section 6 of P. L. 1976, c. 38 (C. 40A:3-6) is amended to
2 read as follows:

3 6. a. Each municipality which issues qualified bonds shall certify
4 to the State Treasurer the name and address of the paying agent,
5 the maturity schedule, interest rate and dates of payment of debt
6 service on such qualified bonds within 10 days after the date of
7 issuance of such qualified bonds. After receipt of such certificate
8 the State Treasurer shall withhold from the amount of business
9 personal property tax replacement revenues **[and]** State urban
10 aid, *and State revenue sharing* payable to such municipality an
11 amount of such business personal property tax replacement
12 revenues **[and]** State urban aid, *and State revenue sharing* which
13 will be sufficient to pay the debt service on such qualified bonds
14 as the same shall mature and become due. The State Treasurer
15 shall, on or before each principal and interest payment date,
16 forward such withheld amounts to the ***[payment]*** **paying**
17 agent for such qualified bonds for deposit to the account established
18 with such paying agent for the purpose of paying the debt service
19 on such qualified bonds. From the time withheld by the State
20 Treasurer all such business personal property tax replacement
21 revenue **[and]** State urban aid, *and State revenue sharing* so
22 withheld and paid or to be paid to and held by the paying agent
23 shall be exempt from being levied upon, taken, sequestered or
24 applied toward paying the debts of the municipality other than
25 for payment of debt service on such qualified bonds. From the
26 time withheld by the State Treasurer the business personal prop-
27 erty tax replacement revenue **[and]** State urban aid, *and State*
28 *revenue sharing* so withheld and paid or to be paid to the paying
29 agent shall be deemed to be held in trust for the sole purpose of
30 paying the debt service on such qualified bonds.

31 b. The State of New Jersey hereby covenants with the pur-
32 chasers, holders and owners, from time to time, of qualified bonds
33 that it will not repeal, revoke, rescind, modify or amend the provi-
34 sions of subsection a. of this section so as to create any lien or
35 charge on or pledge, assignment, diversion, withholding payment
36 or other use of or deduction from any business personal property
37 tax replacement revenues, **[or]** State urban aid, *or State revenue*
38 *sharing* to be apportioned and paid to any paying agent of qualified
39 bonds which is prior in time or superior in right to the payment

43 personal property tax replacement revenues, **or** State urban aid,
44 *or State revenue sharing* or to limit or prohibit the State from
45 repealing or amending any law heretofore or hereinafter enacted
46 for the payment or apportionment of said revenues or aid or the
47 manner, time, or amount thereof.

48 c. The certification to the State Treasurer as to amount payable
49 in any year for debt service on such qualified bonds shall be fully
50 conclusive as to such qualified bonds from and after the time of
51 issuance of such qualified bonds notwithstanding any irregularity,
52 omission or failure as to compliance with any of the provisions
53 of this act with respect to such qualified bonds provided that such
54 qualified bonds contain a recital to the effect that they are entitled
55 to the benefits of the provisions of this act. All persons shall be
56 forever estopped from denying that such qualified bonds are
57 entitled to the benefits of the provisions of this act.

1 4. Section 7 of P. L. 1976, c. 38 (C. 40A:3-7) is amended to
2 read as follows:

3 7. Nothing contained in this act shall be construed to relieve any
4 municipality of the obligation imposed on it by law to include in its
5 annual budget amounts necessary to pay, in each year, the principal
6 and interest maturing and becoming due on any qualified bonds
7 issued by such municipality; provided, however, that to the extent
8 of the amounts withheld from business personal property tax
9 replacement revenues, **and** State urban aid, *and State revenue*
10 *sharing* payable to such municipality and forwarded to the paying
11 agent for such qualified bonds pursuant to section 6, such budgeted
12 amounts, to the extent not needed to pay debt service on such
13 qualified bonds, may be applied to the payment of the operating
14 expenses of such municipality for such year; and provided, further,
15 that in any year in which business personal property tax replace-
16 ment revenues, **or** State urban aid, *or State revenue sharing*
17 is not appropriated, such budgeted amounts shall be used to pay
18 the debt service maturing and becoming due in such year on such
19 qualified bonds of the municipality.

1 5. This act shall take effect immediately.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
SENATE, No. 954

STATE OF NEW JERSEY

DATED: APRIL 20, 1978

This bill proposes to amend and supplement the "Municipal Qualified Bond Act".

Supplemental provisions allow the issuance of qualified bonds under ordinances which have been adopted in the absence of compliance with the qualified bond act provided that prior to the issuance of such bonds the municipality takes necessary action to comply with the qualified bond act. Further, outstanding bonds of a municipality may be refunded with qualified bonds.

The amendatory provisions permit the use of "State Revenue Sharing" funds for purposes of the qualified bond act. Currently, Business Personal Property Tax Replacement revenue and State Urban Aid may be used for this purpose.

In its simplest terms the "Municipal Qualified Bond Act" provides that a municipality may "pledge" its anticipated revenue from certain State aid programs to the payment of principal and interest on bonds. Procedurally, the State Treasurer pays directly to a municipality's paying agent, rather than to a municipality, a predetermined amount of State aid entitlement for purposes of making principal and interest payments on municipal bonds.

Together with first issuing qualified bonds and refunding outstanding bonds with qualified bonds, a municipality will be able to reduce debt service costs. And with the addition of State Revenue Sharing funds to the flow of State aid which supports the municipal qualified bond program, there is a significantly expanded opportunity for municipalities to issue qualified bonds.

COMMITTEE AMENDMENTS

Committee amendments are technical in nature, found to be necessary after discussion of the bill with the State Treasurer during the committee meeting.