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P.L. 2003, CHAPTER 15, *approved February 3, 2003*

Senate, No. 109 (*Second Reprint*)

1 **AN ACT** concerning local unit bonds ¹[and],¹ amending ¹[various
2 sections of] and supplementing¹ chapter 2 of Title 40A of the New
3 Jersey Statutes ¹and repealing N.J.S.40A:2-8¹.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. N.J.S.40A:2-10 is amended to read as follows:

9 40A:2-10. Prior to the passage on first reading of any bond
10 ordinance,²refunding bond ordinance² or ordinance amending²[a
11 bond] such² ordinance, except amending as to matters which are not
12 required to be contained in ²[a bond] such² ordinance or which does
13 not increase the total amount of the obligations authorized by such
14 ²[bond]² ordinance, a financial officer of the local unit shall execute
15 and swear to a supplemental debt statement which shall be filed in the
16 office of the clerk. Prior to the final passage of such ordinance, an
17 executed duplicate of such statement shall be filed in the office of the
18 director.²[A supplemental debt statement shall be prepared and filed
19 in the office of the clerk and in the office of the director with respect
20 to a refunding bond ordinance to reflect either new and unissued debt
21 or the amount of the refunding debt in excess of the debt to be
22 refunded.]²

23 (cf: N.J.S.40A:2-10)

24
25 2. N.J.S.40A:2-11 is amended to read as follows:

26 40A:2-11. a. No bond ordinance shall be finally adopted unless it
27 appropriates to the purpose, or ratably to the respective purposes to
28 be financed, in addition to the obligations thereby authorized, a sum
29 as a down payment which is not less than 5% of the amount of the
30 obligations authorized.

31 b. Said sum so appropriated as a down payment must have been
32 made available prior to final adoption of the bond ordinance from any
33 1 or more of the following:

34 1. by provision in a previously adopted budget or budgets of the
35 local unit for down payment or for capital improvement purposes;

36 2. from moneys then actually held by the local unit and previously
37 contributed for such purpose other than by the local unit; or

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCU committee amendments adopted February 25, 2002.

² Senate amendments adopted in accordance with Governor's recommendations December 16, 2002.

1 3. by emergency appropriation.

2 c. The provisions of this section shall not apply to a bond
3 ordinance which authorizes obligations solely for any purpose referred
4 to in paragraphs a, b, c, d, e and h of section 40A:2-7 or for those
5 bond ordinances which involve projects funded by State grants such
6 as Green Acres, Environmental Trust Fund, Transportation Trust
7 Fund, and other similar programs.

8 (cf: N.J.S.40A:2-11)

9

10 3. N.J.S.40A:2-26 is amended to read as follows:

11 40A:2-26. Maturities of all bonds shall be as determined by bond
12 ordinance or by subsequent resolution and within the following
13 limitations:

14 a. All bonds shall mature within the period or average period of
15 usefulness determined in the bond ordinance.

16 b. All bonds shall mature in annual installments, the first of which
17 shall be payable not more than 1 year from the date of the bonds. No
18 annual installment shall exceed by more than 100% the amount of the
19 smallest prior installment.

20 c. The first installment of bonds to finance a municipal public utility
21 may be made payable not later than the end of the second year's
22 operation, computed from the estimated date of completion, as fixed
23 in the project report submitted pursuant to this chapter.

24 d. Bonds to finance that part of the cost of a local improvement
25 which is to be assessed on property shall mature in annual installments
26 not exceeding in number the number of annual installments or average
27 thereof fixed in the bond ordinance for the payment of special
28 assessments. The first annual installment of such bonds shall be
29 payable not more than [2] two years from the date of the bonds, and
30 no annual installment shall exceed the amount of the smallest prior
31 installment.

32 e. A governing body which has concluded that the limitations as to
33 maturities or amounts of annual installments will adversely affect the
34 financial position of the local unit, may make written application to the
35 local government board setting forth its conclusion and the reasons
36 therefor and the desired maturities or the amounts of annual
37 installments for bonds about to be issued. If the local government
38 board finds such conclusion to be well founded, it may, by order, fix
39 the maturities or amounts of annual installments of such bonds as
40 desired by the local unit, or fix any such other maturities or amounts
41 of annual installments which the circumstances warrant.

42 f. The governing body, by resolution, may provide for a single and
43 combined issue of bonds not exceeding the aggregate amount of bonds
44 authorized by [2] two or more bond ordinances. The bonds of such
45 issue shall mature within the average period of usefulness which shall
46 be determined in said resolution, taking into consideration the

1 respective amount of bonds authorized by each of the bond
2 ordinances and the period or average period of usefulness therein
3 determined. The provisions of this chapter applicable to the sale and
4 issuance of a single issue of bonds shall apply to the sale and issuance
5 of such combined issue of bonds. [If bonds for financing a purpose
6 for which no deduction may be taken shall be combined with bonds
7 for financing a purpose for which a deduction may be taken in an
8 annual or supplemental debt statement, no deduction shall be taken for
9 any of such bonds in computing net debt.]

10 g. The governing body, by resolution, may allow the adjustment of,
11 or otherwise delegate to a finance officer the authority to adjust, the
12 maturity schedule of the bonds, up to 24 hours prior to the time
13 advertised for the receipt of bids and within 24 hours after the award
14 of bids; provided that no maturity schedule adjustment shall exceed
15 10% of the principal for any maturity with the aggregate adjustment
16 to maturity not to exceed 10% of the principal for the overall issue.
17 When an adjustment has been made to a maturity schedule previously
18 approved by the local finance board, a copy of the final maturity
19 schedule which meets or complies with the limitations in this
20 subsection shall be filed with the board within 30 days of the sale and
21 shall be conclusively deemed to have been approved by the board.

22 (cf: N.J.S.40A:2-26)

23
24 4. N.J.S.40A:2-27 is amended to read as follows:

25 40A:2-27. a. All bonds shall be sold at public sale upon [sealed]
26 the submission of sealed bids or through the submission of electronic
27 proposals, except that bonds may be sold at private sale[:

28 a. Without] without any previous public offering:

29 (1) if constituting all or part of an authorized issue of
30 [\$100,000.00] \$1,000,000 or less, or

31 (2) if sold to any board, body, agency, commission, instrumentality,
32 district, authority or political subdivision of any local unit, or of the
33 State, or of the Federal Government[; or].

34 b. (1) If no legally acceptable bid is received at advertised public
35 offering pursuant to subsection a. of this section, such bonds or any of
36 them may be sold at private sale within 30 days after the advertised
37 date for public bidding, provided, however, that no bonds shall [bear
38 interest at any rate of interest which is higher than the rate or
39 maximum rate specified in the notice of sale, nor] contain substantially
40 different provisions from those specified in said notice.

41 (2) Any purchaser of bonds at private sale, other than a public
42 body, shall deposit a certified or cashier's or treasurer's check drawn
43 upon a bank or trust company in an amount equal to 5% of the amount
44 of bonds purchased and such amount shall be applied as in the case of
45 a deposit made at public sale.

1 (3) Any private sale of bonds shall be made or confirmed by
2 resolution of the governing body adopted by not less than a 2/3 vote
3 of the full membership thereof, setting forth the date, maturities,
4 interest rate and price of the bonds and the name of the purchaser.

5 c. If the governing body determines to conduct the public sale
6 through the submission of electronic proposals, such electronic
7 proposals shall be submitted in the form of open or closed auctions
8 conducted through a nationally recognized electronic securities
9 bidding service and in accordance with such rules as may be
10 promulgated by the board. The local finance board may adopt rules in
11 accordance with the "Administrative Procedure Act," P.L.1968, c.410
12 (C.52:14B-1 et seq.), regulating the terms and conditions of the
13 submission of electronic proposals.

14 (cf: P.L.1981, c.111, s.1)

15
16 5. N.J.S.40A:2-29 is amended to read as follows:

17 40A:2-29. Obligations sold pursuant to subsection d. of
18 N.J.S.40A:2-32 shall be sold at not less than par value plus any
19 interest accrued to the date of delivery. No other obligations shall be
20 sold for less than 99% of par value and interest accrued to date of
21 delivery unless the local unit has obtained the approval of the director,
22 which approval may be subject to such conditions as the director
23 deems necessary and appropriate.

24 (cf: N.J.S.40A:2-29)

25
26 6. N.J.S.40A:2-30 is amended to read as follows:

27 40A:2-30. a. A notice of public sale of bonds containing the
28 provisions described in subsection a. of N.J.S.40A:2-31 shall be
29 advertised at least once at least seven days prior thereto in a
30 newspaper qualified for publication of a bond ordinance of the local
31 unit. A summary of the notice of public sale of bonds as provided for
32 in subsection b. of N.J.S.40A:2-31 shall be advertised at least once at
33 least seven days prior thereto in a nationally recognized local
34 government bond marketing publication or electronic information
35 service carrying municipal bond notices and devoted primarily to
36 financial news or the subject of state and municipal bonds [and
37 published in the City of New York or in New Jersey].

38 b. The governing body, may, by resolution, allow or otherwise
39 delegate to a finance officer the authority to postpone a public sale
40 without readvertisement provided that the notice pursuant to
41 subsection a. of this section contained precise information concerning
42 the postponement and rescheduling procedure. The postponement and
43 rescheduling procedure shall provide that a public sale may be
44 postponed upon not less than 24 hours' notice, and that if the public
45 sale is postponed, it may be recommenced upon not less than 48 hours'
46 notice without further notice of sale. A public sale may not be

1 postponed for more than 60 days without readvertisement.

2 (cf: P.L.1992, c.178, s.3)

3

4 7. N.J.S.40A:2-31 is amended to read as follows:

5 40A:2-31. a. A notice of public sale of bonds required to be
6 advertised pursuant to N.J.S.40A:2-30 shall set forth:

7 (1) the principal amount, date, denomination and maturities, and
8 authorization for any adjustments to the maturities pursuant to
9 subsection g. of N.J.S.40A:2-26 of the bonds offered for sale;

10 (2) the rate or rates of interest or maximum rate or rates of interest
11 to be borne by the bonds and the method of calculation of interest cost
12 pursuant to subsection e. of N.J.S.40A:2-32;

13 (3) [the] postponement provisions and other terms and conditions
14 of such public sale; [and]

15 (4) the type of sale to be conducted, through the submission of
16 either sealed or electronic proposals; and

17 (5) such other provisions as may be determined by the governing
18 body.

19 b. A summary of the notice of public sale of bonds required to be
20 advertised pursuant to N.J.S.40A:2-30 shall set forth:

21 (1) the principal amount, date, denomination and maturities of the
22 bonds offered for sale;

23 (2) the rate or rates of interest or maximum rate or rates of interest
24 to be borne by the bonds; [and]

25 (3) a reference to where additional terms and conditions of the
26 public sale may be obtained; and

27 (4) the type of sale to be conducted, through the submission of
28 either sealed or electronic proposals.

29 (cf: P.L.1992, c.178, s.4)

30

31 8. N.J.S.40A:2-32 is amended to read as follows:

32 40A:2-32. a. (1) All bidders shall be required to deposit a certified
33 or cashier's or treasurer's check, drawn upon a bank or trust company,
34 equal to not less than 2% of the bonds to secure the local unit in part
35 from any loss resulting from the failure of the bidder to comply with
36 the terms of his bid, or as liquidated damages for such failure.

37 (2) The local finance board may adopt rules to permit local units
38 to accept a financial surety bond in lieu of a certified, cashier's or
39 treasurer's check as required in paragraph (1) of this subsection.

40 b. All sealed bids for bonds shall be publicly opened and
41 announced, and all bids received electronically shall be received and
42 announced, at the advertised time and place of sale, except upon a
43 postponement and recommencement of the public sale made in
44 accordance with the provisions of subsection b. of N.J.S.40A:2-30 in
45 which case such bids or proposals shall be publicly opened, received
46 and announced, as appropriate, at the postponed and recommenced

1 date. Such bids as comply with the terms of the notice of sale shall be
2 considered, and any bid not complying with the terms of such notice
3 may be rejected. All bids received may be rejected.

4 c. Bonds of [2] two or more issues may be sold on the basis of
5 combined maturities, or the maturities of each issue offered for sale.

6 d. Bonds may be offered for sale at a single rate of interest, or
7 bidders may be requested to name a single rate of interest, but no
8 proposal shall be considered which offers to pay less than the principal
9 amount of bonds offered for sale or which names a rate of interest
10 higher than the lowest rate of interest stated in any legally acceptable
11 proposal. As between proposals naming the same lowest rate of
12 interest, the proposal offering to accept the least amount of bonds
13 shall be accepted, the bonds to be accepted shall be those first
14 maturing, and as between such proposals, the proposal offering to pay
15 the greatest premium shall be accepted. The amount of premium bid
16 for the bonds shall in no event exceed \$1,000.00 for the principal
17 amount of bonds offered for sale. In order to effect the foregoing, a
18 sufficient number of the last maturing bonds shall be of the
19 denomination of \$1,000.00 or less.

20 e. (1) Bonds may be offered for sale at different rates of interest
21 for the same issue or different rates of interest for different issues, or
22 parts thereof, or bidders may be requested to name any such rates of
23 interest. No proposal shall be considered [which offers to pay an
24 amount less than the principal amount of bonds offered for sale or]
25 under which the total loan is made at an interest cost higher than the
26 lowest net interest cost or the true interest cost to the local unit under
27 any legally acceptable proposal. The governing body shall specify in
28 its notice of public sale advertised pursuant to N.J.S.40A:2-30 whether
29 the award shall be based on net interest cost or true interest cost.

30 (2) [Such] The net interest cost shall be computed [in each
31 instance] by adding to the total principal amount of bonds bid for, the
32 total interest cost to maturity in accordance with such bid and by
33 deduction therefrom of the amount of premium, if any, bid or the
34 addition thereto of the amount of discount, if any, bid.

35 (3) The true interest cost shall be computed in each instance by
36 determining the interest rate, compounded semi-annually, necessary to
37 discount the debt service payments to the date of the bonds and to the
38 price bid, excluding interest accrued to the delivery date.

39 f. The governing body may establish additional terms or conditions
40 of sale.

41 g. The governing body may, by resolution, allow or otherwise
42 delegate to a finance officer the authority to permit bidders to
43 aggregate consecutive principal maturities for which such bidder bid
44 the same interest rate into term bonds, provided that mandatory
45 sinking funds for which redemptions in lieu of the principal maturities
46 are provided. For the purposes of this subsection "term bond" means

1 a bond that is due in a certain year but has mandatory
2 retirement provisions for portions of the term bond on specified dates
3 prior to the maturity date of the term bond itself.

4 (cf: N.J.S.40A:2-32)

5
6 9. N.J.S.40A:2-51 is amended to read as follows:

7 40A:2-51. Any local unit may incur indebtedness, borrow money,
8 authorize and issue [negotiable] refunding bonds, notwithstanding any
9 provision or limitation contained in this chapter or in any other law,
10 and in any amount determined to be necessary by the governing body
11 of the local unit and approved by the Local Finance Board, except as
12 provided in subsection c. of this section, to effect the refunding for the
13 purpose of:

14 a. Paying, funding or refunding outstanding bonds of the local unit,
15 including emergency appropriations, temporary emergency
16 appropriations, advance funding of pension obligations as part of an
17 early retirement program offered by the State, and amounts owing to
18 others for taxes levied in the local unit, or any renewals or extensions
19 thereof, or any bonds issued to fund or refund the same and whether
20 or not prior to the maturity or earliest redemption date of the bonds to
21 be refunded[, and].

22 b. Paying the cost of the issuance of such refunding bonds,
23 including printing, advertising, accounting and financial and legal
24 expenses.

25 c. Issuance of refunding bonds to realize debt service savings on
26 outstanding obligations without the approval of the local finance board
27 when authorized by conditions set forth in rules and regulations of the
28 local finance board and upon a resolution adopted by 2/3 vote of the
29 full membership of the governing body.

30 d. The sale and award of bonds by a finance officer who has been
31 delegated that responsibility by resolution of the governing body in
32 accordance with the advertised terms of public sale. The finance
33 officer making any such sale shall report in writing to the governing
34 body at the next meeting thereof as to the principal amount, interest
35 rate and maturities of the bonds sold, along with the price obtained
36 and the name of the purchaser.

37 (cf: P.L.1978, c.36, s.1)

38
39 10. N.J.S.40A:2-52 is amended to read as follows:

40 40A:2-52. Refunding bonds shall be authorized by a refunding
41 bond ordinance which shall be adopted in the manner prescribed for
42 adoption of a bond ordinance² [. [No] A supplemental debt statement
43 [need] shall be made [or] and filed with respect to such refunding
44 bond ordinance]² [or sum appropriated thereby as a down payment
45 and obligations to be paid, funded or refunded with respect to which
46 an ordinance authorizing the issuance of refunding bonds has been

1 adopted pursuant to the provisions of this chapter and not otherwise
2 deductible shall be deducted from the gross debt of the municipality]
3 ²[to reflect new and unissued debt, or the amount of the refunding
4 debt in excess of the debt to be refunded.], except that no down
5 payment shall be required. Bonds to be paid, funded or refunded with
6 respect to which a refunding bond ordinance has been adopted
7 pursuant to the provisions of this chapter and not otherwise deductible
8 shall be deducted from the gross debt of the local unit. To the extent
9 such refunding bonds are authorized for purposes other than the
10 refunding of outstanding bonds, such refunding bonds shall be
11 deductible from gross debt.²

12 (cf: P.L.1978, c.36, s.2)

13

14 ¹11. (New section) On and after the effective date of P.L. ,
15 c. (now pending before the Legislature as this bill), a local unit may,
16 in anticipation of the issuance of bonds, borrow money and issue notes
17 if the bond ordinance or subsequent resolution so provides. Any such
18 note shall be designated as a "bond anticipation note" and shall contain
19 a recital that it is issued for a period not exceeding one year and may
20 be renewed from time to time for additional periods, none of which
21 shall exceed one year, but all such notes, including renewals, shall
22 mature and be paid not later than the first day of the fifth month
23 following the close of the tenth fiscal year next following the date of
24 the original notes; provided, however, that no such notes shall be
25 renewed beyond the third anniversary date of the original notes unless
26 an amount of such notes, at least equal to the first legally payable
27 installment of the bonds in anticipation of which those notes are
28 issued, is paid and retired on or before each subsequent anniversary
29 date beyond which such notes are renewed from funds other than the
30 proceeds of obligations.

31 The local finance board shall, in accordance with the provisions of
32 the "Administrative Procedures Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.), adopt such rules and regulations as are necessary to implement
34 the provisions of this act.¹

35

36 ¹12. N.J.S.40A:2-8 is repealed.¹

37

38 ¹[11.] 13.¹ This act shall take effect immediately.

39

40

41

42

43 Revises "Local Bond Law" provisions to simplify refunding bonds and
44 permit electronic bid proposals.

SENATE, No. 109

STATE OF NEW JERSEY 210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

Sponsored by:

Senator JOHN O. BENNETT

District 12 (Mercer and Monmouth)

Senator JOSEPH A. PALAIA

District 11 (Monmouth)

SYNOPSIS

Revises "Local Bond Law" provisions to simplify refunding bonds and permit electronic bid proposals.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning local unit bonds and amending various sections of
2 chapter 2 of Title 40A of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. N.J.S.40A:2-10 is amended to read as follows:

8 40A:2-10. Prior to the passage on first reading of any bond
9 ordinance, or ordinance amending a bond ordinance, except amending
10 as to matters which are not required to be contained in a bond
11 ordinance or which does not increase the total amount of the
12 obligations authorized by such bond ordinance, a financial officer of
13 the local unit shall execute and swear to a supplemental debt statement
14 which shall be filed in the office of the clerk. Prior to the final passage
15 of such ordinance, an executed duplicate of such statement shall be
16 filed in the office of the director. A supplemental debt statement shall
17 be prepared and filed in the office of the clerk and in the office of the
18 director with respect to a refunding bond ordinance to reflect either
19 new and unissued debt or the amount of the refunding debt in excess
20 of the debt to be refunded.

21 (cf: N.J.S.40A:2-10)

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23 2. N.J.S.40A:2-11 is amended to read as follows:

24 40A:2-11. a. No bond ordinance shall be finally adopted unless it
25 appropriates to the purpose, or ratably to the respective purposes to
26 be financed, in addition to the obligations thereby authorized, a sum
27 as a down payment which is not less than 5% of the amount of the
28 obligations authorized.

29 b. Said sum so appropriated as a down payment must have been
30 made available prior to final adoption of the bond ordinance from any
31 1 or more of the following:

32 1. by provision in a previously adopted budget or budgets of the
33 local unit for down payment or for capital improvement purposes;

34 2. from moneys then actually held by the local unit and previously
35 contributed for such purpose other than by the local unit; or

36 3. by emergency appropriation.

37 c. The provisions of this section shall not apply to a bond
38 ordinance which authorizes obligations solely for any purpose referred
39 to in paragraphs a, b, c, d, e and h of section 40A:2-7 or for those
40 bond ordinances which involve projects funded by State grants such
41 as Green Acres, Environmental Trust Fund, Transportation Trust
42 Fund, and other similar programs.

43 (cf: N.J.S.40A:2-11)

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 3. N.J.S.40A:2-26 is amended to read as follows:
2 40A:2-26. Maturities of all bonds shall be as determined by bond
3 ordinance or by subsequent resolution and within the following
4 limitations:
- 5 a. All bonds shall mature within the period or average period of
6 usefulness determined in the bond ordinance.
- 7 b. All bonds shall mature in annual installments, the first of which
8 shall be payable not more than 1 year from the date of the bonds. No
9 annual installment shall exceed by more than 100% the amount of the
10 smallest prior installment.
- 11 c. The first installment of bonds to finance a municipal public utility
12 may be made payable not later than the end of the second year's
13 operation, computed from the estimated date of completion, as fixed
14 in the project report submitted pursuant to this chapter.
- 15 d. Bonds to finance that part of the cost of a local improvement
16 which is to be assessed on property shall mature in annual installments
17 not exceeding in number the number of annual installments or average
18 thereof fixed in the bond ordinance for the payment of special
19 assessments. The first annual installment of such bonds shall be
20 payable not more than [2] two years from the date of the bonds, and
21 no annual installment shall exceed the amount of the smallest prior
22 installment.
- 23 e. A governing body which has concluded that the limitations as to
24 maturities or amounts of annual installments will adversely affect the
25 financial position of the local unit, may make written application to the
26 local government board setting forth its conclusion and the reasons
27 therefor and the desired maturities or the amounts of annual
28 installments for bonds about to be issued. If the local government
29 board finds such conclusion to be well founded, it may, by order, fix
30 the maturities or amounts of annual installments of such bonds as
31 desired by the local unit, or fix any such other maturities or amounts
32 of annual installments which the circumstances warrant.
- 33 f. The governing body, by resolution, may provide for a single and
34 combined issue of bonds not exceeding the aggregate amount of bonds
35 authorized by [2] two or more bond ordinances. The bonds of such
36 issue shall mature within the average period of usefulness which shall
37 be determined in said resolution, taking into consideration the
38 respective amount of bonds authorized by each of the bond
39 ordinances and the period or average period of usefulness therein
40 determined. The provisions of this chapter applicable to the sale and
41 issuance of a single issue of bonds shall apply to the sale and issuance
42 of such combined issue of bonds. [If bonds for financing a purpose
43 for which no deduction may be taken shall be combined with bonds
44 for financing a purpose for which a deduction may be taken in an
45 annual or supplemental debt statement, no deduction shall be taken for
46 any of such bonds in computing net debt.]

1 g. The governing body, by resolution, may allow the adjustment of,
2 or otherwise delegate to a finance officer the authority to adjust, the
3 maturity schedule of the bonds, up to 24 hours prior to the time
4 advertised for the receipt of bids and within 24 hours after the award
5 of bids; provided that no maturity schedule adjustment shall exceed
6 10% of the principal for any maturity with the aggregate adjustment
7 to maturity not to exceed 10% of the principal for the overall issue.
8 When an adjustment has been made to a maturity schedule previously
9 approved by the local finance board, a copy of the final maturity
10 schedule which meets or complies with the limitations in this
11 subsection shall be filed with the board within 30 days of the sale and
12 shall be conclusively deemed to have been approved by the board.
13 (cf: N.J.S.40A:2-26)

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15 4. N.J.S.40A:2-27 is amended to read as follows:

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17 the submission of sealed bids or through the submission of electronic
18 proposals, except that bonds may be sold at private sale[:

19 a. Without] without any previous public offering:

20 (1) if constituting all or part of an authorized issue of
21 [\$100,000.00] \$1,000,000 or less, or

22 (2) if sold to any board, body, agency, commission, instrumentality,
23 district, authority or political subdivision of any local unit, or of the
24 State, or of the Federal Government[; or].

25 b. (1) If no legally acceptable bid is received at advertised public
26 offering pursuant to subsection a. of this section, such bonds or any of
27 them may be sold at private sale within 30 days after the advertised
28 date for public bidding, provided, however, that no bonds shall [bear
29 interest at any rate of interest which is higher than the rate or
30 maximum rate specified in the notice of sale, nor] contain substantially
31 different provisions from those specified in said notice.

32 (2) Any purchaser of bonds at private sale, other than a public
33 body, shall deposit a certified or cashier's or treasurer's check drawn
34 upon a bank or trust company in an amount equal to 5% of the amount
35 of bonds purchased and such amount shall be applied as in the case of
36 a deposit made at public sale.

37 (3) Any private sale of bonds shall be made or confirmed by
38 resolution of the governing body adopted by not less than a 2/3 vote
39 of the full membership thereof, setting forth the date, maturities,
40 interest rate and price of the bonds and the name of the purchaser.

41 c. If the governing body determines to conduct the public sale
42 through the submission of electronic proposals, such electronic
43 proposals shall be submitted in the form of open or closed auctions
44 conducted through a nationally recognized electronic securities
45 bidding service and in accordance with such rules as may be
46 promulgated by the board. The local finance board may adopt rules in

1 accordance with the "Administrative Procedure Act," P.L.1968, c.410
2 (C.52:14B-1 et seq.), regulating the terms and conditions of the
3 submission of electronic proposals.

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5

6 5. N.J.S.40A:2-29 is amended to read as follows:

7 40A:2-29. Obligations sold pursuant to subsection d. of
8 N.J.S.40A:2-32 shall be sold at not less than par value plus any
9 interest accrued to the date of delivery. No other obligations shall be
10 sold for less than 99% of par value and interest accrued to date of
11 delivery unless the local unit has obtained the approval of the director,
12 which approval may be subject to such conditions as the director
13 deems necessary and appropriate.

14 (cf: N.J.S.40A:2-29)

15

16 6. N.J.S.40A:2-30 is amended to read as follows:

17 40A:2-30. a. A notice of public sale of bonds containing the
18 provisions described in subsection a. of N.J.S.40A:2-31 shall be
19 advertised at least once at least seven days prior thereto in a
20 newspaper qualified for publication of a bond ordinance of the local
21 unit. A summary of the notice of public sale of bonds as provided for
22 in subsection b. of N.J.S.40A:2-31 shall be advertised at least once at
23 least seven days prior thereto in a nationally recognized local
24 government bond marketing publication or electronic information
25 service carrying municipal bond notices and devoted primarily to
26 financial news or the subject of state and municipal bonds [and
27 published in the City of New York or in New Jersey].

28 b. The governing body, may, by resolution, allow or otherwise
29 delegate to a finance officer the authority to postpone a public sale
30 without readvertisement provided that the notice pursuant to
31 subsection a. of this section contained precise information concerning
32 the postponement and rescheduling procedure. The postponement and
33 rescheduling procedure shall provide that a public sale may be
34 postponed upon not less than 24 hours' notice, and that if the public
35 sale is postponed, it may be recommenced upon not less than 48 hours'
36 notice without further notice of sale. A public sale may not be
37 postponed for more than 60 days without readvertisement.

38 (cf: P.L.1992, c.178, s.3)

39

40 7. N.J.S.40A:2-31 is amended to read as follows:

41 40A:2-31. a. A notice of public sale of bonds required to be
42 advertised pursuant to N.J.S.40A:2-30 shall set forth:

43 (1) the principal amount, date, denomination and maturities, and
44 authorization for any adjustments to the maturities pursuant to
45 subsection g. of N.J.S.40A:2-26 of the bonds offered for sale;

46 (2) the rate or rates of interest or maximum rate or rates of interest

1 to be borne by the bonds and the method of calculation of interest cost
2 pursuant to subsection e. of N.J.S.40A:2-32;

3 (3) ~~the~~ postponement provisions and other terms and conditions
4 of such public sale; ~~and~~

5 (4) the type of sale to be conducted, through the submission of
6 either sealed or electronic proposals; and

7 (5) such other provisions as may be determined by the governing
8 body.

9 b. A summary of the notice of public sale of bonds required to be
10 advertised pursuant to N.J.S.40A:2-30 shall set forth:

11 (1) the principal amount, date, denomination and maturities of the
12 bonds offered for sale;

13 (2) the rate or rates of interest or maximum rate or rates of interest
14 to be borne by the bonds; ~~and~~

15 (3) a reference to where additional terms and conditions of the
16 public sale may be obtained; and

17 (4) the type of sale to be conducted, through the submission of
18 either sealed or electronic proposals.

19 (cf: P.L.1992, c.178, s.4)

20

21 8. N.J.S.40A:2-32 is amended to read as follows:

22 40A:2-32. a. (1) All bidders shall be required to deposit a certified
23 or cashier's or treasurer's check, drawn upon a bank or trust company,
24 equal to not less than 2% of the bonds to secure the local unit in part
25 from any loss resulting from the failure of the bidder to comply with
26 the terms of his bid, or as liquidated damages for such failure.

27 (2) The local finance board may adopt rules to permit local units
28 to accept a financial surety bond in lieu of a certified, cashier's or
29 treasurer's check as required in paragraph (1) of this subsection.

30 b. All sealed bids for bonds shall be publicly opened and
31 announced, and all bids received electronically shall be received and
32 announced, at the advertised time and place of sale, except upon a
33 postponement and recommencement of the public sale made in
34 accordance with the provisions of subsection b. of N.J.S.40A:2-30 in
35 which case such bids or proposals shall be publicly opened, received
36 and announced, as appropriate, at the postponed and recommenced
37 date. Such bids as comply with the terms of the notice of sale shall be
38 considered, and any bid not complying with the terms of such notice
39 may be rejected. All bids received may be rejected.

40 c. Bonds of ~~2~~ two or more issues may be sold on the basis of
41 combined maturities, or the maturities of each issue offered for sale.

42 d. Bonds may be offered for sale at a single rate of interest, or
43 bidders may be requested to name a single rate of interest, but no
44 proposal shall be considered which offers to pay less than the principal
45 amount of bonds offered for sale or which names a rate of interest
46 higher than the lowest rate of interest stated in any legally acceptable

1 proposal. As between proposals naming the same lowest rate of
2 interest, the proposal offering to accept the least amount of bonds
3 shall be accepted, the bonds to be accepted shall be those first
4 maturing, and as between such proposals, the proposal offering to pay
5 the greatest premium shall be accepted. The amount of premium bid
6 for the bonds shall in no event exceed \$1,000.00 for the principal
7 amount of bonds offered for sale. In order to effect the foregoing, a
8 sufficient number of the last maturing bonds shall be of the
9 denomination of \$1,000.00 or less.

10 e. (1) Bonds may be offered for sale at different rates of interest
11 for the same issue or different rates of interest for different issues, or
12 parts thereof, or bidders may be requested to name any such rates of
13 interest. No proposal shall be considered [which offers to pay an
14 amount less than the principal amount of bonds offered for sale or]
15 under which the total loan is made at an interest cost higher than the
16 lowest net interest cost or the true interest cost to the local unit under
17 any legally acceptable proposal. The governing body shall specify in
18 its notice of public sale advertised pursuant to N.J.S.40A:2-30 whether
19 the award shall be based on net interest cost or true interest cost.

20 (2) [Such] The net interest cost shall be computed [in each
21 instance] by adding to the total principal amount of bonds bid for, the
22 total interest cost to maturity in accordance with such bid and by
23 deduction therefrom of the amount of premium, if any, bid or the
24 addition thereto of the amount of discount, if any, bid.

25 (3) The true interest cost shall be computed in each instance by
26 determining the interest rate, compounded semi-annually, necessary to
27 discount the debt service payments to the date of the bonds and to the
28 price bid, excluding interest accrued to the delivery date.

29 f. The governing body may establish additional terms or conditions
30 of sale.

31 The governing body may, by resolution, allow or otherwise
32 delegate to a finance officer the authority to permit bidders to
33 aggregate consecutive principal maturities for which such bidder bid
34 the same interest rate into term bonds, provided that mandatory
35 sinking funds for which redemptions in lieu of the principal maturities
36 are provided. For the purposes of this subsection "term bond" means
37 a bond that is due in a certain year but has mandatory retirement
38 provisions for portions of the term bond on specified dates prior to the
39 maturity date of the term bond itself.

40 (cf: N.J.S.40A:2-32)

41

42 9. N.J.S.40A:2-51 is amended to read as follows:

43 40A:2-51. Any local unit may incur indebtedness, borrow money,
44 authorize and issue [negotiable] refunding bonds, notwithstanding any
45 provision or limitation contained in this chapter or in any other law,
46 and in any amount determined to be necessary by the governing body

1 of the local unit and approved by the Local Finance Board, except as
2 provided in subsection c. of this section, to effect the refunding for the
3 purpose of:

4 a. Paying, funding or refunding outstanding bonds of the local unit,
5 including emergency appropriations, temporary emergency
6 appropriations, advance funding of pension obligations as part of an
7 early retirement program offered by the State, and amounts owing to
8 others for taxes levied in the local unit, or any renewals or extensions
9 thereof, or any bonds issued to fund or refund the same and whether
10 or not prior to the maturity or earliest redemption date of the bonds to
11 be refunded[, and].

12 b. Paying the cost of the issuance of such refunding bonds,
13 including printing, advertising, accounting and financial and legal
14 expenses.

15 c. Issuance of refunding bonds to realize debt service savings on
16 outstanding obligations without the approval of the local finance board
17 when authorized by conditions set forth in rules and regulations of the
18 local finance board and upon a resolution adopted by 2/3 vote of the
19 full membership of the governing body.

20 d. The sale and award of bonds by a finance officer who has been
21 delegated that responsibility by resolution of the governing body in
22 accordance with the advertised terms of public sale. The finance
23 officer making any such sale shall report in writing to the governing
24 body at the next meeting thereof as to the principal amount, interest
25 rate and maturities of the bonds sold, along with the price obtained
26 and the name of the purchaser.

27 (cf: P.L.1978, c.36, s.1)

28

29 10. N.J.S.40A:2-52 is amended to read as follows:

30 40A:2-52. Refunding bonds shall be authorized by a refunding
31 bond ordinance which shall be adopted in the manner prescribed for
32 adoption of a bond ordinance. [No] A supplemental debt statement
33 [need] shall be made [or] and filed with respect to such refunding
34 bond ordinance [or sum appropriated thereby as a down payment and
35 obligations to be paid, funded or refunded with respect to which an
36 ordinance authorizing the issuance of refunding bonds has been
37 adopted pursuant to the provisions of this chapter and not otherwise
38 deductible shall be deducted from the gross debt of the municipality]
39 to reflect new and unissued debt, or the amount of the refunding debt
40 in excess of the debt to be refunded.

41 (cf: P.L.1978, c.36, s.2)

42

43 11. This act shall take effect immediately.

STATEMENT

1

2

3 This bill would amend the "Local Bond Law," N.J.S.40A:2-1 et
4 seq., to make it easier for local units to issue refunding bonds when
5 trying to take advantage of lower interest rates and also to make the
6 bond bidding process more flexible.

7 The bill would amend N.J.S.40A:2-11 to eliminate applications to
8 the Local Finance Board and hearings to waive down payments for
9 capital projects that are funded through State grants.

10 The bill would amend N.J.S.40A:2-26 to permit a municipal or
11 county governing body to adjust maturity schedules of bonds up to 24
12 hours prior to the time advertised for the receipt of bids and within 24
13 hours after the award of bids, provided that the adjustment does not
14 exceed 10% of the principal for any maturity and the overall issue.

15 The bill would amend N.J.S.40A:2-27 to permit electronic
16 proposals, which may be in the form of open or closed auctions
17 conducted through a nationally recognized electronic securities
18 bidding service, in order to bring the law current with recent
19 technological trends that have made bidding through electronic means
20 both possible and common. Additionally, the bill would increase the
21 bond limit for a private sale without a previous public offering from
22 \$100,000 to \$1,000,000.

23 The bill would amend N.J.S.40A:2-29 to clarify that bonds offered
24 for sale at a single rate of interest pursuant to subsection d. of
25 N.J.S.40A:2-32 may not be sold at less than par value plus any interest
26 accrued to the date of delivery. Obligations could not be sold for less
27 than 99% of par value and accrued interest without the prior approval
28 of the Director of the Division of Local Government Services in the
29 Department of Community Affairs, and subject to such conditions as
30 the director may deem necessary and appropriate.

31 The bill would amend N.J.S.40A:2-30 to require bond sale
32 advertisement summaries to be published in a nationally recognized
33 local government bond marketing publication or electronic financial
34 information service that carries local bond notices, instead of the
35 current practice of publication of the summaries in a New York City
36 or New Jersey newspaper. The bill would permit a governing body,
37 or a designated finance officer, to postpone a public sale, upon not less
38 than 24 hours' notice, and recommence the sale upon not less than 24
39 hours' notice, without readvertisement for up to 60 days, provided that
40 notice of the precise postponement and rescheduling procedure was
41 published in the original advertisement of the sale.

42 The bill would amend N.J.S.40A:2-31 to expand the items in a
43 notice and notice summary of public sale to include the authorization
44 for adjustment of maturities, the method of calculation of interest cost,
45 postponement provisions, and the type of sale to be conducted,
46 through the submission of either sealed or electronic proposals.

1 The bill would amend N.J.S.40A:2-32 to permit the Local Finance
2 Board to allow the acceptance of financial surety bonds in lieu of a
3 certified, cashier's or treasurer's check. The bill would also prescribe
4 the procedure and time for the opening of bids, including electronic
5 proposals, and set forth the computation methods for determining "net
6 interest cost" and "true interest cost." The bill would permit a local
7 governing body to allow bidders to aggregate consecutive principal
8 maturities that are bid at the same interest rate into "term bonds,"
9 provided that mandatory sinking funds for redemptions in lieu of the
10 principal maturities are established. The bill would define "term bond"
11 to mean a bond that is due in a certain year, but has mandatory
12 retirement provisions for portions of the term bond on specified dates
13 prior to the maturity date of the term bond itself.

14 The bill would amend N.J.S.40A:2-51 to expand the purposes for
15 which refunding bonds may be issued to include temporary emergency
16 appropriations and advance funding of pension obligations as part of
17 an early retirement program offered by the State. The bill would
18 permit a governing body or its designated finance officer to issue
19 refunding bonds without the approval of the Local Finance Board
20 when the bonds are issued for the purpose of realizing debt service
21 savings on outstanding obligations, in accordance with rules and
22 regulations of the board. The bill would allow a governing body to
23 delegate authority to sell and award bonds in accordance with the
24 advertised terms of sale to a finance officer, so long as the finance
25 officer reports in writing to the governing body at its next meeting the
26 principal amount, interest rate, maturity schedules, the price obtained,
27 and the name of the purchaser.

28 Finally, the bill would amend N.J.S.40A:2-52 to require the filing
29 of a supplemental debt statement, reflecting new and unissued debt or
30 the amount of the refunding debt in excess of the debt to be refunded,
31 upon adoption of a refunding bond ordinance.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 109

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2002

The Assembly Housing and Local Government Committee reports favorably Senate Bill No. 109 (1R).

This bill would amend the "Local Bond Law" to make it easier for local units to issue refunding bonds to take advantage of lower interest rates, and also to make the bond bidding process more flexible.

The bill would amend N.J.S.40A:2-10 so that whenever a refunding bond ordinance is adopted by a local unit, a supplemental debt statement must be filed with the Director of the Division of Local Government Services in the Department of Community Affairs reflecting either new and unissued debt or the amount of the refunding debt in excess of the debt to be refinanced.

The bill would amend N.J.S.40A:2-11, which requires the final adoption of a bond ordinance to be accompanied by the appropriation of a minimum 5% down payment against the purpose to be financed, by waiving the requirement for capital projects funded by State grants.

The bill would amend N.J.S.40A:2-26 to permit a municipal or county governing body to adjust maturity schedules of bonds up to 24 hours prior to the time advertised for the receipt of bids and within 24 hours after the award of bids, provided that the adjustment does not exceed 10% of the principal either for any particular maturity or for the overall issue.

The bill would amend N.J.S.40A:2-27 to permit bids on the public sale of bonds, which presently must be made in sealed form, to be submitted electronically if the local governing body so chooses. Sales using electronic bid submission would have to be in the form of open or closed auctions conducted through a nationally recognized electronic securities bidding service. Additionally, the bill would increase the bond limit for a private sale without a previous public offering from \$100,000 to \$1,000,000.

The bill would amend N.J.S.40A:2-29, which presently provides that no obligations may be sold for less than par value plus interest accrued to the date of delivery. Under the bill, this restriction would continue to apply to bonds offered for sale at a single rate of interest

pursuant to subsection d. of N.J.S.40A:2-32. For other obligations, the minimum sale price would be 99% of par value and accrued interest, except that the price could be lower upon the prior approval of the Director of the Division of Local Government Services in the Department of Community Affairs. The director would be authorized to subject an approval to such conditions as the director may deem necessary and appropriate.

The bill would amend N.J.S.40A:2-30 to require bond sale advertisement summaries to be published in a nationally recognized local government bond marketing publication or electronic financial information service that carries local bond notices, instead of the current practice of publication of the summaries in a New York City or New Jersey newspaper. The bill would permit a governing body, or a designated finance officer, to postpone a public sale, upon not less than 24 hours' notice, and recommence the sale upon not less than 48 hours' notice, without readvertisement for up to 60 days, provided that notice of the precise postponement and rescheduling procedure was published in the original advertisement of the sale.

The bill would amend N.J.S.40A:2-31 to extend the list of items in a notice of public sale to include the authorization for adjustment of maturities, the method of calculation of interest cost, postponement provisions, and the type of sale to be conducted, through the submission of either sealed or electronic proposals. The last item would also be added as one of those required to be included in the summary notice of public sale.

The bill would amend N.J.S.40A:2-32 to permit the Local Finance Board to allow the acceptance of financial surety bonds in lieu of a certified, cashier's or treasurer's check. The bill would also prescribe the procedure and time for the opening of bids, including electronic proposals, and set forth the computation methods for determining "net interest cost" and "true interest cost." The bill would permit a local governing body to allow bidders to aggregate consecutive principal maturities that are bid at the same interest rate into "term bonds," provided that mandatory sinking funds in lieu of the principal maturities are established. (The bill would define "term bond" to mean a bond that is due in a certain year, but has mandatory retirement provisions for portions of the term bond on specified dates prior to the maturity date of the term bond itself.)

The bill would amend N.J.S.40A:2-51 to expand the purposes for which refunding bonds may be issued to include temporary emergency appropriations and advance funding of pension obligations as part of an early retirement program offered by the State. The bill would permit a governing body or its designated finance officer to issue refunding bonds without the approval of the Local Finance Board when the bonds are issued for the purpose of realizing debt service savings on outstanding obligations, in accordance with rules and regulations of the board. The bill would allow a governing body to delegate authority to sell and award bonds in accordance with the

advertised terms of sale to a finance officer, so long as the finance officer reports in writing to the governing body at its next meeting the principal amount, interest rate, maturity schedules, the price obtained, and the name of the purchaser.

The bill would amend N.J.S.40A:2-52 to require the filing of a supplemental debt statement, reflecting new and unissued debt or the amount of the refunding debt in excess of the debt to be refunded, upon adoption of a refunding bond ordinance.

Finally, the bill would authorize a local unit, in anticipation of the issuance of bonds, to issue "bond anticipation notes" having a maturity of up to one year. These notes could be renewed from time to time, but all such notes would have to mature and be paid not later than the fifth month following the close of the 10th fiscal year following issuance of the original notes.

This bill is identical to Assembly No. 605, as reported this day with committee amendments.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 109

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 25, 2002

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 109.

This bill would amend the "Local Bond Law" to make it easier for local units to issue refunding bonds to take advantage of lower interest rates, and also to make the bond bidding process more flexible.

The bill would amend N.J.S.40A:2-10 so that whenever a refunding bond ordinance is adopted by a local unit, a supplemental debt statement must be filed with the Director of the Division of Local Government Services in the Department of Community Affairs reflecting either new and unissued debt or the amount of the refunding debt in excess of the debt to be refinanced.

The bill would amend N.J.S.40A:2-11, which requires the final adoption of a bond ordinance to be accompanied by the appropriation of a minimum 5% down payment against the purpose to be financed, by waiving the requirement for capital projects funded by State grants.

The bill would amend N.J.S.40A:2-26 to permit a municipal or county governing body to adjust maturity schedules of bonds up to 24 hours prior to the time advertised for the receipt of bids and within 24 hours after the award of bids, provided that the adjustment does not exceed 10% of the principal either for any particular maturity or for the overall issue.

The bill would amend N.J.S.40A:2-27 to permit bids on the public sale of bonds, which presently must be made in sealed form, to be submitted electronically if the local governing body so chooses. Sales using electronic bid submission would have to be in the form of open or closed auctions conducted through a nationally recognized electronic securities bidding service. Additionally, the bill would increase the bond limit for a private sale without a previous public offering from \$100,000 to \$1,000,000.

The bill would amend N.J.S.40A:2-29, which presently provides that no obligations may be sold for less than par value plus interest accrued to the date of delivery. Under the bill, this restriction would continue to apply to bonds offered for sale at a single rate of interest pursuant to subsection d. of N.J.S.40A:2-32. For other obligations, the minimum sale price would be 99% of par value and accrued

interest, except that the price could be lower upon the prior approval of the Director of the Division of Local Government Services in the Department of Community Affairs. The director would be authorized to subject an approval to such conditions as the director may deem necessary and appropriate.

The bill would amend N.J.S.40A:2-30 to require bond sale advertisement summaries to be published in a nationally recognized local government bond marketing publication or electronic financial information service that carries local bond notices, instead of the current practice of publication of the summaries in a New York City or New Jersey newspaper. The bill would permit a governing body, or a designated finance officer, to postpone a public sale, upon not less than 24 hours' notice, and recommence the sale upon not less than 48 hours' notice, without readvertisement for up to 60 days, provided that notice of the precise postponement and rescheduling procedure was published in the original advertisement of the sale.

The bill would amend N.J.S.40A:2-31 to extend the list of items in a notice of public sale to include the authorization for adjustment of maturities, the method of calculation of interest cost, postponement provisions, and the type of sale to be conducted, through the submission of either sealed or electronic proposals. The last item would also be added as one of those required to be included in the summary notice of public sale.

The bill would amend N.J.S.40A:2-32 to permit the Local Finance Board to allow the acceptance of financial surety bonds in lieu of a certified, cashier's or treasurer's check. The bill would also prescribe the procedure and time for the opening of bids, including electronic proposals, and set forth the computation methods for determining "net interest cost" and "true interest cost." The bill would permit a local governing body to allow bidders to aggregate consecutive principal maturities that are bid at the same interest rate into "term bonds," provided that mandatory sinking funds in lieu of the principal maturities are established. (The bill would define "term bond" to mean a bond that is due in a certain year, but has mandatory retirement provisions for portions of the term bond on specified dates prior to the maturity date of the term bond itself.)

The bill would amend N.J.S.40A:2-51 to expand the purposes for which refunding bonds may be issued to include temporary emergency appropriations and advance funding of pension obligations as part of an early retirement program offered by the State. The bill would permit a governing body or its designated finance officer to issue refunding bonds without the approval of the Local Finance Board when the bonds are issued for the purpose of realizing debt service savings on outstanding obligations, in accordance with rules and regulations of the board. The bill would allow a governing body to delegate authority to sell and award bonds in accordance with the advertised terms of sale to a finance officer, so long as the finance

officer reports in writing to the governing body at its next meeting the principal amount, interest rate, maturity schedules, the price obtained, and the name of the purchaser.

The bill would amend N.J.S.40A:2-52 to require the filing of a supplemental debt statement, reflecting new and unissued debt or the amount of the refunding debt in excess of the debt to be refunded, upon adoption of a refunding bond ordinance.

Finally, the bill would authorize a local unit, in anticipation of the issuance of bonds, to issue "bond anticipation notes" having a maturity of up to one year. These notes could be renewed from time to time, but all such notes would have to mature and be paid not later than the fifth month following the close of the 10th fiscal year following issuance of the original notes.

The committee amended the bill to: (1) repeal the existing provision of law governing local units' issuance of bond anticipation notes ("BANs") and replace it with the simpler formulation described above, and (2) clarify the wording of the new provision allowing a person who bids on a contract for the issuance of bonds in consecutive maturities at the same rate of interest to aggregate those maturities into term bonds.

This bill was prefiled for introduction in the 2002 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY, No. 605

STATE OF NEW JERSEY 210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

Sponsored by:

Assemblyman MICHAEL J. ARNONE

District 12 (Mercer and Monmouth)

Assemblyman JOSEPH J. ROBERTS, JR.

District 5 (Camden and Gloucester)

SYNOPSIS

Revises "Local Bond Law" provisions to simplify refunding bonds and permit electronic bid proposals.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/17/2002)

1 AN ACT concerning local unit bonds and amending various sections of
2 chapter 2 of Title 40A of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. N.J.S.40A:2-10 is amended to read as follows:

8 40A:2-10. Prior to the passage on first reading of any bond
9 ordinance, or ordinance amending a bond ordinance, except amending
10 as to matters which are not required to be contained in a bond
11 ordinance or which does not increase the total amount of the
12 obligations authorized by such bond ordinance, a financial officer of
13 the local unit shall execute and swear to a supplemental debt statement
14 which shall be filed in the office of the clerk. Prior to the final passage
15 of such ordinance, an executed duplicate of such statement shall be
16 filed in the office of the director. A supplemental debt statement shall
17 be prepared and filed with respect to a refunding bond ordinance to
18 reflect either new and unissued debt or the amount of the refunding
19 debt in excess of the debt to be refunded.

20 (cf: N.J.S.40A:2-10)

21

22 2. N.J.S.40A:2-11 is amended to read as follows:

23 40A:2-11. a. No bond ordinance shall be finally adopted unless it
24 appropriates to the purpose, or ratably to the respective purposes to
25 be financed, in addition to the obligations thereby authorized, a sum
26 as a down payment which is not less than 5% of the amount of the
27 obligations authorized.

28 b. Said sum so appropriated as a down payment must have been
29 made available prior to final adoption of the bond ordinance from any
30 1 or more of the following:

31 1. by provision in a previously adopted budget or budgets of the
32 local unit for down payment or for capital improvement purposes;

33 2. from moneys then actually held by the local unit and previously
34 contributed for such purpose other than by the local unit; or

35 3. by emergency appropriation.

36 c. The provisions of this section shall not apply to a bond
37 ordinance which authorizes obligations solely for any purpose referred
38 to in paragraphs a, b, c, d, e and h of section 40A:2-7 or for those
39 bond ordinances which involve projects funded by State grants such
40 as Green Acres, Environmental Trust Fund, Transportation Trust
41 Fund, and other similar programs.

42 (cf: N.J.S.40A:2-11)

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 3. N.J.S.40A:2-26 is amended to read as follows:

2 40A:2-26. Maturities of all bonds shall be as determined by bond
3 ordinance or by subsequent resolution and within the following
4 limitations:

5 a. All bonds shall mature within the period or average period of
6 usefulness determined in the bond ordinance.

7 b. All bonds shall mature in annual installments, the first of which
8 shall be payable not more than 1 year from the date of the bonds. No
9 annual installment shall exceed by more than 100% the amount of the
10 smallest prior installment.

11 c. The first installment of bonds to finance a municipal public utility
12 may be made payable not later than the end of the second year's
13 operation, computed from the estimated date of completion, as fixed
14 in the project report submitted pursuant to this chapter.

15 d. Bonds to finance that part of the cost of a local improvement
16 which is to be assessed on property shall mature in annual installments
17 not exceeding in number the number of annual installments or average
18 thereof fixed in the bond ordinance for the payment of special
19 assessments. The first annual installment of such bonds shall be
20 payable not more than [2] two years from the date of the bonds, and
21 no annual installment shall exceed the amount of the smallest prior
22 installment.

23 e. A governing body which has concluded that the limitations as to
24 maturities or amounts of annual installments will adversely affect the
25 financial position of the local unit, may make written application to the
26 local government board setting forth its conclusion and the reasons
27 therefor and the desired maturities or the amounts of annual
28 installments for bonds about to be issued. If the local government
29 board finds such conclusion to be well founded, it may, by order, fix
30 the maturities or amounts of annual installments of such bonds as
31 desired by the local unit, or fix any such other maturities or amounts
32 of annual installments which the circumstances warrant.

33 f. The governing body, by resolution, may provide for a single and
34 combined issue of bonds not exceeding the aggregate amount of bonds
35 authorized by [2] two or more bond ordinances. The bonds of such
36 issue shall mature within the average period of usefulness which shall
37 be determined in said resolution, taking into consideration the
38 respective amount of bonds authorized by each of the bond
39 ordinances and the period or average period of usefulness therein
40 determined. The provisions of this chapter applicable to the sale and
41 issuance of a single issue of bonds shall apply to the sale and issuance
42 of such combined issue of bonds. [If bonds for financing a purpose
43 for which no deduction may be taken shall be combined with bonds
44 for financing a purpose for which a deduction may be taken in an
45 annual or supplemental debt statement, no deduction shall be taken for
46 any of such bonds in computing net debt.]

1 g. The governing body, by resolution, may allow the adjustment of,
2 or otherwise delegate to a finance officer the authority to adjust, the
3 maturity schedule of the bonds, up to 24 hours prior to the time
4 advertised for the receipt of bids and within 24 hours after the award
5 of bids; provided that no maturity schedule adjustment shall exceed
6 10% of the principal for any maturity with the aggregate adjustment
7 to maturity not to exceed 10% of the principal for the overall issue.
8 When an adjustment has been made to a maturity schedule previously
9 approved by the Local Finance Board, a copy of the final maturity
10 schedule which meets or complies with the limitations in this
11 subsection shall be filed with the board within 30 days of the sale and
12 shall be conclusively deemed to have been approved by the board.
13 (cf: N.J.S.40A:2-26)

14

15 4. N.J.S.40A:2-27 is amended to read as follows:

16 40A:2-27. a. All bonds shall be sold at public sale upon [sealed]
17 the submission of sealed bids or through the submission of electronic
18 proposals, except that bonds may be sold at private sale[:

19 a. Without] without any previous public offering:

20 (1) if constituting all or part of an authorized issue of
21 [\$100,000.00] \$1,000,000 or less, or

22 (2) if sold to any board, body, agency, commission, instrumentality,
23 district, authority or political subdivision of any local unit, or of the
24 State, or of the Federal Government[; or].

25 b. (1) If no legally acceptable bid is received at advertised public
26 offering pursuant to subsection a. of this section, such bonds or any of
27 them may be sold at private sale within 30 days after the advertised
28 date for public bidding, provided, however, that no bonds shall [bear
29 interest at any rate of interest which is higher than the rate or
30 maximum rate specified in the notice of sale, nor] contain substantially
31 different provisions from those specified in said notice.

32 (2) Any purchaser of bonds at private sale, other than a public
33 body, shall deposit a certified or cashier's or treasurer's check drawn
34 upon a bank or trust company in an amount equal to 5% of the amount
35 of bonds purchased and such amount shall be applied as in the case of
36 a deposit made at public sale.

37 (3) Any private sale of bonds shall be made or confirmed by
38 resolution of the governing body adopted by not less than a 2/3 vote
39 of the full membership thereof, setting forth the date, maturities,
40 interest rate and price of the bonds and the name of the purchaser.

41 c. If the governing body determines to conduct the public sale
42 through the submission of electronic proposals, such electronic
43 proposals shall be submitted in the form of open or closed auctions
44 conducted through a nationally recognized electronic securities
45 bidding service and in accordance with such rules as may be
46 promulgated by the board. The board may adopt rules in accordance

1 with the "Administrative Procedure Act," P.L.1968, c.410
2 (C.52:14B-1 et seq.), regulating the terms and conditions of the
3 submission of electronic proposals.

4 (cf: P.L.1981, c.111, s.1)

5

6 5. N.J.S.40A:2-29 is amended to read as follows:

7 40A:2-29. Obligations sold pursuant to subsection d. of
8 N.J.S.40A:2-32 shall be sold at not less than par value plus any
9 interest accrued to the date of delivery. No other obligations shall be
10 sold for less than 99% of par value and interest accrued to date of
11 delivery unless the local unit has obtained the approval of the director,
12 which approval may be subject to such conditions as the director
13 deems necessary and appropriate.

14 (cf: N.J.S.40A:2-29)

15

16 6. N.J.S.40A:2-30 is amended to read as follows:

17 40A:2-30. a. A notice of public sale of bonds containing the
18 provisions described in subsection a. of N.J.S.40A:2-31 shall be
19 advertised at least once at least seven days prior thereto in a
20 newspaper qualified for publication of a bond ordinance of the local
21 unit. A summary of the notice of public sale of bonds as provided for
22 in subsection b. of N.J.S.40A:2-31 shall be advertised at least once at
23 least seven days prior thereto in a nationally recognized local
24 government bond marketing publication or electronic information
25 service carrying municipal bond notices and devoted primarily to
26 financial news or the subject of state and municipal bonds [and
27 published in the City of New York or in New Jersey].

28 b. The governing body, may, by resolution, allow or otherwise
29 delegate to a finance officer the authority to postpone a public sale
30 without readvertisement provided that the notice pursuant to
31 subsection a. of this section contained precise information concerning
32 the postponement and rescheduling procedure. The postponement and
33 rescheduling procedure shall provide that a public sale may be
34 postponed upon not less than 24 hours' notice, and that if the public
35 sale is postponed, it may be recommenced upon not less than 48 hours'
36 notice without further notice of sale. A public sale may not be
37 postponed for more than 60 days without readvertisement.

38 (cf: P.L.1992, c.178, s.3)

39

40 7. N.J.S.40A:2-31 is amended to read as follows:

41 40A:2-31. a. A notice of public sale of bonds required to be
42 advertised pursuant to N.J.S.40A:2-30 shall set forth:

43 (1) the principal amount, date, denomination and maturities, and
44 authorization for any adjustments to the maturities pursuant to
45 subsection g. of N.J.S.40A:2-26 (now pending before the Legislature
46 as this bill), of the bonds offered for sale;

1 (2) the rate or rates of interest or maximum rate or rates of interest
2 to be borne by the bonds and the method of calculation of interest cost
3 pursuant to subsection e. of N.J.S.40A:2-32;

4 (3) [the] postponement provisions and other terms and conditions
5 of such public sale; [and]

6 (4) the type of sale to be conducted, through the submission of
7 either sealed or electronic proposals; and

8 (5) such other provisions as may be determined by the governing
9 body.

10 b. A summary of the notice of public sale of bonds required to be
11 advertised pursuant to N.J.S.40A:2-30 shall set forth:

12 (1) the principal amount, date, denomination and maturities of the
13 bonds offered for sale;

14 (2) the rate or rates of interest or maximum rate or rates of interest
15 to be borne by the bonds; [and]

16 (3) a reference to where additional terms and conditions of the
17 public sale may be obtained; and

18 (4) the type of sale to be conducted, through the submission of
19 either sealed or electronic proposals.

20 (cf: P.L.1992, c.178, s.4)

21
22 8. N.J.S.40A:2-32 is amended to read as follows:

23 40A:2-32. a. (1) All bidders shall be required to deposit a certified
24 or cashier's or treasurer's check, drawn upon a bank or trust company,
25 equal to not less than 2% of the bonds to secure the local unit in part
26 from any loss resulting from the failure of the bidder to comply with
27 the terms of his bid, or as liquidated damages for such failure.

28 (2) The Local Finance Board may adopt rules to permit local units
29 to accept a financial surety bond in lieu of a certified, cashier's or
30 treasurer's check as required in paragraph (1) of this subsection.

31 b. All sealed bids for bonds shall be publicly opened and
32 announced, and all bids received electronically shall be received and
33 announced, at the advertised time and place of sale, except upon a
34 postponement and recommencement of the public sale made in
35 accordance with the provisions of subsection b. of N.J.S.40A:2-30
36 (now pending before the Legislature as this bill), in which case such
37 bids or proposals shall be publicly opened, received and announced, as
38 appropriate, at the postponed and recommenced date. Such bids as
39 comply with the terms of the notice of sale shall be considered, and
40 any bid not complying with the terms of such notice may be rejected.
41 All bids received may be rejected.

42 c. Bonds of [2] two or more issues may be sold on the basis of
43 combined maturities, or the maturities of each issue offered for sale.

44 d. Bonds may be offered for sale at a single rate of interest, or
45 bidders may be requested to name a single rate of interest, but no
46 proposal shall be considered which offers to pay less than the principal

1 amount of bonds offered for sale or which names a rate of interest
2 higher than the lowest rate of interest stated in any legally acceptable
3 proposal. As between proposals naming the same lowest rate of
4 interest, the proposal offering to accept the least amount of bonds
5 shall be accepted, the bonds to be accepted shall be those first
6 maturing, and as between such proposals, the proposal offering to pay
7 the greatest premium shall be accepted. The amount of premium bid
8 for the bonds shall in no event exceed \$1,000.00 for the principal
9 amount of bonds offered for sale. In order to effect the foregoing, a
10 sufficient number of the last maturing bonds shall be of the
11 denomination of \$1,000.00 or less.

12 e. (1) Bonds may be offered for sale at different rates of interest
13 for the same issue or different rates of interest for different issues, or
14 parts thereof, or bidders may be requested to name any such rates of
15 interest. No proposal shall be considered [which offers to pay an
16 amount less than the principal amount of bonds offered for sale or]
17 under which the total loan is made at an interest cost higher than the
18 lowest net interest cost or the true interest cost to the local unit under
19 any legally acceptable proposal. The governing body shall specify in
20 its notice of public sale advertised pursuant to N.J.S.40A:2-30 whether
21 the award shall be based on net interest cost or true interest cost.

22 (2) [Such] The net interest cost shall be computed [in each
23 instance] by adding to the total principal amount of bonds bid for, the
24 total interest cost to maturity in accordance with such bid and by
25 deduction therefrom of the amount of premium, if any, bid or the
26 addition thereto of the amount of discount, if any, bid.

27 (3) The true interest cost shall be computed in each instance by
28 determining the interest rate, compounded semi-annually, necessary to
29 discount the debt service payments to the date of the bonds and to the
30 price bid, excluding interest accrued to the delivery date.

31 f. The governing body may establish additional terms or conditions
32 of sale.

33 g. The governing body may, by resolution, allow or otherwise
34 delegate to a finance officer the authority to permit bidders to
35 aggregate consecutive principal maturities for which such bidder bid
36 the same interest rate into term bonds, provided that mandatory
37 sinking funds for which redemptions in lieu of the principal maturities
38 are provided. For the purposes of this subsection "term bond" means
39 a bond that is due in a certain year but has mandatory retirement
40 provisions for portions of the term bond on specified dates prior to the
41 maturity date of the term bond itself.

42 (cf: N.J.S.40A:2-32)

43

44 9. N.J.S.40A:2-51 is amended to read as follows:

45 40A:2-51. Any local unit may incur indebtedness, borrow money,
46 authorize and issue [negotiable] refunding bonds, notwithstanding any

1 provision or limitation contained in this chapter or in any other law,
2 and in any amount determined to be necessary by the governing body
3 of the local unit and approved by the Local Finance Board, except as
4 provided in subsection c. of this section, to effect the refunding for the
5 purpose of:

6 a. Paying, funding or refunding outstanding bonds of the local unit,
7 including emergency appropriations, temporary emergency
8 appropriations, advance funding of pension obligations as part of an
9 early retirement program offered by the State, and amounts owing to
10 others for taxes levied in the local unit, or any renewals or extensions
11 thereof, or any bonds issued to fund or refund the same and whether
12 or not prior to the maturity or earliest redemption date of the bonds to
13 be refunded[, and].

14 b. Paying the cost of the issuance of such refunding bonds,
15 including printing, advertising, accounting and financial and legal
16 expenses.

17 c. Issuance of refunding bonds to realize debt service savings on
18 outstanding obligations without the approval of the Local Finance
19 Board when authorized by conditions set forth in rules and regulations
20 of the Local Finance Board and upon a resolution adopted by 2/3 vote
21 of the full membership.

22 d. The sale and award of bonds by a finance officer who has been
23 delegated that responsibility by resolution of the governing body in
24 accordance with the advertised terms of public sale. The finance
25 officer making any such sale shall report in writing to the governing
26 body at the next meeting thereof as to the principal amount, interest
27 rate and maturities of the bonds sold, along with the price obtained
28 and the name of the purchaser.

29 (cf: P.L.1978, c.36, s.1)

30

31 10. N.J.S.40A:2-52 is amended to read as follows:

32 40A:2-52. Refunding bonds shall be authorized by a refunding
33 bond ordinance which shall be adopted in the manner prescribed for
34 adoption of a bond ordinance. [No] A supplemental debt statement
35 [need] shall be made [or] and filed with respect to such refunding
36 bond ordinance [or sum appropriated thereby as a down payment and
37 obligations to be paid, funded or refunded with respect to which an
38 ordinance authorizing the issuance of refunding bonds has been
39 adopted pursuant to the provisions of this chapter and not otherwise
40 deductible shall be deducted from the gross debt of the municipality]
41 to reflect new and unissued debt, or the amount of the refunding debt
42 in excess of the debt to be refunded.

43 (cf: P.L.1978, c.36, s.2)

44

45 11. This act shall take effect immediately.

STATEMENT

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This bill is intended to revise the "Local Bond Law," N.J.S.40A:2-1 et seq., to streamline the process for issuing refunding bonds to take advantage of lower interest rates and to make the bidding process more flexible. Specifically, when a refunding bond ordinance is adopted by a local unit, the bill would require the filing of a supplemental debt statement with the Director of the Division of Local Government Services in the Department of Community Affairs reflecting either new and unissued debt or the amount of the refunding debt in excess of the debt to be refinanced. The bill amends N.J.S.40A:2-11 to eliminate applications to the Local Finance Board and hearings to waive downpayments for capital projects that are funded through State grants. N.J.S.40A:2-26 is amended to permit a municipal or county governing body to adjust maturity schedules of bonds up to 24 hours prior to the time advertised for the receipt of bids and within 24 hours after the award of bids, provided that the adjustment does not exceed 10% of the principal for any maturity and the overall issue.

The bill amends N.J.S.40A:2-27 to permit electronic proposals, which may be in the form of open or closed auctions conducted through a nationally recognized electronic securities bidding service, in order to bring the law current with recent technological trends that have made bidding through electronic means both possible and common. The bill also increases the bond limit for a private sale without a previous public offering from \$100,000 to \$1,000,000.

The bill amends N.J.S.40A:2-29 to clarify that bonds offered for sale at a single rate of interest pursuant to subsection d. of N.J.S.40A:2-32 may not be sold at less than par value plus any interest accrued to the date of delivery. Obligations could not be sold for less than 99% of par value and accrued interest without the prior approval of the Director of the Division of Local Government Services in the Department of Community Affairs, and subject to such conditions as the director deems necessary and appropriate.

The bill amends N.J.S.40A:2-30 to require bond sale advertisement summaries to be published in a nationally recognized local government bond marketing publication or electronic financial information service that carries local bond notices, instead of the current practice of publication of the summaries in a New York City or New Jersey newspaper. The bill would permit a governing body, or a designated finance officer, to postpone a public sale, upon not less than 24 hours' notice, and recommence the sale upon not less than 24 hours' notice, without readvertisement for up to 60 days, provided that notice of the precise postponement and rescheduling procedure was published in the original advertisement of the sale.

The bill amends N.J.S.40A:2-31 to expand the items in a notice and

1 notice summary of public sale to include the authorization for
2 adjustment of maturities, the method of calculation of interest cost,
3 postponement provisions, and whether the sale will be through sealed
4 proposals or electronic proposals.

5 The bill amends N.J.S.40A:2-32 to permit the Local Finance Board
6 to allow the acceptance of financial surety bonds in lieu of a certified,
7 cashier's or treasurer's check. The bill also prescribes the procedure
8 and time for the opening of bids, including electronic proposals, and
9 sets forth the computation methods for determining "net interest cost"
10 and "true interest cost." The bill also permits a local governing body
11 to allow bidders to aggregate consecutive principal maturities that are
12 bid at the same interest rate into "term bonds," provided that
13 mandatory sinking funds for redemptions in lieu of the principal
14 maturities are established. The bill defines "term bond" to mean a
15 bond that is due in a certain year, but has mandatory retirement
16 provisions for portions of the term bond on specified dates prior to the
17 maturity date of the term bond itself.

18 The bill amends N.J.S.40A:2-51 to expand the purposes for which
19 refunding bonds may be issued to include temporary emergency
20 appropriations and advance funding of pension obligations as part of
21 an early retirement program offered by the State. The bill permits a
22 governing body or its designated finance officer to issue refunding
23 bonds without the approval of the Local Finance Board when the
24 bonds are issued for the purpose of realizing debt service savings on
25 outstanding obligations, in accordance with rules and regulations of
26 the board. The bill also requires that when a governing body delegates
27 its authority to sell and award bonds in accordance with the advertised
28 terms of sale to a finance officer, then the finance officer must report
29 in writing to the governing body at its next meeting the principal
30 amount, interest rate, maturity schedules, the price obtained, and the
31 name of the purchaser.

32 Finally, the bill amends N.J.S.40A:2-52 to require the filing of a
33 supplemental debt statement, reflecting new and unissued debt or the
34 amount of the refunding debt in excess of the debt to be refunded,
35 upon adoption of a refunding bond ordinance.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 605

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2002

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 605.

This bill, as amended by the committee, is intended to revise the "Local Bond Law," N.J.S.40A:2-1 et seq., to streamline the process for issuing refunding bonds to take advantage of lower interest rates and to make the bidding process more flexible. Specifically, when a refunding bond ordinance is adopted by a local unit, the bill would require the filing of a supplemental debt statement with the Director of the Division of Local Government Services in the Department of Community Affairs reflecting either new and unissued debt or the amount of the refunding debt in excess of the debt to be refinanced. The bill amends N.J.S.40A:2-11 to eliminate applications to the Local Finance Board and hearings to waive downpayments for capital projects that are funded through State grants. N.J.S.40A:2-26 is amended to permit a municipal or county governing body to adjust maturity schedules of bonds up to 24 hours prior to the time advertised for the receipt of bids and within 24 hours after the award of bids, provided that the adjustment does not exceed 10% of the principal for any maturity and the overall issue.

The bill amends N.J.S.40A:2-27 to permit electronic proposals, which may be in the form of open or closed auctions conducted through a nationally recognized electronic securities bidding service, in order to bring the law current with recent technological trends that have made bidding through electronic means both possible and common. The bill also increases the bond limit for a private sale without a previous public offering from \$100,000 to \$1,000,000.

The bill amends N.J.S.40A:2-29 to clarify that bonds offered for sale at a single rate of interest pursuant to subsection d. of N.J.S.40A:2-32 may not be sold at less than par value plus any interest accrued to the date of delivery. Obligations could not be sold for less than 99% of par value and accrued interest without the prior approval of the Director of the Division of Local Government Services in the Department of Community Affairs, and subject to such conditions as the director deems necessary and appropriate.

The bill amends N.J.S.40A:2-30 to require bond sale advertisement summaries to be published in a nationally recognized local government bond marketing publication or electronic financial information service that carries local bond notices, instead of the current practice of publication of the summaries in a New York City or New Jersey newspaper. The bill would permit a governing body, or a designated finance officer, to postpone a public sale, upon not less than 24 hours' notice, and recommence the sale upon not less than 24 hours' notice, without readvertisement for up to 60 days, provided that notice of the precise postponement and rescheduling procedure was published in the original advertisement of the sale.

The bill amends N.J.S.40A:2-31 to expand the items in a notice and notice summary of public sale to include the authorization for adjustment of maturities, the method of calculation of interest cost, postponement provisions, and whether the sale will be through sealed proposals or electronic proposals.

The bill amends N.J.S.40A:2-32 to permit the Local Finance Board to allow the acceptance of financial surety bonds in lieu of a certified, cashier's or treasurer's check. The bill also prescribes the procedure and time for the opening of bids, including electronic proposals, and sets forth the computation methods for determining "net interest cost" and "true interest cost." The bill also permits a local governing body to allow bidders to aggregate consecutive principal maturities that are bid at the same interest rate into "term bonds," provided that mandatory sinking funds for redemptions in lieu of the principal maturities are established. The bill defines "term bond" to mean a bond that is due in a certain year, but has mandatory retirement provisions for portions of the term bond on specified dates prior to the maturity date of the term bond itself.

The bill amends N.J.S.40A:2-51 to expand the purposes for which refunding bonds may be issued to include temporary emergency appropriations and advance funding of pension obligations as part of an early retirement program offered by the State. The bill permits a governing body or its designated finance officer to issue refunding bonds without the approval of the Local Finance Board when the bonds are issued for the purpose of realizing debt service savings on outstanding obligations, in accordance with rules and regulations of the board. The bill also requires that when a governing body delegates its authority to sell and award bonds in accordance with the advertised terms of sale to a finance officer, then the finance officer must report in writing to the governing body at its next meeting the principal amount, interest rate, maturity schedules, the price obtained, and the name of the purchaser.

The bill amends N.J.S.40A:2-52 to require the filing of a supplemental debt statement, reflecting new and unissued debt or the amount of the refunding debt in excess of the debt to be refunded, upon adoption of a refunding bond ordinance.

Committee Amendments

The committee amended the bill, consistent with the Senate committee amendments to Senate Bill No. 109 (1R), to insert a new section 11 that would authorize a local unit, in anticipation of the issuance of bonds, to issue "bond anticipation notes" having a maturity of up to one year. These notes could be renewed from time to time, but all such notes would have to mature and be paid not later than the fifth month following the close of the 10th fiscal year following issuance of the original notes.

The committee also amended the bill, consistent with Senate committee amendments to Senate Bill No. 109 (1R), (1) to repeal the existing provision of law governing local units' issuance of bond anticipation notes ("BANs") and replace it with the simpler formulation described above, and (2) to clarify the wording of the new provision allowing a person who bids on a contract for the issuance of bonds in consecutive maturities at the same rate of interest to aggregate those maturities into term bonds.

As amended, this bill is identical to Senate Bill No. 109 (1R), also released from committee this day.

This bill was prefiled for introduction in the 2002 session pending technical review. As reported, the bill includes changes required by technical review, which has been performed.