

FIRST REGULAR SESSION

HOUSE BILL NO. 545

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VESCOVO.

0378H.021

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 108.170, RSMo, and to enact in lieu thereof one new section relating to the sale of public bonds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 108.170, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 108.170, to read as follows:

108.170. 1. Notwithstanding any other provisions of any law or charter to the contrary, any issue of bonds, notes, or other evidences of indebtedness, including bonds, notes, or other evidences of indebtedness payable solely from revenues derived from any revenue-producing facility, hereafter issued under any law of this state by any county, city, town, village, school district, educational institution, drainage district, levee district, nursing home district, hospital district, library district, road district, fire protection district, water supply district, sewer district, housing authority, land clearance for redevelopment authority, special authority created under section 64.920, authority created pursuant to the provisions of chapter 238, or other municipality, political subdivision or district of this state shall be negotiable, may be issued in bearer form or registered form with or without coupons to evidence interest payable thereon, may be issued in any denomination, and may bear interest at a rate not exceeding ten percent per annum, and may be sold, at any sale, at the best price obtainable, not less than ninety-five percent of the par value thereof, anything in any proceedings heretofore had authorizing such bonds, notes, or other evidence of indebtedness, or in any law of this state or charter provision to the contrary notwithstanding. Such issue of bonds, notes, or other evidence of indebtedness may bear interest at a rate not exceeding fourteen percent per annum if sold at public sale after giving reasonable notice of such sale, at the best price obtainable, not less than ninety-five percent of the par value

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 thereof; provided, that such bonds, notes, or other evidence of indebtedness may be sold to any
19 agency or corporate or other instrumentality of the state of Missouri or of the federal government
20 at private sale at a rate not exceeding fourteen percent per annum. **No entity listed under this**
21 **subsection that maintains a credit rating by a nationally recognized bond rating agency of**
22 **A, AA, or AAA shall issue debt in a method other than by public sale. To avoid a conflict**
23 **of interest, no financial advisor who aids an entity listed under this subsection in the**
24 **issuance of debt shall acquire an interest in such debt as an underwriter or otherwise.**

25 2. Notwithstanding the provisions of subsection 1 of this section to the contrary, the sale
26 of bonds, notes, or other evidence of indebtedness issued by the state board of public buildings
27 created under section 8.010, the state board of fund commissioners created under section 33.300,
28 any port authority created under section 68.010, the bi-state metropolitan development district
29 authorized under section 70.370, any special business district created under section 71.790, any
30 county, as defined in section 108.465, exercising the powers granted by sections 108.450 to
31 108.470, the industrial development board created under section 100.265, any planned industrial
32 expansion authority created under section 100.320, the higher education loan authority created
33 under section 173.360, the Missouri housing development commission created under section
34 215.020, the state environmental improvement and energy resources authority created under
35 section 260.010, the agricultural and small business development authority created under section
36 348.020, any industrial development corporation created under section 349.035, or the health and
37 educational facilities authority created under section 360.020 shall, with respect to the sales
38 price, manner of sale and interest rate, be governed by the specific sections applicable to each
39 of these entities.

40 3. Notwithstanding other provisions of this section or other law, the sale of bonds, notes
41 or other evidence of indebtedness issued by any housing authority created under section 99.040
42 may be sold at any sale, at the best price obtainable, not less than ninety-five percent of the par
43 value thereof, and may bear interest at a rate not exceeding fourteen percent per annum. The sale
44 shall be a public sale unless the issuing jurisdiction adopts a resolution setting forth clear
45 justification why the sale should be a private sale except that private activity bonds may be sold
46 either at public or private sale.

47 4. Notwithstanding other provisions of this section or law, industrial development
48 revenue bonds may be sold at private sale and bear interest at a rate not exceeding fourteen
49 percent per annum at the best price obtainable, not less than ninety-five percent of the par value
50 thereof.

51 5. Notwithstanding other provisions in subsection 1 of this section to the contrary,
52 revenue bonds issued for airport purposes by any constitutional charter city in this state which
53 now has or may hereafter acquire a population of more than three hundred thousand but less than

54 six hundred thousand inhabitants, according to the last federal decennial census, may bear
55 interest at a rate not exceeding fourteen percent per annum if sold at public sale after giving
56 reasonable notice, at the best price obtainable, not less than ninety-five percent of the par value
57 thereof.

58 6. For purposes of the interest rate limitations set forth in this section, the interest rate
59 on bonds, notes or other evidence of indebtedness described in this section means the rate at
60 which the present value of the debt service payments on an issue of bonds, notes or other
61 evidence of indebtedness, discounted to the date of issuance, equals the original price at which
62 such bonds, notes or other evidence of indebtedness are sold by the issuer. Interest on bonds,
63 notes or other evidence of indebtedness may be paid periodically at such times as shall be
64 determined by the governing body of the issuer and may be compounded in accordance with
65 section 408.080.

66 7. Notwithstanding any provision of law or charter to the contrary:

67 (1) Any entity referenced in subsection 1 or 2 of this section and any other political
68 corporation of the state which entity or political corporation has an annual operating budget for
69 the current year exceeding twenty-five million dollars may, in connection with managing the cost
70 to such entity or political corporation of purchasing fuel, electricity, natural gas, and other
71 commodities used in the ordinary course of its lawful operations, enter into agreements providing
72 for fixing the cost of such commodity, including without limitation agreements commonly
73 referred to as hedges, futures, and options; provided that as of the date of such agreement, such
74 entity or political corporation shall have complied with subdivision (3) of this subsection; and
75 further provided that no eligible school, as defined in section 393.310, shall be authorized by this
76 subsection to enter into such agreements in connection with the purchase of natural gas while the
77 tariffs required under section 393.310 are in effect;

78 (2) Any entity referenced in subsection 1 or 2 of this section and any other political
79 corporation of the state may, in connection with its bonds, notes, or other obligations then
80 outstanding or to be issued and bearing interest at a fixed or variable rate, enter into agreements
81 providing for payments based on levels of or changes in interest rates, including without
82 limitation certain derivative agreements commonly referred to as interest rate swaps, hedges,
83 caps, floors, and collars, provided that:

84 (a) As of the date of issuance of the bonds, notes, or other obligations to which such
85 agreement relates, such entity or political corporation will have bonds, notes, or other obligations
86 outstanding in an aggregate principal amount of at least fifty million dollars; and

87 (b) As of the date of such agreement, such entity's or political corporation's bonds, notes,
88 or other obligations then outstanding or to be issued have received a stand-alone credit rating in
89 one of the two highest categories, without regard to any gradation within such categories, from

90 at least one nationally recognized credit rating agency, or such entity or political corporation has
91 an issuer or general credit rating, in one of the two highest categories, without regard to any
92 gradation within such categories, from at least one nationally recognized credit rating agency;
93 and

94 (c) As of the date of such agreement, such entity or political corporation shall have
95 complied with subdivision (3) of this subsection;

96 (3) Prior to entering into any agreements pursuant to subdivision (1) or (2) of this
97 subsection, the governing body of the entity or political corporations entering into such
98 agreements shall have adopted a written policy governing such agreements. Such policy shall
99 be prepared by integrating the recommended practices published by the Government Finance
100 Officers Association or comparable nationally recognized professional organization and shall
101 provide guidance with respect to the permitted purposes, authorization process, mitigation of risk
102 factors, ongoing oversight responsibilities, market disclosure, financial strategy, and any other
103 factors in connection with such agreements determined to be relevant by the governing body of
104 such entity or political corporation. Such entity or political corporation may enter into such
105 agreements at such times and such agreements may contain such payment, security, default,
106 remedy, and other terms and conditions as shall be consistent with the written policy adopted
107 under this subdivision and as may be approved by the governing body of such entity or other
108 obligated party, including any rating by any nationally recognized rating agency and any other
109 criteria as may be appropriate;

110 (4) Nothing in this subsection shall be applied or interpreted to authorize any such entity
111 or political corporation to enter into any such agreement for investment purposes or to diminish
112 or alter the special or general power any such entity or political corporation may otherwise have
113 under any other provisions of law including the special or general power of any interstate
114 transportation authority.

115 **8. The state treasurer shall make available to municipalities, political subdivisions,**
116 **or districts listed under subsection 1 of this section authoritative guidance and information,**
117 **including best practices resources published by a national association of government**
118 **finance officers on debt issuance to aid such entities with the process of issuing debt and**
119 **to aid such entities in awarding bonds to the highest and best bidder.**

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