

FIRST REGULAR SESSION

HOUSE BILL NO. 1011

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SUTHERLAND.

Read 1st time February 28, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1240L.011

AN ACT

To repeal section 108.170, RSMo, and to enact in lieu thereof one new section relating to public finance.

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Section A. Section 108.170, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 108.170, to read as follows: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, RSMo, authority created pursuant to the provisions of chapter 238, RSMo, 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

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.

16 bear interest at a rate not exceeding fourteen percent per annum if sold at public sale after giving
17 reasonable notice of such sale, at the best price obtainable, not less than ninety-five percent of
18 the par value thereof; provided, that such bonds, notes, or other evidence of indebtedness may
19 be sold to any agency or corporate or other instrumentality of the state of Missouri or of the
20 federal government at private sale at a rate not exceeding fourteen percent per annum.

21 2. Notwithstanding the provisions of subsection 1 of this section to the contrary, the sale
22 of bonds, notes, or other evidence of indebtedness issued by the state board of public buildings
23 created under section 8.010, RSMo, the state board of fund commissioners created under section
24 33.300, RSMo, any port authority created under section 68.010, RSMo, the bi-state metropolitan
25 development district authorized under section 70.370, RSMo, any special business district
26 created under section 71.790, RSMo, any county, as defined in section 108.465, exercising the
27 powers granted by sections 108.450 to 108.470, the industrial development board created under
28 section 100.265, RSMo, any planned industrial expansion authority created under section
29 100.320, RSMo, the higher education loan authority created under section 173.360, RSMo, the
30 Missouri housing development commission created under section 215.020, RSMo, the state
31 environmental improvement and energy resources authority created under section 260.010,
32 RSMo, the agricultural and small business development authority created under section 348.020,
33 RSMo, any industrial development corporation created under section 349.035, RSMo, or the
34 health and educational facilities authority created under section 360.020, RSMo, shall, with
35 respect to the sales price, manner of sale and interest rate, be governed by the specific sections
36 applicable to each of these entities.

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

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

48 5. Notwithstanding other provisions in subsection 1 of this section to the contrary,
49 revenue bonds issued for airport purposes by any constitutional charter city in this state which
50 now has or may hereafter acquire a population of more than three hundred thousand but less than
51 six hundred thousand inhabitants, according to the last federal decennial census, may bear

52 interest at a rate not exceeding fourteen percent per annum if sold at public sale after giving
53 reasonable notice, at the best price obtainable, not less than ninety-five percent of the par value
54 thereof.

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

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

64 **(1) Any entity referenced in subsection 1 or 2 of this section and any other political**
65 **corporation of the state whose annual operating budget for the current year exceeds**
66 **twenty-five million dollars may, in connection with managing the cost of purchasing fuel,**
67 **electricity, natural gas, and other commodities to such entity or political corporation, enter**
68 **into agreements providing for fixing the cost of such commodity, including without**
69 **limitation agreements commonly referred to as hedges, futures, and options; provided that**
70 **no eligible school, as defined in section 393.310, RSMo, shall be authorized by this**
71 **subsection to enter into such agreements in connection with the purchase of natural gas**
72 **while the tariffs required under section 393.310, RSMo, are in effect;**

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

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

83 **(b) As of the date of such agreement, such entity's or political corporation's most**
84 **recently issued bonds, notes, or other obligations have received a stand-alone credit rating**
85 **in one of the two highest categories, without regard to any gradation within such**
86 **categories, from at least one nationally recognized credit rating agency;**

87 **(3) Any utility referenced in subsection 1 or 2 of this section and any other political**
88 **corporation of the state not satisfying the threshold for entering into the agreements**
89 **described in subdivisions (1) and (2) of this subsection may enter into such agreements**
90 **upon the adoption by the governing body of such entity or political corporation of a written**
91 **policy governing such agreements, and such policy shall provide guidance with respect to**
92 **the permitted purposes, authorization process, mitigation of risk factors, ongoing oversight**
93 **responsibilities, market disclosure, financial strategy, and any other factors in connection**
94 **with such agreements determined to be relevant by the governing body of such entity or**
95 **political corporation;**

96 **(4) Any entity referenced in subsection 1 or 2 of this section and any other political**
97 **corporation of the state may enter into agreements as provided in this subsection at such**
98 **times and containing such payment, security, default, remedy, and other terms and**
99 **conditions, which shall be consistent with any written policy adopted under subdivision (3)**
100 **of this subsection, as may be approved by the governing body of such entity or political**
101 **corporation after giving due consideration to the creditworthiness of the counterparty or**
102 **other obligated party, including any rating by any nationally recognized rating agency and**
103 **any other criteria as may be appropriate. Nothing in this subsection shall be applied or**
104 **interpreted to authorize any such entity or political corporation to enter into any such**
105 **agreement for investment purposes or to diminish the power any such entity or political**
106 **corporation may otherwise have under any other provisions of law.**

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