

1 SENATE BILL 346

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Sander Rue

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10 AN ACT

11 RELATING TO PUBLIC SECURITIES; ALLOWING PUBLIC BODIES IN THE
12 AUTHORIZING INSTRUMENT TO DELEGATE CERTAIN DUTIES TO OFFICERS
13 OR EMPLOYEES OF THE PUBLIC BODY.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. A new section of the Supplemental Public
17 Securities Act is enacted to read:

18 "[NEW MATERIAL] DELEGATION.--

19 A. A public body may in an authorizing instrument
20 authorize one or more designated officers or employees of the
21 public body to act on behalf of the public body within the
22 terms and conditions established in the authorizing instrument
23 and to determine certain provisions of the public securities
24 pursuant to this section.

25 B. The authorizing instrument:

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- 1 (1) shall establish:
- 2 (a) the purpose for which the public
- 3 securities are being issued;
- 4 (b) the maximum amount of the public
- 5 securities to be issued;
- 6 (c) the maximum term for which the
- 7 public securities issued may be outstanding;
- 8 (d) the maximum interest rate that any
- 9 such public securities may bear;
- 10 (e) each tax or revenue source pledged
- 11 or securing payment of the public securities;
- 12 (f) subject to Paragraph (2) of this
- 13 subsection and the requirements of other applicable law, the
- 14 method of public or private sale of the public securities, the
- 15 minimum and maximum sale price of the public securities and the
- 16 form of the public securities; and
- 17 (g) if the public securities are to be
- 18 issued, in whole or in part, to refund other obligations, the
- 19 potential general or special obligations that may be refunded;
- 20 (2) may establish parameters for the
- 21 designated officer or employee of the public body when in
- 22 effecting the sale and delivery of the public securities,
- 23 including setting, determining and certifying in writing:
- 24 (a) interest and principal payment dates;
- 25 (b) principal amount and maturity

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1 amortization;

2 (c) sale price;

3 (d) interest rates;

4 (e) interest payment periods;

5 (f) redemption and tender provisions;

6 (g) procurement of municipal bond
7 insurance and any related covenants or agreements;

8 (h) creation of debt service reserve
9 funds, including the size and funding of the funds;

10 (i) other procedures, terms and details
11 relating to the issuance of public securities as specified in
12 the authorizing instrument; and

13 (j) if the public securities are to be
14 issued, in whole or in part, to refund all or a portion of the
15 eligible obligations set forth in the authorizing
16 instrument, the specific obligations to be refunded, including
17 specific maturities or partial maturities.

18 C. The public body may provide for the designation
19 of and agreements with a trustee, paying agent, registrar,
20 escrow agent, tender agent, remarketing agent or any other
21 agent or service provider required for the sale, issuance and
22 delivery of the public securities.

23 D. A finding or determination made and certified by
24 an officer or employee pursuant to Paragraph (2) of Subsection
25 A of this section and the related authorizing instrument has

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1 the same effect as a finding or determination made by the
2 public body, and the certification shall be incorporated into
3 and be part of the authorizing instrument. The designated
4 officer or employee shall not exceed the authority delegated to
5 the officer or employee in the authorizing instrument.

6 E. Adoption of an authorizing instrument that
7 includes delegation pursuant to this section constitutes final
8 passage of the authorizing instrument for the purposes of any
9 applicable general or special law or any constitutional or
10 statutory provision or municipal charter related to any
11 referendum or petition right.

12 F. For the purposes of the Public Securities
13 Limitation of Action Act or other similar limitation of action
14 statute, publication of notice of adoption of the authorizing
15 instrument shall not occur prior to the determination and
16 certification of terms and details of the public security
17 within the conditions and parameters established in the
18 authorizing instrument.

19 G. The delegation authority granted in an
20 authorizing instrument expires one hundred eighty days from the
21 date of adoption of the authorizing instrument or a shorter
22 period if provided in the authorizing instrument.

23 H. The provisions of this section shall be
24 expressly applicable, notwithstanding any conflicting provision
25 of law or municipal charter to the contrary."

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SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.