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SENATE BILL 554

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Joseph Cervantes

ENDORSED BY THE

NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC SECURITIES; ALLOWING PUBLIC BODIES TO
DELEGATE AUTHORITY FOR MAKING CERTAIN DETERMINATIONS REGARDING
SALES OF PUBLIC SECURITIES; CLARIFYING THE DEFINITIONS OF
"PUBLIC BODY" AND "PUBLIC SECURITIES"; REQUIRING REPORTING TO
THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE.

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

SECTION 1. Section 6-14-9 NMSA 1978 (being Laws 1983,
Chapter 265, Section 2) is amended to read:

"6-14-9. DEFINITIONS.--As used in the Supplemental Public
Securities Act:

A. "authorizing instrument" means the ordinance,
resolution, other official action or any applicable combination
thereof by which public securities are authorized to be issued
by a public body;

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1 B. "public body" means this state or any
2 department, board, agency or instrumentality of the state, any
3 county, city, town, village, school district, other district or
4 educational institution or any other governmental agency or
5 political subdivision of the state or the New Mexico finance
6 authority;

7 C. "public securities" means any bonds, notes,
8 loans, warrants or other obligations now or hereafter
9 authorized to be issued by any public body pursuant to the
10 provisions of any general or special statute, any
11 constitutional or statutory charter or any other law; and

12 D. "registrar" means the treasurer or any other
13 officer of the public body or of any other public body or any
14 corporate or other trustee, registrar, paying agent, transfer
15 agent, custodian or other financial intermediary within the
16 United States as may be appointed or designated in the
17 authorizing instrument."

18 **SECTION 2.** A new section of the Supplemental Public
19 Securities Act is enacted to read:

20 "NEW MATERIAL DELEGATION OF AUTHORITY BY PUBLIC BODY--
21 AUTHORIZING INSTRUMENT.--

22 A. A public body may adopt an authorizing
23 instrument that delegates to one or more members, officers or
24 employees of the public body the authority to sign a contract
25 for the purchase or sale of public securities or to accept a

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1 binding bid for public securities and to determine the final
2 terms for public securities to be issued pursuant to Subsection
3 C of this section. The authorizing instrument shall be
4 effective for one hundred eighty days or for a specified
5 shorter period.

6 B. An authorizing instrument delegating authority
7 pursuant to Subsection A of this section shall establish the
8 conditions for the public securities, including:

9 (1) the public purpose for which the public
10 securities are to be issued;

11 (2) the maximum par amount of the public
12 securities;

13 (3) the maximum term for which the public
14 securities may be outstanding;

15 (4) the maximum interest rate that the public
16 securities may bear;

17 (5) each tax or revenue source that is pledged
18 to or that shall secure payment for the public securities;

19 (6) whether the public securities will be sold
20 at a public or a private sale;

21 (7) the minimum sales price or the maximum
22 sales price of the public securities;

23 (8) the maximum amount of underwriting
24 discount, if any, as a percentage of the aggregate principal
25 amount of the public securities;

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1 (9) the form of the public securities, subject
2 to the final terms described in Subsection C of this section;

3 (10) the public securities that may be
4 refunded, if any; and

5 (11) the appointment of a trustee, paying
6 agent, registrar, escrow agent, tender agent, remarketing
7 agent, dissemination agent or any other agent or service
8 provider required for the sale, issuance and delivery of the
9 public securities and the form of agreement for each
10 appointment.

11 C. Subject to the conditions established in
12 Subsection B of this section, a delegatee may be authorized,
13 pursuant to the authorizing instrument, to determine any or all
14 of the following final terms of the public securities:

15 (1) the interest and principal payment dates;

16 (2) the principal amount, denominations and
17 maturity amortization;

18 (3) the sale price;

19 (4) the interest rate;

20 (5) the interest payment periods;

21 (6) the redemption and tender provisions;

22 (7) the procurement of municipal bond
23 insurance and any related covenants or agreements;

24 (8) the creation of any capitalized interest
25 or debt service reserve funds, including the size and funding

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1 of the funds;

2 (9) the amount of underwriting discount, if
3 any;

4 (10) the public securities to be refunded, if
5 any; and

6 (11) the final terms of agreements, if any,
7 with one or more trustee, paying agent, registrar, escrow
8 agent, tender agent, remarketing agent, dissemination agent or
9 any other agent or service provider required for the purchase,
10 sale, issuance and delivery of the public securities.

11 D. The public body shall determine and approve any
12 term not listed in Subsection C of this section.

13 E. The delegatee shall certify in writing, prior to
14 the delivery of the public securities, that the final terms
15 determined pursuant to Subsection C of this section comply with
16 the conditions established in the authorizing instrument
17 pursuant to Subsection B of this section. The delegatee shall
18 present the written certification containing the final terms of
19 the public securities to the public body in a timely manner,
20 before or after the delivery of the public securities, at a
21 regularly scheduled meeting of the public body held in
22 compliance with the Open Meetings Act.

23 F. A public body need not approve a determination
24 made by the delegatee pursuant to Subsection C of this section
25 if the determination complies with the conditions established

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1 in the authorizing instrument pursuant to Subsection B of this
2 section. A determination made by the delegatee pursuant to
3 this section has the same force and effect as a determination
4 made by the public body.

5 G. A public body's adoption of an authorizing
6 instrument that includes a delegation of authority pursuant to
7 this section constitutes final passage of the authorizing
8 instrument for the purposes of any applicable general or
9 special law or any constitutional or statutory provision or
10 municipal charter related to any referendum or petition right."

11 SECTION 3. A new section of the New Mexico Finance
12 Authority Act is enacted to read:

13 "[NEW MATERIAL] REPORT TO LEGISLATURE--AUTHORIZING
14 INSTRUMENT--DELEGATION OF AUTHORITY FOR PUBLIC SECURITIES
15 ISSUANCES.--By September 30 of each year, the authority shall
16 report to the New Mexico finance authority oversight committee
17 about the authority's public securities issuances, completed in
18 the prior twelve months, that involved a delegation of
19 authority through an authorizing instrument pursuant to Section
20 2 of this 2015 act."

21 SECTION 4. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2015.