

LEGISLATIVE BILL 421

Approved by the Governor March 9, 1983

Introduced by Beutler, 28; Lundy, 36

AN ACT relating to bonds; to amend sections 2-1302, 10-101, 10-118.01, 10-120, 10-503, and 10-613, Reissue Revised Statutes of Nebraska, 1943; to define terms; to authorize the issuance of fully registered bonds; to provide duties; to change provisions relating to the payment of bonds issued by the state; to change provisions relating to the issuance of refunding bonds; to eliminate a restriction on the sale of certain bonds; to provide conditions for the issuance of refunding bonds; to provide for construction of the act; to eliminate provisions relating to redemption of bonds of cities of the first class; to eliminate a registration requirement; to harmonize provisions; to eliminate provisions on the issuance and registration of school district bonds; to repeal conditions on the sale of sewerage bonds and use of interest coupons; to provide severability; to repeal the original sections, and also sections 10-104, 10-116, 10-601 to 10-605, 10-706, 10-708 to 10-710, 16-724, and 17-152, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. As used in sections 1 to 8 of this act, unless the context otherwise requires:

(1) Bond shall mean any bonds, notes, interim certificates, evidences of bond ownership, bond anticipation notes, warrants, or other evidence of indebtedness;

(2) Bond ordinance shall mean the ordinance or resolution adopted by the governing body of an issuer authorizing an issue of bonds and shall include any indenture or similar instrument executed by the issuer in connection with a bond issue;

(3) Fully registered bond shall mean a bond, without interest coupons, as to which the principal and

interest are payable to the person shown on the records of the registrar as the owner of the bond as of each interest or principal record payment date designated by the issue in the bond ordinance;

(4) Governing body shall mean the council, board, or other legislative body having charge of the governance of the issuer;

(5) Issuer shall mean any county, city, village, school district, sanitary and improvement district, fire protection district, public corporation, or any other governmental body or political subdivision of the State of Nebraska; and

(6) Paying agent or registrar shall mean: (a) The treasurer or finance officer of the issuer; (b) any national or state bank having trust powers or any trust company; (c) any municipal securities dealer registered under Section 15B of the Securities Exchange Act of 1934, except that such a dealer may act as a paying agent or registrar only with respect to warrants or an issue of bonds maturing within five years from the date of issuance; or (d) the county treasurer of the county in which the issuer is located if such treasurer shall agree to perform such duty. The paying agent and registrar for a bond issue may be, but are not required to be, the same person or entity.

Sec. 2. Any issuer, otherwise authorized to issue bonds, is hereby authorized to issue such bonds as fully registered bonds pursuant to sections 1 to 8 of this act. Fully registered bonds shall be issued on such terms as the authorizing laws shall permit, except as otherwise specifically provided in sections 1 to 8 of this act, and in cases of conflict, the terms of sections 1 to 8 of this act shall govern. Fully registered bonds shall bear interest at such rate or rates, be in such denominations, be in such form and contain such provisions for registration, reissue, and transfer, be executed in such manner, be payable at such place and by any such paying agent, and be sold in such manner and for such prices as the governing body of the issuer shall determine. Fully registered bonds may be executed with the facsimile signature of the officers of the issuer designated to execute such bonds and need not be manually executed by any officers of the issuers, except that each bond shall be authenticated as to its validity in the manner designated by the governing body of the issuer in the bond ordinance. Fully registered bonds may bear the facsimile seal of the issuer printed on the bond.

Sec. 3. For each issue of fully registered bonds, the issuer shall designate a registrar and one or more paying agents. The registrar shall have such duties with respect to maintaining records as to ownership of fully registered bonds and handling

transfers of ownership as the governing body shall determine and the registrar shall accept. To carry out transfers of ownership of bonds, the registrar may be authorized to issue replacement bonds to replace previously issued bonds or to issue other evidence of ownership of bonds, and all replacement bonds or ownership documents shall be on the same terms as the bonds initially issued by the issuer for which the replacement bonds or other ownership documents are issued. No issuer shall be responsible for payment on any bonds of any issue in excess of (1) the principal amount of the bonds of such issue plus interest on the principal, (2) any applicable redemption premium, and (3) any fees and expenses of the registrar and paying agents which the issuer has agreed to pay. An issuer may designate in the bond ordinance a record payment date for payment of interest and the record payment date may be prior to the due date for interest on any bond. Any issuer may authorize and provide for ownership of fully registered bonds to be in book-entry form with ownership being evidenced only on the books of the registrar or in such other manner as the issuer shall provide in the bond ordinance.

Sec. 4. Any issuer, except a sanitary and improvement district, which is authorized to issue warrants to pay costs of any water, sanitary, or storm sewer or other utility improvement or any street improvement, pending permanent financing by issuance of bonds, is hereby authorized to provide temporary financing for costs of such improvements by issuance of bond anticipation notes in lieu of issuing warrants. Such notes may be issued in the amount of the estimated cost of the improvements to be financed, including interest to accrue on such notes, as such estimated costs shall be determined by the governing body. Such notes shall be paid from the proceeds of bonds which the issuer is otherwise authorized to issue for such improvements and from any other funds available for the purpose. Bond anticipation notes may be issued on such terms and conditions and sold in such manner and at such prices as the governing body of the issuer shall determine. An issuer which has issued and has outstanding bond anticipation notes pursuant to this section may issue refunding notes with which to call and redeem all or any part of the outstanding notes at or before maturity or the redemption day of the notes. Such refunding notes may be issued in an amount sufficient to pay any redemption premium and interest to accrue and become payable on the notes being refunded to the date of payment of such notes. The refunding notes may be issued on such terms and conditions and sold in such manner and at such prices as the governing body of the issuer shall determine and shall be payable from the

same sources as would have been available for payment of the notes being refunded.

Sec. 5. Any issuer, except a sanitary and improvement district, which has issued outstanding warrants may issue refunding warrants with which to pay and redeem all or any part of the outstanding warrants, including interest to accrue and become payable on the warrants being refunded. Such refunding warrants may be issued on such terms and conditions and sold at such prices as the governing body of the issuer shall determine. Refunding warrants shall be payable from the same sources as would have been available for payment of the warrants being refunded.

Sec. 6. Any county treasurer or other officer holding any funds of an issuer shall transfer to the issuer or to a paying agent all or such portion of such funds as the governing body or treasurer of the issuer shall request. The county treasurer or officer making payment to the issuer or to a paying agent as requested shall have no further responsibility for the funds so transferred.

Sec. 7. The issuance of all fully registered bonds shall be registered in the office of the Auditor of Public Accounts and such other office as may be required by section 10-201, except that no certificate or other evidence of such registration shall be required to be placed or endorsed on any fully registered bond. Notwithstanding any other provision of law, no fully registered bond shall be required to be registered in any office of any public official except as required by section 10-201.

Sec. 8. The records of ownership of fully registered bonds maintained by a registrar shall not be deemed to be public records and shall be available for inspection solely pursuant to a court order or a subpoena of any governmental agency having jurisdiction to issue such subpoena or in accordance with the bond ordinance governing the fully registered bonds.

Sec. 9. That section 2-1302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1302. Said refunding debentures shall be in substantially the form as provided in section 2-111, Compiled Statutes of Nebraska, 1929, and shall be registered with the Auditor of Public Accounts of the State of Nebraska as provided in section 10-116 herein.

Sec. 10. That section 10-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

10-101. The Except as provided in sections 1 to 8 of this act, the State Treasurer shall be the state fiscal agent, and all bonds and coupons issued by the state shall be made payable at the office of the State

Treasurer. Except as provided in sections 1 to 8 of this act, the The county treasurer shall be the county fiscal agent, and all bonds and coupons issued by any county, township, precinct, city, village, school district, or other political subdivision of a county shall be made payable at the office of the county treasurer, except that all revenue bonds and coupons of cities of the first class may at the discretion of such city be payable at the office of the city treasurer. If the interest on any such bonds is represented by coupon notes, such coupon notes shall contain a provision fixing the rate of interest they shall bear after due until they are paid. When any of the political subdivisions as above enumerated lies in two or more counties, the bonds shall be payable at the office of either one of the county treasurers as may be provided in the history and in the bonds or as provided in sections 1 to 8 of this act.

Sec. 11. That section 10-118.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

10-118.01. Whenever section 10-108, ~~10-116,~~ or 10-118, requires the Auditor of Public Accounts to place his or her certificate on any bonds, such certificate may be signed either personally by the auditor or by facsimile signature.

Sec. 12. That section 10-120, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

10-120. When the county board of any county issues coupon bonds to refund the bonded indebtedness of any precinct in the State of Nebraska, and in case an exchange of said refunding bonds cannot be effected, the county board is hereby authorized to sell said refunding bonds from time to time, at not less than their face value, in such sums as may be necessary to create a fund for the redemption of the outstanding bonds aforesaid and pay interest on such bonds to the date of redemption. The money realized from the sale of said refunding bonds shall not be expended or used for any other purpose than for refunding said outstanding bonds and interest on the bonds.

Sec. 13. That section 10-503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

10-503. It shall be the duty of the county board of any county issuing bonds under the provisions of sections 10-501 to 10-509 to ascertain the highest price at which said bonds can be negotiated and to embrace in the proposition submitted to the qualified electors under said sections the minimum price at which said bonds shall be sold. Provided, no bonds issued under the provisions of said sections shall be sold for

less than their par value; provided, further, where if by the issuance of the proposed bonds, the rate of interest on the said indebtedness will be reduced, and the amount of the indebtedness will not be increased, a majority of the votes cast shall be sufficient to adopt the proposition.

Sec. 14. Any county, city, or village in the State of Nebraska which has heretofore issued, or which shall hereafter issue, bonds for any purpose, and such bonds, or any part of such bonds, still remain unpaid, and remain and are a legal liability against such county, city, or village and are bearing interest, is hereby authorized to issue refunding bonds with which to call and redeem all or any part of such outstanding bonds at or before the maturity or the redemption date of such bonds, and may include various series and issues of the outstanding bonds in a single issue of refunding bonds, and issue refunding bonds to pay any redemption premium and interest to accrue and become payable on the outstanding bonds being refunded. The refunding bonds may be issued and delivered at any time prior to the date of maturity or the redemption date of the bonds to be refunded that the governing body determines to be in the best interest of the county, city, or village. The proceeds derived from the sale of the refunding bonds issued pursuant to this section may be invested in obligations of, or guaranteed by, the United States government pending the time the proceeds are required for the purposes for which such refunding bonds were issued. To further secure the refunding bonds, the county, city, or village may enter into a contract with any bank or trust company, within or without the state, with respect to the safekeeping and application of the proceeds of the refunding bonds and the safekeeping and application of the earnings on the investment. Any outstanding bonds, which shall have been called for redemption and which have sufficient funds or obligations of, or guaranteed by, the United States government set aside in safekeeping to be applied for the complete payment of such bonds, interest on such bonds, and redemption premium, if any on the redemption date, shall not be considered as outstanding and unpaid bonds. All bonds issued under the provisions of this section shall, on their face, contain a clause that the county, village, or city, except metropolitan and primary class cities, issuing such bonds shall have the right to redeem such bonds at the expiration of five years from the date of the issuance thereof.

Each new refunding bond so issued shall state on the bond (1) the object of its issue, (2) this section or sections of the law under which such issue was made, including a statement that the issue is made in pursuance of such section or sections, and (3) the

date and principal amount of the bond or bonds for which the refunding bonds are being issued.

Sec. 15. That section 10-613, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

10-613. Any sanitary and improvement district, any road improvement district, and any fire protection district which has heretofore issued or which shall hereafter issue bonds on which it is legally liable or any city or village which has annexed all or any part of such a district and has become legally liable for the bonds or warrants of the district, or any part thereof, may issue its ~~coupon~~ refunding bonds and exchange the refunding bonds at a rate not to exceed par for par for the outstanding bonds of the district whenever the exchange can be legally effected, or if the district bonds or warrants are subject to redemption at the time of the issuance of the refunding bonds, the refunding bonds may be sold for cash at not less than par issued in such amount as shall be necessary to provide funds to redeem the outstanding bonds or warrants and pay interest on the bonds or warrants to the redemption date, and the proceeds used to pay and retire the district bonds being refunded or the warrants. The refunding bonds shall mature in not to exceed twenty years from date and bear interest payable annually or semiannually. The par value of the refunding bonds shall not exceed the unpaid balance due on the bonds then being refunded. The refunding bonds shall describe the bond or bonds of the district which are being refunded. The refunding bonds may be issued when authorized by an ordinance or resolution passed by a majority vote of the governing body of the district, city, or village issuing the same and without other authorization. If all the outstanding bonds of the district are being redeemed or refunded, the sinking funds and unpaid special assessments applicable to the original bonds shall be transferred to a special account and used to pay the principal and interest on the refunding bonds.

Sec. 16. Sections 1 to 8 and 14 of this act shall be deemed to provide an additional alternative and complete method for doing of the things authorized in such sections and shall be deemed and construed to be supplemental and additional to powers conferred by any other laws or home rule charters and shall not be regarded to be in degradation of any powers existing on the effective date of this act, except that insofar as provisions of sections 1 to 8 and 14 of this act are inconsistent with any other law or home rule charter, the provisions of sections 1 to 8 and 14 this act shall be controlling.

Sec. 17. If any section in this act or any

part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 18. That original sections 2-1302, 10-101, 10-118.01, 10-120, 10-503, and 10-613, Reissue Revised Statutes of Nebraska, 1943, and also sections 10-104, 10-116, 10-601 to 10-605, 10-706, 10-708 to 10-710, 16-724, and 17-152, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 19. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.