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Senate Bill 965 (as enrolled)  
Sponsor: Senator Joanne G. Emmons  
Senate Committee: Finance  
House Committee: Tax Policy

**PUBLIC ACT 465 of 2002**

Date Completed: 2-18-03

**CONTENT**

**The bill amended the Revenue Bond Act to do the following:**

- **Specify the conditions under which a public corporation may issue bonds under the Act.**
- **Provide that bonds subject to the Act are not subject to the Revised Municipal Finance Act (RMFA) unless otherwise provided in the Revenue Bond Act.**
- **Specify that bonds issued under the Revenue Bond Act for which a municipality pledges its full faith and credit are subject to the RMFA, with two exceptions.**
- **Eliminate requirements that a public corporation obtain the approval of the Department of Treasury before issuing bonds, unless an exception from prior approval had been granted.**
- **Provide for the sale of bonds at a competitive or negotiated sale.**
- **Require annual audits.**
- **Authorize the Department of Treasury to issue bulletins as necessary to carry out the purposes of the Revenue Bond Act, and require a bulletin to state the Department's specific authority for any substantive requirement contained in the bulletin.**

(Public Act 34 of 2001 created the Revised Municipal Finance Act to regulate borrowing by municipalities, and their issuance of securities; repeal the Municipal Finance Act; and prescribe the powers and duties of the Department of Treasury to protect the credit of the State and its municipalities. The Act took effect March 1, 2002.)

Under the Revenue Bond Act, a public corporation may issue bonds or notes for public improvements. (A "public corporation" is a municipality, school district, port district, or metropolitan district or a combination of these entities, or an authority created by the Legislature.) The bill provides that if a public corporation issuing bonds meets the requirements of qualified status under Section 303(3) of the Revised Municipal Finance Act, it complies with Section 319(1) of that Act. (Section 303(3) prescribes various requirements that a municipality must meet in order to qualify to issue municipal securities without further approval from the Department of Treasury. Section 319(1) requires a municipality that has issued a municipal security to file various documents with the Department.)

If a public corporation issuing bonds does not meet the qualified status requirements of Section 303(3), it must meet the requirements of Sections 303(7), 303(8), and 319(2) of the RMFA. (Section 303(7) provides that if a municipality has not been granted qualified status, it must obtain the prior approval of the Department to issue a municipal security, and must meet specified criteria to obtain prior approval. Section 303(8) requires the Department to issue approval of a security if a municipality meets the requirements of 303(7), or issue a notice of deficiency that prevents the security issue if the municipality does not meet the requirements. Section 319(2) requires a municipality that has issued securities approved under Section 303(7) to file various documents with the Department.)

The bill also provides that a public corporation issuing bonds under the Revenue Bond Act is

subject to Section 321 of the RMFA, which permits the Department of Treasury to require that filings to the Department be in an electronic format.

The bill also eliminated provisions in the Revenue Bond Act requiring a public sale if a bond issue was \$50,000 or more, allowing a negotiated sale if the public corporation's governing body rejected a bid at the public sale, and allowing a public or negotiated sale for bond issues over \$15 million. Under the bill, a public corporation may sell bonds at a competitive sale or a negotiated sale as determined in an authorizing ordinance. If the public corporation determines to sell a bond at a negotiated sale, the governing body must expressly state the method and reasons for choosing a negotiated sale, instead of a competitive sale, in the ordinance authorizing the issuance or sale of the bonds. The bill prohibits the sale of bonds at a competitive sale until notice is published at least seven days before the sale in a publication, printed in English and circulated in the State, that carries as a part of its regular service notices of the sale of municipal bonds.

The bill requires a public corporation to award a bond sold at a competitive sale to the bidder whose bid meets all specifications and requirements and results in the lowest interest cost to the public corporation, unless all bids are rejected. A public corporation may accept bids for the purchase of a bond made in person, by mail, by facsimile, by electronic means, or by any other means authorized by the public corporation.

The bill specifies that bonds issued under the Revenue Bond Act for which a municipality pledges its full faith and credit also are subject to the RMFA except for Part VI and Section 503 of that Act. (Part VI prescribes the requirements a municipality must follow to issue securities refunding all or part of its outstanding securities. Section 503 prescribes regulations for single issue bonds, including requirements for maturity dates and mandatory redemption dates.)

The bill provides that for bonds issued under the Revenue Bond Act, the first principal amount maturity date or mandatory redemption date may not be later than five years after the date of issuance, and some principal amount must mature or be subject to mandatory redemption in each subsequent

year of the term of the bond.

Previously, money in the accounts of a public improvement could be invested in any of several investment instruments listed in the Act. The bill deleted that list of investments, and provides instead that money in the accounts may be invested in accordance with the public corporation's investment policy adopted by the public corporation's legislative or governing body.

Previously, a public corporation that issued revenue bonds had to prepare each year for the Department a statement showing the income and disbursements of the public improvement during the operating year, and its assets and liabilities at the end of the year. If an annual audit were performed, the audit report could be used in place of the statement. If the public corporation's governing body, or any of its officers responsible for compliance, refused or neglected to furnish the statement, the governing body or officer was guilty of a misdemeanor. The bill eliminated these provisions and instead requires each public corporation to file an annual audit report with the Department, within six months from the end of the corporation's fiscal year or as otherwise provided in the Uniform Budgeting and Accounting Act.

MCL 141.103 et al.

Legislative Analyst: George Towne

### **FISCAL IMPACT**

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.