

SECOND REGULAR SESSION

HOUSE BILL NO. 2251

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CURTMAN.

5749H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 108.140 and 108.170, RSMo, and to enact in lieu thereof three new sections relating to general obligation bonds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 108.140 and 108.170, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 108.140, 108.170, and 108.171, to read as follows:

108.140. 1. The various counties in this state for themselves, as well as for and on behalf of any township, or other political subdivision for which the counties may have issued any general obligation bonds, and the several cities, school districts or other political corporations or subdivisions of the state, are hereby authorized to refund, extend, and unify the whole or part of their valid general obligation bonded indebtedness, or judgment indebtedness, and for such purpose may issue, negotiate, sell and deliver refunding general obligation bonds and with the proceeds therefrom pay off, redeem and cancel the bonds to be refunded in advance of their maturity or redemption or as the same mature or are called for redemption, or pay and cancel such judgment indebtedness, or such refunding general obligation bonds may be issued and delivered in exchange for and upon surrender and cancellation of the bonds refunded thereby, or such judgment indebtedness. School districts may pay costs and expenses related to issuing such refunding general obligation bonds from proceeds from the sale of such bonds. In no case shall the refunding general obligation bonds exceed the amount of the principal of the outstanding bond or judgment indebtedness to be refunded and the interest accrued thereon to the date of such refunding bonds. No refunding bond issued as provided in this subsection shall be payable in more than twenty years from the date thereof and such refunding bonds shall bear

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.

17 interest not to exceed the same rate as the bonds refunded, or judgment indebtedness; provided,
18 that nothing in this section shall be so construed as to prohibit any county, city, school district,
19 or other political corporation or subdivision of the state from refunding its general obligation
20 bonded indebtedness without the submission of the question to a popular vote. **Any municipal**
21 **advisor involved with any sale of bonds shall not underwrite the issue.**

22 2. The various counties in this state for themselves, as well as for and on behalf of any
23 township, or other political subdivision for which the counties may have issued any revenue
24 bonds, notes or other obligations, and the several cities, school districts or other political
25 corporations or subdivisions of the state, are hereby authorized to refund, extend, and unify the
26 whole or part of their valid outstanding revenue bonds, notes or other obligations, and for such
27 purpose may issue, negotiate, sell and deliver refunding revenue bonds, notes or other obligations
28 and with the proceeds therefrom pay off, redeem and cancel the obligations to be refunded in
29 advance of their maturity or redemption or as the same mature or are called for redemption, or
30 such refunding revenue bonds, notes or other obligations may be issued and delivered in
31 exchange for and upon surrender and cancellation of the obligations refunded thereby. In no case
32 shall the refunding revenue bonds, notes or other obligations exceed the amount determined by
33 the governing body of the issuing political corporation or subdivision to be necessary to pay or
34 provide for the payment of the principal of the outstanding obligations to be refunded, together
35 with the interest accrued thereon to the date of such refunding obligations and the interest to
36 accrue thereon to the date of maturity or redemption of such obligations to be refunded and any
37 premium which may be due under the terms of such obligations to be refunded and any amounts
38 necessary for the payment of costs and expenses related to issuing such refunding obligations and
39 to fund a debt service reserve fund for the obligations. All such refunding revenue bonds, notes
40 or other obligations shall bear interest at such rates as the governing body of the issuing political
41 subdivision shall provide, which rates of interest may exceed the rates of interest on the
42 obligations being refunded but shall not exceed the maximum legal rate established by section
43 108.170. The refunding revenue bonds, notes or other obligations may be payable from the same
44 sources as were pledged to the payment of the obligations refunded and, in the discretion of the
45 governing body of the issuing political subdivision, may be payable from any other source which
46 may be pledged to the payment of revenue bonds, notes or other obligations under any provision
47 of law relating to the issuance of the obligations refunded. Nothing in this section shall be so
48 construed as to prohibit any county, city, school district, or other political corporation or
49 subdivision of the state from refunding its revenue bonded indebtedness without the submission
50 of the question to a popular vote.

51 3. **Any person who is engaged as a municipal advisor by a political corporation or**
52 **subdivision with respect to a particular issue of securities shall be independent of the**

53 **underwriter of that issue of securities. For the purposes of this section, "municipal**
54 **advisor" shall mean a person registered as a municipal advisor under the rules of the**
55 **United State Securities and Exchange Commission, and "independent" shall have the same**
56 **meaning as defined by the rules of the Securities and Exchange Commission. In**
57 **determining the individuals or entities that may serve as a municipal advisor, nothing in**
58 **this section shall be construed to be more restrictive than the definition of a municipal**
59 **advisor as established by the United States Securities and Exchange Commission.**

108.170. 1. Notwithstanding any other provisions of any law or charter to the contrary,
2 any issue of bonds, notes, or other evidences of indebtedness, including bonds, notes, or other
3 evidences of indebtedness payable solely from revenues derived from any revenue-producing
4 facility, hereafter issued under any law of this state by any county, city, town, village, school
5 district, educational institution, drainage district, levee district, nursing home district, hospital
6 district, library district, road district, fire protection district, water supply district, sewer district,
7 housing authority, land clearance for redevelopment authority, special authority created under
8 section 64.920, authority created pursuant to the provisions of chapter 238, or other municipality,
9 political subdivision or district of this state shall be negotiable, may be issued in bearer form or
10 registered form with or without coupons to evidence interest payable thereon, may be issued in
11 any denomination, and may bear interest at a rate not exceeding ten percent per annum, and may
12 be sold, at any sale, at the best price obtainable, not less than ninety-five percent of the par value
13 thereof, anything in any proceedings heretofore had authorizing such bonds, notes, or other
14 evidence of indebtedness, or in any law of this state or charter provision to the contrary
15 notwithstanding. Such issue of bonds, notes, or other evidence of indebtedness may bear interest
16 at a rate not exceeding fourteen percent per annum if sold at public sale after giving reasonable
17 notice of such sale, at the best price obtainable, not less than ninety-five percent of the par value
18 thereof; provided, that such bonds, notes, or other evidence of indebtedness may be sold to any
19 agency or corporate or other instrumentality of the state of Missouri or of the federal government
20 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, the state board of fund commissioners created under section 33.300,
24 any port authority created under section 68.010, the bi-state metropolitan development district
25 authorized under section 70.370, any special business district created under section 71.790, any
26 county, as defined in section 108.465, exercising the powers granted by sections 108.450 to
27 108.470, the industrial development board created under section 100.265, any planned industrial
28 expansion authority created under section 100.320, the higher education loan authority created
29 under section 173.360, the Missouri housing development commission created under section

30 215.020, the state environmental improvement and energy resources authority created under
31 section 260.010, the agricultural and small business development authority created under section
32 348.020, any industrial development corporation created under section 349.035, or the health and
33 educational facilities authority created under section 360.020 shall, with respect to the sales
34 price, manner of sale and interest rate, be governed by the specific sections applicable to each
35 of these entities.

36 **3. Any person who is engaged as a municipal advisor by a political corporation or**
37 **subdivision with respect to a particular issue of securities shall be independent of the**
38 **underwriter of that issue of securities. For the purposes of this section, "municipal**
39 **advisor" shall mean a person registered as a municipal advisor under the rules of the**
40 **United State Securities and Exchange Commission, and "independent" shall have the same**
41 **meaning as defined by the rules of the Securities and Exchange Commission. In**
42 **determining the individuals or entities that may serve as a municipal advisor, nothing in**
43 **this section shall be construed to be more restrictive than the definition of a municipal**
44 **advisor as established by the United States Securities and Exchange Commission.**

45 **4.** Notwithstanding other provisions of this section or other law, the sale of bonds, notes
46 or other evidence of indebtedness issued by any housing authority created under section 99.040
47 may be sold at any sale, at the best price obtainable, not less than ninety-five percent of the par
48 value thereof, and may bear interest at a rate not exceeding fourteen percent per annum. The sale
49 shall be a public sale unless the issuing jurisdiction adopts a resolution setting forth clear
50 justification why the sale should be a private sale except that private activity bonds may be sold
51 either at public or private sale.

52 **[4.] 5.** Notwithstanding other provisions of this section or law, industrial development
53 revenue bonds may be sold at private sale and bear interest at a rate not exceeding fourteen
54 percent per annum at the best price obtainable, not less than ninety-five percent of the par value
55 thereof.

56 **[5.] 6.** Notwithstanding other provisions in subsection 1 of this section to the contrary,
57 revenue bonds issued for airport purposes by any constitutional charter city in this state which
58 now has or may hereafter acquire a population of more than three hundred thousand but less than
59 six hundred thousand inhabitants, according to the last federal decennial census, may bear
60 interest at a rate not exceeding fourteen percent per annum if sold at public sale after giving
61 reasonable notice, at the best price obtainable, not less than ninety-five percent of the par value
62 thereof.

63 **[6.] 7.** For purposes of the interest rate limitations set forth in this section, the interest
64 rate on bonds, notes or other evidence of indebtedness described in this section means the rate
65 at which the present value of the debt service payments on an issue of bonds, notes or other

66 evidence of indebtedness, discounted to the date of issuance, equals the original price at which
67 such bonds, notes or other evidence of indebtedness are sold by the issuer. Interest on bonds,
68 notes or other evidence of indebtedness may be paid periodically at such times as shall be
69 determined by the governing body of the issuer and may be compounded in accordance with
70 section 408.080.

71 [7.] 8. Notwithstanding any provision of law or charter to the contrary:

72 (1) Any entity referenced in subsection 1 or 2 of this section and any other political
73 corporation of the state which entity or political corporation has an annual operating budget for
74 the current year exceeding twenty-five million dollars may, in connection with managing the cost
75 to such entity or political corporation of purchasing fuel, electricity, natural gas, and other
76 commodities used in the ordinary course of its lawful operations, enter into agreements providing
77 for fixing the cost of such commodity, including without limitation agreements commonly
78 referred to as hedges, futures, and options; provided that as of the date of such agreement, such
79 entity or political corporation shall have complied with subdivision (3) of this subsection; and
80 further provided that no eligible school, as defined in section 393.310, shall be authorized by this
81 subsection to enter into such agreements in connection with the purchase of natural gas while the
82 tariffs required under section 393.310 are in effect;

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

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

92 (b) As of the date of such agreement, such entity's or political corporation's bonds, notes,
93 or other obligations then outstanding or to be issued have received a stand-alone credit rating in
94 one of the two highest categories, without regard to any gradation within such categories, from
95 at least one nationally recognized credit rating agency, or such entity or political corporation has
96 an issuer or general credit rating, in one of the two highest categories, without regard to any
97 gradation within such categories, from at least one nationally recognized credit rating agency;
98 and

99 (c) As of the date of such agreement, such entity or political corporation shall have
100 complied with subdivision (3) of this subsection;

(3) Prior to entering into any agreements pursuant to subdivision (1) or (2) of this subsection, the governing body of the entity or political corporations entering into such agreements shall have adopted a written policy governing such agreements. Such policy shall be prepared by integrating the recommended practices published by the Government Finance Officers Association or comparable nationally recognized professional organization and shall provide guidance with respect to the permitted purposes, authorization process, mitigation of risk factors, ongoing oversight responsibilities, market disclosure, financial strategy, and any other factors in connection with such agreements determined to be relevant by the governing body of such entity or political corporation. Such entity or political corporation may enter into such agreements at such times and such agreements may contain such payment, security, default, remedy, and other terms and conditions as shall be consistent with the written policy adopted under this subdivision and as may be approved by the governing body of such entity or other obligated party, including any rating by any nationally recognized rating agency and any other criteria as may be appropriate;

(4) Nothing in this subsection shall be applied or interpreted to authorize any such entity or political corporation to enter into any such agreement for investment purposes or to diminish or alter the special or general power any such entity or political corporation may otherwise have under any other provisions of law including the special or general power of any interstate transportation authority.

108.171. The office of administration may provide technical and advisory assistance regarding the issuance of bonds, notes, or other evidences of indebtedness in order to obtain the lowest possible net interest costs to those political corporations or subdivisions whose governing bodies request such assistance. The assistance may include, but need not be limited to:

(1) Advice on the structuring and marketing of bonds, notes, or other evidences of indebtedness;

(2) Training in debt management; and

(3) Promotion of the use of such tools for sound financial management as adequate systems of budgeting, accounting, auditing, and reporting.

✓