State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1686

04/04/2013 Authored by Lenczewski
The bill was read for the first time and referred to the Committee on Taxes

A bill for an act

relating to public finance; authorizing certain investments of public funds; providing for repayment of certain energy improvements; changing certain requirements for financing capital equipment purchases; capital improvements; changing certain election requirements for issuance of street reconstruction bonds; amending Minnesota Statutes 2012, sections 118A.04, subdivision 3; 118A.05, subdivision 5; 216C.436, subdivision 7; 373.01, subdivision 3; 373.40, subdivisions 1, 2; 410.32; 412.301; 473.606, subdivision 3; 475.521, subdivisions 1, 2; 475.58, subdivision 3b; repealing Minnesota Statutes 2012, section 428A.101.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2012, section 118A.04, subdivision 3, is amended to read:

Subd. 3. **State and local securities.** Funds may be invested in the following:

(1) any security which is a general obligation of any state or local government with taxing powers which is rated "A" or better by a national bond rating service;

(2) any security which is a revenue obligation of any state or local government ~~with taxing powers~~ which is rated "AA" or better by a national bond rating service; ~~and~~

(3) a general obligation of the Minnesota housing finance agency which is a moral obligation of the state of Minnesota and is rated "A" or better by a national bond rating agency~~.~~; and

(4) any security which is an obligation of a school district with an original maturity not exceeding 13 months and (i) rated in the highest category by a national bond rating service or (ii) enrolled in the credit enhancement program pursuant to section 126C.55.

Sec. 2. Minnesota Statutes 2012, section 118A.05, subdivision 5, is amended to read:

Subd. 5. **Guaranteed investment contracts.** Agreements or contracts for guaranteed investment contracts may be entered into if they are issued or guaranteed by United States commercial banks, domestic branches of foreign banks, United States insurance companies, or their Canadian subsidiaries, or the domestic affiliates of any of the foregoing. The credit quality of the issuer's or guarantor's short- and long-term unsecured debt must be rated in one of the two highest categories by a nationally recognized rating agency. Agreements or contracts for guaranteed investment contracts with a term of 18 months or less may be entered into regardless of the credit quality of the issuer's or guarantor's long-term unsecured debt, provided that the credit quality of the issuer's short-term unsecured debt is rated in the highest category by a nationally recognized rating agency. Should the issuer's or guarantor's credit quality be downgraded below "A", the government entity must have withdrawal rights.

Sec. 3. Minnesota Statutes 2012, section 216C.436, subdivision 7, is amended to read:

Subd. 7. **Repayment.** An implementing entity that finances an energy improvement under this section must:

(1) secure payment with a lien against the ~~benefited~~ qualifying real property; and

(2) collect repayments as a special assessment as provided for in section 429.101 or by charter, provided that special assessments may be made payable in up to 20 equal annual installments.

If the implementing entity is an authority, the local government that authorized the authority to act as implementing entity shall impose and collect special assessments necessary to pay debt service on bonds issued by the implementing entity under subdivision 8, and shall transfer all collections of the assessments upon receipt to the authority.

Sec. 4. Minnesota Statutes 2012, section 373.01, subdivision 3, is amended to read:

Subd. 3. **Capital notes.** (a) A county board may, by resolution and without referendum, issue capital notes subject to the county debt limit to purchase capital equipment useful for county purposes that has an expected useful life at least equal to the term of the notes. The notes shall be payable in not more than ten years and shall be issued on terms and in a manner the board determines. A tax levy shall be made for payment of the principal and interest on the notes, in accordance with section 475.61, as in the case of bonds.

(b) For purposes of this subdivision, "capital equipment" means:

(1) public safety, ambulance, road construction or maintenance, and medical equipment; ~~and~~

(2) computer hardware and software, without regard to its expected useful life, whether bundled with machinery or equipment or unbundled~~.~~, together with application

development services and training related to the use of the computer hardware or software; and

(3) fiber optic cable, or other means of voice or data transmission, among governmental facilities.

Sec. 5. Minnesota Statutes 2012, section 373.40, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Bonds" means an obligation as defined under section 475.51.

(b) "Capital improvement" means acquisition or betterment of public lands, buildings, or other improvements within the county for the purpose of a county courthouse, administrative building, health or social service facility, correctional facility, jail, law enforcement center, hospital, morgue, library, park, qualified indoor ice arena, roads and bridges, public works facilities, fairground buildings, and records and data storage facilities, and the acquisition of development rights in the form of conservation easements under chapter 84C. An improvement must have an expected useful life of five years or more to qualify. "Capital improvement" does not include a recreation or sports facility building (such as, but not limited to, a gymnasium, ice arena, racquet sports facility, swimming pool, exercise room or health spa), unless the building is part of an outdoor park facility and is incidental to the primary purpose of outdoor recreation. For purposes of this section, "capital improvement" includes expenditures for purposes described in this paragraph that have been incurred by a county before approval of a capital improvement plan, if such expenditures are included in a capital improvement plan approved on or before the date of the public hearing under subdivision 2 regarding issuance of bonds for such expenditures.

(c) "Metropolitan county" means a county located in the seven-county metropolitan area as defined in section 473.121 or a county with a population of 90,000 or more.

(d) "Population" means the population established by the most recent of the following (determined as of the date the resolution authorizing the bonds was adopted):

(1) the federal decennial census,

(2) a special census conducted under contract by the United States Bureau of the Census, or

(3) a population estimate made either by the Metropolitan Council or by the state demographer under section 4A.02.

(e) "Qualified indoor ice arena" means a facility that meets the requirements of section 373.43.

(f) "Tax capacity" means total taxable market value, but does not include captured market value.

Sec. 6. Minnesota Statutes 2012, section 373.40, subdivision 2, is amended to read:

Subd. 2. **Application of election requirement.** (a) Bonds issued by a county to finance capital improvements under an approved capital improvement plan are not subject to the election requirements of section 375.18 or 475.58. The bonds must be approved by vote of at least three-fifths of the members of the county board. In the case of a metropolitan county, the bonds must be approved by vote of at least two-thirds of the members of the county board.

(b) Before issuance of bonds qualifying under this section, the county must publish a notice of its intention to issue the bonds and the date and time of a hearing to obtain public comment on the matter. The notice must be published in the official newspaper of the county or in a newspaper of general circulation in the county. The notice must be published at least 14, but not more than 28, days before the date of the hearing.

(c) A county may issue the bonds only upon obtaining the approval of a majority of the voters voting on the question of issuing the obligations, if a petition requesting a vote on the issuance is signed by voters equal to five percent of the votes cast in the county in the last county general election and is filed with the county auditor within 30 days after the public hearing. ~~The commissioner of revenue shall prepare a suggested form of the question to be presented at the election.~~ If the county elects not to submit the question to the voters, the county shall not propose the issuance of bonds under this section for the same purpose and in the same amount for a period of 365 days from the date of receipt of the petition. If the question of issuing the bonds is submitted and not approved by the voters, the provisions of section 475.58, subdivision 1a, shall apply.

Sec. 7. Minnesota Statutes 2012, section 410.32, is amended to read:

410.32 CITIES MAY ISSUE CAPITAL NOTES FOR CAPITAL EQUIPMENT.

(a) Notwithstanding any contrary provision of other law or charter, a home rule charter city may, by resolution and without public referendum, issue capital notes subject to the city debt limit to purchase capital equipment.

(b) For purposes of this section, "capital equipment" means:

(1) public safety equipment, ambulance and other medical equipment, road construction and maintenance equipment, and other capital equipment; ~~and~~

(2) computer hardware and software, without regard to its expected useful life, whether bundled with machinery or equipment or unbundled~~.~~, together with application

development services and training related to the use of the computer hardware and software; and

(3) fiber optic cable, or other means of voice or data transmission, among governmental facilities.

(c) The equipment or software must have an expected useful life at least as long as the term of the notes.

(d) The notes shall be payable in not more than ten years and be issued on terms and in the manner the city determines. The total principal amount of the capital notes issued in a fiscal year shall not exceed 0.03 percent of the market value of taxable property in the city for that year.

(e) A tax levy shall be made for the payment of the principal and interest on the notes, in accordance with section 475.61, as in the case of bonds.

(f) Notes issued under this section shall require an affirmative vote of two-thirds of the governing body of the city.

(g) Notwithstanding a contrary provision of other law or charter, a home rule charter city may also issue capital notes subject to its debt limit in the manner and subject to the limitations applicable to statutory cities pursuant to section 412.301.

Sec. 8. Minnesota Statutes 2012, section 412.301, is amended to read:

412.301 FINANCING PURCHASE OF CERTAIN EQUIPMENT.

(a) The council may issue certificates of indebtedness or capital notes subject to the city debt limits to purchase capital equipment.

(b) For purposes of this section, "capital equipment" means:

(1) public safety equipment, ambulance and other medical equipment, road construction and maintenance equipment, and other capital equipment; ~~and~~

(2) computer hardware and software, without regard to its expected useful life, whether bundled with machinery or equipment or unbundled~~.~~, together with application development services and training related to the use of the computer hardware or software; and

(3) fiber optic cable, or other means of voice or data transmission, among governmental facilities.

(c) The equipment or software must have an expected useful life at least as long as the terms of the certificates or notes.

(d) Such certificates or notes shall be payable in not more than ten years and shall be issued on such terms and in such manner as the council may determine.

(e) If the amount of the certificates or notes to be issued to finance any such purchase exceeds 0.25 percent of the market value of taxable property in the city, they shall not be issued for at least ten days after publication in the official newspaper of a council resolution determining to issue them; and if before the end of that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular municipal election is filed with the clerk, such certificates or notes shall not be issued until the proposition of their issuance has been approved by a majority of the votes cast on the question at a regular or special election.

(f) A tax levy shall be made for the payment of the principal and interest on such certificates or notes, in accordance with section 475.61, as in the case of bonds.

Sec. 9. Minnesota Statutes 2012, section 473.606, subdivision 3, is amended to read:

Subd. 3. **Treasurer; investments.** The treasurer shall receive and be responsible for all moneys of the corporation, from whatever source derived, and the same shall be considered public funds. The treasurer shall disburse the moneys of the corporation only on orders made by the executive and operating officer, herein provided for, countersigned by such other officer or such employee of the corporation as may be authorized and directed so to do by the corporation, showing the name of the claimant and the nature of the claim. No disbursement shall be certified by such officers until the same have been approved by said commissioners at a meeting thereof. Whenever the executive director of the corporation shall certify, pursuant to action taken by the commissioners at a meeting thereof, that there are moneys and the amount thereof in the possession of the treasurer not currently needed, then the treasurer may invest said amount or any part thereof in~~:~~

~~(a) Treasury bonds, certificates of indebtedness, bonds or notes of the United States of America, or bonds, notes or certificates of indebtedness of the state of Minnesota, all of which must mature not later than three years from the date of purchase.~~

~~(b) Bonds, notes, debentures or other obligations issued by any agency or instrumentality of the United States or any securities guaranteed by the United States government, or for which the credit of the United States is pledged for the payment of the principal and interest thereof, all of which must mature not later than three years from date of purchase.~~

~~(c) Commercial paper of prime quality, or rated among the top third of the quality categories, not applicable to defaulted paper, as defined by a nationally recognized organization which rates such securities as eligible for investment in the state employees retirement fund except that any nonbanking issuing corporation, or parent company in the case of paper issued by operating utility or finance subsidiaries, must have total assets~~

~~exceeding $500,000,000. Such commercial paper may constitute no more than 30 percent of the book value of the fund at the time of purchase, and the commercial paper of any one corporation shall not constitute more than four percent of the book value of the fund at the time of such investment.~~

~~(d) Any securities eligible under the preceding provisions, purchased with simultaneous repurchase agreement under which the securities will be sold to the particular dealer on a specified date at a predetermined price. In such instances, all maturities of United States government securities, or securities issued or guaranteed by the United States government or an agency thereof, may be purchased so long as any such securities which mature later than three years from the date of purchase have a current market value exceeding the purchase price by at least five percent on the date of purchase, and so long as such repurchase agreement involving securities extending beyond three years in maturity be limited to a period not exceeding 45 days.~~

~~(e) Certificates of deposit issued by any official depository of the commission. The commission may purchase certificates of deposit from a depository bank in an amount exceeding that insured by federal depository insurance to the extent that those certificates are secured by collateral maintained by the bank in a manner as prescribed for investments of the State Board of Investment.~~

~~(f)~~ securities approved for investment under section 118A.04.

Whenever it shall appear to the commissioners that any invested funds are needed for current purposes before the maturity dates of the securities held, they shall cause the executive director to so certify to the treasurer and it shall then be the duty of the treasurer to order the sale or conversion into cash of the securities in the amount so certified. All interest and profit on said investments shall be credited to and constitute a part of the funds of the commission. The treasurer shall keep an account of all moneys received and disbursed, and at least once a year, at times to be designated by the corporation, file with the secretary a financial statement of the corporation, showing in appropriate and identifiable groupings the receipts and disbursements since the last approved statements; moneys on hand and the purposes for which the same are appropriated; and shall keep an account of all securities purchased as herein provided, the funds from which purchased and the interest and profit which may have accrued thereon, and shall accompany the financial statement aforesaid with a statement setting forth such account. The corporation may pay to the treasurer from time to time compensation in such amount as it may determine to cover clerk hire to enable the treasurer to carry out duties and those required in connection with bonds issued by the corporation as in this act authorized.

Sec. 10. Minnesota Statutes 2012, section 475.521, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Bonds" mean an obligation defined under section 475.51.

(b) "Capital improvement" means acquisition or betterment of public lands, buildings or other improvements for the purpose of a city hall, town hall, library, public safety facility, and public works facility. An improvement must have an expected useful life of five years or more to qualify. Capital improvement does not include light rail transit or any activity related to it, or a park, road, bridge, administrative building other than a city or town hall, or land for any of those facilities. For purposes of this section, "capital improvement" includes expenditures for purposes described in this paragraph that have been incurred by a municipality before approval of a capital improvement plan, if such expenditures are included in a capital improvement plan approved on or before the date of the public hearing under subdivision 2 regarding issuance of bonds for such expenditures.

(c) "Municipality" means a home rule charter or statutory city or a town described in section 368.01, subdivision 1 or 1a.

Sec. 11. Minnesota Statutes 2012, section 475.521, subdivision 2, is amended to read:

Subd. 2. **Election requirement.** (a) Bonds issued by a municipality to finance capital improvements under an approved capital improvements plan are not subject to the election requirements of section 475.58. The bonds must be approved by an affirmative vote of three-fifths of the members of a five-member governing body. In the case of a governing body having more or less than five members, the bonds must be approved by a vote of at least two-thirds of the members of the governing body.

(b) Before the issuance of bonds qualifying under this section, the municipality must publish a notice of its intention to issue the bonds and the date and time of the hearing to obtain public comment on the matter. The notice must be published in the official newspaper of the municipality or in a newspaper of general circulation in the municipality. Additionally, the notice may be posted on the official Web site, if any, of the municipality. The notice must be published at least 14 but not more than 28 days before the date of the hearing.

(c) A municipality may issue the bonds only after obtaining the approval of a majority of the voters voting on the question of issuing the obligations, if a petition requesting a vote on the issuance is signed by voters equal to five percent of the votes cast in the municipality in the last municipal general election and is filed with the clerk within 30 days after the public hearing. ~~The commissioner of revenue shall prepare a suggested~~

~~form of the question to be presented at the election.~~ If the municipality elects not to submit the question to the voters, the municipality shall not propose the issuance of bonds under this section for the same purpose and in the same amount for a period of 365 days from the date of receipt of the petition. If the question of issuing the bonds is submitted and not approved by the voters, the provisions of section 475.58, subdivision 1a, shall apply.

Sec. 12. Minnesota Statutes 2012, section 475.58, subdivision 3b, is amended to read:

Subd. 3b. **Street reconstruction.** (a) A municipality may, without regard to the election requirement under subdivision 1, issue and sell obligations for street reconstruction, if the following conditions are met:

(1) the streets are reconstructed under a street reconstruction plan that describes the street reconstruction to be financed, the estimated costs, and any planned reconstruction of other streets in the municipality over the next five years, and the plan and issuance of the obligations has been approved by a vote of all of the members of the governing body present at the meeting following a public hearing for which notice has been published in the official newspaper at least ten days but not more than 28 days prior to the hearing; and

(2) if a petition requesting a vote on the issuance is signed by voters equal to five percent of the votes cast in the last municipal general election and is filed with the municipal clerk within 30 days of the public hearing, the municipality may issue the bonds only after obtaining the approval of a majority of the voters voting on the question of the issuance of the obligations. If the municipality elects not to submit the question to the voters, the municipality shall not propose the issuance of bonds under this section for the same purpose and in the same amount for a period of 365 days from the date of receipt of the petition. If the question of issuing the bonds is submitted and not approved by the voters, the provisions of section 475.58, subdivision 1a, shall apply.

(b) Obligations issued under this subdivision are subject to the debt limit of the municipality and are not excluded from net debt under section 475.51, subdivision 4.

(c) For purposes of this subdivision, street reconstruction includes utility replacement and relocation and other activities incidental to the street reconstruction, turn lanes and other improvements having a substantial public safety function, realignments, other modifications to intersect with state and county roads, and the local share of state and county road projects. For purposes of this subdivision, "street reconstruction" includes expenditures for street reconstruction that have been incurred by a municipality before approval of a street reconstruction plan, if such expenditures are included in a street reconstruction plan approved on or before the date of the public hearing under paragraph (a), clause (1) regarding issuance of bonds for such expenditures.

(d) Except in the case of turn lanes, safety improvements, realignments, intersection modifications, and the local share of state and county road projects, street reconstruction does not include the portion of project cost allocable to widening a street or adding curbs and gutters where none previously existed.

Sec. 13. **REPEALER.**

Minnesota Statutes 2012, section 428A.101, is repealed.

428A.101 DEADLINE FOR SPECIAL SERVICE DISTRICT UNDER GENERAL LAW.

The establishment of a new special service district after June 30, 2013, requires enactment of a special law authorizing the establishment.