

16A.96 MINNESOTA PAY-FOR-PERFORMANCE PROGRAM; APPROPRIATION BONDS.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Appropriation bond" means a bond, note, or other similar instrument of the state payable during a biennium from one or more of the following sources:

(1) money appropriated by law in any biennium for debt service due with respect to obligations described in subdivision 2, paragraph (b);

(2) proceeds of the sale of obligations described in subdivision 2, paragraph (b);

(3) payments received for that purpose under agreements and ancillary arrangements described in subdivision 2, paragraph (d); and

(4) investment earnings on amounts in clauses (1) to (3).

(c) "Debt service" means the amount payable in any biennium of principal, premium, if any, and interest on appropriation bonds.

Subd. 2. **Authority.** (a) Subject to the limitations of this subdivision, the commissioner of management and budget may sell and issue appropriation bonds of the state under this section for the purposes of the Minnesota pay-for-performance program established in sections 16A.93 to 16A.96. Proceeds of the bonds must be credited to a special appropriation bond proceeds account in the state treasury. Net income from investment of the proceeds, as estimated by the commissioner, must be credited to the special appropriation bond proceeds account.

(b) Appropriation bonds may be sold and issued in amounts that, in the opinion of the commissioner, are necessary to provide sufficient funds for achieving the purposes authorized as provided under paragraph (a), and pay debt service, pay costs of issuance, make deposits to reserve funds, pay the costs of credit enhancement, or make payments under other agreements entered into under paragraph (d); provided, however, that bonds issued and unpaid shall not exceed \$10,000,000 in principal amount, excluding refunding bonds sold and issued under subdivision 4. During the biennium ending June 30, 2013, the commissioner may sell and issue bonds only in an amount that the commissioner determines will result in principal and interest payments less than the amount of savings to be generated through pay-for-performance contracts under section 16A.94. For programs achieving savings under a pay-for-performance contract, the commissioner must reduce general fund appropriations by at least the amount of principal and interest payments on bonds issued under this section.

(c) Appropriation bonds may be issued in one or more series on the terms and conditions the commissioner determines to be in the best interests of the state, but the term on any series of bonds may not exceed 20 years.

(d) At the time of, or in anticipation of, issuing the appropriation bonds, and at any time thereafter, so long as the appropriation bonds are outstanding, the commissioner may enter into agreements and ancillary arrangements relating to the appropriation bonds, including but not limited to trust indentures, liquidity facilities, remarketing or dealer agreements, letter of credit agreements, insurance policies, guaranty agreements, reimbursement agreements, indexing agreements, or interest exchange agreements. Any payments made or received according to the agreement or ancillary arrangement shall be made from or deposited as provided in the agreement

or ancillary arrangement. The determination of the commissioner included in an interest exchange agreement that the agreement relates to an appropriation bond shall be conclusive.

Subd. 3. Form; procedure. (a) Appropriation bonds may be issued in the form of bonds, notes, or other similar instruments, and in the manner provided in section 16A.672. In the event that any provision of section 16A.672 conflicts with this section, this section shall control.

(b) Every appropriation bond shall include a conspicuous statement of the limitation established in subdivision 6.

(c) Appropriation bonds may be sold at either public or private sale upon such terms as the commissioner shall determine are not inconsistent with this section and may be sold at any price or percentage of par value. Any bid received may be rejected.

(d) Appropriation bonds may bear interest at a fixed or variable rate.

Subd. 4. Refunding bonds. The commissioner from time to time may issue appropriation bonds for the purpose of refunding any appropriation bonds then outstanding, including the payment of any redemption premiums on the bonds, any interest accrued or to accrue to the redemption date, and costs related to the issuance and sale of the refunding bonds. The proceeds of any refunding bonds may, in the discretion of the commissioner, be applied to the purchase or payment at maturity of the appropriation bonds to be refunded, to the redemption of the outstanding bonds on any redemption date, or to pay interest on the refunding bonds and may, pending application, be placed in escrow to be applied to the purchase, payment, retirement, or redemption. Any escrowed proceeds, pending such use, may be invested and reinvested in obligations that are authorized investments under section 11A.24. The income earned or realized on the investment may also be applied to the payment of the bonds to be refunded or interest or premiums on the refunded bonds, or to pay interest on the refunding bonds. After the terms of the escrow have been fully satisfied, any balance of the proceeds and any investment income may be returned to the general fund or, if applicable, the appropriation bond proceeds account for use in any lawful manner. All refunding bonds issued under this subdivision must be prepared, executed, delivered, and secured by appropriations in the same manner as the bonds to be refunded.

Subd. 5. Appropriation bonds as legal investments. Any of the following entities may legally invest any sinking funds, money, or other funds belonging to them or under their control in any appropriation bonds issued under this section:

(1) the state, the investment board, public officers, municipal corporations, political subdivisions, and public bodies;

(2) banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business; and

(3) personal representatives, guardians, trustees, and other fiduciaries.

Subd. 6. No full faith and credit; state not required to make appropriations. The appropriation bonds are not public debt of the state, and the full faith, credit, and taxing powers of the state are not pledged to the payment of the appropriation bonds or to any payment that the state agrees to make under this section. Appropriation bonds shall not be obligations paid directly, in whole or in part, from a tax of statewide application on any class of property, income, transaction, or privilege. Appropriation bonds shall be payable in each fiscal year only from amounts that the legislature may appropriate for debt service for any fiscal year, provided that

nothing in this section shall be construed to require the state to appropriate funds sufficient to make debt service payments with respect to the bonds in any fiscal year.

Subd. 7. **Appropriation of proceeds.** The proceeds of appropriation bonds and interest credited to the special appropriation bond proceeds account are appropriated to the commissioner for payment of contract obligations under the pay-for-performance program, as permitted by state and federal law, reasonable administrative costs of the program that are directly attributable to the program, issuance costs, and nonsalary expenses incurred in conjunction with the sale of the appropriation bonds.

Subd. 8. **Appropriation for debt service.** The amount needed to pay principal and interest on appropriation bonds issued under this section is appropriated each year to the commissioner from the general fund subject to the repeal, unallotment under section 16A.152, or cancellation otherwise pursuant to subdivision 6.

Subd. 9. **Administrative costs.** The commissioner may accept donations from private sources to defray administrative costs under this section. Amounts received are appropriated to the commissioner.

History: *1Sp2011 c 10 art 3 s 28*