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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1111

02/23/2015 Authored by Hamilton, Schomacker and Gunther

The bill was read for the first time and referred to the Committee on Greater Minnesota Economic and Workforce Development Policy

03/18/2015 Adoption of Report: Re-referred to the Committee on Capital Investment

1.1 A bill for an act
1.2 relating to capital investment; establishing a program for the issuance of state
1.3 appropriation bonds; appropriating money for the Lewis and Clark Regional
1.4 Water System; authorizing the sale and issuance of appropriation bonds;
1.5 proposing coding for new law in Minnesota Statutes, chapter 16A.

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

1.7 Section 1. **[16A.995] APPROPRIATION BONDS.**

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

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

1.12 (1) money appropriated by law in any biennium for debt service due with respect
1.13 to obligations described in subdivision 3, paragraph (b);

1.14 (2) proceeds of the sale of obligations described in subdivision 3, paragraph (b);

1.15 (3) payments received for that purpose under agreements and ancillary arrangements
1.16 described in subdivision 3, paragraph (c); and

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

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

1.20 Subd. 2. **Credit of appropriation bond proceeds.** (a) Proceeds of appropriation
1.21 bonds issued under each law must be credited by the commissioner to a special fund,
1.22 as provided in this subdivision. For the purpose of this subdivision, "proceeds of
1.23 appropriation bonds" means and includes the principal amount of the bonds and any
1.24 premium and accrued interest received on the sale of the bonds.

(b) Accrued interest received on sale of appropriation bonds must be credited to the appropriation bond fund. Any premium received on the sale of state appropriation bonds, except for refunding bonds at the time of the bond sale, must be either: (1) credited to the appropriation bond proceeds fund where it is used to reduce the par amount of the bond issue; or (2) credited to the appropriation bond fund. Any premium received on the sale of refunding bonds must be either: (1) credited to the appropriation bond fund; or (2) used to reduce the par amount of the refunding bond issue at the time of the bond sale.

(c) Proceeds of appropriation bonds issued for programs of grants or loans to political subdivisions must be credited to special accounts in the appropriation bond proceeds fund or to special funds established by laws stating the purposes of the grants or loans, and the standards and criteria under which an agency is authorized to make them.

Subd. 3. **Authority.** (a) Subject to the limitations of this subdivision, the commissioner may sell and issue appropriation bonds of the state under this section for public purposes as provided by law. Except as provided by subdivision 2, proceeds of appropriation bonds must be credited to the appropriation bond proceeds fund in the state treasury. Net income from investment of the proceeds, as estimated by the commissioner, must be credited to the appropriation bond proceeds fund.

(b) Appropriation bonds may be issued from time to time 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 30 years. The bonds of each issue shall be dated and bear interest, may be includable in or excludable from the gross income of the owners for federal income tax purposes, may be tax-deferred, may provide tax credits, or may offer other tax benefits for federal income tax purposes.

(c) 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.

(d) The commissioner may enter into written agreements or contracts relating to the continuing disclosure of information necessary to comply with, or facilitate the issuance of appropriation bonds in accordance with federal securities laws, rules, and regulations,

including Securities and Exchange Commission rules and regulations in Code of Federal Regulations, title 17, section 240.15c2-12. An agreement may be in the form of covenants with purchasers and holders of appropriation bonds set forth in the order or resolution authorizing the issuance of the appropriation bonds, or a separate document authorized by the order or resolution.

(e) The appropriation bonds are not subject to chapter 16C.

Subd. 4. 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 7.

(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.

(e) Notwithstanding any other law, appropriation bonds issued pursuant to this section shall be fully negotiable.

Subd. 5. 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 and, in the case of premium, as provided by subdivision 2, paragraph (b). 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.

4.1 Subd. 6. **Appropriation bonds as legal investments.** Any of the following entities
4.2 may legally invest any sinking funds, money, or other funds belonging to them or under
4.3 their control in any appropriation bonds issued under this section:

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

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

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

4.10 Subd. 7. **No full faith and credit; state not required to make appropriations.**
4.11 The appropriation bonds are not public debt of the state, and the full faith, credit, and
4.12 taxing powers of the state are not pledged to the payment of the appropriation bonds or to
4.13 any payment that the state agrees to make under this section. Appropriation bonds shall
4.14 not be obligations paid directly, in whole or in part, from a tax of statewide application
4.15 on any class of property, income, transaction, or privilege. Appropriation bonds shall be
4.16 payable in each fiscal year only from amounts that the legislature may appropriate for
4.17 debt service for any fiscal year, provided that nothing in this section shall be construed
4.18 to require the state to appropriate funds sufficient to make debt service payments with
4.19 respect to the bonds in any fiscal year. Appropriation bonds shall be canceled and shall
4.20 no longer be outstanding on the earlier of (1) the first day of a fiscal year for which the
4.21 legislature shall not have appropriated amounts sufficient for debt service, or (2) the date
4.22 of final payment of the principal of and interest on the appropriation bonds.

4.23 Subd. 8. **Appropriation of proceeds.** (a) The proceeds of appropriation bonds
4.24 issued under each law are appropriated for the purposes described in the law and in this
4.25 subdivision.

4.26 (b) Before the proceeds are received in the appropriation bond proceeds fund, the
4.27 commissioner may transfer to that fund from the general fund amounts not exceeding the
4.28 expected proceeds from the next bond sale. The commissioner shall return these amounts
4.29 to the general fund by transferring proceeds when received. The amounts of these transfers
4.30 are appropriated from the general fund and from the appropriation bond proceeds.

4.31 (c) Actual and necessary travel and subsistence expenses of employees and all
4.32 other nonsalary expenses incidental to the sale, printing, execution, and delivery of
4.33 appropriation bonds must be paid from the proceeds. The proceeds are appropriated for
4.34 this purpose. Appropriation bond proceeds must not be used to pay any part of the salary
4.35 of a state employee involved in the sale, printing, execution, or delivery of the bonds.

(d) Appropriation bond proceeds remaining in a special fund after the purposes for which the appropriation bonds were issued are accomplished or abandoned, as certified by the head of the agency administering the money, or as determined by the commissioner, unless devoted under the appropriation act to another purpose designated in the act, must be transferred to the appropriation bond fund.

Subd. 9. **Special accounts; appropriation.** (a) The commissioner shall establish separate accounts in the appropriation bond fund for each grant, loan, or program for which appropriation bond proceeds are appropriated, to record payments and receipts attributable to the grant, loan, or program.

(b) All money credited, transferred, or appropriated to the state appropriation bond fund and all income from the investment of that money is appropriated to the commissioner for the payment of principal and interest on appropriation bonds or, in the case of premium received on the sale of refunding bonds, as provided by subdivision 8.

Subd. 10. **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 repeal, unallotment under section 16A.152, or cancellation otherwise pursuant to subdivision 7.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. LEWIS AND CLARK RURAL WATER SERVICE; STATE APPROPRIATION BONDS; BOND SALE AUTHORIZATION.

Subdivision 1. **Appropriation.** \$48,000,000 is appropriated from the appropriation bond proceeds fund to the Public Facilities Authority for a grant to the Lewis and Clark Joint Powers Board to complete the Lewis and Clark Regional Water System project in Minnesota, to the city of Worthington. This appropriation does not require a nonstate match, but the grant agreement must provide for reimbursement to the state from any federal funds provided for the project, consistent with the Lewis and Clark Regional Water System, Inc. agreement.

Subd. 2. **Bond sale.** To provide the money appropriated in this section from the state appropriation bond proceeds fund, the commissioner of management and budget shall sell and issue bonds of the state in an amount up to \$48,000,000 plus the amount necessary to pay the costs of issuing the bonds, in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.995.

EFFECTIVE DATE. This section is effective the day following final enactment.