

CHAPTER 18  
SENATE BILL No. 451

AN ACT concerning municipal bonds; amending K.S.A. 2009 Supp. 10-106 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2009 Supp. 10-106 is hereby amended to read as follows: 10-106. (a) Municipal bonds shall be sold at public notice sale as follows: The officers having charge of the sale of the bonds shall publish a notice of the sale one time in a newspaper having general circulation in the county where the bonds are issued and in the Kansas register. Such notices shall be published not less than six days nor more than 30 days before the sale and shall contain the following information: (1) Except as provided by subsection (b), the date, time and place at which a public notice auction will be held on such terms and conditions as shall be provided by the municipality or at which bids will be received and considered for the sale of the bonds for cash at such price as the municipality may accept; (2) the date of issue, total par value and denomination of the bonds being sold; (3) the dates and amounts of maturities of the bond issues; (4) the dates on which interest on the bonds shall become due and payable; (5) the place or places where and the approximate date on which the bonds being sold will be delivered to the purchaser; (6) a statement that a good faith deposit in the form of *cash, including cash deposited into an account of the municipality or its agent by electronic fund transfer*, a certified or cashier's check or surety bond in the amount of 2% of the total par value of the bonds being sold shall be furnished at or prior to the time of sale by each bidder *except that if a bidder agrees to submit the good faith deposit through the federal reserve system into an account of the municipality or its agent, the good faith deposit may be furnished anytime prior to the time the governing body of the municipality accepts the bid*; (7) a statement disclosing whether or not the purchaser of the bonds will be required to pay for the printing thereof and whether or not and to what extent the purchaser of the bonds will be required to pay the expense of legal services rendered to the municipality in connection with the issuance of the bonds including the fees of recognized bond counsel for an opinion as to legality of issuance; (8) the assessed valuation of the municipality; (9) that bidders may be required to be qualified in a manner established by the municipality before submitting a bid; and (10) the total bonded indebtedness of the municipality as of the date on which the bonds being sold are dated including the bonds submitted for bid. The rate of interest may be omitted in advertising and the bidders requested to specify the lowest interest rate or rates on the bonds at which they will pay the purchase price.

(b) If sold at public notice sale, purchasers shall submit their bids in writing, sealed or sent by telefacsimile or other electronic transmission, as set forth in the notice of sale, for all or any part of the bonds. In case any purchaser, whose bid is accepted, fails to carry out the contract, the deposit shall be forfeited to the municipality issuing the bonds. Bids shall be disclosed publicly and tabulated or compared only at the time and place specified in the notice. At the time and place specified, the bonds shall be sold to the highest and best bidder or bidders, and the bonds may be allotted among the bidders, however, any or all bids may be rejected. No contract for the sale of the bonds shall be made except on bids submitted as provided in this section. No bonds shall be delivered to any purchaser until the amount of the bid is placed in the hands of the officer in charge of the sale. The provisions of this section relating to public notice sale of bonds shall not apply to bonds: (1) Secured solely and only by revenues, (2) bonds sold, pursuant to written agreement, to the government of the United States of America or any bureau, department, instrumentality or agency thereof, (3) bonds issued pursuant to K.S.A. 10-427 et seq., and amendments thereto, (4) all bonds of the same series or which are issued simultaneously with such bonds, and (5) bond sales where the total amount of the issue does not exceed \$2,000,000. In such cases, the bonds may be sold at public notice or private sale as the officers having charge of the sale of such bonds determine. If bonds under clause (5) are to be sold at private sale, the officers having charge of the sale of such bonds shall publish in advance of the sale a notice of intent

to seek private placement of such bonds in a newspaper having general circulation in the county where the bonds are issued and in the Kansas register. Such notice shall state the maximum aggregate principal amount of the bonds and shall indicate that the proposed sale is in all respects subject to the subsequent approval of an appropriate bond purchase agreement and an ordinance for the issuance of bonds. The practice of providing more than one issue within a twelve-month period for any one project is prohibited unless the project engineer or architect certifies that it is necessary to do so for the orderly construction progress of the project.

(c) As an alternative to providing notice of the date, time and place of public notice auction or receipt of bids provided by subsection (a)(1), the officers having charge of a bond sale may establish a time period of not less than seven nor more than 30 days during which such bonds would be sold. Notice of such sale period shall be published one time in a newspaper having general circulation in the county where the bonds are issued and in the Kansas register and shall be published not less than six days nor more than 30 days before the beginning date of the sale period. The notice shall contain the information specified in subsection (a) except that in place of the time and date of sale, the notice shall specify the time period during which the bonds would be sold and the manner in which persons interested in submitting a bid may register for notice of the bond sale. At least three business days prior to the time and date of the bond sale, the officers having charge of the sale shall give notice to all persons having registered for notice of the bond sale, and bids shall be submitted and received and the sale made in the manner provided in subsection (a).

Sec. 2. K.S.A. 2009 Supp. 10-106 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 24, 2010.

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