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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 310

01/17/2017 Authored by Olson, Schultz and Murphy, M., The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act
1.2 relating to capital investment; authorizing the sale and issuance of state
1.3 appropriation bonds; appropriating money for the Duluth steam plant; proposing
1.4 coding for new law in Minnesota Statutes, chapter 16A.

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

1.6 Section 1. [16A.968] APPROPRIATION BONDS; GENERAL TERMS.

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

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

1.10 (1) money appropriated by law from the general fund in any biennium for debt service
1.11 due with respect to obligations described in subdivision 2, paragraph (c);

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

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

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

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

1.18 Subd. 2. Authority to issue appropriation bonds. (a) Subject to the limitations of this
1.19 subdivision, the commissioner shall sell and issue appropriation bonds of the state for public
1.20 purposes as provided by law. The decision of the commissioner on when to sell bonds must
1.21 be based on the funding needs of the capital projects, the timing of the bond issue to achieve

2.1 favorable interest rates, managing cash flow requirements for debt service, other state debt
2.2 management considerations, and legal factors.

2.3 (b) Proceeds of the appropriation bonds must be credited to an account in a special
2.4 appropriation bond proceeds fund in the state treasury for each project or purpose authorized
2.5 in law for which the bonds are to be sold. All income from investment of the bond proceeds,
2.6 as estimated by the commissioner, is appropriated to the commissioner for the payment of
2.7 principal and interest on the appropriation bonds.

2.8 (c) Appropriation bonds authorized in a law may be issued in one or more issues or
2.9 series on the terms and conditions the commissioner determines to be in the best interests
2.10 of the state, but the term on any series of appropriation bonds may not exceed 25 years. The
2.11 appropriation bonds of each issue and series thereof shall be dated and bear interest, and
2.12 may be includable in or excludable from the gross income of the owners for federal income
2.13 tax purposes.

2.14 (d) At the time of, or in anticipation of, issuing the appropriation bonds, and at any time
2.15 thereafter, so long as the appropriation bonds are outstanding, the commissioner may enter
2.16 into agreements and ancillary arrangements relating to the appropriation bonds, including
2.17 but not limited to trust indentures, grant agreements, lease or use agreements, operating
2.18 agreements, management agreements, liquidity facilities, remarketing or dealer agreements,
2.19 letter of credit agreements, insurance policies, guaranty agreements, reimbursement
2.20 agreements, indexing agreements, or interest exchange agreements. Any payments made
2.21 or received according to the agreement or ancillary arrangement shall be made from or
2.22 deposited as provided in the agreement or ancillary arrangement. The determination of the
2.23 commissioner included in an interest exchange agreement that the agreement relates to an
2.24 appropriation bond shall be conclusive.

2.25 (e) The commissioner may enter into written agreements or contracts relating to the
2.26 continuing disclosure of information necessary to comply with or facilitate the issuance of
2.27 appropriation bonds in accordance with federal securities laws, rules, and regulations,
2.28 including Securities and Exchange Commission rules and regulations in Code of Federal
2.29 Regulations, title 17, section 240.15c 2-12. An agreement may be in the form of covenants
2.30 with purchasers and holders of appropriation bonds set forth in the order or resolution
2.31 authorizing the issuance of the appropriation bonds, or a separate document authorized by
2.32 the order or resolution.

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

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

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

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

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

3.11 (e) Notwithstanding any other law, appropriation bonds issued under this section shall
3.12 be fully negotiable.

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

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

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

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

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

4.7 **Subd. 6. No full faith and credit; state not required to make appropriations.**

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

4.20 **Subd. 7. Appropriation for debt service and other purposes.** An amount needed to
 4.21 pay principal and interest on appropriation bonds issued under this section is appropriated
 4.22 each fiscal year from the general fund to the commissioner, subject to repeal, unallotment
 4.23 under section 16A.152, or cancellation, and otherwise pursuant to subdivision 6, for deposit
 4.24 into the bond payments account established for each purpose authorized in law.

4.25 **Subd. 8. Waiver of immunity.** The waiver of immunity by the state provided for by
 4.26 section 3.751, subdivision 1, shall be applicable to the appropriation bonds and any ancillary
 4.27 contracts to which the commissioner is a party.

4.28 **Sec. 2. DULUTH STEAM PLANT; APPROPRIATION BONDS AUTHORIZED.**

4.29 **Subdivision 1. Duluth steam plant.** \$21,000,000 is appropriated from the appropriation
 4.30 bond proceeds fund to the commissioner of employment and economic development for a
 4.31 grant to the city of Duluth to upgrade the municipal district heating facility and systems,
 4.32 including conversion of the distribution system along Superior Street from steam with no
 4.33 condensate return, to closed-loop hot water. This appropriation is for one or more of the

5.1 project elements or phases: predesign, design, engineering, renovation, construction,
5.2 furnishing, and equipping the facility, systems, and infrastructure. This appropriation is not
5.3 available until the commissioner of management and budget determines that an amount
5.4 sufficient to complete the project, or one or more of the distinct elements or phases of the
5.5 project, is committed to it from nonstate sources.

5.6 Subd. 2. **Appropriation bonds; authorization.** To provide the money appropriated in
5.7 this act from the state appropriation bond proceeds fund, the commissioner of management
5.8 and budget shall sell and issue state appropriation bonds in an amount up to \$21,000,000,
5.9 plus an amount to pay the costs of issuance, debt service including capitalized interest, costs
5.10 of credit enhancement, or to make payments under other agreements entered into under
5.11 Minnesota Statutes, section 16A.968. The commissioner shall sell and issue the state
5.12 appropriation bonds in the manner, upon the terms, and with the effect prescribed in
5.13 Minnesota Statutes, section 16A.968.

5.14 Subd. 3. **Annual general fund appropriation for debt service.** An amount necessary
5.15 to pay principal and interest on appropriation bonds issued under this section is appropriated
5.16 each fiscal year, beginning in fiscal year 2017 and through fiscal year 2038, from the general
5.17 fund to the commissioner of management and budget, subject to repeal, unallotment under
5.18 section 16A.152, or cancellation, and otherwise pursuant to Minnesota Statutes, section
5.19 16A.968, for deposit into the appropriation bond payments account established for such
5.20 purpose.