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H.556

Introduced by Representatives Botzow of Pownal, Dickinson of St. Albans
Town, Kitzmiller of Montpelier, Kupersmith of South
Burlington, Marcotte of Coventry, Ralston of Middlebury,
Russell of Rutland City, Scheuermann of Stowe, Shand of
Weathersfield and Young of Glover

Referred to Committee on

Date:

Subject: Commerce and trade; bonding; private activity bonds

Statement of purpose: This bill proposes to create a private activity bond
advisory committee.

An act relating to creating a private activity bond advisory committee

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 32 V.S.A. § 993 is added to read:~~

~~§ 993. ADVISORY COMMITTEE~~

~~(a)(1) Creation; composition. There is created a private activity bond
advisory committee, which shall consist of the following members:~~

~~(A) the state treasurer or his or her designee;~~

~~(B) the secretary of administration or his or her designee;~~

1 ~~(C) the secretary of commerce and community development or his or~~
2 ~~her designee;~~

3 (D) two members who shall be representatives of the public,
4 appointed by the governor.

5 (2) Each public representative shall serve a two-year term beginning
6 February 1 in odd-numbered years or until his or her successor is appointed.

7 (3) The state treasurer or designee shall serve as chair of the committee.

8 (4) The office of the state treasurer shall provide administrative support
9 to the committee.

10 (5) Public representatives may receive reimbursement of expenses and
11 per diem compensation pursuant to subsection 1010(e) of this title.

12 (b) Committee charge.

13 (1) The committee shall survey the expected need for private activity
14 bond allocations among constituted and eligible issuing authorities empowered
15 to issue such bonds on an annual basis.

16 (2)(A) The committee shall develop guidelines for allocation of private
17 activity bonding capacity designed to maximize the availability of tax exempt
18 financing among competing sectors of the Vermont economy with a focus on
19 economic development, housing, education, redevelopment, public works,
20 energy, waste management, waste and recycling collection, transportation, and

1 ~~other activities that the committee determines will benefit the citizens of~~
2 Vermont.

3 (B) The guidelines should support efforts and entities that increase
4 the number of good-paying jobs in the state, promote economic development,
5 support affordable housing and affordable access to postsecondary education,
6 encourage the use of Vermont's human and natural resources in endeavors that
7 maximize Vermont's comparative economic advantages, and be flexible
8 enough to include new and innovative uses of private activity bonds, consistent
9 with federal regulations and the Internal Revenue Code.

10 (3) The committee shall meet at least annually and shall hold at least one
11 public hearing prior to submitting its recommendations to the emergency
12 board. The committee shall further submit its recommendations in an annual
13 report of its activities to the governor and the general assembly.

14 (4) On or before December 1 of each year, the committee shall make
15 recommendations to the emergency board on the allocation, including any
16 reservations, of the state's private activity bond ceiling for the following
17 calendar year to and among the constituted issuing authorities empowered to
18 issue such bonds.

19 (5) On its own initiative, at the request of the governor or at the request
20 of the emergency board, the committee may make recommendations to the
21 governor or emergency board concerning assignments or reallocation of any

1 ~~unused portion of the ceiling subsequent to the emergency board's initial~~
2 ~~allocation in a given year.~~

3 Sec. 2. EFFECTIVE DATE

4 This act shall take effect on passage.

.Sec. 1. 32 V.S.A. § 993 is added to read:

§ 993. ADVISORY COMMITTEE

(a)(1) Creation; composition. There is created a private activity bond
advisory committee, which shall consist of the following members:

(A) the state treasurer or his or her designee;

(B) the secretary of administration or his or her designee;

(C) the secretary of commerce and community development or his or
her designee;

(D) two members who shall be representatives of the public,
appointed by the governor.

(2) Each public representative shall serve for a two-year term beginning
February 1, or until his or her successor is appointed. The terms of the public
representatives shall be staggered so that only one member's term expires in
each year.

(3) The state treasurer or designee shall serve as chair of the committee.

(4) The office of the state treasurer shall provide administrative support
to the committee.

(5) Public representatives may receive reimbursement of expenses and per diem compensation pursuant to section 1010 of this title.

(b) Committee charge.

(1) The committee shall survey the expected need for private activity bond allocations among constituted and eligible issuing authorities empowered to issue such bonds on an annual basis.

(2)(A) The committee shall develop guidelines for allocation of private activity bonding capacity designed to maximize the availability of tax exempt financing among various sectors of the Vermont economy with a focus on economic development, housing, education, redevelopment, public works, energy, waste management, waste and recycling collection, transportation, and other activities that the committee determines will benefit the citizens of Vermont.

(B) The guidelines should support efforts and entities that increase the number of good-paying jobs in the state, promote economic development, support affordable housing, and affordable access to postsecondary education and training, and encourage the use of Vermont's human and natural resources in endeavors that maximize Vermont's comparative economic advantages, and be flexible enough to include new and innovative uses of private activity bonds, consistent with federal regulations and the Internal Revenue Code.

(3) The committee shall meet at least annually and shall hold at least one public hearing prior to submitting its recommendations to the emergency board. The committee shall further submit its recommendations in an annual report of its activities to the governor and the general assembly.

(4) On or before December 1 of each year, the committee shall make recommendations to the emergency board on the allocation, including any amounts reserved for contingency allocations, of the state's private activity bond ceiling for the following calendar year to and among the constituted issuing authorities empowered to issue such bonds.

(5) On its own initiative, at the request of the governor or at the request of the emergency board, the committee may make recommendations to the governor or emergency board concerning assignments or reallocation of any unused portion of the ceiling subsequent to the emergency board's initial allocation in a given year.

**Sec. 2. TRANSITION OF PRIVATE ACTIVITY BOND ADVISORY
COMMITTEE**

Notwithstanding any provision of law to the contrary, on the effective date of this act, the private activity bond advisory committee created in Executive Order 14-11 shall become for all lawful purposes the private activity bond committee authorized in Sec. 1 of this act; provided, however, that the term of the public representative first appointed by the governor pursuant to EO 14-11

shall end February 1, 2013, and the term of the public representative appointed second by the governor shall end February 1, 2014.

Sec. 3. 10 V.S.A. § 219(d) is amended to read:

(d) In order to assure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the authority, there may be appropriated annually and paid to the authority for deposit in each such fund, such sum as shall be certified by the chair of the authority, to the governor or the governor-elect, the president of the senate, and the speaker of the house, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor or the governor-elect, the president of the senate, and the speaker of the house, a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the authority during the then current state fiscal year. The principal amount of bonds or notes outstanding at any one time and secured in whole or in part by a debt service reserve fund to which state funds may be appropriated pursuant to this subsection shall not exceed ~~\$100,000,000.00~~ \$115,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts

entered into by the authority in contravention of the Constitution of the United States.

Sec. 4. 10 V.S.A. § 262(5) is amended to read:

(5) The principal obligation of the authority's mortgage does not exceed ~~\$1,300,000.00~~ \$1,500,000.00 which may be secured by land and buildings or by machinery and equipment, or both; unless an integral element of the project consists of the generation of heat or electricity employing biomass, geothermal, methane, solar, or wind energy resources to be primarily consumed at the project, in which case the principal obligation of the authority's mortgage does not exceed \$2,000,000.00, which may be secured by land and by buildings, or machinery and equipment, or both; such principal obligation does not exceed 40 percent of the cost of the project; and the mortgagor is able to obtain financing for the balance of the cost of the project from other sources as provided in the following section;

Sec. 5. 10 V.S.A. § 216(15) is amended to read:

(15) To delegate to loan officers the power to review, approve and make loans under this chapter, subject to the approval of the manager, and to disburse funds on such loans, subject to the approval of the manager, provided that such loans do not exceed ~~\$250,000.00~~ \$350,000.00 in aggregate amount for any industrial loan for any three-year period for any particular individual, partnership, corporation, or other entity or related entity, or do not exceed

~~\$200,000.00~~ \$350,000.00 in aggregate amount if the loan is guaranteed by the Farm Services Agency, or its successor agency, or ~~\$150,000.00~~ \$300,000.00 in aggregate amount if the loan is not guaranteed by the Farm Services Agency, or its successor agency, for any agricultural loan for any three-year period for any particular individual, partnership, corporation, or other entity or related entity. No funds may be disbursed for any loan approved under this provision, except for any agricultural loan referenced above in an amount not to exceed \$50,000.00, and no rejection of a loan by a loan officer pursuant to this subdivision shall become final, until three working days after the members of the authority are notified by facsimile, electronic mail, or overnight delivery mailed or sent on the day of approval or rejection, of the intention to approve or reject such loan. If any member objects within that three-day period, the approval or rejection will be held for reconsideration by the members of the authority at its next duly scheduled meeting;

Sec. 6. 10 V.S.A. § 221(a) is amended to read:

(a) Upon application of the proposed mortgagee, the authority may insure mortgage payments required to repay loans made by the mortgagee for the purpose of financing the costs of a project, upon such terms and conditions as the authority may prescribe; provided, however, that the total principal obligations of all mortgages insured under this subsection and under subsection (c) of this section outstanding at any one time shall not exceed

~~\$9,000,000.00~~ \$3,500,000.00. *Before insuring any mortgage payments hereunder, the authority shall determine and incorporate each of the findings established by this subsection in its minutes. Such findings, when adopted by the authority shall be conclusive:*

* * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.