



AN ACT ALLOWING LOCAL GOVERNMENT BONDS TO BE SOLD AT PUBLIC OR PRIVATE SALE; ESTABLISHING A MINIMUM SALE PRICE; AMENDING SECTIONS 7-7-2212, 7-7-2238, 7-7-2251, 7-7-2252, 7-7-2254, 7-7-4211, 7-7-4236, 7-7-4251, 7-7-4252, 7-7-4254, 7-7-4433, 7-7-4434, 7-10-220, 7-10-221, 7-12-2172, 7-12-4204, 7-14-4652, 7-15-4507, 7-31-113, 20-9-429, 20-9-430, 20-9-431, 20-9-432, 85-7-1436, 85-7-1437, 85-7-2022, 85-7-2023, 85-7-2033, 85-8-503, AND 85-9-625, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1. Public or private sale -- procedure for public sale.** (1) The governing body of a political subdivision may sell its bonds at public or private sale as determined by the governing body, and if the bonds are sold at private sale, in denominations and forms approved by the governing body. If the governing body conducts a public sale, those provisions of state law regarding the public sale of bonds that pertain to the political subdivision govern the sale.

(2) The bonds must be sold at not less than 97% of the principal amount of the bonds if the governing body determines that a sale at that price is in the best interests of the political subdivision.

**Section 2.** Section 7-7-2212, MCA, is amended to read:

**"7-7-2212. Citizen bonds authorized.** (1) A county authorized to sell general obligation bonds under this chapter may issue and sell a portion of the bonds in denominations of less than \$5,000, ~~either by~~ by:

- (a) competitive public sale, or directly to members of the public, at preestablished interest rates; or
- (b) private sale pursuant to [section 1].

(2) Bonds issued under 7-7-2212 through 7-7-2215 may be known as "citizen bonds".

(3) Citizen bonds may be issued for any purpose for which a county may issue general obligation bonds.

(4) An officer, employee, contracted financial consultant, or contracted adviser employed or retained by a county selling citizen bonds may not purchase those bonds."

**Section 3.** Section 7-7-2238, MCA, is amended to read:

**"7-7-2238. Resolution to sell bonds pursuant to public sale.** (1) If a sufficient percentage of the qualified electors entitled to vote at an election voted on the question and a sufficient percentage of votes were cast in favor of issuing bonds as provided in 7-7-2237 and if the board of county commissioners conducts a public sale, the board of county commissioners shall adopt a resolution calling for the sale of the bonds.

(2) The resolution calling for the sale of the bonds must state:

- (a) the purpose for which the bonds are to be issued;
- (b) the amount of the bonds to be issued;
- (c) the minimum purchase price of the bonds;
- (d) the date that the bonds will bear;
- (e) the period of time through which the bonds are payable;
- (f) the optional redemption provisions, if any; and
- (g) a form of notice of the sale of the bonds.

(3) The resolution must, except in a bond issue of citizen bonds, fix the denomination of serial bonds in case it is found advantageous to issue bonds in that form. The board may in its discretion provide that the bonds may be issued and sold in two or more series or installments.

(4) The board of county commissioners may fix the minimum price for the bonds in an amount less than the principal amount of the bonds, which may not be less than 97% of the principal amount, if the board determines that a sale at that price is in the best interests of the county."

**Section 4.** Section 7-7-2251, MCA, is amended to read:

**"7-7-2251. Form of notice of sale of bonds.** (1) ~~The~~ If a county conducts a public sale, the notice of sale must state the purpose or purposes for which the bonds are to be issued and the amount proposed to be issued for each purpose and must be substantially in the following form:

NOTICE OF SALE OF COUNTY BONDS

Notice is hereby given by the board of county commissioners of.... County, state of Montana, that the board will on the.... day of...., ....., at the hour of.... ..m., at the office of the board in the courthouse in the (town or city) of.... in the said county, sell to the highest and best bidder for cash general obligation bonds of the county

in the principal amount of.... dollars (\$....) for the purpose of.....

The bonds will be issued and sold in the aggregate principal amount of.... dollars (\$....) and will become payable according to the maturity schedule set forth below (set forth maturity schedule adopted by the board of county commissioners). (If the bonds are to be issued as amortization bonds, indicate that here.)

The bonds will bear an original issue date of...., ....., will pay interest commencing on the.... day of.... (month), ....., will be payable semiannually on the.... day of.... (month) and.... (month) in each year thereafter, and will be redeemable in full (here insert the optional provisions, if any, to be recited in the bonds).

The bonds will be sold for not less than \$...., with accrued interest on the principal amount of the bonds to date of delivery, and all bidders shall state the lowest rate or rates of interest at which they will purchase the bonds at the purchase price specified for the bonds. (An interest rate may not exceed ....% a year.) The board reserves the right to reject any and all bids and to sell the bonds at private sale.

All bids must be accompanied by (insert appropriate bid security as permitted by 18-1-202) in the sum of.... dollars (\$....), payable to the order of the clerk, which will be forfeited by the successful bidder in the event that the bidder fails or refuses to complete the purchase of the bonds in accordance with the terms of the bid.

All bids must be addressed to the board of county commissioners and delivered to the county clerk.

ATTEST:

.....  
(Presiding officer, Board of County Commissioners)  
of..... County, Montana .....

.....  
(Clerk of the Board of County Commissioners)  
of..... County, Montana  
Address....., Montana

(2) The form of notice required under this section may be modified to accommodate changes necessary to issue citizen bonds pursuant to 7-7-2212 through 7-7-2215."

**Section 5.** Section 7-7-2252, MCA, is amended to read:

**"7-7-2252. Publication of notice of sale of bonds.** ~~The~~ If a county conducts a public sale, the board of county commissioners shall publish notice of the bond sale in the official newspaper of the county as provided in 17-5-106. The board may in its discretion publish the notice or a summary of the notice in any financial

newspapers published in the city of New York or Chicago."

**Section 6.** Section 7-7-2254, MCA, is amended to read:

**"7-7-2254. Procedure for sale of bonds.** (1) The Any bonds issued under the authority of this part may be sold at public or private sale as determined by the board of county commissioners pursuant to [section 1]. If the board of county commissioners conducts a public sale, it shall meet at the time and place fixed in the notice to consider bids for the bonds.

(2) The bonds may not be sold at less than the minimum bid specified for their sale with accrued interest to date of delivery, and each bidder shall specify the rate of interest and the purchase price at which the bidder will purchase the bonds. The board shall accept the bid that it judges most advantageous to the county. The board may reject any bids and sell the bonds at private sale if the board considers it in the best interests of the county.

(3) Consultant fees and attorney fees may be paid to any person or corporation for assisting in the proceedings, preparation of the bonds, or negotiating the sale of the bonds."

**Section 7.** Section 7-7-4211, MCA, is amended to read:

**"7-7-4211. Citizen bonds authorized.** (1) A city or town authorized to sell general obligation bonds under this chapter may issue and sell any portion of the bond in denominations of less than \$5,000, ~~either by:~~

(a) competitive public sale, or directly to members of the public, at preestablished interest rates; or

(b) private sale.

(2) Citizen bonds may be issued for any purpose for which a city or town may issue general obligation bonds.

(3) Bonds issued under 7-7-4211 through 7-7-4213 may be known as "citizen bonds".

(4) An officer, employee, contracted financial consultant, or contracted advisor employed or retained by a city or town selling citizen bonds may not purchase those bonds."

**Section 8.** Section 7-7-4236, MCA, is amended to read:

**"7-7-4236. Resolution to sell bonds pursuant to public sale.** (1) If issuing of bonds has been approved as provided in 7-7-4235 and the city or town council conducts a public sale, the city or town council

shall pass a resolution calling for the sale of the bonds.

(2) The resolution calling for the sale of the bonds must state:

(a) the purpose for which the bonds are to be issued;

(b) the amount of the bonds to be issued;

(c) the minimum purchase price of the bonds;

(d) the date that the bonds will bear;

(e) the period of time through which the bonds are payable;

(f) the optional redemption provisions, if any;

(g) that a bond may be redeemed in full, at the option of the city or town, on any interest payment date after expiration of one-half of the term for which the bond was issued; and

(h) a form of notice of the sale of the bonds.

(3) The resolution must, except in a bond issue of citizen bonds, fix the denomination of serial bonds in case it is found advantageous to issue bonds in that form. The council may in its discretion provide that the bonds may be issued and sold in two or more series or installments.

(4) The city or town council may fix the minimum price for the bonds in an amount not less than 97% of the face value if the city or town council determines that the sale is in the best interests of the city or town."

**Section 9.** Section 7-7-4251, MCA, is amended to read:

**"7-7-4251. Form of notice of sale of bonds.** (1) ~~The~~ If a city or town conducts a public sale, the notice of sale must state the purpose or purposes for which the bonds are to be issued and the amount proposed to be issued for each purpose and must be substantially in the following form:

**NOTICE OF SALE OF (CITY OR TOWN) BONDS**

Notice is hereby given by the council of the (city or town) of...., Montana, that the council will, on the.... day of....., at the hour of.....m., at its council chamber in the (city or town) of...., Montana, sell to the highest and best bidder for cash general obligation bonds of the (city or town) in the total amount of.... dollars, (\$....) for the purpose of.....

The bonds will be issued and sold in the aggregate principal amount of.... dollars (\$....) each and will become due and payable according to the maturity schedule set forth below (set forth maturity schedule adopted by the city or town council).

The bonds must bear an original issue date of....., must pay interest commencing on the.... day of.... (month),... and are payable semiannually on the.... day of.... and on the.... day of.... in each year thereafter and will be redeemable (here insert the optional provisions, if any, recited in the bonds).

The bonds will be sold for not less than \$...., with accrued interest on the principal amount of the bonds to date of delivery, and all bidders shall state the lowest rate or rates of interest at which they will purchase the bonds at the purchase price specified for the bonds. (An interest rate may not exceed....% a year.) The council reserves the right to reject any bids and to sell the bonds at private sale.

All bids must be accompanied by (insert appropriate bid security as permitted by 18-1-203) in the sum of.... dollars (\$....), payable to the order of the (city or town) clerk, which will be forfeited by the successful bidder in the event that the bidder fails or refuses to complete the purchase of the bonds in accordance with the terms of the bid.

All bids must be addressed to the council of the (city or town) of.... and delivered to the clerk of the (city or town).

.....  
Mayor of the (city or town) of  
....., Montana

ATTEST:

.....  
(City or Town) Clerk

(2) The form of notice required under this section may be modified to accommodate changes necessary to issue citizen bonds pursuant to 7-7-4211 through 7-7-4213."

**Section 10.** Section 7-7-4252, MCA, is amended to read:

**"7-7-4252. Publication of notice of sale.** ~~The~~ If a city or town conducts a public sale, the city or town council or commission shall cause ~~such a~~ a notice to be published as provided in 17-5-106 in a newspaper of general circulation printed and published in ~~said the~~ the city or town if there ~~be one~~ is a newspaper of general circulation and, if not, then in a newspaper of general circulation printed and published in the county in which ~~said the~~ the city or town is located. The council or commission may in its discretion cause ~~such the~~ the notice to be published in ~~such other~~ another newspaper or newspapers published either within or ~~without~~ outside of the state ~~as that~~ in

the opinion of the council or commission will be most likely to give notice of ~~such~~ the sale to prospective bidders."

**Section 11.** Section 7-7-4254, MCA, is amended to read:

**"7-7-4254. Procedure for sale of bonds.** (1) ~~The~~ Any bonds issued under the authority of this part may be sold at public or private sale, as determined by the city or town council or commission pursuant to [section 1]. ~~If the city or town council or commission conducts a public sale, it shall meet at the time and place fixed in the notice to consider bids for the bonds.~~

(2) The bonds may not be sold at less than the minimum bid specified for their sale with accrued interest to date of delivery, and each bidder shall specify the rate of interest and the purchase price at which the bidder will purchase the bonds. The council shall accept the bid that it judges most advantageous to the city or town. The council may reject any bids and sell the bonds at private sale if the council considers it in the best interests of the city or town.

(3) Consultant fees and attorney fees may be paid to any person or corporation for assisting in the proceedings, in the preparation of the bonds, or in negotiating the sale of the bonds."

**Section 12.** Section 7-7-4433, MCA, is amended to read:

**"7-7-4433. Sale of bonds.** (1) Bonds authorized to be issued under this part ~~must~~ may be sold at a public or private sale as determined by the governing body pursuant to [section 1] at a price not less than that prescribed by the governing body, plus interest to the date of delivery of the bonds.

(2) ~~(a) The bonds may be sold at private sale to the United States or the state of Montana or any agency, instrumentality, or corporation of the United States or the state.~~

~~—— (b) Unless sold at a private sale, to the United States or the state of Montana or an agency, instrumentality, or corporation of the United States or the state, the bonds must be sold at public sale after notice of the sale."~~

**Section 13.** Section 7-7-4434, MCA, is amended to read:

**"7-7-4434. Notice of sale of bonds.** The notice of sale of bonds required by 7-7-4433(2)~~(b)~~ for bonds sold publicly must be published once at least 5 days prior to the sale in a newspaper of general circulation in the state, and the governing body may publish the notice or summary of the notice in a financial newspaper published

in the city of New York, Chicago, or San Francisco."

**Section 14.** Section 7-10-220, MCA, is amended to read:

**"7-10-220. Sale of bonds.** (1) Bonds authorized to be issued under this part ~~must~~ may be sold at a public or private sale as determined by the governing body of the regional resource authority pursuant to [section 1] at a price not less than that prescribed by the governing body of the regional resource authority, plus interest to the date of delivery of the bonds.

(2) ~~(a) The bonds may be sold at private sale to the United States or the state of Montana or any agency, instrumentality, or corporation of the United States or the state:~~

~~———(b) Unless sold at a private sale to the United States or the state of Montana or an agency, instrumentality, or corporation of the United States or the state, the bonds must be sold at public sale after notice of the sale."~~

**Section 15.** Section 7-10-221, MCA, is amended to read:

**"7-10-221. Notice of sale of bonds.** The notice of sale of bonds required by 7-10-220(2)~~(b)~~ for bonds sold publicly must be published once at least 5 days prior to the sale in a newspaper of general circulation in the state, and the regional resource authority may publish the notice or summary of the notice in a financial newspaper published in the city of New York, Chicago, or San Francisco."

**Section 16.** Section 7-12-2172, MCA, is amended to read:

**"7-12-2172. Procedure to issue bonds and warrants.** (1) Subject to subsection (2), the board of county commissioners shall sell bonds or warrants issued under the provisions of 7-12-2169 and 7-12-2171 through 7-12-2174, in an amount sufficient to pay that part of the total cost and expense of the improvements that is to be assessed against the benefited property within the district, to the highest and best bidder for cash, at a price, including interest to date of delivery, not less than that prescribed by the board in the resolution calling for the sale of the bonds or warrants. The board may fix the minimum price for the bonds or warrants in an amount not less than 97% of the face value of the bonds or warrants if it determines that the sale is in the best interests of the district and the county.

(2) ~~(a) Subject to subsection (2)(b), the~~ The bonds or warrants may be sold at a private negotiated sale

~~as determined by the board of county commissioners pursuant to [section 1] and subject to the requirements of 7-12-2171. to the United States or the state of Montana or to an agency, instrumentality, corporation, or department of the state.~~

~~(b) Bonds in amounts up to \$1 million may be sold through private negotiated sale to a financial institution referred to in 32-1-102 that is authorized to conduct business in the state of Montana.~~

(3) In all other cases, the provisions of 7-7-4251, 7-7-4252, and 7-7-4254 that relate to the notice of sale, publication of notice, and manner and method of selling bonds by cities and towns, ~~insofar as they are~~ when applicable and not in conflict with the provisions of 7-12-2173 and this section, apply to, govern, and control the form of notice of sale, publication of notice, and manner and method of selling bonds or warrants."

**Section 17.** Section 7-12-4204, MCA, is amended to read:

**"7-12-4204. Procedure to issue bonds and warrants.** (1) Subject to subsection (2), the city or town council shall sell bonds or warrants issued under the provisions of 7-12-4201, in an amount sufficient to pay that part of the total cost and expense of the improvements that is to be assessed against benefited property within the district, to the highest and best bidder for cash at a price, including interest to date of delivery, not less than that prescribed by the city council in the resolution calling for the sale of the bonds or warrants. The city council may fix the minimum price for the bonds or warrants in an amount not less than 97% of the face value if it determines that the sale is in the best interests of the district and the city.

(2) ~~(a) Subject to subsection (2)(b), the~~ The bonds or warrants may be sold at a private negotiated sale ~~as determined by the city or town council pursuant to [section 1] and subject to the requirements of 7-12-4203. to the United States or the state of Montana or to an agency, instrumentality, corporation, or department of the state.~~

~~(b) Bonds in amounts up to \$1 million may be sold through private negotiated sale to a financial institution referred to in 32-1-102 that is authorized to conduct business in the state of Montana.~~

(3) In all other cases, the provisions of 7-7-4251, 7-7-4252, and 7-7-4254 with regard to the notice of sale, publication of notice, and manner and method of selling bonds by cities and towns, ~~insofar as the same are~~ when applicable and not in conflict with the provisions of 7-12-4205 and this section, apply to, govern, and control the form of notice of sale, publication of notice, and manner and method of selling the bonds or warrants."

**Section 18.** Section 7-14-4652, MCA, is amended to read:

**"7-14-4652. Details relating to sale of revenue bonds.** (1) The commission may fix terms and conditions for the public or private sale or other disposition of any authorized issue of bonds. The commission may sell bonds at a price not less than ~~95%~~ 97% of ~~their~~ par or face value.

(2) Interest on bonds may be paid out of the proceeds of the sale of the bonds during the actual construction of any project for the acquisition, construction, or completion of which the bonds have been issued and for a period of not to exceed 2 years thereafter, as provided for in the indenture."

**Section 19.** Section 7-15-4507, MCA, is amended to read:

**"7-15-4507. Sale of bonds.** (1) ~~The~~ Any bonds issued by the authority may be sold at public or private sale, as determined by the authority pursuant to [section 1]. If the authority conducts a public sale, ~~the~~ bonds may be sold ~~at public sale held~~ after notice published once at least 10 days prior to ~~such~~ the sale in a newspaper having a general circulation in the city and in a financial newspaper ~~published in the city of .... or in the city of .....~~

(2) ~~Such~~ The bonds may be sold ~~to the federal government~~ at private sale pursuant to [section 1] without any public advertisement.

(3) The bonds may be sold at ~~such~~ a price or prices as determined by the authority ~~shall determine.~~"

**Section 20.** Section 7-31-113, MCA, is amended to read:

**"7-31-113. Disposition of bonds.** (1) The board of county commissioners or council, as the case may be:

(a) may provide by ~~said~~ contract for the delivery of ~~said~~ bonds ~~or any part thereof~~ at ~~their~~ a price not less than 97% of face value, upon the terms and conditions provided in ~~said~~ the contract; or

(b) may sell and dispose of ~~the same or any part thereof~~ bonds at public or private sale at a price not less than 97% of face value to raise funds to carry out ~~said~~ the contract and use ~~such~~ the funds for ~~that purpose~~ and for the payment of any expert ~~or experts~~ or any incidental expenses proper and necessary in ~~and about~~ said completing the contract and the carrying out of the same.

(2) In the event ~~said~~ that the bonds are sold at public sale, ~~they shall~~ the bonds must be sold for cash to the highest bidder, after public notice by publication in a paper of general circulation ~~which may be~~ printed and published in each county in the state and also by publication in at least three newspapers of general circulation

printed and published in the cities of Boston and New York. ~~Such~~ The notice shall ~~shall~~ must be published at least once a week and ~~shall~~ must contain, in substance, a description of ~~said~~ the bonds as set out in 7-31-112."

**Section 21.** Section 20-9-429, MCA, is amended to read:

**"20-9-429. Trustees' resolution to issue school district bonds pursuant to public sale.** Anytime ~~If the trustees conduct a public sale, at any time~~ after the date of the election certificate, the trustees shall adopt a resolution calling for the sale of bonds of the school district. The resolution must specify:

- (1) the number of series or installments in which the bonds are to be issued;
- (2) the amount of bonds to be issued;
- (3) the minimum purchase price of the bonds;
- (4) the purpose or purposes of the issue;
- (5) the date that the issue will bear;
- (6) the period of time through which the issue will be paid;
- (7) the manner of execution of the bonds;
- (8) whether bids will be accepted for either serial or amortization bonds and, if so, the denomination of serial or amortization bonds;
- (9) the date and time that the sale of the bonds must be conducted; and
- (10) the minimum price fixed by the board of trustees for the bonds, which may not be less than 97% of the principal amount of the bonds if the board determines that the sale is in the best interests of the district."

**Section 22.** Section 20-9-430, MCA, is amended to read:

**"20-9-430. Notice of sale Sale of school district bonds and notice of public sale.** The trustees may ~~sell school district bonds at public or private sale pursuant to [section 1].~~ If the trustees conduct a public sale, the trustees shall give notice of the sale of school district bonds. The notice must state the purpose for which the bonds are to be issued and the amount proposed to be issued and must be substantially in the following form:

NOTICE OF SALE OF SCHOOL DISTRICT BONDS

Notice is hereby given by the trustees of School District No. .... of ..... County, state of Montana, that the trustees will on the ..... day of ....., ....., at the hour of ..... o'clock .....m. at ....., in the school district, sell to the highest and best bidder for cash (state here: general obligation or

impact aid revenue) bonds of the school district in the total amount of ..... dollars (\$ .....), for the purpose of .....

The bonds will be issued and sold in the aggregate principal amount of ..... dollars (\$ .....) each and will become payable according to the maturity schedule set forth below (set forth maturity schedule adopted by the school district). (If the bonds are to be issued as amortization bonds, indicate that here.)

The bonds will bear an original issue date of ....., ....., will pay interest commencing on the ..... day of ..... (month), ....., will be payable semiannually on the ..... day of ..... (month) and ..... (month) in each year thereafter, and will be redeemable in full. (Here insert optional provisions, if any, to be recited on the bonds.)

The bonds will be sold for not less than \$ ....., with accrued interest on the principal amount of the bonds to the date of their delivery, and all bidders shall state the lowest rate of interest at which they will purchase the bonds at the price specified for the bonds. The trustees reserve the right to reject any bids and to sell the bonds at private sale.

All bids must be accompanied by (insert appropriate bid security as permitted by 18-1-202) in the sum of ..... dollars (\$ .....) payable to the order of the district, which will be forfeited by the successful bidder in the event that the bidder refuses to purchase the bonds.

All bids should be addressed to the undersigned district.

.....  
Presiding officer, School District No.....  
of ..... County  
Address: .....

ATTEST:

Subscribed and sworn to before me this ..... day of ....., .....; ..... Notary Public for the State residing at ....., Montana. My commission expires ....."

**Section 23.** Section 20-9-431, MCA, is amended to read:

**"20-9-431. Publication of notice of sale of school district bonds.** ~~The~~ If the trustees conduct a public sale, the trustees shall publish the notice of sale of the bonds, as provided in 17-5-106, in one or more newspapers as determined by the trustees."

**Section 24.** Section 20-9-432, MCA, is amended to read:

**"20-9-432. Sale of school district bonds.** (1) ~~The~~ If the trustees conduct a public sale, the trustees shall meet at the time and place fixed in the notice to consider bids on the bond issue. The bonds must be sold at not less than the minimum bid specified for bonds with accrued interest to date of delivery, and each bidder shall specify the rate of interest and purchase price at which the bidder will purchase the bonds. The trustees shall accept the bid that they judge most advantageous to the school district. Consultant fees and attorney fees may be paid to any person or corporation for assisting in the proceedings, in the preparation of the bonds, or in negotiating the sale. The trustees are authorized to reject any bids and to sell the bonds at private sale if they consider it in the best interests of the school district, except that the bonds may not be sold at less than the minimum sale price with accrued interest to date of delivery.

(2) The trustees may cooperate and combine with other school districts within the same county for the purpose of preparing and negotiating the sale of bond issues if, in the opinion of the trustees, the cooperation or combination will facilitate the sale of school district bonds under more advantageous terms or with lower interest rates. However, bond issues prepared or negotiated for sale under this section may not be combined for any other purpose but must be entered separately on the books of the county treasurer and must be otherwise treated as separate bond issues."

**Section 25.** Section 85-7-1436, MCA, is amended to read:

**"85-7-1436. Sale of bonds.** (1) Bonds authorized to be issued may be sold at a price not less than 97% of face value if the issuer determines that the sale is in the best interests of the irrigation district.

(2) ~~(a)~~ The bonds may be sold at public or private sale as determined by the irrigation district pursuant to [section 1] ~~to the United States or the state of Montana or an agency, instrumentality, or corporation thereof.~~

~~———— (b) If not sold to the United States or the state of Montana or an agency, instrumentality, or corporation thereof, the bonds must be sold at public sale after notice as provided in 85-7-1437."~~

**Section 26.** Section 85-7-1437, MCA, is amended to read:

**"85-7-1437. Notice of sale of bonds.** (1) Except as provided in subsection (2), the notice of sale of bonds required by 85-7-1436 for bonds sold publicly must be published once at least 5 days prior to such sale:

- (a) in a newspaper of general circulation in the county in which the office of the issuer is located; and
- (b) in a financial newspaper in New York, Chicago, or San Francisco.

(2) If the bond issue is in an amount of less than \$150,000, the bond issue must be advertised at least 5 days prior to sale in a newspaper of general circulation throughout the state of Montana."

**Section 27.** Section 85-7-2022, MCA, is amended to read:

**"85-7-2022. Sale of bonds.** Bonds issued under the provisions of this part ~~shall~~ must be issued, negotiated, and sold by or under the direction of the board of commissioners but ~~shall never~~ may not be sold for less than ~~90%~~ 97% of their par value and accrued interest ~~thereon~~ to the date of delivery. The board may sell ~~said~~ the bonds from time to time in ~~such~~ quantities ~~as may be~~ necessary and most advantageous to raise money for the purposes for which ~~said~~ the bonds were issued."

**Section 28.** Section 85-7-2023, MCA, is amended to read:

**"85-7-2023. Notice of sale of bonds.** Except as provided in 85-7-2033 regarding a private sale, before making any sale, the board shall, by resolution at a meeting, declare its intention to sell a specified amount of the bonds and the day, and hour, and place of the sale. The board shall ~~cause~~ enter the resolution ~~to be entered in~~ into the minutes and provide notice of the sale ~~to be given~~ by publication at least once a week for 3 successive calendar weeks in a newspaper in the county where the office of the board of commissioners is located, and the notice may be published in any other newspaper at the board's discretion. The notice ~~shall~~ must state that sealed proposals will be received by the board at its office; for the purchase of bonds; until the day and hour named in the resolution. At the time appointed, the board shall open the proposals and award the purchase of the bonds or any portion or portions ~~thereof~~ of the bonds to the highest responsible bidder or bidders. The board may reject any or all bids. ~~In case no~~ If an award is not made, the board may either readvertise the bonds or any part of the bonds for sale or sell the bonds or any part of the bonds at private sale. Coupons evidencing unearned interest must be detached and canceled."

**Section 29.** Section 85-7-2033, MCA, is amended to read:

**"85-7-2033. Private sale of bonds ~~to certain governmental entities.~~** The district may sell bonds issued under this part ~~to the United States, the state of Montana, or any agency, department, or instrumentality~~

~~of these governments at private sale~~ by negotiation and without public advertisement or solicitation of bids pursuant to [section 1]."

**Section 30.** Section 85-8-503, MCA, is amended to read:

**"85-8-503. Sale of notes or bonds.** Upon execution, the notes or bonds ~~shall~~ must be deposited with the county treasurer, who shall register the ~~same~~ notes or bonds in a book for that purpose, ~~which shall show that documents~~ the number and amount of each note or bond, its date, the date payable and redeemable, where payable, and the person to whom issued. Upon sale of the notes or bonds, the county treasurer shall deliver the ~~same~~ notes or bonds to the person or persons to whom they were sold, upon ~~their~~ the person or persons making payment for the ~~same~~ notes or bonds. ~~Said~~ The notes or bonds may be sold by the commissioners at either public or private sale, either with or without advertisement, ~~as they may deem it to~~ if it is considered to be in the best interests of the district. ~~Said~~ The notes or bonds ~~shall~~ may not be sold at less than ~~90%~~ 97% of ~~their~~ face value. ~~Said~~ The notes or bonds ~~shall~~ may not be held to make the commissioners personally liable but ~~shall~~ constitute a lien upon the assessments for the repayment of the principal and interest of ~~such~~ the notes or bonds."

**Section 31.** Section 85-9-625, MCA, is amended to read:

**"85-9-625. Issuance of bonds -- details of sale.** (1) If a bond issue is approved, the directors shall by resolution provide for the form and execution of the bonds and for issuance of all or any part of the bonds. The bonds may be sold at public or private sale as determined by the directors pursuant to [section 1]. ~~After~~ If the directors conduct a public sale, after adequate notice that sealed proposals will be received, the directors may award the purchase of all or a part of the issue to the best bidder or bidders and may sell at private sale any or all bonds not sold on bids.

(2) The bonds ~~will~~ must be sold for a price that is not less than ~~their~~ 97% of par or face value with accrued interest to date of delivery, and all bidders ~~must~~ shall state the lowest rate of interest at which they will purchase the bonds ~~at~~ par. The board shall reserve the right to reject any and all bids and to sell the ~~said~~ bonds at private sale."

**Section 32. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 17, chapter 5, part 1, and the provisions of Title 17, chapter 5, part 1, apply to [section 1].

**Section 33. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 34. Effective date.** [This act] is effective on passage and approval.

**Section 35. Applicability.** [This act] applies to local government actions commencing on or after [the effective date of this act].

- END -

I hereby certify that the within bill,  
HB 0538, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

HOUSE BILL NO. 538

INTRODUCED BY K. PETERSON, O'HARA

AN ACT ALLOWING LOCAL GOVERNMENT BONDS TO BE SOLD AT PUBLIC OR PRIVATE SALE; ESTABLISHING A MINIMUM SALE PRICE; AMENDING SECTIONS 7-7-2212, 7-7-2238, 7-7-2251, 7-7-2252, 7-7-2254, 7-7-4211, 7-7-4236, 7-7-4251, 7-7-4252, 7-7-4254, 7-7-4433, 7-7-4434, 7-10-220, 7-10-221, 7-12-2172, 7-12-4204, 7-14-4652, 7-15-4507, 7-31-113, 20-9-429, 20-9-430, 20-9-431, 20-9-432, 85-7-1436, 85-7-1437, 85-7-2022, 85-7-2023, 85-7-2033, 85-8-503, AND 85-9-625, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.