

SENATE BILL NO. 32

INTRODUCED BY J. SESSO

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE USE OF PREMIUMS IN STATE BOND SALES; ALLOWING PREMIUMS PAID TO BE USED FOR DEBT SERVICE PAYMENT OR TO PAY PROJECT COSTS; AMENDING SECTIONS 17-5-710, 17-5-803, 75-5-1121, AND 75-6-225, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 17-5-710, MCA, is amended to read:

"17-5-710. Form -- principal and interest -- fiscal agent -- deposit of proceeds. (1) Each Subject to the limitations contained in this part, each series of coal severance tax bonds must be issued by the board of examiners at public or private sale, ~~in such~~. The bonds may be issued in the denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with such provisions for the conversion or exchange, bearing interest at such a rate or rates, maturing at such times not exceeding 40 years from date of issue, subject to redemption at such earlier times and prices and upon such on notice, and payable at the office of such the fiscal agency of the state as the board of examiners shall determine, subject to the limitations contained in this part determines.

(2) In all other respects the board of examiners is authorized to prescribe the form and terms of the bonds and shall do whatever is lawful and necessary for their issuance and payment.

(3) Coal severance tax bonds and any interest coupons appurtenant ~~thereto shall~~ to the bonds must be signed by the members of the board of examiners, and the bonds ~~shall~~ must be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all such bonds issued and sold.

(4) The board of examiners ~~is authorized to~~ may employ a fiscal agent to assist in the performance of its duties ~~hereunder~~.



- 1 (5) All proceeds of a state of Montana coal severance tax bonds issue ~~shall~~ must be deposited in a
 2 capital projects fund or a state special revenue account established for that bond issue, except that:
- 3 (a) any premiums bond proceeds used to pay interest on the bonds and accrued interest received ~~shall~~
 4 must be deposited in a debt service fund established for that bond issue;
- 5 (b) any premiums received may be deposited in a debt service fund established for that bond issue; and
- 6 (c) bond proceeds used to pay the cost of issuance may be deposited in a separate account within the
 7 state special revenue account."

8

9 **Section 2.** Section 17-5-803, MCA, is amended to read:

10 **"17-5-803. Form -- principal and interest -- fiscal agent -- bond registrar and transfer agent --**
 11 **deposit of proceeds.** (1) Subject to the limitations contained in this part and in the bond act and in the
 12 furtherance of each bond act, bonds may be issued by the board upon request of the department. The bonds may
 13 be issued in the denominations and form, whether payable to bearer or registered as to principal or both principal
 14 and interest, with provisions for conversion or exchange, and₁ for the issuance of temporary bonds₁ bearing
 15 interest at a rate or rates, maturing at times not exceeding 30 years from date of issue, subject to redemption at
 16 earlier times and prices and on notice, and payable at the office of the fiscal agency of the state as the board
 17 determines.

18 (2) In all other respects, the board is authorized to prescribe the form and terms of the bonds and do
 19 whatever is lawful and necessary for their issuance and payment. Action taken by the board under this part must
 20 be by a majority vote of its members. The state treasurer shall keep a record of all bonds issued and sold.

21 (3) The board is authorized to employ a fiscal agent and a bond registrar and transfer agent to assist
 22 in the performance of its duties under this part.

23 (4) The board, in its discretion, is authorized to pay all costs of issuance of bonds, including without
 24 limitation rating agency fees, printing costs, legal fees, bank or trust company fees, costs to employ persons or
 25 firms to assist in the sale of the bonds, line of credit fees and charges, and all other amounts related to the costs
 26 of issuing the bonds from amounts available for these purposes in the general fund or from the proceeds of the
 27 bonds.

28 (5) Unless otherwise provided in statute authorizing a bond, all proceeds of bonds and notes issued
 29 under this part to pay the costs of a project must be deposited in the capital projects account or in a separate
 30 general obligation bond or note account created in the state special revenue fund established in 17-2-102, except

1 that:

2 (a) any premiums, unless used to pay the costs of issuance, bond proceeds used to pay interest on the
3 bonds and accrued interest received must be deposited in the debt service account;

4 (b) any premiums received may be deposited in the debt service account; and

5 (c) bond proceeds used to pay the costs of issuance may be deposited in a separate account within the
6 state special revenue account.

7 (6) If applicable, the board shall specify whether the bonds are tax credit bonds as provided in 17-5-117."
8

9 **Section 3.** Section 75-5-1121, MCA, is amended to read:

10 **"75-5-1121. Authorization of bonds -- allocation of proceeds.** (1) Upon request of the department
11 of natural resources and conservation and upon certification by the department that the state has entered into
12 a capitalization grant agreement or other agreement with the United States government pursuant to 75-6-204 and
13 that federal capitalization grants have been made to the state for the program, the board of examiners is
14 authorized to issue and sell bonds of the state as authorized by the legislature to provide money for the program.
15 The bonds are general obligations on which the full faith, credit, and taxing powers of the state are pledged for
16 payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part 8.

17 (2) (a) Except as otherwise provided in this subsection (2), The the proceeds of the bonds, other than
18 any premium and accrued interest received or amounts to be used to pay interest on the bonds or the costs of
19 issuing the bonds, are allocated to the state allocation account or the administration account of the revolving fund,
20 as provided in 75-5-1106.

21 (b) Any premium and accrued interest and bond proceeds to be used to pay interest must be deposited
22 in the debt service account of the revolving fund.

23 (c) Proceeds of bonds to be used to pay the costs of issuing the bonds must be deposited in a cost of
24 issuance account established outside of the revolving fund by the board of examiners in the resolution or trust
25 indenture authorizing the issuance of the bonds.

26 (d) Any premium received must be deposited in the state allocation account, the administration account,
27 the debt service account, or the cost of issuance account as directed by the board of examiners in the resolution
28 or trust indenture regarding the bonds.

29 (e) For purposes of 17-5-803 and 17-5-804, the state allocation account and the cost of issuance account
30 constitute a capital projects account. The proceeds must be available to the department and the department of

1 natural resources and conservation and may be used for the purposes authorized in this part without further
2 budgetary authorization.

3 (3) In the resolution authorizing the sale and issuance of the bonds, the board of examiners, upon the
4 request of the department of natural resources and conservation, may create separate accounts or subaccounts
5 to provide for the payment security of the bonds and may pledge the interest component of the loan repayments
6 credited to the revolving fund and the revolving fund as security for the bonds.

7 (4) The board of examiners may allow bonds issued under this section to be secured by a trust indenture
8 between the board of examiners and a trustee. The trustee may be a trust company or bank having the powers
9 of a trustee inside or outside the state.

10 (a) If the board of examiners elects to issue bonds pursuant to a trust indenture, the trustee may, as
11 determined by the board of examiners, hold one or more of the funds and accounts created pursuant to this
12 chapter.

13 (b) In addition to provisions that the board of examiners determines to be necessary and appropriate to
14 secure the bonds, provide for the rights of the bondholders, and ensure compliance with all applicable law, the
15 trust indenture must contain provisions that:

16 (i) govern the custody, safeguarding, and disbursement of all money held by the trustee under the trust
17 indenture; and

18 (ii) permit representatives of the state treasurer, department, or department of natural resources and
19 conservation, upon reasonable notice and at reasonable times, to inspect the trustee's books and records
20 concerning the trust indenture.

21 (c) A trust indenture or an executed counterpart of a trust indenture developed pursuant to this chapter
22 must be filed with the secretary of state."
23

24 **Section 4.** Section 75-6-225, MCA, is amended to read:

25 **"75-6-225. Authorization of bonds -- allocation of proceeds.** (1) The board of examiners is
26 authorized, upon request of the department of natural resources and conservation, to issue and sell bonds of the
27 state as authorized by the legislature to provide money for the program. The bonds are general obligations on
28 which the full faith, credit, and taxing powers of the state are pledged for payment of the principal and interest.
29 The bonds must be issued as provided by Title 17, chapter 5, part 8.

30 (2) (a) Except as otherwise provided in this subsection (2), The the proceeds of the bonds, other than

1 ~~any premium and accrued interest received, the amounts to be used to pay interest on the bonds, or the costs~~
2 ~~of issuing the bonds,~~ are allocated to the state allocation account or the administration account of the revolving
3 fund, as provided in 75-6-211.

4 (b) Any premium and accrued interest and bond proceeds to be used to pay interest must be deposited
5 in the debt service account of the revolving fund.

6 (c) Proceeds of bonds to be used to pay the costs of issuing the bonds must be deposited in a cost of
7 issuance account established outside of the revolving fund by the board of examiners in the resolution or trust
8 indenture authorizing the issuance of the bonds.

9 (d) Any premium received must be deposited in the state allocation account, the administration account,
10 the debt service account, or the cost of issuance account as directed by the board of examiners in the resolution
11 or trust indenture regarding the bonds.

12 (e) For purposes of 17-5-803 and 17-5-804, the state allocation account and the cost of issuance account
13 constitute a capital projects account. The proceeds must be available to the department and the department of
14 natural resources and conservation and may be used for the purposes authorized in this part without further
15 budgetary authorization.

16 (3) In the resolution authorizing the sale and issuance of the bonds, the board of examiners, upon the
17 request of the department of natural resources and conservation, may create separate accounts or subaccounts
18 to provide for the payment security of the bonds and may pledge the revolving fund and the interest component
19 of the loan repayments credited to the revolving fund as security for the bonds.

20 (4) (a) The board of examiners may allow bonds issued under this section to be secured by a trust
21 indenture between the board of examiners and a trustee. The trustee may be a trust company or bank having
22 the power of a trustee inside or outside the state.

23 (b) If the board of examiners elects to issue bonds pursuant to a trust indenture, the trustee may, as
24 determined by the board of examiners, hold one or more of the funds and accounts created pursuant to this
25 chapter.

26 (c) In addition to provisions that the board of examiners determines to be necessary and appropriate to
27 secure the bonds, to provide for the rights of the bondholders, and to ensure compliance with all applicable law,
28 the trust indenture must contain provisions that:

29 (i) govern the custody, safeguarding, and disbursement of all money held by the trustee under the trust
30 indenture; and

1 (ii) permit representatives of the state treasurer, department, or department of natural resources and
2 conservation, upon reasonable notice and at reasonable times, to inspect the trustee's books and records
3 concerning the trust indenture.

4 (d) A trust indenture or an executed counterpart of a trust indenture developed pursuant to this chapter
5 must be filed with the secretary of state."
6

7 NEW SECTION. Section 5. Saving clause. [This act] does not affect rights and duties that matured,
8 penalties that were incurred, or proceedings that were begun before [the effective date of this act].
9

10 NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable
11 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
12 remains in effect in all valid applications that are severable from the invalid applications.
13

14 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.
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