



AN ACT GENERALLY REVISING THE MONTANA UNIFIED VOLUME CAP BOND ALLOCATION PLAN ACT; INCREASING THE FEE FOR ISSUANCE OF THE BONDS; PROVIDING THAT AS A CONDITION TO ISSUING BONDS EACH ISSUER IS REQUIRED TO PROVIDE THE LEGISLATIVE AUDITOR WITH FULL ACCESS TO ITS FINANCIAL RECORDS; PROVIDING THAT AS A CONDITION OF ISSUING BONDS THE MONTANA HIGHER EDUCATION STUDENT ASSISTANCE CORPORATION IS REQUIRED TO COMPLY WITH OPEN MEETING LAWS AND PROVIDE THE LEGISLATIVE AUDITOR WITH FULL ACCESS TO ANY MANAGEMENT OR LOAN SERVICING CONTRACTS; AMENDING SECTIONS 17-5-1302, 17-5-1312, AND 17-5-2201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 17-5-1302, MCA, is amended to read:

"17-5-1302. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

- (1) "Allocation" means an allocation of a part of the state's volume cap to an issuer pursuant to this part.
- (2) "Board" means the board of examiners.
- (3) "Bonds" means bonds, notes, or other interest-bearing obligations of an issuer.
- (4) "Cap bonds" means those private activity bonds and that portion of governmental bonds for which a part of the volume cap is required to be allocated pursuant to the tax act.
- (5) "Department" means the department of administration.
- (6) "Governmental bonds" means bonds other than private activity bonds.
- (7) "Issuer" means a state issuer or local issuer.
- (8) "Local issuer" means a city, town, county, or other political subdivision of the state authorized to issue private activity bonds or governmental bonds.
- (9) "Local portion" means that portion of the state's volume cap reserved for local issuers.
- (10) "Montana board of housing" (MBH) means the board created in 2-15-1814.

(11) "Montana board of investments" (MBI) means the board provided for in 2-15-1808.

(12) "Montana facility finance authority" (MFFA) means the authority provided for in 2-15-1815.

(13) "Montana higher education student assistance corporation" (MHESAC) means the nonprofit corporation established to provide student loan capital to the student loan program established by the board of regents of higher education under Title 20, chapter 26, part 11.

(14) "Private activity bonds" (PABs) has the meaning prescribed under section 141 of the Internal Revenue Code, 26 U.S.C. 141.

(15) "State issuer" means the state and any agency of the state authorized to issue private activity bonds. For this part only, the Montana higher education student assistance corporation, to the extent authorized under federal law to issue private activity bonds, is considered ~~an agency of the~~ a state issuer.

(16) "State portion" means that portion of the state's volume cap reserved for state issuers.

(17) "State's volume cap" means that amount of the volume cap specified by the department pursuant to 17-5-1311(2).

(18) "Tax act" means the latest limitation enacted by the United States congress on the amount of cap bonds that may be issued by a state or local issuer.

(19) "Volume cap" means, with respect to each calendar year, the principal amount of cap bonds that may be issued in the state in a calendar year as determined under the provisions of the tax act."

Section 2. Section 17-5-1312, MCA, is amended to read:

"17-5-1312. Allocation to state issuers. (1) Except as provided in subsection (5), the state portion must be allocated to state issuers pursuant to 17-5-1316.

(2) As a condition of receiving an allocation, each state issuer;

(a) upon issuance of the bonds, shall pay ~~30~~ 35 cents per thousand of bonds to be deposited in the state general fund for the purpose of funding a portion of the comprehensive annual financial report audit; and

(b) shall provide the legislative auditor with full access to its financial records.

(3) As long as the Montana higher education student assistance corporation requests and receives authority to issue bonds under this part, the corporation shall:

(a) comply with the provisions of Title 2, chapter 3, in all meetings of the corporation's board of directors or other governing body unless compliance would conflict with federal or state security disclosure laws; and

(b) provide the legislative auditor with full access to any management or loan servicing contracts.

~~(3)~~(4) The following set-aside percentages of the state's volume cap must be made in each calendar year for the following state issuers:

| State Issuer | Percentage |
|--------------|------------|
| Board | 4 |
| MBH | 41 |
| MBI | 25 |
| MHESAC | 26 |
| MFFA | 4 |
| Total | 100% |

~~(4)~~(5) Each set-aside expires on the first Monday in September.

~~(5)~~(6) Prior to the set-aside expiration date, allocations may be made by the department to each state issuer only from its respective set-aside pursuant to 17-5-1316 and a state issuer is not entitled to an allocation except from its set-aside unless otherwise provided by the governor.

~~(6)~~(7) After the expiration date, the amount of the set-aside remaining unallocated is available for allocation by the department to issuers pursuant to 17-5-1316 without preference or priority."

Section 3. Section 17-5-2201, MCA, is amended to read:

"17-5-2201. Fee for issuance of bonds. Except for issuers of general obligation bonds ~~which~~ that are payable solely by general fund revenues and as provided in 17-5-1312(2)(a), each state bond issuer shall, upon issuance of the bonds, pay 30 cents per thousand of bonds ~~to~~ unless another fee is specifically provided for a type of bonds. The fee must be deposited in the state general fund for the purpose of funding a portion of the comprehensive annual financial report audit."

Section 4. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0384, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 384
INTRODUCED BY D. VILLA

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