

STATE OF NEW YORK

4940

2009-2010 Regular Sessions

IN SENATE

April 27, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to bonds issued by the New York city transitional finance authority

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 10 of section 2799-bb of the public authorities
2 law, as added by chapter 16 of the laws of 1997, is amended to read as
3 follows:

4 10. "Project capital costs" or "costs" means costs, appropriated in
5 the capital budget of the city pursuant to chapters nine and ten of the
6 New York city charter, as amended from time to time, providing for the
7 construction, reconstruction, acquisition or installation of physical
8 public betterments or improvements [~~which would be classified as capital~~
9 ~~assets under generally accepted accounting principles for munici-~~
10 ~~palities~~], or the costs of any preliminary studies, surveys, maps,
11 plans, estimates and hearings, or incidental costs, including, but not
12 limited to, legal fees, printing or engraving, publication of notices,
13 taking of title, apportionment of costs, and interest during
14 construction, or any underwriting or other costs incurred in connection
15 with the financing thereof.

16 § 2. Subdivision 1 and paragraph (b) of subdivision 3 of section
17 2799-gg of the public authorities law, as amended by chapter 411 of the
18 laws of 2006, are amended to read as follows:

19 1. The authority shall have the power and is hereby authorized from
20 time to time to issue bonds, in conformity with applicable provisions of
21 the uniform commercial code, in such principal amounts as it may deter-
22 mine to be necessary pursuant to section twenty-seven hundred ninety-
23 nine-ff of this title to pay the cost of any project and to fund

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
[--] is old law to be omitted.

LBD11663-01-9

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1 reserves to secure such bonds, including incidental expenses in
2 connection therewith.

3 The aggregate principal amount of such bonds, notes or other obli-
4 gations [~~so issued~~] outstanding shall not exceed thirteen billion, five
5 hundred million dollars (\$13,500,000,000), excluding bonds, notes or
6 other obligations issued [~~to refund or otherwise repay bonds, notes or~~
7 ~~other obligations theretofore issued for such purposes~~] pursuant to
8 sections twenty-seven hundred ninety-nine-ss and twenty-seven hundred
9 ninety-nine-tt of this title; provided, however, that upon any refunding
10 or repayment of bonds (which term shall not, for this purpose, include
11 bond anticipation notes), the total aggregate principal amount of
12 outstanding bonds, notes or other obligations may be greater than thir-
13 teen billion, five hundred million dollars (\$13,500,000,000) only if the
14 refunding or repayment bonds, notes or other obligations were issued in
15 accordance with the provisions of subparagraph (a) of subdivision two of
16 paragraph b of section 90.10 of the local finance law, as amended from
17 time to time. Notwithstanding the foregoing, bonds, notes or other obli-
18 gations issued by the authority may be outstanding in an amount greater
19 than the amount permitted by the preceding sentence, provided that such
20 additional amount at issuance, together with the amount of indebtedness
21 contracted by the city of New York, shall not exceed the limit
22 prescribed by section 104.00 of the local finance law. The authority
23 shall have the power from time to time to refund any bonds of the
24 authority by the issuance of new bonds whether the bonds to be refunded
25 have or have not matured, and may issue bonds partly to refund bonds of
26 the authority then outstanding and partly to pay the cost of any project
27 pursuant to section twenty-seven hundred ninety-nine-ff of this title.
28 Bonds issued by the authority shall be payable solely out of particular
29 revenues or other moneys of the authority as may be designated in the
30 proceedings of the authority under which the bonds shall be authorized
31 to be issued, subject to any agreements entered into between the author-
32 ity and the city, and subject to any agreements with the holders of
33 outstanding bonds pledging any particular revenues or moneys.

34 (b) The authority shall not issue variable rate bonds [~~if the princi-~~
35 ~~pal amount of its variable rate bonds outstanding after such issuance~~
36 ~~would exceed two billion, seven hundred million dollars~~
37 ~~(\$2,700,000,000)] pursuant to this section in an amount outstanding at
38 issuance exceeding twenty percent of the limit prescribed by subdivision
39 one of this section, excluding bonds (i) bearing interest at rates and
40 for periods of time that are specified without reference to future
41 events or contingencies, or (ii) the interest rate on which is [~~econom-~~
42 ~~ically fixed~~] reasonably expected to be equivalent to a fixed rate over
43 time in conjunction with other bonds[~~7~~] or [~~(iii) the interest on which~~
44 ~~is offset~~] by reason of payments made pursuant to agreements with finan-
45 cially responsible third parties.~~

46 § 3. Separability. If any clause, sentence, paragraph, section or part
47 of this act shall be adjudged by any court of competent jurisdiction to
48 be invalid, such judgment shall not affect, impair or invalidate the
49 remainder thereof, but shall be confined in its operation to the clause,
50 sentence, paragraph, section or part thereof directly involved in the
51 controversy in which such judgement shall have been rendered.

52 § 4. This act shall take effect immediately.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S4940

SPONSOR: KRUGER

TITLE OF BILL:

An act to amend the public authorities law, in relation to bonds issued by the New York city transitional finance authority

SUMMARY OF PROVISIONS:

The proposed bill will allow the City more efficient and cost effective access to financial markets. Specifically the bill would:

(1) place outstanding TFA debt (beyond the amount authorized by Public Authorities Law §2799(gg)) under the existing New York City General Obligation (GO) cap in the Local Finance Law and make the existing statutory cap on TFA borrowing for general capital purposes applicable to outstanding debt of the TFA rather than all debt issued by the TFA;

(2) continue to exempt Recovery Bonds and Building Aid Bonds from the TFA's general debt limit and continue to provide that the amount of variable rate bonds outstanding for general capital purposes be limited to the current twenty percent of the TFA's general debt limit, with provisions for customary exclusions.

REASONS FOR SUPPORT:

These amendments to the Transitional Finance Authority Act ("TFA Act") will significantly reduce City debt service costs at a time when the City is facing budget gaps ranging from \$4.4 billion to \$7 billion over the next three fiscal years. It will also contribute to the City's ability to continue to finance necessary capital improvements while maintaining crucial public services during these times of economic distress in the national and local economy.

During these times of economic crisis, the City needs to be able to utilize its highest-rated, most cost-effective borrowing vehicle, the Transitional Finance Authority.

Throughout its existence, the TFA has proven its value in helping to reduce City debt service costs and permitting access to a broad base of investors for access to capital to finance the City's infrastructure needs. However, for the last two years the City has been unable to utilize TFA bonds for general capital purposes because it has reached its statutory bonding limit. Limiting the TFA's ability to issue bonds artificially inflates the City's overall cost of borrowing, restricts its flexibility in debt structuring opportunities, and constrains its ability to take advantage of tax-exempt borrowing. As a result, the City's debt will cost more, making less money available to meet critical

budgetary and infrastructure requirements.

If this bill is enacted, the City would be able to finance half of its capital program with TFA bonds and the remaining half with general obligation bonds. The recent TFA bond refinancing indicated that TFA debt service on newly issued debt would be up to 65 basis points cheaper than City general obligation bonds. Due to this differential in interest rates between the general obligation bonds and TFA's bonds, coupled with the increasing market saturation facing the City in the continued issuance of its general obligation debt to finance its capital program, the City estimates that it would save \$20 million in fiscal year 2010 if the statutory limit on TFA bonds were revised as provided in this bill.

Accordingly, the Mayor urges the earliest possible favorable consideration of this proposal by the Legislature.

STATE OF NEW YORK

8614

2009-2010 Regular Sessions

IN ASSEMBLY

May 29, 2009

Introduced by M. of A. FARRELL, COOK, KELLNER, ESPAILLAT, WRIGHT, BING,
POWELL -- Multi-Sponsored by -- M. of A. GOTTFRIED, O'DONNELL -- read
once and referred to the Committee on Corporations, Authorities and
Commissions

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by the New York city transitional finance authority

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45 cially responsible third parties.~~

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47 of this act shall be adjudged by any court of competent jurisdiction to
48 be invalid, such judgment shall not affect, impair or invalidate the
49 remainder thereof, but shall be confined in its operation to the clause,
50 sentence, paragraph, section or part thereof directly involved in the
51 controversy in which such judgement shall have been rendered.

52 § 4. This act shall take effect immediately.

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A8614

SPONSOR: Farrell (MS)

TITLE OF BILL: An act to amend the public authorities law, in relation to bonds issued by the New York city transitional finance authority

SUMMARY OF PROVISIONS:

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JUSTIFICATION:

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City estimates that it would save \$20 million in fiscal year 2010 if the statutory limit on TFA bonds were revised as provided in this bill.

FISCAL IMPLICATIONS: None to the State

EFFECTIVE DATE: Immediately
