

## **IC 5-1-11**

### **Chapter 11. Procedures for Selling Bonds**

#### **IC 5-1-11-1**

##### **Public sale; "bonds" defined; sale to federal government**

Sec. 1. (a) Except as otherwise provided in this chapter or in the statute authorizing their issuance, all bonds issued by or in the name of counties, townships, cities, towns, school corporations, and special taxing districts, agencies or instrumentalities thereof, or by entities required to sell bonds pursuant to IC 5-1-11, whether the same be general obligations or issued in anticipation of the collection of special taxes or be payable out of revenues, shall be sold at public sale.

(b) The word "bonds" as used in this chapter means any obligations issued by or in the name of any of the political subdivisions or bodies referred to in subsection (a), except obligations payable in the year in which they are issued, obligations issued in anticipation of the collection of delinquent taxes, and obligations issued in anticipation of the collection of frozen bank deposits.

(c) Notwithstanding any of the provisions of subsection (a) or any of the provisions of section 2 of this chapter, any bonds may be sold to the federal government or any agency thereof, at private sale and without a public offering.

*As added by Acts 1980, P.L.8, SEC.19. Amended by P.L.44-1983, SEC.3; P.L.23-1984, SEC.3.*

#### **IC 5-1-11-2**

##### **Publication of notice of sale; publication of notice of intent to sell**

Sec. 2. (a) Notice of sale of bonds required to be sold at public sale under section 1 of this chapter shall be published in accordance with the provisions of this chapter and either IC 5-3-1 or subsection (b).

(b) If a political subdivision or body referred to in section 1 of this chapter determines to sell bonds under this subsection, notice of intent to sell such bonds shall be published once each week for two (2) weeks in accordance with IC 5-3-1-4 and in a newspaper of general circulation published in the state capital. The notice must state that any person interested in submitting a bid for the bonds may furnish in writing to the official of the political subdivision or body responsible for their sale, at the address set forth in the notice, the person's name, address, and telephone number. The person may also furnish a telex number. The notice of intent to sell bonds must state:

- (1) the amount of the bonds to be offered;
- (2) the denominations;
- (3) the dates of maturity;
- (4) the maximum rate or rates of interest;
- (5) the place of sale; and
- (6) the time within which the name, address, and telephone number must be furnished, which must not be less than seven

(7) days after the last publication of the notice of intent to sell. The official of the political subdivision or body responsible for the bond sale shall notify each person so registered of the date and time bids will be received not less than twenty-four (24) hours before the date and time of sale. The notification shall be made by telephone at the number furnished by the person, and also by telex if the person furnishes a telex number. Bids may not be received more than ninety (90) days after the first publication of the notice of intent to sell.

(c) This chapter does not prevent the sale of bonds under the provisions of any statute inconsistent with this chapter so long as the procedures required for the sale in that statute are complied with, but if notice of that sale must be published, the notice shall be published in accordance with IC 5-3-1.

*As added by Acts 1980, P.L.8, SEC.19. Amended by Acts 1981, P.L.45, SEC.4; P.L.44-1983, SEC.4; P.L.23-1984, SEC.4.*

### **IC 5-1-11-3**

#### **Maximum interest rate to be fixed; notice of intent to sell; bidding awards; continuation of sale; price of bonds; action to contest validity**

Sec. 3. (a) In authorizing and advertising such bonds for sale only a maximum interest rate shall be fixed, not exceeding the maximum rate provided for in the governing statute or bond ordinance or resolution of the issuing political subdivision or body. Bidders for such bonds shall be required to bid on the interest rate or rates which the bonds shall bear.

(b) The notice of intent to sell the bonds required under section 2 of this chapter must:

- (1) specify the principal amount of bonds maturing on each maturity date or mandatory sinking fund redemption date; or
- (2) state that the principal maturity schedule or mandatory sinking fund redemption schedule will be provided at least twenty-four (24) hours before the scheduled time of sale upon request by bidders.

(c) The bonds shall be awarded to the bidder offering the lowest interest cost to be determined by computing the total interest on all bonds from the date thereof to the date of maturity and deducting therefrom the premium bid, if any, or adding thereto the amount of any discount, if any. If no acceptable bid is received at the time fixed for sale of the bonds, then the sale may be continued from day to day for a period not to exceed thirty (30) days without readvertising. During the continuation of the sale, no bid shall be accepted which offers an interest cost which is equal to or higher than the best bid received at the time fixed for the sale in the bond sale notice. The acceptability of a bid is within the sole discretion of the political subdivision or body referred to in section 1(a) that is issuing the bonds.

(d) Any bonds sold at public sale under this chapter may be sold, notwithstanding the provisions of any other law, at a price or prices determined by the officer or body authorized by law to issue or sell

bonds, but not for less than ninety-seven percent (97%) of their par value.

(e) An action to contest the validity of any bonds sold under this chapter may not be brought after the fifteenth day following the first publication of notice of the sale of the bonds. An action to contest the validity of any bond sale under this chapter may not be brought after the fifth day following the bond sale.

*As added by Acts 1980, P.L.8, SEC.19. Amended by P.L.44-1983, SEC.5; P.L.23-1984, SEC.5; P.L.35-1990, SEC.1.*

#### **IC 5-1-11-4**

##### **Prohibitions; advantage in bidding; payment before delivery; technical services**

Sec. 4. (a) It shall be unlawful for any officer or body authorized by law to issue or sell bonds to enter into a contract or agreement prior to the award of such bonds with any person, limited liability company, firm, or corporation, directly or indirectly interested in bidding on or purchasing such bonds, for the furnishing of legal, engineering, or other technical services, or for the furnishing of printed bond forms or any other contract or agreement which will give to any person, firm, limited liability company, or corporation an advantage in bidding on or purchasing such bonds or controlling the sale thereof. Any funds expended on account of any such contract or agreement shall be chargeable to the officer or officers authorizing or making such expenditure.

(b) It shall be unlawful for any officer or body authorized to issue or sell bonds to require the successful bidder therefor to pay for such bonds prior to the time that such bonds are delivered, or prior to the time that the successful bidder shall have had reasonable opportunity to examine such bonds and the proceedings had relative to the authorization, issuance and sale of the same. Nothing in this chapter, however, shall prevent any county, township, city, town, school corporation or special taxing district from employing or contracting for legal, engineering or other technical services, prior to the sale of any such bonds, provided that such services are not to be supplied by or through a person, firm, limited liability company, or corporation directly or indirectly interested in bidding on or purchasing such bonds.

*As added by Acts 1980, P.L.8, SEC.19. Amended by P.L.8-1993, SEC.47.*

#### **IC 5-1-11-5**

##### **Transcript of proceedings relative to issuance of bonds to be furnished to purchaser**

Sec. 5. Whenever any bonds are sold, there shall be furnished to the purchaser thereof a transcript of the proceedings had and actions taken relative to the authorization, issuance, and sale of such bonds, certified by the person or persons charged with recording the minutes or keeping the records of the body or bodies having to do with the authorization and issuance of such bonds. In cases where such

transcripts relate to the issuance of general obligation bonds, or bonds payable in anticipation of the collection of special taxes, such transcripts shall also have attached thereto the certificate of the proper officers showing the assessed valuation of taxable property in and outstanding indebtedness of the issuing unit and other pertinent details bearing on the validity of said bonds. Such transcripts and the certificates attached thereto shall import verity and shall be accepted in evidence in any legal proceedings relating to or affecting said bonds.

*As added by Acts 1980, P.L.8, SEC.19.*

#### **IC 5-1-11-6**

##### **Other statutory authorization to issue and exchange bonds for refunding or redeeming outstanding bonds**

Sec. 6. (a) In cases where other statutes authorize the issuance and exchange of new bonds for the purpose of refunding or redeeming outstanding bonds for the payment of which no funds are available, it shall be the duty of the officers charged with issuance and exchange of such new bonds to cause the same to be offered at public sale as provided in this chapter.

(b) In cases where it is necessary to provide for the refunding of bonds or interest coupons maturing at various times over a period not exceeding six (6) months, the bodies and officials charged with the duty of issuing and selling such refunding bonds may, for the purpose of reducing the cost of issuance thereof, issue and sell one (1) issue of bonds in an amount sufficient to provide for the refunding of all of the bonds and interest coupons required to be refunded during said six (6) months period.

*As added by Acts 1980, P.L.8, SEC.19.*

#### **IC 5-1-11-7**

##### **Restrictions on powers**

Sec. 7. Nothing in this chapter contained shall be so construed as to enlarge the powers of counties, townships, cities, towns, school corporations, and special taxing districts, or agencies or instrumentalities thereof to issue bonds.

*As added by Acts 1980, P.L.8, SEC.19.*