

SECOND REGULAR SESSION

SENATE BILL NO. 705

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAGER.

Read 1st time January 13, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

5083S.011

AN ACT

To repeal sections 108.140 and 108.170, RSMo, and to enact in lieu thereof three new sections relating to political subdivision indebtedness.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 108.140 and 108.170, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 108.140, 108.170
3 and 108.171, to read as follows:

108.140. 1. The various counties in this state for themselves, as well as
2 for and on behalf of any township, or other political subdivision for which the
3 counties may have issued any general obligation bonds, and the several cities,
4 school districts or other political corporations or subdivisions of the state, are
5 hereby authorized to refund, extend, and unify the whole or part of their valid
6 general obligation bonded indebtedness, or judgment indebtedness, and for such
7 purpose may issue, negotiate, sell and deliver refunding general obligation bonds
8 and with the proceeds therefrom pay off, redeem and cancel the bonds to be
9 refunded in advance of their maturity or redemption or as the same mature or are
10 called for redemption, or pay and cancel such judgment indebtedness, or such
11 refunding general obligation bonds may be issued and delivered in exchange for
12 and upon surrender and cancellation of the bonds refunded thereby, or such
13 judgment indebtedness. School districts may pay costs and expenses related to
14 issuing such refunding general obligation bonds from proceeds from the sale of
15 such bonds. In no case shall the refunding general obligation bonds exceed the
16 amount of the principal of the outstanding bond or judgment indebtedness to be
17 refunded and the interest accrued thereon to the date of such refunding bonds.
18 No refunding bond issued as provided in this subsection shall be payable in more

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 than twenty years from the date thereof and such refunding bonds shall bear
20 interest not to exceed the same rate as the bonds refunded, or judgment
21 indebtedness; provided, that nothing in this section shall be so construed as to
22 prohibit any county, city, school district, or other political corporation or
23 subdivision of the state from refunding its general obligation bonded indebtedness
24 without the submission of the question to a popular vote. **The sale of**
25 **refunding general obligation bonds by any political corporation or**
26 **subdivision of the state maintaining a credit rating of "A" or higher**
27 **shall be sold at public sale after giving reasonable notice of such sale,**
28 **at the best price obtainable, not less than ninety-five percent of the par**
29 **value thereof and may bear interest at a rate not exceeding fourteen**
30 **percent per annum. Any financial advisor involved with any sale of**
31 **bonds shall not underwrite the issue.**

32 2. The various counties in this state for themselves, as well as for and on
33 behalf of any township, or other political subdivision for which the counties may
34 have issued any revenue bonds, notes or other obligations, and the several cities,
35 school districts or other political corporations or subdivisions of the state, are
36 hereby authorized to refund, extend, and unify the whole or part of their valid
37 outstanding revenue bonds, notes or other obligations, and for such purpose may
38 issue, negotiate, sell and deliver refunding revenue bonds, notes or other
39 obligations and with the proceeds therefrom pay off, redeem and cancel the
40 obligations to be refunded in advance of their maturity or redemption or as the
41 same mature or are called for redemption, or such refunding revenue bonds, notes
42 or other obligations may be issued and delivered in exchange for and upon
43 surrender and cancellation of the obligations refunded thereby. In no case shall
44 the refunding revenue bonds, notes or other obligations exceed the amount
45 determined by the governing body of the issuing political corporation or
46 subdivision to be necessary to pay or provide for the payment of the principal of
47 the outstanding obligations to be refunded, together with the interest accrued
48 thereon to the date of such refunding obligations and the interest to accrue
49 thereon to the date of maturity or redemption of such obligations to be refunded
50 and any premium which may be due under the terms of such obligations to be
51 refunded and any amounts necessary for the payment of costs and expenses
52 related to issuing such refunding obligations and to fund a debt service reserve
53 fund for the obligations. All such refunding revenue bonds, notes or other
54 obligations shall bear interest at such rates as the governing body of the issuing

55 political subdivision shall provide, which rates of interest may exceed the rates
56 of interest on the obligations being refunded but shall not exceed the maximum
57 legal rate established by section 108.170. The refunding revenue bonds, notes or
58 other obligations may be payable from the same sources as were pledged to the
59 payment of the obligations refunded and, in the discretion of the governing body
60 of the issuing political subdivision, may be payable from any other source which
61 may be pledged to the payment of revenue bonds, notes or other obligations under
62 any provision of law relating to the issuance of the obligations refunded. Nothing
63 in this section shall be so construed as to prohibit any county, city, school district,
64 or other political corporation or subdivision of the state from refunding its
65 revenue bonded indebtedness without the submission of the question to a popular
66 vote.

108.170. 1. Notwithstanding any other provisions of any law or charter
2 to the contrary, any issue of bonds, notes, or other evidences of indebtedness,
3 including bonds, notes, or other evidences of indebtedness payable solely from
4 revenues derived from any revenue-producing facility, hereafter issued under any
5 law of this state by any county, city, town, village, school district, educational
6 institution, drainage district, levee district, nursing home district, hospital
7 district, library district, road district, fire protection district, water supply
8 district, sewer district, housing authority, land clearance for redevelopment
9 authority, special authority created under section 64.920, authority created
10 pursuant to the provisions of chapter 238, or other municipality, political
11 subdivision or district of this state shall be negotiable, may be issued in bearer
12 form or registered form with or without coupons to evidence interest payable
13 thereon, may be issued in any denomination, and may bear interest at a rate not
14 exceeding ten percent per annum, and may be sold, at any sale, at the best price
15 obtainable, not less than ninety-five percent of the par value thereof, anything in
16 any proceedings heretofore had authorizing such bonds, notes, or other evidence
17 of indebtedness, or in any law of this state or charter provision to the contrary
18 notwithstanding. Such issue of bonds, notes, or other evidence of indebtedness
19 may bear interest at a rate not exceeding fourteen percent per annum if sold at
20 public sale after giving reasonable notice of such sale, at the best price
21 obtainable, not less than ninety-five percent of the par value thereof; provided,
22 that such bonds, notes, or other evidence of indebtedness may be sold to any
23 agency or corporate or other instrumentality of the state of Missouri or of the
24 federal government at private sale at a rate not exceeding fourteen percent per

25 annum.

26 2. Notwithstanding the provisions of subsection 1 of this section to the
27 contrary, the sale of bonds, notes, or other evidence of indebtedness issued by the
28 state board of public buildings created under section 8.010, the state board of
29 fund commissioners created under section 33.300, any port authority created
30 under section 68.010, the bi-state metropolitan development district authorized
31 under section 70.370, any special business district created under section 71.790,
32 any county, as defined in section 108.465, exercising the powers granted by
33 sections 108.450 to 108.470, the industrial development board created under
34 section 100.265, any planned industrial expansion authority created under section
35 100.320, the higher education loan authority created under section 173.360, the
36 Missouri housing development commission created under section 215.020, the
37 state environmental improvement and energy resources authority created under
38 section 260.010, the agricultural and small business development authority
39 created under section 348.020, any industrial development corporation created
40 under section 349.035, or the health and educational facilities authority created
41 under section 360.020 shall, with respect to the sales price, manner of sale and
42 interest rate, be governed by the specific sections applicable to each of these
43 entities.

44 **3. Notwithstanding other provisions of this section to the**
45 **contrary, the sale of general obligation bonds by the various counties**
46 **in this state for themselves and for and on behalf of any township or**
47 **other political subdivision for which the counties may have issued any**
48 **general obligation bonds, and the several cities, school districts or**
49 **other political corporations or subdivisions of the state, maintaining a**
50 **credit rating of "A" or higher shall be sold at public sale after giving**
51 **reasonable notice of such sale, at the best price obtainable, not less**
52 **than ninety-five percent of the par value thereof and may bear interest**
53 **at a rate not exceeding fourteen percent per annum. Any financial**
54 **advisor involved with any sale of bonds shall not underwrite the issue.**

55 4. Notwithstanding other provisions of this section or other law, the sale
56 of bonds, notes or other evidence of indebtedness issued by any housing authority
57 created under section 99.040 may be sold at any sale, at the best price obtainable,
58 not less than ninety-five percent of the par value thereof, and may bear interest
59 at a rate not exceeding fourteen percent per annum. The sale shall be a public
60 sale unless the issuing jurisdiction adopts a resolution setting forth clear

61 justification why the sale should be a private sale except that private activity
62 bonds may be sold either at public or private sale.

63 [4.] 5. Notwithstanding other provisions of this section or law, industrial
64 development revenue bonds may be sold at private sale and bear interest at a
65 rate not exceeding fourteen percent per annum at the best price obtainable, not
66 less than ninety-five percent of the par value thereof.

67 [5.] 6. Notwithstanding other provisions in subsection 1 of this section
68 to the contrary, revenue bonds issued for airport purposes by any constitutional
69 charter city in this state which now has or may hereafter acquire a population of
70 more than three hundred thousand but less than six hundred thousand
71 inhabitants, according to the last federal decennial census, may bear interest at
72 a rate not exceeding fourteen percent per annum if sold at public sale after giving
73 reasonable notice, at the best price obtainable, not less than ninety-five percent
74 of the par value thereof.

75 [6.] 7. For purposes of the interest rate limitations set forth in this
76 section, the interest rate on bonds, notes or other evidence of indebtedness
77 described in this section means the rate at which the present value of the debt
78 service payments on an issue of bonds, notes or other evidence of indebtedness,
79 discounted to the date of issuance, equals the original price at which such bonds,
80 notes or other evidence of indebtedness are sold by the issuer. Interest on bonds,
81 notes or other evidence of indebtedness may be paid periodically at such times as
82 shall be determined by the governing body of the issuer and may be compounded
83 in accordance with section 408.080.

84 [7.] 8. Notwithstanding any provision of law or charter to the contrary:

85 (1) Any entity referenced in subsection 1 or 2 of this section and any other
86 political corporation of the state which entity or political corporation has an
87 annual operating budget for the current year exceeding twenty-five million dollars
88 may, in connection with managing the cost to such entity or political corporation
89 of purchasing fuel, electricity, natural gas, and other commodities used in the
90 ordinary course of its lawful operations, enter into agreements providing for
91 fixing the cost of such commodity, including without limitation agreements
92 commonly referred to as hedges, futures, and options; provided that as of the date
93 of such agreement, such entity or political corporation shall have complied with
94 subdivision (3) of this subsection; and further provided that no eligible school, as
95 defined in section 393.310, shall be authorized by this subsection to enter into
96 such agreements in connection with the purchase of natural gas while the tariffs

97 required under section 393.310 are in effect;

98 (2) Any entity referenced in subsection 1 or 2 of this section and any other
99 political corporation of the state may, in connection with its bonds, notes, or other
100 obligations then outstanding or to be issued and bearing interest at a fixed or
101 variable rate, enter into agreements providing for payments based on levels of or
102 changes in interest rates, including without limitation certain derivative
103 agreements commonly referred to as interest rate swaps, hedges, caps, floors, and
104 collars, provided that:

105 (a) As of the date of issuance of the bonds, notes, or other obligations to
106 which such agreement relates, such entity or political corporation will have
107 bonds, notes, or other obligations outstanding in an aggregate principal amount
108 of at least fifty million dollars; and

109 (b) As of the date of such agreement, such entity's or political
110 corporation's bonds, notes, or other obligations then outstanding or to be issued
111 have received a stand-alone credit rating in one of the two highest categories,
112 without regard to any gradation within such categories, from at least one
113 nationally recognized credit rating agency, or such entity or political corporation
114 has an issuer or general credit rating, in one of the two highest categories,
115 without regard to any gradation within such categories, from at least one
116 nationally recognized credit rating agency; and

117 (c) As of the date of such agreement, such entity or political corporation
118 shall have complied with subdivision (3) of this subsection;

119 (3) Prior to entering into any agreements pursuant to subdivision (1) or
120 (2) of this subsection, the governing body of the entity or political corporations
121 entering into such agreements shall have adopted a written policy governing such
122 agreements. Such policy shall be prepared by integrating the recommended
123 practices published by the Government Finance Officers Association or
124 comparable nationally recognized professional organization and shall provide
125 guidance with respect to the permitted purposes, authorization process,
126 mitigation of risk factors, ongoing oversight responsibilities, market disclosure,
127 financial strategy, and any other factors in connection with such agreements
128 determined to be relevant by the governing body of such entity or political
129 corporation. Such entity or political corporation may enter into such agreements
130 at such times and such agreements may contain such payment, security, default,
131 remedy, and other terms and conditions as shall be consistent with the written
132 policy adopted under this subdivision and as may be approved by the governing

133 body of such entity or other obligated party, including any rating by any
134 nationally recognized rating agency and any other criteria as may be appropriate;

135 (4) Nothing in this subsection shall be applied or interpreted to authorize
136 any such entity or political corporation to enter into any such agreement for
137 investment purposes or to diminish or alter the special or general power any such
138 entity or political corporation may otherwise have under any other provisions of
139 law including the special or general power of any interstate transportation
140 authority.

**108.171. 1. The state treasurer may provide technical and
2 advisory assistance regarding the issuance of bonds, notes, or other
3 evidences of indebtedness, in order to obtain the lowest possible net
4 interest costs, to those political corporations or subdivisions whose
5 governing bodies request such assistance. The assistance may include,
6 but need not be limited to:**

7 (1) Advice on the structuring and marketing of bonds, notes, or
8 other evidences of indebtedness;

9 (2) Training in debt management; and

10 (3) Promotion of the use of such tools for sound financial
11 management as adequate systems of budgeting, accounting, auditing,
12 and reporting.

13 2. The treasurer may promulgate such rules and regulations
14 necessary to achieve the objectives of this section. Any rule or portion
15 of a rule, as that term is defined in section 536.010 that is created under
16 the authority delegated in this section shall become effective only if it
17 complies with and is subject to all of the provisions of chapter 536, and,
18 if applicable, section 536.028. This section and chapter 536 are
19 nonseverable and if any of the powers vested with the general assembly
20 pursuant to chapter 536, to review, to delay the effective date, or to
21 disapprove and annul a rule are subsequently held unconstitutional,
22 then the grant of rulemaking authority and any rule proposed or
23 adopted after August 28, 2014, shall be invalid and void.

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