
CERTIFICATES OF INDEBTEDNESS

CHAPTER 104

(S. B. No. 255—Van Camp.)

ISSUE OF CERTIFICATES OF INDEBTEDNESS

An Act Amending Section 1 and Section 5 of Chapter 326 of the Session Laws of 1923 Pertaining to Certificates of Indebtedness.

Be It Enacted by The Legislative Assembly of the State of North Dakota:

§ I. AMENDMENT.] Section 1 of Chapter 326 of the Session Laws of 1923 is hereby amended and re-enacted to read as follows:

§ I. CERTIFICATES OF INDEBTEDNESS.] Counties, cities, villages, townships, school districts, park districts, and irrigation districts shall have power to borrow in anticipation of revenues to be derived from taxes already levied. The aggregate amount of such borrowings shall not at any time exceed the amount of uncollected taxes which have been levied during the year in which the borrowing is made plus uncollected taxes remaining upon the tax lists of four preceding years, exclusive of levies for the purpose of retiring bond issues and the interest thereon. For the purpose of borrowing all such taxing districts may issue certificates of indebtedness. A certificate of indebtedness shall consist of an agreement on the part of the taxing district to pay a stated sum on a specified date or on or before a specified date not more than thirty months in the future, together with interest thereon at a specified rate not exceeding 7% per annum which may be made payable semi-annually, which certificate shall be signed on behalf of the district by its president or chairman and also by its auditor, clerk or secretary. Certificates of indebtedness shall bear the certificate of the county auditor to the effect that they, together with all other outstanding certificates, are within the amount of uncollected taxes which have been lawfully levied in the then present year plus uncollected taxes of four preceding years. Such certificates of indebtedness shall possess no validity unless they bear such certificates of the county auditor. It shall be the duty of the county auditor to make such certificate according to the facts. When so executed with the prescribed certificate signed by the county auditor, certificates of indebtedness shall be fully negotiable and shall be incontestable except upon the ground of fraud on the part of the holder or original payee, or connivance between the holder or the original payee and officer or officers of the taxing district concerned. In the hands of a holder in due

course, the execution of a certificate of indebtedness by the proper officials shall be conclusive evidence that the issuance thereof was duly authorized by the governing board of the taxing district. A tax shall be deemed to have been levied when it has been voted by the tax levying board and certified to the county auditor.

§ 2. AMENDMENT.] Section 5 of Chapter 326 of the Session Laws of 1923 is hereby amended and re-enacted to read as follows:

§ 5. PAYMENT, CANCELLATION OR EXTENSION OF CERTIFICATES.] After certificates of indebtedness are paid and cancelled they shall be exhibited to the county auditor who shall note the cancellation thereof upon his bond register and make a notation upon the certificate of indebtedness to the effect that the payment thereof has been noted upon the bond register. When any taxing district has issued certificates of indebtedness pursuant to the terms of this act which certificates remain unpaid after maturity, it shall be the duty of the county auditor, upon presentation to him of such past due certificates, and upon written request of the holder or holders thereof, to set aside all tax collections except those for sinking and interest funds thereafter accruing to the credit of such district and the same shall be held by the county treasurer in a special fund to be used only for the purpose of retiring such certificates of indebtedness and paying interest thereon until sufficient funds shall have been accumulated to retire such past due certificates. Certificates of indebtedness shall cease to bear interest at maturity; providing, however, that certificates not paid upon presentation at or after maturity shall bear interest from maturity until paid at the same rate as before maturity. With the consent of the owner, the maturity of a certificate of indebtedness may be extended by the governing board of the taxing district by a separate instrument in any form acceptable to both parties.

Approved March 6, 1925.

CHAPTER 105

(S. B. No. 276—Storstad.)

ADVERTISING BIDS FOR BONDS AND CERTIFICATES OF INDEBTEDNESS

An Act To Amend Chapter 327 of the Session Laws of 1923, Relating to Advertising for Bids for Bonds or for Certificates of Indebtedness, and Providing that it shall be Unlawful for Certain Public Officials to Accept Commissions from Bidders Upon Sales of Bonds or Certificates of Indebtedness.

Be It Enacted by The Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2 of Chapter 327 of the Session Laws of 1923 is hereby amended and re-enacted to read as follows:

§ 2. ADVERTISEMENT FOR BIDS.] A notice calling for bids for each proposed issue of bonds shall be published at least once in the official newspaper of the county, not less than fifteen (15) days nor more than thirty (30) days before the date specified therein for the receiving of such bids. Such notice may be in any form but shall specify the amount of bonds offered for sale, and the date or dates of the maturity thereof. A copy of such notice shall be mailed to the tax commissioner at Bismarck not less than fifteen (15) days before the date specified for the opening of bids, and the tax commissioner shall keep such notice on file for public inspection. The county auditor, clerk, or secretary of the taxing district, advertising such sale shall at the same time file with the tax commissioner a statement giving the assessed valuation, the area, the population, and the indebtedness thereof. Failure to publish such notice or to send a copy thereof to the tax commissioner shall not impair the validity of such bonds, but shall render unenforceable any executory contract entered into for the sale thereof, and the auditor, clerk or secretary failing to publish or to send such notice shall be liable to a fine of not more than Five Hundred Dollars (\$500.00) at the discretion of the court, to be recovered in an action brought by the state's attorney in the name of the state; and the fine, when collected, shall be paid into the general fund of the county. If such failure to publish or send such notice is willful, the auditor, clerk or secretary shall be guilty of a misdemeanor and shall be punished accordingly.

§ 2. AMENDMENT.] Section 3 of Chapter 327 of the Session Laws of 1923 is hereby amended and re-enacted to read as follows:

§ 3. BIDS, WHERE RECEIVED.] The notice shall specify the time and place at which bids will be received. Except in case of cities of over 2,000 population or school districts of over 2,000 population, the notice shall specify that bids will be received at the county auditor's office on the day and at the hour specified in the notice. At the time and place specified, the governing board of the taxing district shall be represented by one of its officials or by the county auditor or some other person acting at the request of the board, who shall receive competitive bids, whether submitted orally or in writing. When the bids are received, the county auditor shall enter in a permanent record the amount and rate of interest of each bid and the name and address of the bidder. All bids shall be accompanied by a certified check, cashier's check, or bank draft, to the amount of not less than 2% of the bid. After all bids have been received, the governing board of the taxing district may act upon the same at its convenience, but within five days after the bids have been received, and contract shall be awarded to the bidder who agrees to purchase the bonds upon the terms most favorable to the taxing district unless the board determines to reject all bids. The board shall

have the right to reject any and all bids, and shall not make any sale at less than par.

§ 3. AMENDMENT.] Section 4 of Chapter 327 of the Session Laws of 1923 is hereby amended and re-enacted to read as follows:

§ 4. PROVISIONS APPLY TO CERTIFICATES OF INDEBTEDNESS.] In case the governing board of any taxing district determines to borrow in excess of \$4,000 upon certificates of indebtedness a similar notice shall be published and similar procedure followed and with like effect and subject to the same provisions as to penalties as in the case of issues of bonds. In case certificates of indebtedness can be sold at par, to bear not more than 5½% interest per annum, the same may be sold without advertising for bids. A district may make successive borrowings, each for less than \$4,000, without advertising for bids, provided that not more than \$6,000 may be borrowed in any fiscal year from July 1 to June 30, without advertising for bids.

§ 4. AMENDMENT.] Section 6 of Chapter 327 of the Session Laws of 1923, is hereby amended and re-enacted to read as follows:

§ 6. BIDS RECEIVED ELSEWHERE.] When bids are advertised for for bonds or certificates of indebtedness to be issued by cities of over 2,000 population, or by school districts of over 2,000 population, the notice may specify that the bids will be received at a place other than the county auditor's office. The auditor, clerk or secretary of the taxing district shall send to the tax commissioner a copy of such notice at the same time and in like manner as is required of other taxing districts.

§ 5. UNLAWFUL FOR CLERK TO ACT AS AGENT.] It shall be unlawful for an auditor, clerk, secretary or other official of a taxing district to accept from a bidder or prospective bidder at a sale of bonds or certificates of indebtedness a commission or any other compensation for his services rendered or to be rendered in connection with issuance, sale, or delivery of such bonds or certificates of indebtedness.

Approved March 6, 1925.