

CHAPTER 546—H.F.No. 2306

An act relating to bonds; authorizing the Minnesota public facilities authority to issue revenue bonds and make loans to or purchase the bonds of municipalities for wastewater treatment and water supply systems; amending Minnesota Statutes 1987 Supplement, sections 446A.04, by adding subdivisions; 446A.05, subdivision 1; and proposing coding for new law in Minnesota Statutes, chapter 446A.

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

Section 1. Minnesota Statutes 1987 Supplement, section 446A.04, is amended by adding a subdivision to read:

Subd. 6. PROPERTY. The authority may acquire, encumber, hold, and convey through lease, purchase, gift, or otherwise, any real or personal property.

Sec. 2. Minnesota Statutes 1987 Supplement, section 446A.04, is amended by adding a subdivision to read:

Subd. 7. IN GENERAL. The authority has all the powers necessary and convenient to carry out its duties under sections 3 to 13.

Sec. 3. Minnesota Statutes 1987 Supplement, section 446A.05, subdivision 1, is amended to read:

Subdivision 1. LOANS AND LOAN PURCHASES. The authority may make and contract to make loans to governmental units to finance projects that the governmental unit may construct or acquire or may acquire or contract to acquire notes and bonds issued by governmental units to finance those projects. A loan may not be used to pay current expenses or obligations, except for temporary financing. A loan made by the authority must be secured by notes or bonds of the borrowing governmental unit.

Sec. 4. [446A.051] PROJECT FINANCIAL ASSISTANCE.

The authority shall assist eligible governmental units in determining what grants or loans under sections 446A.06 and 446A.07 to apply for to finance projects and the manner in which the governmental unit will pay for its portion of the project cost. The authority shall review the proposed financing for each project certified by the agency to ascertain whether or not: (1) total financing of a project is assured; and (2) the governmental unit's financial plan to pay for its portion of the project cost is feasible.

Sec. 5. [446A.12] ISSUANCE OF BONDS.

Subdivision 1. BONDING AUTHORITY. The authority may issue negotiable bonds in a principal amount that the authority determines necessary to provide sufficient funds for achieving its purposes, including the making of loans and purchase of securities, the payment of interest on bonds of the authority, the establishment of reserves to secure its bonds, the payment of fees to a third

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party providing credit enhancement, and the payment of all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers. Bonds of the authority may be issued as bonds or notes or in any other form authorized by law. The principal amount of bonds issued and outstanding under this section at any time may not exceed \$100,000,000.

Subd. 2. REFUNDING OF BONDS. The authority may issue bonds to refund outstanding bonds of the authority, to pay any redemption premiums on those bonds, and to pay interest accrued or to accrue to the redemption date next succeeding the date of delivery of the refunding bonds. The authority may apply the proceeds of any refunding bonds to the purchase or payment at maturity of the bonds to be refunded, or to the redemption of outstanding bonds on the redemption date next succeeding the date of delivery of the refunding bonds and may, pending the application, place the proceeds in escrow to be applied to the purchase, retirement, or redemption. Pending use, escrowed proceeds may be invested and reinvested in obligations issued or guaranteed by the state or the United States or by any agency or instrumentality of the state or the United States, or in certificates of deposit or time deposits secured in a manner determined by the authority, maturing at a time appropriate to assure the prompt payment of the principal and interest and redemption premiums, if any, on the bonds to be refunded. The income realized on any investment may also be applied to the payment of the bonds to be refunded. After the terms of the escrow have been fully satisfied, any balance of the proceeds and any investment income may be returned to the authority for use by it in any lawful manner. All refunding bonds issued under this subdivision must be issued and secured in the manner provided by resolution of the authority.

Subd. 3. KIND OF BONDS. Bonds issued under this section must be negotiable investment securities within the meaning and for all purposes of the uniform commercial code, subject only to the provisions of the bonds for registration. The bonds issued may be either general obligations of the authority, secured by its full faith and credit and payable out of any money, assets, or revenues of the authority, subject to the provisions of resolutions or indenture pledging and appropriating particular money, assets, or revenues to particular bonds, or limited obligations of the authority not secured by its full faith and credit and payable solely from specified sources or assets.

Subd. 4. RESOLUTION AND TERMS OF SALE. The bonds of the authority must be authorized by a resolution or resolutions adopted by the authority. The bonds must bear the date or dates, mature at the time or times, bear interest at a fixed or variable rate, including a rate varying periodically at the time or times and on the terms determined by the authority, or any combination of fixed and variable rates, be in the denominations, be in the form, carry the registration privileges, be executed in the manner, be payable in lawful money of the United States, at the place or places within or without the state, and be subject to the terms of redemption or purchase before maturity as the resolutions or certificates provide. If, for any reason existing at the date of issue of the bonds or existing at the date of making or purchasing any loan or securities from the proceeds or after that date, the interest on the bonds is or

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becomes subject to federal income taxation, this fact does not affect the validity or the provisions made for the security of the bonds. The authority may make covenants and take or have taken actions that are in its judgment necessary or desirable to comply with conditions established by federal law or regulations for the exemption of interest on its obligations. The authority may refrain from compliance with those conditions if in its judgment this would serve the purposes and policies set forth in this chapter with respect to any particular issue of bonds, unless this would violate covenants made by the authority. The maximum maturity of a bond, whether or not issued for the purpose of refunding, must be 30 years from its date. The bonds of the authority may be sold at public or private sale, at a price or prices determined by the authority; provided that (i) the aggregate price at which an issue of bonds is initially offered by underwriters to investors, as stated in the authority's official statement with respect to the offering, must not exceed by more than three percent the aggregate price paid by the underwriters to the authority at the time of delivery; (ii) the commission paid by the authority to an underwriter for placing an issue of bonds with investors must not exceed three percent of the aggregate price at which the issue is offered to investors as stated in the authority's offering statement; and (iii) the spread or commission must be an amount determined by the authority to be reasonable in the light of the risk assumed and the expenses of issuance, if any, required to be paid by the underwriters.

Sec. 6. [446A.13] TENDER OPTION.

An obligation may be issued giving its owner the right to tender or the authority to demand tender of the obligation to the authority or another person designated by it, for purchase at a specified time or times, if the authority has first entered into an agreement with a suitable financial institution obligating the financial institution to provide funds on a timely basis for purchase of bonds tendered. The obligation is not considered to mature on any tender date and the purchase of a tendered obligation is not considered a payment or discharge of the obligation by the authority. Obligations tendered for purchase may be remarketed by or on behalf of the authority or another purchaser. The authority may enter into agreements it considers appropriate to provide for the purchase and remarketing of tendered obligations, including:

(1) provisions under which undelivered obligations may be considered tendered for purchase and new obligations may be substituted for them;

(2) provisions for the payment of charges of tender agents, remarketing agents, and financial institutions extending lines of credit or letters of credit assuring repurchase; and

(3) provisions for reimbursement of advances under letters of credit that may be paid from the proceeds of the obligations or from tax and other revenues appropriated for the payment and security of the obligations and similar or related provisions.

Sec. 7. [446A.14] INTEREST EXCHANGES.

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The authority may enter into an agreement with a third party for an exchange of interest rates under this subdivision. With respect to outstanding obligations bearing interest at a variable rate, the authority may agree to pay sums equal to interest at a fixed rate or at a different variable rate determined in accordance with a formula set out in the agreement on an amount not exceeding the outstanding principal amount of the obligations, in exchange for an agreement by the third party to pay sums equal to interest on a similar amount at a variable rate determined according to a formula set out in the agreement. With respect to outstanding obligations bearing interest at a fixed rate or rates, the authority may agree to pay sums equal to interest at a variable rate determined according to a formula set out in the agreement on an amount not exceeding the outstanding principal amount of the obligations in exchange for an agreement by the third party to pay sums equal to interest on a similar amount at a fixed rate or rates set out in the agreement. Subject to any applicable bonds covenants, payments required to be made by the municipality under the swap agreement may be made from amounts secured to pay debt service on the obligations with respect to which the swap agreement was made from any other available source of the authority.

Sec. 8. [446A.15] BOND FUND.

Subdivision 1. CREATION AND CONTENTS. The authority may establish a special fund or funds for the security of one or more or all series of its bonds. The funds must be known as debt service reserve funds. The authority may pay into each debt service reserve fund:

- (1) any money appropriated by the state only for the purposes of the fund;
- (2) the proceeds of sale of bonds to the extent provided in the resolution or indenture authorizing the issuance of them;
- (3) funds directed to be transferred by the authority to the debt service reserve fund; and
- (4) other money made available to the authority from any other source only for the purpose of the fund.

Subd. 2. USE OF FUNDS. Except as provided in this section, the money credited to each debt service reserve fund must be used only for the payment of the principal of bonds of the authority as they mature, the purchase of the bonds, the payment of interest on them, or the payment of any premium required when the bonds are redeemed before maturity. Money in a debt service reserve fund must not be withdrawn at a time and in an amount that reduces the amount of the fund to less than the amount the authority determines to be reasonably necessary for the purposes of the fund. However, money may be withdrawn to pay principal or interest due on bonds secured by the fund if other money of the authority is not available.

Subd. 3. INVESTMENT. Money in a debt service reserve fund not required

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for immediate use may be invested in accordance with section 446A.11, subdivision 9, paragraph (b).

Subd. 4. MINIMUM AMOUNT OF RESERVE AT ISSUANCE. If the authority establishes a debt service reserve fund for the security of any series of bonds, it shall not issue additional bonds that are similarly secured if the amount of any of the debt service reserve funds at the time of issuance does not equal or exceed the minimum amount required by the resolution creating the fund, unless the authority deposits in each fund at the time of issuance, from the proceeds of the bonds, or otherwise, an amount that when added together with the amount then in the fund will be at least the minimum amount required.

Subd. 5. TRANSFER OF EXCESS. To the extent consistent with the resolutions and indentures securing outstanding bonds, the authority may at the close of a fiscal year transfer to any other fund or account from any debt service reserve fund any excess in that reserve fund over the amount determined by the authority to be reasonably necessary for the purpose of the reserve fund.

Subd. 6. CERTIFICATION AND BUDGET REQUEST. To assure the payment of the principal of and interest on bonds of the authority and the continued maintenance of all debt service reserve funds created and established for that payment, the authority shall annually determine and certify to the governor, on or before December 1, the following amounts:

(1) the amount then needed to restore each debt service reserve fund to the minimum amount required by the resolution or indenture establishing the fund, but not exceeding the maximum amount of principal and interest to become due and payable in any later year on all bonds that are then outstanding and secured by the fund; and

(2) the amount determined by the authority to be needed in the immediately ensuing fiscal year, with other funds pledged and estimated to be received during that year, for the payment of the principal and interest due and payable in that year on all then outstanding bonds secured by a debt service reserve fund the amount of which is then less than the minimum amount agreed.

The governor shall include in the proposed biennial budget for the following fiscal year, or in a supplemental budget if the biennial budget has previously been approved, the amounts certified by the authority in accordance with this subdivision.

Sec. 9. [446A.16] MONEY OF THE AUTHORITY.

Subdivision 1. FUNCTIONS OF STATE TREASURER. Except as otherwise provided in this section, money of the authority must be paid to the state treasurer as agent of the authority and the treasurer shall not commingle the money with other money. The money in the accounts of the authority must be paid out only on warrants drawn by the commissioner of finance on requisition of the chair of the authority or of another officer or employee as the authority authorizes. Deposits of the authority's money must, if required by the state treasurer or the authority, be secured by obligations of the United States or of

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the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give security for the deposits.

Subd. 2. CONTRACTS AND SECURITY. Notwithstanding the provisions of this section, the authority may, with the approval of the state treasurer, contract with the holders of any of its bonds as to the custody, collection, securing, investment, and payment of money of the authority or money held in trust or otherwise for the payment of bonds, and to carry out the contract. Money held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of the money may be secured in the same manner as money of the authority, and all banks and trust companies are authorized to give security for the deposits. All money paid to the state treasurer as agent of the authority is appropriated to the authority.

Subd. 3. SYSTEM OF ACCOUNTS. Subject to agreements with bondholders, the commissioner of finance shall prescribe a system of accounts.

Sec. 10. [446A.17] NONLIABILITY.

Subdivision 1. NONLIABILITY OF INDIVIDUALS. No member of the authority or other person executing the bonds is liable personally on the bonds or is subject to any personal liability or accountability by reason of their issuance.

Subd. 2. NONLIABILITY OF STATE. The state is not liable on bonds of the authority issued under this chapter and those bonds are not a debt of the state. The bonds must contain on their face a statement to that effect.

Sec. 11. [446A.18] PURCHASE AND CANCELLATION BY AUTHORITY.

Subject to agreements with bondholders that may then exist, the authority may purchase out of funds available for the purpose, bonds of the authority which shall then be canceled, at a price not exceeding the following amounts:

(1) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date of the bonds; or

(2) if the bonds are not redeemable, the redemption price applicable on the first date after the purchase upon which the bonds become subject to redemption plus accrued interest to that date.

Sec. 12. [446A.19] STATE PLEDGE AGAINST IMPAIRMENT OF CONTRACTS.

The state pledges and agrees with the holders of bonds issued under sections 4 to 13 that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the bondholders or in any way impair the rights and remedies of the holders until the bonds, together with interest on them, with interest on any unpaid installments of interest, and all

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costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged. The authority may include this pledge and agreement of the state in any agreement with the holders of bonds issued under sections 4 to 13.

Sec. 13. **[446A.20] RESERVES; FUNDS; ACCOUNTS.**

The authority may establish reserves, funds, or accounts necessary to carry out the purposes of the authority or to comply with any agreement made by or any resolution passed by the authority.

Sec. 14. **EFFECTIVE DATE.**

Sections 1 to 13 are effective the day following final enactment.

Approved April 18, 1988

CHAPTER 547—H.F.No. 2508

An act relating to statute of limitations; providing relief for certain individuals denied a remedy due to the unconstitutionality of a statute of limitation relating to real property improvement.

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

Section 1. **STATUTE OF LIMITATION; REAL ESTATE CLAIM.**

An action originally governed by Minnesota Statutes 1976, section 541.051, based on construction that was substantially completed between September 15, 1977, and January 1, 1978, may be brought according to Minnesota Statutes 1986, section 541.051 until January 1, 1989, notwithstanding that the action would otherwise be barred by Minnesota Statutes 1986, section 541.051. This limitation does not shorten any other limitation period under which an action may be brought.

Approved April 18, 1988

CHAPTER 548—S.F.No. 30

An act relating to crimes; requiring health professionals to report certain burn injuries; amending Minnesota Statutes 1986, sections 626.52, subdivision 1, and by adding a subdivision; 626.53; and 626.55, subdivision 1.

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

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