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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3717

03/30/2016 Authored by Hamilton and Swedzinski

The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act
1.2 relating to capital investment; providing for the Lewis and Clark Regional Water
1.3 System; appropriating money; authorizing the sale and issuance of state bonds;
1.4 amending Minnesota Statutes 2015 Supplement, section 16A.967.

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

1.6 Section 1. Minnesota Statutes 2015 Supplement, section 16A.967, is amended to read:

1.7 **16A.967 LEWIS AND CLARK APPROPRIATION BONDS.**

1.8 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this
1.9 section.

1.10 (b) "Appropriation bond" or "bond" means a bond, note, or other similar instrument
1.11 of the state payable during a biennium from one or more of the following sources:

1.12 (1) money appropriated by law from the general fund in any biennium for debt
1.13 service due with respect to obligations described in ~~subdivision 2, paragraph (c)~~
1.14 subdivisions 2a and 2b;

1.15 (2) proceeds of the sale of obligations described in ~~subdivision 2, paragraph (c)~~
1.16 subdivisions 2a and 2b;

1.17 (3) payments received for that purpose under agreements and ancillary arrangements
1.18 described in subdivision 2, paragraph ~~(c)~~ (d); and

1.19 (4) investment earnings on amounts in clauses (1) to (3).

1.20 (c) "Debt service" means the amount payable in any biennium of principal, premium,
1.21 if any, and interest on appropriation bonds.

1.22 Subd. 2. **Authorization to issue appropriation bonds.** (a) Subject to the limitations
1.23 of this subdivision, the commissioner may sell and issue appropriation bonds of the state
1.24 under this section for public purposes as provided by law, ~~including, in particular, the~~

2.1 ~~financing of the land acquisition, design, engineering, and construction of facilities and~~
2.2 ~~infrastructure necessary to complete the next phase of the Lewis and Clark Regional Water~~
2.3 ~~System project, including completion of the pipeline to Magnolia, extension of the project~~
2.4 ~~to the Lincoln-Pipestone Rural Water System connection near Adrian, and engineering,~~
2.5 ~~design, and easement acquisition for the final phase of the project to Worthington. No~~
2.6 ~~bonds shall be sold until the commissioner determines that a nonstate match of at least~~
2.7 ~~\$9,000,000 is committed to this project phase. Grant agreements entered into under this~~
2.8 ~~section must provide for reimbursement to the state from any federal money provided for~~
2.9 ~~the project, consistent with the Lewis and Clark Regional Water System, Inc., agreement.~~

2.10 (b) The appropriation bonds may be issued and sold only after the commissioner
2.11 determines that the construction and administration for work done on the project will
2.12 comply with (1) all federal requirements and regulations associated with the Lewis and
2.13 Clark Rural Water System Act of 2000, and (2) the cooperative agreement between the
2.14 United States Department of the Interior and the Lewis and Clark Regional Water System,
2.15 Inc. Proceeds of the appropriation bonds must be credited to a special appropriation Lewis
2.16 and Clark bond proceeds fund in the state treasury. All income from investment of the
2.17 bond proceeds, as estimated by the commissioner, is appropriated to the commissioner for
2.18 the payment of principal and interest on the appropriation bonds.

2.19 ~~(e) Appropriation bonds may be sold and issued in amounts that, in the opinion of~~
2.20 ~~the commissioner, are necessary to provide sufficient money, not to exceed \$19,000,000~~
2.21 ~~net of costs of issuance, for the purposes as provided under paragraph (a), and pay debt~~
2.22 ~~service including capitalized interest, costs of issuance, costs of credit enhancement, or~~
2.23 ~~make payments under other agreements entered into under paragraph (e).~~

2.24 ~~(d)~~ (c) Appropriation bonds may be issued in one or more issues or series on the
2.25 terms and conditions the commissioner determines to be in the best interests of the
2.26 state, but the term on any series of appropriation bonds may not exceed 25 years. The
2.27 appropriation bonds of each issue and series thereof shall be dated and bear interest,
2.28 and may be includable in or excludable from the gross income of the owners for federal
2.29 income tax purposes.

2.30 ~~(e)~~ (d) At the time of, or in anticipation of, issuing the appropriation bonds, and at
2.31 any time thereafter, so long as the appropriation bonds are outstanding, the commissioner
2.32 may enter into agreements and ancillary arrangements relating to the appropriation bonds,
2.33 including but not limited to trust indentures, grant agreements, lease or use agreements,
2.34 operating agreements, management agreements, liquidity facilities, remarketing or
2.35 dealer agreements, letter of credit agreements, insurance policies, guaranty agreements,
2.36 reimbursement agreements, indexing agreements, or interest exchange agreements. Any

3.1 payments made or received according to the agreement or ancillary arrangement shall be
 3.2 made from or deposited as provided in the agreement or ancillary arrangement. The
 3.3 determination of the commissioner included in an interest exchange agreement that the
 3.4 agreement relates to an appropriation bond shall be conclusive.

3.5 ~~(f)~~ (e) The commissioner may enter into written agreements or contracts relating
 3.6 to the continuing disclosure of information necessary to comply with or facilitate the
 3.7 issuance of appropriation bonds in accordance with federal securities laws, rules, and
 3.8 regulations, including Securities and Exchange Commission rules and regulations in Code
 3.9 of Federal Regulations, title 17, section 240.15c 2-12. An agreement may be in the form
 3.10 of covenants with purchasers and holders of appropriation bonds set forth in the order or
 3.11 resolution authorizing the issuance of the appropriation bonds, or a separate document
 3.12 authorized by the order or resolution.

3.13 ~~(g)~~ (f) The appropriation bonds are not subject to chapter 16C.

3.14 Subd. 2a. **Project authorization.** Appropriation bonds may be sold and issued in
 3.15 amounts that, in the opinion of the commissioner, are necessary to provide sufficient
 3.16 money to the Public Facilities Authority under subdivision 7, paragraph (a), not to exceed
 3.17 \$19,000,000 net of costs of issuance, for the purposes as provided under this subdivision,
 3.18 and pay debt service including capitalized interest, costs of issuance, costs of credit
 3.19 enhancement, or make payments under other agreements entered into under subdivision 2,
 3.20 paragraph (d). The bonds authorized by this subdivision are for the purposes of financing
 3.21 the land acquisition, design, engineering, and construction of facilities and infrastructure
 3.22 necessary to complete Phase 2 of the Lewis and Clark Regional Water System project,
 3.23 including completion of the pipeline to Magnolia; extension of the project to the
 3.24 Lincoln-Pipestone Rural Water System connection near Adrian; and engineering, design,
 3.25 and easement acquisition for the final phase of the project to Worthington. No bonds shall
 3.26 be sold under this subdivision until the commissioner determines that a nonstate match of
 3.27 at least \$9,000,000 is committed to this project phase. Upon completion of Phase 2, the
 3.28 unspent, unencumbered portion of the appropriation in this subdivision is available for
 3.29 the purposes of subdivision 2b.

3.30 Subd. 2b. **Additional project authorization.** Appropriation bonds may be sold
 3.31 and issued in amounts that, in the opinion of the commissioner, are necessary to provide
 3.32 sufficient money to the Public Facilities Authority under subdivision 7, paragraph (b),
 3.33 not to exceed \$11,500,000 net of costs of issuance, for the purposes as provided under
 3.34 this subdivision, and pay debt service including capitalized interest, costs of issuance,
 3.35 costs of credit enhancement, or make payments under other agreements entered into
 3.36 under subdivision 2, paragraph (d). The bonds authorized by this subdivision are for

4.1 the purposes of financing the land acquisition, design, engineering, and construction of
4.2 facilities and infrastructure necessary to complete Phase 3 of the Lewis and Clark Regional
4.3 Water System project, including extension of the project from the Lincoln-Pipestone
4.4 Rural Water System connection near Adrian to Worthington, construction of a reservoir
4.5 in Nobles County and a meter building in Worthington, and acquisition and installation
4.6 of a supervisory control and data acquisition (SCADA) system. No bonds shall be sold
4.7 under this subdivision until the commissioner determines that a nonstate match of at least
4.8 \$9,000,000 is committed to the final phase of the project.

4.9 Subd. 3. **Form; procedure.** (a) Appropriation bonds may be issued in the form
4.10 of bonds, notes, or other similar instruments, and in the manner provided in section
4.11 16A.672. In the event that any provision of section 16A.672 conflicts with this section,
4.12 this section shall control.

4.13 (b) Every appropriation bond shall include a conspicuous statement of the limitation
4.14 established in subdivision 6.

4.15 (c) Appropriation bonds may be sold at either public or private sale upon such terms
4.16 as the commissioner shall determine are not inconsistent with this section and may be sold
4.17 at any price or percentage of par value. Any bid received may be rejected.

4.18 (d) Appropriation bonds must bear interest at a fixed or variable rate.

4.19 (e) Notwithstanding any other law, appropriation bonds issued under this section
4.20 shall be fully negotiable.

4.21 Subd. 4. **Refunding bonds.** The commissioner may issue appropriation bonds
4.22 for the purpose of refunding any appropriation bonds then outstanding, including the
4.23 payment of any redemption premiums on the bonds, any interest accrued or to accrue to
4.24 the redemption date, and costs related to the issuance and sale of the refunding bonds. The
4.25 proceeds of any refunding bonds may, in the discretion of the commissioner, be applied
4.26 to the purchase or payment at maturity of the appropriation bonds to be refunded, to the
4.27 redemption of the outstanding appropriation bonds on any redemption date, or to pay
4.28 interest on the refunding bonds and may, pending application, be placed in escrow to be
4.29 applied to the purchase, payment, retirement, or redemption. Any escrowed proceeds,
4.30 pending such use, may be invested and reinvested in obligations that are authorized
4.31 investments under section 11A.24. The income earned or realized on the investment may
4.32 also be applied to the payment of the appropriation bonds to be refunded or interest or
4.33 premiums on the refunded appropriation bonds, or to pay interest on the refunding bonds.
4.34 After the terms of the escrow have been fully satisfied, any balance of the proceeds and
4.35 any investment income may be returned to the general fund or, if applicable, the special
4.36 appropriation Lewis and Clark bond proceeds fund for use in any lawful manner. All

5.1 refunding bonds issued under this subdivision must be prepared, executed, delivered, and
 5.2 secured by appropriations in the same manner as the appropriation bonds to be refunded.

5.3 Subd. 5. **Appropriation bonds as legal investments.** Any of the following entities
 5.4 may legally invest any sinking funds, money, or other funds belonging to them or under
 5.5 their control in any appropriation bonds issued under this section:

5.6 (1) the state, the investment board, public officers, municipal corporations, political
 5.7 subdivisions, and public bodies;

5.8 (2) banks and bankers, savings and loan associations, credit unions, trust companies,
 5.9 savings banks and institutions, investment companies, insurance companies, insurance
 5.10 associations, and other persons carrying on a banking or insurance business; and

5.11 (3) personal representatives, guardians, trustees, and other fiduciaries.

5.12 Subd. 6. **No full faith and credit; state not required to make appropriations.** The
 5.13 appropriation bonds are not public debt of the state, and the full faith, credit, and taxing
 5.14 powers of the state are not pledged to the payment of the appropriation bonds or to any
 5.15 payment that the state agrees to make under this section. Appropriation bonds shall not be
 5.16 obligations paid directly, in whole or in part, from a tax of statewide application on any
 5.17 class of property, income, transaction, or privilege. Appropriation bonds shall be payable
 5.18 in each fiscal year only from amounts that the legislature may appropriate for debt service
 5.19 for any fiscal year, provided that nothing in this section shall be construed to require the
 5.20 state to appropriate money sufficient to make debt service payments with respect to the
 5.21 appropriation bonds in any fiscal year. Appropriation bonds shall be canceled and shall
 5.22 no longer be outstanding on the earlier of (1) the first day of a fiscal year for which the
 5.23 legislature shall not have appropriated amounts sufficient for debt service, or (2) the date
 5.24 of final payment of the principal of and interest on the appropriation bonds.

5.25 Subd. 7. **Appropriation of proceeds.** (a) The proceeds of appropriation bonds
 5.26 issued under subdivision 2a and interest credited to the special appropriation Lewis and
 5.27 Clark bond proceeds fund are appropriated as follows:

5.28 (1) to the commissioner Public Facilities Authority for a grant to the Lewis and
 5.29 Clark Joint Powers Board for payment of capital expenses for the purposes provided by as
 5.30 specified in subdivision 2, paragraph (a), 2a; and

5.31 (2) to the commissioner for debt service on the bonds including capitalized interest,
 5.32 nonsalary costs of issuance of the bonds, costs of credit enhancement of the bonds and
 5.33 payments under any agreements entered into under subdivision 2, paragraph (e) (d), each
 5.34 as permitted by state and federal law, and such proceeds may be granted, loaned, or
 5.35 otherwise provided for the public purposes provided by subdivision 2, paragraph (a).

6.1 (b) The proceeds of appropriation bonds issued under subdivision 2b and interest
6.2 credited to the special appropriation Lewis and Clark bond proceeds fund are appropriated
6.3 as follows:

6.4 (1) to the Public Facilities Authority for a grant to the Lewis and Clark Joint Powers
6.5 Board for payment of capital expenses as specified in subdivision 2b; and

6.6 (2) to the commissioner for debt service on the bonds including capitalized interest,
6.7 nonsalary costs of issuance of the bonds, costs of credit enhancement of the bonds, and
6.8 payments under any agreements entered into under subdivision 2, paragraph (d), each as
6.9 permitted by state and federal law.

6.10 Subd. 8. **Appropriation for debt service and other purposes.** (a) An amount, up
6.11 to \$1,351,000 needed to pay principal and interest on appropriation bonds issued under
6.12 ~~this section~~ subdivision 2a is appropriated each fiscal year from the general fund to the
6.13 commissioner, subject to repeal, unallotment under section 16A.152, or cancellation,
6.14 otherwise pursuant to subdivision 6, for deposit into the bond payments account established
6.15 for such purpose in the special Lewis and Clark appropriation bond proceeds fund. The
6.16 appropriation is available beginning in fiscal year 2017 and through fiscal year 2038.

6.17 (b) An amount up to \$855,000 needed to pay principal and interest on appropriation
6.18 bonds issued under subdivision 2b is appropriated each fiscal year from the general fund to
6.19 the commissioner, subject to repeal, unallotment under section 16A.152, or cancellation,
6.20 otherwise pursuant to subdivision 6, for deposit into the bond payments account established
6.21 for such purpose in the special Lewis and Clark appropriation bond proceeds fund. The
6.22 appropriation is available beginning in fiscal year 2018 and through fiscal year 2039.

6.23 Subd. 9. **Waiver of immunity.** The waiver of immunity by the state provided for
6.24 by section 3.751, subdivision 1, shall be applicable to the appropriation bonds and any
6.25 ancillary contracts to which the commissioner is a party.