

CHAPTER 76

PROVISIONS RELATED TO PUBLIC BONDS AND DEBT OBLIGATIONS

Referred to in §12A.4, 145A.18, 260C.20, 296.1, 298.18, 331.447, 357E.11A, 384.32, 386.11, 394.1, 423A.7, 423B.9

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76.1 Mandatory retirement.

1. Hereafter issues of bonds of every kind and character by counties, cities, and school corporations shall be consecutively numbered.

2. *a.* The annual levy shall be sufficient to pay the interest and approximately such portion of the principal of the bonds as will retire them in a period not exceeding twenty years from date of issue, except as provided in paragraph “b”.

b. General obligation bonds issued for the purposes specified in section 331.441, subsection 2, paragraph “b”, subparagraphs (18) and (19), or in section 384.24, subsection 3, paragraphs “w” and “x”, and bonds issued to refund or refinance bonds issued for those purposes, may mature and be retired in a period not exceeding thirty years from date of issue.

3. Each issue of bonds shall be scheduled to mature in the same order as numbered.

[C27, 31, 35, §1179-b1; C39, §1179.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §76.1]

2009 Acts, ch 100, §5, 21

Referred to in §76.2, 76.5

76.2 Mandatory levy — obligations in anticipation of levy.

1. *a.* The governing authority of a political subdivision specified in section 76.1, subsection 1, before issuing bonds shall, by resolution, provide for the assessment of an annual levy upon all the taxable property in the political subdivision sufficient to pay the interest and principal of the bonds within a period named not exceeding the applicable period of time specified in section 76.1. A certified copy of this resolution shall be filed with the county auditor or the auditors of the counties in which the political subdivision is located; and the filing shall make it a duty of the auditors to enter annually this levy for collection from the taxable property within the boundaries of the political subdivision until funds are realized to pay the bonds in full. The levy shall continue to be made against property that is severed from the political subdivision after the filing of the resolution until funds are realized to pay the bonds in full.

b. If the resolution is filed prior to April 1 or May 1, if the political subdivision is a school district, the annual levy shall begin with the tax levy for collection commencing July 1 of that year. If the resolution is filed after April 1 or May 1, in the case of a school district, the annual levy shall begin with the tax levy for collection in the next succeeding fiscal year. However, the governing authority of a political subdivision may adjust a levy of taxes made under this section for the purpose of adjusting the annual levies and collections for property severed from the political subdivision, subject to the approval of the director of the department of management.

2. If funds, including reserves and amounts available for temporary transfer, are found to be insufficient to pay in full any installment of principal or interest, a public issuer of

bonds may anticipate the next levy of taxes pursuant to this section in the manner provided in chapter 74, whether the taxes so anticipated are to be collected in the same or a future fiscal year.

[C27, 31, 35, §1179-b2; C39, §1179.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §76.2]
83 Acts, ch 188, §1; 85 Acts, ch 195, §7; 85 Acts, ch 240, §1; 88 Acts, ch 1134, §20; 93 Acts, ch 1, §2; 2009 Acts, ch 100, §6, 21; 2010 Acts, ch 1061, §10

Referred to in §24.9, 76.5, 275.29, 275.31, 331.512, 358.40, 423A.7, 423B.9

76.3 Tax limitations.

Tax limitations in any law or proposition for the issuance of bonds or obligations, including any law or proposition for the issuance of bonds or obligations in anticipation of levies or collections of taxes or both, shall be based on the latest equalized actual valuation then existing and shall only restrict the amount of bonds or obligations which may be issued. For the sole purpose of computing the amount of bonds which may be issued as a result of the application of a tax limitation, all interest on the bonds or obligations in excess of that accruing in the first twelve months may be excluded from the first annual levy of taxes, so that the need for including more than one year's interest in the first annual levy of taxes to pay the bonds or obligations and interest does not operate to further restrict the amount of bonds or obligations which may be issued, and in certifying the annual levies to the county auditor or auditors the first annual levy of taxes shall be sufficient to pay all principal of and interest on the bonds or obligations becoming due prior to the next succeeding annual levy and the full amount of the first annual levy shall be entered for collection by the auditor or auditors, as provided in this chapter.

[C31, 35, §1179-cl; C39, §1179.3; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §76.3]
83 Acts, ch 90, §7

Referred to in §76.5, 331.512, 423A.7, 423B.9

76.4 Permissive application of funds.

Whenever the governing authority of such political subdivision shall have on hand funds derived from any other source than taxation which may be appropriated to the payment either of interest or principal, or both principal and interest of such bonds, such funds may be so appropriated and used and the levy for the payment of the bonds correspondingly reduced. This section shall not restrict the authority of a political subdivision to apply sales and services tax receipts collected pursuant to chapter 423B for such purpose. Notwithstanding section 423F.3, a school district may apply tax receipts received pursuant to chapter 423F for the purposes of this section.

[C27, 31, 35, §1179-b3; C39, §1179.4; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §76.4]
2001 Acts, ch 151, §1; 2008 Acts, ch 1134, §38

Referred to in §76.5

76.5 Application.

Sections 76.1 through 76.4 apply only to bonds or other obligations payable from taxation, other than bonds which are payable out of the primary road fund.

[C27, 31, 35, §1179-b4; C39, §1179.5; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §76.5]
84 Acts, ch 1021, §1

76.6 Place of payment.

The principal and interest of all public bonds or obligations of a public corporation in this state are payable at the office of the treasurer or public official charged with the duty of making payment, unless the proceedings of the governing body authorizing the issuance of the public bonds or obligations provide that the public bonds or obligations and interest on the public bonds or obligations are payable at one or more banks or trust companies within or without the state of Iowa, or as otherwise provided by chapter 419, or by mail, wire transfer, or similar means.

[C35, §1179-fl; C39, §1179.6; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §76.6]
83 Acts, ch 90, §8

76.7 Particular bonds affected — payment.

Counties, cities and school corporations may at any time or times extend or renew any legal indebtedness or any part thereof they may have represented by bonds or certificates where such indebtedness is payable from a limited annual tax or from a voted annual tax, and may by resolution fund or refund the same and issue bonds therefor running not more than twenty years to be known as funding or refunding bonds, and make provision for the payment of the principal and interest thereof from the proceeds of an annual tax for the period covered by such bonds similar to the tax authorized by law or by the electors for the payment of the indebtedness so extended or renewed.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §76.7]

Referred to in §76.9

76.8 Laws applicable.

All laws relating to the issuance of funding or refunding bonds by counties, cities and school corporations, as the case may be, not inconsistent with the provisions herein contained and to the extent the same may be applicable, shall govern the issuance of the funding and refunding bonds for the purpose herein authorized.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §76.8]

Referred to in §76.9

76.9 No limit of former power.

Sections 76.7 and 76.8 shall be construed as granting additional power without limiting the power already existing in counties, cities and school corporations.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §76.9]

76.10 Registration — immobilization — standards — tax — records.

Notwithstanding any other provision in the Code:

1. All public bonds or obligations issued before or after July 1, 1983 may be in registered form. An issuer of public bonds or obligations may designate for a term as agreed upon, one or more persons, corporations, partnerships, or other associations located within or without the state to serve as trustee, transfer agent, registrar, depository, or paying or other agent in connection with the public bonds or obligations and to carry out services and functions which are customary in such capacities or convenient or necessary to comply with the intent and provisions of this chapter.

2. An issuer of public bonds or obligations may provide for the immobilization of the bonds through the designation of a bond depository or through a book-entry system of registration.

3. Any designated trustee, transfer agent, registrar, depository, or paying or other agent may serve in multiple capacities with respect to an issue of public bonds or obligations.

4. Public bonds or obligations or certificates of ownership of the public bonds or obligations may be issued in any form or pursuant to any system necessary to be in compliance with standards issued from time to time by the municipal securities rulemaking board of the United States, the American national standards institute, any other securities industry standard, or the requirements of section 103 of the Internal Revenue Code.

5. Registration or immobilization of a public bond or obligation does not disqualify it as a lawful investment for depository institutions, trustees, public bodies, or other investors regulated by law.

6. An issuer of public bonds or obligations may provide for the payment of the costs of registration of its public bonds or obligations by the levy of additional taxes for the payment from the fund for the payment of the principal and interest of general obligation bonds or from any revenue source from which the principal and interest of the public bonds or obligations are payable.

7. a. Records and documents pertaining to cancellation, transfer, redemption, or replacement of public bonds or obligations shall be preserved by the issuer or its agent for a period of not less than eleven years. Thereafter, the records and documents may be destroyed by the issuer or its agent, preserving confidentiality as necessary.

b. An action with respect to the cancellation, transfer, redemption, or replacement of

public bonds or obligations shall not be brought against an issuer, trustee, transfer agent, registrar, depository, paying agent, or other agent unless it is commenced within eleven years of the cancellation, transfer, redemption, or replacement of the bonds or obligations.

83 Acts, ch 90, §2; 84 Acts, ch 1021, §2; 93 Acts, ch 89, §1

Referred to in §22.7, 74.9, 76.11, 372.13, 390.17

76.11 Confidentiality of bond holders — exceptions.

Records of identity of owners of public bonds or obligations maintained as provided in section 76.10 or by the issuer of the bonds are confidential records entitled to protection under section 22.7, subsection 17. However, the issuer of the bonds or a state or federal agency may obtain information as necessary.

83 Acts, ch 90, §3

76.12 Reproduction and validity of signatures.

1. A provision requiring that public bonds or obligations or certificates of ownership of public bonds or obligations issued by a public entity be executed or signed by particular public officers permits the signatures to be affixed by printing or other mechanical means. However, each instrument shall bear at least one original and manual signature, which may be the signature of any officer designated by law to execute the instrument or the signature of a registrar or trustee authenticating the instrument.

2. Public bonds and obligations are valid and binding if they bear the signature of the officials in office on the date of execution of the bonds, notwithstanding that any or all of the persons whose signatures appear on the public bonds or obligations have ceased to hold the office before the delivery of the public bonds or obligations. Reprinted or reissued bonds are valid and binding if they bear facsimiles of the signatures of either the public officials who executed the original issue of the bonds or the officials in office at the time of execution of the reprinted or reissued bonds.

83 Acts, ch 90, §4

76.13 Interim financing.

1. A public body authorized to issue bonds may issue project notes in anticipation of the receipt of any of the following:

- a. Proceeds from the issuance of public bonds or obligations previously authorized.
- b. Proceeds to be received pursuant to law or agreement from any state or federal agency.
- c. Income or revenues from sources to be received and expended for the project during the project construction or acquisition period.
- d. Any combination of paragraphs “a” through “c”.

2. Notes shall be issued in the form and manner provided in a resolution of the governing body of the issuer. The resolution may set forth and appropriate the moneys anticipated by the notes.

3. The resolution may provide that to the extent issued in anticipation of public bonds or obligations, notes shall be paid from the proceeds of the issuance of public bonds or obligations. To the extent issued in anticipation of bonds, note proceeds shall be expended only for the purposes for which the bond proceeds may be expended.

4. Notes shall not be issued in anticipation of public bonds or obligations in an amount greater than the authorized amount of the public bonds or obligations and moneys appropriated for the same purposes.

5. a. Notes may be sold at public or private sale and bear interest at rates set by the governing body of the issuer at the time of their issuance notwithstanding chapter 74A.

b. The authority of a public body to issue project notes under this section is in addition to any other authority of the public body to issue other obligations as otherwise provided by law.

83 Acts, ch 90, §5

Referred to in §75.9

76.14 Definition.

As used in this chapter, unless the context otherwise requires, “*public bond or obligation*” means any obligation issued by or on behalf of the state, an agency of the state, or a political subdivision of the state.

83 Acts, ch 90, §6

Referred to in §390.9

76.15 Underwriters doing business in Iowa.

An underwriter employed to assist in the issuance of obligations by an authority, as defined in section 12.30, state board of regents, or other political subdivision, instrumentality, or agency of the state, shall meet the requirements for doing business in Iowa sufficient to be subject to tax under rules of the department of revenue.

86 Acts, ch 1245, §851; 2003 Acts, ch 145, §286

76.16 Debtor status prohibited.

A city, county, or other political subdivision of this state shall not be a debtor under chapter nine of the federal bankruptcy code, 11 U.S.C. § 901 et seq., except as otherwise specifically provided in this chapter.

87 Acts, ch 104, §2; 92 Acts, ch 1002, §1, 3; 2005 Acts, ch 3, §20

76.16A Debtor status permitted — circumstances.

A city, county, or other political subdivision may become a debtor under chapter nine of the federal bankruptcy code, 11 U.S.C. § 901 et seq., if it is rendered insolvent, as defined in 11 U.S.C. § 101(32)(c), as a result of a debt involuntarily incurred. As used herein, “*debt*” means an obligation to pay money, other than pursuant to a valid and binding collective bargaining agreement or previously authorized bond issue, as to which the governing body of the city, county, or other political subdivision has made a specific finding set forth in a duly adopted resolution of each of the following:

1. That all or a portion of such obligation will not be paid from available insurance proceeds and must be paid from an increase in general tax levy.
2. That such increase in the general tax levy will result in a severe, adverse impact on the ability of the city, county, or political subdivision to exercise the powers granted to it under applicable law, including without limitation providing necessary services and promoting economic development.
3. That as a result of such obligation, the city, county, or other political subdivision is unable to pay its debts as they become due.
4. That the debt is not an obligation to pay money to a city, county, entity organized pursuant to chapter 28E, or other political subdivision.

92 Acts, ch 1185, §1; 2005 Acts, ch 3, §21

76.17 Powers of public issuers.

1. A public body authorized to issue bonds may elect to issue bonds bearing a variable or fluctuating rate of interest which is determined on one or more intervals by reference to an index or standard, or as fixed by an interest rate indexing or remarketing agent retained by the issuer of the bonds. A public issuer of public bonds may provide for additional security or liquidity, enter into agreements for, and expend funds for policies of insurance, letters of credit, lines of credit, or other forms of security issued by financial institutions for the payment of principal, premium, if any, and interest on the bonds. A public issuer of public bonds may also enter into contracts and pay for the services of underwriters, interest rate indexing agents, remarketing agents, trustees, financial consultants, depositories, and other services as determined by the governing body. In the case of general obligation bonds, fees for the services and costs of additional security and liquidity shall be considered incurred in lieu of interest and may be levied through the fund for payment of debt service on the bonds. Bonds issued under this section may be sold at public or private sale as determined by the governing body.

2. This section provides alternative and additional power for the issuance of bonds and is not an amendment to any other statute or a limitation upon powers under any other law.

3. A public issuer of public bonds may provide for the purchase of bonds before their maturity and the remarketing of purchased bonds without causing the redemption of the purchased bonds.

87 Acts, ch 104, §3

Referred to in §263A.4

76.18 Covenants authorized — tax exemption.

A public issuer of bonds or other debt obligations may covenant that the issuer will comply with requirements or limitations imposed by the Internal Revenue Code to preserve the tax exemption of interest payable on the bonds or obligations and may carry out and perform other covenants, including but not limited to, the payment of any amounts required to be paid by the issuer to the United States government.

87 Acts, ch 104, §4