

SECOND REGULAR SESSION

# HOUSE BILL NO. 1210

97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GUERNSEY.

4917H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 108.170, RSMo, and to enact in lieu thereof one new section relating to bond issuances.

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

Section A. Section 108.170, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 108.170, to read as follows:

108.170. 1. Notwithstanding any other provisions of any law or charter to the contrary, any issue of bonds, notes, or other evidences of indebtedness, including bonds, notes, or other evidences of indebtedness payable solely from revenues derived from any revenue-producing facility, hereafter issued under any law of this state by any county, city, town, village, school district, educational institution, drainage district, levee district, nursing home district, hospital district, library district, road district, fire protection district, water supply district, sewer district, housing authority, land clearance for redevelopment authority, special authority created under section 64.920, authority created pursuant to the provisions of chapter 238, or other municipality, political subdivision or district of this state shall be negotiable, may be issued in bearer form or registered form with or without coupons to evidence interest payable thereon, may be issued in any denomination, and may bear interest at a rate not exceeding ten percent per annum, and may be sold, at any sale, at the best price obtainable, not less than ninety-five percent of the par value thereof, anything in any proceedings heretofore had authorizing such bonds, notes, or other evidence of indebtedness, or in any law of this state or charter provision to the contrary notwithstanding. Such issue of bonds, notes, or other evidence of indebtedness may bear interest at a rate not exceeding fourteen percent per annum if sold at public sale after giving reasonable notice of such sale, at the best price obtainable, not less than ninety-five percent of the par value

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 thereof; provided, that such bonds, notes, or other evidence of indebtedness may be sold to any  
19 agency or corporate or other instrumentality of the state of Missouri or of the federal government  
20 at private sale at a rate not exceeding fourteen percent per annum.

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

36 3. Notwithstanding other provisions of this section or other law, the sale of bonds, notes  
37 or other evidence of indebtedness issued by any housing authority created under section 99.040  
38 may be sold at any sale, at the best price obtainable, not less than ninety-five percent of the par  
39 value thereof, and may bear interest at a rate not exceeding fourteen percent per annum. The sale  
40 shall be a public sale unless the issuing jurisdiction adopts a resolution setting forth clear  
41 justification why the sale should be a private sale except that private activity bonds may be sold  
42 either at public or private sale.

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

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

54           6. For purposes of the interest rate limitations set forth in this section, the interest rate  
55 on bonds, notes or other evidence of indebtedness described in this section means the rate at  
56 which the present value of the debt service payments on an issue of bonds, notes or other  
57 evidence of indebtedness, discounted to the date of issuance, equals the original price at which  
58 such bonds, notes or other evidence of indebtedness are sold by the issuer. Interest on bonds,  
59 notes or other evidence of indebtedness may be paid periodically at such times as shall be  
60 determined by the governing body of the issuer and may be compounded in accordance with  
61 section 408.080.

62           7. Notwithstanding any provision of law or charter to the contrary:

63           (1) Any entity referenced in subsection 1 or 2 of this section and any other political  
64 corporation of the state which entity or political corporation has an annual operating budget for  
65 the current year exceeding twenty-five million dollars may, in connection with managing the cost  
66 to such entity or political corporation of purchasing fuel, electricity, natural gas, and other  
67 commodities used in the ordinary course of its lawful operations, enter into agreements providing  
68 for fixing the cost of such commodity, including without limitation agreements commonly  
69 referred to as hedges, futures, and options; provided that as of the date of such agreement, such  
70 entity or political corporation shall have complied with subdivision (3) of this subsection; and  
71 further provided that no eligible school, as defined in section 393.310, shall be authorized by this  
72 subsection to enter into such agreements in connection with the purchase of natural gas while the  
73 tariffs required under section 393.310 are in effect;

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

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

83           (b) As of the date of such agreement, such entity's or political corporation's bonds, notes,  
84 or other obligations then outstanding or to be issued have received a stand-alone credit rating in  
85 one of the two highest categories, without regard to any gradation within such categories, from  
86 at least one nationally recognized credit rating agency, or such entity or political corporation has  
87 an issuer or general credit rating, in one of the two highest categories, without regard to any  
88 gradation within such categories, from at least one nationally recognized credit rating agency;  
89 and

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

92 (3) Prior to entering into any agreements pursuant to subdivision (1) or (2) of this  
93 subsection, the governing body of the entity or political corporations entering into such  
94 agreements shall have adopted a written policy governing such agreements. Such policy shall  
95 be prepared by integrating the recommended practices published by the Government Finance  
96 Officers Association or comparable nationally recognized professional organization and shall  
97 provide guidance with respect to the permitted purposes, authorization process, mitigation of risk  
98 factors, ongoing oversight responsibilities, market disclosure, financial strategy, and any other  
99 factors in connection with such agreements determined to be relevant by the governing body of  
100 such entity or political corporation. Such entity or political corporation may enter into such  
101 agreements at such times and such agreements may contain such payment, security, default,  
102 remedy, and other terms and conditions as shall be consistent with the written policy adopted  
103 under this subdivision and as may be approved by the governing body of such entity or other  
104 obligated party, including any rating by any nationally recognized rating agency and any other  
105 criteria as may be appropriate;

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

111 **8. Notwithstanding other provisions of this section or law, any entity referenced in**  
112 **subsections 1, 2, or 3 of this section shall, in the course of general obligation debt issuance,**  
113 **utilize the services of an independent financial advisor.**

114 **9. Notwithstanding other provisions of this section or law, any general obligation**  
115 **bond issue by any entity referenced in subsections 1, 2, or 3 of this section shall be sold**  
116 **through a competitive bid process to the underwriter offering the lowest true interest cost**  
117 **bid that has an issuer or general credit rating of the highest category, without regard to**  
118 **any gradation within such category, from at least one nationally recognized credit rating**  
119 **agency.**

120 **10. The office of administration shall assist any entity referenced in subsections 1,**  
121 **2, or 3 of this section with any debt issuance and provide guidance to the issuing entity as**  
122 **to whether such issuance is in the best interests of the entity. The office of administration**  
123 **may promulgate rules in order to implement the provisions of this section. Any rule or**  
124 **portion of a rule, as that term is defined in section 536.010, that is created under the**  
125 **authority delegated in this section shall become effective only if it complies with and is**

126 **subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This**  
127 **section and chapter 536 are nonseverable and if any of the powers vested with the general**  
128 **assembly under chapter 536 to review, to delay the effective date or to disapprove and**  
129 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**  
130 **authority and any rule proposed or adopted after August 28, 2014, shall be invalid and**  
131 **void.**

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