

FIRST REGULAR SESSION

# HOUSE BILL NO. 204

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CURTMAN.

0752L.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 108.140 and 108.170, RSMo, and to enact in lieu thereof three new sections relating to general obligation bonds.

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

Section A. Sections 108.140 and 108.170, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 108.140, 108.170, and 108.171, to read as  
3 follows:

108.140. 1. The various counties in this state for themselves, as well as for and on behalf  
2 of any township, or other political subdivision for which the counties may have issued any  
3 general obligation bonds, and the several cities, school districts or other political corporations  
4 or subdivisions of the state, are hereby authorized to refund, extend, and unify the whole or part  
5 of their valid general obligation bonded indebtedness, or judgment indebtedness, and for such  
6 purpose may issue, negotiate, sell and deliver refunding general obligation bonds and with the  
7 proceeds therefrom pay off, redeem and cancel the bonds to be refunded in advance of their  
8 maturity or redemption or as the same mature or are called for redemption, or pay and cancel  
9 such judgment indebtedness, or such refunding general obligation bonds may be issued and  
10 delivered in exchange for and upon surrender and cancellation of the bonds refunded thereby,  
11 or such judgment indebtedness. School districts may pay costs and expenses related to issuing  
12 such refunding general obligation bonds from proceeds from the sale of such bonds. In no case  
13 shall the refunding general obligation bonds exceed the amount of the principal of the  
14 outstanding bond or judgment indebtedness to be refunded and the interest accrued thereon to  
15 the date of such refunding bonds. No refunding bond issued as provided in this subsection shall  
16 be payable in more than twenty years from the date thereof and such refunding bonds shall bear

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.

17 interest not to exceed the same rate as the bonds refunded, or judgment indebtedness; provided,  
18 that nothing in this section shall be so construed as to prohibit any county, city, school district,  
19 or other political corporation or subdivision of the state from refunding its general obligation  
20 bonded indebtedness without the submission of the question to a popular vote. **Refunding**  
21 **general obligation bonds to be sold by any political corporation or subdivision of the state**  
22 **maintaining a credit rating of "A" or higher shall be sold at public sale, after giving**  
23 **reasonable notice of such sale at the best price obtainable, not less than ninety-five percent**  
24 **of the par value thereof and may bear interest at a rate not exceeding fourteen percent per**  
25 **annum. Any financial advisor involved with any sale of bonds shall not underwrite the**  
26 **issue.**

27         2. The various counties in this state for themselves, as well as for and on behalf of any  
28 township, or other political subdivision for which the counties may have issued any revenue  
29 bonds, notes or other obligations, and the several cities, school districts or other political  
30 corporations or subdivisions of the state, are hereby authorized to refund, extend, and unify the  
31 whole or part of their valid outstanding revenue bonds, notes or other obligations, and for such  
32 purpose may issue, negotiate, sell and deliver refunding revenue bonds, notes or other obligations  
33 and with the proceeds therefrom pay off, redeem and cancel the obligations to be refunded in  
34 advance of their maturity or redemption or as the same mature or are called for redemption, or  
35 such refunding revenue bonds, notes or other obligations may be issued and delivered in  
36 exchange for and upon surrender and cancellation of the obligations refunded thereby. In no case  
37 shall the refunding revenue bonds, notes or other obligations exceed the amount determined by  
38 the governing body of the issuing political corporation or subdivision to be necessary to pay or  
39 provide for the payment of the principal of the outstanding obligations to be refunded, together  
40 with the interest accrued thereon to the date of such refunding obligations and the interest to  
41 accrue thereon to the date of maturity or redemption of such obligations to be refunded and any  
42 premium which may be due under the terms of such obligations to be refunded and any amounts  
43 necessary for the payment of costs and expenses related to issuing such refunding obligations and  
44 to fund a debt service reserve fund for the obligations. All such refunding revenue bonds, notes  
45 or other obligations shall bear interest at such rates as the governing body of the issuing political  
46 subdivision shall provide, which rates of interest may exceed the rates of interest on the  
47 obligations being refunded but shall not exceed the maximum legal rate established by section  
48 108.170. The refunding revenue bonds, notes or other obligations may be payable from the same  
49 sources as were pledged to the payment of the obligations refunded and, in the discretion of the  
50 governing body of the issuing political subdivision, may be payable from any other source which  
51 may be pledged to the payment of revenue bonds, notes or other obligations under any provision  
52 of law relating to the issuance of the obligations refunded. Nothing in this section shall be so

53 construed as to prohibit any county, city, school district, or other political corporation or  
54 subdivision of the state from refunding its revenue bonded indebtedness without the submission  
55 of the question to a popular vote. **The sale of a refunding general obligation bond that was**  
56 **all or part of a voter approved issue authorizing bonds by any political corporation or**  
57 **subdivision of the state maintaining a credit rating of "A" or higher, except for any**  
58 **municipality that retains or employs an independent municipal advisor, shall be sold**  
59 **through a competitive bid process after giving reasonable notice of such sale, to the**  
60 **underwriter offering the lowest true interest cost, not less than ninety-five percent of the**  
61 **par value thereof and may bear interest at a rate not exceeding fourteen percent per**  
62 **annum. Any municipal advisor who provides services to an issuing political corporation**  
63 **or subdivision shall be independent of the underwriter. For the purposes of this section,**  
64 **"municipal advisor" shall mean an individual or entity that provides advice to, or on**  
65 **behalf of, a political corporation or subdivision with respect to the issuance of general**  
66 **obligation bonds, including advice with respect to the structure, timing, terms, and other**  
67 **similar matters concerning such issue.**

108.170. 1. Notwithstanding any other provisions of any law or charter to the contrary,  
2 any issue of bonds, notes, or other evidences of indebtedness, including bonds, notes, or other  
3 evidences of indebtedness payable solely from revenues derived from any revenue-producing  
4 facility, hereafter issued under any law of this state by any county, city, town, village, school  
5 district, educational institution, drainage district, levee district, nursing home district, hospital  
6 district, library district, road district, fire protection district, water supply district, sewer district,  
7 housing authority, land clearance for redevelopment authority, special authority created under  
8 section 64.920, authority created pursuant to the provisions of chapter 238, or other municipality,  
9 political subdivision or district of this state shall be negotiable, may be issued in bearer form or  
10 registered form with or without coupons to evidence interest payable thereon, may be issued in  
11 any denomination, and may bear interest at a rate not exceeding ten percent per annum, and may  
12 be sold, at any sale, at the best price obtainable, not less than ninety-five percent of the par value  
13 thereof, anything in any proceedings heretofore had authorizing such bonds, notes, or other  
14 evidence of indebtedness, or in any law of this state or charter provision to the contrary  
15 notwithstanding. Such issue of bonds, notes, or other evidence of indebtedness may bear interest  
16 at a rate not exceeding fourteen percent per annum if sold at public sale after giving reasonable  
17 notice of such sale, at the best price obtainable, not less than ninety-five percent of the par value  
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 any other law, the sale of a**  
37 **general obligation bond that is all or part of a voter approved issue authorizing bonds by**  
38 **the various counties in this state for themselves, as well as for any on behalf of any**  
39 **township, or other political subdivision for which the counties may have issued any general**  
40 **obligation bonds, and the several cities, school districts or other political corporations or**  
41 **subdivisions of the state maintaining a credit rating of "A" or higher, except for any**  
42 **municipality that retains or employs an independent municipal advisor, shall be sold**  
43 **through a competitive bid process after giving reasonable notice of such sale to the**  
44 **underwriter offering the lowest true interest cost, not less than ninety-five percent of the**  
45 **par value thereof and may bear interest at a rate not exceeding fourteen percent per**  
46 **annum. Any municipal advisor that provides services to an issuing political corporation**  
47 **or subdivision shall be independent of the underwriter. For the purposes of this section,**  
48 **municipal advisor shall mean an individual or entity that provides advice to, or on behalf**  
49 **of, a political corporation or subdivision with respect to the issuance of general obligation**  
50 **bonds, including advice with respect to the structure, timing, terms, and other similar**  
51 **matters concerning such issue.**

52           4. Notwithstanding other provisions of this section or other law, the sale of bonds, notes  
53 or other evidence of indebtedness issued by any housing authority created under section 99.040  
54 may be sold at any sale, at the best price obtainable, not less than ninety-five percent of the par  
55 value thereof, and may bear interest at a rate not exceeding fourteen percent per annum. The sale  
56 shall be a public sale unless the issuing jurisdiction adopts a resolution setting forth clear

57 justification why the sale should be a private sale except that private activity bonds may be sold  
58 either at public or private sale.

59 [4.] 5. Notwithstanding other provisions of this section or law, industrial development  
60 revenue bonds may be sold at private sale and bear interest at a rate not exceeding fourteen  
61 percent per annum at the best price obtainable, not less than ninety-five percent of the par value  
62 thereof.

63 [5.] 6. Notwithstanding other provisions in subsection 1 of this section to the contrary,  
64 revenue bonds issued for airport purposes by any constitutional charter city in this state which  
65 now has or may hereafter acquire a population of more than three hundred thousand but less than  
66 six hundred thousand inhabitants, according to the last federal decennial census, may bear  
67 interest at a rate not exceeding fourteen percent per annum if sold at public sale after giving  
68 reasonable notice, at the best price obtainable, not less than ninety-five percent of the par value  
69 thereof.

70 [6.] 7. For purposes of the interest rate limitations set forth in this section, the interest  
71 rate on bonds, notes or other evidence of indebtedness described in this section means the rate  
72 at which the present value of the debt service payments on an issue of bonds, notes or other  
73 evidence of indebtedness, discounted to the date of issuance, equals the original price at which  
74 such bonds, notes or other evidence of indebtedness are sold by the issuer. Interest on bonds,  
75 notes or other evidence of indebtedness may be paid periodically at such times as shall be  
76 determined by the governing body of the issuer and may be compounded in accordance with  
77 section 408.080.

78 [7.] 8. Notwithstanding any provision of law or charter to the contrary:

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

90 (2) Any entity referenced in subsection 1 or 2 of this section and any other political  
91 corporation of the state may, in connection with its bonds, notes, or other obligations then  
92 outstanding or to be issued and bearing interest at a fixed or variable rate, enter into agreements

93 providing for payments based on levels of or changes in interest rates, including without  
94 limitation certain derivative agreements commonly referred to as interest rate swaps, hedges,  
95 caps, floors, and collars, provided that:

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

99 (b) As of the date of such agreement, such entity's or political corporation's bonds, notes,  
100 or other obligations then outstanding or to be issued have received a stand-alone credit rating in  
101 one of the two highest categories, without regard to any gradation within such categories, from  
102 at least one nationally recognized credit rating agency, or such entity or political corporation has  
103 an issuer or general credit rating, in one of the two highest categories, without regard to any  
104 gradation within such categories, from at least one nationally recognized credit rating agency;  
105 and

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

108 (3) Prior to entering into any agreements pursuant to subdivision (1) or (2) of this  
109 subsection, the governing body of the entity or political corporations entering into such  
110 agreements shall have adopted a written policy governing such agreements. Such policy shall  
111 be prepared by integrating the recommended practices published by the Government Finance  
112 Officers Association or comparable nationally recognized professional organization and shall  
113 provide guidance with respect to the permitted purposes, authorization process, mitigation of risk  
114 factors, ongoing oversight responsibilities, market disclosure, financial strategy, and any other  
115 factors in connection with such agreements determined to be relevant by the governing body of  
116 such entity or political corporation. Such entity or political corporation may enter into such  
117 agreements at such times and such agreements may contain such payment, security, default,  
118 remedy, and other terms and conditions as shall be consistent with the written policy adopted  
119 under this subdivision and as may be approved by the governing body of such entity or other  
120 obligated party, including any rating by any nationally recognized rating agency and any other  
121 criteria as may be appropriate;

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

**108.171. 1. The state treasurer may provide technical and advisory assistance  
2 regarding the issuance of bonds, notes, or other evidences of indebtedness in order to**

3 obtain the lowest possible net interest costs to those political corporations or subdivisions  
4 whose governing bodies request such assistance. The assistance may include, but need not  
5 be limited to:

6 (1) Advice on the structuring and marketing of bonds, notes, or other evidences of  
7 indebtedness;

8 (2) Training in debt management; and

9 (3) Promotion of the use of such tools for sound financial management as adequate  
10 systems of budgeting, accounting, auditing, and reporting.

11 2. The treasurer may promulgate rules and regulations necessary to achieve the  
12 objectives of this section. Any rule or portion of a rule, as that term is defined in section  
13 536.010, that is created under the authority delegated in this section shall become effective  
14 only if it complies with and is subject to all of the provisions of chapter 536 and, if  
15 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of  
16 the powers vested with the general assembly under chapter 536 to review, to delay the  
17 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,  
18 then the grant of rulemaking authority and any rule proposed or adopted after August 28,  
19 2015, shall be invalid and void.

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