

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 1060

(Senator Jones, *et al.*) (Chair, Joint Committee on the  
Management of Public Funds)

Budget and Taxation

Appropriations

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**General Obligation Bonds - Method of Sale by Board of Public Works**

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This bill allows the Board of Public Works (BPW) to sell general obligation (GO) bonds at a private, negotiated sale if the board determines that (1) extraordinary credit market conditions exist; and (2) the terms and conditions of a negotiated sale are more advantageous to the State than the terms that can be obtained through a public, competitive sale. However, it declares State policy to be that the preferred method of sale of GO bonds is by public, competitive sale. The bill authorizes BPW to issue bonds in a form that qualifies for tax credits, interest subsidies, or other federal tax benefits and also ratifies the validity of any tax credit bonds sold prior to the bill's effective date. Finally, any determination or finding made by BPW regarding the issuance of bonds is conclusive.

The bill takes effect June 1, 2009.

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**Fiscal Summary**

**State Effect:** Potential reductions in Annuity Bond Fund (ABF) expenditures for GO bond debt service payments to the extent that private, negotiated bond sales and/or tax credit bonds generate lower yields in certain circumstances.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

**Current Law:** BPW may authorize that State bonds:

- be in one or more series;
- bear a certain date of issue;
- be executed in a certain manner;
- be sold at a public or private, negotiated sale;
- be in certain denominations;
- mature in certain amounts at certain times;
- bear interest rates at certain rates; and
- be paid at certain places.

Bonds may be in coupon form, capital appreciation form, variable interest rate form, or any form that qualifies as a registered form under the federal Internal Revenue Code.

BPW is authorized to sell bonds at a private sale only under the following conditions:

- variable rate bonds under any condition;
- capital appreciation bonds, if it determines that a private sale will provide greater access to Maryland residents;
- small denomination bonds (less than \$5,000), if the board determines that it results in either a more efficient or economical sale or if it provides greater access to Maryland residents; or
- if the board received no bids or rejected all bids at a public sale.

Bonds sold at a private sale must be on the best terms possible for price, interest rates, and payment dates.

**Background:** GO bonds support the State's general construction program, such as prisons, office buildings, higher education facilities, school construction, and mental health facilities. GO bond debt service payments are supported by ABF. ABF revenues include State property tax revenues, premiums from bond sales, State appropriations, and repayments from certain agencies, subdivisions, and private organizations.

The federal American Recovery and Reinvestment Act of 2009 (the federal stimulus bill) authorizes extensive use of State tax credit bonds as an alternative to tax-exempt bonds. Under the stimulus bill, the federal government will make direct payments to the State equal to the federal tax credit that the bonds would have earned had they been tax-exempt.

In the midst of the financial crisis that began in fall 2008, many institutions were not purchasing bonds because of severe financial and liquidity distress. Had the State sought to sell bonds at public auction during that time, it likely would not have been able to generate the proceeds necessary to fully fund the State's capital program. Fortunately, the State had completed its final GO bond sale for calendar 2008 in July. Under this bill, however, the State has the flexibility to offer the bonds in a private, negotiated sale under similar extraordinary circumstances.

On March 2, 2009, the State initiated its first bond sale of calendar 2009. At the time, interest rates were on the rise and public sales were decreasing. The Treasurer opted to close the sale with \$123 million worth of bonds remaining unsold. Those bonds were sold at a follow-up public sale on March 4.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1568 (Delegate Heller, *et al.*) (Chair, Joint Committee on the Management of Public Funds) - Rules and Executive Nominations.

**Information Source(s):** Department of General Services, State Treasurer's Office, Department of Legislative Services

**Fiscal Note History:** First Reader - March 24, 2009  
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