



ADMINISTRATIVE RULES OF MONTANA



36.23.111 REVENUE BONDS

- (1) The department may accept revenue bonds issued by a municipality in accordance with the provisions of Title 7, chapter 7, part 44, or Title 7, chapter 13, part 2, MCA, or other applicable statutory provisions, subject to the following terms and conditions:
 - (a) the bonds must be payable from the revenues of the system on a parity with any outstanding revenue bonds payable from the system. The bond must be secured by a pledge of the net revenues of the system. If bonds are currently outstanding payable from the gross revenues of the system, a gross revenue pledge will be acceptable provided the requirements of (1) (b) through (d) are met;
 - (b) the payment of principal and interest on the revenue bonds must be secured by a reserve account equal to reserve requirement, such requirement to be met upon the issuance of the bonds;
 - (c) the municipality shall covenant to collect and maintain rates, charges, and rentals such that the revenue for each fiscal year the bonds are outstanding will be at least sufficient to pay the current expenses of operation and maintenance of the system, to maintain the operating reserve, and to produce net revenues during each fiscal year not less than 125% of the maximum amount of principal and interest due on all outstanding bonds payable from the revenues of the system in any future fiscal year, or, if the municipality calculates debt service on such outstanding bonds on a calendar year basis, then in any future calendar year;
 - (d) the municipality shall agree not to incur any additional debt payable from the revenues of the system, unless the net revenues of the system for the last complete fiscal year preceding the issuance of such additional bonds have equaled at least 125% of the maximum amount of principal and interest payable from the revenue bond account in any subsequent fiscal year during the term of the then outstanding bonds and the additional bonds proposed to be issued, or, if the municipality calculates debt service on such outstanding bonds on a calendar year basis, then in any future calendar year.
 - (i) For the purpose of the foregoing computation, the net revenues must be those shown by the financial reports caused to be prepared by the municipality, except that if the rates and charges for service provided by the system have been changed since the beginning of the preceding fiscal year, then the rates and charges in effect at the time of issuance of the additional bonds must be applied to the quantities of service actually rendered and made available during such preceding fiscal year to ascertain the gross revenues, from which there shall be deducted, to determine the net revenues, the actual operation and maintenance cost plus any additional annual costs of operation and maintenance which the engineer for the municipality estimates will be

incurred because of the improvement or extension of the system to be constructed from the proceeds of the additional bonds proposed to be issued.

- (ii) In no event may any such additional bonds be issued and made payable from the revenue bond account if there then exists any deficiency in the balances required to be maintained in any of the accounts of the fund or if the municipality is in default in any of the other provisions;
 - (e) applications indicating the loan will be evidenced by the issuance of a revenue bond must be accompanied by:
 - (i) if requested by the department, audited financial statements of the system for the last two completed fiscal years;
 - (ii) if requested by the department, a certificate as to the municipality's current population and number of system users, a schedule of the 10 largest users of the system showing the percentage of total revenues provided by such users and the amount of outstanding system debt;
 - (iii) a description of the existing and proposed facilities constituting the system, including a discussion of the additional capital needs for the system over the next three-year period;
 - (iv) a copy of the ordinance or resolution establishing and describing the system of rates and charges for the use or availability of the system;
 - (v) a pro forma showing revenues of the system in an amount sufficient to meet the requirements of these rules and any outstanding obligations payable from the system;
 - (vi) if the pro forma indicates an increase in rates and charges to meet the requirements of these rules, a copy of the proposed rates and charge resolution and a proposed schedule for the adoption of the charges and if subject to review or approval by another entity, the schedule for the rate approval; and
 - (vii) any other information deemed necessary by the department to assess the feasibility of the project and the financial security of the bonds;
 - (f) notwithstanding the fact that the municipal revenue bond act does not require that the issuance of revenue bonds be approved by the voters, the department may require the municipality to conduct an election to evidence community support and acceptance of the project or require the bonds be authorized by the electors and issued as general obligation bonds in accordance with 7-7-4202, MCA. A municipality shall conduct an election to evidence community support and acceptance of the project when in the opinion of the department there are projected large rate increases due to the improved facility or the facility is a projected high-cost facility.
- (2) Tax-backed revenue bonds issued by county water and sewer districts created pursuant to Title 7, chapter 13, parts 22 and 23, MCA, will be accepted as evidence of the loan, subject to the following terms and conditions:
- (a) the issuance of the bonds must be authorized by the electors of the district as provided in 7-13-2321 through 7-13-2328 , MCA;
 - (b) the election authorizing the incurrence of the debt shall be conducted by the date of the binding commitment, unless such requirement is waived by the department;

- (c) the district shall covenant that it will cause taxes to be levied to meet the district's obligation on any bond issued to the department in the event that the revenues of the system are inadequate therefor in accordance with the provisions of 7-13-2302 through 7-13-2310, MCA;
- (d) the bonds must be payable from the revenues of the system on a parity with any outstanding revenue bonds payable from the system;
- (e) the district shall covenant to collect and maintain rates, charges, and rentals such that the revenue for each fiscal year the bonds are outstanding will be at least sufficient to pay the current expenses of operation and maintenance of the system, to maintain the operating reserve and to produce net revenues during each fiscal year not less than 120% of the maximum amount of principal and interest due on all outstanding bonds payable from the revenues of the system in any future fiscal year, or, if the district calculates debt service on such outstanding bonds on a calendar year basis, then in any future calendar year;
- (f) the payment of principal and interest on the bonds must be secured by a reserve account equal to the reserve requirement, such requirement to be proportionately funded from each periodic draw so that the requirement is fully satisfied upon the final draw;
- (g) the district shall agree not to incur any additional debt payable from the revenues of the system without the written consent of the department, unless the net revenues of the system for the last complete fiscal year preceding the issuance of such additional bonds have equaled at least 120% of the maximum amount of principal and interest payable from the revenue bond account in any subsequent fiscal year during the term of the then outstanding bonds and the additional bonds proposed to be issued, or, if the district calculates debt service on such outstanding bonds on a calendar year basis, then in any future calendar year.
 - (i) For the purpose of the foregoing computation, the net revenues must be those shown by the financial reports caused to be prepared by the district, except that if the rates and charges for services provided by the system have been changed since the beginning of the preceding fiscal year, then the rates and charges in effect at the time of issuance of the additional bonds must be applied to the quantities of service actually rendered and made available during such preceding fiscal year to ascertain the gross revenues, from which there shall be deducted, to determine the net revenues, the actual operation and maintenance cost plus any additional annual costs of operation and maintenance which the engineer for the district estimates will be incurred because of the improvement or extension of the system to be constructed from the proceeds of the additional bonds proposed to be issued.
 - (ii) In no event shall any such additional bonds be issued and made payable from the revenue bond account if there then exists any deficiency in the balances required to be maintained in any of the accounts of the fund or if the district is in default in any of the other provisions;
- (h) an application by a district must be accompanied by:
 - (i) if requested by the department, financial statements of the system for the last two completed fiscal years if there is an existing system (the department in its discretion may require that at least one year's financial statement be audited) ;
 - (ii) a map depicting the boundaries of the district;

- (iii) a certificate as to numbers of persons in the district subject to levy described in (v) and the number of wastewater system customers and the amount of outstanding wastewater debt;
- (iv) a pro forma showing revenues of the system in an amount sufficient to meet the requirements of these rules and any outstanding obligations payable from the system;
- (v) if the pro forma indicates an increase in rates and charges to meet the requirements of these rules, a copy of the proposed rates and charge resolution and a proposed schedule for the adoption of the charges.

Authorizing statute(s): 75-6-205, MCA

Implementing statute(s): 75-6-222, MCA

History: NEW, 1998 MAR p. 1412, Eff. 5/29/98; AMD, 2004 MAR p. 2288, Eff. 9/24/04.