

CHAPTER NO. 256.

SENATE BILL NO. 350

INTRODUCED BY McCALLUM

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

February 3, 1979	Introduced and referred to Committee on Local Government.
February 12, 1979	Committee recommend bill do pass. Report adopted.
February 13, 1979	Printed and placed on members' desks.
February 14, 1979	Motion pass consideration.
February 15, 1979	Second reading, do pass.
February 16, 1979	Considered correctly engrossed.
February 17, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 19, 1979	Introduced and referred to Committee on Local Government.
March 6, 1979	Committee recommend bill be concurred in. Report adopted.
March 8, 1979	Second reading, concurred in.
March 10, 1979	Third reading, concurred in.

IN THE SENATE

March 12, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Senate* BILL NO. 350
 2 INTRODUCED BY *Mr. Ballman*
 3 BY REQUEST OF THE CODE COMMISSIONER

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE LOCAL
 6 GOVERNMENT LAWS RELATING TO THE ADMINISTRATION AND
 7 INVESTMENT OF MONEY IN SINKING FUNDS FOR LOCAL GOVERNMENT
 8 GENERAL OBLIGATION BONDS; AMENDING SECTIONS 7-7-123,
 9 7-7-124, 7-7-2261, 7-7-2270, 7-7-4261, AND 7-7-4270, MCA,
 10 AND REPEALING SECTIONS 7-7-2271 AND 7-7-4271, MCA."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 7-7-123, MCA, is amended to read:
 14 "7-7-123. Investment of sinking funds of local
 15 governments. (1) (a) ~~The Except as provided in 7-7-124 and~~
 16 ~~whenever outstanding bonds cannot be purchased pursuant to~~
 17 ~~7-7-2270 or 7-7-4270, the board of county commissioners of a~~
 18 county and the council or commission of a city or town shall
 19 invest so much of the bond sinking funds of the county,
 20 city, or town as is not needed for the payment of bonds or
 21 interest coupons in general obligation bonds or securities
 22 of the United States government--bonds--or--securities; state
 23 bonds or securities; time or savings deposits; county, city,
 24 or school district bonds; county or city warrants; or other
 25 bonds or securities which are supported by general taxation;

1 except irrigation district bonds and special improvement
 2 district or maintenance district bonds or warrants. All
 3 those investments must first be approved by the department
 4 of community affairs.

5 (b) All those bonds, securities, or time or savings
 6 deposits must be due and payable at least 60 days before the
 7 obligations for the payment of which the sinking fund was
 8 established are due and payable.

9 (2) The bonds, securities, and any time or savings
 10 deposits in which any sinking funds are invested shall be
 11 kept in the custody of the county or city treasurer or town
 12 clerk and held by him for the benefit of the county, city,
 13 or town. The treasurer shall properly protect the bonds,
 14 securities, and any time or savings deposits by insurance,
 15 the use of safety deposit boxes, or other means, the expense
 16 of which is a proper charge against the county, city, or
 17 town.

18 (3) All money derived from interest on sinking fund
 19 investments as authorized by this section shall be credited
 20 by the treasurer of the county or city or the town clerk to
 21 the sinking fund for which the investment was made."

22 Section 2. Section 7-7-124, MCA, is amended to read:
 23 "7-7-124. Limitation on investment of sinking funds.
 24 If any of the bonds for which the sinking fund was
 25 established are not yet due but are then redeemable under

-2- SB 350
 INTRODUCED BILL

1 optional provisions, the money in the sinking funds-ore fund
 2 is not subject to investment but shall be used and applied
 3 in payment and redemption of the bonds."

4 Section 3. Section 7-7-2261, MCA, is amended to read:

5 "7-7-2261. Maintenance of accounts for bond issues.

6 (1) The county treasurer of each county shall keep in his
 7 books a special and separate sinking ~~and-interest~~ fund
 8 account for each series or issue of outstanding bonds issued
 9 by his county. Each such fund must at all times show the
 10 exact condition thereof.

11 (2) ~~(a)~~All taxes collected for interest and principal
 12 on county bonds shall be placed to the credit of the sinking
 13 ~~and--interest~~ fund for which the ~~same taxes~~ were levied.
 14 ~~Except-as-provided-in-subsection-(2)(b)-such-fund-shall-not~~
 15 ~~be-used-for-any-purpose-other-than-the-payment-of--principal~~
 16 ~~and--interest--on--such--bonds--so-long-as-any-of-such-bonds~~
 17 ~~remain-outstanding~~

18 ~~(b)(3)~~ Interest from investment of money of the in a
 19 sinking ~~and--interest~~ fund accounts account of the bonds of
 20 any series or issue may, in the discretion of the board of
 21 county commissioners, be used as it accrues to fulfill or
 22 complete the specific project for which the bonds were
 23 issued.

24 (4) The sinking fund shall be administered as provided
 25 in 7-7-123, 7-7-124, and 7-7-2270."

1 Section 4. Section 7-7-2270, MCA, is amended to read:

2 "7-7-2270. Authority to purchase outstanding bonds.

3 whenever there is available money in any sinking and
 4 interest fund over and above the amount required for payment
 5 of ~~the~~ principal and interest becoming due on the next
 6 interest payment date and sufficient to pay and redeem one
 7 or more outstanding bonds of the issue or series to which
 8 ~~such the~~ sinking ~~and-interest~~ fund belongs and whenever such
 9 bonds are not held by the state of Montana and are not yet
 10 ~~redeemable--or--due~~ subject to redemption, the county
 11 treasurer, at the direction of the board of county
 12 commissioners, shall purchase such ~~bond--or~~ bonds ~~of--such~~
 13 ~~issue--or--series~~, if this can be done at not more than par
 14 and accrued interest or at such reasonable premium as the
 15 board may feel justified in paying, not in any case
 16 exceeding 5%."

17 Section 5. Section 7-7-4261, MCA, is amended to read:

18 "7-7-4261. Maintenance of accounts for bond issues.

19 (1) The city treasurer or town clerk shall keep in his books
 20 a special and separate sinking ~~and-interest~~ fund account for
 21 each issue or series of outstanding bonds issued by his city
 22 or town. Each such fund must at all times show the exact
 23 condition thereof.

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 25 city or town bonds shall be placed to the credit of the

1 sinking ~~and--interest~~ fund for which the same taxes were
2 levied. ~~Such fund shall not be used for any purpose other~~
3 ~~than payment of the principal and interest on such bonds so~~
4 ~~long as any of such bonds remain outstanding.~~

5 (3) The sinking fund shall be administered as provided
6 in 7-7-123, 7-7-124, and 7-7-4270."

7 Section 6. Section 7-7-4270, MCA, is amended to read:

8 "7-7-4270. Authority to buy outstanding bonds.

9 Whenever there is available money in any sinking ~~or--interest~~
10 fund over and above the amount required for payment of
11 principal and interest becoming due on the next interest
12 payment date and sufficient to pay and redeem one or more
13 outstanding bonds of the issue or series to which ~~such the~~
14 sinking fund belongs and whenever such bonds are not held by
15 the state and are not subject to redemption, the city
16 treasurer or town clerk, at the direction of the city or
17 town council, shall purchase such ~~bond--or~~ bonds ~~of--such~~
18 ~~issue--or--series~~ if this can be done at not more than par and
19 accrued interest or at such reasonable premium as the
20 council may feel justified in paying, not, in any case,
21 exceeding 5%."

22 Section 7. Repealer. Sections 7-7-2271 and 7-7-4271,
23 MCA, are repealed.

-End-

SB 350

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LC0548

1979 Legislature
Code Commissioner Bill - Summary

Act Bill No. *350*

AN ACT TO CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO THE ADMINISTRATION AND INVESTMENT OF MONEY IN SINKING FUNDS FOR LOCAL GOVERNMENT GENERAL OBLIGATION BONDS.

(This summary does not include discussion of routine form or grammatical changes.)

There are presently several laws which relate to the management and investment of money in the sinking fund associated with a local government general obligation bond issue. This bill attempts to achieve consistency among these provisions. Sections 7-7-123 and 7-7-124 provide the most recent language and offer the greatest flexibility of investment. Consequently, the investment provisions of 7-7-2261, 7-7-2271, 7-7-4261, and 7-7-4271 are amended or repealed and replaced with references to 7-7-123 and 7-7-124.

As the law is written the management options for sinking fund money appear to be as follows:

- (1) meet all obligations required by the bonds, i.e. payment of interest or principal if required;
- (2) redeem all bonds which are subject to redemption;
- (3) go to the bond market and purchase outstanding bonds, not yet redeemable, under certain circumstances;
- (4) invest available money in certain approved investments.

The suggested amendments attempt to coordinate the various sections to achieve the above list of permissible management activities.

Section 1. 7-7-123. In subsection (1)(a), an introductory phrase is added which requires that options (2) and (3) above not be available before investment under 7-7-123 can take place. At the suggestion of Mr. Bruce MacKenzie, house counsel for D.A. Davidson and Co., the term "United States government bonds and securities" was changed to "general obligation bonds and securities of the United States". This change is suggested by language later in the section which refers to "other bonds or securities which are supported by general taxation". The change should help with the marketability of the bonds. Mr. MacKenzie also suggested that the 60-day figure in subsection (1)(b) be changed to 30 days. This was not done as there appeared to be no "recodification" reason for the change.

Section 2. 7-7-124. This section is somewhat rewritten for clarity to distinguish between the sinking fund itself and money in the fund.

Section 3. 7-7-2261. References to "sinking and interest fund" are changed to "sinking fund" to achieve uniform terminology. The last sentence of subsection (2)(a) is deleted as inconsistent with the management provisions of 7-7-123, 7-7-124, and 7-7-2270. Subsection (3) is rewritten for clarity. Subsection (4) is added to tie the administration of the sinking fund to 7-7-123, 7-7-124, and 7-7-2270.

Section 4. 7-7-2270. References to "sinking and interest fund" are changed to "sinking fund" to achieve uniform terminology. The section is somewhat rewritten for clarity.

Sections 5 and 6. 7-7-4261 and 7-7-4270. The same changes made in sections 3 and 4 are made here; the principal difference being that 7-7-2261 and 7-7-2270 dealt with counties, while 7-7-4261 and 7-7-4270 deal with municipalities.

Section 7. Repealer. Sections 7-7-2271 and 7-7-4271 are recommended for repeal. They both deal with investments of money in the sinking fund and are superseded by 7-7-123 and 7-7-124.

The changes made in this bill are the result of communications with the attorney general's office and legal counsel for D.A. Davidson and Co. The exact text of the suggested amendments have not been reviewed by the attorney general or counsel to D.A. Davidson and Co. prior to preparation of this bill.

Approved by Comm.
on Local Government

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2 INTRODUCED BY *McBallum*
3 BY REQUEST OF THE CODE COMMISSIONER
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17 ~~7-7-2270 or 7-7-4270, the~~ board of county commissioners of a
18 county and the council or commission of a city or town shall
19 invest so much of the bond sinking funds of the county,
20 city, or town as is not needed for the payment of bonds or
21 interest coupons in ~~general obligation bonds or securities~~
22 ~~of the United States government-bonds-or--securities; state~~
23 bonds or securities; time or savings deposits; county, city,
24 or school district bonds; county or city warrants; or other
25 bonds or securities which are supported by general taxation,

1 except irrigation district bonds and special improvement
2 district or maintenance district bonds or warrants. All
3 those investments must first be approved by the department
4 of community affairs.

5 (b) All those bonds, securities, or time or savings
6 deposits must be due and payable at least 60 days before the
7 obligations for the payment of which the sinking fund was
8 established are due and payable.

9 (2) The bonds, securities, and any time or savings
10 deposits in which any sinking funds are invested shall be
11 kept in the custody of the county or city treasurer or town
12 clerk and held by him for the benefit of the county, city,
13 or town. The treasurer shall properly protect the bonds,
14 securities, and any time or savings deposits by insurance,
15 the use of safety deposit boxes, or other means, the expense
16 of which is a proper charge against the county, city, or
17 town.

18 (3) All money derived from interest on sinking fund
19 investments as authorized by this section shall be credited
20 by the treasurer of the county or city or the town clerk to
21 the sinking fund for which the investment was made."

22 Section 2. Section 7-7-124, MCA, is amended to read:
23 "7-7-124. Limitation on investment of sinking funds.
24 If any of the bonds for which the sinking fund was
25 established are not yet due but are then redeemable under

1 optional provisions, the money in the sinking funds-ere fund
 2 is not subject to investment but shall be used and applied
 3 in payment and redemption of the bonds."

4 Section 3. Section 7-7-2261, MCA, is amended to read:
 5 "7-7-2261. Maintenance of accounts for bond issues.

6 (1) The county treasurer of each county shall keep in his
 7 books a special and separate sinking end-interest fund
 8 account for each series or issue of outstanding bonds issued
 9 by his county. Each such fund must at all times show the
 10 exact condition thereof.

11 (2) ~~{e}~~All taxes collected for interest and principal
 12 on county bonds shall be placed to the credit of the sinking
 13 end--interest fund for which the same taxes were levied.
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 15 ~~be used for any purpose other than the payment of--principal~~
 16 ~~and--interest--on--such--bonds--so long as any of such bonds~~
 17 ~~remain outstanding.~~

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 20 any series or issue may, in the discretion of the board of
 21 county commissioners, be used as it accrues to fulfill or
 22 complete the specific project for which the bonds were
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24 (4) The sinking fund shall be administered as provided
 25 in 7-7-123, 7-7-124, and 7-7-2270."

1 Section 4. Section 7-7-2270, MCA, is amended to read:

2 "7-7-2270. Authority to purchase outstanding bonds.

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 4 interest fund over and above the amount required for payment
 5 of the principal and interest becoming due on the next
 6 interest payment date and sufficient to pay and redeem one
 7 or more outstanding bonds of the issue or series to which
 8 such the sinking end-interest fund belongs and whenever such
 9 bonds are not held by the state of Montana and are not yet
 10 redeemable--or--due subject to redemption, the county
 11 treasurer, at the direction of the board of county
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 13 issue--or--series if this can be done at not more than par
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17 Section 5. Section 7-7-4261, MCA, is amended to read:

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6 in 7-7-123, 7-7-124, and 7-7-4270."

7 Section 6. Section 7-7-4270, MCA, is amended to read:

8 "7-7-4270. Authority to buy outstanding bonds.
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11 principal and interest becoming due on the next interest
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13 outstanding bonds of the issue or series to which ~~such~~ the
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22 Section 7. Repealer. Sections 7-7-2271 and 7-7-4271,
23 MCA, are repealed.

-End-

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 2 INTRODUCED BY *Ma. Gallman*
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15 ~~be used for any purpose other than the payment of principal~~
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SB 350

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2 INTRODUCED BY McCALLUM

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3 in payment and redemption of the bonds."

4 Section 3. Section 7-7-2261, MCA, is amended to read:

5 "7-7-2261. Maintenance of accounts for bond issues.
6 (1) The county treasurer of each county shall keep in his
7 books a special and separate sinking end-interest fund
8 account for each series or issue of outstanding bonds issued
9 by his county. Each such fund must at all times show the
10 exact condition thereof.

11 (2) ~~(a) All taxes collected for interest and principal~~
12 ~~on county bonds shall be placed to the credit of the sinking~~
13 ~~end-interest fund for which the same taxes were levied.~~
14 ~~Except as provided in subsection (2)(b), such fund shall not~~
15 ~~be used for any purpose other than the payment of principal~~
16 ~~and interest on such bonds so long as any of such bonds~~
17 ~~remain outstanding.~~

18 ~~(b) (1) Interest from investment of money of the id a~~
19 ~~sinking end-interest fund accounts account of the bonds of~~
20 ~~any series or issue may, in the discretion of the board of~~
21 ~~county commissioners, be used as it accrues to fulfill or~~
22 ~~complete the specific project for which the bonds were~~
23 ~~issued.~~

24 ~~(4) The sinking fund shall be administered as provided~~
25 ~~in 7-7-123a, 7-7-124a, and 7-7-2270a."~~

1 Section 4. Section 7-7-2270, MCA, is amended to read:

2 "7-7-2270. Authority to purchase outstanding bonds.
3 Whenever there is available money in any sinking end
4 interest fund over and above the amount required for payment
5 of the principal and interest becoming due on the next
6 interest payment date and sufficient to pay and redeem one
7 or more outstanding bonds of the issue or series to which
8 such the sinking end-interest fund belongs and whenever such
9 bonds are not held by the state of Montana and are not yet
10 redeemable--or--due subject to redemption, the county
11 treasurer, at the direction of the board of county
12 commissioners, shall purchase such bond--or bonds of--such
13 issue--or--series, if this can be done at not more than par
14 and accrued interest or at such reasonable premium as the
15 board may feel justified in paying, not in any case
16 exceeding 5%."

17 Section 5. Section 7-7-4261, MCA, is amended to read:

18 "7-7-4261. Maintenance of accounts for bond issues.
19 (1) The city treasurer or town clerk shall keep in his books
20 a special and separate sinking end-interest fund account for
21 each issue or series of outstanding bonds issued by his city
22 or town. Each such fund must at all times show the exact
23 condition thereof.

24 (2) All taxes collected for interest and principal on
25 city or town bonds shall be placed to the credit of the

1 sinking and--interest fund for which the same taxes were
2 levied. Such fund shall not be used for any purpose other
3 than payment of the principal and interest on such bonds so
4 long as any of such bonds remain outstanding.

5 (3) The sinking fund shall be administered as provided
6 in 7-7-123, 7-7-124, and 7-7-4270."

7 Section 6. Section 7-7-4270, MCA, is amended to read:

8 "7-7-4270. Authority to buy outstanding bonds.
9 Whenever there is available money in any sinking or interest
10 fund over and above the amount required for payment of
11 principal and interest becoming due on the next interest
12 payment date and sufficient to pay and redeem one or more
13 outstanding bonds of the issue or series to which such the
14 sinking fund belongs and whenever such bonds are not held by
15 the state and are not subject to redemption, the city
16 treasurer or town clerk, at the direction of the city or
17 town council, shall purchase such bond--or bonds of--such
18 issue-or-series if this can be done at not more than par and
19 accrued interest or at such reasonable premium as the
20 council may feel justified in paying, not, in any case,
21 exceeding 5%."

22 Section 7. Repealer. Sections 7-7-2271 and 7-7-4271,
23 MCA, are repealed.

-End-