# Legislation Details (With Text)

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| **File #:** | 2023-0181 **Version:** 2 | | |
| **Type:** | Ordinance | **Status:** | Passed |
| **File created:** | 5/16/2023 | **In control:** | Budget and Fiscal Management Committee |
| **On agenda:** | | **Final action:** | 6/27/2023 |
| **Enactment date:** | 7/7/2023 | **Enactment #:** | 19635 |
| **Title:** | AN ORDINANCE amending Ordinance 19377, adopted by the council on December 14, 2021, which authorized the issuance of sewer revenue bonds of the county, to extend the final maturity date for sewer revenue bonds issued to evidence loans from the U.S. Environmental Protection Agency's Water Infrastructure Finance and Innovation Act (WIFIA) program and to clarify the applicability of ordinance terms to WIFIA loans; and amending Ordinance 19377, Section 28, and establishing an effective date. | | |
| **Sponsors:** | Joe McDermott | | |
| **Indexes:** | Bonds, Environmental Protection Agency, Sewer | | |
| **Code sections:** | | | |
| **Attachments:** | 1. Ordinance 19635, 2. 2023-0181 transmittal letter, 3. 2023-0181 Fiscal Note, 4. 2023-0181 Legislative Review Form, 5. 2023-0181_SR_SewerRevBonds, 6. 2023-0181_ATT2_AMD S1 Striker bar, 7. 2023-0181_Revised_SR_SewerRevBonds | | |

| Date | Ver. | Action By | Action | Result |
|---|---|---|---|---|
| 6/27/2023 | 2 | Metropolitan King County Council | Passed | Pass |
| 6/14/2023 | 1 | Budget and Fiscal Management Committee | Recommended Do Pass Substitute Consent | Pass |
| 5/16/2023 | 1 | Metropolitan King County Council | Introduced and Referred | |

Clerk 06/14/2023

AN ORDINANCE amending Ordinance 19377, adopted by the council on December 14, 2021, which authorized the issuance of sewer revenue bonds of the county, to extend the final maturity date for sewer revenue bonds issued to evidence loans from the U.S. Environmental Protection Agency's Water Infrastructure Finance and Innovation Act (WIFIA) program and to clarify the applicability of ordinance terms to WIFIA loans; and amending Ordinance 19377, Section 28, and establishing an effective date.

PREAMBLE:

In accordance with Ordinance 19377 (the "Original Ordinance"), the county is authorized to

issue and sell from time to time one or more series of both sewer revenue bonds ("Parity Bonds") and limited tax general obligation bonds, payable from sewer revenues of the county, in an aggregate principal amount not to exceed $905,000,000 to provide funds for acquiring and constructing improvements to the sewer system.

The county's Sewer Revenue Bond, 2018A, authorized by Ordinance 18588 and Motion 15115, and the county's Sewer Revenue Bond, 2021, authorized by Ordinance 19112 and Motion 15789, were delivered to the U.S. Environmental Protection Agency (the "EPA") to evidence loans made to the county under the Water Infrastructure Finance and Innovation Act ("WIFIA") program (the "Existing WIFIA Loans"), which Existing WIFIA Loans may be drawn upon up to a maximum principal amount of $134,500,000 and $96,844,510, respectively, as noted in Attachment A to the Original Ordinance.

The EPA is willing to enter into a WIFIA Master Agreement with the county to provide common terms and conditions applicable to each prospective WIFIA loan.

Under the Original Ordinance, the Finance Director is to determine whether sewer revenue bonds authorized under the Original Ordinance are to be sold by competitive bid or negotiated sale or to the federal government or another purchaser.

Under Section 28.D. of the Original Ordinance, if the Finance Director determines that any series of bonds will be sold to the federal government to evidence a loan from that purchaser, the Finance Director is directed to negotiate the sale of the bonds and the terms of any loan or other agreement with the purchaser, within the sale parameters set forth in Section 28.E of the Original Ordinance.

The sale parameters include a requirement that the final maturity date for any bonds issued for project, rather than refunding, purposes is not later than 31 years after its date of issuance.

The WIFIA program allows the county to enter into a WIFIA Master Agreement, then

subsequently enter into one or more WIFIA loan agreements, and draw on the applicable WIFIA loan agreement when funds are needed to pay or reimburse approved project costs, thereby not incurring a loan repayment obligation until draws are made, and repay draws over a term that can extend thirty-five years after the substantial completion date of the project.

In accordance with Section 35.A. of the Original Ordinance, the council from time to time and at any time may adopt an ordinance or ordinances supplemental to the Original Ordinance, without bond owner consent, to add agreements to the Original Ordinance or cure ambiguities in or make corrections to the Original Ordinance so long as supplemental ordinance will not adversely affect the interests of the registered owners of any Parity Bonds or Parity Lien Obligations, as applicable.

In accordance with Section 24 of the Original Ordinance, and corresponding provisions of the ordinances authorizing outstanding Parity Bonds, the county has reserved the right to issue Future Parity Bonds upon compliance with specified conditions. The county has not yet issued bonds pursuant to the Original Ordinance and, moreover, amendments to the sale parameters for Parity Bonds that otherwise meet all of the specified conditions for the issuance of Future Parity Bonds does not adversely affect the interests of the registered owners of any Parity Bonds.

The county now desires to amend the sale parameters for sewer revenue bonds delivered to evidence loans made through the WIFIA program by extending the maximum loan term to conform with WIFIA program requirements, provided that the maximum loan term does not exceed forty years as required under RCW 39.46.150.

The county further desires to clarify the applicability of the Original Ordinance's terms to a WIFIA Master Agreement and to WIFIA loans made thereunder.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. **Definitions**. Capitalized terms used in this ordinance have the meaning given those terms

in the Ordinance 19377. In addition, the following words and terms as used in this ordinance have the following meanings for all purposes of this ordinance, unless some other meaning is plainly intended.

"EPA" means the United States Environmental Protection Agency.

"WIFIA" means the Water Infrastructure Finance and Innovation Act, § 5021 *et seq.* of Public Law 113-121, codified as 33 U.S.C. §§ 3901-3914, as amended from time to time.

SECTION 2. **Findings**: The council finds that it is in the best interest of the county and the ratepayers of the System to amend Ordinance 19377 to extend the final maturity date for Parity Bonds issued to evidence WIFIA loans and to clarify the applicability of the ~~Original Ordinance's~~ terms in Ordinance 19377 to a WIFIA Master Agreement and to WIFIA loan agreements made thereunder.

SECTION 3. Ordinance 19377, Section 28, is hereby amended to read as follows:

**Sale of Bonds**. The county hereby authorizes the sale of the Bonds in one or more Series. The Finance Director is authorized to proceed with the sale of any Series of the Bonds pursuant to subsections B., C. or D. of this section to refund any of the Refunding Candidates, and/or finance the costs of any project that has been approved by the county council or will have been approved by the county council prior to the sale date for such Bonds. The Finance Director is further authorized to proceed under this ordinance with the sale of the Project Bonds for any such project and with the sale of the Refunding Bonds to refund any Refunding Candidate pursuant to the sale provisions set forth in this section and without regard to the requirements of any prior bond ordinance that authorized the financing of the project or the refunding of such Refunding Candidate.

The Bonds will be sold in one or more Series, any of which may be sold in a combined offering with other bonds and/or notes of the county, at the option of the Finance Director. The Finance Director will determine, in consultation with the county's financial advisors, the principal amount of each Series of the Project Bonds, which of the Refunding Candidates will be refunded, whether any Series of Project Bonds or Refunding Bonds will be sold separately or in one or more combined Series, whether each Series of Bonds will be sold by competitive bid or negotiated sale, or to the federal government or another purchaser, and for current

or future delivery, and whether such Series of Bonds will be issued and sold as Tax-Advantaged Obligations, Tax-Exempt Obligations or Taxable Obligations.

A. **Satisfaction of Additional Bonds Tests**. The Finance Director will provide or cause to be provided by a Professional Utility Consultant any certifications required to comply with the tests established in prior ordinances of the county for the issuance of additional Parity Bonds and additional Parity Lien Obligations, as applicable.

B. **Negotiated Sale**. If the Finance Director determines that any Series of the Bonds will be sold by negotiated sale, the Finance Director shall, in accordance with applicable county procurement procedures, solicit one or more underwriting firms or other financial institutions with which to negotiate the sale of such Bonds. Subject to the parameters set forth in subsection E. of this section, the bond purchase agreement for each Series of the Bonds will specify whether the Bonds of such Series are being issued and sold as Tax-Advantaged Obligations, Tax-Exempt Obligations or Taxable Obligations, and whether any Series of Bonds are designated as "green bonds" or social impact bonds, and will also identify any Term Bonds and the year and any applicable Series designation, date, principal amounts and maturity dates, interest rates and interest payment dates, redemption and/or purchase provisions and delivery date for such Series of Bonds.

C. **Sale by Competitive Bid**. If the Finance Director determines that any Series of Bonds will be sold by competitive bid, bids for the purchase of such Series of Bonds will be received at such time and place and by such means as the Finance Director will direct. The Finance Director is authorized to prepare an Official Notice of Bond Sale for each Series of Bonds to be sold pursuant to competitive bid, which notice will be filed with the clerk of the county council. The Official Notice of Bond Sale will specify whether the Bonds of such Series are being issued and sold as Tax-Advantaged Obligations, Tax-Exempt Obligations or Taxable Obligations, and whether any Series will be designated as "green bonds" or social impact bonds, and will identify the year and any applicable Series designation, date, principal amounts and maturity dates, interest payment dates, redemption and/or purchase provisions and delivery date for such Series of Bonds.

Upon the date and time established for the receipt of bids for a Series of the Bonds, the Finance Director or the Finance Director's designee will review the bids received, cause the bids to be mathematically verified, and accept the winning bid by executing the Certificate of Award, which shall designate any Term Bonds, subject to the parameters set forth in subsection E. of this section. The county, acting through the Finance Director, reserves the right to reject any and all bids for such Bonds.

D. **Other Sales**. If the Finance Director determines that any Series of Bonds will be sold to the federal government or other purchaser to evidence a loan from that purchaser, the Finance Director, in consultation with the county financial advisors, will negotiate the sale of such Bonds and the terms of any loan or other agreement with the purchaser, including any Master WIFIA Agreement to be supplemented by WIFIA loan agreements for each WIFIA loan made thereunder. The terms of any Master WIFIA Agreement or any WIFIA loan agreements may include additional disbursement or other conditions, covenants, events of default, remedies and other provisions generally consistent with such provisions of the existing WIFIA loans, the forms of which were approved by Motion 15115 and 15789, respectively, or current WIFIA program terms. The loan agreement or other agreement or closing certificates for such Series of Bonds will specify whether the Bonds of such Series are being issued and sold as Tax-Advantaged Obligations, Tax-Exempt Obligations or Taxable Obligations, and whether any Series of Bonds are designated as "green bonds" or social impact bonds, and will also identify any Term Bonds and the year and any applicable Series designation, date, principal amounts and maturity dates, interest rates and interest payment dates, redemption and/or purchase provisions and delivery date for such Series of Bonds.

E. **Sale Parameters**. Subject to the terms and conditions set forth in this subsection, the Finance Director is hereby authorized to approve the issuance and sale of any Series of the Bonds upon the Finance Director's approval of the final interest rates, maturity dates, aggregate principal amounts, principal maturities and redemption rights for the Series of the Bonds in accordance with the authority granted by this section so long as:

1. The aggregate principal amount for the Series of Project Bonds does not cause the aggregate principal amount for all Project Bonds issued under this ordinance to exceed $905,000,000;

2. The aggregate principal amount of the Series of Refunding Bonds to be issued does not exceed the aggregate principal amount of the Refunded Bonds to be refunded with such Series of Refunding Bonds, plus the amount deemed by the Finance Director as reasonably required to effect such refunding as described in RCW 39.53.050, including amounts reasonably required to pay the redemption price of the Refunded Bonds and costs of issuance and the refunding;

3. Except for Project Bonds delivered to evidence one or more WIFIA loans from the EPA, ((~~T~~))the final maturity date for the Series of the Project Bonds to be issued is not later than 31 years after its date of issuance. The final maturity date for any Series of Project Bonds to be delivered to evidence one or more WIFIA loans from the EPA is not later than the earlier of: (a) the date that is thirty-five years following substantial completion of the financed project as such terms are defined in the WIFIA loan agreement for that Series of Project Bonds; and (b) the date that is forty years after the date the county draws on the WIFIA loan evidenced by that Series of Parity Bonds;

4. The final maturity date for the Series of the Refunding Bonds to be issued is not later than the end of the fiscal year that includes the final maturity date for the Refunded Bonds to be refunded with such Series of Bonds;

5. The Series of the Bonds to be issued are sold (in the aggregate) at a price not less than 95 percent;

6. The true interest cost for the Series of Bonds does not exceed 5.0% if the Series of Bonds are issued as Tax-Exempt Obligations;

7. The true interest cost for the Series of Bonds does not exceed 7.0% if the Series of Bonds are issued as Taxable or Tax-Advantaged Obligations; and

8. The Series of Bonds conforms to all other terms of this ordinance.

Subject to the terms and conditions set forth in this section, the Finance Director is hereby authorized to execute each Sale Document to be dated the date of sale of the applicable Series of Bonds. The signature of the Finance Director shall be sufficient to bind the county.

The Finance Director shall provide an annual report to the Executive Finance Committee and county council describing the Bonds approved pursuant to the authority delegated in this section. The report must be transmitted by March 31 of each year. The annual report shall be filed in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers. The requirement for an annual report provided by this subsection expires three years after the effective date of this ordinance.

The authority granted to the Finance Director by this subsection E. to execute Sale Documents shall expire December 31, 2024; provided that an amendment to a Sale Document may be executed, and performance pursuant to any Sale Document may be completed, at any time. In the case of a Sale Document in the form of a WIFIA Master Agreement, the authority granted to the Finance Director by this subsection E. to execute such WIFIA Master Agreement shall expire December 31, 2024; provided that an amendment or supplement to such Sale Document, including any supplement in the form of a WIFIA loan agreement subject to the WIFIA Master Agreement, may be executed at any time, issuance and delivery of one or more Series of Parity Bonds to evidence the county's obligations under such Sale Document as supplemented may be completed at any time, and performance pursuant to the Sale Document may be completed at any time. All other provisions of this ordinance will remain in full force and effect. If a Sale Document for a Series of the Bonds has not been executed by December 31, 2024, the authorization for the issuance of the Bonds shall be rescinded and the Bonds shall not be issued nor their sale approved unless such Bonds shall have been reauthorized by ordinance of the council. The ordinance reauthorizing the issuance and sale of such Bonds may be in the form of a new ordinance repealing this ordinance in whole or in part or may be in the form of an amendatory ordinance approving a bond purchase agreement, certificate of award or loan agreement or

establishing terms and conditions for the authority delegated under this section. The authority of the county to sell bonds (e.g., enter into a bond purchase agreement, accept a bid to sell any bonds or enter into a loan or other agreement for the sale of the bonds), as defined in and pursuant to Ordinance 19112, as amended by Ordinance 19216, will terminate on the effective date of this ordinance, but all other provisions of Ordinance 19112, as amended by Ordinance 19216, will remain in full force and effect.

SECTION 4. **Ordinance 19377 as Amended by this Ordinance Remains in Effect**. Ordinance 19377, as amended by this ordinance, is and remains in full force and effect.

SECTION 5. **Effective Date**. This ordinance shall be effective 10 days after its enactment, in accordance with Article II of the county charter.


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