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STATE OF VERMONT  
OFFICE OF THE STATE TREASURER

**To:** Representative Alice Emmons, Chair, House Committee on Institutions and Corrections  
Senator Peg Flory, Chair, Senate Committee on Institutions

**From:** Beth Pearce, State Treasurer

**Date:** January 15, 2016

**Re:** Proposed Amendment to 24 V.S.A. § 4555 to Strengthen the State Treasurer's  
"Intercept" on behalf of the Vermont Municipal Bond Bank

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The Treasurer's Office, working in close coordination with the Vermont Municipal Bond Bank, recommends amending State statute to strengthen the procedure whereby the Treasurer must "intercept" State aid to a municipality or a school district under 24 V.S.A. § 4555, in the event such entity is in default on any borrowing through the Bond Bank. Suggested language to effect this change is attached hereto.

The reason for this request is that the current intercept language only compels the Treasurer to intercept and withhold State aid; the recommended amendment clarifies that such aid further shall be remitted directly to bondholders, either through the Bond Bank or its trustee, until the default is cured.

In preparing this memo and recommendation, we have no reason to believe there is any increased likelihood of risk. In fact, the Bond Bank has an exemplary record and there has never been a call on the state's moral obligation. That said, we believe the language changes would be well received by the rating agencies and provide further statutory protections.

From the Treasurer's Office's standpoint, the current statutory language is in fact harmful because it increases the risk of the Bond Bank needing to request "moral obligation" support from the State. Currently, if a borrowing entity defaulted, the Bond Bank would notify the Treasurer and the Treasurer would withhold State aid (e.g., education, transportation, etc.) to the entity; this is actually detrimental as it further depletes the entity's resources, and further degrades the entity's ability to repay the Bond Bank. Meanwhile, the Bond Bank would need to spend a portion of its reserve funds to pay bond debt service on the defaulting entity's behalf, and then would submit a replenishment request to the Governor, who in turn would be required to submit an appropriation request to the General Assembly (as per 24 V.S.A. § 4675), which then may decide whether to approve the replenishment (i.e., abide by its "moral obligation").

We note that in the over 45 years (since at least 1969) that the concept of "moral obligation" has existed in statute, we are not aware of a single instance of the State receiving a replenishment

request, and the Treasurer's Office strongly believes that it is imperative to avoid such requests going forward. As a practical matter, a failure to honor such a request would have devastating consequences for the State's general obligation bond ratings, as well as the ratings for any State-related entity that relies on the State's moral obligation commitment, including the Bond Bank, the Vermont Economic Development Authority, the Vermont Housing Finance Agency, and the Vermont Student Assistance Corporation. However, we believe that even if the General Assembly immediately honored a request and expressed a strong intent to continue to do so, this would cause the rating agencies to view the State's moral obligations as closer to general obligations, possibly also with negative consequences, since the State has over \$1 billion of moral obligation commitments compared to only \$600 million of general obligation debt.

We believe that this proposed amendment is a "win-win-win," in that it better-protects the State's credit ratings, could also enhance the Bond Bank's ratings, and further protects potentially non-defaulting municipalities and school districts in that it shields them from higher borrowing costs because it protects the Bond Bank's credit rating. We further believe that this change benefits potential defaulting entities, in that it timely deploys their State-related financial resources to curing a debt default, as opposed to tying up those resources indefinitely and to no good effect.

We appreciate your consideration of this recommended amendment, and are available to discuss at your convenience. Please call me or my Policy Director, Tim Lueders-Dumont, at 828-1451 if you have any questions or would like to discuss further.

Attachment: Proposed Amendment to 24 V.S.A. § 4555

cc: Bob Giroux, Vermont Municipal Bond Bank  
Stephen Klein and Catherine Benham, Legislative Joint Fiscal Office  
Rebecca Wasserman, Esq, Legislative Counsel  
Karen Horn, Vermont League of Cities and Towns  
Cheryl Scarzello, Vermont Association of School Business Officials

# The Vermont Statutes Online

## Title 24 : Municipal And County Government

### Chapter 119 : Municipal Bond Bank

#### Subchapter 001 : General Provisions

- § 4555. Duties of state treasurer

(a) The state treasurer may receive from the United States of America or any department or agency thereof any amounts of money as and when appropriated, allocated, granted, turned over or in any way provided for the purposes of the bank or this chapter, and the amounts shall be credited to and deposited in the reserve fund or revenue bond reserve funds, as appropriate, and be available to the bank.

(b) Any moneys in the custody of the state treasurer whether made available by reason of any grant, allocation or appropriation by the United States of America or the state or agencies thereof to assist any governmental unit in payment of its municipal bonds or revenue bonds owned or held by the bank, or required by the terms of any other law to be paid to holders or owners of municipal bonds or revenue bonds of a governmental unit upon failure or default of a governmental unit to pay the principal of or interest on its municipal bonds or revenue bonds when due and payable, shall, to the extent that those funds or moneys are applicable to municipal bonds or revenue bonds of a particular governmental unit and which are then owned or held by the bank and as to which that governmental unit has defaulted on payment of principal or interest when due, be paid and deposited by the state treasurer in the applicable reserve fund or funds and made available to the bank.

(c) ~~To the extent that~~ Upon receipt by the state treasurer ~~is the custodian of any moneys payable to a governmental unit at any time subsequent to~~ of written notice ~~to him or her from the bank that the~~ from the bank or the corporate trustee exercising rights on behalf of the holders of bonds issued by the bank that a governmental unit is in default on the payment of principal or interest on ~~any~~ its municipal ~~bonds~~ bond or revenue ~~bonds of the governmental unit then~~ bond acquired or held ~~or owned~~ by the bank, the state treasurer ~~must withhold the payment of that money from that governmental unit until the amount of the principal or interest then due and unpaid has been paid to the bank, or until the state treasurer has been advised that arrangements, satisfactory to the bank, have been made for the payment of the principal and interest.~~ shall immediately withhold all further payment to the governmental unit of all funds, or any part of them, appropriated and payable by the state to the governmental unit for any

and all purposes, until the default is cured. The state treasurer shall, while the default continues, direct payment of all sums withheld by the state treasurer, or as much of them as is necessary, to the bank, or at the bank's direction, to the trustee or paying agent for the bonds, so as to cure, or cure insofar as possible, the default as to the bonds or interest on them.

(d) To the extent payments are made by the state treasurer to or for the benefit of the bank or the bank's trustee or paying agent as provided in part (c) above, then in that event, any payments so made by the state treasurer to the bank or the bank's trustee or paying agent for the bonds, shall be credited as if made directly by the governmental unit and shall be charged by the state treasurer against the first appropriations otherwise payable to the governmental unit as if paid to the governmental unit by the state. The bank, or the trustee or paying agent, at the time of payment or at the time of each payment shall acknowledge in writing to the governmental unit receipt for the payment delivered pursuant to the provisions of this section.

(e) The state hereby covenants with the purchasers and holders and owners from time to time of bonds and notes issued by the bank and the governmental units that it will not repeal, revoke or rescind the provisions of this section or amend or modify the same so as to limit, impair or impede the rights and remedies granted hereby; provided, however, that nothing herein contained shall be deemed or construed as requiring the state to continue the payment of state aid or assistance to any governmental unit or as limiting or prohibiting the state from repealing or amending any law heretofore or hereafter enacted relating to state aid or assistance, the manner and time of payment or apportionment thereof, or the amount thereof.

(f) Nothing in this section shall be construed to create any obligation on the part of the state treasurer or the state to make any payment on behalf of the defaulting governmental unit other than from funds appropriated and payable to the defaulting governmental unit by the state.