11-17-3 Powers of municipalities, counties, and state universities.

(1) A municipality, county, and state university may:

(a) finance or acquire, whether by construction, purchase, devise, gift, exchange, or lease, or any one or more of those methods, and construct, reconstruct, improve, maintain, equip, and furnish or fund one or more projects, within this state, and which shall be located within, or partially within, the municipality or county or within the county within which a state university is located, unless an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, has been entered into as authorized by Subsection (5), except that if a governing body finds, by resolution, that the effects of international trade practices have been or will be adverse to Utah manufacturers of industrial products and, therefore, it is desirable to finance a project in order to maintain or enlarge domestic or foreign markets for Utah industrial products, a project may consist of the financing on behalf of a user of the costs of acquiring industrial products manufactured in, and which are to be exported from, the state;

(b) finance for, sell, lease, contract the management of, or otherwise dispose of to, any person, firm, partnership, or corporation, either public or private, including without limitation any person, firm, partnership, or corporation engaged in business for a profit, any or all of its projects upon the terms and conditions as the governing body considers advisable and which do not conflict with this chapter;

(c) issue revenue bonds for the purpose of defraying the cost of financing, acquiring, constructing, reconstructing, improving, maintaining, equipping, furnishing, or funding any project and secure the payment of the bonds as provided in this chapter, which revenue bonds may be issued in one or more series or issues where considered advisable, and each series or issue may contain different maturity dates, interest rates, priorities on securities available for guaranteeing payment of them, and other differing terms and conditions considered necessary and not in conflict with this chapter;

(d)

(i) grant options to renew any lease with respect to any project and to buy any project at a price the governing body considers desirable; and

(ii) sell and convey any real or personal property acquired under Subsection (1)(a) at public or private sale, and make an order respecting the sale considered conducive to the best interests of the municipality, county, or state university, the sale or conveyance to be subject to the terms of any lease but to be free and clear of any other encumbrance;

(e) establish, acquire, develop, maintain, and operate industrial parks; and

(f) offer to the holders of its bonds issued under this chapter the right, where its governing body considers it appropriate, to convert the bonds or some portion of the bond obligation into an equity position in some or all of the assets developed with the proceeds of the bond offering.

(2)

(a) An economic development or new venture investment fund is considered to be located in the municipality or county where its headquarters is located or where any office of it is located, if it is headquartered within the state.

(b) An economic development or new venture investment fund need not make all of its investments within the state or the county or municipality, if it:

(i) locates within the state, the county, or the municipality its headquarters where its actual investment decisions and management functions occur; and

(ii) limits the aggregate amount of its investments in companies located outside the state to an amount which in the aggregate does not exceed the aggregate amount of investments made by institutions and funds located outside the state in companies headquartered in

Utah which the locally managed fund has sponsored or in which it has invested and which it has brought to the attention of investors outside the state.

(c)

(i) For purposes of enabling an offering of bonds to fund a fund described in this Subsection (2), a certification of an executive managerial officer of the manager of the fund of the intention to comply with this provision may be relied upon.

(ii) A fund shall at least annually certify to the governmental offeror of the bonds its compliance with this provision.

(3)

(a) Before any municipality, county, or state university issues revenue bonds under this chapter for the purpose of defraying the cost of acquiring, constructing, reconstructing, improving, maintaining, equipping, or furnishing any industrial park project, the governing body of the state university, county, or municipality shall:

(i) adopt and establish a plan of development for the tracts of land to constitute the industrial park; and

(ii) by resolution, find:

(A) that the project for the establishment of the industrial park is well conceived and has a reasonable prospect of success, and that the project will tend to provide proper economic development of the municipality or county and will encourage industry to locate within or near the municipality or county; or

(B) in the case of state universities, will further, through industrial research and development, the instructional progress of the state university.

(b) There may be included as a part of any plan of development for any industrial park:

(i) zoning regulations, including:

(A) restrictions on usage of sites within the boundaries of the industrial park;

(B) minimum size of sites; and

(C) parking and loading regulations; and

(ii) methods for the providing and furnishing of police and fire protection and for the furnishing of other municipal or county services which are considered necessary in order to provide for the maintenance of the public health and safety.

(c) If any water or sewerage facilities are to be acquired as part of the development of the land for an industrial park under this chapter, water and sewerage facilities may be acquired as part of the issue of bonds issued under this chapter, through the issuance of bonds payable from water and sewer charges as provided by law, in combination with an issue of refunding bonds, in combination with an issue of bonds upon the consent of the holders of outstanding bonds issued for the same purpose, in combination with bonds issued for the purposes of financing water and sewer facilities which will not be a part of an industrial park, or in any combination of the foregoing.

(d)

(i) A municipality, county, or state university establishing an industrial park may lease any land acquired and developed as part of an industrial park to one or more lessees.

(ii) The lessee may sublease all or a portion of the land so leased from the municipality or county.

(iii) A municipality, county, or state university may sell or lease land in connection with the establishment, acquisition, development, maintenance, and operation of an industrial park project.

(iv) A lease or sale of land shall be undertaken only after the adoption by the governing body of a resolution authorizing the lease or sale of the land for industrial park purposes.

(4)
(a)
(i) A municipality, county, or state university may not:
(A) operate any project under this section, as a business or in any other manner, except as the lessor or administrator of it; or
(B) acquire any project, or any part of it, by condemnation.
(ii) The provisions of Subsection (4)(a)(i) do not apply to projects involving research conducted, administered, or managed by a state university.
(b) Except for a project described in Subsection 11-17-2(10)(a)(ii) or (vi), a municipality, county, or state university may not, under this chapter, acquire or lease projects, or issue revenue bonds for the purpose of defraying the cost of any project or part of it, used for the generation, transmission, or distribution of electric energy beyond the project site, or the production, transmission, or distribution of natural gas.
(5)
(a) A municipality, county, or state university may enter, either before or after the bonds have been issued, into interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more municipalities, counties, state universities, or special service districts created under Title 17D, Chapter 1, Special Service District Act, in order to accomplish economies of scale or other cost savings and any other additional purposes to be specified in the interlocal agreement, for the issuance of bonds under this chapter on behalf of all of the signatories to the interlocal agreement by one of the municipalities, counties, or state universities which is a signatory to the interlocal agreement for the financing or acquisition of projects qualifying as a project.
(b) For all purposes of Section 11-13-207 the signatory to the interlocal agreement designated as the issuer of the bonds constitutes the administrator of the interlocal agreement.
(6) Notwithstanding the provisions of Subsection (4), the governing body of any state university owning or desiring to own facilities or administer projects may:
(a) become a signatory to the interlocal agreement under Subsection (5);
(b) enter into a separate security agreement with the issuer of the bonds, as provided in Section 11-17-5 for the financing or acquisition of a project to be owned by the state university;
(c) enter into agreements to secure the obligations of the state university under a security agreement entered into under Subsection (6)(b), or to provide liquidity for the obligations including, without limitation, letter of credit agreements with banking institutions for letters of credit or for standby letters of credit, reimbursement agreements with financial institutions, line of credit agreements, standby bond purchase agreements, and to provide for payment of fees, charges, and other amounts coming due under the agreements entered into under the authority contained in this Subsection (6)(c);
(d) provide in security agreements entered into under Subsection (6)(b) and in agreements entered into under Subsection (6)(c) that the obligations of the state university under an agreement shall be special obligations payable solely from the revenues derived from the operation or management of the project, owned by the state university and from net profits from proprietary activities and any other revenues pledged other than appropriations by the Utah Legislature, and the governing body of the state university shall pledge all or any part of the revenues to the payment of its obligations under an agreement; and
(e) in order to secure the prompt payment of the obligations of the state university under a security agreement entered into under Subsection (6)(b) or an agreement entered into under Subsection (6)(c) and the proper application of the revenues pledged to them, covenant

and provide appropriate provisions in an agreement to the extent allowed under Section 53B-21-102.

(7) Notwithstanding the provisions of Subsection (4), the governing body of any municipality, county, or special service district owning, desiring to own, or administering projects or facilities may:

(a) become a signatory to the interlocal agreement provided in Subsection (5);

(b) enter into a separate security agreement with the issuer of the bonds, as provided in Section 11-17-5, for the financing or acquisition of a project to be owned by the municipality, county, or special service district, except that no municipality, county, or special service district may mortgage the facilities financed or acquired;

(c) enter into agreements to secure the obligations of the municipality, county, or special service district, as the case may be, under a security agreement entered into under Subsection (7)(b), or to provide liquidity for the obligations including, without limitation, letter of credit agreements with banking institutions for letters of credit or for standby letters of credit, reimbursement agreements with financial institutions, line of credit agreements, standby bond purchase agreements, and to provide for payment of fees, charges, and other amounts coming due under the agreements entered into under the authority contained in this Subsection (7)(c);

(d) provide in security agreements entered into under Subsection (7)(b) and in agreements entered into under Subsection (7)(c) that the obligations of the municipality, county, or special service district, as the case may be, under an agreement shall be special obligations payable solely from the revenues derived from the operation or management of the project, owned by the municipality, county, or special service district and the governing body of the municipality, county, or special service district shall pledge all or any part of the revenues to the payment of its obligations under an agreement; and

(e) in order to secure the prompt payment of obligations under a security agreement entered into under Subsection (7)(b) or an agreement entered into under Subsection (7)(c) and the proper application of the revenues pledged to them, covenant and provide appropriate provisions in an agreement to the extent permitted and provided for with respect to revenue obligations under Section 11-14-306.

(8) In connection with the issuance of bonds under this chapter, a municipality, county, or state university may:

(a) provide for the repurchase of bonds tendered by their owners and may enter into an agreement to provide liquidity for the repurchases, including a letter of credit agreement, line of credit agreement, standby bond purchase agreement, or other type of liquidity agreement;

(b) enter into remarketing, indexing, tender agent, or other agreements incident to the financing of the project or the performance of the issuer's obligations relative to the bonds; and

(c) provide for payment of fees, charges, and other amounts coming due under the agreements entered into under Subsection (6).

Amended by Chapter 345, 2013 General Session