

HB0428S01 compared with HB0428

{deleted text} shows text that was in HB0428 but was deleted in HB0428S01.

inserted text shows text that was not in HB0428 but was inserted into HB0428S01.

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Representative Douglas V. Sagers proposes the following substitute bill:

LOCAL GOVERNMENT BONDING AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to local political subdivision bonding authorizations.

Highlighted Provisions:

This bill:

- ▶ authorizes a local political subdivision to issue negotiable bonds to pay claims, judgments, or settlements in certain circumstances;
- ▶ specifies a maximum maturity date for bonds issued to pay certain claims, judgments, or settlements;
- ▶ provides that a political subdivision that imposes a property tax levy for certain purposes shall comply with certain notice and public hearing requirements;
- ▶ provides a sunset of the authorization of a local political subdivision to issue

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negotiable bonds to pay claims, judgments, or settlements in certain circumstances;

and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-14-103, as last amended by Laws of Utah 2015, Chapter 258

63G-7-702, as renumbered and amended by Laws of Utah 2008, Chapter 382

63G-7-704, as last amended by Laws of Utah 2011, Chapter 371

63I-1-211, as enacted by Laws of Utah 2011, Second Special Session, Chapter 1

63I-1-263, as last amended by Laws of Utah 2015, Chapters 182, 226, 278, 283, 409,
and 424

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **11-14-103** is amended to read:

11-14-103. Bond issues authorized -- Purposes -- Use of bond proceeds.

(1) Any local political subdivision may, in the manner and subject to the limitations and restrictions contained in this chapter, issue its negotiable bonds for the purpose of paying all or part of the cost of:

(a) acquiring, improving, or extending any one or more improvements, facilities, or property that the local political subdivision is authorized by law to acquire, improve, or extend;

(b) acquiring, or acquiring an interest in, any one or more or any combination of the following types of improvements, facilities, or property to be owned by the local political subdivision, either alone or jointly with one or more other local political subdivisions, or for the improvement or extension of any of those wholly or jointly owned improvements, facilities, or properties:

(i) public buildings of every nature, including without limitation, offices, courthouses, jails, fire, police and sheriff's stations, detention homes, and any other buildings to

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accommodate or house lawful activities of a local political subdivision;

(ii) waterworks, irrigation systems, water systems, dams, reservoirs, water treatment plants, and any other improvements, facilities, or property used in connection with the acquisition, storage, transportation, and supplying of water for domestic, industrial, irrigation, recreational, and other purposes and preventing pollution of water;

(iii) sewer systems, sewage treatment plants, incinerators, and other improvements, facilities, or property used in connection with the collection, treatment, and disposal of sewage, garbage, or other refuse;

(iv) drainage and flood control systems, storm sewers, and any other improvements, facilities, or property used in connection with the collection, transportation, or disposal of water;

(v) recreational facilities of every kind, including without limitation, athletic and play facilities, playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps, parks, picnic grounds, fairgrounds, golf courses, zoos, boating facilities, tennis courts, auditoriums, stadiums, arenas, and theaters;

(vi) convention centers, sports arenas, auditoriums, theaters, and other facilities for the holding of public assemblies, conventions, and other meetings;

(vii) roads, bridges, viaducts, tunnels, sidewalks, curbs, gutters, and parking buildings, lots, and facilities;

(viii) airports, landing fields, landing strips, and air navigation facilities;

(ix) educational facilities, including without limitation, schools, gymnasiums, auditoriums, theaters, museums, art galleries, libraries, stadiums, arenas, and fairgrounds;

(x) hospitals, convalescent homes, and homes for the aged or indigent; and

(xi) electric light works, electric generating systems, and any other improvements, facilities, or property used in connection with the generation and acquisition of electricity for these local political subdivisions and transmission facilities and substations if they do not duplicate transmission facilities and substations of other entities operating in the state prepared to provide the proposed service unless these transmission facilities and substations proposed to be constructed will be more economical to these local political subdivisions; [or]

(c) new construction, renovation, or improvement to a state highway within the boundaries of the local political subdivision or an environmental study for a state highway

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within the boundaries of the local political subdivision~~[-]; or~~

(d) the portion of any claim, settlement, or judgment that exceeds \$3,000,000.

(2) Except as provided in Subsection (1)(c), any improvement, facility, or property under Subsection (1) need not lie within the limits of the local political subdivision.

(3) A cost under Subsection (1) may include:

(a) the cost of equipment and furnishings for such improvements, facilities, or property;

(b) all costs incident to the authorization and issuance of bonds, including engineering, legal, and fiscal advisers' fees;

(c) costs incident to the issuance of bond anticipation notes, including interest to accrue on bond anticipation notes;

(d) interest estimated to accrue on the bonds during the period to be covered by the construction of the improvement, facility, or property and for 12 months after that period; and

(e) other amounts which the governing body finds necessary to establish bond reserve funds and to provide working capital related to the improvement, facility, or property.

(4) ~~[The]~~ (a) Except as provided in Subsection (4)(b), the proceeds from bonds issued on or after May 14, 2013, may not be used:

~~[(a)]~~ (i) for operation and maintenance expenses for more than one year after the date any of the proceeds are first used for those expenses; or

~~[(b)]~~ (ii) for capitalization of interest more than five years after the bonds are issued.

(b) The restrictions on the use of bond proceeds under Subsection (4)(a) do not apply to bonds issued to pay all or part of the costs of a claim, settlement, or judgment under Subsection (1)(d).

Section 2. Section **63G-7-702** is amended to read:

63G-7-702. Payment of claim or judgment against political subdivision -- Procedure by governing body -- Payment options.

(1) (a) Each claim approved by a political subdivision or any final judgment obtained against a political subdivision shall be submitted to the governing body of the political subdivision.

(b) The governing body shall pay the claim immediately from the general funds of the political subdivision unless:

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(i) the funds are appropriated to some other use or restricted by law or contract for other purposes; [or]

(ii) the political subdivision opts to pay the claim or award in installments under Subsection (2)[-]; or

(iii) the political subdivision elects to bond for the portion of the claim, judgment, or settlement that exceeds \$3,000,000 in accordance with Subsection 11-14-103(1)(d).

(2) If the subdivision is unable to pay the claim or award during the current fiscal year, it may pay the claim or award in not more than 10 ensuing annual installments of equal size or in whatever other installments that are agreeable to the claimant.

(3) If a political subdivision elects to bond for the portion of a claim, judgment, or settlement that exceeds \$3,000,000 in accordance with Subsection 11-14-103(1)(d), the political subdivision may issue bonds with a maturity date not to exceed 21 years.

Section 3. Section **63G-7-704** is amended to read:

63G-7-704. Tax levy by political subdivisions for payment of claims, judgments, or insurance premiums.

(1) Notwithstanding any provision of law to the contrary, a political subdivision may levy an annual property tax sufficient to pay:

(a) any claim, settlement, or judgment, including interest payments and issuance costs for bonds issued under Subsection 11-14-103(1)(d) to pay the portion of any claim, settlement, or judgment that exceeds \$3,000,000;

(b) the costs to defend against any claim, settlement, or judgment; or

(c) for the establishment and maintenance of a reserve fund for the payment of claims, settlements, or judgments that may be reasonably anticipated.

(2) (a) The payments authorized to pay for punitive damages or to pay the premium for authorized insurance is money spent for a public purpose within the meaning of this section and Article XIII, Sec. 5, Utah Constitution, even though, as a result of the levy, the maximum levy as otherwise restricted by law is exceeded.

(b) ~~[(No)]~~ (i) Except as provided in Subsection (2)(b)(ii), a levy under this section may not exceed .0001 per dollar of taxable value of taxable property.

(ii) A levy under Subsection (1)(a) to pay the portion of any claim, settlement, or judgment that exceeds \$3,000,000 may not exceed .001 per dollar of taxable value of taxable

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property.

(c) The revenues derived from this levy may not be used for any purpose other than those specified in this section.

(3) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

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Legislative Review Note

~~Office of Legislative Research and General Counsel~~ (4) A political subdivision that levies an annual property tax under Subsection (1)(a) to pay the portion of any claim, settlement, or judgment that exceeds \$3,000,000 shall comply with the notice and public hearing requirements under Section 59-2-919.

Section 4. Section 63I-1-211 is amended to read:

63I-1-211. Repeal dates, Title 11.

(1) Subsections 11-14-103(1)(d) and 11-14-103(4)(b) are repealed July 1, 2021.

(2) Section 11-14-308 is repealed December 31, 2020.

Section 5. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

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(7) Subsections 63G-7-702(1)(b)(iii) and (3) are repealed July 1, 2021.

(8) On July 1,2021:

(a) in Subsection 63G-7-704(1)(a), the language that states ", including interest payments and issuance costs for bonds issued under Subsection 11-14-103(1)(d) to pay the portion of any claim, settlement, or judgment that exceeds \$3,000,000" is repealed;

(b) Subsection 63G-7-704(2)(b)(ii) is repealed; and

(c) Subsection 63G-7-704(4) is repealed.

[~~(7)~~] (9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

[~~(8)~~] (10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2016.

[~~(9)~~] (11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.";

(c) in Subsection 23-14-21(3), the language that states "and the Resource Development Coordinating Committee" is repealed;

(d) in Subsection 23-21-2.3(1), the language that states "the Resource Development Coordinating Committee created in Section 63J-4-501 and" is repealed;

(e) in Subsection 23-21-2.3(2), the language that states "the Resource Development Coordinating Committee and" is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word "and" is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed;

and

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(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

[(10)] (12) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

[(11)] (13) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

[(12)] (14) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

[(13)] (15) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection [(13)] (15)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections [(13)] (15)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

[(14)] (16) Section 63N-2-512 is repealed on July 1, 2021.

[(15)] (17) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [(15)] (17)(b), an entity may carry forward a tax credit

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in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

~~[(16)]~~ (18) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.