Frequently Asked Questions about School District Lease Revenue Bonds and Property Taxes

What is a Lease Revenue Bond?

A Lease Revenue Bond is akin to a home mortgage financing. The bond project is collateralized solely with a deed of trust. If the District does not make timely payments on the Bonds the project will be foreclosed upon. To preserve the limited remedy of bondholders (no lien on revenues, taxes, etc.) the payment on the Bonds takes the form of an annual lease payment from the District to the Building Authority—thus the term "Lease Revenue Bonds."

Are Lease Revenue Bonds common?

Yes, the majority of states have some form of lease revenue financing available (requiring payments from existing revenues). The Utah Local Building Authority Act, blessed by the Supreme Court, allows for some of the most efficient ways to finance needed capital projects (almost always below inflationary rates), although the capacity of such bonds is limited by the credit and the already statutorily limited property taxes a District can levy (or available budget). The State of Utah has regularly issued Lease Revenue Bonds for real property projects through its State Building Ownership Authority.

How are lease payments made to pay on a Lease Revenue Bond?

The lease payments are paid from legally available funds of the District. Tax revenues cannot be pledged to the Bonds, rather the lease payments must be annually budgeted for by the District board out of existing revenues. If not, the sole recourse/remedy to the bondholder is foreclosure on the project. There is no ability of the bondholder to force tax increases or have any claim on any current or future revenues of the District.

Does the issuance of a Lease Revenue Bond increase property taxes?

No. There is nothing about the process of issuing a Lease Revenue Bond that entitles a taxing entity to increase taxes. Again, lease payments can only be made from legally available revenues of the District through its annual budget process.

Is an election required to issue a Lease Revenue Bond?

No, because here is no pledge of property taxes or right of the District to raise taxes, an election is not required. Lease payments must be appropriated from the available budget of the District, or the District must vacate the financed project.

What authorization is required to issue a Lease Revenue Bond?

A Lease Revenue Bond must be approved by the elected board of the District only after following statutory public notice and public hearing requirements.

What if a sizable portion of voters in the District disagree with a Lease Revenue Bond?

There is a statutory right (after giving notice of the same) for a sufficient group of voters to force the Lease Revenue Bond to an election.

What types of revenues are available to a District to pay for/finance its capital needs?

Property taxes are the only source of revenue available to a District for capital needs. District property taxes for capital needs generally have two categories:

First, a capital levy which is already limited to a maximum rate set by state law. Furthermore, Utah's Truth-in-Taxation rules restrict a District from raising this levy in an amount to exceed the prior year's revenues (other than new growth) without notice and a public hearing. The capital budget includes both maintenance, upkeep, and repair and replacement of existing school facilities, as well as new buildings to accommodate growth. ***In short, state law has already created a box around the amount of property taxes that can be levied for capital needs—Lease Revenue Bonds do not expand this box.***

Second, a debt service levy which must be authorized by the majority of voters in a November election. An election is required for this property tax authorization since there is not an annual limit on the property tax required to repay the bonds (although the project, amount of bonds, and time to repay are limited to the ballot authorization). Lease Revenue Bonds do not have access to levy or use these property tax revenues.

Why don't Districts have other revenues they can use for capital needs?

Unlike other local government entities, ***Districts do not have access to impact fees, sales or excise taxes, tuition, or system or utility revenues to fund their capital needs***, it is solely a one-legged revenue stool for Utah schools.

If my primary concern was to limit property taxes, can a Lease Revenue Bond be helpful to my objectives?

Yes. Where a successful election allows for an unlimited property tax rate to make payments on a general obligation bond—once so approved a District will typically annually levy the full property tax burden to meet such payment obligations. However, a lease payment for a Lease Revenue Bond is an annual budget item approved by that year's elected board. Future elected boards may change priorities or shift budget line items to make such lease payment and thereby reduce the tax rate. Appropriately, elected Board members are in the best position to make fully informed decisions about the budget and must make these complicated decisions within the statutory boundaries that already govern the limits of property taxes. Exceeding those limits would require an election.

Why is there a perceived issue that Lease Revenue Bonds increase property taxes?

The issuance of a Lease Revenue Bond (and its new lease payments) may create budget pressures for the elected Board to consider raising the capital levy. However, the capital levy may not be raised above the statutory limits already set by the Legislature, and only after following the enhanced notice and public hearing requirements of Truth-in-Taxation rules. A future elected Board may reduce the capital levy and reprioritize the budget.

Can a District finance a project that was the subject of a failed election?

Yes, but only after an enhanced notice and public hearing of the District's intent to do the same pursuant to statute. Furthermore, as stated above the District shall not be entitled to raise property taxes as a result of the Lease Revenue Bonds approval—payments can only be made from the annual budget of the District. Finally, by statute a substantial portion of voters is still entitled to force the Lease Revenue Bonds to an election.