

11-27-3 Action by resolution of governing body -- Purposes for bond issue -- Exchange or sale -- Interest rate limitations inapplicable -- Principal amount -- Investment of proceeds -- Safekeeping and application of proceeds -- Computing indebtedness -- Payment of bonds -- Combination issues -- Laws applicable to issuance -- Payment from taxes or pledged revenues.

- (1) Any formal action taken by the governing body of a public body under the authority of this chapter may be taken by resolution of that governing body.
- (2)
 - (a) The governing body of any public body may by resolution provide for the issuance of refunding bonds to refund outstanding bonds issued by the public body or its predecessor, either prior to or after the effective date of this chapter, only:
 - (i) to pay or discharge all or any part of any outstanding series or issue of bonds, including applicable interest, in arrears or about to become due and for which sufficient funds are not available;
 - (ii) to achieve a savings; or
 - (iii) to achieve another objective that the governing body finds to be beneficial to the public body.
 - (b) Any refunding bonds may be delivered in exchange for the outstanding bonds being refunded or may be sold in a manner, at terms, with details, and at a price above, at, or below par as the governing body determines advisable. The refunding bonds may be issued without an election, unless an election is required by the Utah Constitution.
 - (c) The governing body may, by resolution, delegate to one or more officers of the local political subdivision the authority to:
 - (i) in accordance with and within the parameters set forth in the resolution, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and
 - (ii) approve and execute all documents relating to the issuance of a bond.
 - (d) It is the express intention of the Legislature that interest rate limitations elsewhere appearing in the laws of the state not apply to nor limit the rates of interest borne by refunding bonds.
- (3) Advance refunding bonds may be issued in a principal amount in excess of the principal amount of the bonds to be refunded as determined by the governing body. This amount may be equal to the full amount required to pay the principal of, interest on, and redemption premiums, if any, due in connection with the bonds to be refunded to and including their dates of maturity or redemption in accordance with the advance refunding plan adopted by the governing body, together with all costs incurred in accomplishing this refunding. The principal amount of refunding bonds may be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the retirement or redemption of the bonds to be refunded. Any reserves held or taxes levied or collected to secure the bonds to be refunded may be applied to the redemption or retirement of the bonds, or otherwise, as the governing body may determine.
- (4) Prior to the application of the proceeds derived from the sale of advance refunding bonds to the purposes for which the bonds have been issued, these proceeds, together with any other legally available funds, including reserve funds, may be invested and reinvested only in government obligations maturing at such times as may be required to provide funds sufficient to pay principal of, interest on, and redemption premiums, if any, due in connection with the bonds to be refunded or the advance refunding bonds, or both, in accordance with the advance refunding plan. To the extent incidental expenses have been capitalized, these bond proceeds may be used to defray these expenses.

- (5) The governing body may contract regarding the safekeeping and application of the proceeds of sale of advance refunding bonds and other funds included with them and the income from them, including the right to appoint a trustee, which may be any trust company or state or national bank having powers of a trust company inside or outside the state. The governing body may provide in the advance refunding plan that until such money is required to redeem or retire the bonds to be refunded, the advance refunding bond proceeds and other funds, and the income from them, shall be used to pay and secure payment of principal of, interest on, and redemption premiums, if any, due in connection with all or a portion of the advance refunding bonds or the bonds being refunded, or both.
- (6) In computing indebtedness for the purpose of any applicable constitutional or statutory debt limitation, there shall be deducted from the amount of outstanding indebtedness the principal amount of outstanding general obligation bonds for the payment of which there has been dedicated and deposited in escrow government obligations, the principal of or interest on which, or both, will be sufficient to provide for the payment of these general obligation bonds as to principal, interest, and redemption premiums, if any, when due at maturity or upon some earlier date upon which the bonds have been called for redemption in accordance with their terms.
- (7) When a public body has irrevocably set aside for and pledged to the payment of bonds to be refunded proceeds of advance refunding bonds and other money in amounts which, together with known earned income from their investment, will be sufficient in amount to pay the principal of, interest on, and any redemption premiums due on the bonds to be refunded as the same become due and to accomplish the refunding as scheduled, the refunded bonds shall be considered duly paid and discharged for the purpose of any applicable constitutional or statutory debt limitation.
- (8) Refunding bonds and bonds issued for any other purpose may be issued separately or issued in combination in one or more series or issues by the same issuer.
- (9) Except as specifically provided in this section, refunding bonds issued under this chapter shall be issued in accordance with the provisions of law applicable to the type of bonds of the issuer being refunded in effect either at the time of the issuance of the refunding bonds or at the time of issuance of the bonds to be refunded. Refunding bonds and coupons, if any, pertaining to them may bear facsimile signatures as provided in Section 11-14-304.
- (10) Refunding bonds may be made payable from any taxes or pledged revenues, or both, or any assessments, special improvement guaranty funds, or other funds which might be legally pledged for the payment of the bonds to be refunded at the time of the issuance of the refunding bonds or at the time of the issuance of the bonds to be refunded, as the governing body may determine.

Amended by Chapter 145, 2011 General Session

Amended by Chapter 342, 2011 General Session