

Chapter 18 School District Indebtedness

53A-18-101 School district tax anticipation notes.

- (1) A local school board may borrow money in anticipation of the collection of taxes or other revenue of the school district so long as it complies with Title 11, Chapter 14, Local Government Bonding Act.
- (2) The board may incur indebtedness under this section for any purpose for which district funds may be expended, but not in excess of the estimated district revenues for the current school year.
- (3) Revenues include all revenues of the district from the state or any other source.
- (4) The district may incur the indebtedness prior to imposing or collecting the taxes or receiving the revenues. The indebtedness bears interest at the lowest obtainable rate or rates.

Amended by Chapter 105, 2005 General Session

53A-18-102 Additional indebtedness -- Election -- Voter information pamphlet.

- (1) As used in this section:
 - (a) "Qualifying general obligation bond" means a bond:
 - (i) issued pursuant to Title 11, Chapter 14, Local Government Bonding Act; and
 - (ii) authorized by an election held on or after July 1, 2014.
 - (b) "Voter information pamphlet" means the notification required by Section 11-14-202.
- (2) A local school board may require the qualified electors of the district to vote on a proposition as to whether to incur indebtedness, subject to conditions provided in Title 11, Chapter 14, Local Government Bonding Act, if:
 - (a) the debts of the district are equal to school taxes and other estimated revenues for the school year, and it is necessary to create and incur additional indebtedness in order to maintain and support schools within the district; or
 - (b) the local school board determines it advisable to issue school district bonds to purchase school sites, buildings, or furnishings or to improve existing school property.
- (3) A local school board shall specify, in the voter information pamphlet for a bond election, a plan of finance, including:
 - (a) the specific project or projects for which a bond is to be issued; and
 - (b) a priority designation for each project.
- (4) Except as provided in Subsection (5), a local school board shall ensure that qualifying general obligation bond proceeds are used to complete projects in accordance with the plan of finance described in Subsection (3).
- (5)
 - (a) After distribution to the public of the voter information pamphlet, with two-thirds majority approval of the local school board, a local school board may upon a determination of compelling circumstances adjust the plan of finance described in Subsection (3) by:
 - (i) changing the priority designation of a project;
 - (ii) adding a project that was not listed in the voter information pamphlet; or
 - (iii) removing a project that was listed in the voter information pamphlet.
 - (b) A local school board may not vote on more than one adjustment described in Subsection (5)
 - (a) per meeting.

- (6) For a qualifying general obligation bond, a local school board shall post on the local school board's website:
 - (a) the plan of finance as described in the voter information pamphlet; and
 - (b) a progress report detailing the status of the projects listed in the plan of finance, including:
 - (i) the status of any construction contracts related to a project;
 - (ii) the bid amount;
 - (iii) the estimated and actual construction start date;
 - (iv) the estimated and actual construction end date; and
 - (v) the final cost.
- (7)
 - (a) If a local school board violates Subsection (4), a registered voter in the school district may file an action for an extraordinary writ to prohibit the local school board from adjusting the plan of finance without obtaining the necessary local school board approval.
 - (b) If a registered voter prevails in an action under Subsection (7)(a), the court shall award reasonable costs and attorney fees to the registered voter.
 - (c) The action described in Subsection (7)(a) may not be used to challenge the validity of a bond.

Amended by Chapter 325, 2014 General Session

53A-18-103 Consolidated school district bonds.

- (1) A consolidated county school district may issue bonds, without an election, to fund, purchase, or redeem the district's outstanding indebtedness if the debt was incurred prior to consolidation and assumed by the consolidated school district.
- (2) The legality, regularity, and validity of the outstanding indebtedness shall be determined in the same manner used to determine the validity of other bonds to be refunded by the board.

Enacted by Chapter 2, 1988 General Session

53A-18-104 Testing validity of bonds to be refunded -- Procedure.

If considered advisable by the local school board, the validity of any bonds intended to be refunded may be determined in the following manner:

- (1) The board shall:
 - (a) publish a notice describing with sufficient particularity for identification the bond or bonds intended to be refunded:
 - (i) once a week for two successive weeks in a newspaper published in the school district; and
 - (ii) as required in Section 45-1-101; and
 - (b) post a notice for two successive weeks in three public and conspicuous places describing with sufficient particularity for identification the bond or bonds intended to be refunded.
- (2) The notice shall require any person objecting to the legality, regularity, or validity of the bonds, their issue or sale, or the indebtedness represented by the bonds, to appear before the board at a specified place within the district on a specified day and time.
- (3) The time may not be less than 14 nor more than 60 days after the first publication or posting of the notice.
- (4) The notice shall require the person to appear at the meeting with his objections in writing, duly verified.
- (5) The board shall convene at the time and place specified in the notice and receive all objections as prescribed in Subsection (4).
- (6) The objections shall be filed with and preserved by the board.

- (7) If no written objections are presented at the time and place specified in the notice, the board shall so certify.
- (8) All persons are then prohibited from questioning in any manner or proceeding the legality, regularity, or validity of the bond or bonds, their issue or sale, or the indebtedness represented by the bonds, and the board may then refund the bonds.
- (9) Any person filing a written objection under Subsection (4) shall, within 20 days after the filing, commence appropriate legal proceedings against the board and others as may be proper parties, in the district court for the county in which the school district is situated, to challenge and determine the legality, regularity, and validity of the bond or bonds, their issue and sale, or the indebtedness represented by them.
- (10) Failure to commence the proceedings within 20 days bars the person filing objections from questioning, in any manner or proceeding, the legality, regularity, or validity of the bond or bonds, their issue or sale, or the indebtedness represented by the bonds.
- (11) Upon proof of failure to commence proceedings, by certificate of the clerk of the court, the board may refund the bonds.

Amended by Chapter 388, 2009 General Session

53A-18-105 Sinking fund -- Investment.

- (1) The money levied and collected to create a sinking fund for the redemption of bonds issued by a local school board shall be immediately credited to a special fund.
- (2) After retaining an amount sufficient to pay the principal of the bonds maturing during the year, the board shall invest the fund and any surplus as provided under Title 51, Chapter 7, State Money Management Act.

Enacted by Chapter 2, 1988 General Session

53A-18-106 Bonds a lien on property -- Levy of tax to pay bonds.

- (1) Bonds issued under this chapter are a lien upon the taxable property of the school district issuing them.
- (2) If the local school board neglects or refuses to cause a tax to be levied in accordance with law to meet the outstanding bonds or the interest on the bonds, the county legislative body of the county in which the district is located shall levy the tax and apply the money collected to the payment of the bonds and the interest.

Amended by Chapter 227, 1993 General Session

53A-18-107 Requirement to conduct seismic safety evaluations when issuing a bond.

- (1) As used in this section:
 - (a) "Federal guidelines" means guidelines and procedures specified in "Rapid Visual Screening of Buildings for Potential Seismic Hazards: A Handbook, 2nd Edition" published by the United States Federal Emergency Management Agency.
 - (b) "Qualifying general obligation bond" means a bond:
 - (i) issued pursuant to Title 11, Chapter 14, Local Government Bonding Act; and
 - (ii) authorized by an election held on or after July 1, 2013.
 - (c) "Seismic safety evaluation" means a seismic safety rapid visual screening evaluated in accordance with federal guidelines or a more detailed seismic structural evaluation.
- (2) If a school district issues a qualifying general obligation bond, the school district shall:

- (a) except as provided in Subsection (4), conduct or update a seismic safety evaluation of each school district building:
 - (i) constructed before 1975; and
 - (ii) used by the school district as a school; and
- (b) provide a copy of a seismic safety evaluation prepared under Subsection (2)(a) to the Utah Seismic Safety Commission created in Section 63C-6-101.
- (3) A seismic safety evaluation conducted under Subsection (2) shall be conducted by a licensed structural engineer familiar with seismic codes.
- (4) A school district is not required to conduct or update a seismic safety evaluation of a building as required in Subsection (2)(a) if:
 - (a) a seismic safety evaluation was performed on the building within the 25-year period before the school district issues the qualifying general obligation bond; and
 - (b) the school district provides a copy of the school district's seismic safety evaluation described in Subsection (4)(a) to the Utah Seismic Safety Commission.
- (5) Creation of a seismic safety evaluation of a school, or a list of schools needing seismic upgrades, shall not be construed as expanding or changing the state's or a school district's common law duty of care for liability purposes.

Enacted by Chapter 356, 2013 General Session