

Part 4 Mechanisms for Financing the State's Guaranty

53A-28-401 Backup liquidity arrangements -- Issuance of notes.

- (1)
 - (a) If, at the time the state is required to make a debt service payment under its guaranty on behalf of a board, sufficient money of the state is not on hand and available for that purpose, the state treasurer may:
 - (i) seek a loan from the Permanent School Fund sufficient to make the required payment; or
 - (ii) issue state debt as provided in Subsection (2).
 - (b) Nothing in this Subsection (1) requires the Permanent School Fund to lend money to the state treasurer.
- (2)
 - (a) The state treasurer may issue state debt in the form of general obligation notes to meet its obligations under this chapter.
 - (b) The amount of notes issued may not exceed the amount necessary to make payment on all bonds with respect to which the notes are issued plus all costs of issuance, sale, and delivery of the notes, rounded up to the nearest natural multiple of \$5,000.
 - (c) Each series of notes issued may not mature later than 18 months from the date the notes are issued.
 - (d) Notes issued may be refunded using the procedures set forth in this chapter for the issuance of notes, in an amount not more than the amount necessary to pay principal of and accrued but unpaid interest on any refunded notes plus all costs of issuance, sale, and delivery of the refunding notes, rounded up to the nearest natural multiple of \$5,000.
 - (e) Each series of refunding notes may not mature later than 18 months from the date the refunding notes are issued.
- (3)
 - (a) Before issuing or selling any general obligation note to other than a state fund or account, the state treasurer shall:
 - (i) prepare a written plan of financing; and
 - (ii) file it with the governor.
 - (b) The plan of financing shall provide for:
 - (i) the terms and conditions under which the notes will be issued, sold, and delivered;
 - (ii) the taxes or revenues to be anticipated;
 - (iii) the maximum amount of notes that may be outstanding at any one time under the plan of financing;
 - (iv) the sources of payment of the notes;
 - (v) the rate or rates of interest, if any, on the notes or a method, formula, or index under which the interest rate or rates on the notes may be determined during the time the notes are outstanding; and
 - (vi) all other details relating to the issuance, sale, and delivery of the notes.
 - (c) In identifying the taxes or revenues to be anticipated and the sources of payment of the notes in the financing plan, the state treasurer may include:
 - (i) the taxes authorized by Section 53A-28-402;
 - (ii) the intercepted revenues authorized by Section 53A-28-302;
 - (iii) the proceeds of refunding notes; or
 - (iv) any combination of Subsections (3)(c)(i), (ii), and (iii).

- (d) The state treasurer may include in the plan of financing the terms and conditions of arrangements entered into by the state treasurer on behalf of the state with financial and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure the notes, including payment from any legally available source of fees, charges, or other amounts coming due under the agreements entered into by the state treasurer.
- (e) When issuing the notes, the state treasurer shall issue an order setting forth the interest, form, manner of execution, payment, manner of sale, prices at, above, or below face value, and all details of issuance of the notes.
- (f) The order and the details set forth in the order shall conform with any applicable plan of financing and with this chapter.
- (g)
 - (i) Each note shall recite that it is a valid obligation of the state and that the full faith, credit, and resources of the state are pledged for the payment of the principal of and interest on the note from the taxes or revenues identified in accordance with its terms and the constitution and laws of Utah.
 - (ii) These general obligation notes do not constitute debt of the state for the purposes of the 1.5% debt limitation of the Utah Constitution, Article XIV, Section 1.
- (h) Immediately upon the completion of any sale of notes, the state treasurer shall:
 - (i) make a verified return of the sale to the state auditor, specifying the amount of notes sold, the persons to whom the notes were sold, and the price, terms, and conditions of the sale; and
 - (ii) credit the proceeds of sale, other than accrued interest and amounts required to pay costs of issuance of the notes, to the General Fund to be applied to the purpose for which the notes were issued.

Amended by Chapter 342, 2011 General Session

53A-28-402 Unlimited ad valorem tax as pledge of full faith and credit -- State Tax Commission duties -- Property tax abated.

- (1)
 - (a) In each year after the issuance of general obligation notes under this chapter and until all outstanding notes are retired, there is levied a direct annual tax on all real and personal property within the state subject to state taxation, sufficient to pay all principal of and interest on the general obligation notes as they become due.
 - (b) If money expected to be intercepted under Section 53A-28-302 is expected to be insufficient to reimburse the state for its payments of school districts' scheduled debt service payments or if it is necessary for the state treasurer to borrow as provided in Section 53A-28-401 and amounts to be intercepted under Section 53A-28-302 are expected to be insufficient to timely pay the general obligation notes issued or other borrowing undertaken under that section, the state treasurer shall certify to and give notice to the state tax commission of the amount of the deficiency.
 - (c) After receipt of that certified notice from the state treasurer, the state tax commission shall:
 - (i) immediately fix the tax rate necessary and levy direct ad valorem property tax on all real and personal property in the state subject to state taxation sufficient to provide money in the amount of the deficiency stated in the notice; and
 - (ii) require that the tax be collected and remitted as soon as may be in the ordinary course of ad valorem tax levy and collection.

(2) To the extent that other legally available revenues and funds of the state are sufficient to meet the certified deficiency, the property tax for this purpose is abated.

Amended by Chapter 342, 2011 General Session