WATER CONSERVANCY DISTRICTS BONDING

AUTHORITY

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Howard A. Stephenson

AN ACT RELATING TO SPECIAL DISTRICTS; AND RESTRICTING WATER

CONSERVANCY DISTRICT BONDS FROM IMPOSING AN OBLIGATION ON THE

DISTRICT TO TAX AT THE MAXIMUM RATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

     17A-2-1439, as last amended by Chapter 261, Laws of Utah 1996

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

     Section 1. Section **17A-2-1439** is amended to read:

     17A-2-1439. Contracts providing for payment in installments -- Issuance and sale

of bonds -- Sinking fund -- Covenants -- Default -- Revenue obligations -- Refunding bonds.

     (1) (a) (i) To pay for construction, operation, and maintenance of works, and expenses

preliminary and incidental to them, the board may enter into contracts with the United States of

America or its agencies, providing for payment in installments.

     (ii) To pay for all or part of the cost of the construction or acquisition of any works, to pay

for the improvement and extension of them, to pay expenses preliminary and incidental to them,

to pay interest on the bonds during acquisition and construction, to provide for necessary reserves,

and to pay costs of issuance and sale of the bonds (including, without limitation, printing,

registration and transfer costs, legal fees, financial advisor's fees, and underwriter's discount), the

board may issue the bonds of the district as provided in this section.

     (b) The indebtedness or obligation represented by any bonds issued by or any contract

entered into by the board may be payable in whole or in part from all or part of the revenues

derived by the district from the operation of all or any designated portion of its works, from the

1   proceeds of assessments and taxes levied under this part, or from any combination of those

2   revenues, assessments, and taxes.

3   (c) The indebtedness or obligation represented by any bonds issued by or any contract

4   entered into by the board may be incurred for the acquisition, construction, or both, of all or part

5   of any works, for the improvement or extension of any works, or for a system of works for the

6   distribution of water or for the treatment of water or both, whether or not the works of the district

7   so acquired, constructed, improved, or extended include a source of water supply.

8   (d) (i) These bonds shall be issued and sold in compliance with Title 11, Chapter 14, Utah

9   Municipal Bond Act, and may be in the form and denominations and have provisions and details

10 permitted by the Utah Municipal Bond Act, except that the bonds shall mature serially or

11 otherwise and contract payment installments shall fall due at any time or times not later than 50

12 years from their date.

13 (ii) The bonds and any evidences of participation interests in the bonds may be issued,

14 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with

15 Title 15, Chapter 7, Registered Public Obligations Act, or any other statute relating to the

16 registration of bonds enacted to meet the requirements of Section 103 of the Internal Revenue

17 Code of 1954, as amended, or any similar or successor federal law, and applicable regulations.

18 (e) A bond issued under this section on or after May 4, 1998 may not obligate the board

19 or district to levy a tax at the maximum allowable rate on taxable property within the district, but

20 may obligate the board or district to levy a tax on taxable property within the district at a rate

21 sufficient to pay the principal and interest on the bond.

22 (2) (a) Bonds may be issued hereunder at one time or from time to time.

23 (b) If more than one issue or series of bonds is delivered hereunder, the bonds of the

24 respective issues or series shall have priorities of payment as provided in the proceedings

25 authorizing the bonds.

26 (3) (a) Any resolution authorizing the issuance of bonds or the entering into of a contract

27 indebtedness or obligation payable in installments hereunder shall provide for the creation of a

28 sinking fund into which shall be paid from the revenues, assessments, and taxes, any or all,

29 pledged to the payment in the authorizing resolution sums fully sufficient to pay the principal of

30 and interest on the bonds or on the contract indebtedness or obligation and to create a reserve for

31 contingencies as required by the resolution.

1   (b) Any resolution so authorizing bonds or the entering into of a contract indebtedness or

2   obligation may contain those covenants with the future holders of the bonds or the other

3   contracting party as to the management and operation of the properties and works of the district,

4   the imposition and collection of fees and charges, including taxes and assessments, for the water

5   and services furnished thereby, the disposition of the fees and revenues, the issuance of future

6   bonds and the incurring of future contract indebtedness or obligations and the creation of future

7   liens and encumbrances against the works and the revenues thereof, the carrying of insurance on

8   the works and the disposition of the proceeds of insurance, the sale, disposal, or alienation of the

9   works, and other pertinent matters deemed necessary or proper by the board to assure the

10   merchantability of the bonds or the execution of the contract.

11   (c) These covenants and agreements may not be inconsistent with this section.

12   (4) (a) It may be provided in the resolution that any holder of the bonds or any contracting

13   party may by appropriate legal action compel performance of all duties required of the board and

14   the officials of the district by this part and the resolution authorizing the bonds or contract.

15   (b) If any bond issued or any contract entered into hereunder is permitted to go into default

16   as to any installment of principal or interest, any court of competent jurisdiction may, pursuant to

17   the application of the holder of any bond or of the other contracting party, appoint a receiver to

18   operate the works of the district and to collect and distribute the revenues thereof under the

19   resolution, this part, and as the court may direct.

20   (5) (a) When the district has issued bonds or entered into a contract and pledged any

21   revenues of the works for the payment of them as provided in this part, the district shall impose

22   and collect fees and charges for water and services furnished by the works in that amount and at

23   those rates fully sufficient at all times (in conjunction with the proceeds of available taxes and

24   assessments if the bonds or contract indebtedness or obligation are also payable in part from the

25   proceeds of assessments and taxes levied under this part) to pay the expenses of operating and

26   maintaining the works, to provide a sinking fund sufficient to assure the prompt payment of

27   principal of and interest on the bonds or contract indebtedness or obligation as principal and

28   interest fall due, and to provide those funds for reserves and contingencies and for a depreciation

29   fund for repairs, extensions, and improvements to the works as deemed necessary to assure

30   adequate and efficient service, all as may be required by the resolution.

31   (b) No board or commission other than the board of directors of the district has authority

1   over or is required to approve the making or fixing of fees and charges, the acquisition of property

2   by the district, the issuance of its bonds, or the entering into of a contract.

3   (6) (a) The board of any district that issues or has issued any bonds under this part, or that

4   enters or has entered into any contracts under this part, may issue bonds hereunder for the purpose

5   of refunding all or any part of the outstanding bonds, or the outstanding indebtedness or obligation

6   represented by the contracts, or in part for the purpose of the refunding and in part for the purpose

7   of acquiring, constructing, improving, or extending works for the district.

8   (b) If bonds are issued solely for refunding purposes, the election required by Section

9   17A-2-1440 is not a condition precedent to the issuance of the bonds.

10   (c) Refunding bonds so authorized:

11   (i) may be sold and the proceeds thereof applied to or deposited in an escrow and invested

12   pending the retirement of the outstanding bonds; or

13   (ii) may be delivered in exchange for the outstanding bonds.

14   (d) The refunding bonds shall be authorized and secured in the manner herein provided

15   for the issuance and securing of other bonds and may, but are not required to, have the same source

16   of security and payment as the bonds refunded.

17   (7) (a) If bonds have been issued or a contract indebtedness or obligation has been incurred

18   hereunder payable in whole or in part from revenues to be derived from supplying water to the

19   inhabitants of territory which was not at the time of the issuance of the bonds or the entering into

20   of the contract contained within the corporate limits of any municipality or any other district

21   created for the purpose of supplying water to the territory, the district shall thereafter be the sole

22   public corporation or political subdivision authorized to supply water to this area.

23   (b) No municipal corporation or other district into which any part of the territory is

24   incorporated or included has authority either to supply water to the inhabitants of the corporation

25   or district or to grant a franchise for the supplying of the water.

26   (c) Nothing contained in this subsection prevents the modification of this restriction

27   contained by the district if modification does not in any way jeopardize the prompt payment of

28   principal of and interest on the bonds of the district then outstanding or of the payment of

29   installments of indebtedness or obligation under a contract.

Legislative Review Note
     as of   1-6-98 2:47 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

                                                          Office of Legislative Research and General Counsel