

EXCISE TAX BOND PROCESS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

This act modifies the Municipal Bond Act provisions governing revenue bonds payable from excise tax revenues. This act establishes a process for notice and a public hearing on the issuance of revenue bonds payable from excise tax revenues and requires the question of whether or not to issue the bonds to be submitted to a vote of the people upon receipt of a petition signed by 20% of the registered voters. This act makes technical corrections.

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

AMENDS:

11-14-17.5, as last amended by Chapter 270, Laws of Utah 1998

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

Section 1. Section **11-14-17.5** is amended to read:

11-14-17.5. Revenue bonds payable out of excise tax revenues.

(1) To the extent constitutionally permissible, cities, towns, or counties may issue bonds payable solely from a special fund into which are to be deposited excise taxes levied and collected by the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the city, town, or county, or any combination of those excise taxes, or may pledge all or any part thereof as an additional source of payment for their general obligation bonds. [~~For purposes of this section, excise tax revenues include class B and class C road funds apportioned to counties, cities, and towns under Section 72-2-108.~~]

(2) (a) Any resolution authorizing the issuance of bonds payable in whole or in part from the proceeds of excise tax revenues may contain covenants with the holder or holders of the bonds as to the excise tax revenues, the disposition of the excise tax revenues, the issuance of future bonds, and other pertinent matters [~~as may be deemed~~] that are considered necessary by the governing body to assure the marketability of those bonds, provided the covenants are not inconsistent with the provisions of this chapter. [~~Such~~]

(b) The resolution may also include provisions to insure the enforcement, collection, and

proper application of excise tax revenues as the governing body may think proper.

(c) The proceeds of bonds payable in whole or in part from pledged class B or C road funds shall be used to construct, repair, and maintain streets and roads in accordance with Sections 72-6-108 and 72-6-110 and to fund any reserves and costs incidental to the issuance of the bonds.

(d) When any bonds payable from excise tax revenues have been issued, the resolution or other enactment of the governing body imposing the excise tax and pursuant to which the tax is being collected, the obligation of the governing body to continue to levy, collect, and allocate the excise tax, and to apply the revenues derived therefrom in accordance with the provisions of the authorizing resolution or other enactment, shall be irrevocable until the bonds have been paid in full as to both principal and interest, and is not subject to amendment in any manner which would impair the rights of the holders of those bonds or which would in any way jeopardize the timely payment of principal or interest when due.

(3) (a) The state pledges to and agrees with the holders of any bonds issued by a city, town, or county to which the proceeds of excise taxes collected by the state and rebated to the city, town, or county are devoted or pledged as authorized in this section, that the state will not alter, impair, or limit the excise taxes in a manner that reduces the amounts to be rebated to the city, town, or county which are devoted or pledged as authorized in this section until the bonds or other securities, together with applicable interest, are fully met and discharged.

(b) Nothing in this ~~[section may preclude such]~~ Subsection (3) precludes alteration, impairment, or limitation of excise taxes if adequate provision is made by law for the protection of the holders of the bonds.

(c) Each city, town, or county may include this pledge and undertaking for the state in those bonds.

(4) The outstanding bonds to which excise tax revenues have been pledged as the sole source of payment may not at any one time exceed an amount for which the average annual installments of principal and interest will exceed 80% of the total excise tax revenues received by the issuing entity from the collection or rebate of the excise tax revenues during the fiscal year of the issuing entity immediately preceding the fiscal year in which the resolution authorizing the issuance of bonds is

adopted.

(5) Bonds issued solely from a special fund into which are to be deposited excise tax revenues constitutes a borrowing solely upon the credit of the excise tax revenues received or to be received by the city, town, or county and does not constitute an indebtedness or pledge of the general credit of the city, town, or county. ~~[To the extent constitutionally permissible, such bonds are not subject to the limitations of Article XIV, Utah Constitution nor to any statutory provisions implementing that article.]~~

(6) (a) Before issuing any bonds under this section, a city, town, or county shall:

(i) give public notice of its intent to issue the bonds; and

(ii) hold a public hearing to receive input from the public with respect to the issuance of the bonds.

(b) The city, county, or town shall:

(i) publish the notice once each week for two consecutive weeks in the official newspaper as designated under Section 11-14-21, with the first publication being not less than 14 days before the public hearing; and

(ii) ensure that the notice identifies:

(A) the purpose for the issuance of the bonds;

(B) the maximum principal amount of the bonds to be issued;

(C) the excise taxes proposed to be pledged for repayment of the bonds; and

(D) the time, place, and location of the public hearing.

(7) A city, town, or county shall submit the question of whether or not to issue any bonds under this section to voters for their approval or rejection if, within 30 calendar days after the notice required by Subsection (6), a written petition requesting an election and signed by at least 20% of the registered voters in the city, town, or county is filed with the city, town, or county.