

LOCAL GOVERNMENT VARIABLE RATE

BONDING AUTHORITY

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: D. Chris Buttars

This act modifies provisions relating to County Improvement Districts and Municipal Improvement Districts. The act provides authority to use variable rate bonds to encourage community improvements, affordable housing, and commercial/industrial developments.

The act makes technical changes.

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

AMENDS:

17A-3-210, as last amended by Chapter 1, Laws of Utah 2000

17A-3-220, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-3-227, as renumbered and amended by Chapter 186 and last amended by Chapter 214,
Laws of Utah 1990

17A-3-228, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-3-310, as renumbered and amended by Chapter 186 and last amended by Chapter 214,
Laws of Utah 1990

17A-3-320, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-3-328, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-3-329, as renumbered and amended by Chapter 186 and last amended by Chapter 214,
Laws of Utah 1990

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

Section 1. Section **17A-3-210** is amended to read:

17A-3-210. Interim warrants.

(1) (a) As work proceeds in a special improvement district, the governing body may issue interim warrants against the district:

(i) for an amount not to exceed 90% of the value of the work previously done, upon estimates of the project engineer;

(ii) after completion of the work and acceptance of the work by the project engineer and by the governing body, for 100% of the value of the work completed; and

(iii) where improvements in the district require the acquisition of property, for not more than the property price.

(b) Subject to the provisions of Section 17A-3-209, the governing body may issue warrants to:

(i) a contractor, to apply at par value on the contract price for the improvements; or

(ii) to the owner of the acquired property, to apply at par value on the property price.

(c) The governing body may also issue and sell warrants at not less than par value in a manner determined by the governing body and apply the proceeds of the sale towards payment of the contract price and property price.

(2) (a) Interim warrants shall bear interest from date of issue until paid.

(b) The governing body shall ~~[fix]~~ specify the interest rate or rates, which may be a fixed rate or rates, a variable rate or rates, or a combination of fixed and variable rates. In the case of a variable interest rate or rates, the governing body shall specify the basis upon which the rate or rates shall be determined from time to time, the manner in which and schedule upon which the rate or rates shall be adjusted, and a maximum rate that the interim warrants may bear.

(c) The governing body may fix a maturity date for each interim warrant. If a warrant matures before the governing body has available to it the sources of payment itemized in Subsection (3)(a), (b), (c), or (d), it may authorize the issuance of a new interim warrant to pay the principal and interest on the warrant falling due.

(d) Interest accruing on interim warrants shall be included as a cost of the improvements.

(3) The governing body shall pay interim warrants and interest on the warrants from one or more of the following sources:

(a) issuance of or proceeds from the sale of special improvement bonds issued against the district;

(b) cash received from the payment for improvements;

(c) payment of assessments not pledged to the payment of the bonds;

(d) the guaranty fund if appropriate; or

(e) proceeds of an interim warrant.

(4) With the authorization of the governing body, the governing entity may purchase any or all of the interim warrants issued against the district and may use the governing entity's general funds for this purchase.

Section 2. Section **17A-3-220** is amended to read:

17A-3-220. Period for paying assessments -- Frequency of installments -- Interest.

(1) Except as provided in Section 17A-3-219, an assessment shall be levied at one time upon the property. The governing body may provide in the ordinance levying the assessment that all or such portion of the assessment as is designated in the ordinance may be paid in installments over a period of time not exceeding 20 years from the effective date of the ordinance levying the assessment, except that in any case where the installments are to be payable over a period of time exceeding [~~10~~] ten years from the effective date, the governing body shall find and determine that the improvements for which the assessment are made have a reasonable, useful life for the full period during which the installments are payable or that it would otherwise be in the best interests of the governing entity and of the owners of property to be assessed to provide for payment of the assessments over a period in excess of [~~10~~] ten years.

(2) Installments shall be payable at least annually but may be payable at more frequent intervals as provided by the ordinance levying the assessment, except that if the ordinance provides for payment of the assessment over a period in excess of [~~10~~] ten years from the effective date of the same, the ordinance may also provide that no installments of these assessments shall be payable during all or any portion of the period ending three years after this effective date.

(3) Where the assessment is payable in installments, the ordinance shall provide that the unpaid balance of the assessment shall bear interest at a rate or rates which may be a fixed rate or rates, a variable rate or rates, or a combination of fixed and variable rates, from the effective date of the ordinance or from such other date as may be specified in the ordinance until due for the purpose of paying the costs relating to the special improvement district as the governing body may specify, including interest on any bonds issued under Section 17A-3-227 or 17A-3-229, ongoing costs of the

governing entity incurred with respect to administration of the special improvement district, and costs, if any, incurred with respect to securing a letter of credit or other instrument to secure payment or repurchase of any bonds or retaining a remarketing agent or an indexing agent; except that where the assessment is for light service or park maintenance, interest shall be charged only from and after the due date of each installment and the first installment for the assessment shall be due 15 days after the effective date of the ordinance. If interest is to accrue on any assessment at a variable rate or rates, the governing body shall specify the basis upon which the rate or rates shall be determined from time to time, the manner in which and schedule upon which the rate or rates shall be adjusted, and a maximum rate that the assessments may bear. Interest shall be paid in addition to the amount of each installment annually or at more frequent intervals as provided in the ordinance levying the assessment.

Section 3. Section **17A-3-227** is amended to read:

17A-3-227. Special improvement refunding bonds.

(1) (a) The governing body may issue special improvement refunding bonds to refund special improvement bonds issued under authority of this part.

(b) The governing body may adopt a resolution refunding the special improvement bonds in whole or in part or at or in advance of their maturity, whether at stated maturity or upon redemption or declaration of maturity.

(2) In issuing the special improvement refunding bonds, the governing body shall comply with:

(a) the requirements of this part;

(b) the provisions of Title 11, Chapter 27, Utah Refunding Bond Act, as provided in Subsection (13); and

(c) the requirements of this section.

(3) Special improvement refunding bonds shall:

(a) be payable solely from the same funds from which the prior bonds are payable;

(b) mature not later than the date of final maturity of the prior bonds;

(c) not mature or bear interest at any time in amounts which cannot be paid when due from

the payments of the assessments, interest on assessments, or the reduced payment obligations, as applicable, assuming that payments of these assessments, reduced payment obligations, and interest are paid when due, together with the amounts of any prior payments or prepayments of these assessments, reduced payment obligations, and interest previously made and that remain available for payment of the special improvement refunding bonds; and

(d) bear interest [~~payable semiannually or annually,~~] as determined by the governing body in accordance with Subsections 17A-3-228(2) and (5).

(4) Special improvement refunding bonds may:

(a) be issued in bearer form, with or without interest coupons attached, or in registered form in accordance with Title 15, Chapter 7, Registered Public Obligations Act, as determined by the governing body;

(b) as determined by the governing body:

(i) be in a form and contain details consistent with this part;

(ii) be payable at a place or places;

(iii) be delivered in exchange for the prior bonds; or

(iv) be sold in a manner, at terms, and with details consistent with this part, and at a price or prices above, at, or below par;

(c) be callable for redemption prior to maturity upon terms, conditions, and notice, and premium, if any, to be paid, as the governing body determines, but no special improvement refunding bonds are callable for redemption unless the terms and conditions of redemption are stated on their face; and

(d) be issued for the purpose of refunding one or more issues of prior bonds of a governing entity and, if issued to refund two or more issues of prior bonds, be issued in a single series to refund all of the issues of prior bonds to be refunded, or in two or more series to refund one or more of these issues of prior bonds.

(5) The governing body may provide for the payment of incidental refunding costs of the special improvement refunding bonds as follows:

(a) by advancing funds from the general funds or other funds of the governing entity, if the

governing body:

(i) finds and determines that this advance of the governing entity's funds is in the best interest of the governing entity and its citizens, including, without limitation, the owners of property within the district; and

(ii) provides that the assessments and the interest on assessments from which the prior bonds are payable may not be reduced during whatever period is necessary to provide funds from the payment of these assessments and the interest on assessments with which to reimburse the governing entity for all funds advanced by it for the payment of incidental refunding costs, together with interest on these funds at a rate or rates equal to the interest rate or rates payable on these assessments;

(b) from any premium received from the sale of the special improvement refunding bonds;

(c) from any earnings on the investment of the proceeds of the special improvement refunding bonds pending their use to redeem the prior bonds;

(d) from any other sources legally available to the governing entity for this purpose; or

(e) from any combination of Subsections (5)(a) through (d).

(6) (a) The governing entity shall designate an official of the governing entity to execute a manual or facsimile signature on special improvement refunding bonds and any interest coupons attached to them.

(b) The governing entity shall designate another official to attest, by manual or facsimile signature, to the signature of the official executing the special improvement refunding bonds and any interest coupons.

(c) In addition to these signatures, any special improvement refunding bond may include a certificate signed by the manual or facsimile signature of an authenticating agent, registrar, transfer agent, or the like.

(d) At least one signature of an authorized official or other person required or permitted to be placed on the special improvement refunding bonds shall be a manual signature.

(e) Special improvement refunding bonds and interest coupons bearing the signatures, manual or facsimile, of officers in office on the date of execution of the bonds or coupons are valid

and binding obligations, even if before the delivery of the special improvement refunding bonds or interest coupons any or all of the persons whose signatures appear on them have ceased to be officers of the governing entity.

(7) (a) The governing entity shall make the special improvement refunding bonds and the interest on them payable from and secured by:

(i) the same assessments and interest on assessments from which the prior bonds were payable and were secured, as they may be reduced by the amending ordinance described in Subsection (10); and

(ii) the special improvement guaranty fund if the prior bonds were payable from and secured by this fund.

(b) The governing entity may make the special improvement refunding bonds and the interest on them payable from and secured by the special improvement guaranty fund.

(c) The governing body shall:

(i) adopt an ordinance amending the prior ordinance, as provided in Subsection (10); and

(ii) give notice of any reduced payment obligations to the owners of properties assessed in the prior ordinance, as provided in Subsection (11).

(d) (i) Neither the amendment of the prior ordinance nor the issuance of special improvement refunding bonds affects the validity of the continued enforceability of the original or any other prior assessments or the interest on assessments, except for the amounts of any reductions to the original or prior assessments or interest on assessments.

(ii) Neither this amendment nor the issuance of the special improvement refunding bonds affects the validity of the enforceability or priority of the lien on the properties upon which the assessments were levied, except for the amounts of any reductions to the original or prior assessments or interest on assessments.

(iii) All these reductions to the original or prior assessments and the interest on assessments shall continue to exist in favor of the special improvement refunding bonds.

(iv) All these liens and priorities shall continue to exist against these properties to secure the payment of the reduced payment obligations and the special improvement refunding bonds in the

same manner and, except for the amounts of any reductions to the original or prior assessments or interest on assessments, to the same extent as the original and any other prior assessments, interest on assessments, and the prior bonds were secured by the original assessments, interest on assessments, and the original liens and priorities.

(e) It is the intent of the Legislature that there be no impairment of the validity of, or, except with respect to the amounts of these reductions to the original or prior assessments or interest on them, of the enforceability or priority of any of these assessments, interest on them, or liens as a result of the amendment of the prior ordinance or the issuance of the special improvement refunding bonds.

(8) (a) The lien securing any reduced payment obligations from which the special improvement refunding bonds are payable and secured is subordinate to the lien securing the original or prior assessments, interest on assessments, and the prior bonds until the principal of, interest on, and redemption premium, if any, on the prior bonds are fully paid.

(b) Following this payment, this lien shall continue as provided in Section 17A-3-223, as security for the payment of the reduced payment obligations, the penalties and costs of collection of those obligations, and the payment of the principal of, interest on, and redemption premium, if any, on the special improvement refunding bonds.

(9) (a) Unless the principal of, interest on, and redemption premiums, if any, on the prior bonds are paid simultaneously with the issuance of the special improvement refunding bonds, the governing entity shall irrevocably set aside the proceeds of the special improvement refunding bonds in an escrow or other separate account.

(b) The governing entity shall pledge that account as security for the payment of the principal of, interest on, and redemption premiums, if any, on the special improvement refunding bonds or the prior bonds, or both.

(10) The governing entity shall ensure that the amending ordinance required by Subsection (7) meets the following requirements:

(a) (i) Subject to the provisions of Subsection (5)(a), the amount by which the principal or interest, or both, payable on the special improvement refunding bonds is less than the amount of

principal or interest, or both, payable on the prior bonds shall be applied to reduce the assessments levied by the prior ordinance or the interest payable on those assessments, or both, as determined by the governing body.

(ii) Any reductions of the assessments levied by the prior ordinance or of interest payable on those assessments, or both, shall be made in such manner that the then unpaid assessments levied against each of the assessed properties and the unpaid interest on these assessments shall receive a proportionate share of the reductions.

(iii) These reductions do not apply to assessments and interest on assessments that have been paid.

(b) The amending ordinance shall either:

(i) state the amounts of the reduced payment obligations for each of the properties assessed in the prior ordinance; or

(ii) incorporate by reference a revised assessment list approved by the governing body that contains these reduced payment obligations.

(c) The amending ordinance need not describe each block, lot, part of block or lot, tract, or parcel of property assessed.

(d) The governing entity shall comply with the requirements of Subsection 17A-3-218(1) regarding publication and effective date with respect to the amending ordinance.

(e) (i) The amending ordinance shall state the effective date or dates of any reductions in the assessments and the interest on assessments levied in the prior ordinance.

(ii) The governing entity may not set an effective date that is before the date when all of the principal of, interest on, and any redemption premiums on the prior bonds and any advances of funds made under Subsection (5)(a) are fully paid.

(11) (a) The notice to owners of assessed properties of reductions in their assessments and interest payments, referred to in Subsection (7)(c)(ii), shall:

(i) identify the property subject to the assessment; and

(ii) state the amount of the reduced payment obligations that will be payable from and after the applicable date stated in the amending ordinance.

(b) The notice may contain any other information that the governing body considers appropriate.

(12) (a) The governing entity shall mail the notice referred to in Subsection (7)(c)(ii), postage prepaid, not less than 21 days before the date the first payment of the reduced assessments becomes due addressed to "owner" at the street number of each piece of improved assessed property.

(b) If a street number has not been assigned, then the post office box, rural route number, or any other mailing address of the improved property shall be used for the mailing of the notice.

(c) The governing body may include the notice with or in any other notices regarding the payment of assessments and interest on assessments sent to the property owners in the district within the time and addressed as stated in this Subsection (12).

(d) Neither the failure to give notice nor any defect in its content or the manner or time in which it is given affects the validity or enforceability of the amending ordinance or the special improvement refunding bonds or the validity, enforceability, or priority of the reduced payment obligations.

(e) Whether or not this notice is given, no other notice is required to be given to the owners of the assessed properties in connection with the issuance of the special improvement refunding bonds.

(13) To the extent it is not inconsistent with this part, Title 11, Chapter 27, Utah Refunding Bond Act, applies to the issuance of special improvement refunding bonds.

(14) The provisions of this part relating to special improvement refunding bonds apply to all special improvement bonds issued and outstanding or which may be issued and outstanding in the future.

(15) This part applies to all special improvement refunding bonds issued under this part, even though the prior bonds that are refunded by those special improvement refunding bonds were issued under any other law, including, without limitation, any law that has been repealed.

Section 4. Section **17A-3-228** is amended to read:

17A-3-228. Bonds.

(1) Fifteen days or more after the effective date of any ordinance levying an assessment in

a special improvement district, the governing body levying the assessment, by ordinance or resolution, may authorize the issuance of special improvement bonds to pay the costs of the improvements in the district against the funds created by the assessment. ~~[Special]~~ The aggregate principal amount of the special improvement bonds so authorized shall not exceed the unpaid balance of the assessments at the end of this 15-day period[;]. The special improvement bonds shall be fully negotiable for all purposes, shall mature at such time or times not exceeding the period of time over which installments of the assessments are due and payable plus one year, shall bear interest at the lowest rate or rates reasonably obtainable, shall be sold at the prices, either at, in excess of, or below their face value, shall be payable at the place or places, shall be in the form, and generally shall be issued and shall be sold in the manner and with those details as may be provided by ordinance or resolution. The bonds shall be dated no earlier than the effective date of the ordinance levying the assessment.

(2) Except for special improvement bonds issued for light service or park maintenance purposes (which bonds shall bear interest only from their due date), interest shall be paid semiannually ~~[or]~~, annually ~~[as determined]~~, or at such other intervals or upon such other schedule as may be specified by the governing body and may be evidenced by interest coupons attached to the bonds.

(3) The governing body may provide that the bonds shall be callable for redemption prior to maturity and fix the terms and conditions of redemption, including the notice to be given and the premium, if any, to be paid. No bonds are callable for redemption unless the terms and conditions of redemption are stated on the face of the bonds.

(4) The bonds shall be signed and may be countersigned by the official or officials of the governing entity (including a member or members of the governing body) as designated by the governing body. If so provided by the governing body, the signatures on the bonds and interest coupons, if any, may be by facsimile signature if at least one signature required or permitted to be placed on the face of the bond is manually signed. Bonds or interest coupons bearing the signatures (manual or facsimile) of officers in office on the date of the execution of them shall be valid and binding obligations notwithstanding that before the delivery of the bonds any or all of the persons

whose signatures appear on them shall have ceased to be officers of the governing entity.

(5) The governing body may provide that the bonds shall bear interest at a fixed rate or rates, a variable rate or rates, or a combination of fixed and variable rates. In the case of a variable interest rate or rates, the governing body shall specify the basis upon which the rate or rates shall be determined from time to time, the manner in which and schedule upon which the rate or rates shall be adjusted, and a maximum rate that the bonds may bear.

(6) The governing body may specify terms and conditions under which the bonds bearing interest at a variable interest rate may be converted to bear interest at a fixed interest rate.

(7) The governing body may specify terms and conditions under which the governing entity agrees to repurchase the bonds. The governing body may secure a letter of credit or other instrument to secure payment or repurchase of any bonds. The governing body may engage a remarketing agent and an indexing agent, subject to terms and conditions agreed to by the governing body. The governing body may cause the special improvement district to pay the costs of the foregoing and any similar costs with respect to the bonds.

Section 5. Section **17A-3-310** is amended to read:

17A-3-310. Interim warrants.

(1) (a) As work proceeds in a special improvement district, the governing body may issue interim warrants against the district:

(i) as portions of the work are completed, for not more than 90% of the value of the completed work as estimated by the engineer of the municipality;

(ii) after completion of the work and acceptance of the work by the engineer of the municipality and by the governing body, for 100% of the value of the work completed; and

(iii) where improvements in the district require the acquisition of property, for not more than the property price.

(b) Subject to the provisions of Section 17A-3-309, the governing body may issue warrants to:

(i) a contractor, to apply at par value on the contract price for the improvements; or

(ii) to the owner of the property, to apply at par value on the property price.

(c) The governing body may also issue and sell the warrants at not less than par value in a manner determined by the governing body and apply the proceeds of the sale towards payment of the contract price and property price.

(2) (a) Interim warrants shall bear interest from date of issue until paid.

(b) The governing body shall [~~fix~~] specify the interest rate or rates, which may be a fixed rate or rates, a variable rate or rates, or a combination of fixed and variable rates. In the case of a variable interest rate or rates, the governing body shall specify the basis upon which the rate or rates shall be determined from time to time, the manner in which and schedule upon which the rate or rates shall be adjusted, and a maximum rate that the interim warrants may bear.

(c) The governing body may fix a maturity date for each interim warrant. If a warrant matures before the governing body has available to it the sources of payment itemized in Subsections (3)(a), (b), or (c), it may authorize the issuance of a new warrant to pay the principal and interest on the warrant falling due.

(d) Interest accruing on interim warrants shall be included as a cost of the improvements in the special improvement district.

(3) The governing body shall pay interim warrants and interest on the warrants from one or more of the following sources:

- (a) proceeds from the sale of special improvement bonds issued against the district;
- (b) cash received from the payment of assessments not pledged to the payment of the bonds;
- (c) improvement revenues not pledged to the payment of the bonds; or
- (d) proceeds of an interim warrant.

Section 6. Section **17A-3-320** is amended to read:

17A-3-320. Payment of assessments in installments -- Frequency -- Interest.

(1) An assessment shall be levied at one time upon the property. The governing body may provide in the ordinance levying the assessment that all or such portion of the assessment as is designated in the ordinance may be paid in installments over a period of time not exceeding 20 years from the effective date of the ordinance levying the assessment, except that in any case where the installments are to be payable over a period of time exceeding [~~10~~] ten years from the effective date,

the governing body shall find and determine that the improvements for which the assessment are made have a reasonable useful life for the full period during which the installments are payable or that it would otherwise be in the best interests of the municipality and of the owners of property to be assessed to provide for payment of the assessments over a period in excess of [~~10~~] ten years.

(2) Installments shall be payable at least annually but may be payable at more frequent intervals as provided by the ordinance levying the assessment, except that if the ordinance provides for payment of the assessment over a period in excess of [~~10~~] ten years from the effective date of the same, the ordinance may also provide that no installments of these assessments shall be payable during all or any portion of the period ending three years after this effective date.

(3) Where the assessment is payable in installments, the ordinance shall provide that the unpaid balance of the assessment shall bear interest at a rate or rates, which may be a fixed rate or rates, a variable rate or rates, or a combination of fixed and variable rates, determined by the governing body from the effective date of the ordinance or from such other date as may be specified in the ordinance until due for the purpose of paying the costs relating to the special improvement district as the governing body may specify, including interest on any bonds issued under Section 17A-3-328 or 17A-3-329, ongoing costs of the municipality incurred with respect to administration of the special improvement district, and costs, if any, incurred with respect to securing a letter of credit or other instrument to secure payment or repurchase of any bonds or retaining a remarketing agent or an indexing agent; except that where the assessment is for light service or park maintenance, interest shall be charged only from the due date of each installment, and the first installment for any assessment shall be due 15 days after the effective date of the ordinance. If interest is to accrue on any assessment at a variable rate or rates, the governing body shall specify in the ordinance the basis upon which the rate or rates shall be determined from time to time, the manner in which and schedule upon which the rate or rates shall be adjusted, and a maximum rate that the assessments may bear. Interest shall be paid in addition to the amount of each installment annually or at more frequent intervals as provided in the ordinance levying the assessment.

Section 7. Section **17A-3-328** is amended to read:

17A-3-328. Special improvement bonds.

(1) Fifteen days or more after the effective date of any ordinance levying an assessment in a special improvement district, the governing body of the municipality levying the assessment, by ordinance or resolution, may authorize the issuance of special improvement bonds to pay the costs of the improvements in the district against the funds created by the assessment. ~~[Special]~~ The aggregate principal amount of the special improvement bonds so authorized shall not exceed the unpaid balance of the assessments at the end of this 15-day period[;]. The special improvement bonds shall be fully negotiable for all purposes, shall mature at such time or times not exceeding the period of time over which installments of the assessments are due and payable plus one year, shall bear interest at the lowest rate or rates reasonably obtainable, shall be payable at such place or places, shall be in such form, and generally shall be issued and shall be sold in such manner and with such details as may be provided by ordinance or resolution. All these bonds shall be dated no earlier than the effective date of the ordinance levying the assessment.

(2) Except for special improvement bonds issued for lighting service or park maintenance purposes (which bonds shall bear interest only from the due date), interest shall be paid semiannually ~~[or]~~, annually ~~[as determined]~~, or at such other intervals or upon such other schedule as may be specified by the governing body and may be evidenced by interest coupons attached to the bonds.

(3) The governing body may provide that the bonds shall be callable for redemption prior to maturity and fix the terms and conditions of redemption, including the notice to be given and the premium, if any, to be paid. No bonds are callable for redemption unless the terms and conditions of redemption are stated on the face of the bonds.

(4) The bonds shall be signed and may be countersigned by any officials of the municipality (including a member or members of the governing body) as designated by the governing body of the municipality. If so provided by the governing body, the signatures on the bonds and interest coupons, if any, may be by facsimile signature if at least one signature required or permitted to be placed on the face of the bond is manually signed. Bonds or interest coupons bearing the signatures (manual or facsimile) of officers in office on the date of execution of them shall be valid and binding obligations notwithstanding that before the delivery of the bonds any or all of the persons whose signatures appear on them shall have ceased to be officers of the municipality.

(5) The governing body may provide that the bonds shall bear interest at a fixed rate or rates, a variable rate or rates, or a combination of fixed and variable rates. In the case of a variable interest rate or rates, the governing body shall specify the basis upon which the rate or rates shall be determined from time to time, the manner in which and schedule upon which the rate or rates shall be adjusted, and a maximum rate that the bonds may bear.

(6) The governing body may specify terms and conditions under which the bonds bearing interest at a variable interest rate may be converted to bear interest at a fixed interest rate.

(7) The governing body may specify terms and conditions under which the municipality agrees to repurchase the bonds. The governing body may secure a letter of credit or other instrument to secure payment or repurchase of any bonds. The governing body may engage a remarketing agent and indexing agent, subject to terms and conditions agreed to by the governing body. The governing body may cause the special improvement district to pay the costs of the foregoing and any similar costs with respect to the bonds.

Section 8. Section **17A-3-329** is amended to read:

17A-3-329. Special improvement refunding bonds.

(1) (a) The governing body may issue special improvement refunding bonds to refund special improvement bonds issued under authority of this part.

(b) The governing body may adopt a resolution refunding the special improvement bonds in whole or in part, at or in advance of their maturity, whether at stated maturity or upon redemption or declaration of maturity.

(2) In issuing the special improvement refunding bonds, the governing body shall comply with:

(a) the requirements of this part;

(b) the provisions of Title 11, Chapter 27, Utah Refunding Bond Act, as provided in Subsection (13); and

(c) the requirements of this section.

(3) Special improvement refunding bonds shall:

(a) be payable solely from the sources described in Subsection (7)(a);

(b) mature not later than the date of final maturity of the prior bonds;

(c) not mature or bear interest at any time in amounts that cannot be paid when due from the payments of the assessments, interest on assessments, and improvement revenues, or the reduced payment obligations, as applicable, assuming that payments of these assessments, improvement revenues, reduced payment obligations, and interest are paid when due, together with the amounts of any prior payments or prepayments of these assessments, improvement revenues, reduced payment obligations, and interest previously made and that remain available for payment of the special improvement refunding bonds; and

(d) bear interest [~~payable semiannually or annually,~~] as determined by the governing body in accordance with Subsections 17A-3-328(2) and (5).

(4) Special improvement refunding bonds may:

(a) be issued in bearer form, with or without interest coupons attached, or in registered form in accordance with Title 15, Chapter 7, Registered Public Obligations Act, as determined by the governing body;

(b) as determined by the governing body:

(i) be in a form and contain details consistent with this part;

(ii) be payable at a place or places;

(iii) be delivered in exchange for the prior bonds; or

(iv) be sold in a manner, at terms, and with details consistent with this part, and at a price or prices above, at, or below par;

(c) be callable for redemption prior to maturity upon terms, conditions, and notice, and premium, if any, to be paid, as the governing body determines, but no special improvement refunding bonds are callable for redemption unless the terms and conditions of redemption are stated on their face; and

(d) be issued for the purpose of refunding one or more issues of prior bonds of a municipality and, if issued to refund two or more issues of prior bonds, be issued in a single series to refund all of the issues of prior bonds to be refunded, or in two or more series to refund one or more of these issues of prior bonds.

(5) The governing body may provide for the payment of incidental refunding costs of the special improvement refunding bonds as follows:

(a) by advancing funds from the general fund or other funds of the municipality, if the governing body:

(i) finds and determines that this advance of municipal funds is in the best interest of the municipality and its citizens, including, without limitation, the owners of property within the district; and

(ii) provides that the assessments, the interest on assessments, and the improvement revenues from which the prior bonds are payable may not be reduced during whatever period is necessary to provide funds from the payment of these assessments, interest on assessments, and improvement revenues with which to reimburse the municipality for all funds advanced by it for the payment of incidental refunding costs, together with interest on these funds at a rate or rates equal to the interest rate or rates payable on these assessments;

(b) from any premium received from the sale of the special improvement refunding bonds;

(c) from any earnings on the investment of the proceeds of the special improvement refunding bonds pending their use to redeem the prior bonds;

(d) from any other sources legally available to the municipality for this purpose; or

(e) from any combination of Subsections (5)(a) through (d).

(6) (a) The governing body of the municipality shall designate an official of the municipality to execute a manual or facsimile signature on special improvement refunding bonds and any interest coupons attached to them.

(b) The governing body of the municipality shall designate another municipal official to attest, by manual or facsimile signature, to the signature of the official executing the special improvement refunding bonds and any interest coupons.

(c) In addition to these signatures, any special improvement refunding bond may include a certificate signed by the manual or facsimile signature of an authenticating agent, registrar, transfer agent, or the like.

(d) At least one signature of an authorized official or other person required or permitted to

be placed on the special improvement refunding bonds shall be a manual signature.

(e) Special improvement refunding bonds and interest coupons bearing the signatures, manual or facsimile, of officers in office on the date of execution of the special improvement refunding bonds or coupons are valid and binding obligations, even if before the delivery of the special improvement refunding bonds or interest coupons any or all of the persons whose signatures appear on them have ceased to be officers of the municipality.

(7) (a) Notwithstanding Subsection (7)(b), in issuing special improvement refunding bonds, the governing body shall make the special improvement refunding bonds and the interest on them payable from and secured by:

(i) either the same assessments and interest on assessments from which the prior bonds were payable and were secured or by the reduced assessments and interest on assessments adopted by the governing body pursuant to Subsection (10);

(ii) the special improvement guaranty fund if the prior bonds were payable from and secured by this fund; and

(iii) improvement revenues if the prior bonds were payable from and secured by improvement revenues.

(b) In issuing special improvement refunding bonds, the governing body may make the special improvement refunding bonds and the interest on them payable from and secured by:

(i) the special improvement guaranty fund; and

(ii) improvement revenues.

(c) The governing body shall:

(i) adopt an ordinance amending the prior ordinance, as provided in Subsection (10); and

(ii) give notice of any reduced payment obligations to the owners of properties assessed in the prior ordinance, as provided in Subsection (11).

(d) (i) Neither the amendment of the prior ordinance nor the issuance of special improvement refunding bonds affects the validity of or the continued enforceability of the original or any other prior assessments or the interest on assessments, except for the amounts of any reductions to the original or prior assessments or interest on assessments specified in the amended ordinance.

(ii) Neither this amendment nor the issuance of the special improvement refunding bonds affects the validity of or the enforceability or priority of the lien on the properties upon which the assessments were levied, except for the amounts of any reductions to the original or prior assessments or interest on assessments specified in the amended ordinance.

(iii) All these reductions to the original or prior assessments and the interest on assessments shall continue to exist in favor of the special improvement refunding bonds.

(iv) All these liens and priorities shall continue to exist against these properties to secure the payment of the reduced payment obligations and the special improvement refunding bonds in the same manner and, except for the amounts of any reductions to the original or prior assessments or interest on assessments, to the same extent as the original and any other prior assessments, interest on assessments, and the prior bonds were secured by the original assessments, interest on assessments, and the original liens and priorities.

(e) It is the intent of the Legislature that there be no impairment of the validity of, or, except with respect to the amounts of these reductions to the original or prior assessments or interest on them, of the enforceability or priority of any of these assessments, interest on them, or liens as a result of the amendment of the prior ordinance or the issuance of the special improvement refunding bonds.

(8) (a) The lien securing any reduced payment obligations from which the special improvement refunding bonds are payable and secured is subordinate to the lien securing the original or prior assessments, interest on assessments, and the prior bonds until the principal of, interest on, and redemption premium, if any, on the prior bonds are fully paid.

(b) Following this payment, this lien shall continue as provided in Section 17A-3-323, as security for the payment of the reduced payment obligations, the penalties and costs of collection of those obligations, and the payment of the principal of, interest on, and redemption premium, if any, on the special improvement refunding bonds.

(9) (a) Unless the principal of, interest on, and redemption premiums, if any, on the prior bonds are paid simultaneously with the issuance of the special improvement refunding bonds, the municipality shall irrevocably set aside the proceeds of the special improvement refunding bonds

in an escrow or other separate account.

(b) The governing body shall pledge that account as security for the payment of the principal of, interest on, and redemption premiums, if any, on the special improvement refunding bonds or the prior bonds, or both.

(10) The governing body shall ensure that the amending ordinance required by Subsection (7) meets the following requirements:

(a) (i) Subject to the provisions of Subsection (5)(a), the amount by which the principal or interest, or both, payable on the special improvement refunding bonds is less than the amount of principal or interest, or both, payable on the prior bonds shall be applied to reduce the assessments levied by the prior ordinance or the interest payable on those assessments, or both, as determined by the governing body.

(ii) Any reductions of the assessments levied by the prior ordinance or of interest payable on those assessments, or both, shall be made in such manner that the then unpaid assessments levied against each of the assessed properties and the unpaid interest on these assessments shall receive a proportionate share of the reductions.

(iii) These reductions do not apply to assessments and interest on assessments that have been paid.

(b) The amending ordinance shall either:

(i) state the amounts of the reduced payment obligations for each of the properties assessed in the prior ordinance; or

(ii) incorporate by reference a revised assessment list approved by the governing body that contains these reduced payment obligations.

(c) The amending ordinance need not describe each block, lot, part of block or lot, tract, or parcel of property assessed.

(d) The governing body shall comply with the requirements of Subsection 17A-3-318(1) regarding publication and effective date with respect to the amending ordinance.

(e) (i) The amending ordinance shall state the effective date or dates of any reductions in the assessments and the interest on assessments levied in the prior ordinance.

(ii) The governing body may not set an effective date or dates that is before the date when all of the principal of, interest on, and any redemption premiums on the prior bonds and any advances of funds made under Subsection (5)(a) are fully paid.

(11) (a) The notice to owners of assessed properties of reductions in their assessments and interest payments required by Subsection (7)(c)(ii) shall:

(i) identify the property subject to the assessment; and

(ii) state the amount of the reduced payment obligations that will be payable from and after the applicable date stated in the amending ordinance.

(b) The notice may contain any other information that the governing body considers appropriate.

(12) (a) The governing body shall mail the notice referred to in Subsection (7)(c)(ii), postage prepaid, not less than 21 days before the date the first payment of the reduced assessments becomes due addressed to "owner" at the street number of each piece of improved, assessed property.

(b) If a street number has not been assigned to a piece of improved, assessed property, the notice shall be addressed to "owner" and mailed to the post office box, rural route number, or any other mailing address of the improved property.

(c) The governing body may include the notice with or in any other notices regarding the payment of assessments and interest on assessments sent to the property owners in the district within the time and addressed as stated in this Subsection (12).

(d) Neither the failure to give notice nor any defect in its content or the manner or time in which it is given affects the validity or enforceability of the amending ordinance or the special improvement refunding bonds or the validity, enforceability, or priority of the reduced payment obligations.

(e) Whether or not this notice is given, no other notice is required to be given to the owners of the assessed properties in connection with the issuance of the special improvement refunding bonds.

(13) To the extent it is not inconsistent with this part, Title 11, Chapter 27, Utah Refunding Bond Act, applies to the issuance of special improvement refunding bonds.

(14) The provisions of this part relating to special improvement refunding bonds apply to all special improvement bonds issued and outstanding or which may be issued and outstanding in the future.

(15) This part applies to all special improvement refunding bonds issued under this part even though the prior bonds that are refunded by those special improvement refunding bonds were issued under any other law, including, without limitation, any law that has been repealed.