

1                                   **LOCAL GOVERNMENT VARIABLE RATE**

2                                   **BONDING AUTHORITY**

3                                   2002 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: D. Chris Buttars**

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

9 **The act makes technical changes.**

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

11 AMENDS:

12           **17A-3-210**, as last amended by Chapter 1, Laws of Utah 2000

13           **17A-3-220**, as renumbered and amended by Chapter 186, Laws of Utah 1990

14           **17A-3-227**, as renumbered and amended by Chapter 186 and last amended by Chapter 214,  
15 Laws of Utah 1990

16           **17A-3-228**, as renumbered and amended by Chapter 186, Laws of Utah 1990

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

19           **17A-3-320**, as renumbered and amended by Chapter 186, Laws of Utah 1990

20           **17A-3-328**, as renumbered and amended by Chapter 186, Laws of Utah 1990

21           **17A-3-329**, as renumbered and amended by Chapter 186 and last amended by Chapter 214,  
22 Laws of Utah 1990

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

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

25           **17A-3-210. Interim warrants.**

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



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

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

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

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

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

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

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

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

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

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

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

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

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

56 (b) cash received from the payment for improvements;

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

58 (d) the guaranty fund if appropriate; or

59 (e) proceeds of an interim warrant.

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

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

64 **17A-3-220. Period for paying assessments -- Frequency of installments -- Interest.**

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

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

80 (3) Where the assessment is payable in installments, the ordinance shall provide that the  
81 unpaid balance of the assessment shall bear interest at a rate or rates which may be a fixed rate or  
82 rates, a variable rate or rates, or a combination of fixed and variable rates, from the effective date  
83 of the ordinance or from such other date as may be specified in the ordinance until due; except that  
84 where the assessment is for light service or park maintenance, interest shall be charged only from  
85 and after the due date of each installment and the first installment for the assessment shall be due  
86 15 days after the effective date of the ordinance. If interest is to accrue on any assessment at a  
87 variable rate or rates, the governing body shall specify the basis upon which the rate or rates shall  
88 be determined from time to time, the manner in which and schedule upon which the rate or rates  
89 shall be adjusted, and a maximum rate that the assessments may bear. Interest shall be paid in

90 addition to the amount of each installment annually or at more frequent intervals as provided in  
91 the ordinance levying the assessment.

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

93 **17A-3-227. Special improvement refunding bonds.**

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

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

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

101 (a) the requirements of this part;

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

104 (c) the requirements of this section.

105 (3) Special improvement refunding bonds shall:

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

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

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

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

116 (4) Special improvement refunding bonds may:

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

120 (b) as determined by the governing body:

121 (i) be in a form and contain details consistent with this part;  
122 (ii) be payable at a place or places;  
123 (iii) be delivered in exchange for the prior bonds; or  
124 (iv) be sold in a manner, at terms, and with details consistent with this part, and at a price  
125 or prices above, at, or below par;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

177 (c) The governing body shall:

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

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

181 (d) (i) Neither the amendment of the prior ordinance nor the issuance of special  
182 improvement refunding bonds affects the validity of the continued enforceability of the original

183 or any other prior assessments or the interest on assessments, except for the amounts of any  
184 reductions to the original or prior assessments or interest on assessments.

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

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

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

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

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

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

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

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

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

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

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

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

230 (b) The amending ordinance shall either:

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

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

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

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

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

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

244 (11) (a) The notice to owners of assessed properties of reductions in their assessments and

245 interest payments, referred to in Subsection (7)(c)(ii), shall:

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

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

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

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

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

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

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

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

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

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

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

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

276 **17A-3-228. Bonds.**

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

290 (2) Except for special improvement bonds issued for light service or park maintenance  
291 purposes (which bonds shall bear interest only from their due date), interest shall be paid  
292 semiannually or annually as determined by the governing body and may be evidenced by interest  
293 coupons attached to the bonds.

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

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

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

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

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

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

321 **17A-3-310. Interim warrants.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

352 (b) cash received from the payment of assessments not pledged to the payment of the  
 353 bonds;

354 (c) improvement revenues not pledged to the payment of the bonds; or

355 (d) proceeds of an interim warrant.

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

357 **17A-3-320. Payment of assessments in installments -- Frequency -- Interest.**

358 (1) An assessment shall be levied at one time upon the property. The governing body may  
 359 provide in the ordinance levying the assessment that all or such portion of the assessment as is  
 360 designated in the ordinance may be paid in installments over a period of time not exceeding 20  
 361 years from the effective date of the ordinance levying the assessment, except that in any case where  
 362 the installments are to be payable over a period of time exceeding [~~10~~] ten years from the effective  
 363 date, the governing body shall find and determine that the improvements for which the assessment  
 364 are made have a reasonable useful life for the full period during which the installments are payable  
 365 or that it would otherwise be in the best interests of the municipality and of the owners of property  
 366 to be assessed to provide for payment of the assessments over a period in excess of [~~10~~] ten years.

367 (2) Installments shall be payable at least annually but may be payable at more frequent  
 368 intervals as provided by the ordinance levying the assessment, except that if the ordinance provides

369 for payment of the assessment over a period in excess of [~~10~~] ten years from the effective date of  
370 the same, the ordinance may also provide that no installments of these assessments shall be  
371 payable during all or any portion of the period ending three years after this effective date.

372 (3) Where the assessment is payable in installments, the ordinance shall provide that the  
373 unpaid balance of the assessment shall bear interest at a rate or rates, which may be a fixed rate or  
374 rates, a variable rate or rates, or a combination of fixed and variable rates, determined by the  
375 governing body from the effective date of the ordinance or from such other date as may be  
376 specified in the ordinance until due; except that where the assessment is for light service or park  
377 maintenance, interest shall be charged only from the due date of each installment, and the first  
378 installment for any assessment shall be due 15 days after the effective date of the ordinance. If  
379 interest is to accrue on any assessment at a variable rate or rates, the governing body shall specify  
380 in the ordinance the basis upon which the rate or rates shall be determined from time to time, the  
381 manner in which and schedule upon which the rate or rates shall be adjusted, and a maximum rate  
382 that the assessments may bear. Interest shall be paid in addition to the amount of each installment  
383 annually or at more frequent intervals as provided in the ordinance levying the assessment.

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

385 **17A-3-328. Special improvement bonds.**

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

398 (2) Except for special improvement bonds issued for lighting service or park maintenance  
399 purposes (which bonds shall bear interest only from the due date), interest shall be paid

400 semiannually or annually as determined by the governing body and may be evidenced by interest  
401 coupons attached to the bonds.

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

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

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

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

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

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

429 **17A-3-329. Special improvement refunding bonds.**

430 (1) (a) The governing body may issue special improvement refunding bonds to refund

431 special improvement bonds issued under authority of this part.

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

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

437 (a) the requirements of this part;

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

440 (c) the requirements of this section.

441 (3) Special improvement refunding bonds shall:

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

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

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

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

453 (4) Special improvement refunding bonds may:

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

457 (b) as determined by the governing body:

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

459 (ii) be payable at a place or places;

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

461 (iv) be sold in a manner, at terms, and with details consistent with this part, and at a price

462 or prices above, at, or below par;

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

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

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

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

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

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

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

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

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

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

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

492 (b) The governing body of the municipality shall designate another municipal official to

493 attest, by manual or facsimile signature, to the signature of the official executing the special  
494 improvement refunding bonds and any interest coupons.

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

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

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

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

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

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

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

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

517 (i) the special improvement guaranty fund; and

518 (ii) improvement revenues.

519 (c) The governing body shall:

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

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

523 (d) (i) Neither the amendment of the prior ordinance nor the issuance of special

524 improvement refunding bonds affects the validity of or the continued enforceability of the original  
525 or any other prior assessments or the interest on assessments, except for the amounts of any  
526 reductions to the original or prior assessments or interest on assessments specified in the amended  
527 ordinance.

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

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

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

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

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

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

553 (9) (a) Unless the principal of, interest on, and redemption premiums, if any, on the prior  
554 bonds are paid simultaneously with the issuance of the special improvement refunding bonds, the

555 municipality shall irrevocably set aside the proceeds of the special improvement refunding bonds  
556 in an escrow or other separate account.

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

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

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

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

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

573 (b) The amending ordinance shall either:

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

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

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

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

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

584 (ii) The governing body may not set an effective date or dates that is before the date when  
585 all of the principal of, interest on, and any redemption premiums on the prior bonds and any

586 advances of funds made under Subsection (5)(a) are fully paid.

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

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

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

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

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

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

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

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

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

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

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

616 (15) This part applies to all special improvement refunding bonds issued under this part

617 even though the prior bonds that are refunded by those special improvement refunding bonds were  
618 issued under any other law, including, without limitation, any law that has been repealed.

---

---

**Legislative Review Note**  
**as of 1-11-02 3:03 PM**

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

**Office of Legislative Research and General Counsel**