

**STATE GENERAL OBLIGATION BOND ACT**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ron Bigelow**

**This act modifies provisions governing bonding by creating a master act for issuance of general obligation bonds and general obligation bond anticipation notes. This act establishes issuance requirements, repayment requirements, investment requirements, tax exempt status, and legal investment status for general obligation bonds and bond anticipation notes. This act establishes other requirements governing the issuance of general obligation bonds and general obligation bond anticipation notes. This act takes effect immediately.**

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

AMENDS:

**63B-1-101**, as enacted by Chapter 304, Laws of Utah 1993

ENACTS:

**63B-1a-101**, Utah Code Annotated 1953

**63B-1a-102**, Utah Code Annotated 1953

**63B-1a-103**, Utah Code Annotated 1953

**63B-1a-201**, Utah Code Annotated 1953

**63B-1a-301**, Utah Code Annotated 1953

**63B-1a-302**, Utah Code Annotated 1953

**63B-1a-303**, Utah Code Annotated 1953

**63B-1a-401**, Utah Code Annotated 1953

**63B-1a-402**, Utah Code Annotated 1953

**63B-1a-403**, Utah Code Annotated 1953

**63B-1a-501**, Utah Code Annotated 1953

**63B-1a-601**, Utah Code Annotated 1953

**63B-1a-701**, Utah Code Annotated 1953

This act enacts uncodified material.

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

Section 1. Section **63B-1-101** is amended to read:

**63B-1-101. Definitions.**

As used in this title:

(1) "Board" means the State Building Board.

(2) "Bond anticipation note" means:

(a) any financing note issued according to the procedures and requirements of this title in anticipation of the receipt of the proceeds of the sale of the bonds authorized under this title; and

(b) any renewal of those notes.

(3) "Bonds" means any bonds, bond anticipation notes, or other obligations authorized under this title for which the full faith, credit, and resources and ad valorem taxing power of the state have been pledged for the payment of the principal of and interest on the bonds.

(4) "Capital project" means any land, building, facility, highway, improvement, equipment, or other property, or combination of them, that the state of Utah or any of its agencies, divisions, institutions, or other administrative subunits are authorized by law to acquire or construct.

~~[(2)]~~ (5) "Commission" means the State Bonding Commission created in Section 63B-1-201.

~~[(3)]~~ (6) "Division" means the Division of Facilities Construction and Management.

(7) "Sinking fund" means the fund or account established as provided in this title to hold monies to pay the principal and interest on each series of bonds as they become due.

Section 2. Section **63B-1a-101** is enacted to read:

**CHAPTER 1a. MASTER GENERAL OBLIGATION BOND ACT**

**Part 1. Issuance and Refunding of General Obligation Bonds**

**63B-1a-101. Definitions -- Bonds authorized -- Prohibitions -- Purposes -- Use of bonds proceeds.**

(1) As used in this section:

(a) "Cost" includes:

(i) all costs related to the authorized capital project, including the cost of equipment and furnishings for, interests in, or improvements necessary, incidental, or convenient to, those capital projects;

(ii) all costs incident to the authorization and issuance of bonds;

(iii) interest estimated to accrue on bonds during the period to be covered by the acquisition and construction of the capital project and for up to 12 months after that period; and

(iv) other amounts that the commission finds necessary to establish reserve funds and to provide working capital related to the capital project.

(b) "Taxable property of the state" includes all real and personal property subject to ad valorem taxation within the state, including all property subject to a fee-in lieu of tax.

(2) When authorized by the Legislature, the commission may, in the manner specified in this chapter, issue bonds to provide funds to the state for the purpose of paying all or part of the cost of designing, acquiring, constructing, improving, or extending:

(a) any one or more capital projects; or

(b) any interest in one or more or any combination of capital projects.

(3) Before issuing any bonds, the commission shall determine that the Legislature has:

(a) affirmatively authorized the issuance of the bonds; and

(b) has specified:

(i) the capital projects to be funded;

(ii) the maximum amount of the bonds; and

(iii) the latest maturity of the bonds.

(4) (a) The commission may not issue bonds under this chapter in an amount that violates the limitation described in the Utah Constitution Article XIV, Section 1 or payable beyond the period described in the Utah Constitution Article XIII, Section 5(3).

(b) For purposes of applying the debt limitation contained in the Utah Constitution Article XIV, Section 1, the value of the taxable property in Utah is considered to be 100% of the fair market value of the taxable property of the state as computed from the last assessment for state purposes made before the issuance of the bonds.

Section 3. Section **63B-1a-102** is enacted to read:

**63B-1a-102. Commission responsibilities -- Manner of issuance -- Plan of financing -- Registration -- Signatures -- Replacement -- Reporting.**

(1) The commission may determine by resolution:

(a) the manner in which bonds issued under this chapter may be authorized, sold, and issued;

(b) to issue bonds in one or more series;

(c) the amounts, dates, interest rates, including a variable rate or rates, and maturity dates of the bonds;

(d) the manner of sale, including public or private sale;

(e) the terms and conditions of sale, including price, whether at, below, or above face value;

(f) the denominations, registration, exchange, form, including book-entry only, manner of execution, manner of authentication, place and medium of purchase, redemption terms, and tender rights of the bonds; and

(g) other provisions and details that it considers appropriate.

(2) The commission may, by resolution, adopt a plan of financing, which may include terms and conditions of arrangements entered into by the commission on behalf of the state with financial and other institutions for bond insurance, letters of credit, standby bond purchase agreements, reimbursement agreements, and remarketing, indexing, and tender agent agreements relating to the bonds, including payment from any legally available source of fees, charges, or other amounts coming due under the agreements entered into by the commission.

(3) The commission may provide for the services and payment for the services of one or more financial institutions or other entities, persons, or nominees, within or outside the state, for the authentication, registration, transfer, including record, bookkeeping, or book-entry functions, exchange, and payment of the bonds.

(4) The commission may provide for the calculation and payment to the United States of whatever amounts are necessary to comply with the Internal Revenue Code.

(5) (a) The commission shall, by resolution, authorize a public official to sign the bonds.

(b) That signature may be a facsimile signature of that official that is imprinted, engraved, stamped, or otherwise placed on the bonds.

(c) If all signatures of public officials on the bonds are facsimile signatures, the commission shall provide for a manual authenticating signature on the bonds by or on behalf of a designated authentication agent.

(d) If a public official ceases to hold office before delivery of the bonds signed by that official, the signature or facsimile signature of the public official is nevertheless valid for all purposes.

(6) The commission may cause a facsimile of the state seal to be imprinted, engraved, stamped, or otherwise placed on the bonds.

(7) The commission shall provide an annual report of its proceedings to the governor to include in his budget for as long as any bonds issued under this chapter remain outstanding.

Section 4. Section **63B-1a-103** is enacted to read:

**63B-1a-103. Refunding general obligation bonds.**

(1) The commission may provide for the refunding of any bonds in accordance with Title 11, Chapter 27, Utah Refunding Bond Act.

(2) For purposes of Title 11, Chapter 27, Utah Refunding Bond Act, the state is considered the public body and the commission is its governing body.

Section 5. Section **63B-1a-201** is enacted to read:

**Part 2. Disposition of Proceeds from General Obligation Bonds**

**63B-1a-201. Bonds proceeds -- Deposits -- Investment -- Disposition of investment income and unexpended proceeds.**

(1) (a) The commission shall provide that proceeds from the sale of bonds issued under this chapter are deposited within one or more accounts as determined by the commission or by the state treasurer.

(b) The state treasurer shall administer and maintain these accounts.

(2) (a) The state treasurer shall:

(i) establish the kinds of investments in which the proceeds of bonds issued under this chapter may be invested; and

(ii) designate where the income from the investment of bond proceeds shall be applied.

(b) The state treasurer shall apply the income from the investment of proceeds of bonds issued under this chapter as directed by the commission by resolution.

(3) Upon completion of the purposes for which the bonds were issued, any unexpended proceeds of the bonds issued under this chapter shall be deposited in the related sinking fund unless the commission provides otherwise by resolution.

Section 6. Section **63B-1a-301** is enacted to read:

**Part 3. General Obligation Bond Repayment Arrangements.**

**63B-1a-301. Sinking fund -- Creation -- Investment of monies.**

(1) For bonds authorized and issued as provided in this chapter, the commission shall create a sinking fund, to be administered by the state treasurer.

(2) All monies deposited in the sinking fund, from whatever source, shall be used to pay debt service on the bonds.

(3) The commission or the state treasurer may create separate accounts within the sinking fund.

(4) (a) The state treasurer may, by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act, invest any money contained in the sinking fund until it is needed for the purposes for which the fund was created.

(b) Unless otherwise provided in the resolution of the commission authorizing the issuance of bonds under this chapter, the treasurer:

(i) shall deposit all income from the investment of any sinking fund monies into the sinking fund; and

(ii) may use it for the payment of debt service on the bonds.

Section 7. Section **63B-1a-302** is enacted to read:

**63B-1a-302. Payment of interest, principal, and redemption premiums.**

(1) The Division of Finance shall draw warrants on the state treasury before any interest,

principal, or redemption premiums become due on the bonds.

(2) After receipt of the warrants, the state treasurer shall:

(a) promptly pay the warrants from funds within the sinking fund; and

(b) immediately transmit the amount paid to the paying agent for the bonds.

Section 8. Section **63B-1a-303** is enacted to read:

**63B-1a-303. Tax levy -- Abatement of tax.**

(1) Each year after issuance of bonds and until each outstanding bond is retired, there is levied a direct annual tax on all taxable property of the state sufficient to pay principal, interest, and any applicable redemption premiums on each bond as it becomes due.

(2) The State Tax Commission shall fix the rate of the direct annual tax levy each year.

(3) The tax shall be collected and the proceeds applied as provided in this chapter.

(4) The proceeds of all taxes levied under this section are appropriated to the sinking fund established as required by Section 63B-1a-301.

(5) The direct annual tax imposed under this section is abated to the extent that money is available from sources other than ad valorem taxes in the sinking fund for the payment of bond interest, principal, and redemption premiums.

Section 9. Section **63B-1a-401** is enacted to read:

**Part 4. Miscellaneous Provisions Governing General Obligation Bonds.**

**63B-1a-401. Status of bond records -- Compliance with Registered Public Obligations Act.**

(1) The records of ownership, registration, transfer, and exchange of the bonds, and of persons to whom payment with respect to the obligations are made, are private records as provided in Section 63-2-302 or protected records as provided in Section 63-2-304.

(2) The bonds and any evidences of participation interest in the bonds may be issued, executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with Title 15, Chapter 7, Registered Public Obligations Act.

Section 10. Section **63B-1a-402** is enacted to read:

**63B-1a-402. Legal investment status.**

Bonds issued under this chapter are legal investments for all state trust funds, insurance companies, banks, trust companies, and the State School Fund and may be used as collateral to secure legal obligations.

Section 11. Section **63B-1a-403** is enacted to read:

**63B-1a-403. Tax status -- Exemption.**

The bonds issued under this chapter, any interest paid on the bonds, and any income from the bonds is not taxable in Utah for any purpose, except for the corporate franchise tax.

Section 12. Section **63B-1a-501** is enacted to read:

**Part 5. Challenges to Legality of Bonds -- Limitations**

**63B-1a-501. Publication of resolution or notice -- Limitation on actions to contest legality.**

(1) The commission may either:

(a) publish once in a newspaper having general circulation in Utah any resolution adopted by it; or

(b) in lieu of publishing the entire resolution, publish a notice of bonds to be issued, titled as such, containing:

(i) the purpose of the bond issue;

(ii) the type of bonds and the maximum principal amount that may be issued;

(iii) the maximum number of years over which the bonds may mature;

(iv) the maximum interest rate that the bonds may bear, if any;

(v) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold; and

(vi) that a copy of the resolution or other proceedings may be examined at the office of the state treasurer during regular business hours for at least 30 days after the publication of the notice.

(2) For 30 days after the date of publication, any interested person may contest:

(a) the legality of the resolution;

(b) any of the bonds authorized under it; or



- (c) any of the provisions made for the repayment of the bonds.
- (3) After 30 days, a person may not, for any cause, contest:
  - (a) the legality of the resolution;
  - (b) any of the bonds authorized under the resolution; or
  - (c) any of the provisions made for the security and repayment of the bonds.

Section 13. Section **63B-1a-601** is enacted to read:

**Part 6. Bond Anticipation Notes**

**63B-1a-601. Bond anticipation notes -- Authorization, terms, and procedures.**

(1) (a) The commission may issue bond anticipation notes in the form and with the terms that the commission determines.

(b) Each bond anticipation note and the interest on it are a general obligation of the state.

(2) The commission shall, by resolution:

(a) establish the interest rate or rates, including variable rates, for the bond anticipation notes; and

(b) provide that each bond anticipation note and any interest due on it is payable from:

(i) the proceeds of the sale of bonds;

(ii) monies of the state on hand and legally available for that purpose in accordance with the authorized security; or

(iii) any combination of Subsections (2)(b)(i) and (ii).

(3) If the general obligation bonds have not been issued before the maturity of the bond anticipation notes issued in anticipation of the sale of those bonds, the commission shall, in order to meet the bond anticipation notes that are maturing:

(a) issue renewal bond anticipation notes for that purpose;

(b) pay the bond anticipation notes from state monies legally available for paying those notes; or

(c) any combination of Subsections (3)(a) and (b).

(4) The commission may, by resolution:

(a) provide that the bond anticipation notes are subject to redemption before maturity;

(b) enter into agreements and make other arrangements, including any or all of those authorized by Subsection 63B-1a-102(2), that the commission considers necessary or appropriate in connection with the issuance, sale, and resale of the bond anticipation notes;

(c) resell or retire any bond anticipation notes purchased by the state before the stated maturity of those bond anticipation notes; and

(d) establish whatever funds and accounts are necessary or desirable to carry out the authorization and issuance of bond anticipation notes.

Section 14. Section **63B-1a-701** is enacted to read:

**Part 7. Effect on Outstanding Bonds**

**63B-1a-701. Prior bonds validated -- Exceptions.**

All general obligation bonds and bond anticipation notes issued by the commission before the effective date of this chapter and all proceedings had in the authorization and issuance of them are:

(1) validated, ratified, and confirmed; and

(2) declared to constitute legally binding obligations in accordance with their terms.

Section 15. **Effective date.**

If approved by two-thirds of all the members elected to each house, this act takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 16. **Revisor's instruction.**

It is the intent of the Legislature that the Office of Legislature Research and General Counsel, in preparing the Utah Code for publication, shall replace the words "the effective date of this chapter" in Section 63B-1a-701 with the actual date on which the chapter took effect.