

1 **STATE GENERAL OBLIGATION BOND ACT**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Ron Bigelow**

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

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

13 AMENDS:

14 **63B-1-101**, as enacted by Chapter 304, Laws of Utah 1993

15 ENACTS:

16 **63B-1a-101**, Utah Code Annotated 1953

17 **63B-1a-102**, Utah Code Annotated 1953

18 **63B-1a-103**, Utah Code Annotated 1953

19 **63B-1a-201**, Utah Code Annotated 1953

20 **63B-1a-301**, Utah Code Annotated 1953

21 **63B-1a-302**, Utah Code Annotated 1953

22 **63B-1a-303**, Utah Code Annotated 1953

23 **63B-1a-401**, Utah Code Annotated 1953

24 **63B-1a-402**, Utah Code Annotated 1953

25 **63B-1a-403**, Utah Code Annotated 1953

26 **63B-1a-501**, Utah Code Annotated 1953

27 **63B-1a-601**, Utah Code Annotated 1953



28 **63B-1a-701**, Utah Code Annotated 1953

29 This act enacts uncodified material.

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

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

32 **63B-1-101. Definitions.**

33 As used in this title:

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

35 (2) "Bond anticipation note" means:

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

39 (b) any renewal of those notes.

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

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

47 [~~2~~] (5) "Commission" means the State Bonding Commission created in Section
48 63B-1-201.

49 [~~3~~] (6) "Division" means the Division of Facilities Construction and Management.

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

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

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

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

55 **63B-1a-101. Definitions -- Bonds authorized -- Prohibitions -- Purposes -- Use of**
56 **bonds proceeds.**

57 (1) As used in this section:

58 (a) "Cost" includes:

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

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

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

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

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

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

72 (a) any one or more capital projects; or

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

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

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

76 (b) has specified:

77 (i) the capital projects to be funded;

78 (ii) the maximum amount of the bonds; and

79 (iii) the latest maturity of the bonds.

80 (4) (a) The commission may not issue bonds under this chapter in an amount that
81 violates the limitation described in the Utah Constitution Article XIV, Section 1 or payable
82 beyond the period described in the Utah Constitution Article XIII, Section 2(11).

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

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

88 **63B-1a-102. Commission responsibilities -- Manner of issuance -- Plan of**
89 **financing -- Registration -- Signatures -- Replacement -- Reporting.**

90 (1) The commission may determine by resolution:
91 (a) the manner in which bonds issued under this chapter may be authorized, sold, and
92 issued;
93 (b) to issue bonds in one or more series;
94 (c) the amounts, dates, interest rates, including a variable rate or rates, and maturity
95 dates of the bonds;
96 (d) the manner of sale, including public or private sale;
97 (e) the terms and conditions of sale, including price, whether at, below, or above face
98 value;
99 (f) the denominations, registration, exchange, form, including book-entry only, manner
100 of execution, manner of authentication, place and medium of purchase, redemption terms, and
101 tender rights of the bonds; and
102 (g) other provisions and details that it considers appropriate.
103 (2) The commission may, by resolution, adopt a plan of financing, which may include
104 terms and conditions of arrangements entered into by the commission on behalf of the state
105 with financial and other institutions for bond insurance, letters of credit, standby bond purchase
106 agreements, reimbursement agreements, and remarketing, indexing, and tender agent
107 agreements relating to the bonds, including payment from any legally available source of fees,
108 charges, or other amounts coming due under the agreements entered into by the commission.
109 (3) The commission may provide for the services and payment for the services of one
110 or more financial institutions or other entities, persons, or nominees, within or outside the state,
111 for the authentication, registration, transfer, including record, bookkeeping, or book entry
112 functions, exchange, and payment of the bonds.
113 (4) The commission may provide for the calculation and payment to the United States
114 of whatever amounts are necessary to comply with the Internal Revenue Code.
115 (5) (a) The commission shall, by resolution, authorize a public official to sign the
116 bonds.
117 (b) That signature may be a facsimile signature of that official that is imprinted,
118 engraved, stamped, or otherwise placed on the bonds.
119 (c) If all signatures of public officials on the bonds are facsimile signatures, the
120 commission shall provide for a manual authenticating signature on the bonds by or on behalf of

121 a designated authentication agent.

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

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

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

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

130 **63B-1a-103. Refunding general obligation bonds.**

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

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

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

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

137 **63B-1a-201. Bonds proceeds -- Deposits -- Investment -- Disposition of investment**
138 **income and unexpended proceeds.**

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

142 (b) The state treasurer shall administer and maintain these accounts unless otherwise
143 provided by the commission by resolution.

144 (c) The commission may, by resolution, provide for:

145 (i) the deposit of these monies with a fiduciary; and

146 (ii) the administration, disposition, or investment of these monies by that fiduciary.

147 (2) (a) The commission shall, by resolution:

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

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

151 (b) The state treasurer shall apply the income from the investment of proceeds of bonds

152 issued under this chapter as directed by the commission by resolution.

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

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

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

158 **63B-1a-301. Sinking fund -- Creation -- Investment of monies.**

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

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

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

165 (4) (a) The state treasurer may, by following the procedures and requirements of Title
166 51, Chapter 7, State Money Management Act, invest any money contained in the sinking fund
167 until it is needed for the purposes for which the fund was created.

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

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

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

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

174 **63B-1a-302. Payment of interest, principal, and redemption premiums.**

175 (1) The Division of Finance shall draw warrants on the state treasury before any
176 interest, principal, or redemption premiums become due on the bonds.

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

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

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

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

181 **63B-1a-303. Tax levy -- Abatement of tax.**

182 (1) Each year after issuance of bonds and until each outstanding bond is retired, there is

183 levied a direct annual tax on all taxable property of the state sufficient to pay principal, interest,
 184 and any applicable redemption premiums on each bond as it becomes due.

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

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

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

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

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

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

194 **63B-1a-401. Status of bond records -- Compliance with Registered Public**

195 **Obligations Act.**

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

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

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

203 **63B-1a-402. Legal investment status.**

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

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

208 **63B-1a-403. Tax status -- Exemption.**

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

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

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

213 **63B-1a-501. Publication of resolution or notice -- Limitation on actions to contest**

214 **legality.**

215 (1) The commission may either:

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

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

220 (i) the purpose of the bond issue;

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

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

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

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

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

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

230 (a) the legality of the resolution;

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

232 (c) any of the provisions made for the repayment of the bonds.

233 (3) After 30 days, a person may not, for any cause, contest:

234 (a) the legality of the resolution;

235 (b) any of the bonds authorized under the resolution; or

236 (c) any of the provisions made for the security and repayment of the bonds.

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

238 **Part 6. Bond Anticipation Notes**

239 **63B-1a-601. Bond anticipation notes -- Authorization, terms, and procedures.**

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

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

244 (2) The commission shall, by resolution:

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

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

248 (i) the proceeds of the sale of bonds;

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

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

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

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

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

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

259 (4) The commission may, by resolution:

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

261 (b) enter into agreements and make other arrangements, including any or all of those
262 authorized by Subsection 63B-1a-102(2), that the commission considers necessary or

263 appropriate in connection with the issuance, sale, and resale of the bond anticipation notes;

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

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

268 (e) until the monies are needed for the purpose for which the fund or account was
269 created, direct the investment of the monies held in those funds and accounts by following the
270 procedures and requirements of Title 51, Chapter 7, State Money Management Act.

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

272 **Part 7. Effect on Outstanding Bonds.**

273 **63B-1a-701. Prior bonds validated -- Exceptions.**

274 All general obligation bonds and bond anticipation notes issued by the commission
275 before the effective date of this chapter and all proceedings had in the authorization and

276 issuance of them are:

277 (1) validated, ratified, and confirmed; and

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

279 **Section 15. Effective date.**

280 If approved by two-thirds of all the members elected to each house, this act takes effect

281 upon approval by the governor, or the day following the constitutional time limit of Utah

282 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,

283 the date of veto override.

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

285 It is the intent of the Legislature that the Office of Legislature Research and General

286 Counsel, in preparing the Utah Code for publication, shall replace the words "the effective date

287 of this chapter" in Section 63B-1a-701 with the actual date on which the chapter took effect.

Legislative Review Note

as of 11-21-02 11:06 AM

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

Office of Legislative Research and General Counsel

Interim Committee Note

as of 12-12-02 4:01 PM

The Government Operations Interim Committee recommended this bill.

Fiscal Note
Bill Number HB0026

State General Obligation Bond Act

30-Dec-02

11:31 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst