

**MORATORIUM ON ISSUING SALES TAX  
REVENUE BONDS BY LOCAL GOVERNMENTS**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lyle W. Hillyard**

House Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill imposes a moratorium on the issuance of sales and use tax revenue bonds by a city, town, or county.

**Highlighted Provisions:**

This bill:

- imposes a moratorium on the issuance of sales and use tax revenue bonds by a city, town, or county for a cable television service or a public telecommunications service; and

- imposes a moratorium on the issuance of sales and use tax revenue bonds by a city, town, or county for general local government purposes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an immediate effective date.

**Utah Code Sections Affected:**

AMENDS:

**10-18-302**, as last amended by Chapter 105, Laws of Utah 2005

**11-14-307**, as renumbered and amended by Chapter 105, Laws of Utah 2005

---

---



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

Section 1. Section **10-18-302** is amended to read:

**10-18-302. Bonding authority.**

(1) In accordance with Title 11, Chapter 14, Local Government Bonding Act, the legislative body of a municipality may by resolution determine to issue one or more revenue bonds or general obligation bonds to finance the capital costs for facilities necessary to provide to subscribers:

(a) a cable television service; or

(b) a public telecommunications service.

(2) The resolution described in Subsection (1) shall:

(a) describe the purpose for which the indebtedness is to be created; and

(b) specify the dollar amount of the one or more bonds proposed to be issued.

(3) (a) ~~[A]~~ Except as provided in Subsection (3)(c), a revenue bond issued under this section shall be secured and paid for:

(i) from the revenues generated by the municipality from providing:

(A) cable television services with respect to revenue bonds issued to finance facilities for the municipality's cable television services; and

(B) public telecommunications services with respect to revenue bonds issued to finance facilities for the municipality's public telecommunications services; and

(ii) notwithstanding Subsection (3)(b) and Subsection 10-18-303(3)(a), from revenues generated under Title 59, Chapter 12, Sales and Use Tax Act, if:

(A) notwithstanding Subsection 11-14-201(3) and except as provided in Subsections (4) and (5), the revenue bond is approved by the registered voters in an election held:

(I) except as provided in Subsection (3)(a)(ii)(A)(II), pursuant to the provisions of Title 11, Chapter 14, Local Government Bonding Act, that govern bond elections; and

(II) notwithstanding Subsection 11-14-203(2), at a regular general election;

(B) the revenues described in this Subsection (3)(a)(ii) are pledged as security for the revenue bond; and

(C) the municipality or municipalities annually appropriate the revenues described in this Subsection (3)(a)(ii) to secure and pay the revenue bond issued under this section.

(b) Except as provided in Subsection (3)(a)(ii), a municipality may not pay the

59 origination, financing, or other carrying costs associated with the one or more revenue bonds  
60 issued under this section from the general funds or other enterprise funds of the municipality.

61 (c) Beginning January 23, 2006 and ending March 7, 2007, a city, town, or county may  
62 not authorize, approve, or issue any bonds payable from sales or use tax revenues.

63 (4) (a) As used in this Subsection (4), "municipal entity" means an entity created  
64 pursuant to an agreement:

65 (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and

66 (ii) to which a municipality is a party.

67 (b) The requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality or  
68 municipal entity that issues revenue bonds, or to a municipality that is a member of a municipal  
69 entity that issues revenue bonds, if:

70 (i) on or before March 2, 2004, the municipality that is issuing revenue bonds or that is  
71 a member of a municipal entity that is issuing revenue bonds has published the first notice  
72 described in Subsection (4)(b)(iii);

73 (ii) on or before April 15, 2004, the municipality that is issuing revenue bonds or that  
74 is a member of a municipal entity that is issuing revenue bonds makes the decision to pledge  
75 the revenues described in Subsection (3)(a)(ii) as security for the revenue bonds described in  
76 this Subsection (4)(b)(ii);

77 (iii) the municipality that is issuing the revenue bonds or the municipality that is a  
78 member of the municipal entity that is issuing the revenue bonds has:

79 (A) held a public hearing for which public notice was given by publication of the  
80 notice in a newspaper published in the municipality or in a newspaper of general circulation  
81 within the municipality for two consecutive weeks, with the first publication being not less  
82 than 14 days before the public hearing; and

83 (B) the notice identifies:

84 (I) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding  
85 Act;

86 (II) the purpose for the bonds to be issued;

87 (III) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will  
88 be pledged in any fiscal year;

89 (IV) the maximum number of years that the pledge will be in effect; and

(V) the time, place, and location for the public hearing;

(iv) the municipal entity that issues revenue bonds:

(A) adopts a final financing plan; and

(B) in accordance with Title 63, Chapter 2, Government Records Access and Management Act, makes available to the public at the time the municipal entity adopts the final financing plan:

(I) the final financing plan; and

(II) all contracts entered into by the municipal entity, except as protected by Title 63, Chapter 2, Government Records Access and Management Act;

(v) any municipality that is a member of a municipal entity described in Subsection (4)(b)(iv):

(A) not less than 30 calendar days after the municipal entity complies with Subsection (4)(b)(iv)(B), holds a final public hearing;

(B) provides notice, at the time the municipality schedules the final public hearing, to any person who has provided to the municipality a written request for notice; and

(C) makes all reasonable efforts to provide fair opportunity for oral testimony by all interested parties; and

(vi) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).

(5) On or after July 1, 2007, the requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality that issues revenue bonds if:

(a) the municipality that is issuing the revenue bonds has:

(i) held a public hearing for which public notice was given by publication of the notice in a newspaper published in the municipality or in a newspaper of general circulation within the municipality for two consecutive weeks, with the first publication being not less than 14 days before the public hearing; and

(ii) the notice identifies:

(A) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;

(B) the purpose for the bonds to be issued;

(C) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;

(D) the maximum number of years that the pledge will be in effect; and

(E) the time, place, and location for the public hearing; and

(b) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).

(6) A municipality that issues bonds pursuant to this section may not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of:

(a) cable television services; or

(b) public telecommunications services.

Section 2. Section **11-14-307** is amended to read:

**11-14-307. Revenue bonds payable out of excise tax revenues.**

(1) ~~[Tø]~~ Except as provided in Subsection (8), and to the extent constitutionally permissible, cities, towns, or counties may issue bonds payable solely from a special fund into which are to be deposited excise taxes levied and collected by the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the city, town, or county, or any combination of those excise taxes, or may pledge all or any part thereof as an additional source of payment for their general obligation bonds.

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

(b) The resolution may also include provisions to insure the enforcement, collection, and proper application of excise tax revenues as the legislative body may think proper.

(c) The proceeds of bonds payable in whole or in part from pledged class B or C road funds shall be used to construct, repair, and maintain streets and roads in accordance with

Sections 72-6-108 and 72-6-110 and to fund any reserves and costs incidental to the issuance of the bonds.

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

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

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

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

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

(5) Bonds issued solely from a special fund into which are to be deposited excise tax revenues constitutes a borrowing solely upon the credit of the excise tax revenues received or to be received by the city, town, or county and does not constitute an indebtedness or pledge of the general credit of the city, town, or county.

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

(i) give public notice of its intent to issue the bonds; and  
(ii) hold a public hearing to receive input from the public with respect to the issuance of the bonds.

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

(i) publish the notice once each week for two consecutive weeks in the official newspaper as designated under Section 11-14-316, with the first publication being not less than 14 days before the public hearing; and

(ii) ensure that the notice identifies:

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

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

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

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

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

(8) Beginning January 23, 2006 and ending March 7, 2007, a city, town, or county may not authorize, approve, or issue any bonds payable from sales or use tax revenues.

Section 3. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill 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.

---

---

### Legislative Review Note

as of 1-20-06 5:51 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

---

---

**Fiscal Note****Moratorium on Issuing Sales Tax Revenue Bonds by Local Governments***23-Jan-06***Bill Number SB0166***8:27 AM*

---

---

**State Impact**

Passage of this bill would have no impact on current state and local revenues or expenditures.

---

**Individual and Business Impact**

No fiscal impact.

---

**Office of the Legislative Fiscal Analyst**