

Representative John Dougall proposes the following substitute bill:

**REVENUE BONDS - AUDITING OF
PUBLIC-PRIVATE CONTRACTS**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: John Dougall

LONG TITLE

General Description:

This bill modifies the Local Government Bonding Act to require an assessment of the financial condition of certain public-private contracts.

Highlighted Provisions:

This bill:

- ▶ requires an independent assessment to be conducted before the execution of any new contract or agreement between a local political subdivision and a private entity that involves payments where the revenue is pledged for payment of a revenue bond;
- ▶ exempts international airports from the requirement for an independent assessment;
- ▶ requires the local political subdivision to ensure that the independent assessment is conducted prior to entering into a new contract or agreement;
- ▶ requires the independent assessment to be performed using audited financial statements provided by the private entity;
- ▶ requires the audited financial statements to include an opinion by an independent certified public accountant indicating that the financial statements are fairly stated in accordance with accounting principles generally accepted in the United States of



26 America;

27 ▶ requires that the independent assessment determine whether there are adequate
28 available net assets or a reasonable expectation of sufficient future cash flows and
29 revenues in excess of expenses to provide for the lease payments; and

30 ▶ provides that information and records provided by a private entity in order to
31 comply with the requirements of the assessment are not subject to the requirements
32 of Title 63, Chapter 2, Government Records Access and Management Act.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 ENACTS:

39 **11-14-317**, Utah Code Annotated 1953



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

42 Section 1. Section **11-14-317** is enacted to read:

43 **11-14-317. Contract with private entities involving revenue bonds -- Prior**
44 **independent assessment of financial ability -- Opinion by independent certified public**
45 **accountant -- Periodic independent assessments.**

46 (1) (a) Beginning July 1, 2006, and except as provided in Subsection (1)(b), an
47 independent assessment shall be conducted prior to the execution of any contract or agreement
48 between a local political subdivision and a private entity to determine the private entity's ability
49 to meet its financial obligations to the local political subdivision if the contract or agreement
50 involves payments, the revenue from which is pledged for the payment of principal or interest
51 on a revenue bond.

52 (b) A contract or agreement that generates revenue that is payable in relation to an
53 international airport is exempt from the requirements of this section.

54 (2) The local political subdivision shall ensure that the independent assessment under
55 Subsection (1) is conducted:

56 (a) prior to entering into a new contract or agreement; and

57 (b) using audited financial statements provided by the private entity.

58 (3) The audited financial statements shall include an opinion by an independent
59 certified public accountant indicating that the financial statements are fairly stated in
60 accordance with accounting principles generally accepted in the United States of America.

61 (4) The independent assessment shall determine whether there are adequate available
62 net assets or a reasonable expectation of sufficient future cash flows and revenues in excess of
63 expenses to provide for the lease payments.

64 (5) A local political subdivision may conduct periodic independent assessments under
65 this section on existing contracts or agreements meeting the requirements described under
66 Subsection (1).

67 (6) Information or records provided by a private entity in order to comply with the
68 requirements of this section are not subject to the procedures or requirements of Title 63,
69 Chapter 2, Government Records Access and Management Act.