

CHARTER SCHOOL FACILITIES FINANCING

ACT

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill creates the State Charter School Financing Authority to provide financing for charter school facilities.

Highlighted Provisions:

This bill:

- ▶ creates the State Charter School Financing Authority;
- ▶ defines the authority's powers and duties, including the power to issue obligations under the Utah Industrial Facilities and Development Act; and
- ▶ provides that obligations issued by the authority do not constitute a debt, moral obligation, or liability of the state or any political subdivision of the state.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

- 11-17-20**, Utah Code Annotated 1953
- 53A-20b-101**, Utah Code Annotated 1953
- 53A-20b-102**, Utah Code Annotated 1953



- 28 **53A-20b-103**, Utah Code Annotated 1953
- 29 **53A-20b-104**, Utah Code Annotated 1953
- 30 **53A-20b-105**, Utah Code Annotated 1953
- 31 **53A-20b-106**, Utah Code Annotated 1953



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

34 Section 1. Section **11-17-20** is enacted to read:

35 **11-17-20. Power of the State Charter School Finance Authority.**

36 (1) The State Charter School Finance Authority may exercise the powers granted to
37 municipalities and counties by this chapter, subject to the same limitations as that imposed on a
38 municipality or county under the chapter, except as provided by Title 53A, Chapter 20b, State
39 Charter School Finance Authority Act.

40 (2) As used in this chapter, "governing body" when applied to the State Charter School
41 Finance Authority means the authority's governing board as described in Section 53A-20b-103.

42 (3) Notwithstanding Section 11-17-15, a charter school that receives financing under
43 this chapter is subject to Title 63, Chapter 56, Utah Procurement Code.

44 Section 2. Section **53A-20b-101** is enacted to read:

45 **CHAPTER 20b. STATE CHARTER SCHOOL FINANCE AUTHORITY ACT**
46 **53A-20b-101. Title.**

47 This chapter is known as the "State Charter School Finance Authority Act."

48 Section 3. Section **53A-20b-102** is enacted to read:

49 **53A-20b-102. Definitions.**

50 As used in this chapter:

51 (1) "Authority" means the State Charter School Finance Authority created by this
52 chapter.

53 (2) (a) "Obligations" mean any notes, debentures, revenue bonds, or other evidences of
54 financial indebtedness, except as provided in Subsection (2)(b).

55 (b) "Obligations" do not include general obligation bonds.

56 (3) "Project" means any building, structure, or property owned, or to be acquired, by a
57 charter school for any of its educational purposes and the related appurtenances, easements,
58 rights-of-way, improvements, paving, utilities, landscaping, parking facilities and lands,

59 interests in land, and grounds, together with the personal property necessary, convenient, or
60 appurtenant to them.

61 Section 4. Section **53A-20b-103** is enacted to read:

62 **53A-20b-103. State Charter School Finance Authority created -- Members --**
63 **Compensation -- Services.**

64 (1) There is created a body politic and corporate known as the State Charter School
65 Finance Authority. The authority is created to provide an efficient and cost-effective method of
66 financing charter school facilities.

67 (2) The governing board of the authority shall be composed of:

68 (a) the governor or the governor's designee;

69 (b) the state treasurer; and

70 (c) the state superintendent of public instruction or the state superintendent's designee.

71 (3) (a) (i) A member who is not a government employee may not receive compensation
72 or benefits for the member's services, but may receive per diem and expenses incurred in the
73 performance of the member's official duties at the rates established by the Division of Finance
74 under Sections 63A-3-106 and 63A-3-107.

75 (ii) A member may decline to receive per diem and expenses for the member's service.

76 (b) (i) A state government officer or employee member who does not receive salary,
77 per diem, or expenses from the agency the member represents for the member's service may
78 receive per diem and expenses incurred in the performance of the member's official duties at
79 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

80 (ii) A state government officer or employee member may decline to receive per diem
81 and expenses for the member's service.

82 (4) Upon request, the State Board of Education shall provide staff support to the
83 authority.

84 Section 5. Section **53A-20b-104** is enacted to read:

85 **53A-20b-104. Powers and duties of authority.**

86 (1) The authority shall have perpetual succession as a body politic and corporate.

87 (2) The authority may:

88 (a) sue and be sued in its own name;

89 (b) have, and alter at will, an official seal;

90 (c) contract with experts, advisers, consultants, and agents for needed services;

91 (d) receive and accept aid or contributions from any source, including the United States
92 or this state, in the form of money, property, labor, or other things of value to be held, used,
93 and applied to carry out the purposes of this part, subject to the conditions upon which the aid
94 and contributions are made, for any purpose consistent with this part;

95 (e) exercise the powers granted to municipalities and counties pursuant to Title 11,
96 Chapter 17, Utah Industrial Facilities and Development Act, including the power to borrow
97 money and issue obligations, including refunding obligations, subject to the same limitations as
98 that imposed on a municipality or county under the act, except:

99 (i) the authority may only exercise powers under the act to finance a project as defined
100 in Section 53A-20b-102; and

101 (ii) the authority's area of operation shall include all areas of the state;

102 (f) employ advisers, consultants, and agents, including financial experts, independent
103 legal counsel, and any advisers, consultants, and agents as may be necessary in its judgment
104 and fix their compensation;

105 (g) make and execute contracts and other instruments necessary or convenient for the
106 performance of its duties and the exercise of its powers and functions; and

107 (h) have and exercise any other powers or duties that are necessary or appropriate to
108 carry out and effectuate the purposes of this part.

109 (3) The State Charter School Finance Authority may not exercise power in any manner
110 which would create general or moral obligations of the state or of any agency, department, or
111 political subdivision of the state.

112 Section 6. Section **53A-20b-105** is enacted to read:

113 **53A-20b-105. Limited obligations.**

114 Bonds, notes, and other obligations issued by the authority:

115 (1) do not constitute a debt, moral obligation, or liability of the state, or of any county,
116 city, town, school district, or any other political subdivision of the state;

117 (2) do not constitute the loan of credit of the state or of any county, city, town, school
118 district, or any other political subdivision of the state; and

119 (3) may not be paid from funds other than revenues, loan payments, or lease revenues
120 relating to the project.

121 Section 7. Section **53A-20b-106** is enacted to read:

122 **53A-20b-106. State to succeed to property of authority when encumbrances paid**
123 **or authority dissolved.**

124 (1) If the authority is dissolved at any time, for any reason, all funds, property, rights,
125 and interests of the authority, following the satisfaction of the authority's obligations, shall
126 immediately vest in and become the property of the state, which shall succeed to all rights of
127 the authority subject to any encumbrances which may then exist on any particular properties.

128 (2) None of the net earnings of the authority shall inure to the benefit of any private
129 person.

Legislative Review Note
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Office of Legislative Research and General Counsel