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**LOCAL GOVERNMENT BONDING ACT -**

**PUBLIC HEARINGS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott K. Jenkins**

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

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**LONG TITLE**

**Committee Note:**

The Government Competition and Privatization Subcommittee recommended this bill.

**General Description:**

This bill modifies the Local Government Bonding Act to address public hearings.

**Highlighted Provisions:**

This bill:

- ▶ addresses a requirement that a local political subdivision conduct a public hearing to issue a bond;
- ▶ addresses the scope of the public hearing to include potential economic impacts on the private sector; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**11-14-307**, as last amended by Laws of Utah 2007, Chapter 10

ENACTS:



28 11-14-318, Utah Code Annotated 1953



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

31 Section 1. Section 11-14-307 is amended to read:

32 **11-14-307. Revenue bonds payable out of excise tax revenues.**

33 (1) To the extent constitutionally permissible, [~~cities, towns, or counties~~] a city, town,  
34 or county may:

35 (a) issue [~~bonds~~] a bond payable solely from a special fund into which are to be  
36 deposited:

37 (i) excise taxes levied and collected by the city, town, or county[~~, or~~];

38 (ii) excise taxes levied by the state and rebated pursuant to law to the city, town, or  
39 county[~~;~~]; or [~~any~~]

40 (iii) a combination of [~~those~~] the excise taxes[~~;~~] described in Subsections (1)(a)(i) and  
41 (ii); or [~~may~~]

42 (b) pledge all or any part [~~thereof~~] of the excise taxes described in Subsection (1)(a) as  
43 an additional source of payment for [~~their general obligation bonds~~] a general obligation bond  
44 it issues.

45 (2) (a) [~~Any~~] If the covenant is not inconsistent with this chapter, a resolution  
46 authorizing the issuance of [~~bonds~~] a bond payable in whole or in part from the proceeds of  
47 excise tax revenues may contain one or more covenants with the holder or holders of the  
48 [~~bonds~~] bond as to:

49 (i) the excise tax revenues[~~;~~];

50 (ii) the disposition of the excise tax revenues[~~;~~];

51 (iii) the issuance of a future [~~bonds;~~] bond; and

52 (iv) other pertinent matters that are considered necessary by the governing body to  
53 assure the marketability of [~~those bonds, provided the covenants are not inconsistent with the~~  
54 ~~provisions of this chapter~~] the bond.

55 (b) [~~The~~] A resolution may also include provisions to insure the enforcement,  
56 collection, and proper application of excise tax revenues as the governing body may think  
57 proper.

58 (c) The proceeds of [~~bonds~~] a bond payable in whole or in part from pledged class B or

59 C road funds shall be used to construct, repair, and maintain streets and roads in accordance  
60 with Sections 72-6-108 and 72-6-110 and to fund any reserves and costs incidental to the  
61 issuance of the ~~[bonds]~~ bond.

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

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

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

81 (c) ~~[Each]~~ A city, town, or county may include this pledge and undertaking for the state  
82 in those bonds.

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

89 (b) If an excise tax ~~[has not been]~~ is levied by a city, town, or county for a sufficient

90 period of time to determine the 80% bond payment requirement under Subsection (4)(a), a city,  
 91 town, or county may use an excise tax revenue that is currently levied within the same  
 92 geographic coverage area and with the same percentage of collection to determine the amount  
 93 of excise tax revenues that are expected to be received to determine the 80% bond payment  
 94 requirement under Subsection (4)(a).

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

99 (6) ~~[(a)]~~ Before issuing ~~[any bonds]~~ a bond under this section, a city, town, or county  
 100 shall[:] comply with Section 11-14-318.

101 ~~[(i) give public notice of its intent to issue the bonds; and]~~

102 ~~[(ii) hold a public hearing to receive input from the public with respect to the issuance  
 103 of the bonds;]~~

104 ~~[(b) The city, county, or town shall:]~~

105 ~~[(i) publish the notice once each week for two consecutive weeks in the official  
 106 newspaper as designated under Section 11-14-316, with the first publication being not less than  
 107 14 days before the public hearing; and]~~

108 ~~[(ii) ensure that the notice identifies:]~~

109 ~~[(A) the purpose for the issuance of the bonds;]~~

110 ~~[(B) the maximum principal amount of the bonds to be issued;]~~

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

112 ~~[(D) the time, place, and location of the public hearing;]~~

113 (7) A city, town, or county shall submit the question of whether or not to issue any  
 114 bonds under this section to voters for their approval or rejection if, within 30 calendar days  
 115 after the notice required by ~~[Subsection (6)]~~ Section 11-14-318, a written petition requesting an  
 116 election and signed by at least 20% of the registered voters in the city, town, or county is filed  
 117 with the city, town, or county.

118 Section 2. Section **11-14-318** is enacted to read:

119 **11-14-318. Public hearing required.**

120 (1) Before issuing a bond authorized under this chapter, ~~§→ [but after an election, if] ←§~~

121 **§→ [required by this chapter] ←§** , a local political subdivision shall:

122 (a) in accordance with Subsection (2), provide public notice of the local political  
 123 subdivision's intent to issue a bond; and

124 (b) hold a public hearing §→ :

124a **(i) if an election is required under this chapter:**

124b **(A) no sooner than 30 days before the day on which the notice of election is published**  
 124c **under Section 11-14-202; and**

124d **(B) no later than five business days before the day on which the the notice of election is**  
 124e **published under Section 11-14-202; and**

124f **(ii) ←§ to receive input from the public with respect to:**

125 **§→ [(fi)] (A) ←§** the issuance of the bond; and

126 **§→ [(fii)] (B) ←§** the potential economic impact that the improvement, facility, or property  
 126a for which

127 the bond pays all or part of the cost will have on the private sector.

128 (2) A local political subdivision shall:

129 (a) publish the notice required by Subsection (1)(a):

130 (i) once each week for two consecutive weeks in the official newspaper as designated  
 131 under Section 11-14-316;

132 (ii) with the first publication being not less than 14 days before the public hearing  
 133 required by Subsection (1)(b); and

134 (iii) on the Utah Public Notice Website created under Section 63F-1-701 no less than  
 135 14 days before the public hearing required by Subsection (1)(b); and

136 (b) ensure that the notice:

137 (i) identifies:

138 (A) the purpose for the issuance of the bond;

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

140 (C) the taxes, if any, proposed to be pledged for repayment of the bond; and

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

142 (ii) informs the public that the public hearing will be held to discuss:

143 (A) the issuance of the bond; and

144 (B) the potential economic impact that the improvement, facility, or property for which  
 145 the bond pays all or part of the cost will have on the private sector.

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**S.B. 32 - Local Government Bonding Act - Public Hearings**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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