

**STATE LAND ACQUISITION**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John W. Hickman**

House Sponsor: David Clark

**LONG TITLE**

**General Description:**

This bill authorizes the Board of Business and Economic Development to purchase contracts for the sale of land under certain circumstances and authorizes the issuance of general obligation bonds to fund certain contract purchases.

**Highlighted Provisions:**

This bill:

- ▶ authorizes the Board of Business and Economic Development and the state treasurer to purchase contracts for the sale of land;
- ▶ requires the board and the state treasurer to obtain an evaluation of the purchaser of the land before buying the contract;
- ▶ establishes criteria that should be evaluated as part of the evaluation;
- ▶ directs the board and state treasurer to consider certain issues and determine whether or not to purchase the contract;
- ▶ prohibits the board and the state treasurer from purchasing a contract if the last payment due under the contract is more than seven years from the date that the board buys the contract;
- ▶ authorizes the State Bonding Commission to issue up to \$42,500,000 in general obligation bonds with the proceeds given to the Governor's Office of Economic Development to purchase land sale contracts; and
- ▶ amends the Master Bond Act to allow issuance of general obligation bonds for the purchase of land sale contracts or interests in land sale contracts.

**Monies Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **63-38f-303**, as last amended by Laws of Utah 2006, Chapter 52

36 **63B-1a-101**, as last amended by Laws of Utah 2003, First Special Session, Chapter 1

37 ENACTS:

38 **63B-17-102**, Utah Code Annotated 1953



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

41 Section 1. Section **63-38f-303** is amended to read:

42 **63-38f-303. Board duties and powers.**

43 (1) The board shall:

44 (a) promote and encourage the economic, commercial, financial, industrial, agricultural,  
45 and civic welfare of the state;

46 (b) do all lawful acts for the development, attraction, and retention of businesses,  
47 industries, and commerce within the state;

48 (c) promote and encourage the expansion and retention of businesses, industries, and  
49 commerce located in the state;

50 (d) support the efforts of local government and regional nonprofit economic  
51 development organizations to encourage expansion or retention of businesses, industries, and  
52 commerce located in the state;

53 (e) do other acts not specifically enumerated in this chapter, if the acts are for the  
54 betterment of the economy of the state;

55 (f) work in conjunction with companies and individuals located or doing business within  
56 the state to secure favorable rates, fares, tolls, charges, and classification for transportation of  
57 persons or property by:

58 (i) railroad;  
59 (ii) motor carrier; or  
60 (iii) other common carriers;  
61 (g) recommend policies, priorities, and objectives to the office regarding the assistance,  
62 retention, or recruitment of business, industries, and commerce in the state; and

63 (h) recommend how any money or program administered by the office or its divisions  
64 for the assistance, retention, or recruitment of businesses, industries, and commerce in the state  
65 shall be administered, so that the money or program is equitably available to all areas of the  
66 state unless federal or state law requires or authorizes the geographic location of a recipient of  
67 the money or program to be considered in the distribution of the money or administration of the  
68 program.

69 (2) The board may:

70 (a) in furtherance of the authority granted under Subsection (1)(f), appear as a party  
71 litigant on behalf of individuals or companies located or doing business within the state in  
72 proceedings before regulatory commissions of the state, other states, or the federal government  
73 having jurisdiction over such matters; and

74 (b) make, amend, or repeal rules for the conduct of its business consistent with this part  
75 and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

76 (3) (a) Subject to Subsection (3)(b), when monies are appropriated or otherwise made  
77 available to the office by the Legislature for the purchase of a contract for the sale of land, the  
78 board, with the approval of the state treasurer, may purchase the contract if the board makes a  
79 finding that the purchase of the contract promotes a statewide public interest such as promoting  
80 ease of interstate or intrastate travel or advancing economic development.

81 (b) (i) As used in this Subsection (3)(b), "net projected debt service cost" means the  
82 monies projected to be necessary to pay bond issuance costs for a general obligation bond and  
83 to make any interest payments for that general obligation bond less the projected investment  
84 earnings from the state's investment of that bond's proceeds, if any.

85 (ii) When some or all of the monies made available by the Legislature to purchase a

86 contract for the sale of land are provided from the proceeds from the issuance of one or more  
87 general obligation bonds, if the board and state treasurer decide to purchase the contract, the  
88 board and state treasurer shall purchase the contract at a price discounted by an amount equal  
89 to the total net projected debt service cost for those bonds.

90 (iii) The State Bonding Commission shall certify the total net projected debt service  
91 cost to the board and the state treasurer.

92 (iv) In purchasing a contract, the board and state treasurer may:

93 (A) purchase the contract with a single payment; or

94 (B) arrange to have the contract placed in escrow pending the final payment on the  
95 contract and make multiple payments on the contract according to a schedule that is negotiated  
96 with the holder of the contract and included as part of the contract.

97 (c) Before purchasing a contract, the board and the state treasurer shall:

98 (i) contract with a qualified person or entity to prepare a report evaluating the  
99 purchaser of the land;

100 (ii) ensure that the report evaluates:

101 (A) the purchaser's financial ability to pay the money to complete the purchase on the  
102 date that the final payment is due under the contract;

103 (B) whether or not the security underlying the contract is adequate to protect the state  
104 if the purchaser defaults;

105 (C) the purchaser's balance sheet and general credit-worthiness;

106 (D) environmental issues affecting the property under federal or state law; and

107 (E) any other items that will assist the board and the state treasurer in determining  
108 whether or not to purchase the contract;

109 (iii) ensure that the state has or will have a properly perfected security interest in, title  
110 to, or a deed in escrow for, the property that is the subject of the purchase; and

111 (iv) after reviewing the report, evaluating the state's security in case of a default on the  
112 contract, and considering the terms of the proposed contract, determine whether or not to  
113 purchase the contract.

114 (d) The board and the state treasurer may not purchase a contract under this Subsection  
115 (3) if the date of the last payment owed by the land purchaser under the contract is more than  
116 seven years from the date that the board purchases the contract.

117 Section 2. Section **63B-1a-101** is amended to read:

118 **63B-1a-101. Definitions -- Bonds authorized -- Prohibitions -- Purposes --**  
119 **Maturity -- Use of bonds proceeds.**

120 (1) As used in this section:

121 (a) "Cost" includes:

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

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

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

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

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

132 (2) When authorized by the Legislature, the commission may, in the manner specified in  
133 this chapter, issue bonds to provide funds to the state for the purpose of paying all or part of the  
134 cost of:

135 (a) designing, acquiring, constructing, improving, or extending:

136 [~~(a)~~] (i) any one or more capital projects; or

137 [~~(b)~~] (ii) any interest in one or more or any combination of capital projects; or

138 (b) purchasing a land sale contract, or an interest in a land sale contract, under Section  
139 63-38f-303.

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

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

142 (b) has specified:

143 (i) for capital projects, the capital projects to be funded; and

144 (ii) the maximum amount of the bonds.

145 (4) The commission shall either:

146 (a) comply with any maturity requirements established by the Legislature; or

147 (b) in the absence of any maturity requirements, establish, by resolution, a bond  
148 maturity date or dates that are not later than 15 years after the date of delivery of the bonds.

149 (5) (a) The commission may not issue bonds under this chapter in an amount that  
150 violates the limitation described in the Utah Constitution Article XIV, Section 1 or payable  
151 beyond the period described in the Utah Constitution Article XIII, Section 5(3).

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

156 Section 3. Section **63B-17-102** is enacted to read:

157 **63B-17-102. Bonds to purchase land sale contract -- Maximum amount --**

158 **Purchases authorized.**

159 (1) The total amount of bonds issued under this section may not exceed \$42,500,000.

160 (2) (a) Proceeds from the issuance of bonds shall be provided to the Governor's Office  
161 of Economic Development to provide funds to pay all or part of the cost of purchasing  
162 contracts for the sale of land if the purchase promotes a statewide public purpose such as  
163 promoting ease of interstate or intrastate travel or advancing economic development.

164 (b) These costs may include the cost of all related financial analysis and legal fees.

165 (3) The commission, by resolution and in consultation with the Governor's Office of  
166 Economic Development, may decline to issue the bonds authorized by this section if issuance of  
167 the bonds for the purpose authorized in this section could be construed to violate state law or  
168 federal law or regulation.