

**Senator Scott K. Jenkins** proposes the following substitute bill:

**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**

**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 bonds;

▶ 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:



26 11-14-318, Utah Code Annotated 1953

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

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

30 **11-14-307. Revenue bonds payable out of excise tax revenues.**

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

33 (a) issue bonds payable solely from a special fund into which are to be deposited:

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

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

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

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

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

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

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

46 (iii) the issuance of future bonds[~~;~~]; and

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

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

53 (c) The proceeds of bonds payable in whole or in part from pledged class B or C road  
54 funds shall be used to construct, repair, and maintain streets and roads in accordance with  
55 Sections 72-6-108 and 72-6-110 and to fund any reserves and costs incidental to the issuance of  
56 the bonds.

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

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

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

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

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

82 (b) If an excise tax has not been levied by a city, town, or county for a sufficient period  
83 of time to determine the 80% bond payment requirement under Subsection (4)(a), a city, town,  
84 or county may use an excise tax revenue that is currently levied within the same geographic  
85 coverage area and with the same percentage of collection to determine the amount of excise tax  
86 revenues that are expected to be received to determine the 80% bond payment requirement  
87 under Subsection (4)(a).

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

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

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

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

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

98 ~~[(i) publish the notice once each week for two consecutive weeks in the official  
99 newspaper as designated under Section 11-14-316, with the first publication being not less than  
100 14 days before the public hearing; and]~~

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

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

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

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

105 ~~[(D) the time, place, and location of the public hearing.]~~

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

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

112 **11-14-318. Public hearing required.**

113 (1) Before issuing bonds authorized under this chapter, a local political subdivision  
114 shall:

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

117 (b) hold a public hearing:

118 (i) if an election is required under this chapter:

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

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

123           (ii) to receive input from the public with respect to:

124           (A) the issuance of the bonds; and

125           (B) the potential economic impact that the improvement, facility, or property for which  
126 the bonds pay all or part of the cost will have on the private sector.

127           (2) A local political subdivision shall:

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

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

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

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

135           (b) ensure that the notice:

136           (i) identifies:

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

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

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

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

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

142           (A) the issuance of the bonds; and

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