

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

**LOCAL GOVERNMENT BONDING ACT**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott K. Jenkins**

House Sponsor: Ben C. Ferry

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**LONG TITLE**

**General Description:**

This bill modifies the Local Government Bonding Act.

**Highlighted Provisions:**

This bill:

- ▶ addresses documents providing for the issuance of bonds;
- ▶ 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



27  
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~~] or trust indenture providing for the issuance of bonds payable in whole or in part  
43 from the proceeds of excise tax revenues may contain covenants with the holder or holders of  
44 the bonds as to:

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

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

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

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

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

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

57 the bonds.

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

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

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

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

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

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

88 under Subsection (4)(a).

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

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

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

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

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

99 ~~[(i) publish the notice once each week for two consecutive weeks in the official  
100 newspaper as designated under Section 11-14-316, with the first publication being not less than  
101 14 days before the public hearing; and]~~

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

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

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

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

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

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

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

113 **11-14-318. Public hearing required.**

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

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

118 (b) hold a public hearing:

119           (i) if an election is required under this chapter:  
120           (A) no sooner than 30 days before the day on which the notice of election is published  
121 under Section 11-14-202; and  
122           (B) no later than five business days before the day on which the notice of election is  
123 published under Section 11-14-202; and  
124           (ii) to receive input from the public with respect to:  
125           (A) the issuance of the bonds; and  
126           (B) the potential economic impact that the improvement, facility, or property for which  
127 the bonds pay 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 described in  
131 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 bonds;  
139           (B) the maximum principal amount of the bonds to be issued;  
140           (C) the taxes, if any, proposed to be pledged for repayment of the bonds; 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 for the purposes described in  
143 Subsection (1)(b)(ii).

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**S.B. 32 2nd Sub. (Salmon) - Local Government Bonding Act**

**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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