

Representative David Clark proposes the following substitute bill:

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.

Highlighted Provisions:

This bill:

- ▶ authorizes the Board of Business and Economic Development to purchase contracts for the sale of land;
- ▶ requires the board 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;
- ▶ prohibits the board 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 Bonding Commission to issue up to \$42,500,000 in general obligation bonds with the proceeds given to the Governor's Office of Planning and Budget 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.



26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **63-38f-303**, as last amended by Laws of Utah 2006, Chapter 52

33 **63B-1a-101**, as last amended by Laws of Utah 2003, First Special Session, Chapter 1

34 ENACTS:

35 **63B-17-102**, Utah Code Annotated 1953



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

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

39 **63-38f-303. Board duties and powers.**

40 (1) The board shall:

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

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

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

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

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

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

55 (i) railroad;

56 (ii) motor carrier; or

57 (iii) other common carriers;
58 (g) recommend policies, priorities, and objectives to the office regarding the assistance,
59 retention, or recruitment of business, industries, and commerce in the state; and

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

66 (2) The board may:

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

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

73 (3) (a) When monies are appropriated or otherwise made available to the office by the
74 Legislature for the purchase of a contract for the sale of land, the board may purchase the
75 contract if the board makes a finding that the purchase of the contract promotes a statewide
76 public interest such as promoting ease of interstate or intrastate travel or advancing economic
77 development.

78 (b) Before purchasing a contract, the board shall:

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

81 (ii) ensure that the report evaluates:

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

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

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

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

88 (E) any other items that will assist the board in determining whether or not to purchase
89 the contract; and

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

92 (c) The board may not purchase a contract under this Subsection (3) if the date of the
93 last payment owed by the land purchaser under the contract is more than seven years from the
94 date that the board purchases the contract.

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

96 **63B-1a-101. Definitions -- Bonds authorized -- Prohibitions -- Purposes --**
97 **Maturity -- Use of bonds proceeds.**

98 (1) As used in this section:

99 (a) "Cost" includes:

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

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

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

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

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

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

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

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

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

116 (b) purchasing a land sale contract under Section 63-38f-303.

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

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

- 119 (b) has specified:
- 120 (i) for capital projects, the capital projects to be funded; and
- 121 (ii) the maximum amount of the bonds.
- 122 (4) The commission shall either:
- 123 (a) comply with any maturity requirements established by the Legislature; or
- 124 (b) in the absence of any maturity requirements, establish, by resolution, a bond
- 125 maturity date or dates that are not later than 15 years after the date of delivery of the bonds.

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

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

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

134 **63B-17-102. Bonds to purchase land sale contract -- Maximum amount --**

135 **Purchases authorized.**

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

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

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

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