

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 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



26 Development to purchase land sale contracts; and

27 ▶ amends the Master Bond Act to allow issuance of general obligation bonds for the
28 purchase of land sale contracts or interests in land sale contracts.

29 **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,
45 agricultural, 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
56 within the state to secure favorable rates, fares, tolls, charges, and classification for

57 transportation of 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 to
89 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 if
104 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
123 and 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; and128 (iv) other amounts that the commission finds necessary to establish reserve funds and
129 to 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
133 in this chapter, issue bonds to provide funds to the state for the purpose of paying all or part of
134 the cost of:

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

136 [~~(a)~~] (i) any one or more capital projects; or137 [~~(b)~~] (ii) any interest in one or more or any combination of capital projects; or138 (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
167 of the bonds for the purpose authorized in this section could be construed to violate state law or
168 federal law or regulation.

S.B. 298 2nd Sub. (Salmon) - State Land Acquisition

Fiscal Note

2008 General Session

State of Utah

State Impact

This legislation authorizes issuance of General Obligation bonds, which are backed by the full faith and credit of the state, for purchase of land sale contracts by the Board of Business and Economic Development and the state treasurer. Provisions of the bill require any contract purchased to be discounted by an amount equal to the projected bond issuance and interest costs borne by the state. Assuming the starting value of the contract is equal to the value of the land, and assuming the land does not depreciate while the state holds the contract, the value of the land and the applied discount would be equal to the state's debt service costs. However, the state would be required to pay debt service with state fund appropriations until such time as the land is liquidated to reimburse the state.

Individual, Business and/or Local Impact

Local governments from which the state purchases land sale contracts may benefit.
