

LOCAL GOVERNMENT BONDING ACT AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Patrick Painter

LONG TITLE

General Description:

This bill amends the Local Government Bonding Act by providing that the 10-year period during which voter authorized bonds may be issued tolls during a period of time when the bonds are prevented from being issued due to pending litigation.

Highlighted Provisions:

This bill:

- ▶ provides that the 10-year period during which voter authorized bonds may be issued is tolled when the bonds are challenged in a court of law;

- ▶ provides that if, when the tolling period described in the preceding paragraph ends, the period of time remaining to issue the bonds is less than one year, the period of time remaining to issue the bonds shall be extended to one year;

- ▶ provides that the tolling provisions described in this bill apply to bonds that were approved by voters on or after May 8, 2002; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 11-14-301, as last amended by Laws of Utah 2007, Chapter 329

29 11-14-311, as last amended by Laws of Utah 2006, Chapter 83



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

32 Section 1. Section 11-14-301 is amended to read:

33 **11-14-301. Issuance of bonds by governing body -- Computation of indebtedness**
34 **under constitutional and statutory limitations.**

35 (1) If the governing body has declared the bond proposition to have carried and no
36 contest has been filed, or if a contest has been filed and favorably terminated, the governing
37 body may proceed to issue the bonds voted at the election.

38 (2) (a) It is not necessary that all of the bonds be issued at one time, but, except as
39 provided in Subsection (2)(b) or (c), bonds approved by the voters may not be issued more than
40 10 years after the [date of] day on which the election is held.

41 (b) The 10-year period described in Subsection (2)(a) is tolled if, at any time during the
42 10-year period, the bonds are challenged in a court of law, in relation to:

43 (i) the legality or validity of the bonds or the election or proceedings authorizing the
44 bonds;

45 (ii) the authority of the local political subdivision to issue the bonds;

46 (iii) the provisions made for the security or payment of the bonds; or

47 (iv) any other issue that materially and adversely affects the marketability of the bonds,
48 as determined by the governing body of the local political subdivision.

49 (c) Except as provided in Subsection (2)(d), the tolling period described in Subsection
50 (2)(b) ends on the day on which all challenges, described in Subsection (2)(b), to the bonds are
51 subject to a final settlement, final adjudication, or other final resolution of the challenge.

52 (d) If the 10-year period described in Subsection (2)(a) is tolled under Subsection
53 (2)(b) and, when the tolling ends, the period of time remaining to issue the bonds is less than
54 one year, the period of time remaining to issue the bonds shall be extended to one year.

55 (e) The tolling provisions described in this Subsection (2) apply to all bonds described
56 in this section that were approved by voters on or after May 8, 2002.

57 (3) (a) Bonds approved by the voters may not be issued to an amount that will cause
58 the indebtedness of the local political subdivision to exceed that permitted by the Utah

59 Constitution or statutes.

60 (b) In computing the amount of indebtedness that may be incurred pursuant to
61 constitutional and statutory limitations, the constitutionally or statutorily permitted percentage,
62 as the case may be, shall be applied to the fair market value, as defined under Section 59-2-102,
63 of the taxable property in the local political subdivision, as computed from the last applicable
64 equalized assessment roll before the incurring of the additional indebtedness.

65 (c) In determining the fair market value of the taxable property in the local political
66 subdivision as provided in this section, the value of all tax equivalent property, as defined in
67 Section 59-3-102, shall be included as a part of the total fair market value of taxable property
68 in the local political subdivision, as provided in Title 59, Chapter 3, Tax Equivalent Property
69 Act.

70 (4) Bonds of improvement districts issued in a manner that they are payable solely
71 from the revenues to be derived from the operation of the facilities of the district may not be
72 included as bonded indebtedness for the purposes of the computation.

73 (5) Where bonds are issued by a city, town, or county payable solely from revenues
74 derived from the operation of revenue-producing facilities of the city, town, or county, or
75 payable solely from a special fund into which are deposited excise taxes levied and collected by
76 the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the
77 city, town, or county, or any combination of those excise taxes, the bonds shall be included as
78 bonded indebtedness of the city, town, or county only to the extent required by the Utah
79 Constitution, and any bonds not so required to be included as bonded indebtedness of the city,
80 town, or county need not be authorized at an election, except as otherwise provided by the Utah
81 Constitution, the bonds being hereby expressly excluded from the election requirement of
82 Section 11-14-201.

83 (6) A bond election is not void when the amount of bonds authorized at the election
84 exceeded the limitation applicable to the local political subdivision at the time of holding the
85 election, but the bonds may be issued from time to time in an amount within the applicable
86 limitation at the time the bonds are issued.

87 Section 2. Section **11-14-311** is amended to read:

88 **11-14-311. Bond anticipation notes.**

89 (1) (a) If the governing body considers it advisable and in the interests of the local

90 political subdivision to anticipate the issuance of bonds to be issued under this chapter, the
91 governing body may, pursuant to appropriate resolution, issue bond anticipation notes.

92 (b) Each resolution authorizing the issuance of bond anticipation notes shall:

93 (i) describe the bonds in anticipation of which the notes are to be issued;

94 (ii) specify the principal amount of the notes and the maturity dates of the notes; and

95 (iii) specify either the rates of interest, if any, on the notes or the method by which
96 interest on the notes may be determined while the notes are outstanding.

97 (c) If the resolution specifies a method by which the interest rates on the notes may be
98 determined, the resolution may specify the maximum rate of interest which the notes may bear.

99 (2) Bond anticipation notes shall be issued and sold in a manner and at a price, either
100 at, below, or above face value, as the governing body determines by resolution. Interest on
101 bond anticipation notes may be made payable semiannually, annually, or at maturity. Bond
102 anticipation notes may be made redeemable prior to maturity at the option of the governing
103 body in the manner and upon the terms fixed by the resolution authorizing their issuance.
104 Bond anticipation notes shall be executed and shall be in a form and have details and terms as
105 provided in the authorizing resolution.

106 (3) Contemporaneously with the issuance of the bonds in anticipation of which bond
107 anticipation notes are issued, provision shall be made for the retirement of any outstanding
108 bond anticipation notes.

109 (4) Whenever the bonds in anticipation of which notes are issued are to be payable
110 from ad valorem taxes and constitute full general obligations of the local political subdivision,
111 the bond anticipation notes and the interest on them shall be secured by a pledge of the full
112 faith and credit of the local political subdivision in the manner provided in Section 11-14-310
113 and shall also be made payable from funds derived from the sale of the bonds in anticipation of
114 which the notes are issued. Whenever the bonds in anticipation of which the notes are to be
115 issued are to be payable solely from revenues derived from the operation of revenue-producing
116 facilities, these bond anticipation notes and the interest on them shall be secured by a pledge of
117 the income and revenues derived by the local political subdivision from the revenue-producing
118 facilities and shall also be made payable from funds derived from the sale of the bonds in
119 anticipation of which the notes are issued.

120 (5) Bond anticipation notes issued under this section may be refunded by the issuance

121 of other bond anticipation notes issued under this section.

122 (6) Sections 11-14-304, 11-14-305, 11-14-315, 11-14-316, and 11-14-401 apply to all
123 bond anticipation notes issued under this section.

124 (7) Bonds are not considered to have been issued [~~more than 10 years after the date of~~
125 ~~the election authorizing the issuance of them, under~~] outside of the 10-year period described in
126 Section 11-14-301, if the issuance of [~~these~~] the bonds [~~has been~~] is anticipated under this
127 section by bond anticipation notes issued [~~prior to~~] before the expiration of [~~this ten-year~~] the
128 10-year period.

Legislative Review Note
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Office of Legislative Research and General Counsel