

1 **LOCAL GOVERNMENT BONDING ACT AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: Patrick Painter

7 **LONG TITLE**

8 **General Description:**

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

13 **Highlighted Provisions:**

14 This bill:

15 ▶ provides that the 10-year period during which voter authorized bonds may be issued
16 is tolled when the bonds are challenged due to pending litigation or other
17 challenges;

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

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

23 ▶ makes technical changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 11-14-301, as last amended by Laws of Utah 2007, Chapter 329

31 11-14-311, as last amended by Laws of Utah 2006, Chapter 83

32

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

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

35 **11-14-301. Issuance of bonds by governing body -- Computation of indebtedness**
36 **under constitutional and statutory limitations.**

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

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

43 (b) The 10-year period described in Subsection (2)(a) is tolled if, at any time during the
44 10-year period:

45 (i) an application for a referendum petition is filed with a local clerk, in accordance
46 with Section 20A-7-602 and Subsection 20A-7-601(4)(a), with respect to the local obligation
47 law relating to the bonds; or

48 (ii) the bonds are challenged in a court of law or an administrative proceeding in
49 relation to:

50 (A) the legality or validity of the bonds, or the election or proceedings authorizing the
51 bonds;

52 (B) the authority of the local political subdivision to issue the bonds;

53 (C) the provisions made for the security or payment of the bonds; or

54 (D) any other issue that materially and adversely affects the marketability of the bonds,
55 as determined by the individual or body that holds the executive powers of the local political
56 subdivision.

57 (c) A tolling period described in Subsection (2)(b)(i) ends on the later of the day on

58 which:

59 (i) the local clerk determines that the petition is insufficient, in accordance with
60 Subsection 20A-7-607(2)(c), unless an application, described in Subsection 20A-7-607(4)(a), is
61 made to the Supreme Court;

62 (ii) the Supreme Court determines, under Subsection 20A-7-607(4)(c), that the petition
63 for the referendum is not legally sufficient; or

64 (iii) for a referendum petition that is sufficient, the governing body declares, as
65 provided by law, the results of the referendum election on the local obligation law.

66 (d) A tolling period described in Subsection (2)(b)(ii) ends after:

67 (i) there is a final settlement, a final adjudication, or another type of final resolution of
68 all challenges described in Subsection (2)(b)(ii); and

69 (ii) the individual or body that holds the executive powers of the local political
70 subdivision issues a document indicating that all challenges described in Subsection (2)(b)(ii)
71 are resolved and final.

72 (e) If the 10-year period described in Subsection (2)(a) is tolled under this Subsection
73 (2) and, when the tolling ends and after giving effect to the tolling, the period of time
74 remaining to issue the bonds is less than one year, the period of time remaining to issue the
75 bonds shall be extended to one year.

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

78 (3) (a) Bonds approved by the voters may not be issued to an amount that will cause
79 the indebtedness of the local political subdivision to exceed that permitted by the Utah
80 Constitution or statutes.

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

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

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

94 (5) Where bonds are issued by a city, town, or county payable solely from revenues
95 derived from the operation of revenue-producing facilities of the city, town, or county, or
96 payable solely from a special fund into which are deposited excise taxes levied and collected by
97 the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the
98 city, town, or county, or any combination of those excise taxes, the bonds shall be included as
99 bonded indebtedness of the city, town, or county only to the extent required by the Utah
100 Constitution, and any bonds not so required to be included as bonded indebtedness of the city,
101 town, or county need not be authorized at an election, except as otherwise provided by the Utah
102 Constitution, the bonds being hereby expressly excluded from the election requirement of
103 Section 11-14-201.

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

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

109 **11-14-311. Bond anticipation notes.**

110 (1) (a) If the governing body considers it advisable and in the interests of the local
111 political subdivision to anticipate the issuance of bonds to be issued under this chapter, the
112 governing body may, pursuant to appropriate resolution, issue bond anticipation notes.

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

- 114 (i) describe the bonds in anticipation of which the notes are to be issued;
- 115 (ii) specify the principal amount of the notes and the maturity dates of the notes; and
- 116 (iii) specify either the rates of interest, if any, on the notes or the method by which
- 117 interest on the notes may be determined while the notes are outstanding.
- 118 (c) If the resolution specifies a method by which the interest rates on the notes may be
- 119 determined, the resolution may specify the maximum rate of interest which the notes may bear.
- 120 (2) Bond anticipation notes shall be issued and sold in a manner and at a price, either
- 121 at, below, or above face value, as the governing body determines by resolution. Interest on
- 122 bond anticipation notes may be made payable semiannually, annually, or at maturity. Bond
- 123 anticipation notes may be made redeemable prior to maturity at the option of the governing
- 124 body in the manner and upon the terms fixed by the resolution authorizing their issuance.
- 125 Bond anticipation notes shall be executed and shall be in a form and have details and terms as
- 126 provided in the authorizing resolution.
- 127 (3) Contemporaneously with the issuance of the bonds in anticipation of which bond
- 128 anticipation notes are issued, provision shall be made for the retirement of any outstanding
- 129 bond anticipation notes.
- 130 (4) Whenever the bonds in anticipation of which notes are issued are to be payable
- 131 from ad valorem taxes and constitute full general obligations of the local political subdivision,
- 132 the bond anticipation notes and the interest on them shall be secured by a pledge of the full
- 133 faith and credit of the local political subdivision in the manner provided in Section 11-14-310
- 134 and shall also be made payable from funds derived from the sale of the bonds in anticipation of
- 135 which the notes are issued. Whenever the bonds in anticipation of which the notes are to be
- 136 issued are to be payable solely from revenues derived from the operation of revenue-producing
- 137 facilities, these bond anticipation notes and the interest on them shall be secured by a pledge of
- 138 the income and revenues derived by the local political subdivision from the revenue-producing
- 139 facilities and shall also be made payable from funds derived from the sale of the bonds in
- 140 anticipation of which the notes are issued.
- 141 (5) Bond anticipation notes issued under this section may be refunded by the issuance

142 of other bond anticipation notes issued under this section.

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

145 (7) Bonds are not considered to have been issued [~~more than 10 years after the date of~~
146 ~~the election authorizing the issuance of them, under~~] outside of the 10-year period described in
147 Section 11-14-301, if the issuance of [~~these~~] the bonds [~~has been~~] is anticipated under this
148 section by bond anticipation notes issued [~~prior to~~] before the expiration of [~~this ten-year~~] the
149 10-year period.