

SB0193S01 compared with SB0193

~~deleted text~~ shows text that was in SB0193 but was deleted in SB0193S01.

inserted text shows text that was not in SB0193 but was inserted into SB0193S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

LOCAL GOVERNMENT BONDING ACT AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

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 or other challenges.

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~~ due to pending litigation or other challenges;
- ▶ 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

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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:

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

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

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

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

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

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

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

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

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

(ii) the bonds are challenged in a court of law f,t or an administrative proceeding in relation to:

(f,t)A) the legality or validity of the bonds, or the election or proceedings authorizing

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the bonds:

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

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

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

(c) ~~Except as provided in Subsection (2)(d), the~~A tolling period described in Subsection (2)(b)(i) ends on the later of the day on which ~~all challenges~~:

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

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

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

(d) A tolling period described in Subsection (2)(b) ~~to the bonds are subject to~~(ii) ends after:

(i) there is a final settlement, a final adjudication, or ~~other~~another type of final resolution of ~~the challenge~~.

~~(d)~~all challenges described in Subsection (2)(b)(ii); and

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

(e) If the 10-year period described in Subsection (2)(a) is tolled under this Subsection ~~(2)(b)~~ and, when the tolling ends and after giving effect to the tolling, 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.

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

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

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Constitution or statutes.

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

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

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

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

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

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

11-14-311. Bond anticipation notes.

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

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

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

- (i) describe the bonds in anticipation of which the notes are to be issued;
- (ii) specify the principal amount of the notes and the maturity dates of the notes; and
- (iii) specify either the rates of interest, if any, on the notes or the method by which

interest on the notes may be determined while the notes are outstanding.

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

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

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

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

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

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of other bond anticipation notes issued under this section.

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

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

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Legislative Review Note

~~as of 2-7-12 2:12 PM~~

~~Office of Legislative Research and General Counsel}~~