

**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: Patrick Painter

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**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 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 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



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



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.