

COUNTY BUDGET AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer M. Seelig

Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This bill enacts language related to a county providing monetary assistance to a nonprofit entity or private enterprise.

Highlighted Provisions:

This bill:

► defines terms;

► authorizes a county to appropriate money to or provide nonmonetary assistance to a nonprofit entity in certain circumstances;

► authorizes a county to appropriate money in aid of a private enterprise project in certain circumstances;

► requires a county to adopt by ordinance criteria to determine whether value is received for money appropriated to a private enterprise project;

► requires a county to hold a public hearing on the appropriation of county money to a private enterprise project; and

► allows a person to appeal a county's decision to appropriate money to a private enterprise project in district court.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30 **17-50-303**, as last amended by Laws of Utah 2007, Chapter 377

31

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

33 Section 1. Section **17-50-303** is amended to read:

34 **17-50-303. County may not give or lend credit -- County may borrow in
35 anticipation of revenues -- Assistance to nonprofit and private entities.**

36 (1) A county may not give or lend its credit to or in aid of any person or corporation,
37 or, except as provided in Subsection (3), appropriate money in aid of any private enterprise.

38 (2) (a) A county may borrow money in anticipation of the collection of taxes and other
39 county revenues in the manner and subject to the conditions of Title 11, Chapter 14, Local
40 Government Bonding Act.

41 (b) A county may incur indebtedness under Subsection (2)(a) for any purpose for which
42 funds of the county may be expended.

43 [(3) (a) If the county receives fair and adequate consideration in return, a county may:]

44 [(i) provide services or nonmonetary assistance to or waive fees required to be paid by
45 a nonprofit entity; and]

46 [(ii) provide monetary assistance to a nonprofit entity, whether from the county's own
47 funds or from funds the county receives from the state or any other source.]

48 [(b) Consideration paid to a county under Subsection (3)(a) may:]

49 [(i) be nonmonetary; and]

50 [(ii) include anything that in the judgment of the county legislative body contributes to
51 the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of county
52 inhabitants.]

53 (3) (a) A county may appropriate money to or provide nonmonetary assistance to a
54 nonprofit entity, or waive fees required to be paid by a nonprofit entity, if, in the judgment of
55 the county legislative body, the assistance contributes to the safety, health, prosperity, moral
56 well-being, peace, order, comfort, or convenience of county residents.

57 (b) A county may appropriate money to a nonprofit entity from the county's own funds

58 or from funds the county receives from the state or any other source.

59 (4) (a) As used in this Subsection (4):

60 (i) "Private enterprise" means a person that engages in an activity for profit.

61 (ii) "Project" means an activity engaged in by a private enterprise.

62 (b) A county may appropriate money in aid of a private enterprise project if:

63 (i) subject to Subsection (4)(c), the county receives value in return for the money
appropriated; and

64 (ii) in the judgment of the county legislative body, the private enterprise project
provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or
convenience of the county residents.

65 (c) The county shall measure the net value received by the county for money
appropriated by the county to a private entity on a project-by-project basis over the life of the
project.

66 (d) (i) Before a county legislative body may appropriate funds in aid of a private
enterprise project under this Subsection (4), the county legislative body shall:

67 (A) adopt by ordinance criteria to determine what value, if any, the county will receive
in return for money appropriated under this Subsection (4);

68 (B) conduct a study as described in Subsection (4)(e) on the proposed appropriation
and private enterprise project; and

69 (C) post notice, subject to Subsection (4)(f), and hold a public hearing on the proposed
appropriation and the private enterprise project.

70 (ii) The county legislative body may consider an intangible benefit as a value received
by the county.

71 (e) (i) Before publishing or posting notice in accordance with Subsection (4)(f), the
county shall study:

72 (A) any value the county will receive in return for money or resources appropriated to a
private entity;

73 (B) the county's purpose for the appropriation, including an analysis of the way the

86 appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace,
87 order, comfort, or convenience of the county residents; and

88 (C) whether the appropriation is necessary and appropriate to accomplish the
89 reasonable goals and objectives of the county in the area of economic development, job
90 creation, affordable housing, blight elimination, job preservation, the preservation of historic
91 structures, analyzing and improving county government structure or property, or any other
92 public purpose.

93 (ii) The county shall:

94 (A) prepare a written report of the results of the study; and
95 (B) make the report available to the public at least 14 days immediately prior to the
96 scheduled day of the public hearing described in Subsection (4)(d)(i)(C).

97 (f) The county shall publish notice of the public hearing required in Subsection
98 (4)(d)(i)(C):

99 (i) in a newspaper of general circulation at least 14 days before the date of the hearing
100 or, if there is no newspaper of general circulation, by posting notice in at least three
101 conspicuous places within the county for the same time period; and

102 (ii) on the Utah Public Notice Website created in Section 63F-1-701, at least 14 days
103 before the date of the hearing.

104 (g) (i) A person may appeal the decision of the county legislative body to appropriate
105 funds under this Subsection (4).

106 (ii) A person shall file an appeal with the district court within 30 days after the day on
107 which the legislative body adopts an ordinance or approves a budget to appropriate the funds.

108 (iii) A court shall:

109 (A) presume that an ordinance adopted or appropriation made under this Subsection (4)
110 is valid; and

111 (B) determine only whether the ordinance or appropriation is arbitrary, capricious, or
112 illegal.

113 (iv) A determination of illegality requires a determination that the decision or

114 ordinance violates a law, statute, or ordinance in effect at the time the decision was made or the
115 ordinance was adopted.

116 (v) The district court's review is limited to:

117 (A) a review of the criteria adopted by the county legislative body under Subsection
118 (4)(d)(i)(A);

119 (B) the record created by the county legislative body at the public hearing described in
120 Subsection (4)(d)(i)(C); and

121 (C) the record created by the county in preparation of the study and the study itself as
122 described in Subsection (4)(e).

123 (vi) If there is no record, the court may call witnesses and take evidence.

124 (h) This section applies only to an appropriation not otherwise approved in accordance
125 with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties.