

1 **STATE LAND ACQUISITION AND GENERAL OBLIGATION**
2 **BOND AUTHORIZATION AMENDMENTS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Wayne A. Harper**

6 House Sponsor: Gage Froerer

7
8 **LONG TITLE**

9 **General Description:**

10 This bill repeals the authorization for the Board of Business and Economic
11 Development and the state treasurer to purchase contracts for the sale of land and
12 repeals a general obligation bond authorization to fund certain contract purchases.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ repeals provisions authorizing the Board of Business and Economic Development
16 and the state treasurer to purchase contracts for the sale of land;
- 17 ▶ repeals provisions governing requirements for the purchase of contracts for the sales
18 of land;
- 19 ▶ repeals a \$42,500,000 general obligation bond authorization that:
- 20 • was to be used by the Governor's Office of Economic Development to provide
21 funds to pay all or part of the cost of purchasing contracts for the sale of land if
22 the purchase promotes a statewide public purpose such as promoting ease of
23 interstate or intrastate travel or advancing economic development; and
- 24 • has not been issued;
- 25 ▶ repeals a Master Bond Act provision allowing issuance of general obligation bonds
26 for the purchase of land sale contracts or interests in land sale contracts; and
- 27 ▶ makes technical and conforming changes.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **63B-1a-101**, as last amended by Laws of Utah 2008, Chapter 378

35 **63M-1-303**, as last amended by Laws of Utah 2013, Chapter 392

36 REPEALS:

37 **63B-17-102**, as enacted by Laws of Utah 2008, Chapter 378



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

40 Section 1. Section **63B-1a-101** is amended to read:

41 **63B-1a-101. Definitions -- Bonds authorized -- Prohibitions -- Purposes --**

42 **Maturity -- Use of bonds proceeds.**

43 (1) As used in this section:

44 (a) "Cost" includes:

45 (i) all costs related to the authorized capital project, including the cost of equipment
46 and furnishings for, interests in, or improvements necessary, incidental, or convenient to, those
47 capital projects;

48 (ii) all costs incident to the authorization and issuance of bonds;

49 (iii) interest estimated to accrue on bonds during the period to be covered by the
50 acquisition and construction of the capital project and for up to 12 months after that period; and

51 (iv) other amounts that the commission finds necessary to establish reserve funds and
52 to provide working capital related to the capital project.

53 (b) "Taxable property of the state" includes all real and personal property subject to ad
54 valorem taxation within the state, including all property subject to a fee-in lieu of tax.

55 (2) When authorized by the Legislature, the commission may, in the manner specified
56 in this chapter, issue bonds to provide funds to the state for the purpose of paying all or part of
57 the cost of ~~[(a)]~~ designing, acquiring, constructing, improving, or extending:

58 ~~[(i)]~~ (a) any one or more capital projects; or

59 ~~[(it)]~~ (b) any interest in one or more or any combination of capital projects~~[-or]~~.
 60 ~~[(b) purchasing a land sale contract, or an interest in a land sale contract, under Section~~
 61 ~~63M-1-303.]~~

62 (3) Before issuing any bonds, the commission shall determine that the Legislature has:

- 63 (a) affirmatively authorized the issuance of the bonds; and
- 64 (b) has specified:

- 65 (i) for capital projects, the capital projects to be funded; and
- 66 (ii) the maximum amount of the bonds.

67 (4) The commission shall either:

- 68 (a) comply with any maturity requirements established by the Legislature; or
- 69 (b) in the absence of any maturity requirements, establish, by resolution, a bond
 70 maturity date or dates that are not later than 15 years after the date of delivery of the bonds.

71 (5) (a) The commission may not issue bonds under this chapter in an amount that
 72 violates the limitation described in the Utah Constitution, Article XIV, Section 1 or payable
 73 beyond the period described in the Utah Constitution, Article XIII, Section 5(3).

74 (b) For purposes of applying the debt limitation contained in the Utah Constitution
 75 Article XIV, Section 1, the value of the taxable property in Utah is considered to be 100% of
 76 the fair market value of the taxable property of the state as computed from the last assessment
 77 for state purposes made before the issuance of the bonds.

78 Section 2. Section **63M-1-303** is amended to read:

79 **63M-1-303. Board duties and powers.**

80 (1) The board shall:

- 81 (a) promote and encourage the economic, commercial, financial, industrial,
 82 agricultural, and civic welfare of the state;
- 83 (b) do all lawful acts for the development, attraction, and retention of businesses,
 84 industries, and commerce within the state;

85 (c) promote and encourage the expansion and retention of businesses, industries, and
 86 commerce located in the state;

87 (d) support the efforts of local government and regional nonprofit economic
 88 development organizations to encourage expansion or retention of businesses, industries, and
 89 commerce located in the state;

90 (e) do other acts not specifically enumerated in this chapter, if the acts are for the
91 betterment of the economy of the state;

92 (f) work in conjunction with companies and individuals located or doing business
93 within the state to secure favorable rates, fares, tolls, charges, and classification for
94 transportation of persons or property by:

95 (i) railroad;

96 (ii) motor carrier; or

97 (iii) other common carriers;

98 (g) recommend policies, priorities, and objectives to the office regarding the assistance,
99 retention, or recruitment of business, industries, and commerce in the state;

100 (h) recommend how any money or program administered by the office or its divisions
101 for the assistance, retention, or recruitment of businesses, industries, and commerce in the state
102 shall be administered, so that the money or program is equitably available to all areas of the
103 state unless federal or state law requires or authorizes the geographic location of a recipient of
104 the money or program to be considered in the distribution of the money or administration of the
105 program; and

106 (i) maintain ethical and conflict of interest standards consistent with those imposed on
107 a public officer under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

108 (2) The board may:

109 (a) in furtherance of the authority granted under Subsection (1)(f), appear as a party
110 litigant on behalf of individuals or companies located or doing business within the state in
111 proceedings before regulatory commissions of the state, other states, or the federal government
112 having jurisdiction over such matters; and

113 (b) make, amend, or repeal rules for the conduct of its business consistent with this part
114 and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

115 ~~[(3)(a) Subject to Subsection (3)(b), when money is appropriated or otherwise made
116 available to the office by the Legislature for the purchase of a contract for the sale of land, the
117 board, with the approval of the state treasurer, may purchase the contract if the board makes a
118 finding that the purchase of the contract promotes a statewide public interest such as promoting
119 ease of interstate or intrastate travel or advancing economic development.]~~

120 ~~[(b)(i) As used in this Subsection (3)(b), "net projected debt service cost" means the~~

121 ~~money projected to be necessary to pay bond issuance costs for a general obligation bond and~~
122 ~~to make any interest payments for that general obligation bond less the projected investment~~
123 ~~earnings from the state's investment of that bond's proceeds, if any.]~~

124 ~~[(ii) When some or all of the money made available by the Legislature to purchase a~~
125 ~~contract for the sale of land is provided from the proceeds from the issuance of one or more~~
126 ~~general obligation bonds, if the board and state treasurer decide to purchase the contract, the~~
127 ~~board and state treasurer shall purchase the contract at a price discounted by an amount equal to~~
128 ~~the total net projected debt service cost for those bonds.]~~

129 ~~[(iii) The State Bonding Commission shall certify the total net projected debt service~~
130 ~~cost to the board and the state treasurer.]~~

131 ~~[(iv) In purchasing a contract, the board and state treasurer may:]~~

132 ~~[(A) purchase the contract with a single payment; or]~~

133 ~~[(B) arrange to have the contract placed in escrow pending the final payment on the~~
134 ~~contract and make multiple payments on the contract according to a schedule that is negotiated~~
135 ~~with the holder of the contract and included as part of the contract.]~~

136 ~~[(c) Before purchasing a contract, the board and the state treasurer shall:]~~

137 ~~[(i) contract with a qualified person or entity to prepare a report evaluating the~~
138 ~~purchaser of the land;]~~

139 ~~[(ii) ensure that the report evaluates:]~~

140 ~~[(A) the purchaser's financial ability to pay the money to complete the purchase on the~~
141 ~~date that the final payment is due under the contract;]~~

142 ~~[(B) whether or not the security underlying the contract is adequate to protect the state~~
143 ~~if the purchaser defaults;]~~

144 ~~[(C) the purchaser's balance sheet and general credit-worthiness;]~~

145 ~~[(D) environmental issues affecting the property under federal or state law; and]~~

146 ~~[(E) any other items that will assist the board and the state treasurer in determining~~
147 ~~whether or not to purchase the contract;]~~

148 ~~[(iii) ensure that the state has or will have a properly perfected security interest in, title~~
149 ~~to, or a deed in escrow for, the property that is the subject of the purchase; and]~~

150 ~~[(iv) after reviewing the report, evaluating the state's security in case of a default on the~~
151 ~~contract, and considering the terms of the proposed contract, determine whether or not to~~

152 ~~purchase the contract.]~~

153 ~~[(d) The board and the state treasurer may not purchase a contract under this~~
154 ~~Subsection (3) if the date of the last payment owed by the land purchaser under the contract is~~
155 ~~more than seven years from the date that the board purchases the contract.]~~

156 Section 3. **Repealer.**

157 This bill repeals:

158 Section **63B-17-102, Bonds to purchase land sale contract -- Maximum amount --**
159 **Purchases authorized.**

Legislative Review Note
as of **3-10-14 7:11 PM**

Office of Legislative Research and General Counsel