

BONDS AND OTHER OBLIGATIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David P. Hinkins

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the State System of Higher Education relating to bonds and other obligations.

Highlighted Provisions:

This bill:

- ▶ provides that the State Board of Regents may publish a resolution, or notice of the resolution, for the authorization of bonds or other obligations;
- ▶ describes requirements related to the publication of a resolution or notice described in this bill;
- ▶ describes the procedures that a person in interest is required to comply with to contest:
 - the legality of a resolution;
 - bonds or obligations that are authorized by the resolution; or
 - a provision made for the security and payment of the bonds or other obligations;
- ▶ prohibits a person from contesting a matter described in the preceding paragraph later than 30 days after the day on which the resolution or notice described above is published;
- ▶ provides for a recital in bonds or other obligations and describes the effect of the recital; and
- ▶ makes technical changes.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 REPEALS AND REENACTS:

34 **53B-13-113**, as enacted by Laws of Utah 1987, Chapter 167

35 **53B-21-106**, as enacted by Laws of Utah 1987, Chapter 167



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

38 Section 1. Section **53B-13-113** is repealed and reenacted to read:

39 **53B-13-113. Publication of resolution or notice -- Limitations on actions to contest**
40 **legality -- Recital in bonds -- Incontestability.**

41 (1) When the board adopts a resolution for the authorization of bonds or other
42 obligations under this chapter, the board may publish the notice described in Subsection (2):

43 (a) once in a newspaper of general circulation in Utah; and

44 (b) in accordance with Section 45-1-101.

45 (2) The notice required in Subsection (1) shall include the following:

46 (a) the entire resolution; or

47 (b) in lieu of the entire resolution, a notice, titled, as applicable, "Notice of Bonds to be
48 Issued" or "Notice of Obligations to be Incurred" that includes:

49 (i) the name of the board;

50 (ii) the purpose of the bond issue or other obligations;

51 (iii) the type of bonds or other obligations;

52 (iv) the maximum principal amount that may be issued or incurred;

53 (v) the maximum number of years over which the bonds or other obligations may
54 mature;

55 (vi) the maximum interest rate that the bonds or other obligations may bear, if any;

56 (vii) the maximum discount from par, expressed as a percentage of principal amount, at
57 which the bonds or other obligations may be sold;

58 (viii) a general description of the security pledged for repayment of the bonds or other

59 obligations; and

60 (ix) the times and place where a copy of the resolution may be examined.

61 (3) If the board publishes the notice described in Subsection (2)(b), the board shall
62 ensure that the resolution is available to be examined during regular business hours, for at least
63 30 days after the day on which the notice is published.

64 (4) Any person in interest may, in accordance with Subsection (5), contest:

65 (a) the legality of the resolution;

66 (b) any bonds that are authorized by the resolution; or

67 (c) any provision made for the security and payment of the bonds.

68 (5) A person in interest who desires to contest a matter described in Subsection (4)
69 shall, within 30 days after the day on which the resolution described in Subsection (2)(a), or the
70 notice described in Subsection (2)(b), is published, file a verified written complaint in the
71 district court of Salt Lake County.

72 (6) After the 30-day period described in Subsection (5) has ended, a person may not,
73 for any cause, contest:

74 (a) the legality of the resolution;

75 (b) any bonds that are authorized by the resolution; or

76 (c) any provision made for the security and payment of the bonds.

77 (7) The board may require that the bonds recite that they are issued under authority of,
78 and in full compliance with, the provisions of this chapter and all other provisions of applicable
79 law.

80 (8) A recital described in Subsection (7) conclusively establishes full compliance with
81 the provisions of this chapter and all other provisions of applicable law.

82 (9) Notwithstanding any other provision of this section, all bonds that contain a recital
83 described in Subsection (7) are not contestable, for any reason, after their delivery for value.

84 Section 2. Section **53B-21-106** is repealed and reenacted to read:

85 **53B-21-106. Publication of resolution or notice -- Limitations on actions to contest**
86 **legality -- Recital in bonds or other obligations -- Incontestability.**

87 (1) When the board adopts a resolution for the authorization of bonds or other
88 obligations under this chapter, the board may publish the notice described in Subsection (2):

89 (a) once in a newspaper of general circulation in Utah; and

90 (b) in accordance with Section 45-1-101.
91 (2) The notice required in Subsection (1) shall include the following:
92 (a) the entire resolution; or
93 (b) in lieu of the entire resolution, a notice, titled, as applicable, "Notice of Bonds to be
94 Issued" or "Notice of Other Obligations to be Incurred" that includes:
95 (i) the name of the board;
96 (ii) the purpose of the bond issue or other obligations;
97 (iii) the type of bonds or other obligations;
98 (iv) the maximum principal amount that may be issued or incurred;
99 (v) the maximum number of years over which the bonds or other obligations may
100 mature;
101 (vi) the maximum interest rate that the bonds or other obligations may bear, if any;
102 (vii) the maximum discount from par, expressed as a percentage of principal amount, at
103 which the bonds or other obligations may be sold;
104 (viii) a general description of the security pledged for repayment of the bonds or other
105 obligations; and
106 (ix) the times and place where a copy of the resolution may be examined.
107 (3) If the board publishes the notice described in Subsection (2)(b), the board shall
108 ensure that the resolution is available to be examined during regular business hours, for at least
109 30 days after the day on which the notice is published.
110 (4) Any person in interest may, in accordance with Subsection (5), contest:
111 (a) the legality of the resolution;
112 (b) any bonds or obligations that are authorized by the resolution; or
113 (c) any provision made for the security and payment of the bonds or other obligations.
114 (5) A person in interest who desires to contest a matter described in Subsection (4)
115 shall, within 30 days after the day on which the resolution described in Subsection (2)(a), or the
116 notice described in Subsection (2)(b), is published, file a verified written complaint in the
117 district court of Salt Lake County.
118 (6) After the 30-day period described in Subsection (5) has ended, a person may not,
119 for any cause, contest:
120 (a) the legality of the resolution;

- 121 (b) any bonds or obligations that are authorized by the resolution; or
122 (c) any provision made for the security and payment of the bonds or other obligations.
123 (7) The board may require that the bonds or other obligations recite that they are issued
124 under authority of, and in full compliance with, the provisions of this chapter and all other
125 provisions of applicable law.
126 (8) A recital described in Subsection (7) conclusively establishes full compliance with
127 the provisions of this chapter and all other provisions of applicable law.
128 (9) Notwithstanding any other provision of this section, all bonds issued, or other
129 obligations incurred, that contain a recital described in Subsection (7), are not contestable, for
130 any reason, after their delivery for value.

Legislative Review Note
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Office of Legislative Research and General Counsel