

Chapter 30 Utah Bond Validation Act

11-30-1 Short title.

This chapter is known as the "Utah Bond Validation Act."

Enacted by Chapter 197, 1987 General Session

11-30-2 Definitions.

As used in this chapter:

- (1) "Attorney general" means the attorney general of the state or one of his assistants.
- (2) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely from a specified source, including annual appropriations by the public body.
- (3) "County attorney" means the county attorney of a county or one of his assistants.
- (4) "Lease" means any lease agreement, lease purchase agreement, and installment purchase agreement, and any certificate of interest or participation in any of the foregoing. Reference in this chapter to issuance of bonds includes execution and delivery of leases.
- (5) "Person" means any person, association, corporation, or other entity.
- (6) "Public body" means the state or any agency, authority, instrumentality, or institution of the state, or any county, municipality, quasi-municipal corporation, school district, local district, special service district, political subdivision, or other governmental entity existing under the laws of the state, whether or not possessed of any taxing power. With respect to leases, public body, as used in this chapter, refers to the public body which is the lessee, or is otherwise the obligor with respect to payment under any such leases.
- (7) "Refunding bonds" means any bonds that are issued to refund outstanding bonds, including both refunding bonds and advance refunding bonds.
- (8) "State" means the state of Utah.
- (9) "Validity" means any matter relating to the legality and validity of the bonds and the security therefor, including, without limitation, the legality and validity of:
 - (a) a public body's authority to issue and deliver the bonds;
 - (b) any ordinance, resolution, or statute granting the public body authority to issue and deliver the bonds;
 - (c) all proceedings, elections, if any, and any other actions taken or to be taken in connection with the issuance, sale, or delivery of the bonds;
 - (d) the purpose, location, or manner of the expenditure of funds;
 - (e) the organization or boundaries of the public body;
 - (f) any assessments, taxes, rates, rentals, fees, charges, or tolls levied or that may be levied in connection with the bonds;
 - (g) any lien, proceeding, or other remedy for the collection of those assessments, taxes, rates, rentals, fees, charges, or tolls;
 - (h) any contract or lease executed or to be executed in connection with the bonds;
 - (i) the pledge of any taxes, revenues, receipts, rentals, or property, or encumbrance thereon or security interest therein to secure the bonds; and

- (j) any covenants or provisions contained in or to be contained in the bonds. If any deed, will, statute, resolution, ordinance, lease, indenture, contract, franchise, or other instrument may have an effect on any of the aforementioned, validity also means a declaration of the validity and legality thereof and of rights, status, or other legal relations arising therefrom.

Amended by Chapter 378, 2010 General Session

11-30-3 Petition to establish validity of bonds -- Contents -- Court action.

- (1) A public body may, at any time after it has authorized the issuance of bonds for other than a project financing involving more than one series of bonds to finance such project or at any time after it has authorized the issuance of the first series of bonds to finance a project in more than one series, but before the issuance and delivery of any such bonds or such first series of bonds, as the case may be, file a petition to establish the validity of such bonds.
- (2) The petition shall be filed in the district court of the county in which the public body maintains its principal office, and shall name as defendants all taxpayers, property owners, citizens of the public body, including nonresidents owning property or subject to taxation therein, all other persons having or claiming any right, title, or interest in any property or funds affected by or to be affected by the bonds, all parties to any contract or instrument which is part of the validation proceedings, and, pursuant to Section 11-30-6, either the attorney general or the county attorney of the county in which the largest expenditure of proceeds of the bonds is expected to be made.
- (3) The petition shall set forth and affirm, by proper allegation of law and fact:
 - (a) the statutory authority by which the petition is filed;
 - (b) the statutory authority by which the public body authorized the issuance of the bonds;
 - (c) the ordinance, resolution, or other proceedings by which the public body authorized the issuance and delivery of the bonds;
 - (d) the holding of an election and the results of that election, if an election was required;
 - (e) the purpose of the bonds; and
 - (f) the source of funds from which the bonds are to be paid.
- (4) The petitioner may set forth any additional information with respect to such bonds and any questions of law or fact concerning the validity of the bonds that the petitioner desires the court to adjudicate separately in rendering its judgment, as well as those allegations of law or fact necessary to its consideration.
- (5) The petitioner shall then petition the court to render judgment affirming the validity of the bonds and to pass upon any questions for separate adjudication set forth in the petition. Any petitioner may amend or supplement the petition at any time on or before the hearing, but not thereafter without permission of the court.
- (6) No amendment or supplement may require republication of the order unless there has been a change in the issuer or there has been a substantial change in the use of the proceeds or the manner of repayment of the bonds.

Enacted by Chapter 197, 1987 General Session

11-30-4 Hearing on petition.

Upon the filing of the petition, the court shall issue an order in the form of a notice against all defendants requiring them to appear at a time and place to be designated in the order, and to show cause why the prayers of the petition should not be granted. The time of the hearing shall be not less than 20 nor more than 30 days from the date of the issuing of the order. The place of the

hearing shall be within the county in which the petition is filed. The order shall set forth a general description of the petition but need not set forth the entire petition or any attached exhibits.

Enacted by Chapter 197, 1987 General Session

11-30-5 Publication of order for hearing.

- (1) Prior to the date set for hearing, the clerk of the court shall cause the order to be published:
 - (a) once each week for three consecutive weeks:
 - (i) in a newspaper published or of general circulation within the boundaries of the public body;
or
 - (ii) if the public body has no defined boundaries or there is no newspaper published or of general circulation within the defined boundaries, a newspaper reasonably calculated to notify all parties, which has been approved by the court; and
 - (b) in accordance with Section 45-1-101 for three weeks.
- (2) If a refunding bond is being validated, all holders of the bonds to be refunded may be made defendants to the action, in which case notice may be made, and if so made shall be considered sufficient, by mailing a copy of the order to each holder's last-known address.
- (3) By publication of the order, all defendants shall have been duly served and shall be parties to the proceedings.

Amended by Chapter 388, 2009 General Session

11-30-6 Contest of petition by attorney general or county attorney -- Attorney general and county attorney as parties.

- (1) A copy of the petition and order shall be served on the attorney general at least 20 days before the hearing. Upon receipt of the petition, the attorney general shall carefully examine the petition and, if the petition is believed to be defective, insufficient, or untrue, or if, in the attorney general's opinion, a reasonable question exists as to the validity of the bonds, the attorney general shall contest the petition. If neither of those conditions exists or if one or more other parties to the action will, in the attorney general's opinion, competently contest the petition, the attorney general may, upon approval of the court, be dismissed as a defendant.
- (2) If the petition is filed by the state or any agency, authority, instrumentality, or institution of the state, the attorney general may not be made a party to the proceeding and notice shall be served on the county attorney in the county in which the largest expenditure of the proceeds of the bonds is expected to be made. That county attorney shall then in all respects perform the role of the attorney general as set forth in this section.
- (3) The attorney general or county attorney, as the case may be, may waive his right of appeal and that waiver shall be binding on all successors and assigns.
- (4) All costs of the attorney general or county attorney incurred in performing duties imposed by this section shall be reimbursed from the proceeds of the bonds if the bonds are issued.

Enacted by Chapter 197, 1987 General Session

11-30-7 Pleadings -- Questions of law and fact -- Judgment.

- (1) A defendant may file, amend, or supplement any pleading to the proceeding at any time on or before the hearing, but not after the hearing begins, unless permission is given by the court.
- (2) At the time and place designated in the order, the court shall:
 - (a) proceed to hear and determine all questions of law and fact; and

- (b) enter orders that will best enable the court properly to try and determine all questions of law and fact and to enter a judgment with the least possible delay.
- (3) The judgment shall be based upon a written opinion of the court that:
 - (a) makes findings of fact; and
 - (b) separately states the court's conclusions of law.
- (4) To the extent possible and practicable under the circumstances, the court shall render final judgment within 10 days after the day on which the hearing is concluded.

Amended by Chapter 134, 2012 General Session

11-30-8 Injunction -- Other orders.

- (1) Upon motion of the public body to the court in which the validation proceeding is pending, whether before or after the date set for hearing, the court may:
 - (a) enjoin the commencement, prosecution, or maintenance of any other action involving the validity of the bonds;
 - (b) order all other actions or proceedings consolidated with the validation proceeding pending before the court; and
 - (c) make orders that are necessary or proper to effect consolidation or to avoid unnecessary costs or delays.
- (2) The orders described in Subsection (1) are not appealable.

Amended by Chapter 134, 2012 General Session

11-30-9 Failure of validity based on substantial defects or material errors and omissions.

No court may fail to declare bonds valid under this chapter unless the court finds substantial defects or material errors and omissions in the issuance of the bonds. Matters of form shall be disregarded.

Enacted by Chapter 197, 1987 General Session

11-30-10 Appeals to Supreme Court.

- (1) An appeal may be taken only to the Supreme Court and may be taken only by a party appearing at the hearing.
- (2) No appeal is allowed unless the notice of appeal is filed within 10 days after the date of entry of the judgment.
- (3) The Supreme Court shall expedite and give priority to the docketing, briefing, hearing, and decision on appeal.

Amended by Chapter 134, 2012 General Session

11-30-11 Final judgment -- Permanent injunction.

- (1) If the judgment upholds the validity of the bonds, and no appeal is taken, or if an appeal is taken from any judgment and at any time thereafter a judgment is rendered holding the bonds to be valid, the judgment shall, notwithstanding any other provision of law, including, without limitation, Rules 55(c) and 60(b) of the Utah Rules of Civil Procedure, be binding and conclusive as to the validity of the bonds against the public body issuing the bonds and all other parties to the petition, and shall constitute a permanent injunction against the institution by

any person of any action or proceeding contesting the validity of the bonds or any other matter adjudicated or that might have been adjudicated in the proceedings.

- (2) After a final judgment has been entered holding the bonds to be valid, as to any action or proceeding contesting the validity of the bonds or any other matter adjudicated or that might have been adjudicated in the proceedings:
- (a) no court has jurisdiction to adjudicate such matters; and
 - (b) all rights of taxpayers, citizens, and others to litigate such matters shall lapse.

Enacted by Chapter 197, 1987 General Session

11-30-12 No challenge based on procedural error.

No bond validated under this chapter may be challenged because the validation proceeding was not in compliance with this chapter unless the deficiency renders the proceeding in any way unconstitutional.

Enacted by Chapter 197, 1987 General Session

11-30-13 Chapter controlling in conflict of laws.

To the extent that provisions of this chapter are in conflict with any other law, the provisions of this chapter are controlling.

Enacted by Chapter 197, 1987 General Session