

ENROLLED ACT NO. 21, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2022 BUDGET SESSION

AN ACT relating to revenue bonds; authorizing the Wyoming business council to issue revenue bonds as specified for agriculture processing projects; specifying that municipal, county and joint powers board industrial development projects and purposes include agricultural and agricultural-related projects; limiting bond eligibility; requiring rulemaking; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 9-12-109(b) by creating a new paragraph (vi) and by creating new subsections (e) through (n), 15-1-701(a)(ii) and (b) and 15-1-702 by creating a new subsection (d) are amended to read:

9-12-109. Promotion of agriculture; financing of agriculture processing projects; revenue bonds.

(b) The council shall meet not fewer than two (2) times per year to solicit input from industry groups, the department of agriculture and the Wyoming governor's office to:

(vi) Issue and have outstanding bonds to finance, construct, develop, maintain or operate agriculture processing projects for international, in-state and interstate sales, which bonds shall not exceed per project an amount of fifty million dollars (\$50,000,000.00). The principal amount of any bonds that have been retired, redeemed, defeased or refunded by the council need not be taken into account in computing compliance with the maximum amounts of bonds authorized to be issued under this paragraph. The exercise of the powers granted by this paragraph constitutes the performance of an essential governmental function. Any bonds issued under

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this paragraph and the income therefrom shall be free from taxation of every kind by the state, municipalities and political subdivisions of the state. Neither the state nor any political subdivision of the state or local governmental entity shall use any public funds to invest in or purchase any bonds issued under this section. Revenue bonds under this paragraph shall not be issued until information on each bond to be issued, and information pertaining to the project for which the bond would be issued, is provided to the state loan and investment board. The state loan and investment board may review and may object to the council on any bond if the bond may be considered a general obligation of the state or any political subdivision of the state. Any objection by a majority of the members of the state loan and investment board shall prevent issuance of the bond. Revenue bonds under this paragraph shall be issued according to subsections (e) through (n) of this section.

(e) In addition to the powers otherwise granted to the council and subject to the limits under paragraph (b)(vi) of this section, the council may issue bonds in principal amounts the council determines necessary to provide sufficient funds for achieving its purposes under paragraph (b)(vi) of this section, including the reduction of principal, the payment of interest, the establishment of reserves, the costs of administration and for the purpose of defraying all other associated costs. The council may enter into contracts to insure the payment of principal and interest, for interest rate exchange contracts and for financial guarantees to lower the cost of its borrowing. All bonds issued under this subsection:

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(i) Are negotiable instruments under the laws of this state unless expressly provided to the contrary on the face of the bonds;

(ii) Are payable solely out of special funds consisting of all or part of the council's revenues, receipts, monies and assets, as designated in the proceedings under which the bonds are authorized;

(iii) Shall bear interest at fixed or variable rates, be executed and delivered at times and in denominations, be of terms and maturities, be in registered form as to principal and interest or principal alone, and bear manual or facsimile signatures and seals as the council determines;

(iv) Are not general obligations of this state nor of any political subdivision of this state. The bonds shall recite on their face that they do not constitute obligations of the state or any political subdivisions of the state;

(v) May be payable in installments and may bear maturities not exceeding forty (40) years from the date issued as the council determines;

(vi) Together with interest may be payable at a time or place whether within or outside the state, as the council determines;

(vii) May contain an option to redeem all or any part as may be specified. The price of redemption, the terms and conditions and the procedure of notice shall be set forth by the council and may appear on the face of the bonds;

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(viii) May be sold at, above or below par value, at public or private sale, in a manner and from time to time as determined by the council. The council may pay legal fees, expenses, premiums and commissions that it finds necessary or advantageous to this state in connection with the issuance and sale;

(ix) Are legal investments that may be used as collateral for insurance companies, banks, savings and loan associations, investment companies, trustees and other fiduciaries that may properly and legally invest funds in their control or belonging to them in bonds of the council;

(x) May contain other provisions not inconsistent with this subsection.

(f) The principal and interest on any revenue bonds that the council issues shall be secured by a pledge of revenues from the operation of the agriculture processing project financed, by a first mortgage on the facilities, by guarantees and pledges of the entity owning the project, or of the parent corporation owning the entity, or by any combination thereof or other security as the council may determine to be reasonable and prudent. The guarantees and pledges shall be no less favorable to the council than those granted other lenders of the same class. The council may require additional payments, as negotiated, to bondholders to be made either in a lump sum at the time of retirement of the bonds or annually from the time of retirement of the bonds until project use is terminated or may require additional incentives from the owner of the project to prospective bondholders so long as the incentives are not contrary to the Wyoming constitution.

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The council may require such other security for repayment of the bonds as it deems necessary.

(g) Each pledge, agreement, mortgage or other instrument made for the benefit or security of any revenue bonds of the council is valid and binding from the time when made. The revenues, receipts, monies and assets pledged are immediately subject to the lien of the pledge without delivery or further act. The lien is valid and binding against persons having claims of any kind against the council whether or not the persons have actual notice of the lien. The resolution or the indenture or other instrument by which a pledge is created need not be recorded or filed.

(h) The state pledges to the holders of any revenue bonds issued under subsection (e) of this section that the state will not limit or alter the rights vested in the council to fulfill the terms of agreements made with the holders, or in any way impair the rights and remedies of the holders until the bonds together with the interest, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the holders are fully met and discharged. The council is authorized to include this pledge of the state in any agreement with the holders of the bonds.

(j) In addition to the powers otherwise granted to the council, in relation to revenue bonds under subsection (e) of this section, the council shall have the power to:

(i) Provide for the issuance of bonds to refund any bonds of the council then outstanding, including for the payment of any redemption premium and any interest or

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premium accrued or to accrue to, the earliest or subsequent date of redemption, purchase or maturity of the bonds;

(ii) Acquire, purchase, make prepayments for, finance, hold, use, lease, license, sell, transfer and dispose of an undivided or other interest in any agriculture processing project within or without the state of Wyoming to facilitate the financing, construction, development, maintenance or operation of agriculture processing projects in this state;

(iii) Enter into loan or other agreements with respect to one (1) or more agriculture processing projects upon terms and conditions the council considers advisable;

(iv) Make and execute agreements, contracts and other instruments necessary or convenient in the exercise of its powers and functions, including contracts with any individual, firm, corporation, governmental agency or other entity.

(k) The council may assess and collect fees that are nonrefundable from applicants seeking to obtain council financing of an agriculture processing project in total amounts not to exceed fifty thousand dollars (\$50,000.00), which shall be credited to the state general fund. The council shall require that any entity receiving financing under subsection (e) of this section shall:

(i) Be headquartered in Wyoming and organized under the laws of the state of Wyoming;

(ii) Fall within the United States small business administration small business size standards for

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its industry classification code, effective August 19, 2019;

(iii) Maintain records and accounts relating to the receipt and disbursements of loan proceeds and make the records available to the state auditor for inspection.

(m) The council shall maintain such records and accounts of revenues and expenditures in relation to revenue bonds under subsection (e) of this section as required by the director of the state department of audit. The director of the state department of audit shall conduct an annual financial and legal compliance audit of the accounts of the council and file copies of the audit with the governor and the legislature.

(n) The sole recourse of any party contracting with the council in relation to revenue bonds under subsection (e) of this section shall be against the council, and there shall be no cause of action against the state, or any county, municipality or other political subdivision of the state.

15-1-701. Definitions; vesting of powers and privileges.

(a) As used in this article:

(ii) "Project" means any land, building, pollution control facility or other improvement and all necessary and appurtenant real and personal properties, whether or not in existence, suitable for manufacturing, industrial, commercial or business enterprises, ~~or~~ for health care facilities or for manufacturing, processing or assembling agricultural or agricultural-related products.

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~~Project~~—"Project" may also mean an undivided interest as a tenant in common in an electrical generating facility or in pollution control facilities in connection therewith. ~~Project~~—"Project" may also mean an energy improvements program;

(b) In order to facilitate and promote the local health and general welfare, the sound economic growth of the state of Wyoming, the development of its natural resources, the protection of its natural environment, the expansion of agricultural and agricultural-related industries, the provision of health care services, energy improvements and to promote employment opportunities for the citizens of Wyoming by creating or encouraging the expansion of manufacturing, industrial plants, processing facilities and all kinds of business, which contribute payrolls and tax base to the state of Wyoming, and by attracting to and encouraging the location or the expansion within this state of such plants, facilities and businesses, all of which are hereby declared to be and constitute public purposes, the counties and municipalities of the state of Wyoming are vested with the powers and privileges hereafter set forth in this article.

15-1-702. Powers of municipalities and counties; limitations.

(d) When issued for agricultural and agricultural-related projects, a municipality, county or joint powers board shall only issue bonds under this article to an entity that:

(i) Is headquartered in Wyoming and organized under the laws of the state of Wyoming; and

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(ii) Falls within the United States small business administration small business size standards for its industry classification code, effective August 19, 2019.

Section 2.

(a) The Wyoming business council shall promulgate rules as necessary to implement this act.

(b) Municipalities, counties or joint powers boards shall amend any rules or regulations as necessary to implement this act.

ORIGINAL SENATE
FILE NO. SF0009

ENGROSSED

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Section 3.

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2022.

(b) Sections 2 and 3 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk