

State General Obligation Bonding

One of the ways the state pays for projects is to borrow money by issuing bonds—which are promises to repay the money borrowed at a specified time and interest rate. There are two main types of bonds: general obligation (G.O.), backed by the full faith, credit, and taxing powers of the state, and revenue bonds, backed by revenues other than a tax of statewide application. The state constitution limits the purposes for which G.O. bonds may be issued and requires certain procedures.

All State G.O. Bonds

All state G.O. bonds have certain common requirements. They must be for a public purpose, specified in law, and mature in not more than 20 years.

Public purpose. Under the state constitution, all expenditures of state funds, including bond proceeds, must be for a public purpose. There is a public purpose if the expenditure can reasonably be expected to achieve a legitimate public goal or benefit, even if some benefit may result for nonpublic interests. In determining whether the purpose is “public,” one must look at both historical and contemporary standards. The legislature is given deference in determining a purpose to be “public.” *Visina v. Freeman*, 252 Minn. 177, 89 N.W.2d 635 (1958).

Specified in law. “Each law authorizing the issuance of bonds shall distinctly specify the purposes thereof and the maximum amount of the proceeds authorized to be expended for each purpose.” [Minn. Const. art. XI, § 7](#). This may be done by describing the project in some detail or by reference to a governmental program established in statute.

Mature in no more than 20 years. [Minn. Const. art. XI, § 7](#).

Bonds to Acquire and Better Public Land and Buildings

The principal purpose for which state G.O. bonds are issued is to acquire and to better public land and buildings and to make other public capital improvements. [Minn. Const. art. XI, § 5, para. \(a\)](#).

Capital project. A capital project, in general, is for the acquisition or improvement of fixed assets, such as land or buildings. The fixed asset must be long-lived; bond counsel has suggested that the useful life be at least ten years. The improvements must be substantial, extend the useful life or substantially increase the value of the fixed asset and not be predictable or recurring (as repairs would be). For example, a study or planning are not capital in nature, but design work for a site-specific capital project is. An option to buy real property is an intangible asset and not eligible for bond funding.

Publicly owned. Bonds issued under the capital improvements provision may only be for publicly owned projects, whether state or local. “Publicly owned” has been determined to include projects of the Minnesota Historical Society, but not public radio, TV, or Indian tribe projects, or private sewage systems even if they will serve the public.

Three-fifths vote. A law to authorize the issuance of state G.O. bonds for capital improvements must be enacted with at least a three-fifths vote of the House and the Senate. [Minn. Const. art. XI, § 5, para. \(a\)](#). A law to repeal an authorization requires only a simple majority vote.

Other Constitutionally Authorized Uses

Under other provisions of the state constitution, state G.O. bond proceeds may also be used:

- to repel invasion or suppress insurrection;
- to borrow temporarily through certificates of indebtedness;
- to refund outstanding bonds of the state or its agencies;
- to establish and maintain highways subject to constitutional limitations on highway bonds;
- to promote forestation and prevent and abate forest fires;
- to construct, improve, and operate airports and other air navigation facilities;
- to develop the state's agricultural resources by extending credit on real estate;
- to improve and rehabilitate public or private railroad rights-of-way and other rail facilities up to \$200 million par value; and
- as otherwise authorized in the constitution. [Minn. Const. art. XI](#), § 5, paras. (b) to (j).

Not all of these purposes are capital in nature, and the constitution does not require a three-fifths vote to authorize issuance of bonds for these purposes.

Trunk highway bonds. Bonds issued for trunk highways are G.O. bonds, but payable from the trunk highway fund (with a statewide property tax as backup). Trunk highway projects may not be paid for with G.O. bonds that are payable in the first instance from the general fund. [Minn. Const. art. XIV](#), § 11; [art. XI](#), § 5, para. (e).

No Reimbursement. Under federal tax law governing tax-exempt state and local bonding, bond proceeds cannot be used for reimbursement (with very limited exceptions).

Revenue Bonds

The constitution neither specifically authorizes nor prohibits issuance of revenue bonds. As with any

expenditure of public funds, revenue bond proceeds must be used for a public purpose. A significant limitation on the issuance of revenue bonds is whether the revenue to repay the bonds is sufficient to make the bonds marketable. Various state agencies have authority to issue revenue bonds. For example, the Minnesota Housing Finance Agency, may issue mortgage revenue bonds, and the Minnesota Public Facilities Authority may issue revenue bonds to finance municipal wastewater treatment and other public infrastructure projects.

Capital Investment Guidelines

There is no constitutional or statutory limitation on how much debt the state may incur (with the exception of debt for railroads), but Minnesota Management and Budget has guidelines intended to maintain the state's good credit rating.

- Total tax-supported principal outstanding shall be 3.25 percent or less of total state personal income.
- Total principal (both issued and authorized but unissued) for state general obligations, moral obligations, equipment capital leases, and real estate capital leases must not exceed 6 percent of state personal income.
- 40 percent of G.O. debt must be due within five years and 70 percent within ten years, if consistent with the useful life of the financed assets and market conditions.

Role of Bond Counsel

While there is some guidance from the courts on the constitutional requirements for and limitations on state bonding, bond questions rarely reach the courts. In order for bonds to be sold, attorneys for the state—bond counsel—are asked to render an unqualified legal opinion approving the issuance of the bonds. Without a good opinion, no one will buy the bonds. Thus, the primary guidance the legislature has on what is “bondable” and how the law must be written comes from bond counsel.

For more information: Contact legislative analyst Deborah Dyson at 651-296-8291.

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