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How to Borrow the Money

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Table of Contents

How to Borrow the Money

Reference Number: CTAS-1780

T.C.A. § 9-21-102. Intent. “It is the intent and purpose of this chapter to provide a uniform and comprehensive statutory framework authorizing any local government to issue general obligation bonds and revenue bonds for public works projects, general obligation bonds for certain unfunded pension obligation, general obligation refunding bonds, revenue refunding bonds, bond anticipation notes, capital outlay notes, grant anticipation notes, and tax anticipation notes, and to authorize the destruction of bonds, notes and coupons.” This T.C.A. chapter describes in detail issues of all debt obligation and related purposes of debt.

T.C.A. §9-21-103. No indebtedness limit. **“**Bonds or notes may be issued under this chapter, notwithstanding and without regard to any limit on indebtedness provided by law.” The law allows unlimited indebtedness; however, a county’s debt ratios would gauge the amount of risk indebtedness the county may have, and thus would be a factor in determining the interest rates.

Money can be borrowed for the capital projects, as well as for anticipated borrowing purposes such as, tax, grant and revenue anticipation notes. These instruments are not covered in detail since their purpose is short term in nature (generally less than one year) and repaid upon revenue being received or permanent debt being issued. The following describes the issuance of debt instruments which are considered longer term in nature.

Tax Exempt Debt

Reference Number: CTAS-1781

Debt issued in compliance with the Tennessee Code and Federal law is considered exempt for income tax purposes to the holder of the debt instruments.

Comptroller's Office Filing

Reference Number: CTAS-1782

Public Debt Entity Form (Comptroller Form CT-0253) is required to be filed by the local government within 45 days of entrance into a debt obligation.

Issuance of Notes

Reference Number: CTAS-1783

The Comptroller of the Treasury Division of Local Finance publishes a “Guide for the Issuance of Notes by the Counties, Consolidated Governments and Municipalities of Tennessee”. This publication includes information, description and sample resolutions which can be used for the issuance of: Bond Anticipation Notes, Capital Outlay Notes, Grant Anticipation Notes, Tax Anticipation Notes, Health Care Anticipation Notes, and Revenue Anticipation Notes. The publication also includes State Form CT-0253 which reports to the Comptroller’s Office a summary of your new debt obligation related to amount, type of debt, cost of the issuance, interest rate and other information. Form CT-0253 and related instructions.

Various factors will determine whether the county’s debt issuance is by way of note or bond. Below are the major factors to be considered:

1. Amount of Issuance
2. Type of Asset specifically the asset life expediency
3. How the new debt will fix into the existing multi-year debt service budget or plan-Term of Bond/ Loan.

Notes generally will be less expensive to issue due to the local government being able to handle the transaction locally and absorbing most, if not all, financial cost of issuance; however, notes that are large in dollar denomination may require placement outside of a local financial institution. Small dollar denomination notes are often sold to the local financial institutions via a bid process**.** Sample Request for Quote form for local financial institutions. You should consult your purchasing department to coordinate the purchasing effort.

Inter-Fund Capital Outlay Note

Reference Number: CTAS-1784

When the decision has been made to issue capital outlay notes, the county should further consider whether an inter-fund loan would be in the county's best financial interest. An inter-fund loan is where one accounting fund, such as the General Fund, loans (via capital outlay note) monies for a project. The General Fund is repaid the money via the Debt Service Fund, or the operating fund that purchased the capital asset. The inter-fund loan is often used to save the county money by absorbing all debt issuance cost, and potentially saving the difference in the investment rate of return on the county money versus the interest rate charged to borrow the funds. The internal funding also can be the County Trustee purchasing the note as an investment. Special accounting treatments must be considered to book the indebtedness.

Capital Leases

Reference Number: CTAS-1785

Capital leases are another avenue in which a county can acquire a capital asset. This avenue is generally the least used and often the most expensive means of financing. Generally speaking, a county can issue capital outlay notes and purchase an asset, as opposed to the leasing of the asset. Interest rates are often higher in lease contracts than a county can receive via inter-fund loan or capital outlay notes issued to a local financial institution. A county should fully understand the cost of the asset and borrow cost imputed, as well as, whether they intend to use the asset through the end of it useful life. The county should also conduct an analysis of purchase versus lease cost. The Comptroller of the Treasury Division of Local Finance "Guide for the Issuance of Notes by the Counties, Consolidated Governments and Municipalities of Tennessee" set out various requirements for a county to enter into a lease agreement.

Issuance of Bonds (General Obligation Bonds) and Loan Agreements

Reference Number: CTAS-1786

The Debt Resolution is used when bonds or longer term loans are issued. The resolution is generally prepared by the county's bond counsel and adopted at either a regular or specially called meeting of the county commission. This Debt Resolution pledges the full faith, credit and unlimited taxing power of the local government as to all taxable property in the local government or a portion of the local government.

The Debt Resolution T.C.A. § 9-21-108

- Is not required to be posted or published before adoption, but must be posted/published after adopting T.C.A. § 9-21-206 in order to allow the eligible voters to call for a referendum. Referendums are not allowed for school projects if debt is issued under Title 49.
- Can not be vetoed by the chief executive officer (mayor or executive).
- Takes only a majority vote of the commission.
- May delegate authority to the chief executive officer of the local government to sell notes or bonds.

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