

## SB217 INTRODUCED



1 SB217  
2 W11HW99-1  
3 By Senator Orr  
4 RFD: County and Municipal Government  
5 First Read: 04-Mar-25



## 4 SYNOPSIS:

5 Existing law requires a county to complete a  
6 county government bond financing review form that is  
7 prepared by the Department of Examiners of Public  
8 Accounts when executing a bond financing agreement that  
9 acknowledges that the county has considered the  
10 relevant factors important to the decision of entering  
11 into bonded indebtedness. The form must be submitted to  
12 the Department of Examiners of Public Accounts and made  
13 available for public inspection.

14 This bill would require the bond financing  
15 agreement documents to include a schedule of all of the  
16 debt obligations of the county for the time span of the  
17 maturity of the debt obligation at issue and would  
18 require the chair of the county commission and the  
19 authorized signatory for the bond underwriter to sign  
20 an acknowledgment that the total amount of debt  
21 obligations and a schedule of the total debt payments  
22 have been presented and explained to all members of the  
23 county commission prior to the sale of bonds.

24 This bill would add to the county government  
25 bond financing review form a statement acknowledging  
26 that the county commission has received from the bond  
27 underwriter a potential debt service schedule for all  
28 county debt for the time span of the maturity of the



## SB217 INTRODUCED

debt obligation at issue and has been advised of the ability of the county to pay all of the debt obligations.

This bill would require a municipality to follow the same procedures required of a county before entering into a bond financing agreement and would require the municipality to complete a government bond financing review form developed by the Department of Examiners of Public Accounts when executing a bond financing agreement acknowledging that the municipality has considered the relevant factors important to the decision of entering into bonded indebtedness.

This bill would also require that the form be submitted to the Department of Examiners of Public Accounts and made available for public inspection.

A BILL

TO BE ENTITLED

AN ACT

To amend Sections 11-8A-3 and 11-8A-4, Code of Alabama 1975, relating to the county government bond financing review form; to require the bond financing agreement documents to include a schedule of all of the debt obligations of the county under certain conditions; to require the chair of the county commission and the authorized signatory for the bond underwriter to sign an acknowledgement that the total amount



## SB217 INTRODUCED

of debt obligations and a schedule of the total debt payments have been presented and explained to the county commission; to add a statement to the county government bond financing review form acknowledging that the county commission has received the debt service schedule under certain conditions; to require that a municipality would follow the same procedures required of a county before entering into a bond financing agreement and would complete a government bond financing review form developed by the Department of Examiners of Public Accounts; and to require that the form be submitted to the Department of Examiners of Public Accounts and be made available for public inspection.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 11-8A-3 and 11-8A-4 of the Code of Alabama 1975, are amended to read as follows:

"§11-8A-3

(a) In addition to any and all other documents presented for examination and execution of a bond financing agreement which, for the purposes of this chapter, takes place at the time a county commission makes an official award of the bonds, the county commission shall execute a county government bond financing review form. The standard review form shall be prepared by the Department of Examiners of Public Accounts and shall include statements to the effect that:

(1) The county commission has considered whether it can satisfy its financial obligations for the life of the bonds.

(2) In the case of limited obligation indebtedness, the county commission has identified the source for the debt



## SB217 INTRODUCED

85 service payments for the life of the bonds, and in the case of  
86 general obligation indebtedness, the county commission has  
87 indicated that the full faith and credit of the county has  
88 been pledged for the debt service payments for the life of the  
89 bonds.

90 (3) The county commission has considered the period of  
91 usefulness of the improvement or property for which the bonds  
92 are to be issued in light of the duration of the term of the  
93 bonds under the bond financing agreement.

94 (4) The county commission acknowledges that bond  
95 proceeds shall not be used for general operating expenses of  
96 the county.

97 (5) The county commission has received from the bond  
98 underwriter, bond counsel, issuer's counsel, trustee, and any  
99 others associated with the issuance of bonds an itemized  
100 listing of their respective fees and all other costs which  
101 shall not be subject to change prior to the sale or issuance  
102 of bonds.

103 (6) The county commission has received from the bond  
104 underwriter a clear and understandable written proposal  
105 explaining all details of the proposed bond issue, its  
106 repayment schedule, and any external factors which could  
107 affect the total cost to the county if it issues the bonds.

108 (7) The county commission has considered the effect, if  
109 any, that the bonds will have on the county's constitutional  
110 debt limit.

111 (8) The county commission has received from the bond  
112 underwriter information demonstrating that the estimated



## SB217 INTRODUCED

interest rate on the bonds is reasonable and, that if information regarding similar recent issuances is available, the interest rates are comparable with other similar issuances based on current bond market conditions on the date of execution of the bond financing agreement.

(9) The county commission has received from the bond underwriter a separate document of the potential debt service schedule for all county debt for the time span of the maturity of the debt obligation at issue and has been advised of the ability of the county to pay all of the debt obligations.

(b) If the proceeds of the proposed bonds are to be used in whole or in part for the purpose of refinancing or refunding outstanding bonds, the county government bond financing review form shall also include statements to the effect that:

(1) The county commission understands how the issuance of refunding bonds may extend the county's initial debt repayment period and the total cost paid by the county by the end of the refunding period.

(2) The county commission has considered whether the refunding bonds will create net present value savings for the county, including the costs of refinancing.

(c) In connection with a swap agreement, the county government bond financing review form shall include statements to the effect that:

(1) The county commission has complied with ~~paragraph a. of subdivision (2) of~~ Section 41-1-42 (2) a.

(2) The county commission has reviewed or had explained



## SB217 INTRODUCED

141 by the adviser selected as provided in Section 11-8A-5 all  
142 documentation provided pertaining to the swap agreement as  
143 required in subsection (d).

144 (3) The county commission has designated an employee or  
145 official who will have primary responsibility for the  
146 consideration, execution, and monitoring of interest rate  
147 swaps and financial hedges entered into by the county.

148 (4) The county commission has determined whether the  
149 county's obligations under the swap agreement constitute a  
150 general obligation indebtedness of the county and whether the  
151 source of payment is sufficient.

152 (5) The county commission has sought and received  
153 specific information disclosing the potential risks inherent  
154 in the swap agreement including those risks commonly referred  
155 to in the derivatives industry as basis risk, tax risk,  
156 interest rate risk, counterparty risk, termination risk,  
157 market-access risk, rollover or anticipation risk, and credit  
158 risk.

159 (d) The county government bond financing review form  
160 shall also include a statement acknowledging that all  
161 enumerated items on the review form have been considered by  
162 the county commission, and that the county commission has  
163 voted to enter into the bond financing agreement or swap  
164 agreement by an affirmative vote of a majority of the members  
165 of the county commission. The statement of acknowledgment  
166 shall be signed by the chair of the county commission or  
167 another commission member designated by the county commission  
168 and the adviser or consultant utilized by the county



## SB217 INTRODUCED

commission pursuant to Section 11-8A-5.

(e) A copy of the county government bond financing review form shall be forwarded to the Department of Examiners of Public Accounts within 10 business days of the issuance of the bonds or swap agreement. All county government bond financing review forms shall be kept on file at the department and shall be available for public inspection for a period of seven years."

"§11-8A-4

(a) In addition to the requirements of Section 11-8A-3, the bond financing agreement documents shall include a detailed itemization of the costs and fees which will be paid directly by the county commission or from bond proceeds under the bond financing agreement. This itemization shall include a statement acknowledging that the amounts of these costs and fees have been presented and explained to all members of the county commission prior to the sale of bonds. The acknowledgement statement shall be signed by the chair of the county commission or another commission member designated by the county commission and by the authorized signatory for the bond underwriter.

(b) In addition to the requirements of Section 11-8A-3, the bond financing agreement documents shall include a schedule of all the debt obligations of the county for the time span of the maturity of the debt obligations at issue. This schedule shall include a statement acknowledging that the total amount of all debt obligations and a schedule of the total debt payments have been presented and explained to all





## SB217 INTRODUCED

members of the county commission prior to the sale of bonds.  
The acknowledgement statement shall be signed by the chair of  
the county commission or another commission member designated  
by the county commission and by the authorized signatory for  
the bond underwriter.

~~(b)~~ (c) In connection with a swap agreement, the documentation necessary to effectuate the swap agreement shall also include a statement from the authorized signatory for the bond underwriter or authorized signatory of the provider of the swap agreement to the effect that:

(1) It has provided the county commission with a disclosure of the potential risks inherent in the swap agreement.

(2) It has disclosed all fees associated with the swap agreement.

(3) It has provided the county commission with documentation necessary to effectuate the swap agreement including master agreements, schedules, credit support annexes, confirmations, legal opinions, fairness opinions, and any other information necessary to comply with ~~subdivisions (3) and (5) of subsection (c) of~~ Section 11-8A-3 (c) (3) and Section 11-8A-3(c) (5)."

Section 2. For the purposes of Sections 2 through 7, the following terms shall have the following meanings:

(1) BOND FINANCING AGREEMENT. An agreement or other document relating to the sale or issuance of bonds including, but not limited to, a bond purchase agreement, a loan agreement, a refinancing agreement, or documents providing for



## SB217 INTRODUCED

bonds sold or issued on a competitive sale basis.

(2) BONDS. Bonds, bond anticipation notes, warrants, warrant anticipation notes, or indebtedness issued or entered into on behalf of a municipality for a term of at least three years or more.

(3) BUSINESS DAY. A day, other than a Saturday or a Sunday, on which commercial banking institutions are open for business in this state and a day on which the payment system of the Federal Reserve System is operational.

(4) CAPITAL EXPENDITURE. Any cost or expense of a type that is properly chargeable to a capital account under general federal income tax principles.

(5) GENERAL OBLIGATION INDEBTEDNESS. A bond financing agreement which, according to its terms, will be repaid from any funds at the disposal of the municipality.

(6) GENERAL OPERATING EXPENSES. Any expense incurred by a municipality in the general operation and function of the municipality. The term includes salaries and other associated expenses, but does not include a capital expenditure or expense.

(7) LIMITED OBLIGATION INDEBTEDNESS. Bonds which, according to their terms, are required to be paid solely from the proceeds of a specific tax, fee, license, charge, or other specific revenue stream.

(8) NET PRESENT VALUE SAVINGS. The projected cost savings to the municipality from refinancing any bonds, by comparing the net present value of the costs of the bonds proposed for refunding, including the original costs of



## SB217 INTRODUCED

issuance and the payment of principal and interest on the bonds proposed for refunding, with the net present value of the costs of the proposed bonds, including the costs of issuance and refinancing and the payment of principal and interest on the proposed bonds.

(9) SWAP AGREEMENT. A swap agreement as defined in Article 3 of Chapter 1 of Title 41, Code of Alabama 1975.

Section 3. Notwithstanding any other provision of law, after October 1, 2024, no municipality may enter into any bond financing agreement or other transaction related to establishing bonded indebtedness that constitutes or creates an obligation, debt, or charge against the credit or taxing power of the municipality until and unless the municipality has satisfied the requirements of Sections 2 through 6.

Section 4. (a) In addition to any and all other documents presented for examination and execution of a bond financing agreement which, for the purposes of Sections 2 through 6, takes place at the time a municipality makes an official award of the bonds, the municipality shall execute a government bond financing review form. The standard review form shall be prepared by the Department of Examiners of Public Accounts and shall include statements to the effect that:

(1) The municipality has considered whether it can satisfy its financial obligations for the life of the bonds.

(2) In the case of limited obligation indebtedness, the municipality has identified the source for the debt service payments for the life of the bonds and, in the case of general



## SB217 INTRODUCED

obligation indebtedness, the municipality has indicated that the full faith and credit of the municipality has been pledged for the debt service payments for the life of the bonds.

(3) The municipality has considered the period of usefulness of the improvement or property for which the bonds are to be issued in light of the duration of the term of the bonds under the bond financing agreement.

(4) The municipality acknowledges that bond proceeds shall not be used for general operating expenses of the municipality.

(5) The municipality has received from the bond underwriter, bond counsel, issuer's counsel, trustee, and any others associated with the issuance of bonds an itemized listing of his or her respective fees and all other costs which shall not be subject to change prior to the sale or issuance of bonds.

(6) The municipality has received from the bond underwriter a clear and understandable written proposal explaining all details of the proposed bond issue, its repayment schedule, and any external factors which could affect the total cost to the municipality if it issues the bonds.

(7) The municipality has considered the effect, if any, that the bonds will have on the municipality's constitutional debt limit.

(8) The municipality has received from the bond underwriter information demonstrating that the estimated interest rate on the bonds is reasonable and, that if



## SB217 INTRODUCED

information regarding similar recent issuances is available, the interest rates are comparable with other similar issuances based on current bond market conditions on the date of execution of the bond financing agreement.

(9) The municipality has received from the bond underwriter a separate document of the potential debt service schedule for all municipality debt for the time span of the maturity of the debt obligation at issue and has been advised of the ability of the municipality to pay all of the debt obligations.

(b) If the proceeds of the proposed bonds are to be used in whole or in part for the purpose of refinancing or refunding outstanding bonds, the government bond financing review form shall also include statements to the effect that:

(1) The municipality understands how the issuance of refunding bonds may extend the municipality's initial debt repayment period and the total cost paid by the municipality by the end of the refunding period.

(2) The municipality has considered whether the refunding bonds will create net present value savings for the municipality, including the costs of refinancing.

(c) In connection with a swap agreement, the government bond financing review form shall include statements to the effect that:

(1) The municipality has complied with Section 41-1-42(2)a., Code of Alabama 1975.

(2) The municipality has reviewed or had explained by the adviser selected as provided in Section 6 all



## SB217 INTRODUCED

documentation provided pertaining to the swap agreement as required in subsection (d).

(3) The municipality has designated an employee or official who will have primary responsibility for the consideration, execution, and monitoring of interest rate swaps and financial hedges entered into by the municipality.

(4) The municipality has determined whether the municipality's obligations under the swap agreement constitute a general obligation indebtedness of the municipality and whether the source of payment is sufficient.

(5) The municipality has sought and received specific information disclosing the potential risks inherent in the swap agreement, including those risks commonly referred to in the derivatives industry as basis risk, tax risk, interest rate risk, counterparty risk, termination risk, market-access risk, rollover or anticipation risk, and credit risk.

(d) The government bond financing review form shall also include a statement acknowledging that all enumerated items on the review form have been considered by the municipality, and that the municipality has voted to enter into the bond financing agreement or swap agreement by an affirmative vote of a majority of the members of the city council of the municipality. The statement of acknowledgment shall be signed by the chair of the city council of the municipality or another member designated by the municipality and the adviser or consultant utilized by the municipality pursuant to Section 6.

(e) A copy of the government bond financing review form



## SB217 INTRODUCED

shall be forwarded to the Department of Examiners of Public Accounts within 10 business days of the issuance of the bonds or swap agreement. All government bond financing review forms shall be kept on file at the Department of Examiners of Public Accounts and shall be available for public inspection for a period of seven years.

Section 5. (a) In addition to the requirements of Section 4, the bond financing agreement documents shall include a detailed itemization of the costs and fees which will be paid directly by the municipality or from bond proceeds under the bond financing agreement. This itemization shall include a statement acknowledging that the amounts of these costs and fees have been presented and explained to all members of the city council of the municipality prior to the sale of bonds. The acknowledgement statement shall be signed by the chair of the city council or another member designated by the municipality and by the authorized signatory for the bond underwriter.

(b) In addition to the requirements of Section 4, the bond financing agreement documents shall include a schedule of all of the debt obligations of the municipality for the time span of the maturity of the debt obligation at issue. This schedule shall include a statement acknowledging that the total amount of all debt obligations and a schedule of the total debt payments have been presented and explained to all members of the city council prior to the sale of bonds. The acknowledgement statement shall be signed by the chair of the city council or a member designated by the city council and by



## SB217 INTRODUCED

the authorized signatory for the bond underwriter.

(c) In connection with a swap agreement, the documentation necessary to effectuate the swap agreement shall also include a statement from the authorized signatory for the bond underwriter or authorized signatory of the provider of the swap agreement to the effect that:

(1) It has provided the municipality with a disclosure of the potential risks inherent in the swap agreement.

(2) It has disclosed all fees associated with the swap agreement.

(3) It has provided the municipality with documentation necessary to effectuate the swap agreement including master agreements, schedules, credit support annexes, confirmations, legal opinions, fairness opinions, and any other information necessary to comply with Section 4(c)(3) and Section 4(c)(5).

Section 6. In preparing the government bond financing review form, the municipality shall consult with and obtain advice from either an attorney for the municipality, or, at the option of the municipality, a certified public accountant regarding any and all bond or swap proposals received by the municipality. The individual or individuals utilized by the municipality for advice and consultation shall review all documents to be included at the execution of the bond financing agreement or swap agreement.

Section 7. The requirements of Sections 2 through 6 shall not apply with respect to any bond financing agreement or other transaction related to incurring or establishing bonded or other indebtedness that constitutes or creates an





## SB217 INTRODUCED

obligation, debt, or charge against the credit or taxing power of a municipality, which obligation, debt, or charge is to be incurred to finance improvements to, betterments, or expansion of a gas, electric, water, sewer, or other utility system owned or controlled by the municipality or is to be payable from revenues or properties of a gas, electric, water, sewer, or other utility system pledged or otherwise contractually obligated to the payment of the obligation, debt, or charge.

Section 8. This act shall become effective on October 1, 2024.