

SENATE FILE NO. SF0009

Revenue bonds for agricultural endeavors.

Sponsored by: Joint Agriculture, State and Public Lands &  
Water Resources Interim Committee

A BILL

for

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

8

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

10

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

15

1           **9-12-109. Promotion of agriculture; financing of**  
2 **agriculture processing projects; revenue bonds.**

3

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

8

9           (vi) Issue and have outstanding bonds to  
10 finance, construct, develop, maintain or operate  
11 agriculture processing projects for international, in-state  
12 and interstate sales, which bonds shall not exceed per  
13 project an amount of fifty million dollars  
14 (\$50,000,000.00). The principal amount of any bonds that  
15 have been retired, redeemed, defeased or refunded by the  
16 council need not be taken into account in computing  
17 compliance with the maximum amounts of bonds authorized to  
18 be issued under this paragraph. The exercise of the powers  
19 granted by this paragraph constitutes the performance of an  
20 essential governmental function. Any bonds issued under  
21 this paragraph and the income therefrom shall be free from  
22 taxation of every kind by the state, municipalities and  
23 political subdivisions of the state. Neither the state nor

1 any political subdivision of the state or local  
2 governmental entity shall use any public funds to invest in  
3 or purchase any bonds issued under this section. Revenue  
4 bonds under this paragraph shall not be issued until  
5 information on each bond to be issued, and information  
6 pertaining to the project for which the bond would be  
7 issued, is provided to the state loan and investment board.  
8 The state loan and investment board may review and may  
9 object to the council on any bond if the bond may be  
10 considered a general obligation of the state or any  
11 political subdivision of the state. Any objection by a  
12 majority of the members of the state loan and investment  
13 board shall prevent issuance of the bond. Revenue bonds  
14 under this paragraph shall be issued according to  
15 subsections (e) through (n) of this section.

16

17 (e) In addition to the powers otherwise granted to  
18 the council and subject to the limits under paragraph  
19 (b)(vi) of this section, the council may issue bonds in  
20 principal amounts the council determines necessary to  
21 provide sufficient funds for achieving its purposes under  
22 paragraph (b)(vi) of this section, including the reduction  
23 of principal, the payment of interest, the establishment of

1 reserves, the costs of administration and for the purpose  
2 of defraying all other associated costs. The council may  
3 enter into contracts to insure the payment of principal and  
4 interest, for interest rate exchange contracts and for  
5 financial guarantees to lower the cost of its borrowing.

6 All bonds issued under this subsection:

7  
8 (i) Are negotiable instruments under the laws of  
9 this state unless expressly provided to the contrary on the  
10 face of the bonds;

11  
12 (ii) Are payable solely out of special funds  
13 consisting of all or part of the council's revenues,  
14 receipts, monies and assets, as designated in the  
15 proceedings under which the bonds are authorized;

16  
17 (iii) Shall bear interest at fixed or variable  
18 rates, be executed and delivered at times and in  
19 denominations, be of terms and maturities, be in registered  
20 form as to principal and interest or principal alone, and  
21 bear manual or facsimile signatures and seals as the  
22 council determines;

23

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

6  
7           (v) May be payable in installments and may bear  
8 maturities not exceeding forty (40) years from the date  
9 issued as the council determines;

10  
11           (vi) Together with interest may be payable at a  
12 time or place whether within or outside the state, as the  
13 council determines;

14  
15           (vii) May contain an option to redeem all or any  
16 part as may be specified. The price of redemption, the  
17 terms and conditions and the procedure of notice shall be  
18 set forth by the council and may appear on the face of the  
19 bonds;

20  
21           (viii) May be sold at, above or below par value,  
22 at public or private sale, in a manner and from time to  
23 time as determined by the council. The council may pay

1 legal fees, expenses, premiums and commissions that it  
2 finds necessary or advantageous to this state in connection  
3 with the issuance and sale;

4  
5 (ix) Are legal investments that may be used as  
6 collateral for insurance companies, banks, savings and loan  
7 associations, investment companies, trustees and other  
8 fiduciaries that may properly and legally invest funds in  
9 their control or belonging to them in bonds of the council;

10  
11 (x) May contain other provisions not  
12 inconsistent with this subsection.

13  
14 (f) The principal and interest on any revenue bonds  
15 that the council issues shall be secured by a pledge of  
16 revenues from the operation of the agriculture processing  
17 project financed, by a first mortgage on the facilities, by  
18 guarantees and pledges of the entity owning the project, or  
19 of the parent corporation owning the entity, or by any  
20 combination thereof or other security as the council may  
21 determine to be reasonable and prudent. The guarantees and  
22 pledges shall be no less favorable to the council than  
23 those granted other lenders of the same class. The council

1 may require additional payments, as negotiated, to  
2 bondholders to be made either in a lump sum at the time of  
3 retirement of the bonds or annually from the time of  
4 retirement of the bonds until project use is terminated or  
5 may require additional incentives from the owner of the  
6 project to prospective bondholders so long as the  
7 incentives are not contrary to the Wyoming constitution.  
8 The council may require such other security for repayment  
9 of the bonds as it deems necessary.

10  
11 (g) Each pledge, agreement, mortgage or other  
12 instrument made for the benefit or security of any revenue  
13 bonds of the council is valid and binding from the time  
14 when made. The revenues, receipts, monies and assets  
15 pledged are immediately subject to the lien of the pledge  
16 without delivery or further act. The lien is valid and  
17 binding against persons having claims of any kind against  
18 the council whether or not the persons have actual notice  
19 of the lien. The resolution or the indenture or other  
20 instrument by which a pledge is created need not be  
21 recorded or filed.

22

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

13

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

17

18               (i) Provide for the issuance of bonds to refund  
19 any bonds of the council then outstanding, including for  
20 the payment of any redemption premium and any interest or  
21 premium accrued or to accrue to, the earliest or subsequent  
22 date of redemption, purchase or maturity of the bonds;

23



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

8  
9           (iii) Enter into loan or other agreements with  
10 respect to one (1) or more agriculture processing projects  
11 upon terms and conditions the council considers advisable;

12  
13           (iv) Make and execute agreements, contracts and  
14 other instruments necessary or convenient in the exercise  
15 of its powers and functions, including contracts with any  
16 individual, firm, corporation, governmental agency or other  
17 entity.

18  
19           (k) The council may assess and collect fees that are  
20 nonrefundable from applicants seeking to obtain council  
21 financing of an agriculture processing project in total  
22 amounts not to exceed fifty thousand dollars (\$50,000.00),  
23 which shall be credited to the state general fund. The

1 council shall require that any entity receiving financing  
2 under subsection (e) of this section shall:

3  
4 (i) Be headquartered in Wyoming and organized  
5 under the laws of the state of Wyoming;

6  
7 (ii) Fall within the United States small  
8 business administration small business size standards for  
9 its industry classification code, effective August 19,  
10 2019;

11  
12 (iii) Not be seeking council financing for a  
13 project that would directly compete with an existing  
14 business, entity or person in a similar industry  
15 classification within the same county;

16  
17 (iv) Maintain records and accounts relating to  
18 the receipt and disbursements of loan proceeds and make the  
19 records available to the state auditor for inspection.

20  
21 (m) The council shall maintain such records and  
22 accounts of revenues and expenditures in relation to  
23 revenue bonds under subsection (e) of this section as

1 required by the director of the state department of audit.  
2 The director of the state department of audit shall conduct  
3 an annual financial and legal compliance audit of the  
4 accounts of the council and file copies of the audit with  
5 the governor and the legislature.

6  
7 (n) The sole recourse of any party contracting with  
8 the council in relation to revenue bonds under subsection  
9 (e) of this section shall be against the council, and there  
10 shall be no cause of action against the state, or any  
11 county, municipality or other political subdivision of the  
12 state.

13  
14 **15-1-701. Definitions; vesting of powers and**  
15 **privileges.**

16  
17 (a) As used in this article:

18  
19 (ii) "Project" means any land, building,  
20 pollution control facility or other improvement and all  
21 necessary and appurtenant real and personal properties,  
22 whether or not in existence, suitable for manufacturing,  
23 industrial, commercial or business enterprises, ~~or~~ for

1 health care facilities or for manufacturing, processing or  
2 assembling agricultural or agricultural-related products.

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

8  
9 (b) In order to facilitate and promote the local  
10 health and general welfare, the sound economic growth of  
11 the state of Wyoming, the development of its natural  
12 resources, the protection of its natural environment, the  
13 expansion of agricultural and agricultural-related  
14 industries, the provision of health care services, energy  
15 improvements and to promote employment opportunities for  
16 the citizens of Wyoming by creating or encouraging the  
17 expansion of manufacturing, industrial plants, processing  
18 facilities and all kinds of business, which contribute  
19 payrolls and tax base to the state of Wyoming, and by  
20 attracting to and encouraging the location or the expansion  
21 within this state of such plants, facilities and  
22 businesses, all of which are hereby declared to be and  
23 constitute public purposes, the counties and municipalities

1 of the state of Wyoming are vested with the powers and  
2 privileges hereafter set forth in this article.

3

4 **15-1-702. Powers of municipalities and counties;**  
5 **limitations.**

6

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

11

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

14

15 (ii) Is not seeking financing for a project that  
16 would directly compete with an existing business, entity or  
17 person in a similar industry classification within the same  
18 county; and

19

20 (iii) Falls within the United States small  
21 business administration small business size standards for  
22 its industry classification code, effective August 19,  
23 2019.

1

2

**Section 2.**

3

4

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

6

7

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

10

11

**Section 3.**

12

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

15

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(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.

20

21

(END)