

# BRIDGE FINANCING THROUGH COUNTY BOND ISSUES

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## INTRODUCTION

By way of background, our firm serves as bond counsel on a state-wide basis. The bulk of our work involves bond issues of cities, towns, and schools. County bond issues have been relatively infrequent, and very little use has been made of bond issues for county bridges in particular although bonds have been issued for that purpose.

## GENERAL OBLIGATION BONDS

The Indiana statutes do authorize counties to issue general obligation bonds to finance construction of county bridges and approaches, but not roads. For those not familiar with bonds, a general obligation bond is secured by a mandatory pledge of the issuer to levy sufficient property taxes to pay the bonds. General obligation bonds are considered a very safe investment and, accordingly, can usually be sold at low interest rates. You should also be aware of the fact that the interest on county bond issues is exempt from federal and state income taxes, which means that investors will buy them at a lower interest rate than they would buy if the interest is subject to taxation.

## COUNTY BOND DEBT LIMIT—2% ASSESSED VALUATION

Counties are subject to the constitutional debt limitation of 2% of net assessed valuation for general obligation bonds. This limitation applies to all general obligation bonds which might be issued for bridges, but also for other county purposes such as a courthouse or jail. Accordingly, in considering general obligation bond issues attention must be given to planning for use of the limited bonding authority, including examining the amount and duration of any outstanding bonds and giving consideration to other bonding demands that might be made on

the county such as for a new courthouse or jail. There are practical, as well as political, limitations on use of general obligation bond issues.

## ARGUMENTS FOR BOND USE

A reasonable argument can be made for use of general obligation bond financing for any capital improvement, including bridges, which will have a useful life exceeding the period of the bond issue. In effect, it means that the improvement is being paid for as it is being used, which is the same basis as the method used by most taxpayers to purchase a home or a car. The interest on a county bond issue is also exempt from federal and state income taxes. This means it will bear interest at approximately 5% to 6% rather than the 8% or 9% that the home owner has to pay on a mortgage or the 14% or 15% that the taxpayer may be paying to acquire a car. This is less expensive to most taxpayers than providing immediate cash funds for the capital improvements.

## INTEREST COST OF BOND ISSUE AND COUNTY CREDIT RATING

One of the questions you will be interested in while considering a proposed bond issue is what the interest cost may be. This depends upon a large number of factors. A primary factor is how long the bond issue will run. Generally speaking, the shorter the life of the bond issue the better the interest rate will be. Secondly, the bond market and the rating agencies will look to the credit of the county much as any banker would look at the credit of an individual or company seeking to borrow money.

Important factors to be considered are:

1. The net assessed valuation of the county and any up or down trends in valuation.
2. Existing direct debt of the county.
3. Overlapping debt, such as for school systems or cities and towns within the county, to be paid in whole or in part from the same tax base.
4. Tax rates and trends therein.
5. Percentage of taxes collected and amount of delinquencies.
6. Economic data of the county, growth or decline, character of the county, industrial, commercial, residential, and farming values.
7. Population statistics.

Generally speaking, if the issue is over three-fourths of a million dollars it will pay to obtain a rating from Moody's or Standard and Poore's, or both. This involves furnishing them with the type of information I outlined above and answering questions they may have. Depending upon the size of the issue, it may also be useful for county officials to go to New York to discuss the rating directly.

## ASSISTANCE FROM CONSULTING ACCOUNTING FIRMS

There are accounting firms in the state of Indiana who have made a specialty of consulting on municipal financing and if retained, would assume the primary responsibility for obtaining a rating, collecting and forwarding the appropriate information, and preparing an official statement to assist in selling the bonds. A bond rating can affect the interest costs and sale of the bonds. Some institutional investors such as trust departments and insurance companies can only purchase bonds with a good rating. Accordingly, without a good rating the available market for bonds is reduced and the interest cost is increased.

## INTEREST RATES FLUCTUATE

Since interest rates fluctuate almost daily, it is really not possible to predict a rate two, three, or six months down the road. However, advice on probable rates can be obtained from the financial consultant, if one is employed, from local bankers, from underwriters, and to a certain extent, from this legal office.

## SOME SPECIFIC COSTS OF BOND ISSUES

There are, of course, certain costs associated with a bond issue which would not be involved if the improvements can be made from cash on hand. These include attorney's fees, financial consultant fees, if any, and publication and printing costs.

The amount of the fees will vary depending upon the size of the financing and whether problems are encountered. However, on a particular bond issue the county should be able to obtain at least a reasonable estimate as to the amount of these fees before the financing is undertaken.

## LEGAL STEPS FOR A COUNTY BOND ISSUE

The general nature of the legal procedures and steps for a county bond issue are:

1. 'Taxpayers' petition to issue the bonds.
2. Auditor's certificate as to the sufficiency of the petition.
3. Filing the petition with the commissioners.
4. Commissioners' record ordering the bond issue together with an estimate and request to the council for the bond issue in the estimated amount.
5. Publication and posting of a notice of a meeting of the council for appropriation of the bond proceeds.
6. Meeting of the council for a public hearing on the appropriation and adoption of an appropriation ordinance which also authorizes the issuance and sale of the county bonds.
7. Publication and posting of a notice of determination to issue the bonds to provide taxpayers the opportunity to object or remonstrate.
8. Certification by the auditor of the proceedings to the state tax commission and notification to the local property tax control board of the proposed financing.
9. Meeting with local property tax control board to obtain their recommendation.
10. Obtain state tax commission orders approving the appropriation and the issuance of bonds.
11. Auditor's submission of the council ordinance and tax commission orders and to the commissioners. Obtaining the commissioners' order to finally issue the bonds, which order specifies the final details of the bond issue.
12. Preparing official statement and obtaining ratings.
13. Advertisement for the bond sale.
14. Receipt of bond bids and award.
15. Bond printing.
16. Obtain state tax commission approval if rate exceeds 5%.
17. Preparing of closing papers and certificates.
18. Bond closing.

## AT LEAST 100 DAYS FOR A BOND ISSUE

The time period to accomplish the foregoing varies between bond issues, depending largely upon how expeditiously the public officials and consultants act. However, a minimum of approximately 100 days should be anticipated.