
HOUSE BILL 3099

State of Washington 56th Legislature 2000 Regular Session

By Representatives Dunshee, Barlean, Murray, Reardon, Koster and Lovick

Read first time 01/31/2000. Referred to Committee on Capital Budget.

1 AN ACT Relating to extending provisions on interest rates on
2 government bonds; amending RCW 39.96.010, 39.96.020, 39.96.030, and
3 39.96.070; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 39.96.010 and 1995 c 192 s 1 are each amended to read
6 as follows:

7 The legislature finds and declares that the issuance by state and
8 local governments of bonds and other obligations(~~((, and the investment~~
9 ~~of moneys in connection with these obligations,))~~) involves exposure to
10 changes in interest rates; that a number of financial instruments are
11 available to lower the net cost of these borrowings, (~~((to increase the~~
12 ~~net return on these investments,))~~) or to reduce the exposure of state
13 and local governments to changes in interest rates; that these reduced
14 costs (~~((and increased returns))~~) for state and local governments will
15 benefit taxpayers and ratepayers; and that the legislature desires to
16 provide state and local governments with express statutory authority to
17 take advantage of these instruments. In recognition of the complexity
18 of these financial instruments, the legislature desires that this

1 authority be subject to certain limitations, and be granted for a
2 period of (~~seven~~) twelve years.

3 **Sec. 2.** RCW 39.96.020 and 1993 c 273 s 2 are each amended to read
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter:

7 (1) "Financial advisor" means a financial services or financial
8 advisory firm:

9 (a) With recognized knowledge and experience in connection with the
10 negotiation and execution of payment agreements;

11 (b) That is acting solely as financial advisor to the governmental
12 entity in connection with the execution of the payment agreement and
13 the issuance or incurring of any related obligations, and not as a
14 principal, placement agent, purchaser, underwriter, or other similar
15 party, and that does not control, nor is it controlled by or under
16 common control with, any such party;

17 (c) That is compensated for its services in connection with the
18 execution of payment agreements, either directly or indirectly, solely
19 by the governmental entity; and

20 (d) Whose compensation is not based on a percentage of the notional
21 amount of the payment agreement or of the principal amount of any
22 related obligations.

23 (2) "Governmental entity" means state government or local
24 government.

25 (3) "Local government" means any city, county, port district, or
26 public utility district, or any joint operating agency formed under RCW
27 43.52.360, that has or will have outstanding obligations in an
28 aggregate principal amount of at least (~~one~~) two hundred million
29 dollars as of the date a payment agreement is executed or is scheduled
30 by its terms to commence or had at least (~~one~~) two hundred million
31 dollars in gross revenues during the preceding calendar year.

32 (4) "Obligations" means bonds, notes, bond anticipation notes,
33 commercial paper, or other obligations for borrowed money, or lease,
34 installment purchase, or other similar financing agreements or
35 certificates of participation in such agreements.

36 (5) "Payment agreement" means a written agreement which provides
37 for an exchange of payments based on interest rates, or for ceilings or

1 floors on these payments, or an option on these payments, or any
2 combination, entered into on either a current or forward basis.

3 (6) "State government" means (a) the state of Washington, acting by
4 and through its state finance committee, (b) the Washington health care
5 facilities authority, (c) the Washington higher education facilities
6 authority, (d) the Washington state housing finance commission, or (e)
7 the state finance committee upon adoption of a resolution approving a
8 payment agreement on behalf of any state institution of higher
9 education as defined under RCW 28B.10.016: PROVIDED, That such
10 approval shall not constitute the pledge of the full faith and credit
11 of the state, but a pledge of only those funds specified in the
12 approved agreement.

13 **Sec. 3.** RCW 39.96.030 and 1993 c 273 s 3 are each amended to read
14 as follows:

15 (1) Subject to subsections (2) and (3) of this section, any
16 governmental entity may enter into a payment agreement in connection
17 with, or incidental to, the issuance, incurring, or carrying of
18 specific obligations, for the purpose of managing or reducing the
19 governmental entity's exposure to fluctuations or levels of interest
20 rates. No governmental entity may carry on a business of acting as a
21 dealer in payment agreements. Nothing in this chapter shall be
22 construed to provide governmental entities with separate or additional
23 authority to invest funds or moneys relating to or held in connection
24 with any obligations.

25 (2) No governmental entity may enter into a payment agreement under
26 this chapter unless it first:

27 (a) Finds and determines, by ordinance or resolution, that the
28 payment agreement, if fully performed by all parties thereto, will (i)
29 reduce the amount or duration of its exposure to changes in interest
30 rates; or (ii) result in a lower net cost of borrowing with respect to
31 the related obligations(~~(, or a higher net rate of return on~~
32 ~~investments made in connection with, or incidental to, the issuance,~~
33 ~~incurring, or carrying of those obligations));~~

34 (b) Obtains, on or prior to the date of execution of the payment
35 agreement, a written certification from a financial advisor that (i)
36 the terms and conditions of the payment agreement and any ancillary
37 agreements, including without limitation, the interest rate or rates
38 and any other amounts payable thereunder, are commercially reasonable

1 in light of then existing market conditions; and (ii) the finding and
2 determination contained in the ordinance or resolution required by (a)
3 of this subsection is reasonable.

4 (3) Prior to selecting the other party to a payment agreement, a
5 governmental entity shall solicit and give due consideration to
6 proposals from at least two entities that meet the criteria set forth
7 in RCW 39.96.040(2). Such solicitation and consideration shall be
8 conducted in such manner as the governmental entity shall determine is
9 reasonable.

10 **Sec. 4.** RCW 39.96.070 and 1998 c 245 s 35 are each amended to read
11 as follows:

12 (1) Except as provided in subsection (3) of this section, no
13 governmental entity may enter a payment agreement under RCW 39.96.030
14 after June 30, (~~2000~~) 2005.

15 (2) The termination of authority to enter payment agreements after
16 June 30, (~~2000~~) 2005, shall not affect the validity of any payment
17 agreements or other contracts entered into under RCW 39.96.030 on or
18 before that date.

19 (3) A governmental entity may enter into a payment agreement under
20 and in accordance with this chapter after June 30, (~~2000~~) 2005, to
21 replace a payment agreement that relates to specified obligations
22 issued on or before that date and that has terminated before the final
23 term of those obligations.

24 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2000.

--- END ---