
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5345

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Bauer, McCaslin, Snyder, Loveland, McAuliffe, Winsley and Oke; by request of State Treasurer)

Read first time 03/01/1999.

1 AN ACT Relating to the Washington state school district credit
2 enhancement program; amending RCW 39.42.060; adding a new chapter to
3 Title 39 RCW; and providing a contingent effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that implementation of
6 the credit enhancement program provided for in this chapter can provide
7 substantial savings to the taxpayers of the state of Washington with
8 minimal cost or risk to the state government. The guaranty provided by
9 pledging the credit of the state to the payment of voter-approved
10 school district general obligation bonds will encourage lower interest
11 rates, and therefore lower taxes, for such bonds than school districts
12 alone can command, despite the excellent credit history of such
13 obligations.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply
15 throughout this chapter unless the context clearly requires otherwise.

16 (1) "Bond" means any voted general obligation bond issued by a
17 school district, holding a certificate issued pursuant to this chapter
18 for such a bond.

1 (2) "Credit enhancement program" means the school district bond
2 guaranty established by this chapter.

3 (3) "General obligation bond" means any bond, note, warrant,
4 certificate of indebtedness, or other obligation of a district that
5 constitutes an indebtedness within the meaning of any applicable
6 constitutional or statutory debt limitations.

7 (4) "Paying agent" means the paying agent selected, from time to
8 time, for a bond issue pursuant to state law.

9 (5) "Refunding bond" means any general obligation bond issued by a
10 district for the purpose of refunding its outstanding general
11 obligation bonds.

12 (6) "School district" or "district" means any school district
13 existing now or later under the laws of the state.

14 NEW SECTION. **Sec. 3.** (1)(a) The full faith, credit, and taxing
15 power of the state is pledged to guarantee full and timely payment of
16 the principal of and interest on bonds as such payments become due.
17 However, in the event of any acceleration of the due date of the
18 principal by reason of mandatory redemption or acceleration resulting
19 from default, the payments guaranteed shall be made in the amounts and
20 at the times as payments of principal would have been due had there not
21 been any acceleration.

22 (b) This guaranty does not extend to the payment of any redemption
23 premium.

24 (c) Reference to this chapter by its title on the face of any bond
25 conclusively establishes the guaranty provided to that bond under the
26 provisions of this chapter.

27 (2)(a) The state pledges to and agrees with the owners of any bonds
28 that the state will not alter, impair, or limit the rights vested by
29 the credit enhancement program with respect to the bonds until the
30 bonds, together with applicable interest, are fully paid and
31 discharged. However, this chapter does not preclude an alteration,
32 impairment, or limitation if full provision is made by law for the
33 payment of the bonds.

34 (b) Each district may refer to this pledge and undertaking by the
35 state in its bonds.

36 (3) Only validly issued bonds issued after the effective date of
37 this section may be guaranteed under this chapter.

1 NEW SECTION. **Sec. 4.** (1)(a) Any district, by resolution of its
2 board of directors, may request that the state treasurer issue a
3 certificate evidencing the state's guaranty, under this chapter, of its
4 bonds.

5 (b) After reviewing the request, if the state treasurer determines
6 that the district is eligible under rules adopted by the state finance
7 committee, the state treasurer shall promptly issue the certificate as
8 to specific bonds of the district and provide it to the requesting
9 district.

10 (c)(i) The district receiving the certificate and all other persons
11 may rely on the certificate as evidencing the guaranty for bonds issued
12 within one year from and after the date of the certificate, without
13 making further inquiry during that year.

14 (ii) The certificate of eligibility is valid for one year even if
15 the state treasurer later determines that the school district is
16 ineligible.

17 (2) Any district that chooses to forego the benefits of the
18 guaranty provided by this chapter for a particular issue of bonds may
19 do so by not referring to this chapter on the face of its bonds.

20 (3) Any district that has bonds, the principal of or interest on
21 which has been paid, in whole or in part, by the state under this
22 chapter, may not issue any additional bonds guaranteed by this chapter
23 until:

24 (a) All payment obligations of the district to the state under the
25 credit enhancement program are satisfied; and

26 (b) The state treasurer and the state superintendent of public
27 instruction each certify in writing, to be kept on file by the state
28 treasurer and the state superintendent of public instruction, that the
29 district is fiscally solvent.

30 (4) The state finance committee may establish by rule fees
31 sufficient to cover the costs of administering this chapter.

32 NEW SECTION. **Sec. 5.** (1)(a) The county treasurer for each
33 district with outstanding, unpaid bonds shall transfer money sufficient
34 for each scheduled debt service payment to its paying agent on or
35 before any principal or interest payment date for the bonds.

36 (b) A county treasurer who is unable to transfer a scheduled debt
37 service payment to the paying agent on the transfer date shall
38 immediately notify the paying agent and the state treasurer by:

- 1 (i) Telephone;
- 2 (ii) A writing sent by facsimile or electronic transmission; and
- 3 (iii) A writing sent by first class United States mail.

4 (2) If sufficient funds are not transferred to the paying agent as
5 required by subsection (1) of this section, the paying agent shall
6 immediately notify the state treasurer of that failure by:

- 7 (a) Telephone;
- 8 (b) A writing sent by facsimile or electronic transmission; and
- 9 (c) A writing sent by first class United States mail.

10 (3)(a) If sufficient money to pay the scheduled debt service
11 payment have not been so transferred to the paying agent, the state
12 treasurer shall, forthwith, transfer sufficient money to the paying
13 agent to make the scheduled debt service payment.

14 (b) The payment by the state treasurer:

- 15 (i) Discharges the obligation of the issuing district to its bond
16 owners for the payment, but does not retire any bond that has matured.
17 The terms of that bond remain in effect until the state is repaid; and
- 18 (ii) Transfers the rights represented by the general obligation of
19 the district from the bond owners to the state.

20 (c) The district shall repay to the state the money so transferred
21 as provided in this chapter.

22 NEW SECTION. **Sec. 6.** (1) Any district that has issued bonds for
23 which the state has made all or part of a debt service payment shall:

- 24 (a) Reimburse all money drawn by the state treasurer on its behalf;
- 25 (b) Pay interest to the state on all money paid by the state from
26 the date that money was drawn to the date the state is repaid at a rate
27 to be prescribed by rule by the state finance committee; and
- 28 (c) Pay all penalties required by this chapter.

29 (2)(a) The state treasurer shall establish the reimbursement
30 interest rate after considering the circumstances of any prior draws by
31 the district on the state, market interest and penalty rates, and the
32 cost of funds or opportunity cost of investments, if any, that were
33 required to be borrowed or liquidated by the state to make payment on
34 the bonds.

35 (b) The state treasurer may, after considering the circumstances
36 giving rise to the failure of the district to make payment on its bonds
37 in a timely manner, impose on the district a penalty of not more than

1 five percent of the amount paid by the state pursuant to its guaranty
2 for each instance in which a payment by the state is made.

3 (3)(a)(i) If the state treasurer determines that amounts obtained
4 under this chapter will not reimburse the state in full within one year
5 from the state's payment of a district's scheduled debt service
6 payment, the state treasurer may pursue any legal action, including
7 mandamus, against the district to compel it to meet its repayment
8 obligations to the state.

9 (ii) In pursuing its rights under (a)(i) of this subsection, the
10 state shall have the same substantive and procedural rights as would a
11 holder of the bonds of a district. If and to the extent that the state
12 has made payments to the holders of bonds of a district under section
13 5 of this act and has not been reimbursed by the district, the state
14 shall be subrogated to the rights of those bond holders.

15 (iii) The state treasurer may also direct the district and the
16 appropriate county officials to restructure and revise the collection
17 of taxes for the payment of bonds on which the state treasurer has made
18 payments under this chapter and, to the extent permitted by law, may
19 require that the proceeds of such taxes be applied to the district's
20 obligations to the state if all outstanding obligations of the school
21 district payable from such taxes are fully paid or their payment is
22 fully provided for.

23 (b) The district shall pay the fees, expenses, and costs incurred
24 by the state in recovering amounts paid under the guaranty authorized
25 by this chapter.

26 NEW SECTION. **Sec. 7.** In order to effect the provisions of Article
27 VIII, section 1(e) of the state Constitution, Senate Joint Resolution
28 No. 8206, the legislature shall make provision for such amounts as may
29 be required to make timely payments under the state school district
30 credit enhancement program under this chapter in each and every
31 biennial appropriations act.

32 NEW SECTION. **Sec. 8.** The state finance committee may adopt, under
33 chapter 34.05 RCW, all rules necessary and appropriate for the
34 implementation and administration of this chapter.

35 **Sec. 9.** RCW 39.42.060 and 1997 c 220 s 220 (Referendum Bill No.
36 48) are each amended to read as follows:

1 No bonds, notes, or other evidences of indebtedness for borrowed
2 money shall be issued by the state which will cause the aggregate debt
3 contracted by the state to exceed that amount for which payments of
4 principal and interest in any fiscal year would require the state to
5 expend more than seven percent of the arithmetic mean of its general
6 state revenues, as defined in section 1(c) of Article VIII of the
7 Washington state Constitution for the three immediately preceding
8 fiscal years as certified by the treasurer in accordance with RCW
9 39.42.070. It shall be the duty of the state finance committee to
10 compute annually the amount required to pay principal of and interest
11 on outstanding debt. In making such computation, the state finance
12 committee shall include all borrowed money represented by bonds, notes,
13 or other evidences of indebtedness which are secured by the full faith
14 and credit of the state or are required to be paid, directly or
15 indirectly, from general state revenues and which are incurred by the
16 state, any department, authority, public corporation or quasi public
17 corporation of the state, any state university or college, or any other
18 public agency created by the state but not by counties, cities, towns,
19 school districts, or other municipal corporations, and shall include
20 debt incurred pursuant to section 3 of Article VIII of the Washington
21 state Constitution, but shall exclude the following:

22 (1) Obligations for the payment of current expenses of state
23 government;

24 (2) Indebtedness incurred pursuant to RCW 39.42.080 or 39.42.090;

25 (3) Principal of and interest on bond anticipation notes;

26 (4) Any indebtedness which has been refunded;

27 (5) Financing contracts entered into under chapter 39.94 RCW;

28 (6) Indebtedness authorized or incurred before July 1, 1993,
29 pursuant to statute which requires that the state treasury be
30 reimbursed, in the amount of the principal of and the interest on such
31 indebtedness, from money other than general state revenues or from the
32 special excise tax imposed pursuant to chapter 67.40 RCW;

33 (7) Indebtedness authorized and incurred after July 1, 1993,
34 pursuant to statute that requires that the state treasury be
35 reimbursed, in the amount of the principal of and the interest on such
36 indebtedness, from (a) moneys outside the state treasury, except higher
37 education operating fees, (b) higher education building fees, (c)
38 indirect costs recovered from federal grants and contracts, and (d)

1 fees and charges associated with hospitals operated or managed by
2 institutions of higher education;

3 (8) Any agreement, promissory note, or other instrument entered
4 into by the state finance committee under RCW 39.42.030 in connection
5 with its acquisition of bond insurance, letters of credit, or other
6 credit support instruments for the purpose of guaranteeing the payment
7 or enhancing the marketability, or both, of any state bonds, notes, or
8 other evidence of indebtedness; ((and))

9 (9) Indebtedness incurred for the purposes identified in RCW
10 43.99N.020; and

11 (10) Indebtedness incurred for the purposes of the school district
12 bond guaranty established by chapter 39.-- RCW (sections 1 through 8 of
13 this act).

14 To the extent necessary because of the constitutional or statutory
15 debt limitation, priorities with respect to the issuance or
16 guaranteeing of bonds, notes, or other evidences of indebtedness by the
17 state shall be determined by the state finance committee.

18 NEW SECTION. Sec. 10. This act takes effect January 1, 2000, if
19 the proposed amendment to Article VIII, section 1 of the state
20 Constitution, guaranteeing the general obligation debt of school
21 districts, is validly submitted to and is approved and ratified by the
22 voters at the next general election. If the proposed amendment is not
23 approved and ratified, this act is void in its entirety.

24 NEW SECTION. Sec. 11. Sections 1 through 8 of this act constitute
25 a new chapter in Title 39 RCW.

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