

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5345

56th Legislature
1999 Regular Session

Passed by the Senate April 22, 1999
YEAS 36 NAYS 10

President of the Senate

Passed by the House April 14, 1999
YEAS 95 NAYS 0

Speaker of the
House of Representatives

Speaker of the
House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5345** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Secretary of State
State of Washington

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5345

AS AMENDED BY THE HOUSE

Passed Legislature - 1999 Regular Session

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. Any such guarantee does not remove the debt obligation of
14 the school district and is not state debt.

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

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

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

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

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

12 (5) "Refunding bond" means any general obligation bond issued by a
13 district for the purpose of refunding its outstanding general
14 obligation bonds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (i) Telephone;

5 (ii) A writing sent by facsimile or electronic transmission; and

6 (iii) A writing sent by first class United States mail.

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

10 (a) Telephone;

11 (b) A writing sent by facsimile or electronic transmission; and

12 (c) A writing sent by first class United States mail.

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

17 (b) The payment by the state treasurer:

18 (i) Discharges the obligation of the issuing district to its bond
19 owners for the payment, but does not retire any bond that has matured.
20 The terms of that bond remain in effect until the state is repaid; and

21 (ii) Transfers the rights represented by the general obligation of
22 the district from the bond owners to the state.

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

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

27 (a) Reimburse all money drawn by the state treasurer on its behalf;

28 (b) Pay interest to the state on all money paid by the state from
29 the date that money was drawn to the date the state is repaid at a rate
30 to be prescribed by rule by the state finance committee; and

31 (c) Pay all penalties required by this chapter.

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

1 (b) The state treasurer may, after considering the circumstances
2 giving rise to the failure of the district to make payment on its bonds
3 in a timely manner, impose on the district a penalty of not more than
4 five percent of the amount paid by the state pursuant to its guaranty
5 for each instance in which a payment by the state is made.

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

12 (ii) In pursuing its rights under (a)(i) of this subsection, the
13 state shall have the same substantive and procedural rights as would a
14 holder of the bonds of a district. If and to the extent that the state
15 has made payments to the holders of bonds of a district under section
16 5 of this act and has not been reimbursed by the district, the state
17 shall be subrogated to the rights of those bond holders.

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

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

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

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

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

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

24 (1) Obligations for the payment of current expenses of state
25 government;

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

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

28 (4) Any indebtedness which has been refunded;

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

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

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

1 indirect costs recovered from federal grants and contracts, and (d)
2 fees and charges associated with hospitals operated or managed by
3 institutions of higher education;

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

10 (9) Indebtedness incurred for the purposes identified in RCW
11 43.99N.020; and

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

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

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

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

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