
HOUSE BILL 3172

State of Washington 58th Legislature 2004 Regular Session

By Representatives Dunshee, Sommers and Sehlin

Read first time 02/03/2004. Referred to Committee on Capital Budget.

1 AN ACT Relating to payment agreements; amending RCW 39.96.010 and
2 39.96.020; and repealing RCW 39.96.070.

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

4 **Sec. 1.** RCW 39.96.010 and 2000 c 184 s 1 are each amended to read
5 as follows:

6 The legislature finds and declares that the issuance by state and
7 local governments of bonds and other obligations involves exposure to
8 changes in interest rates; that a number of financial instruments are
9 available to lower the net cost of these borrowings, or to reduce the
10 exposure of state and local governments to changes in interest rates;
11 that these reduced costs for state and local governments will benefit
12 taxpayers and ratepayers; and that the legislature desires to provide
13 state and local governments with express statutory authority to take
14 advantage of these instruments. In recognition of the complexity of
15 these financial instruments, the legislature desires that this
16 authority be subject to certain limitations(~~(, and be granted for a~~
17 ~~period of twelve years)~~).

1 **Sec. 2.** RCW 39.96.020 and 2003 c 47 s 1 are each amended to read
2 as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Financial advisor" means a financial services or financial
6 advisory firm:

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

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

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

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

21 (2) "Governmental entity" means state government or local
22 government.

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

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

35 (5) "Payment agreement" means a written agreement which provides
36 for an exchange of payments based on interest rates, or for ceilings or
37 floors on these payments, or an option on these payments, or any
38 combination, entered into on either a current or forward basis.

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

11 NEW SECTION. **Sec. 3.** RCW 39.96.070 (Payment agreements not
12 allowed after June 30, 2005--Exception) and 2000 c 184 s 3, 1998 c 245
13 s 35, 1995 c 192 s 2, & 1993 c 273 s 7 are each repealed.

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