
HOUSE BILL 2451

State of Washington

61st Legislature

2010 Regular Session

By Representatives Dunshee, Chase, White, Warnick, and Ormsby; by request of State Treasurer

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1 AN ACT Relating to modifying the local option capital asset lending
2 program to authorize state use of certain voter approved excess tax
3 levies to pay financing contracts and to clarify program participants;
4 amending RCW 39.94.020, 39.94.030, and 84.52.056; and creating a new
5 section.

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

7 **Sec. 1.** RCW 39.94.020 and 1998 c 291 s 3 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Credit enhancement" includes insurance, letters of credit,
12 lines of credit, or other similar agreements which enhance the security
13 for the payment of the state's or an other agency's obligations under
14 financing contracts.

15 (2) "Financing contract" means any contract entered into by the
16 state for itself or on behalf of an other agency which provides for the
17 use and purchase of real or personal property by the state and provides
18 for payment by the state over a term of more than one year, and which
19 provides that title to the subject property may secure performance of

1 the state or transfer to the state or an other agency by the end of the
2 term, upon exercise of an option, for a nominal amount or for a price
3 determined without reference to fair market value. Financing contracts
4 (~~shall~~) include, but are not (~~be~~) limited to, conditional sales
5 contracts, financing leases, lease purchase contracts, or refinancing
6 contracts, but (~~shall~~) does not include operating or true leases.
7 For purposes of this chapter, the term "financing contract" (~~shall~~)
8 does not include any nonrecourse financing contract or other obligation
9 payable only from money or other property received from private sources
10 and not payable from any public money or property. The term "financing
11 contract" (~~shall~~) includes a "master financing contract."

12 (3) "Master financing contract" means a financing contract which
13 provides for the use and purchase of property by the state, and which
14 may include more than one financing contract and appropriation.

15 (4) "Other agency" means any commission established under Title 15
16 RCW, a library or regional library, an educational service district,
17 the superintendent of public instruction, the school directors'
18 association, a health district, or any county, city, town, school
19 district, or other municipal corporation or quasi-municipal corporation
20 (~~described as such by statute~~).

21 (5) "State" means the state, agency, department, or instrumentality
22 of the state, the state board for community and technical colleges, and
23 any state institution of higher education.

24 (6) "State finance committee" means the state finance committee
25 under chapter 43.33 RCW.

26 (7) "Trustee" means a bank or trust company, within or without the
27 state, authorized by law to exercise trust powers.

28 **Sec. 2.** RCW 39.94.030 and 2009 c 500 s 7 are each amended to read
29 as follows:

30 (1) The state may enter into financing contracts for itself or on
31 behalf of an other agency for the use and acquisition for public
32 purposes of real and personal property. Payments under financing
33 contracts of the state shall be made by the state from currently
34 appropriated funds or funds not constituting "general state revenues"
35 as defined in Article VIII, section 1 of the state Constitution.
36 Except as provided in subsection (4)(b) of this section, payments under
37 financing contracts of the state on behalf of any other agency shall be

1 made solely from the sources identified in the financing contract,
2 which may not obligate general state revenues as defined in Article
3 VII, section 1 of the state Constitution. The treasurer of an other
4 agency shall remit payments under financing contracts to the office of
5 the state treasurer or to the state treasurer's designee. In the event
6 of any deficiency of payments by an other agency under a financing
7 contract, the treasurer of the other agency shall transfer any legally
8 available funds of the other agency in satisfaction of the other
9 agency's obligations under the financing contract if such funds have
10 been obligated by the other agency under the financing contract and, if
11 such deficiency is not thereby cured, the office of the state treasurer
12 is directed to withdraw from that agency's share of state revenues for
13 distribution or other money an amount sufficient to fulfill the terms
14 and conditions of the financing contract. The term of any financing
15 contract shall not exceed thirty years or the remaining useful life of
16 the property, whichever is shorter. Financing contracts may include
17 other terms and conditions agreed upon by the parties.

18 (2) The state for itself or on behalf of an other agency may enter
19 into contracts for credit enhancement, which (~~shall~~) limits the
20 recourse of the provider of credit enhancement solely to the security
21 provided under the financing contract secured by the credit
22 enhancement.

23 (3) The state or an other agency may grant a security interest in
24 real or personal property acquired under financing contracts. The
25 security interest may be perfected as provided by the uniform
26 commercial code - secured transactions, or otherwise as provided by law
27 for perfecting liens on real estate. Other terms and conditions may be
28 included as agreed upon by the parties. An other agency that is
29 authorized by applicable law to enter into a financing contract may
30 make payments due under such a contract from the proceeds of annual tax
31 levies approved by the voters under RCW 84.52.056, among other sources.

32 (4)(a) Financing contracts and contracts for credit enhancement
33 entered into under the limitations set forth in this chapter (~~shall~~)
34 do not constitute a debt or the contracting of indebtedness under any
35 law limiting debt of the state. It is the intent of the legislature
36 that such contracts also (~~shall~~) do not constitute a debt or the
37 contracting of indebtedness under Article VIII, section 1 of the state
38 Constitution. Certificates of participation in payments to be made

1 under financing contracts also (~~shall~~) do not constitute a debt or
2 the contracting of an indebtedness under any law limiting debt of the
3 state if payment is conditioned upon payment by the state under the
4 financing contract with respect to which the same relates. It is the
5 intent of the legislature that such certificates also (~~shall~~) do not
6 constitute a debt or the contracting of indebtedness under Article
7 VIII, section 1 of the state Constitution if payment of the
8 certificates is conditioned upon payment by the state under the
9 financing contract with respect to which those certificates relate.

10 (b) An other agency authorized by law to issue bonds, notes or
11 other evidences of indebtedness or to enter into conditional sales
12 contracts or lease obligations, may participate in a program under this
13 chapter in which the state enters into a financing contract on behalf
14 of that other agency, and the other agency's obligations to the state
15 under the program may be evidenced by an agreement, lease, bond, note,
16 or other appropriate instrument. A financing contract made by the
17 state on behalf of an other agency may be secured by the pledge of
18 revenues of the other agency or other agency's full faith and credit or
19 may, at the option of the state finance committee, include a contingent
20 obligation by the state for payment under such financing contract.

21 **Sec. 3.** RCW 84.52.056 and 1973 1st ex.s. c 195 s 104 are each
22 amended to read as follows:

23 (1) Any municipal corporation otherwise authorized by law to issue
24 general obligation bonds for capital purposes may, at an election duly
25 held after giving notice thereof as required by law, authorize the
26 issuance of general obligation bonds for capital purposes only, which
27 (~~shall~~) does not include the replacement of equipment, and provide
28 for the payment of the principal and interest of such bonds by annual
29 levies in excess of the tax limitations contained in RCW 84.52.050 to
30 84.52.056, inclusive and RCW 84.52.043. Such an election (~~shall~~) may
31 not be held (~~oftener~~) more often than twice a calendar year, and the
32 proposition to issue any such bonds and to exceed (~~said~~) the tax
33 limitation must receive the affirmative vote of a three-fifths majority
34 of those voting on the proposition and the total number of persons
35 voting at (~~such~~) the election must constitute not less than forty
36 percent of the voters in (~~said~~) the municipal corporation who voted
37 at the last preceding general state election.

1 (2) Any taxing district (~~shall have~~) has the right by vote of its
2 governing body to refund any general obligation bonds of said district
3 issued for capital purposes only, and to provide for the interest
4 thereon and amortization thereof by annual levies in excess of the tax
5 limitations provided for in RCW 84.52.050 to 84.52.056, inclusive and
6 RCW 84.52.043.

7 (3) For the purposes of this section, "bond" includes a municipal
8 corporation's obligation to make payments to the state in connection
9 with a financing contract entered into by the state by or on behalf of
10 a municipal corporation under chapter 39.94 RCW.

11 NEW SECTION. **Sec. 4.** The authority conferred on the state and any
12 municipal corporation or other agency under this act is in addition and
13 supplemental to any other authority granted by applicable law. Any
14 action previously taken by the state, a municipal corporation, or other
15 agency consistent with the provisions of this act is approved and
16 confirmed.

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