

HOUSE BILL REPORT

HB 2741

As Reported by House Committee On:
Business & Financial Services

Title: An act relating to state and local government fiscal agents.

Brief Description: Addressing state and local government fiscal agents.

Sponsors: Representatives Kuderer, Hickel and Stanford; by request of State Treasurer.

Brief History:

Committee Activity:

Business & Financial Services: 1/27/16, 2/2/16 [DP].

Brief Summary of Bill

- Renames fiscal agencies "state fiscal agents."
- Eliminates certain statutory requirements and procedures related to the designation of state fiscal agents and the process by which state fiscal agents act as agents on behalf of the state and local governments in the context of the bond registration system.
- Authorizes the State Finance Committee to adopt appropriate rules, including, without limitation, rules relating to the responsibilities of state fiscal agents and the responsibilities of the state and local governments with respect to state fiscal agents.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: Do pass. Signed by 11 members: Representatives Kirby, Chair; Stanford, Vice Chair; Vick, Ranking Minority Member; McCabe, Assistant Ranking Minority Member; Blake, Dye, Hurst, Kochmar, Ryu, Santos and G. Hunt.

Staff: Peter Clodfelter (786-7127).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The State and local governments are authorized to establish a system of registering the ownership of bonds or other obligations as to principal and interest, or principal only. The system of registration established must define the process for effectively transferring registered bonds or other obligations as well as how principal and any interest are paid. This system is codified in chapter 39.46 RCW and is intended to allow the state and local governments to conform with registration requirements in federal law that are necessary to exempt interest payments from federal income taxes when the state or local governments issue bonds or incur other obligations.

The State Finance Committee (Committee), which is composed of the Governor, the Lieutenant Governor, and the State Treasurer, must designate responsible banks or trust companies as fiscal agencies. In their capacities as fiscal agencies, such banks or trust companies act as registrars, authenticating agents, transfer agents, paying agents, or other agents in connection with the state or local governments' issuance of, payment of, and destruction of, registered bonds or other obligations.

To be eligible for designation as a fiscal agency, banks or trust companies must have a paid-up capital and surplus of not less than \$5 million and may be located in any major city within the United States. The Committee has discretion in designating fiscal agencies and may do so by any method deemed appropriate and in the best interest of the state and its subdivisions. The Committee must make duplicate certificates of the designations, cause them to be attested under the Washington State Seal, and file one copy of each certification with the Secretary of State and transmit the other to the designated bank or trust company. The Committee may determine the manner and amount of compensation of fiscal agencies. Immediately after the designation of fiscal agencies, the Committee must publish notice of the designation once a week for two consecutive weeks in some financial newspaper of general circulation in the city in which the headquarters of the fiscal agent is located.

If no bank or trust companies are willing to accept designation as fiscal agencies, or if the Committee considers the terms proposed by a bank or trust company to be unsatisfactory, the bonds and bond interest coupons normally payable at the fiscal agency become payable at the Office of the State Treasurer or at the office of the appropriate local government fiscal officer.

In addition to acting as a registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the issuance of, payment of, or destruction of registered bonds or other obligations by the state or local governments, state fiscal agencies are authorized to establish and maintain on behalf of the state or local governments a central depository system for the transfer or pledge of bonds or other obligations. A fiscal agency may contract out all or any services to private entities that the fiscal agency deems capable of carrying out the duties in a responsible manner. Neither the State Treasurer nor the treasurer or other fiscal officer of any state subdivision may be held responsible for funds remitted to fiscal agencies.

The process for the payment of coupons and mature bonds, and subsequent cancellation and destruction of the paid bonds is set in statute. The State Treasurer and local government treasurers may perform this function or enter an agreement with a fiscal agency to perform the function. After one year of a general or revenue bond's cancellation or payment, such bonds may be destroyed. A certificate of destruction describing and referencing the

instrument destroyed must be made by the entity responsible for destruction. A copy of the certificate of destruction must be filed with the State Treasurer or local government treasurer, as appropriate.

Upon the written request of the State Treasurer or a local government treasurer, and at least one year after the last legal payment date on matured state or local government bonds, fiscal agencies must return funds to the state or local government that were intended to pay such coupons and bonds. The State Treasurer or local government treasurer remains obligated for the final redemption of the unredeemed bonds or coupons.

Summary of Bill:

Fiscal agencies are renamed "state fiscal agents." On behalf of the state, the Committee must enter into a contract with each designated state fiscal agent. Each contract must set forth the scope of services to be provided by the state fiscal agent and the terms and conditions, including compensation, for the provision of those services. It is clarified that a state fiscal agent bears the risk of loss for any funds transferred to the state fiscal agent under the fiscal agent contract.

The Committee is given authority to adopt appropriate rules, including, without limitation, rules relating to the responsibilities of state fiscal agents and the responsibilities of the state and local governments with respect to state fiscal agents.

Certain statutory requirements and processes are eliminated. The requirement that a responsible bank or trust company have a paid-up capital and surplus of not less than \$5 million dollars to be designated as a state fiscal agent is removed. The requirement that the Committee make duplicate certificates of designations of state fiscal agents, cause them to be attested under the Seal of the State, file a copy with the Secretary of State, and transmit the other copy to the designated bank or trust company is removed. The requirement that the Committee publish notice of a newly designated state fiscal agent weekly for two consecutive weeks in a financial newspaper is removed. The description of the process by which state fiscal agents receive moneys transmitted by the state or local governments, make payment of coupons and mature bonds to bond holders, destroy cancelled and paid bonds, and issue certificates of destruction is removed. The statutory authorization for a state fiscal agent to contract out all or any services to private entities that the state fiscal agent deems capable of carrying out the duties in a responsible manner is removed. The authorization for state fiscal agents to establish and maintain a central depository system for the transfer or pledge of bonds or other obligations on behalf of the state or local governments is removed.

Cross-references to certain definitions from chapter 39.46 RCW (state and local government bonds) are added to chapter 43.80 RCW (state fiscal agents). The definitions of the words "obligation," "state," and "treasurer" are amended.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill is a request of the State Treasurer. The bill modernizes the statute by updating references and clarifying the roles of fiscal agents, the State Treasurer, and local government treasurers. The statute has not been amended since 1968. The bill does not alter government practices and has no fiscal impact. The financial institutions that compete for the position as state fiscal agent are large institutions, and the \$5 million capital or surplus requirement is no longer relevant.

(Opposed) None.

Persons Testifying: Wolf Optiz, Office of the State Treasurer.

Persons Signed In To Testify But Not Testifying: None.