
SUBSTITUTE HOUSE BILL 2936

State of Washington

64th Legislature

2016 Regular Session

By House Appropriations (originally sponsored by Representatives Senn and Chandler; by request of State Treasurer)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to public investments; amending RCW 28B.07.040,
2 39.59.010, 39.59.020, 39.60.010, 39.60.020, 39.60.030, 39.60.040,
3 39.60.050, and 43.84.080; reenacting and amending RCW 43.250.020;
4 adding a new section to chapter 39.59 RCW; adding a new section to
5 chapter 28B.10 RCW; and repealing RCW 39.59.030 and 43.250.090.

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

7 **Sec. 1.** RCW 28B.07.040 and 2012 c 229 s 508 are each amended to
8 read as follows:

9 The authority is authorized and empowered to do the following, on
10 such terms, with such security and undertakings, subject to such
11 conditions, and in return for such consideration, as the authority
12 shall determine in its discretion to be necessary, useful, or
13 convenient in accomplishing the purposes of this chapter:

- 14 (1) To promulgate rules in accordance with chapter 34.05 RCW;
15 (2) To adopt an official seal and to alter the same at pleasure;
16 (3) To maintain an office at any place or places as the authority
17 may designate;
18 (4) To sue and be sued in its own name, and to plead and be
19 impleaded;

1 (5) To make and execute agreements with participants and others
2 and all other instruments necessary, useful, or convenient for the
3 accomplishment of the purposes of this chapter;

4 (6) To provide long-term or short-term financing or refinancing
5 to participants for project costs, by way of loan, lease, conditional
6 sales contract, mortgage, option to purchase, or other financing or
7 security device or any such combination;

8 (7) If, in order to provide to participants the financing or
9 refinancing of project costs described in subsection (6) of this
10 section, the authority deems it necessary or convenient for it to own
11 a project or projects or any part of a project or projects, for any
12 period of time, it may acquire, contract, improve, alter,
13 rehabilitate, repair, manage, operate, mortgage, subject to a
14 security interest, lease, sell, or convey the project;

15 (8) To fix, revise from time to time, and charge and collect from
16 participants and others rates, rents, fees, charges, and repayments
17 as necessary to fully and timely reimburse the authority for all
18 expenses incurred by it in providing the financing and refinancing
19 and other services under this section and for the repayment, when
20 due, of all the principal of, redemption premium, if any, and
21 interest on all bonds issued under this chapter to provide the
22 financing, refinancing, and services;

23 (9) To accept and receive funds, grants, gifts, pledges,
24 guarantees, mortgages, trust deeds, and other security instruments,
25 and property from the federal government or the state or other public
26 body, entity, or agency and from any public or private institution,
27 association, corporation, or organization, including participants. It
28 shall not accept or receive from the state or any taxing agency any
29 money derived from taxes, except money to be devoted to the purposes
30 of a project of the state or of a taxing agency;

31 (10) To open and maintain a bank account or accounts in one or
32 more qualified public depositories in this state and to deposit all
33 or any part of authority funds therein;

34 (11) To employ consulting engineers, architects, attorneys,
35 accountants, construction and financial experts, superintendents,
36 managers, an executive director, and such other employees and agents
37 as may be necessary in its judgment to carry out the purposes of this
38 chapter, and to fix their compensation;

1 (12) To provide financing or refinancing to two or more
2 participants for a single project or for several projects in such
3 combinations as the authority deems necessary, useful, or convenient;

4 (13) To charge to and equitably apportion among participants the
5 administrative costs and expenses incurred in the exercise of the
6 powers and duties conferred by this chapter;

7 (14) To consult with the student achievement council to determine
8 project priorities under the purposes of this chapter; ((and))

9 (15) Provide for the investment of any funds, including funds
10 held in reserve, not required for immediate disbursement, and provide
11 for the selection of investments; and

12 (16) To do all other things necessary, useful, or convenient to
13 carry out the purposes of this chapter.

14 In the exercise of any of these powers, the authority shall incur
15 no expense or liability which shall be an obligation, either general
16 or special, of the state, or a general obligation of the authority,
17 and shall pay no expense or liability from funds other than funds of
18 the authority. Funds of the state shall not be used for such purpose.

19 **Sec. 2.** RCW 39.59.010 and 2015 c 225 s 50 are each amended to
20 read as follows:

21 Unless the context clearly requires otherwise, the definitions in
22 this section apply throughout this chapter.

23 (1) "Bond" means any agreement which may or may not be
24 represented by a physical instrument, including but not limited to
25 bonds, notes, warrants, or certificates of indebtedness, that
26 evidences an obligation under which the issuer agrees to pay a
27 specified amount of money, with or without interest, at a designated
28 time or times either to registered owners or bearers.

29 (2) "Local government" means any county, city, town, special
30 purpose district, political subdivision, municipal corporation, or
31 quasi-municipal corporation, including any public corporation,
32 authority, or other instrumentality created by such an entity.

33 ~~(3) ("Money market fund" means a mutual fund the portfolio which~~
34 ~~consists of only bonds having maturities or demand or tender~~
35 ~~provisions of not more than one year, managed by an investment~~
36 ~~advisor who has posted with the office of risk management in the~~
37 ~~department of enterprise services a bond or other similar instrument~~
38 ~~in the amount of at least five percent of the amount invested in the~~
39 ~~fund pursuant to RCW 39.59.030 (2) or (3).~~

1 ~~(4) "Mutual fund" means a diversified mutual fund registered with~~
2 ~~the federal securities and exchange commission and which is managed~~
3 ~~by an investment advisor with assets under management of at least~~
4 ~~five hundred million dollars and with at least five years' experience~~
5 ~~in investing in bonds authorized for investment by this chapter and~~
6 ~~who has posted with the office of risk management in the department~~
7 ~~of enterprise services a bond or other similar instrument in the~~
8 ~~amount of at least five percent of the amount invested in the fund~~
9 ~~pursuant to RCW 39.59.030(1).~~

10 ~~(5)) "State" includes ((a state, agencies, authorities, and~~
11 ~~instrumentalities of a state, and public corporations created by a~~
12 ~~state or agencies, authorities, or instrumentalities of a state)) any~~
13 ~~state in the United States, other than the state of Washington.~~

14 **Sec. 3.** RCW 39.59.020 and 1988 c 281 s 2 are each amended to
15 read as follows:

16 ~~((In addition to any other investment authority granted by law~~
17 ~~and notwithstanding any provision of law to the contrary, the state~~
18 ~~of Washington and)) (1) Local governments in the state of Washington~~
19 ~~are authorized to invest their funds and money in their custody or~~
20 ~~possession, eligible for investment, in((:~~

21 ~~(1) Bonds of the state of Washington and any local government in~~
22 ~~the state of Washington, which bonds have at the time of investment~~
23 ~~one of the three highest credit ratings of a nationally recognized~~
24 ~~rating agency;~~

25 ~~(2) General obligation bonds of a state other than the state of~~
26 ~~Washington and general obligation bonds of a local government of a~~
27 ~~state other than the state of Washington, which bonds have at the~~
28 ~~time of investment one of the three highest credit ratings of a~~
29 ~~nationally recognized rating agency;~~

30 ~~(3) Subject to compliance with RCW 39.56.030, registered warrants~~
31 ~~of a local government in the same county as the government making the~~
32 ~~investment; or~~

33 ~~(4) Any investments authorized by law for the treasurer of the~~
34 ~~state of Washington or any local government of the state of~~
35 ~~Washington other than a metropolitan municipal corporation but,~~
36 ~~except as provided in chapter 39.58 RCW, such investments shall not~~
37 ~~include certificates of deposit of banks or bank branches not located~~
38 ~~in the state of Washington)) investments authorized by this chapter.~~

1 (2) Nothing in this section is intended to limit or otherwise
2 restrict a local government from investing in additional authorized
3 investments if that local government has specific authority to do so.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 39.59
5 RCW to read as follows:

6 Any local government in the state of Washington may invest in:

7 (1) Bonds of the state of Washington and any local government in
8 the state of Washington;

9 (2) General obligation bonds of a state and general obligation
10 bonds of a local government of a state, which bonds have at the time
11 of investment one of the three highest credit ratings of a nationally
12 recognized rating agency;

13 (3) Subject to compliance with RCW 39.56.030, registered warrants
14 of a local government in the same county as the government making the
15 investment;

16 (4) Certificates, notes, or bonds of the United States, or other
17 obligations of the United States or its agencies, or of any
18 corporation wholly owned by the government of the United States; or
19 United States dollar denominated bonds, notes, or other obligations
20 that are issued or guaranteed by supranational institutions, provided
21 that, at the time of investment, the institution has the United
22 States government as its largest shareholder;

23 (5) Federal home loan bank notes and bonds, federal land bank
24 bonds and federal national mortgage association notes, debentures and
25 guaranteed certificates of participation, or the obligations of any
26 other government sponsored corporation whose obligations are or may
27 become eligible as collateral for advances to member banks as
28 determined by the board of governors of the federal reserve system;

29 (6) Bankers' acceptances purchased on the secondary market;

30 (7) Commercial paper purchased in the secondary market, provided
31 that any local government of the state of Washington that invests in
32 such commercial paper must adhere to the investment policies and
33 procedures adopted by the state investment board; and

34 (8) Corporate notes purchased on the secondary market, provided
35 that any local government of the state of Washington that invests in
36 such notes must adhere to the investment policies and procedures
37 adopted by the state investment board.

1 NEW SECTION. **Sec. 5.** RCW 39.59.030 (Authorized investments—
2 Mutual funds and money market funds) and 1988 c 281 s 3 are each
3 repealed.

4 **Sec. 6.** RCW 39.60.010 and 1939 c 32 s 1 are each amended to read
5 as follows:

6 Notwithstanding the provisions of any other statute of the state
7 of Washington to the contrary, it shall be lawful (~~for the state of~~
8 ~~Washington and any of its departments, institutions and agencies,~~
9 ~~municipalities, districts, and any other political subdivision of the~~
10 ~~state, or any political or public corporation of the state, or~~) for
11 any insurance company, savings and loan association, or for any bank,
12 trust company or other financial institution, operating under the
13 laws of the state of Washington, or for any executor, administrator,
14 guardian or conservator, trustee or other fiduciary to invest its
15 funds or the moneys in its custody or possession, eligible for
16 investment, in notes or bonds secured by mortgage which the Federal
17 Housing Administrator has insured or has made a commitment to insure
18 in obligations of national mortgage associations, in debentures
19 issued by the Federal Housing Administrator, and in the bonds of the
20 Home Owner's Loan Corporation, a corporation organized under and by
21 virtue of the authority granted in H.R. 5240, designated as the Home
22 Owner's Loan Act of 1933, passed by the congress of the United States
23 and approved June 13, 1933, and in bonds of any other corporation
24 which is or hereafter may be created by the United States, as a
25 governmental agency or instrumentality.

26 **Sec. 7.** RCW 39.60.020 and 1933 ex.s. c 37 s 2 are each amended
27 to read as follows:

28 Notwithstanding the provisions of any other statute of the state
29 of Washington to the contrary, it shall be also lawful (~~for the~~
30 ~~state of Washington and any of its departments, institutions and~~
31 ~~agencies, municipalities, districts, and any other political~~
32 ~~subdivisions of the state, or any political or public corporation of~~
33 ~~the state, or~~) for any insurance company, savings and loan
34 association, building and loan association, or for any bank, trust
35 company or other financial institution, operating under the laws of
36 the state of Washington, or for any executor, administrator, guardian
37 or conservator, trustee or other fiduciary, to exchange any
38 mortgages, contracts, judgments or liens owned or held by it, for the

1 bonds of the Home Owners' Loan Corporation, a corporation organized
2 under and by virtue of the authority granted in H.R. 5240, designated
3 as The Home Owners' Loan Act of 1933, passed by the congress of the
4 United States and approved June 13, 1933, or for the bonds of any
5 other corporation which is or hereafter may be created by the United
6 States as a governmental agency or instrumentality; and to accept
7 said bonds at their par value in any such exchange.

8 **Sec. 8.** RCW 39.60.030 and 1939 c 32 s 2 are each amended to read
9 as follows:

10 Wherever, by statute of this state, collateral is required as
11 security for the deposit of (~~public or other~~) funds; or deposits
12 are required to be made with any public official or department; or an
13 investment of capital or surplus, or a reserve or other fund is
14 required to be maintained consisting of designated securities, the
15 bonds and other securities herein made eligible for investment shall
16 also be eligible for such purpose.

17 **Sec. 9.** RCW 39.60.040 and 1967 ex.s. c 48 s 1 are each amended
18 to read as follows:

19 The obligations issued pursuant to said Federal Home Loan Bank
20 Act and to said Title IV of the National Housing Act as such acts are
21 now or hereafter amended, and the shares, deposits or accounts of any
22 institution which has the insurance protection provided by Title IV
23 of the National Housing Act, as now or hereafter amended, may be used
24 at face value or withdrawal value, and bonds or other interest
25 bearing obligations as to which the payment of some but less than the
26 full principal and interest is guaranteed by the United States of
27 America or any agency thereof may be used to the extent of the
28 portion so guaranteed, wherever, by statute of this state or
29 otherwise, collateral is required as security for the deposit of
30 (~~public or other~~) funds, or deposits are required to be made with
31 any public official or department, or an investment of capital or
32 surplus, or a reserve or other fund, is required to be maintained
33 consisting of designated security, or wherever by statute of this
34 state or otherwise, any surety, whether personal, corporate, or
35 otherwise, or any collateral or security, is required or permitted
36 for any purpose, including without limitation on the generality of
37 the foregoing, any bond, recognizance, or undertaking.

1 **Sec. 10.** RCW 39.60.050 and 1970 ex.s. c 93 s 1 are each amended
2 to read as follows:

3 Notwithstanding the provisions of any other statute of the state
4 of Washington to the contrary, it shall be lawful (~~for the state of~~
5 ~~Washington and any of its departments, institutions and agencies,~~
6 ~~municipalities, districts, and any other political subdivision, or~~
7 ~~any political or public corporation of the state, or~~) for any
8 executor, administrator, guardian, or conservator, trustee or other
9 fiduciary, to invest its funds or the moneys in its custody or
10 possession, eligible for investment, in notes, bonds, or debentures
11 of savings and loan associations, banks, mutual savings banks,
12 savings and loan service corporations operating with approval of the
13 federal home loan bank, and corporate mortgage companies: PROVIDED,
14 That the notes, bonds or debentures are rated not less than "A" by a
15 nationally recognized rating agency, or are insured or guaranteed by
16 an agency of the federal government or by private insurer authorized
17 to do business in the state: PROVIDED FURTHER, That the notes, bonds
18 and debentures insured or guaranteed by a private insurer shall also
19 be backed by a pool of mortgages equal to the amount of the notes,
20 bonds or debentures.

21 **Sec. 11.** RCW 43.84.080 and 1982 c 148 s 1 are each amended to
22 read as follows:

23 Wherever there is in any fund or in cash balances in the state
24 treasury more than sufficient to meet the current expenditures
25 properly payable therefrom, the state treasurer may invest or
26 reinvest such portion of such funds or balances as the state
27 treasurer deems expedient in the following (~~defined securities or~~
28 ~~classes of investments~~):

29 (1) Certificates, notes, or bonds of the United States, or other
30 obligations of the United States or its agencies, or of any
31 corporation wholly owned by the government of the United States or
32 United States dollar denominated bonds, notes, or other obligations
33 that are issued or guaranteed by supranational institutions, provided
34 that, at the time of investment, the institution has the United
35 States government as its largest shareholder;

36 (2) In state, county, municipal, or school district bonds, notes,
37 or in warrants of taxing districts of the state. Such bonds and
38 warrants shall be only those found to be within the limit of
39 indebtedness prescribed by law for the taxing district issuing them

1 and to be general obligations. The state treasurer may purchase such
2 bonds or warrants directly from the taxing district or in the open
3 market at such prices and upon such terms as it may determine, and
4 may sell them at such times as it deems advisable;

5 ~~(3) ((In motor vehicle fund warrants when authorized by agreement
6 between the state treasurer and the department of transportation
7 requiring repayment of invested funds from any moneys in the motor
8 vehicle fund available for state highway construction;~~

9 ~~(4))~~ In federal home loan bank notes and bonds, federal land
10 bank bonds and federal national mortgage association notes,
11 debentures and guaranteed certificates of participation, or the
12 obligations of any other government sponsored corporation whose
13 obligations are or may become eligible as collateral for advances to
14 member banks as determined by the board of governors of the federal
15 reserve system;

16 ~~((5))~~ (4) Bankers' acceptances purchased on the secondary
17 market;

18 ~~((6) Negotiable certificates of deposit of any national or state
19 commercial or mutual savings bank or savings and loan association
20 doing business in the United States: PROVIDED, That the treasurer
21 shall adhere to the investment policies and procedures adopted by the
22 state investment board;~~

23 ~~(7))~~ (5) Commercial paper~~((:—PROVIDED,))~~ purchased in the
24 secondary market, provided that the state treasurer ((shall)) adheres
25 to the investment policies and procedures adopted by the state
26 investment board;

27 (6) General obligation bonds of any state and general obligation
28 bonds of local governments of other states, which bonds have at the
29 time of investment one of the three highest credit ratings of a
30 nationally recognized rating agency; and

31 (7) Corporate notes purchased on the secondary market, provided
32 that the state treasurer adheres to the investment policies and
33 procedures adopted by the state investment board.

34 **Sec. 12.** RCW 43.250.020 and 2010 1st sp.s. c 10 s 2 are each
35 reenacted and amended to read as follows:

36 Unless the context clearly requires otherwise, the definitions in
37 this section shall apply throughout this chapter.

38 (1) "Authorized tribal official" means any officer or employee of
39 a qualifying federally recognized tribe who has been expressly

1 designated by tribal constitution, ordinance, or resolution as the
2 officer having the authority to invest the funds of the qualifying
3 federally recognized tribe or federally recognized political
4 subdivisions thereof.

5 (2) "Eligible governmental entity" means any county, city, town,
6 municipal corporation, quasi-municipal corporation, public
7 corporation, political subdivision, or special purpose taxing
8 district in the state, an instrumentality of any of the foregoing
9 governmental entities created under chapter 39.34 RCW, any agency of
10 state government, any entity issuing or executing and delivering
11 bonds or certificates of participation with respect to financing
12 contracts approved by the state finance committee under RCW
13 39.94.040, and any qualifying federally recognized tribe or federally
14 recognized political subdivisions thereof.

15 (3) "Financial officer" means the board-appointed treasurer of a
16 community or technical college district, the state board for
17 community and technical colleges, or a public four-year institution
18 of higher education.

19 (4) "Funds" means:

20 (a) Funds of an eligible governmental entity under the control of
21 or in the custody of any government finance official or local funds,
22 as defined by the office of financial management publication
23 "Policies, Regulations and Procedures," under the control of or in
24 the custody of a financial officer by virtue of the official's
25 authority that are not immediately required to meet current
26 demands((+)

27 ~~(b) State funds deposited in the investment pool by the state~~
28 ~~treasurer that are the proceeds of bonds, notes, or other evidences~~
29 ~~of indebtedness authorized by the state finance committee under~~
30 ~~chapter 39.42 RCW, or the proceeds of bonds or certificates of~~
31 ~~participation with respect to financing contracts approved by the~~
32 ~~state finance committee under RCW 39.94.040, or payments pursuant to~~
33 ~~financing contracts under chapter 39.94 RCW, when the investments are~~
34 ~~made in order to comply with the Internal Revenue Code of 1986, as~~
35 ~~amended)); and~~

36 ((+)) (b) Tribal funds under the control of or in the custody
37 of any qualifying federally recognized tribe or federally recognized
38 political subdivisions thereof, where the tribe warrants that the use
39 or disposition of the funds are either not subject to, or are used

1 and deposited with federal approval, and where the tribe warrants
2 that the funds are not immediately required to meet current demands.

3 (5) "Government finance official" means any officer or employee
4 of an eligible governmental entity who has been designated by statute
5 or by local charter, ordinance, resolution, or other appropriate
6 official action, as the officer having the authority to invest the
7 funds of the eligible governmental entity. However, the county
8 treasurer shall be deemed the only government finance official for
9 all public agencies for which the county treasurer has exclusive
10 statutory authority to invest the funds thereof.

11 (6) "Public funds investment account" or "investment pool" means
12 the aggregate of all funds as defined in subsection (4) of this
13 section that are placed in the custody of the state treasurer for
14 investment and reinvestment.

15 (7) "Qualifying federally recognized tribe or federally
16 recognized political subdivisions thereof" means any federally
17 recognized tribe, located in the state of Washington, authorized and
18 empowered by its constitution or ordinance to invest its surplus
19 funds pursuant to this section, and whose authorized tribal official
20 has executed a deposit agreement with the office of the treasurer.

21 NEW SECTION. **Sec. 13.** RCW 43.250.090 (Administration of chapter
22 —Rules) and 1986 c 294 s 9 are each repealed.

23 NEW SECTION. **Sec. 14.** A new section is added to chapter 28B.10
24 RCW to read as follows:

25 (1) The following definitions apply throughout this section
26 unless the context clearly requires otherwise.

27 (a) "Bond" means any agreement which may or may not be
28 represented by a physical instrument, including but not limited to
29 bonds, notes, warrants, or certificates of indebtedness, that
30 evidences an obligation under which the issuer agrees to pay a
31 specified amount of money, with or without interest, at a designated
32 time or times either to registered owners or bearers.

33 (b) "Local government" means any county, city, town, special
34 purpose district, political subdivision, municipal corporation, or
35 quasi-municipal corporation, including any public corporation,
36 authority, or other instrumentality created by such an entity.

37 (c) "State" includes any state in the United States, other than
38 the state of Washington.

1 (2) In addition to any other statutorily authorized investments
2 permissible pursuant to chapters 28B.20, 28B.30, 28B.35, 28B.40, and
3 28B.50 RCW, institutions of higher education may invest in:

4 (a) Bonds of the state of Washington and any local government in
5 the state of Washington, which bonds have at the time of investment
6 one of the three highest credit ratings of a nationally recognized
7 rating agency;

8 (b) General obligation bonds of a state and general obligation
9 bonds of a local government of a state, which bonds have at the time
10 of investment one of the three highest credit ratings of a nationally
11 recognized rating agency;

12 (c) Subject to compliance with RCW 39.56.030, registered warrants
13 of a local government in the same county as the institution of higher
14 education making the investment;

15 (d) Certificates, notes, or bonds of the United States, or other
16 obligations of the United States or its agencies, or of any
17 corporation wholly owned by the government of the United States; or
18 United States dollar denominated bonds, notes, or other obligations
19 that are issued or guaranteed by supranational institutions, provided
20 that, at the time of investment, the institution has the United
21 States government as its largest shareholder;

22 (e) Federal home loan bank notes and bonds, federal land bank
23 bonds and federal national mortgage association notes, debentures and
24 guaranteed certificates of participation, or the obligations of any
25 other government sponsored corporation whose obligations are or may
26 become eligible as collateral for advances to member banks as
27 determined by the board of governors of the federal reserve system;

28 (f) Bankers' acceptances purchased on the secondary market;

29 (g) Commercial paper purchased in the secondary market, provided
30 that any institution of higher education that invests in such
31 commercial paper must adhere to the investment policies and
32 procedures adopted by the state investment board; and

33 (h) Corporate notes purchased on the secondary market, provided
34 that any institution of higher education that invests in such notes
35 must adhere to the investment policies and procedures adopted by the
36 state investment board.

1 (3) Nothing in this section limits the investment authority
2 granted pursuant to chapters 28B.20, 28B.30, 28B.35, 28B.40, and
3 28B.50 RCW.

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