

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1761

62nd Legislature
2011 Regular Session

Passed by the House April 14, 2011
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 7, 2011
Yeas 48 Nays 1

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1761** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1761

AS AMENDED BY THE SENATE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By House Capital Budget (originally sponsored by Representatives Dunshee and Ormsby; by request of Washington State Housing Finance Commission)

READ FIRST TIME 02/22/11.

1 AN ACT Relating to limiting private activity bond issues by out-of-
2 state issuers; amending RCW 39.46.020 and 39.86.140; and adding a new
3 section to chapter 39.46 RCW.

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

5 **Sec. 1.** RCW 39.46.020 and 2001 c 299 s 15 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Bond" means any agreement which may or may not be represented
10 by a physical instrument, including notes, warrants, or certificates of
11 indebtedness, that evidences an indebtedness of the state or a local
12 government or a fund thereof, where the state or local government
13 agrees to pay a specified amount of money, with or without interest, at
14 a designated time or times to either registered owners or bearers,
15 including debt issued under chapter 39.50 RCW.

16 (2) "Host approval" means an approval of an issue of bonds by an
17 applicable elected representative of the state or local government,
18 having jurisdiction, for purposes of section 147(f)(2)(A)(ii) of the

1 internal revenue code, over the area in which a facility is located
2 that is to be financed with bonds issued by an issuer that is not the
3 state or a local government.

4 (3) "Local government" means any county, city, town, special
5 purpose district, political subdivision, municipal corporation, or
6 quasi municipal corporation, including any public corporation created
7 by such an entity.

8 ((+3)) (4) "Obligation" means an agreement that evidences an
9 indebtedness of the state or a local government, other than a bond, and
10 includes, but is not limited to, conditional sales contracts, lease
11 obligations, and promissory notes.

12 ((+4)) (5) "State" includes the state, agencies of the state, and
13 public corporations created by the state or agencies of the state.

14 ((+5)) (6) "Treasurer" means the state treasurer, county
15 treasurer, city treasurer, or treasurer of any other municipal
16 corporation.

17 NEW SECTION. Sec. 2. A new section is added to chapter 39.46 RCW
18 to read as follows:

19 (1) It is the policy of this state that in order to maintain an
20 effective system of monitoring the use of federal subsidies within the
21 state, facilities within the state proposed to be financed with bonds
22 issued by an issuer formed or organized under the laws of another state
23 must receive prior approval from the statewide issuer authorized by the
24 laws of Washington to issue bonds for the proposed project in
25 accordance with this section.

26 (2)(a) At least one hundred twenty days prior to the public hearing
27 for the proposed issuance of bonds for a project located in this state
28 by an issuer formed or organized under the laws of another state, the
29 issuer must notify the statewide issuer authorized under the laws of
30 Washington to issue bonds for the proposed project and provide the
31 information required under (b) of this subsection.

32 (b) The following items and information must be received by the
33 statewide issuer authorized under the laws of Washington to issue bonds
34 for the proposed project:

35 (i) A copy of the proposed notice of public hearing pertaining to
36 the facilities, providing the date and location of the proposed
37 hearing;

1 (ii) The maximum stated principal amount of the bonds;
2 (iii) A description of the facility, including its location;
3 (iv) A description of the plan of finance;
4 (v) The name of the issuer of the bonds;
5 (vi) The name of the initial owner or principal user of the
6 facility;
7 (vii) A description of how the project will meet the public policy
8 requirements and objectives of this state including the policies of the
9 statewide issuer under Washington law; and
10 (viii) A check in the amount established by the statewide issuer
11 under Washington law to perform the review.
12 (c) If the statewide issuer authorized to issue the bonds under
13 Washington law determines that the facility and the items and
14 information submitted under (b) of this subsection are consistent with
15 the laws and public policy of the state and are in the best interest of
16 the state, then the statewide issuer shall issue a written approval
17 under this section authorizing the governmental unit to grant its host
18 approval of the public hearing in its discretion.
19 (d) If the statewide issuer authorized to issue the bonds under
20 Washington law determines that the facility and the items and
21 information submitted under (b) of this subsection are not consistent
22 with the laws and public policy of the state and are not in the best
23 interest of the state, then the public hearing may not proceed and the
24 bonds may not be issued by an issuer formed or organized under the laws
25 of another state.
26 (3)(a) By December 1, 2011, annually each December 1st until
27 December 1, 2014, and December 1st every five years thereafter, each
28 statewide issuer receiving the notice required by subsection (2) of
29 this section from an issuer formed or organized under the laws of
30 another state shall, within existing funds, submit a report to the
31 appropriate committees of the legislature.
32 (b) Each report under (a) of this subsection must provide, for
33 annual reports the following information from the previous fiscal year,
34 and for other reports the following information from each of the
35 previous fiscal years:
36 (i) The number of proposed projects for which the statewide issuer
37 received notice and the information described under subsection (2) of
38 this section;

- 1 (ii) A description of the projects for which notice was submitted;
2 (iii) The dollar amount of each proposed project;
3 (iv) The location of each proposed project;
4 (v) Whether the proposed project was approved by the statewide
5 issuer; and
6 (vi) For any project that was not approved by the statewide issuer,
7 the reasons for the statewide issuer's decision.

8 **Sec. 3.** RCW 39.86.140 and 2010 1st sp.s. c 6 s 8 are each amended
9 to read as follows:

10 (1) No issuer may receive an allocation of the state ceiling
11 without a certificate of approval from the agency. The agency may not
12 make an allocation of the state ceiling to an issuer formed or
13 organized under the laws of another state.

14 (2) For each state ceiling allocation request, an issuer shall
15 submit to the agency, no sooner than ninety days prior to the beginning
16 of a calendar year for which an allocation of the state ceiling is
17 being requested, a form identifying:

- 18 (a) The amount of the allocation sought;
19 (b) The bond use category from which the allocation sought would be
20 made;
21 (c) The project or program for which the allocation is requested;
22 (d) The financing schedule for which the allocation is needed; and
23 (e) Any other such information required by the agency, including
24 information which corresponds to the allocation criteria of RCW
25 39.86.130.

26 (3) The agency may approve or deny an allocation for all or a
27 portion of the issuer's request. Any denied request, however, shall
28 remain on file with the agency for the remainder of the calendar year
29 and shall be considered for receiving any allocation, reallocation, or
30 carryforward of unused portions of the state ceiling during that
31 period.

32 (4) After receiving an allocation request, the agency shall mail to
33 the requesting issuer a written certificate of approval or notice of
34 denial for an allocation amount, by a date no later than the latest of
35 the following:

- 36 (a) February 1st of the calendar year for which the request is
37 made;

1 (b) Fifteen days from the date the agency receives an allocation
2 request; or

3 (c) Fifteen days from the date the agency receives a recommendation
4 by the board with regard to a small issue allocation request, should
5 the board choose to review individual requests.

6 (5)(a) For requests of the state ceiling of any calendar year, the
7 following applies to all bond use categories except housing and student
8 loans:

9 (i) Except for housing and student loans, any allocations granted
10 prior to April 1st, for which bonds have not been issued by July 1st of
11 the same calendar year, shall revert to the agency on July 1st of the
12 same calendar year for reallocation unless an extension or carryforward
13 is granted;

14 (ii) Except for housing and student loans, any allocations granted
15 on or after April 1st, for which bonds have not been issued by October
16 15th of the same calendar year, shall revert to the agency on October
17 15th of the same calendar year for reallocation unless an extension or
18 carryforward is granted.

19 (b) For each calendar year, any housing or student loan
20 allocations, for which bonds have not been issued by December 15th of
21 the same calendar year, shall revert to the agency on December 15th of
22 the same calendar year for reallocation unless an extension or
23 carryforward is granted.

24 (6) An extension of the deadlines provided by subsection (5) of
25 this section may be granted by the agency for the approved allocation
26 amount or a portion thereof, based on:

27 (a) Firm and convincing evidence that the bonds will be issued
28 before the end of the calendar year if the extension is granted; and

29 (b) Any other criteria the agency deems appropriate.

30 (7) If an issuer determines that bonds subject to the state ceiling
31 will not be issued for the project or program for which an allocation
32 was granted, the issuer shall promptly notify the agency in writing so
33 that the allocation may be canceled and the amount may be available for
34 reallocation.

35 (8) Bonds subject to the state ceiling may be issued only to
36 finance the project or program for which a certificate of approval is
37 granted.

1 (9) Within three business days of the date that bonds for which an
2 allocation of the state ceiling is granted have been delivered to the
3 original purchasers, the issuer shall mail to the agency a written
4 notification of the bond issuance. In accordance with chapter 39.44
5 RCW, the issuer shall also complete bond issuance information on the
6 form provided by the agency.

7 (10) If the total amount of bonds issued under the authority of a
8 state ceiling for a project or program is less than the amount
9 allocated, the remaining portion of the allocation shall revert to the
10 agency for reallocation in accordance with the criteria in RCW
11 39.86.130. If the amount of bonds actually issued under the authority
12 of a state ceiling is greater than the amount allocated, the entire
13 allocation shall be disallowed.

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