

SENATE BILL REPORT

SB 5843

As Reported By Senate Committee On:
Law & Justice, February 21, 1995

Title: An act relating to a judicial proceeding for validating bond issues of public agencies.

Brief Description: Validating bond issues of public agencies.

Sponsors: Senators Haugen and McCaslin.

Brief History:

Committee Activity: Law & Justice: 2/20/95, 2/21/95 [w/oRec-GO].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That it be referred to Committee on Government Operations without recommendation.

Signed by Senators Smith, Chair; C. Anderson, Vice Chair; Hargrove, Haugen, Johnson, Long, Roach and Schow.

Staff: Lidia Mori (786-7755)

Background: Currently, statutes exist which provide declaratory judgment procedures under which bond test cases can be carried out, in adversarial proceedings where all relevant legal issues may be raised and argued by counsel on both sides and disposed of promptly. Proponents believe there should be a specific statute to provide public agencies with an efficient judicial procedure for ensuring the integrity of the bonds of public agencies. There is concern, however, that bond issues of questionable statutory or constitutional validity might be validated in inappropriate situations and the nonadversarial procedure suggested in this bill may not be acceptable to the national bond community.

Summary of Bill: An action to determine the validity or legality of a local government bond issue must be brought no later than 60 days after the authorization date of the bonds. Notice is given, and jurisdiction is obtained, by publication of a summons directed to all interested persons once each week for two successive weeks. An action to determine the validity or legality of a local government bond issue is given preference over all other civil actions before the court as far as setting the actions for hearing or trial. The costs of these actions may be divided between the parties or the losing party may be required to pay them.

If an appeal is to be brought, it must be filed within 30 days after the notice of entry of the judgment. If the defendant in the action fails to appear and plead, judgment is for the amount specified in the complaint. If the defendant does appear, the justice hears the evidence of the plaintiff and makes a decision, but in no case is the judgment more than the amount stated in the complaint. A default judgment may be set aside only if the defendant

gives five days written notice and files the application to vacate the default judgment within ten days after the entry of the judgment.

This bill does not apply to other statutory judicial proceedings for validating bond issues of public agencies.

Appropriation: None.

Fiscal Note: Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The intent of the bill is to provide a way to close dispute on a bond issue. Current law does provide some avenues that produce a judicial stamp of authority, but, the benefit of this bill is that it provides a more speedy approach. We need a statute of limitations for local bond issues. We are willing to work on this issue during the interim.

Testimony Against: Numerous technical changes are needed in this bill.

Testified: Jim Justin, Assn. of Washington Cities (pro); Dan Heid, City Attorney for Sea-Tac (pro); George Mack, attorney (con).