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SENATE BILL 5211

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State of Washington

54th Legislature

1995 Regular Session

By Senators Winsley, Haugen, McCaslin, Sheldon, Drew and C. Anderson

Read first time 01/16/95. Referred to Committee on Government Operations.

1 AN ACT Relating to the receipt and expenditure of federal and  
2 private funds by local governments; amending RCW 35.21.735; creating  
3 new sections; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The purpose of this act is to assist  
6 community and economic development by clarifying the authority of all  
7 cities, towns, counties, and public corporations to engage in federally  
8 guaranteed "conduit financings" and to specify procedures that may be  
9 used for such conduit financings. Generally, in such a conduit  
10 financing a municipality borrows funds from the federal government or  
11 from private sources with the help of federal guarantees, without  
12 pledging the credit or tax revenues of the municipality, and then lends  
13 the proceeds for private projects that both fulfill public purposes,  
14 such as community and economic development, and provide the revenues to  
15 retire the municipal borrowings. Such conduit financings include but  
16 are not limited to issuance by municipalities of federally guaranteed  
17 notes under section 108 of the housing and community development act of  
18 1974, as amended, to finance projects eligible under federal community  
19 development block grant regulations.

1       **Sec. 2.** RCW 35.21.735 and 1985 c 332 s 3 are each amended to read  
2 as follows:

3       (1) The legislature hereby declares that carrying out the purposes  
4 of federal grants or programs is both a public purpose and an  
5 appropriate function for (~~such~~) a city, town, county, or public  
6 corporation. The provisions of RCW 35.21.730 through 35.21.755 and RCW  
7 35.21.660 and 35.21.670 and the enabling authority herein conferred to  
8 implement these provisions shall be construed to accomplish the  
9 purposes of RCW 35.21.730 through 35.21.755.

10       (2) All cities, towns (~~and~~), counties, and public corporations  
11 shall have the power and authority to enter into agreements with the  
12 United States or any agency or department thereof, or any agency of the  
13 state government or its political subdivisions, and pursuant to such  
14 agreements may receive and expend, or cause to be received and expended  
15 by a custodian or trustee, federal or private funds for any lawful  
16 public purpose. Pursuant to any such agreement, a city, town, county,  
17 or public corporation may issue bonds, notes, or other evidences of  
18 indebtedness that are guaranteed or otherwise secured by the federal  
19 government or an agency or instrumentality thereof, and may agree to  
20 repay and reimburse for any liability thereon any guarantor of any such  
21 bonds, notes, or other evidences of indebtedness issued by such  
22 jurisdiction or public corporation, or issued by any other public  
23 entity. For purposes of this subsection federal housing mortgage  
24 insurance shall not constitute a federal guarantee or security.

25       (3) A city, town, county, or public corporation may pledge, as  
26 security for any such bonds, notes, or other evidences of indebtedness  
27 or for its obligations to repay or reimburse any guarantor thereof, its  
28 right, title, and interest in and to any or all of the following: (a)  
29 Any federal grants or payments received or that may be received in the  
30 future; (b) any of the following that may be obtained directly or  
31 indirectly from the use of any federal or private funds received as  
32 authorized in this section: (i) Property and interests therein, and  
33 (ii) revenues; (c) any payments received or owing from any person  
34 resulting from the lending of any federal or private funds received as  
35 authorized in this section; (d) any proceeds under (a), (b), or (c) of  
36 this subsection and any securities or investments in which (a), (b), or  
37 (c) of this subsection or proceeds thereof may be invested; (e) any  
38 interest or other earnings on (a), (b), (c), or (d) of this subsection.

1       (4) A city, town, county, or public corporation may establish one  
2 or more special funds relating to any or all of the sources listed in  
3 subsection (3)(a) through (e) of this section and to pay or cause to be  
4 paid from such fund the principal, interest, premium if any, and other  
5 amounts payable on any bonds, notes, or other evidences of indebtedness  
6 authorized under this section, and to pay or cause to be paid any  
7 amounts owing on any obligations for repayment or reimbursement of  
8 guarantors of any such bonds, notes, or other evidences of  
9 indebtedness. A city, town, county, or public corporation may contract  
10 with a financial institution either to act as trustee or custodian to  
11 receive, administer, and expend any federal or private funds, or to  
12 collect, administer, and make payments from any special fund as  
13 authorized under this section, or both, and to perform other duties and  
14 functions in connection with the transactions authorized under this  
15 section. If the bonds, notes, or other evidences of indebtedness and  
16 related agreements comply with subsection (6) of this section, then any  
17 such funds held by any such trustee or custodian, or by a public  
18 corporation, shall not constitute public moneys or funds of any city,  
19 town, or county and at all times shall be kept segregated and set apart  
20 from other funds.

21       (5) For purposes of this section, "lawful public purpose" includes,  
22 without limitation, any use of funds, including loans thereof to public  
23 or private parties, authorized by the agreements with the United States  
24 or any department or agency thereof under which federal or private  
25 funds are obtained, or authorized under the federal laws and  
26 regulations pertinent to such agreements.

27       (6) If any such federal or private funds are loaned or granted to  
28 any private party or used to guarantee any obligations of any private  
29 party, then any bonds, notes, other evidences of indebtedness issued or  
30 entered into for the purpose of receiving or causing the receipt of  
31 such federal or private funds, and any agreements to repay or reimburse  
32 guarantors, shall not be obligations of any city, town, or county and  
33 shall be payable only from a special fund as authorized in this section  
34 or from any of the security pledged pursuant to the authority of this  
35 section, or both. Any bonds, notes, or other evidences of indebtedness  
36 to which this subsection applies shall contain a recital to the effect  
37 that they are not obligations of the city, town, or county or the state  
38 of Washington and that neither the faith and credit nor the taxing  
39 power of the state or any municipal corporation or subdivision of the

1 state or any agency of any of the foregoing, is pledged to the payment  
2 of principal, interest, or premium, if any, thereon. Any bonds, notes,  
3 other evidences of indebtedness, or other obligations to which this  
4 subsection applies shall not be included in any computation for  
5 purposes of limitations on indebtedness. To the extent expressly  
6 agreed in writing by a city, town, county, or public corporation, this  
7 subsection shall not apply to bonds, notes, or other evidences of  
8 indebtedness issued for, or obligations incurred for, the necessary  
9 support of the poor and infirm by that city, town, county, or public  
10 corporation.

11 (7) Any bonds, notes, or other evidences of indebtedness issued by,  
12 or reimbursement obligations incurred by, a city, town, county, or  
13 public corporation consistent with the provisions of this section but  
14 prior to the effective date of this section, and any loans or pledges  
15 made by a city, town, or county in connection therewith substantially  
16 consistent with the provisions of this section but prior to the  
17 effective date of this section, are deemed authorized and shall not be  
18 held void, voidable, or invalid due to any lack of authority under the  
19 laws of this state.

20 NEW SECTION. Sec. 3. If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected.

24 NEW SECTION. Sec. 4. The authority granted by this act is  
25 additional and supplemental to any other authority of any city, town,  
26 county, or public corporation. Nothing in this act may be construed to  
27 imply that any of the power or authority granted hereby was not  
28 available to any city, town, county, or public corporation under prior  
29 law.

30 NEW SECTION. Sec. 5. This act is necessary for the immediate  
31 preservation of the public peace, health, or safety, or support of the  
32 state government and its existing public institutions, and shall take  
33 effect immediately.

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