
SENATE BILL 5293

State of Washington 54th Legislature 1995 Regular Session

By Senators Quigley, Loveland and Strannigan

Read first time 01/18/95. Referred to Committee on Ways & Means.

1 AN ACT Relating to state indebtedness; amending RCW 39.42.060,
2 39.94.010, and 39.94.030; providing an effective date; and declaring an
3 emergency.

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

5 **Sec. 1.** RCW 39.42.060 and 1993 c 52 s 1 are each amended to read
6 as follows:

7 No bonds, notes, or other evidences of indebtedness for borrowed
8 money shall be issued by the state which will cause the aggregate debt
9 contracted by the state to exceed that amount for which payments of
10 principal and interest in any fiscal year would require the state to
11 expend more than seven percent of the arithmetic mean of its general
12 state revenues, as defined in section 1(c) of Article VIII of the
13 Washington state Constitution for the three immediately preceding
14 fiscal years as certified by the treasurer in accordance with RCW
15 39.42.070. It shall be the duty of the state finance committee to
16 compute annually the amount required to pay principal of and interest
17 on outstanding debt. In making such computation, the state finance
18 committee shall include all borrowed money represented by bonds, notes,
19 or other evidences of indebtedness which are secured by the full faith

1 and credit of the state or are required to be paid, directly or
2 indirectly, from general state revenues and which are incurred by the
3 state, any department, authority, public corporation or quasi public
4 corporation of the state, any state university or college, or any other
5 public agency created by the state but not by counties, cities, towns,
6 school districts, or other municipal corporations, and shall include
7 debt incurred pursuant to section 3 of Article VIII of the Washington
8 state Constitution, but shall exclude the following:

9 (1) Obligations for the payment of current expenses of state
10 government;

11 (2) Indebtedness incurred pursuant to RCW 39.42.080 or 39.42.090;

12 (3) Principal of and interest on bond anticipation notes;

13 (4) Any indebtedness which has been refunded;

14 (5) Financing contracts entered into under chapter 39.94 RCW,
15 except as provided in RCW 39.94.030;

16 (6) Indebtedness authorized or incurred before July 1, 1993,
17 pursuant to statute which requires that the state treasury be
18 reimbursed, in the amount of the principal of and the interest on such
19 indebtedness, from money other than general state revenues or from the
20 special excise tax imposed pursuant to chapter 67.40 RCW;

21 (7) Indebtedness authorized and incurred after July 1, 1993,
22 pursuant to statute that requires that the state treasury be
23 reimbursed, in the amount of the principal of and the interest on such
24 indebtedness, from (a) moneys outside the state treasury, except higher
25 education operating fees, (b) higher education building fees, (c)
26 indirect costs recovered from federal grants and contracts, and (d)
27 fees and charges associated with hospitals operated or managed by
28 institutions of higher education; and

29 (8) Any agreement, promissory note, or other instrument entered
30 into by the state finance committee under RCW 39.42.030 in connection
31 with its acquisition of bond insurance, letters of credit, or other
32 credit support instruments for the purpose of guaranteeing the payment
33 or enhancing the marketability, or both, of any state bonds, notes, or
34 other evidence of indebtedness.

35 To the extent necessary because of the constitutional or statutory
36 debt limitation, priorities with respect to the issuance or
37 guaranteeing of bonds, notes, or other evidences of indebtedness by the
38 state shall be determined by the state finance committee.

1 **Sec. 2.** RCW 39.94.010 and 1989 c 356 s 1 are each amended to read
2 as follows:

3 The purposes of this chapter are to confirm the authority of the
4 state, its agencies, departments, and instrumentalities, the state
5 board for community and technical colleges (~~education~~), and the state
6 institutions of higher education to enter into contracts for the
7 acquisition of real and personal property which provide for payments
8 over a term of more than one year (~~and to exclude such contracts from~~
9 ~~the computation of indebtedness under RCW 39.42.060 and Article VIII,~~
10 ~~section 1 of the state Constitution~~). It is further the purpose of
11 this chapter to permit the state, its agencies, departments, and
12 instrumentalities, the state board for community and technical colleges
13 (~~education~~), and the state institutions of higher education to enter
14 into financing contracts which make provision for the issuance of
15 certificates of participation and other financing structures.
16 Financing contracts, whether or not entered into under this chapter,
17 shall be subject to approval by the state finance committee except as
18 provided in this chapter.

19 This chapter shall be liberally construed to effect its purposes.

20 **Sec. 3.** RCW 39.94.030 and 1989 c 356 s 3 are each amended to read
21 as follows:

22 (1) The state may enter into financing contracts for the use and
23 acquisition for public purposes of real and personal property.
24 Payments under financing contracts shall be made by the state from
25 currently appropriated funds or funds not constituting "general state
26 revenues" as defined in Article VIII, section 1 of the state
27 Constitution. The term of any financing contract shall not exceed
28 thirty years or the remaining useful life of the property, whichever is
29 shorter. Financing contracts may include other terms and conditions
30 agreed upon by the parties.

31 (2) The state may enter into contracts for credit enhancement,
32 which shall limit the recourse of the provider of credit enhancement
33 solely to the security provided under the financing contract secured by
34 the credit enhancement.

35 (3) The state may grant a security interest in real or personal
36 property acquired under financing contracts. The security interest may
37 be perfected as provided by the uniform commercial code - secured
38 transactions, or otherwise as provided by law for perfecting liens on

1 real estate. Other terms and conditions may be included as agreed upon
2 by the parties.

3 (4) Except as provided in subsection (5) of this section, financing
4 contracts and contracts for credit enhancement entered into under the
5 limitations set forth in this chapter shall not constitute a debt or
6 the contracting of indebtedness under RCW 39.42.060 or any other law
7 limiting debt of the state. It is the intent of the legislature that
8 such contracts also shall not constitute a debt or the contracting of
9 indebtedness under Article VIII, section 1 of the state Constitution
10 except as provided in subsection (5) of this section. Certificates of
11 participation in payments to be made under financing contracts also
12 shall not constitute a debt or the contracting of an indebtedness under
13 RCW 39.42.060, except as provided in subsection (5) of this section, if
14 payment is conditioned upon payment by the state under the financing
15 contract with respect to which the same relates. It is the intent of
16 the legislature that such certificates also shall not constitute a debt
17 or the contracting of indebtedness under Article VIII, section 1 of the
18 state Constitution, except as provided in subsection (5) of this
19 section, if payment of the certificates is conditioned upon payment by
20 the state under the financing contract with respect to which those
21 certificates relate.

22 (5) Financing contracts entered into after June 30, 1999, for the
23 acquisition of real property on behalf of the state board for community
24 and technical colleges and the state institutions for higher education
25 shall be included in the computation of indebtedness under RCW
26 39.42.060 and Article VIII, section 1 of the state Constitution.
27 Financing contracts entered into after June 30, 1995, for the
28 acquisition of real property on behalf of all other agencies,
29 departments, and instrumentalities of the state shall be included in
30 the computation of indebtedness under RCW 39.42.060 and Article VIII,
31 section 1 of the state Constitution.

32 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of the
34 state government and its existing public institutions, and shall take
35 effect June 30, 1995.

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