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**SENATE BILL 5843**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senators Haugen and McCaslin

Read first time 02/09/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to a judicial proceeding for validating bond issues  
2 of public agencies; amending RCW 12.20.020; adding a new section to  
3 chapter 4.72 RCW; and adding a new chapter to Title 7 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that  
6 public agencies should be able to issue bonds, and the investing public  
7 should be able to purchase those bonds, with the certainty that they  
8 are legally valid and binding; that there is a need for an efficient  
9 judicial procedure for public agencies to ensure that their bonds are  
10 validly issued; that an efficient judicial procedure for ensuring the  
11 validity of public agencies' bonds will protect the investing public  
12 and will assist in the reduction of public agencies' borrowing costs  
13 by, among other things, increasing the marketability of public  
14 agencies' bonds, protecting public agencies' credit ratings, and  
15 helping public agencies obtain more favorable interest rates, all of  
16 which will result in more efficient financings and reduced costs to  
17 taxpayers and ratepayers; and that we therefore desire to provide  
18 public agencies with an efficient judicial procedure for ensuring the  
19 integrity of the bonds of public agencies.

1        NEW SECTION.        **Sec. 2.**        Unless the context clearly requires  
2 otherwise, the definitions in this section apply throughout this  
3 chapter:

4        (1) "Authorization date" means the date of adoption by the  
5 governing body of a public agency of a resolution or ordinance  
6 authorizing the issuance or execution of any bonds.

7        (2) "Bonds" means bonds, warrants, notes, lease or installment  
8 purchase obligations or other evidences of indebtedness of a public  
9 agency, or contracts related to any of the foregoing.

10       (3) "Public agency" means any county, city, town, district, school  
11 district, municipal corporation, taxing district, or any agency,  
12 instrumentality, or public corporation thereof, or other governmental  
13 agency or public body created by or under the laws of this state and  
14 authorized to issue or execute bonds.

15       NEW SECTION.        **Sec. 3.**        A public agency may bring an action to  
16 determine the validity or legality of its bonds in the manner provided  
17 in this chapter. If no proceedings have been brought by the public  
18 agency under this chapter, any interested person may bring an action to  
19 determine the validity or legality of the public agency's bonds in the  
20 manner provided in this chapter. An action brought by a public agency  
21 or an interested person as provided in this chapter must be brought no  
22 later than sixty days after the authorization date of the bonds in the  
23 superior court of the county in which the public agency or its  
24 principal office is located. The action shall be in the nature of a  
25 proceeding in rem.

26       In an action brought by an interested person as provided in this  
27 chapter, the public agency shall be a defendant and shall be served  
28 with the summons and complaint in the action in the manner provided by  
29 law for the service of a summons in a civil action. In such an action  
30 the summons shall be in the form prescribed in section 5 of this act,  
31 except that in addition to being directed to "all persons interested in  
32 the matter of [specifying the matter]," it shall also be directed to  
33 the public agency. If the interested person bringing such an action  
34 fails to complete publication in accordance with section 4 of this act  
35 and to file proof thereof in the action within sixty days from the  
36 filing of the complaint, the action shall be immediately dismissed on  
37 the motion of the public agency.

1        NEW SECTION.    **Sec. 4.**    Jurisdiction of all interested persons may  
2 be had by publication of a summons as specified in section 5 of this  
3 act in accordance with chapter 65.16 RCW once each week for two  
4 successive weeks, with the second publication being not more than  
5 thirty days nor less than ten days prior to the date set for hearing,  
6 in the official newspaper of the public agency, if any, and in a legal  
7 newspaper, as defined in RCW 65.16.020, published or circulated in the  
8 county in which the public agency or its principal office is located.  
9 Prior to completion of such a publication, the public agency shall, to  
10 the extent that the court finds reasonably practicable, give notice of  
11 the pendency of the proceeding to interested persons by mail or other  
12 means ordered by the court.

13        NEW SECTION.    **Sec. 5.**    The summons shall be directed to "all  
14 persons interested in the matter of [specifying the matter]" and shall  
15 contain a notice to all persons interested in the matter to appear and  
16 answer the complaint not later than the date specified in the summons.  
17 Except as otherwise specified in this chapter such a summons shall be  
18 in the form prescribed in RCW 4.28.110.

19        NEW SECTION.    **Sec. 6.**    Jurisdiction shall be complete after the  
20 date specified in the summons. Any party interested may, not later  
21 than the date specified in the summons, appear and contest the validity  
22 or legality of the bonds.

23        NEW SECTION.    **Sec. 7.**    If more than one action is pending  
24 concerning similar contests which may be brought under this chapter,  
25 they shall be consolidated for trial.

26        NEW SECTION.    **Sec. 8.**    The court hearing the action shall disregard  
27 any error, irregularity, or omission that does not affect the  
28 substantial rights of the parties.

29        NEW SECTION.    **Sec. 9.**    Actions brought under this chapter shall be  
30 given preference over all other civil actions before the court in the  
31 matter of setting these actions for hearing or trial, and in hearing  
32 these actions, to the end that these actions shall be speedily heard  
33 and determined.

1        NEW SECTION.    **Sec. 10.**    The costs of any proceeding or action under  
2 this chapter may be allowed and apportioned between the parties or to  
3 the losing party in the discretion of the court.

4        NEW SECTION.    **Sec. 11.**    No contest of bonds, except by the public  
5 agency or its officers or agents, shall be made other than within the  
6 time and in the manner set forth in this chapter. The availability to  
7 any public agency or its officers or agents of the remedy provided by  
8 this chapter does not preclude the use by that public agency or its  
9 officers or agents of mandamus chapter 7.25 RCW, or any other remedy to  
10 determine the validity or legality of the bonds.

11        NEW SECTION.    **Sec. 12.**    (1) The judgment, if no appeal is taken, or  
12 if taken and the judgment is affirmed, shall immediately become and be  
13 forever binding and conclusive, as to all matters therein adjudicated  
14 or which at the time could have been adjudicated, against the public  
15 agency and against all other persons, and the judgment shall  
16 permanently enjoin the institution by any person of any action or  
17 proceeding raising any issue as to which the judgment is binding and  
18 conclusive.

19        (2) An appeal shall not allowed from any judgment entered under  
20 this chapter unless the appeal is brought by an answering party and a  
21 notice of appeal is filed within thirty days after the notice of entry  
22 of the judgment.

23        NEW SECTION.    **Sec. 13.**    A new section is added to chapter 4.72 RCW  
24 to read as follows:

25        This chapter does not apply to judicial proceedings for validating  
26 bond issues of public agencies under chapter 7.-- RCW (sections 1  
27 through 12 of this act).

28        **Sec. 14.**    RCW 12.20.020 and 1915 c 41 s 1 are each amended to read  
29 as follows:

30        When the defendant fails to appear and plead at the time specified  
31 in the notice, or within one hour thereafter, judgment shall be given  
32 as follows:

33        (1) When the defendant has been served with a true copy of the  
34 complaint, judgment shall be given without further evidence for the sum  
35 specified therein;

1 (2) In other cases, the justice shall hear the evidence of the  
2 plaintiff, and render judgment for such sum only as shall appear by the  
3 evidence to be just, but in no case exceed the amount specified in the  
4 complaint.

5 (3) The justice shall have full power at any time after a judgment  
6 has been given by default for failure of the defendant to appear and  
7 plead at the proper time, to vacate and set aside said judgment for any  
8 good cause and upon such terms as he shall deem sufficient and proper.  
9 Such judgment shall only be set aside upon five days notice in writing  
10 served upon the plaintiff or the plaintiff's attorney and filed with  
11 the justice within ten days after the entry of the judgment. The  
12 justice shall hear the application to set aside such judgment either  
13 upon affidavits or oral testimony as he may deem proper. In case such  
14 judgment is set aside the making of the application for setting the  
15 same aside shall be considered an entry of general appearance in the  
16 case by the applicant, and the case shall duly proceed to a trial upon  
17 the merits: PROVIDED, That, no justice of the peace shall pay out or  
18 turn over money or property received by him by virtue of any default  
19 judgment until the expiration of the ten days for moving to set aside  
20 such default judgment has expired.

21 (4) This section does not apply to judicial proceedings for  
22 validating bond issues of public agencies under chapter 7.-- RCW  
23 (sections 1 through 12 of this act).

24 NEW SECTION. Sec. 15. Sections 1 through 12 of this act shall  
25 constitute a new chapter in Title 7 RCW.

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