

CERTIFICATION OF ENROLLMENT

HOUSE BILL 3172

Chapter 108, Laws of 2004

58th Legislature
2004 Regular Session

PAYMENT AGREEMENTS

EFFECTIVE DATE: 6/10/04

Passed by the House March 9, 2004
Yeas 94 Nays 1

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 3, 2004
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved March 24, 2004.

GARY F. LOCKE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 3172** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 24, 2004 - 2:23 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 3172

AS AMENDED BY THE SENATE

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By Representatives Dunshee, Sommers and Sehlin

Read first time 02/03/2004. Referred to Committee on Capital Budget.

1 AN ACT Relating to payment agreements; amending RCW 39.96.010 and
2 39.96.020; and repealing RCW 39.96.070.

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

4 **Sec. 1.** RCW 39.96.010 and 2000 c 184 s 1 are each amended to read
5 as follows:

6 The legislature finds and declares that the issuance by state and
7 local governments of bonds and other obligations involves exposure to
8 changes in interest rates; that a number of financial instruments are
9 available to lower the net cost of these borrowings, or to reduce the
10 exposure of state and local governments to changes in interest rates;
11 that these reduced costs for state and local governments will benefit
12 taxpayers and ratepayers; and that the legislature desires to provide
13 state and local governments with express statutory authority to take
14 advantage of these instruments. In recognition of the complexity of
15 these financial instruments, the legislature desires that this
16 authority be subject to certain limitations(~~(, and be granted for a~~
17 ~~period of twelve years)~~).

1 **Sec. 2.** RCW 39.96.020 and 2003 c 47 s 1 are each amended to read
2 as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Financial advisor" means a financial services or financial
6 advisory firm:

7 (a) With recognized knowledge and experience in connection with the
8 negotiation and execution of payment agreements;

9 (b) That is acting solely as financial advisor to the governmental
10 entity in connection with the execution of the payment agreement and
11 the issuance or incurring of any related obligations, and not as a
12 principal, placement agent, purchaser, underwriter, or other similar
13 party, and that does not control, nor is it controlled by or under
14 common control with, any such party;

15 (c) That is compensated for its services in connection with the
16 execution of payment agreements, either directly or indirectly, solely
17 by the governmental entity; and

18 (d) Whose compensation is not based on a percentage of the notional
19 amount of the payment agreement or of the principal amount of any
20 related obligations.

21 (2) "Governmental entity" means state government or local
22 government.

23 (3) "Local government" means any city, county, city transportation
24 authority, regional transit authority established under chapter 81.112
25 RCW, port district, public hospital district, or public utility
26 district, or any joint operating agency formed under RCW 43.52.360,
27 that has or will have outstanding obligations in an aggregate principal
28 amount of at least one hundred million dollars as of the date a payment
29 agreement is executed or is scheduled by its terms to commence or had
30 at least one hundred million dollars in gross revenues during the
31 preceding calendar year.

32 (4) "Obligations" means bonds, notes, bond anticipation notes,
33 commercial paper, or other obligations for borrowed money, or lease,
34 installment purchase, or other similar financing agreements or
35 certificates of participation in such agreements.

36 (5) "Payment agreement" means a written agreement which provides
37 for an exchange of payments based on interest rates, or for ceilings or

1 floors on these payments, or an option on these payments, or any
2 combination, entered into on either a current or forward basis.

3 (6) "State government" means (a) the state of Washington, acting by
4 and through its state finance committee, (b) the Washington health care
5 facilities authority, (c) the Washington higher education facilities
6 authority, (d) the Washington state housing finance commission, or (e)
7 the state finance committee upon adoption of a resolution approving a
8 payment agreement on behalf of any state institution of higher
9 education as defined under RCW 28B.10.016: PROVIDED, That such
10 approval shall not constitute the pledge of the full faith and credit
11 of the state, but a pledge of only those funds specified in the
12 approved agreement.

13 NEW SECTION. **Sec. 3.** RCW 39.96.070 (Payment agreements not
14 allowed after June 30, 2005--Exception) and 2000 c 184 s 3, 1998 c 245
15 s 35, 1995 c 192 s 2, & 1993 c 273 s 7 are each repealed.

Passed by the House March 9, 2004.

Passed by the Senate March 3, 2004.

Approved by the Governor March 24, 2004.

Filed in Office of Secretary of State March 24, 2004.