

HOUSE BILL REPORT

HB 2759

As Reported by House Committee On:
Capital Budget

Title: An act relating to the transfer of certain real property and facilities acquired, constructed, or improved using Referendum 29 or 37 bonds.

Brief Description: Authorizing the transfer of certain real property and facilities.

Sponsors: Representatives Ericks, Pearson, Dunshee, Sells, Roberts and Rodne.

Brief History:

Committee Activity:

Capital Budget: 1/23/06, 1/26/06 [DPS].

Brief Summary of Substitute Bill

- Authorizes public bodies to transfer, without further consideration, real property and facilities acquired, constructed or improved using Referendum 29 or Referendum 37 bonds to nonprofit corporations, in exchange for the nonprofits' continuing provision of service at those sites.
- Authorizes the nonprofit corporation to sell the property transferred to it if certain conditions are satisfied.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 27 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Jarrett, Ranking Minority Member; Hankins, Assistant Ranking Minority Member; Blake, Chase, Clements, Cox, Eickmeyer, Ericks, Ericksen, Flannigan, Green, Kretz, Kristiansen, Lantz, McCune, Moeller, Morrell, Newhouse, O'Brien, Roach, Schual-Berke, Serben, Springer, Strow and Upthegrove.

Minority Report: Do not pass. Signed by 1 member: Representative Hasegawa.

Staff: Susan Howson (786-7142).

Background:

Referendum 29

In 1972, Washington voters approved a \$25 million bond issuance for the planning, acquisition, construction, and improvement of health and social service facilities in the state.

Eligible facilities included facilities for social services, adult and juvenile correction or detention, child welfare, day care, drug abuse and alcoholism treatment, mental health, public health, developmental disabilities, and vocational rehabilitation. The proceeds from the sale of bonds were administered by the Department of Social and Health Services (Department). The Department was directed to prepare a comprehensive plan for a system of social and health service facilities for the state and was directed to provide grants or loans to public bodies, including federally recognized tribes, to carry out the intent of the bond issuance. Funds were distributed based on regions identified by the Department.

Referendum 37

In 1979, Washington voters approved a \$25 million bond issuance for the planning, acquisition, construction, renovation, improvement, and equipping of regional and community facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps. Eligible facilities included nonprofit group training homes, community centers, close to home living units, sheltered workshops, vocational rehabilitation centers, developmental disability training centers, and community homes for the mentally ill. The proceeds from the sale of bonds were administered by the Department. All Washington counties were eligible to receive bond proceeds and the share distributed to each county was based on a population formula. Fixed assets acquired using these bond proceeds and no longer utilized by the program having custody of the assets could be transferred to other public bodies either in the same county or another county.

In 2005, the Attorney General's Office issued an opinion (AGO 2005 No. 1) relating to the authority of Yakima County to donate land and buildings to a nonprofit corporation operating programs for the developmentally disabled in leased facilities that were acquired or improved using Referendum 29 and 37 bonds. Neither statute contains language authorizing the transfer or donation of assets acquired with these bond proceeds to a private organization. The Attorney General's Office opined that Yakima County does not have the authority to make the donation to the nonprofit entity.

Summary of Substitute Bill:

Public bodies may transfer, without further monetary consideration, real property and facilities acquired, constructed or improved using Referendum 29 or Referendum 37 bonds to nonprofit social service providers, in exchange for the promise to continually operate services benefitting the public on the site, subject to certain conditions. The deed transferring the property must provide for immediate reversion back to the public body if the nonprofit corporation ceases to use the property for the purposes outlined in the bill. Transfers may include lease renewals.

The nonprofit corporation is authorized to sell the property transferred to it only if certain conditions are satisfied. Any sale must have the prior written approval by the Department. All proceeds from the sale must be applied to the purchase price of a different property or properties of equal or greater value than the original property. Any new property must be used for the purposes stated in the bill. The new property must be available for use within one year

of sale. If the nonprofit corporation ceases to use the new property for the specified purposes, the nonprofit corporation must reimburse the public entity for the value of the original property at the time of the sale. If the nonprofit corporation ceases to use the property for the specified purposes, the property and facilities revert immediately to the public body. The public body must determine if the property, or the reimbursed amount in the case of reimbursement, can be used by another social service program as designated by the Department. Such programs will have priority in obtaining the property to ensure the purposes of the original referenda are carried out.

Substitute Bill Compared to Original Bill:

Legislative findings regarding the importance of social services provided by certain nonprofits are added to the bill. Continued provision of these services may constitute consideration for transfer of Referendum 29 and Referendum 37 properties.

The substitute bill clarifies that public entities may transfer Referendum 29 and Referendum 37 properties without further consideration to certain nonprofit social service providers, in exchange for the promise to provide future services and subject to the conditions set forth in the bill. The substitute bill also clarifies that "transfers" can include lease renewals.

The nonprofit corporation is required to agree that if it sells the property in the future, it must reimburse the public entity.

Express authority is added in the appropriate RCW chapters for the affected public entities to engage in the transfers.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The passage of this bill is critical to avoid a major disaster for many nonprofit organizations in communities across the state. The referenda were enacted to strengthen the ability of community nonprofit organizations to provide services for people with disabilities, as well as other individuals. The referenda funded over 200 construction projects. This provided nonprofit organizations with essential facilities so they could focus their fund raising efforts on services for people rather than bricks and mortar. For nearly 25 years, nonprofit corporations have added great value to the properties affected by the bill. All additions, modifications, and repairs to the facilities have been paid for by the nonprofit. These organizations do not have the means to pay market rate rent for this property.

Testimony Against: None.

Persons Testifying: Phil McConnell, Work Opportunities; Mike Hatch; Rob Martin, Chinook Enterprises; and Tom Gaulke, Provident Horizon Group.

Persons Signed In To Testify But Not Testifying: None.