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SENATE BILL 6397

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State of Washington                      64th Legislature                      2016 Regular Session

By Senators Hill and Hargrove; by request of State Treasurer

Read first time 01/19/16. Referred to Committee on Ways & Means.

1            AN ACT Relating to state and local government fiscal agents;  
2 amending RCW 43.80.100, 43.80.120, 43.80.125, 43.80.150, 39.46.020,  
3 and 39.46.030; adding a new section to chapter 43.80 RCW; and  
4 repealing RCW 43.80.110, 43.80.130, 43.80.140, and 43.80.160.

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

6            **Sec. 1.** RCW 43.80.100 and 1984 c 7 s 48 are each amended to read  
7 as follows:

8            The definitions in this section apply throughout this chapter  
9 unless the context clearly indicates otherwise.

10            (1) "Bond" has the meaning given in RCW 39.46.020.

11            (2) "Fiscal agent contract" means the contract entered into by  
12 the state finance committee with each designated fiscal agent, as  
13 provided in RCW 43.80.120.

14            (3) "Local government" has the meaning given in RCW 39.46.020.

15            (4) "Obligation" has the meaning given in RCW 39.46.020.

16            (5) "State" has the meaning given in RCW 39.46.020.

17            (6) "State fiscal ((agencies)) agents" means those banks or trust  
18 companies ((as)) designated as provided in RCW ((43.80.110 and))  
19 43.80.120.

20            ~~((2) "Subdivision" means governmental agencies, counties, cities~~  
21 ~~and towns, metropolitan municipal corporations, port districts,~~

1 ~~school districts, townships, public colleges and universities, public~~  
2 ~~community colleges, municipal corporations, quasi municipal~~  
3 ~~corporations, and all other such governmental agencies authorized to~~  
4 ~~borrow and issue tenders of indebtedness therefor. Subdivision does~~  
5 ~~not mean housing authorities and public utility districts.~~

6 ~~(3) "Cremation" means the destruction of canceled bonds or~~  
7 ~~coupons by any approved method, including but not limited to,~~  
8 ~~cremation facilities, incineration facilities, shredding facilities,~~  
9 ~~or dissolving in acid facilities)) (7) "Treasurer" has the meaning~~  
10 given in RCW 39.46.020.

11 **Sec. 2.** RCW 43.80.120 and 1969 ex.s. c 80 s 3 are each amended  
12 to read as follows:

13 The state finance committee (~~shall~~) may designate one or more  
14 responsible banks or trust companies as state fiscal (~~agencies, each~~  
15 ~~having a paid up capital and surplus of not less than five million~~  
16 ~~dollars)) agents. The duties of a state fiscal agent to the state and~~  
17 its local governments may be determined by the state finance  
18 committee and may include, without limitation, acting as  
19 authenticating agent, transfer agent, registrar, and paying agent for  
20 bonds and other obligations of the state and local governments. The  
21 state finance committee shall designate state fiscal (~~agencies~~)  
22 agents by any method deemed (~~appropriate to~~) in the best interests  
23 of (~~this~~) the state and its (~~subdivisions.~~

24 ~~The state finance committee shall make duplicate certificates of~~  
25 ~~such designations, cause them to be attested under the seal of the~~  
26 ~~state, and file one copy of each certification in the office of the~~  
27 ~~secretary of state and transmit the other to the bank or trust~~  
28 ~~company designated.~~

29 ~~The banks or trust companies so designated shall continue to be~~  
30 ~~such fiscal agencies for the term of four years from and after the~~  
31 ~~filing of the certificate of its designation, and thereafter until~~  
32 ~~the designation of other banks or trust companies as such fiscal~~  
33 ~~agencies.~~

34 ~~Until successors have been appointed, the banks or trust~~  
35 ~~companies named shall act as the fiscal agencies of the state of~~  
36 ~~Washington in accordance with such terms as shall be agreed upon~~  
37 ~~between the state finance committee and the fiscal agencies so~~  
38 ~~designated. The manner and amount of compensation of the fiscal~~  
39 ~~agents shall be matters specifically left for the state finance~~

1 ~~committee to determine))~~ local governments. On behalf of the state,  
2 the state finance committee shall enter into a contract with each  
3 designated state fiscal agent, which contract shall set forth the  
4 scope of services to be provided by the state fiscal agent and the  
5 terms and conditions, including compensation, for the provision of  
6 those services.

7 If no ~~((such))~~ qualified bank~~((s))~~ or trust ~~((companies are))~~  
8 company is willing to accept ~~((appointment))~~ designation as state  
9 fiscal ~~((agencies))~~ agent, or if the state finance committee  
10 considers unsatisfactory the terms under which such bank~~((s))~~ or  
11 trust ~~((companies are))~~ company is willing so to act, the bonds and  
12 ~~((bond interest coupons))~~ other obligations normally payable ~~((at))~~  
13 by the state fiscal ~~((agency,))~~ agent shall thereupon become payable  
14 at the state treasury or at the office of the treasurer ~~((or fiscal~~  
15 ~~officer))~~ of the ~~((subdivision concerned))~~ local government, as the  
16 case may be.

17 **Sec. 3.** RCW 43.80.125 and 1995 c 38 s 10 are each amended to  
18 read as follows:

19 ~~((1))~~ The state treasurer or the treasurer of a local  
20 government may appoint a state fiscal ~~((agencies designated pursuant~~  
21 ~~to RCW 43.80.110 and 43.80.120 may be appointed by the state~~  
22 ~~treasurer or a local treasurer))~~ agent to act as registrar,  
23 authenticating agent, transfer agent, paying agent, or other agent in  
24 connection with the issuance by the state or local government of  
25 registered bonds or other obligations pursuant to a system of  
26 registration as provided by RCW 39.46.030 ~~((and may establish and~~  
27 ~~maintain on behalf of the state or local government a central~~  
28 ~~depository system for the transfer or pledge of bonds or other~~  
29 ~~obligations. The term "local government" shall be as defined in RCW~~  
30 ~~39.46.020.~~

31 ~~(2) Whenever in the judgment of the fiscal agencies, certain~~  
32 ~~services as registrar, authenticating agent, transfer agent, paying~~  
33 ~~agent, or other agent in connection with the establishment and~~  
34 ~~maintenance of a central depository system for the transfer or pledge~~  
35 ~~of registered public obligations, or in connection with the issuance~~  
36 ~~by any public entity of registered public obligations pursuant to a~~  
37 ~~system of registration as provided in chapter 39.46 RCW, can be~~  
38 ~~secured from private sources more economically than by carrying out~~  
39 ~~such duties themselves, they may contract out all or any of such~~

1 ~~services to such private entities as such fiscal agencies deem~~  
2 ~~capable of carrying out such duties in a responsible manner)).~~

3 **Sec. 4.** RCW 43.80.150 and 1969 ex.s. c 80 s 6 are each amended  
4 to read as follows:

5 Neither the state treasurer nor the treasurer or other fiscal  
6 officer of any (~~subdivision thereof~~) local government shall be held  
7 responsible for funds (~~remitted to the~~) received by a state fiscal  
8 (~~agencies~~) agent. The state fiscal agent bears the risk of loss for  
9 any funds transferred to it under the fiscal agent contract.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.80  
11 RCW to read as follows:

12 The state finance committee may adopt appropriate rules to carry  
13 out the purposes of this chapter, including without limitation rules  
14 relating to the responsibilities of state fiscal agents and the  
15 responsibilities of the state and local governments with respect to  
16 state fiscal agents.

17 **Sec. 6.** RCW 39.46.020 and 2011 c 211 s 1 are each amended to  
18 read as follows:

19 Unless the context clearly requires otherwise, the definitions in  
20 this section apply throughout this chapter.

21 (1) "Bond" means any agreement, which may or may not be  
22 represented by a physical instrument, including notes, warrants, or  
23 certificates of indebtedness, that evidences an indebtedness of the  
24 state or a local government or a fund thereof, where the state or  
25 local government agrees to pay a specified amount of money, with or  
26 without interest, at a designated time or times to either registered  
27 owners or bearers, including debt issued under chapter 39.50 RCW.

28 (2) "Host approval" means an approval of an issue of bonds by an  
29 applicable elected representative of the state or local government,  
30 having jurisdiction, for purposes of section 147(f)(2)(A)(ii) of the  
31 internal revenue code, over the area in which a facility is located  
32 that is to be financed with bonds issued by an issuer that is not the  
33 state or a local government.

34 (3) "Local government" means any county, city, town, special  
35 purpose district, political subdivision, municipal corporation, or  
36 quasi-municipal corporation, including any public corporation or  
37 instrumentality created by such an entity.

1 (4) "Obligation" means an agreement that evidences an  
2 indebtedness of the state or a local government or a fund thereof,  
3 other than a bond, and includes, but is not limited to, conditional  
4 sales contracts, lease obligations, and promissory notes.

5 (5) "State" includes the state, agencies of the state, and public  
6 corporations and instrumentalities created by the state or agencies  
7 of the state.

8 (6) "Treasurer" means the state treasurer, county treasurer, city  
9 treasurer, or (~~treasurer~~) other officer responsible for treasury  
10 functions of any other (~~municipal corporation~~) local government.

11 **Sec. 7.** RCW 39.46.030 and 1995 c 38 s 7 are each amended to read  
12 as follows:

13 (1) The state and local governments are authorized to establish a  
14 system of registering the ownership of their bonds or other  
15 obligations as to principal and interest, or principal only.  
16 Registration may include, without limitation: (a) A book entry system  
17 of recording the ownership of a bond or other obligation whether or  
18 not a physical instrument is issued; or (b) recording the ownership  
19 of a bond or other obligation together with the requirement that the  
20 transfer of ownership may only be effected by the surrender of the  
21 old bond or other obligation and either the reissuance of the old  
22 bond or other obligation or the issuance of a new bond or other  
23 obligation to the new owner.

24 (2) The system of registration shall define the method or methods  
25 by which transfer of the registered bonds or other obligations shall  
26 be effective, and by which payment of principal and any interest  
27 shall be made. The system of registration may permit the issuance of  
28 bonds or other obligations in any denomination to represent several  
29 registered bonds or other obligations of smaller denominations. The  
30 system of registration may also provide for any writing relating to a  
31 bond or other obligation that is not issued as a physical instrument,  
32 for identifying numbers or other designations, for a sufficient  
33 supply of certificates for subsequent transfers, for record and  
34 payment dates, for varying denominations, for communications to the  
35 owners of bonds or other obligations, for accounting, canceled  
36 certificate destruction, registration and release of securing  
37 interests, and for such other incidental matters pertaining to the  
38 registration of bonds or other obligations as the issuer may deem to  
39 be necessary or appropriate.

1           (3)(a) The state treasurer or ~~((a local))~~ the treasurer of a  
2 local government may appoint (i) one or more of the state fiscal  
3 ~~((agencies appointed from time to time by the state finance committee~~  
4 ~~in accordance with chapter 43.80 RCW))~~ agents or (ii) other fiscal  
5 agents to act with respect to an issue of its bonds or other  
6 obligations as authenticating ~~((trustee))~~ agent, transfer agent,  
7 registrar, and paying or other agent and specify the rights and  
8 duties and means of compensation of any such fiscal ~~((agency))~~ agent  
9 so acting. ~~((The state treasurer or local treasurers may also enter~~  
10 ~~into agreements with the fiscal agency or agencies in connection with~~  
11 ~~the establishment and maintenance by such fiscal agency or agencies~~  
12 ~~of a central depository system for the transfer or pledge of bonds or~~  
13 ~~other obligations.))~~

14           (b) The county treasurer as ex officio treasurer of a special  
15 district shall act as fiscal agent for such special district, unless  
16 the county treasurer appoints either one or more of the state fiscal  
17 ~~((agencies appointed from time to time by the state finance committee~~  
18 ~~in accordance with chapter 43.80 RCW))~~ agents or other fiscal  
19 ~~((agents))~~ agent selected ~~((in a manner consistent with RCW~~  
20 ~~43.80.120))~~ by the county treasurer to act with respect to an issue  
21 of ~~((its))~~ the special district's bonds or other obligations as  
22 authenticating ~~((trustee))~~ agent, transfer agent, registrar, and  
23 paying or other fiscal agent and specify the rights and duties and  
24 means of compensation of any such fiscal ~~((agency))~~ agent.

25           (4) Nothing in this section precludes the issuer, or a trustee  
26 appointed by the issuer pursuant to any other provision of law, from  
27 itself performing, either alone or jointly with other issuers, fiscal  
28 agencies, or trustees, any transfer, registration, authentication,  
29 payment, or other function described in this section.

30           NEW SECTION. Sec. 8. The following acts or parts of acts are  
31 each repealed:

32           (1) RCW 43.80.110 (Appointment of fiscal agencies—Location—  
33 Places for payment of bonds) and 1983 c 167 s 117, 1982 c 216 s 1, &  
34 1969 ex.s. c 80 s 2;

35           (2) RCW 43.80.130 (Receipts—Payment procedure—Cremation—  
36 Certificate of destruction) and 2009 c 549 s 5157 & 1969 ex.s. c 80 s  
37 4;

1           (3) RCW 43.80.140 (Notice of establishment of fiscal agencies—  
2 Publication—Bonds and coupons paid at fiscal agencies) and 1969 ex.s.  
3 c 80 s 5; and

4           (4) RCW 43.80.160 (Return of funds remitted to redeem bonds and  
5 coupons which remain unredeemed) and 1969 ex.s. c 80 s 7.

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