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SECOND SUBSTITUTE SENATE BILL 5345

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State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Bauer, McCaslin, Snyder, Loveland, McAuliffe, Winsley and Oke; by request of State Treasurer)

Read first time 03/01/1999.

1 AN ACT Relating to the Washington state school district credit  
2 enhancement program; amending RCW 43.79A.040 and 39.42.060; adding a  
3 new chapter to Title 39 RCW; and providing a contingent effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that implementation of  
6 the credit enhancement program provided for in this chapter can provide  
7 substantial savings to the taxpayers of the state of Washington with  
8 minimal cost or risk to the state government. The guaranty provided by  
9 pledging the credit of the state to the payment of voter-approved  
10 school district general obligation bonds will encourage lower interest  
11 rates, and therefore lower taxes, for such bonds than school districts  
12 alone can command, despite the excellent credit history of such  
13 obligations.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply  
15 throughout this chapter unless the context clearly requires otherwise.

16 (1) "Bond" means any voted general obligation bond issued by a  
17 school district, holding a certificate issued pursuant to this chapter  
18 for such a bond.

1 (2) "Credit enhancement program" means the school district bond  
2 guaranty established by this chapter.

3 (3) "General obligation bond" means any bond, note, warrant,  
4 certificate of indebtedness, or other obligation of a district that  
5 constitutes an indebtedness within the meaning of any applicable  
6 constitutional or statutory debt limitations.

7 (4) "Paying agent" means the paying agent selected, from time to  
8 time, for a bond issue pursuant to state law.

9 (5) "Refunding bond" means any general obligation bond issued by a  
10 district for the purpose of refunding its outstanding general  
11 obligation bonds.

12 (6) "School district" or "district" means any school district  
13 existing now or later under the laws of the state.

14 NEW SECTION. **Sec. 3.** (1)(a) The full faith, credit, and taxing  
15 power of the state is pledged to guarantee full and timely payment of  
16 the principal of and interest on bonds as such payments become due.  
17 However, in the event of any acceleration of the due date of the  
18 principal by reason of mandatory redemption or acceleration resulting  
19 from default, the payments guaranteed shall be made in the amounts and  
20 at the times as payments of principal would have been due had there not  
21 been any acceleration.

22 (b) This guaranty does not extend to the payment of any redemption  
23 premium.

24 (c) Reference to this chapter by its title on the face of any bond  
25 conclusively establishes the guaranty provided to that bond under the  
26 provisions of this chapter.

27 (2)(a) The state pledges to and agrees with the owners of any bonds  
28 that the state will not alter, impair, or limit the rights vested by  
29 the credit enhancement program with respect to the bonds until the  
30 bonds, together with applicable interest, are fully paid and  
31 discharged. However, this chapter does not preclude an alteration,  
32 impairment, or limitation if full provision is made by law for the  
33 payment of the bonds.

34 (b) Each district may refer to this pledge and undertaking by the  
35 state in its bonds.

36 (3) Only validly issued bonds issued after the effective date of  
37 this section may be guaranteed under this chapter.

1        NEW SECTION.    **Sec. 4.**    (1)(a) Any district, by resolution of its  
2 board of directors, may request that the state treasurer issue a  
3 certificate evidencing the state's guaranty, under this chapter, of its  
4 bonds.

5        (b) After reviewing the request, if the state treasurer determines  
6 that the district is eligible under rules adopted by the state finance  
7 committee, the state treasurer shall promptly issue the certificate as  
8 to specific bonds of the district and provide it to the requesting  
9 district.

10       (c)(i) The district receiving the certificate and all other persons  
11 may rely on the certificate as evidencing the guaranty for bonds issued  
12 within one year from and after the date of the certificate, without  
13 making further inquiry during that year.

14       (ii) The certificate of eligibility is valid for one year even if  
15 the state treasurer later determines that the school district is  
16 ineligible.

17       (2) Any district that chooses to forego the benefits of the  
18 guaranty provided by this chapter for a particular issue of bonds may  
19 do so by not referring to this chapter on the face of its bonds.

20       (3) Any district that has bonds, the principal of or interest on  
21 which has been paid, in whole or in part, by the state under this  
22 chapter, may not issue any additional bonds guaranteed by this chapter  
23 until:

24       (a) All payment obligations of the district to the state under the  
25 credit enhancement program are satisfied; and

26       (b) The state treasurer and the state superintendent of public  
27 instruction each certify in writing, to be kept on file by the state  
28 treasurer and the state superintendent of public instruction, that the  
29 district is fiscally solvent.

30       (4) The state finance committee may establish by rule fees  
31 sufficient to cover the costs of administering this chapter, including  
32 the establishment of a reserve for funding the state's payment of  
33 principal and interest on bonds.

34       NEW SECTION.    **Sec. 5.**    (1)(a) The county treasurer for each  
35 district with outstanding, unpaid bonds shall transfer money sufficient  
36 for each scheduled debt service payment to its paying agent on or  
37 before any principal or interest payment date for the bonds.

1 (b) A county treasurer who is unable to transfer a scheduled debt  
2 service payment to the paying agent on the transfer date shall  
3 immediately notify the paying agent and the state treasurer by:

4 (i) Telephone;

5 (ii) A writing sent by facsimile or electronic transmission; and

6 (iii) A writing sent by first class United States mail.

7 (2) If sufficient funds are not transferred to the paying agent as  
8 required by subsection (1) of this section, the paying agent shall  
9 immediately notify the state treasurer of that failure by:

10 (a) Telephone;

11 (b) A writing sent by facsimile or electronic transmission; and

12 (c) A writing sent by first class United States mail.

13 (3)(a) If sufficient money to pay the scheduled debt service  
14 payment have not been so transferred to the paying agent, the state  
15 treasurer shall, forthwith, transfer sufficient money to the paying  
16 agent to make the scheduled debt service payment.

17 (b) The payment by the state treasurer:

18 (i) Discharges the obligation of the issuing district to its bond  
19 owners for the payment, but does not retire any bond that has matured.  
20 The terms of that bond remain in effect until the state is repaid; and

21 (ii) Transfers the rights represented by the general obligation of  
22 the district from the bond owners to the state.

23 (c) The district shall repay to the state the money so transferred  
24 as provided in this chapter.

25 NEW SECTION. **Sec. 6.** (1) Any district that has issued bonds for  
26 which the state has made all or part of a debt service payment shall:

27 (a) Reimburse all money drawn by the state treasurer on its behalf;

28 (b) Pay interest to the state on all money paid by the state from  
29 the date that money was drawn to the date the state is repaid at a rate  
30 to be prescribed by rule by the state finance committee; and

31 (c) Pay all penalties required by this chapter.

32 (2)(a) The state treasurer shall establish the reimbursement  
33 interest rate after considering the circumstances of any prior draws by  
34 the district on the state, market interest and penalty rates, and the  
35 cost of funds or opportunity cost of investments, if any, that were  
36 required to be borrowed or liquidated by the state to make payment on  
37 the bonds.

1 (b) The state treasurer may, after considering the circumstances  
2 giving rise to the failure of the district to make payment on its bonds  
3 in a timely manner, impose on the district a penalty of not more than  
4 five percent of the amount paid by the state pursuant to its guaranty  
5 for each instance in which a payment by the state is made.

6 (3)(a)(i) If the state treasurer determines that amounts obtained  
7 under this chapter will not reimburse the state in full within one year  
8 from the state's payment of a district's scheduled debt service  
9 payment, the state treasurer may pursue any legal action, including  
10 mandamus, against the district to compel it to meet its repayment  
11 obligations to the state.

12 (ii) In pursuing its rights under (a)(i) of this subsection, the  
13 state shall have the same substantive and procedural rights as would a  
14 holder of the bonds of a district. If and to the extent that the state  
15 has made payments to the holders of bonds of a district under section  
16 5 of this act and has not been reimbursed by the district, the state  
17 shall be subrogated to the rights of those bond holders.

18 (iii) The state treasurer may also direct the district and the  
19 appropriate county officials to restructure and revise the collection  
20 of taxes for the payment of bonds on which the state treasurer has made  
21 payments under this chapter and, to the extent permitted by law, may  
22 require that the proceeds of such taxes be applied to the district's  
23 obligations to the state if all outstanding obligations of the school  
24 district payable from such taxes are fully paid or their payment is  
25 fully provided for.

26 (b) The district shall pay the fees, expenses, and costs incurred  
27 by the state in recovering amounts paid under the guaranty authorized  
28 by this chapter.

29 NEW SECTION. **Sec. 7.** In order to effect the provisions of Article  
30 VIII, section 1(e) of the state Constitution, Senate Joint Resolution  
31 No. 8206, the legislature shall make provision for such amounts as may  
32 be required to make timely payments under the state school district  
33 credit enhancement program under this chapter in each and every  
34 biennial appropriations act.

35 NEW SECTION. **Sec. 8.** The state finance committee may adopt, under  
36 chapter 34.05 RCW, all rules necessary and appropriate for the  
37 implementation and administration of this chapter.

1        NEW SECTION.    **Sec. 9.**    The school district credit enhancement  
2 program reserve account is created in the custody of the state  
3 treasurer. All fees and other money collected by the state treasurer  
4 under this chapter shall be deposited into the account. The state  
5 treasurer or a designee may authorize expenditures from the account for  
6 carrying out the purposes of this chapter. The account is not subject  
7 to allotment procedures under chapter 43.88 RCW. An appropriation is  
8 not required for expenditures from this account.

9        **Sec. 10.**    RCW 43.79A.040 and 1998 c 268 s 1 are each amended to  
10 read as follows:

11        (1) Money in the treasurer's trust fund may be deposited, invested,  
12 and reinvested by the state treasurer in accordance with RCW 43.84.080  
13 in the same manner and to the same extent as if the money were in the  
14 state treasury.

15        (2) All income received from investment of the treasurer's trust  
16 fund shall be set aside in an account in the treasury trust fund to be  
17 known as the investment income account.

18        (3) The investment income account may be utilized for the payment  
19 of purchased banking services on behalf of treasurer's trust funds  
20 including, but not limited to, depository, safekeeping, and  
21 disbursement functions for the state treasurer or affected state  
22 agencies. The investment income account is subject in all respects to  
23 chapter 43.88 RCW, but no appropriation is required for payments to  
24 financial institutions. Payments shall occur prior to distribution of  
25 earnings set forth in subsection (4) of this section.

26        (4)(a) Monthly, the state treasurer shall distribute the earnings  
27 credited to the investment income account to the state general fund  
28 except under (b) and (c) of this subsection.

29        (b) The following accounts and funds shall receive their  
30 proportionate share of earnings based upon each account's or fund's  
31 average daily balance for the period: The Washington advanced college  
32 tuition payment program account, the agricultural local fund, the  
33 American Indian scholarship endowment fund, the Washington  
34 international exchange scholarship endowment fund, the energy account,  
35 the fair fund, the game farm alternative account, the grain inspection  
36 revolving fund, the rural rehabilitation account, the stadium and  
37 exhibition center account, the youth athletic facility grant account,  
38 the self-insurance revolving fund, the sulfur dioxide abatement

1 account, ((and)) the children's trust fund, and the school district  
2 credit enhancement program reserve account. However, the earnings to  
3 be distributed shall first be reduced by the allocation to the state  
4 treasurer's service fund pursuant to RCW 43.08.190.

5 (c) The following accounts and funds shall receive eighty percent  
6 of their proportionate share of earnings based upon each account's or  
7 fund's average daily balance for the period: The advanced right of way  
8 revolving fund, the advanced environmental mitigation revolving  
9 account, the federal narcotics asset forfeitures account, the high  
10 occupancy vehicle account, the local rail service assistance account,  
11 and the miscellaneous transportation programs account.

12 (5) In conformance with Article II, section 37 of the state  
13 Constitution, no trust accounts or funds shall be allocated earnings  
14 without the specific affirmative directive of this section.

15 **Sec. 11.** RCW 39.42.060 and 1997 c 220 s 220 (Referendum Bill No.  
16 48) are each amended to read as follows:

17 No bonds, notes, or other evidences of indebtedness for borrowed  
18 money shall be issued by the state which will cause the aggregate debt  
19 contracted by the state to exceed that amount for which payments of  
20 principal and interest in any fiscal year would require the state to  
21 expend more than seven percent of the arithmetic mean of its general  
22 state revenues, as defined in section 1(c) of Article VIII of the  
23 Washington state Constitution for the three immediately preceding  
24 fiscal years as certified by the treasurer in accordance with RCW  
25 39.42.070. It shall be the duty of the state finance committee to  
26 compute annually the amount required to pay principal of and interest  
27 on outstanding debt. In making such computation, the state finance  
28 committee shall include all borrowed money represented by bonds, notes,  
29 or other evidences of indebtedness which are secured by the full faith  
30 and credit of the state or are required to be paid, directly or  
31 indirectly, from general state revenues and which are incurred by the  
32 state, any department, authority, public corporation or quasi public  
33 corporation of the state, any state university or college, or any other  
34 public agency created by the state but not by counties, cities, towns,  
35 school districts, or other municipal corporations, and shall include  
36 debt incurred pursuant to section 3 of Article VIII of the Washington  
37 state Constitution, but shall exclude the following:

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

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

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

5 (4) Any indebtedness which has been refunded;

6 (5) Financing contracts entered into under chapter 39.94 RCW;

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

12 (7) Indebtedness authorized and incurred after July 1, 1993,  
13 pursuant to statute that requires that the state treasury be  
14 reimbursed, in the amount of the principal of and the interest on such  
15 indebtedness, from (a) moneys outside the state treasury, except higher  
16 education operating fees, (b) higher education building fees, (c)  
17 indirect costs recovered from federal grants and contracts, and (d)  
18 fees and charges associated with hospitals operated or managed by  
19 institutions of higher education;

20 (8) Any agreement, promissory note, or other instrument entered  
21 into by the state finance committee under RCW 39.42.030 in connection  
22 with its acquisition of bond insurance, letters of credit, or other  
23 credit support instruments for the purpose of guaranteeing the payment  
24 or enhancing the marketability, or both, of any state bonds, notes, or  
25 other evidence of indebtedness; ((and))

26 (9) Indebtedness incurred for the purposes identified in RCW  
27 43.99N.020; and

28 (10) Indebtedness incurred for the purposes of the school district  
29 bond guaranty established by chapter 39.-- RCW (sections 1 through 9 of  
30 this act).

31 To the extent necessary because of the constitutional or statutory  
32 debt limitation, priorities with respect to the issuance or  
33 guaranteeing of bonds, notes, or other evidences of indebtedness by the  
34 state shall be determined by the state finance committee.

35 NEW SECTION. **Sec. 12.** This act takes effect January 1, 2000, if  
36 the proposed amendment to Article VIII, section 1 of the state  
37 Constitution, guaranteeing the general obligation debt of school  
38 districts, is validly submitted to and is approved and ratified by the

1 voters at the next general election. If the proposed amendment is not  
2 approved and ratified, this act is void in its entirety.

3 NEW SECTION. **Sec. 13.** Sections 1 through 9 of this act constitute  
4 a new chapter in Title 39 RCW.

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