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**SUBSTITUTE HOUSE BILL 2936**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Senn and Chandler; by request of State Treasurer)

AN ACT Relating to public investments; amending RCW 28B.07.040, 39.59.010, 39.59.020, 39.60.010, 39.60.020, 39.60.030, 39.60.040, 39.60.050, and 43.84.080; reenacting and amending RCW 43.250.020; adding a new section to chapter 39.59 RCW; adding a new section to chapter 28B.10 RCW; and repealing RCW 39.59.030 and 43.250.090.

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

**Sec.**  RCW 28B.07.040 and 2012 c 229 s 508 are each amended to read as follows:

The authority is authorized and empowered to do the following, on such terms, with such security and undertakings, subject to such conditions, and in return for such consideration, as the authority shall determine in its discretion to be necessary, useful, or convenient in accomplishing the purposes of this chapter:

(1) To promulgate rules in accordance with chapter 34.05 RCW;

(2) To adopt an official seal and to alter the same at pleasure;

(3) To maintain an office at any place or places as the authority may designate;

(4) To sue and be sued in its own name, and to plead and be impleaded;

(5) To make and execute agreements with participants and others and all other instruments necessary, useful, or convenient for the accomplishment of the purposes of this chapter;

(6) To provide long-term or short-term financing or refinancing to participants for project costs, by way of loan, lease, conditional sales contract, mortgage, option to purchase, or other financing or security device or any such combination;

(7) If, in order to provide to participants the financing or refinancing of project costs described in subsection (6) of this section, the authority deems it necessary or convenient for it to own a project or projects or any part of a project or projects, for any period of time, it may acquire, contract, improve, alter, rehabilitate, repair, manage, operate, mortgage, subject to a security interest, lease, sell, or convey the project;

(8) To fix, revise from time to time, and charge and collect from participants and others rates, rents, fees, charges, and repayments as necessary to fully and timely reimburse the authority for all expenses incurred by it in providing the financing and refinancing and other services under this section and for the repayment, when due, of all the principal of, redemption premium, if any, and interest on all bonds issued under this chapter to provide the financing, refinancing, and services;

(9) To accept and receive funds, grants, gifts, pledges, guarantees, mortgages, trust deeds, and other security instruments, and property from the federal government or the state or other public body, entity, or agency and from any public or private institution, association, corporation, or organization, including participants. It shall not accept or receive from the state or any taxing agency any money derived from taxes, except money to be devoted to the purposes of a project of the state or of a taxing agency;

(10) To open and maintain a bank account or accounts in one or more qualified public depositories in this state and to deposit all or any part of authority funds therein;

(11) To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, an executive director, and such other employees and agents as may be necessary in its judgment to carry out the purposes of this chapter, and to fix their compensation;

(12) To provide financing or refinancing to two or more participants for a single project or for several projects in such combinations as the authority deems necessary, useful, or convenient;

(13) To charge to and equitably apportion among participants the administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter;

(14) To consult with the student achievement council to determine project priorities under the purposes of this chapter; ((~~and~~))

(15) Provide for the investment of any funds, including funds held in reserve, not required for immediate disbursement, and provide for the selection of investments; and

(16) To do all other things necessary, useful, or convenient to carry out the purposes of this chapter.

In the exercise of any of these powers, the authority shall incur no expense or liability which shall be an obligation, either general or special, of the state, or a general obligation of the authority, and shall pay no expense or liability from funds other than funds of the authority. Funds of the state shall not be used for such purpose.

**Sec.**  RCW 39.59.010 and 2015 c 225 s 50 are each amended to read as follows:

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

(1) "Bond" means any agreement which may or may not be represented by a physical instrument, including but not limited to bonds, notes, warrants, or certificates of indebtedness, that evidences an obligation under which the issuer agrees to pay a specified amount of money, with or without interest, at a designated time or times either to registered owners or bearers.

(2) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including any public corporation, authority, or other instrumentality created by such an entity.

(3) ((~~"Money market fund" means a mutual fund the portfolio which consists of only bonds having maturities or demand or tender provisions of not more than one year, managed by an investment advisor who has posted with the office of risk management in the department of enterprise services a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to RCW 39.59.030 (2) or (3).~~

~~(4) "Mutual fund" means a diversified mutual fund registered with the federal securities and exchange commission and which is managed by an investment advisor with assets under management of at least five hundred million dollars and with at least five years' experience in investing in bonds authorized for investment by this chapter and who has posted with the office of risk management in the department of enterprise services a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to RCW 39.59.030(1).~~

~~(5)~~)) "State" includes ((~~a state, agencies, authorities, and instrumentalities of a state, and public corporations created by a state or agencies, authorities, or instrumentalities of a state~~)) any state in the United States, other than the state of Washington.

**Sec.**  RCW 39.59.020 and 1988 c 281 s 2 are each amended to read as follows:

((~~In addition to any other investment authority granted by law and notwithstanding any provision of law to the contrary, the state of Washington and~~)) (1) Local governments in the state of Washington are authorized to invest their funds and money in their custody or possession, eligible for investment, in((~~:~~

~~(1) Bonds of the state of Washington and any local government in the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;~~

~~(2) General obligation bonds of a state other than the state of Washington and general obligation bonds of a local government of a state other than the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;~~

~~(3) Subject to compliance with RCW 39.56.030, registered warrants of a local government in the same county as the government making the investment; or~~

~~(4) Any investments authorized by law for the treasurer of the state of Washington or any local government of the state of Washington other than a metropolitan municipal corporation but, except as provided in chapter 39.58 RCW, such investments shall not include certificates of deposit of banks or bank branches not located in the state of Washington~~)) investments authorized by this chapter.

(2) Nothing in this section is intended to limit or otherwise restrict a local government from investing in additional authorized investments if that local government has specific authority to do so.

NEW SECTION. **Sec.**  A new section is added to chapter 39.59 RCW to read as follows:

Any local government in the state of Washington may invest in:

(1) Bonds of the state of Washington and any local government in the state of Washington;

(2) General obligation bonds of a state and general obligation bonds of a local government of a state, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(3) Subject to compliance with RCW 39.56.030, registered warrants of a local government in the same county as the government making the investment;

(4) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States; or United States dollar denominated bonds, notes, or other obligations that are issued or guaranteed by supranational institutions, provided that, at the time of investment, the institution has the United States government as its largest shareholder;

(5) Federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(6) Bankers' acceptances purchased on the secondary market;

(7) Commercial paper purchased in the secondary market, provided that any local government of the state of Washington that invests in such commercial paper must adhere to the investment policies and procedures adopted by the state investment board; and

(8) Corporate notes purchased on the secondary market, provided that any local government of the state of Washington that invests in such notes must adhere to the investment policies and procedures adopted by the state investment board.

NEW SECTION. **Sec.**  RCW 39.59.030 (Authorized investments—Mutual funds and money market funds) and 1988 c 281 s 3 are each repealed.

**Sec.**  RCW 39.60.010 and 1939 c 32 s 1 are each amended to read as follows:

Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be lawful ((~~for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivision of the state, or any political or public corporation of the state, or~~)) for any insurance company, savings and loan association, or for any bank, trust company or other financial institution, operating under the laws of the state of Washington, or for any executor, administrator, guardian or conservator, trustee or other fiduciary to invest its funds or the moneys in its custody or possession, eligible for investment, in notes or bonds secured by mortgage which the Federal Housing Administrator has insured or has made a commitment to insure in obligations of national mortgage associations, in debentures issued by the Federal Housing Administrator, and in the bonds of the Home Owner's Loan Corporation, a corporation organized under and by virtue of the authority granted in H.R. 5240, designated as the Home Owner's Loan Act of 1933, passed by the congress of the United States and approved June 13, 1933, and in bonds of any other corporation which is or hereafter may be created by the United States, as a governmental agency or instrumentality.

**Sec.**  RCW 39.60.020 and 1933 ex.s. c 37 s 2 are each amended to read as follows:

Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be also lawful ((~~for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivisions of the state, or any political or public corporation of the state, or~~)) for any insurance company, savings and loan association, building and loan association, or for any bank, trust company or other financial institution, operating under the laws of the state of Washington, or for any executor, administrator, guardian or conservator, trustee or other fiduciary, to exchange any mortgages, contracts, judgments or liens owned or held by it, for the bonds of the Home Owners' Loan Corporation, a corporation organized under and by virtue of the authority granted in H.R. 5240, designated as The Home Owners' Loan Act of 1933, passed by the congress of the United States and approved June 13, 1933, or for the bonds of any other corporation which is or hereafter may be created by the United States as a governmental agency or instrumentality; and to accept said bonds at their par value in any such exchange.

**Sec.**  RCW 39.60.030 and 1939 c 32 s 2 are each amended to read as follows:

Wherever, by statute of this state, collateral is required as security for the deposit of ((~~public or other~~)) funds; or deposits are required to be made with any public official or department; or an investment of capital or surplus, or a reserve or other fund is required to be maintained consisting of designated securities, the bonds and other securities herein made eligible for investment shall also be eligible for such purpose.

**Sec.**  RCW 39.60.040 and 1967 ex.s. c 48 s 1 are each amended to read as follows:

The obligations issued pursuant to said Federal Home Loan Bank Act and to said Title IV of the National Housing Act as such acts are now or hereafter amended, and the shares, deposits or accounts of any institution which has the insurance protection provided by Title IV of the National Housing Act, as now or hereafter amended, may be used at face value or withdrawal value, and bonds or other interest bearing obligations as to which the payment of some but less than the full principal and interest is guaranteed by the United States of America or any agency thereof may be used to the extent of the portion so guaranteed, wherever, by statute of this state or otherwise, collateral is required as security for the deposit of ((~~public or other~~)) funds, or deposits are required to be made with any public official or department, or an investment of capital or surplus, or a reserve or other fund, is required to be maintained consisting of designated security, or wherever by statute of this state or otherwise, any surety, whether personal, corporate, or otherwise, or any collateral or security, is required or permitted for any purpose, including without limitation on the generality of the foregoing, any bond, recognizance, or undertaking.

**Sec.**  RCW 39.60.050 and 1970 ex.s. c 93 s 1 are each amended to read as follows:

Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be lawful ((~~for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivision, or any political or public corporation of the state, or~~)) for any executor, administrator, guardian, or conservator, trustee or other fiduciary, to invest its funds or the moneys in its custody or possession, eligible for investment, in notes, bonds, or debentures of savings and loan associations, banks, mutual savings banks, savings and loan service corporations operating with approval of the federal home loan bank, and corporate mortgage companies: PROVIDED, That the notes, bonds or debentures are rated not less than "A" by a nationally recognized rating agency, or are insured or guaranteed by an agency of the federal government or by private insurer authorized to do business in the state: PROVIDED FURTHER, That the notes, bonds and debentures insured or guaranteed by a private insurer shall also be backed by a pool of mortgages equal to the amount of the notes, bonds or debentures.

**Sec.**  RCW 43.84.080 and 1982 c 148 s 1 are each amended to read as follows:

Wherever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, the state treasurer may invest or reinvest such portion of such funds or balances as the state treasurer deems expedient in the following ((~~defined securities or classes of investments~~)):

(1) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States or United States dollar denominated bonds, notes, or other obligations that are issued or guaranteed by supranational institutions, provided that, at the time of investment, the institution has the United States government as its largest shareholder;

(2) In state, county, municipal, or school district bonds, notes, or in warrants of taxing districts of the state. Such bonds and warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations. The state treasurer may purchase such bonds or warrants directly from the taxing district or in the open market at such prices and upon such terms as it may determine, and may sell them at such times as it deems advisable;

(3) ((~~In motor vehicle fund warrants when authorized by agreement between the state treasurer and the department of transportation requiring repayment of invested funds from any moneys in the motor vehicle fund available for state highway construction;~~

~~(4)~~)) In federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

((~~(5)~~)) (4) Bankers' acceptances purchased on the secondary market;

((~~(6) Negotiable certificates of deposit of any national or state commercial or mutual savings bank or savings and loan association doing business in the United States: PROVIDED, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board;~~

~~(7)~~)) (5) Commercial paper((~~: PROVIDED,~~)) purchased in the secondary market, provided that the state treasurer ((~~shall~~)) adheres to the investment policies and procedures adopted by the state investment board;

(6) General obligation bonds of any state and general obligation bonds of local governments of other states, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency; and

(7) Corporate notes purchased on the secondary market, provided that the state treasurer adheres to the investment policies and procedures adopted by the state investment board.

**Sec.**  RCW 43.250.020 and 2010 1st sp.s. c 10 s 2 are each reenacted and amended to read as follows:

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

(1) "Authorized tribal official" means any officer or employee of a qualifying federally recognized tribe who has been expressly designated by tribal constitution, ordinance, or resolution as the officer having the authority to invest the funds of the qualifying federally recognized tribe or federally recognized political subdivisions thereof.

(2) "Eligible governmental entity" means any county, city, town, municipal corporation, quasi-municipal corporation, public corporation, political subdivision, or special purpose taxing district in the state, an instrumentality of any of the foregoing governmental entities created under chapter 39.34 RCW, any agency of state government, any entity issuing or executing and delivering bonds or certificates of participation with respect to financing contracts approved by the state finance committee under RCW 39.94.040, and any qualifying federally recognized tribe or federally recognized political subdivisions thereof.

(3) "Financial officer" means the board-appointed treasurer of a community or technical college district, the state board for community and technical colleges, or a public four-year institution of higher education.

(4) "Funds" means:

(a) Funds of an eligible governmental entity under the control of or in the custody of any government finance official or local funds, as defined by the office of financial management publication "Policies, Regulations and Procedures," under the control of or in the custody of a financial officer by virtue of the official's authority that are not immediately required to meet current demands((~~;~~

~~(b) State funds deposited in the investment pool by the state treasurer that are the proceeds of bonds, notes, or other evidences of indebtedness authorized by the state finance committee under chapter 39.42 RCW, or the proceeds of bonds or certificates of participation with respect to financing contracts approved by the state finance committee under RCW 39.94.040, or payments pursuant to financing contracts under chapter 39.94 RCW, when the investments are made in order to comply with the Internal Revenue Code of 1986, as amended~~)); and

((~~(c)~~)) (b) Tribal funds under the control of or in the custody of any qualifying federally recognized tribe or federally recognized political subdivisions thereof, where the tribe warrants that the use or disposition of the funds are either not subject to, or are used and deposited with federal approval, and where the tribe warrants that the funds are not immediately required to meet current demands.

(5) "Government finance official" means any officer or employee of an eligible governmental entity who has been designated by statute or by local charter, ordinance, resolution, or other appropriate official action, as the officer having the authority to invest the funds of the eligible governmental entity. However, the county treasurer shall be deemed the only government finance official for all public agencies for which the county treasurer has exclusive statutory authority to invest the funds thereof.

(6) "Public funds investment account" or "investment pool" means the aggregate of all funds as defined in subsection (4) of this section that are placed in the custody of the state treasurer for investment and reinvestment.

(7) "Qualifying federally recognized tribe or federally recognized political subdivisions thereof" means any federally recognized tribe, located in the state of Washington, authorized and empowered by its constitution or ordinance to invest its surplus funds pursuant to this section, and whose authorized tribal official has executed a deposit agreement with the office of the treasurer.

NEW SECTION. **Sec.**  RCW 43.250.090 (Administration of chapter—Rules) and 1986 c 294 s 9 are each repealed.

NEW SECTION. **Sec.**  A new section is added to chapter 28B.10 RCW to read as follows:

(1) The following definitions apply throughout this section unless the context clearly requires otherwise.

(a) "Bond" means any agreement which may or may not be represented by a physical instrument, including but not limited to bonds, notes, warrants, or certificates of indebtedness, that evidences an obligation under which the issuer agrees to pay a specified amount of money, with or without interest, at a designated time or times either to registered owners or bearers.

(b) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including any public corporation, authority, or other instrumentality created by such an entity.

(c) "State" includes any state in the United States, other than the state of Washington.

(2) In addition to any other statutorily authorized investments permissible pursuant to chapters 28B.20, 28B.30, 28B.35, 28B.40, and 28B.50 RCW, institutions of higher education may invest in:

(a) Bonds of the state of Washington and any local government in the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(b) General obligation bonds of a state and general obligation bonds of a local government of a state, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(c) Subject to compliance with RCW 39.56.030, registered warrants of a local government in the same county as the institution of higher education making the investment;

(d) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States; or United States dollar denominated bonds, notes, or other obligations that are issued or guaranteed by supranational institutions, provided that, at the time of investment, the institution has the United States government as its largest shareholder;

(e) Federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(f) Bankers' acceptances purchased on the secondary market;

(g) Commercial paper purchased in the secondary market, provided that any institution of higher education that invests in such commercial paper must adhere to the investment policies and procedures adopted by the state investment board; and

(h) Corporate notes purchased on the secondary market, provided that any institution of higher education that invests in such notes must adhere to the investment policies and procedures adopted by the state investment board.

(3) Nothing in this section limits the investment authority granted pursuant to chapters 28B.20, 28B.30, 28B.35, 28B.40, and 28B.50 RCW.

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