
HOUSE BILL 1518

State of Washington

52nd Legislature

1991 Regular Session

By Representatives Morton, Locke, Winsley, Brumsickle, Ballard, Padden, Beck, Silver, Hochstatter, Prince, Fuhrman, Lisk, Miller, P. Johnson, Mielke, D. Sommers, Chandler, Casada, Wynne, Forner, Betrozoff, Paris and Bowman.

Read first time January 31, 1991. Referred to Committee on Capital Facilities & Financing.

1 AN ACT Relating to limitations on issuance of evidences of
2 indebtedness; amending RCW 39.94.010 and 39.94.030; reenacting and
3 amending RCW 39.42.060; and declaring an emergency.

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

5 **Sec. 1.** RCW 39.42.060 and 1989 1st ex.s. c 14 s 17 and 1989 c 356
6 s 7 are each reenacted and amended to read as follows:

7 No bonds, notes, or other evidences of indebtedness for borrowed
8 money shall be issued by the state which will cause the aggregate debt
9 contracted by the state to exceed that amount for which payments of
10 principal and interest in any fiscal year would require the state to
11 expend more than seven percent of the arithmetic mean of its general
12 state revenues, as defined in section 1(c) of Article VIII of the
13 Washington state Constitution for the three immediately preceding
14 fiscal years as certified by the treasurer in accordance with RCW

1 39.42.070. It shall be the duty of the state finance committee to
2 compute annually the amount required to pay principal of and interest
3 on outstanding debt. In making such computation, the state finance
4 committee shall include all borrowed money represented by bonds, notes,
5 or other evidences of indebtedness which are secured by the full faith
6 and credit of the state or are required to be paid, directly or
7 indirectly, from general state revenues and which are incurred by the
8 state, any department, authority, public corporation or quasi public
9 corporation of the state, any state university or college, or any other
10 public agency created by the state but not by counties, cities, towns,
11 school districts, or other municipal corporations, and shall include
12 debt incurred pursuant to section 3 of Article VIII of the Washington
13 state Constitution, but shall exclude the following:

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

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

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

18 (4) Any indebtedness which has been refunded;

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

20 ~~(6)))~~ Indebtedness incurred pursuant to statute heretofore or
21 hereafter enacted which requires that the state treasury be reimbursed,
22 in the amount of the principal of and the interest on such
23 indebtedness, from money other than general state revenues or from the
24 special excise tax imposed pursuant to chapter 67.40 RCW.

25 To the extent necessary because of the constitutional or statutory
26 debt limitation, priorities with respect to the issuance or
27 guaranteeing of bonds, notes, or other evidences of indebtedness by the
28 state shall be determined by the state finance committee; and

29 ~~((7)))~~ (6) Any agreement, promissory note, or other instrument
30 entered into by the state finance committee under RCW 39.42.030 in

1 connection with its acquisition of bond insurance, letters of credit,
2 or other credit support instruments for the purpose of guaranteeing the
3 payment or enhancing the marketability, or both, of any state bonds,
4 notes, or other evidence of indebtedness.

5 **Sec. 2.** RCW 39.94.010 and 1989 c 356 s 1 are each amended to read
6 as follows:

7 The purposes of this chapter are to confirm the authority of the
8 state, its agencies, departments, and instrumentalities, the state
9 board for community college education, and the state institutions of
10 higher education to enter into contracts for the acquisition of real
11 and personal property which provide for payments over a term of more
12 than one year (~~and to exclude such contracts from the computation of~~
13 ~~indebtedness under RCW 39.42.060 and Article VIII, section 1 of the~~
14 ~~state Constitution~~). It is further the purpose of this chapter to
15 permit the state, its agencies, departments, and instrumentalities, the
16 state board for community college education, and the state institutions
17 of higher education to enter into financing contracts which make
18 provision for the issuance of certificates of participation and other
19 financing structures. Financing contracts, whether or not entered into
20 under this chapter, shall be subject to approval by the state finance
21 committee except as provided in this chapter.

22 This chapter shall be liberally construed to effect its purposes.

23 **Sec. 3.** RCW 39.94.030 and 1989 c 356 s 3 are each amended to read
24 as follows:

25 (1) The state may enter into financing contracts for the use and
26 acquisition for public purposes of real and personal property.
27 Payments under financing contracts shall be made by the state from
28 currently appropriated funds or funds not constituting "general state

1 revenues" as defined in Article VIII, section 1 of the state
2 Constitution. The term of any financing contract shall not exceed
3 thirty years or the remaining useful life of the property, whichever is
4 shorter. Financing contracts may include other terms and conditions
5 agreed upon by the parties.

6 (2) The state may enter into contracts for credit enhancement,
7 which shall limit the recourse of the provider of credit enhancement
8 solely to the security provided under the financing contract secured by
9 the credit enhancement.

10 (3) The state may grant a security interest in real or personal
11 property acquired under financing contracts. The security interest may
12 be perfected as provided by the uniform commercial code - secured
13 transactions, or otherwise as provided by law for perfecting liens on
14 real estate. Other terms and conditions may be included as agreed upon
15 by the parties.

16 ~~((4) Financing contracts and contracts for credit enhancement~~
17 ~~entered into under the limitations set forth in this chapter shall not~~
18 ~~constitute a debt or the contracting of indebtedness under RCW~~
19 ~~39.42.060 or any other law limiting debt of the state. It is the~~
20 ~~intent of the legislature that such contracts also shall not constitute~~
21 ~~a debt or the contracting of indebtedness under Article VIII, section~~
22 ~~1 of the state Constitution. Certificates of participation in payments~~
23 ~~to be made under financing contracts also shall not constitute a debt~~
24 ~~or the contracting of an indebtedness under RCW 39.42.060 if payment is~~
25 ~~conditioned upon payment by the state under the financing contract with~~
26 ~~respect to which the same relates. It is the intent of the legislature~~
27 ~~that such certificates also shall not constitute a debt or the~~
28 ~~contracting of indebtedness under Article VIII, section 1 of the state~~
29 ~~Constitution if payment of the certificates is conditioned upon payment~~

1 ~~by the state under the financing contract with respect to which those~~
2 ~~certificates relate.))~~

3 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and shall take
6 effect immediately.