
SUBSTITUTE SENATE BILL 5537

State of Washington

61st Legislature

2009 Regular Session

By Senate Ways & Means (originally sponsored by Senator Fraser; by request of Office of Financial Management)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to having one debt limit by eliminating the
2 statutory debt limit; amending RCW 39.42.070, 28A.525.210, 28B.142.010,
3 28B.142.030, 39.94.010, 39.94.030, 43.99H.060, 43.99Q.120, 43.99Q.130,
4 and 67.70.240; adding a new section to chapter 39.42 RCW; repealing RCW
5 43.99N.110 and 39.42.060; providing an effective date; and declaring an
6 emergency.

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

8 **Sec. 1.** RCW 39.42.070 and 2007 c 215 s 2 are each amended to read
9 as follows:

10 (~~(1)~~) On or after the effective date of this act, the treasurer
11 shall compute general state revenues for the three fiscal years
12 immediately preceding such date and shall determine the arithmetic mean
13 thereof. As soon as is practicable after the close of each fiscal year
14 thereafter, he or she shall do likewise. In determining the amount of
15 general state revenues, the treasurer shall include all state money
16 received in the treasury from each and every source whatsoever except:
17 (~~(a)~~) (1) Fees and revenues derived from the ownership or operation
18 of any undertaking, facility or project; (~~(b)~~) (2) moneys received as
19 gifts, grants, donations, aid or assistance or otherwise from the

1 United States or any department, bureau or corporation thereof, or any
2 person, firm or corporation, public or private, when the terms and
3 conditions of such gift, grant, donation, aid or assistance require the
4 application and disbursement of such moneys otherwise than for the
5 general purposes of the state of Washington; ~~((+e+))~~ (3) moneys to be
6 paid into and received from retirement system funds, and performance
7 bonds and deposits; ~~((+d+))~~ (4) moneys to be paid into and received
8 from trust funds including but not limited to moneys received from
9 taxes levied for specific purposes and the several permanent funds of
10 the state and the moneys derived therefrom but excluding bond
11 redemption funds; ~~((+e+))~~ (5) proceeds received from the sale of bonds
12 or other evidences of indebtedness. Upon computing general state
13 revenues, the treasurer shall make and file in the office of the
14 secretary of state, a certificate containing the results of such
15 computations. Copies of said certificate shall be sent to each elected
16 official of the state and each member of the legislature. The
17 treasurer shall, at the same time, advise each elected official and
18 each member of the legislature of the current available debt capacity
19 of the state, and may make estimated projections for one or more years
20 concerning debt capacity.

21 ~~((+2) For purposes of this chapter, general state revenues shall
22 also include revenues that are deposited in the general fund under RCW
23 82.45.180(2), lottery revenues as provided in RCW 67.70.240(3),
24 revenues paid into the general fund under RCW 84.52.067, and revenues
25 deposited into the student achievement fund and distributed to school
26 districts as provided in RCW 84.52.068.))~~

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 39.42 RCW
28 to read as follows:

29 (1) The state shall not contract any bonds, notes, or other
30 evidences of indebtedness for borrowed money that would cause the
31 aggregate state debt to exceed the debt limitation, as specified in
32 Article VIII, section 1(b) of the state Constitution.

33 (2) It shall be the duty of the state finance committee to compute
34 annually the amount required to pay principal of and interest on
35 outstanding debt.

36 (3) To the extent necessary because of the state constitutional

1 debt limitation, priorities with respect to the issuance or
2 guaranteeing of bonds, notes, or other evidences of indebtedness by the
3 state shall be determined by the state finance committee.

4 **Sec. 3.** RCW 28A.525.210 and 1984 c 266 s 1 are each amended to
5 read as follows:

6 It is the intent of the legislature to authorize general obligation
7 bonds of the state of Washington for common school plant facilities
8 which provides for the reimbursement of the state treasury for
9 principal and interest payments (~~(and which therefore is not subject to~~
10 ~~the limitations on indebtedness under RCW 39.42.060)~~).

11 **Sec. 4.** RCW 28B.142.010 and 2007 c 24 s 2 are each amended to read
12 as follows:

13 The board of regents of the University of Washington and Washington
14 State University may issue bonds, notes, or other evidences of
15 indebtedness for any university purpose. The board of regents of the
16 University of Washington and Washington State University may obligate
17 all or a component of the fees and revenues of the university for the
18 payment of such bonds, notes, or evidences of indebtedness: PROVIDED,
19 That such fees and revenues are not subject to appropriation by the
20 legislature and do not constitute general state revenues as defined in
21 Article VIII, section 1 of the state Constitution (~~(or general state~~
22 ~~revenues for the purpose of calculating statutory limits on state~~
23 ~~indebtedness pursuant to RCW 39.42.060)~~). Such bonds, notes, and other
24 indebtedness shall not constitute bonds, notes, or other evidences of
25 indebtedness secured by the full faith and credit of the state or
26 required to be paid, directly or indirectly, from general state
27 revenues (~~(for the purposes of RCW 39.42.060)~~). Bonds, notes, or other
28 evidences of indebtedness issued under this chapter shall be issued in
29 accordance with the procedures in RCW 28B.10.310 and 28B.10.315 or the
30 provisions applicable to either the state or local governments under
31 chapter 39.46 or 39.53 RCW.

32 **Sec. 5.** RCW 28B.142.030 and 2007 c 24 s 4 are each amended to read
33 as follows:

34 The board of regents of the University of Washington may issue
35 bonds, notes, or other evidences of indebtedness under this section for

1 the purpose of refinancing real and personal property acquired by the
2 University of Washington during the period between August and October
3 2006. The board of regents of the University of Washington may
4 obligate all or a component of the fees and revenues of the university
5 for the payment of such bonds, notes, or evidences of indebtedness:
6 PROVIDED, That such fees and revenues are not subject to appropriation
7 by the legislature and do not constitute general state revenues as
8 defined in Article VIII, section 1 of the state Constitution (~~or~~
9 ~~general state revenues for the purpose of calculating statutory limits~~
10 ~~on state indebtedness pursuant to RCW 39.42.060~~). Bonds, notes, or
11 other evidences of indebtedness issued under this section shall be
12 issued in accordance with the procedures in RCW 28B.10.310 and
13 28B.10.315 or the provisions applicable to either the state or local
14 governments under chapter 39.46 or 39.53 RCW. Such bonds, notes, and
15 other indebtedness shall not constitute bonds, notes, or other
16 evidences of indebtedness secured by the full faith and credit of the
17 state or required to be paid, directly or indirectly, from general
18 state revenues (~~for the purposes of RCW 39.42.060~~).

19 **Sec. 6.** RCW 39.94.010 and 1998 c 291 s 2 are each amended to read
20 as follows:

21 The purposes of this chapter are to confirm the authority of the
22 state, its agencies, departments, and instrumentalities, the state
23 board for community and technical colleges, and the state institutions
24 of higher education to enter into contracts for the acquisition of real
25 and personal property which provide for payments over a term of more
26 than one year and to exclude such contracts from the computation of
27 indebtedness under (~~RCW 39.42.060 and~~) Article VIII, section 1 of the
28 state Constitution. It is further the purpose of this chapter to
29 permit the state, its agencies, departments, and instrumentalities, the
30 state board for community and technical colleges, and the state
31 institutions of higher education to enter into financing contracts
32 which make provision for the issuance of certificates of participation
33 and other financing structures. Financing contracts of the state,
34 whether or not entered into under this chapter, shall be subject to
35 approval by the state finance committee except as provided in this
36 chapter.

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

1 **Sec. 7.** RCW 39.94.030 and 1998 c 291 s 4 are each amended to read
2 as follows:

3 (1) The state may enter into financing contracts for itself or on
4 behalf of an other agency for the use and acquisition for public
5 purposes of real and personal property. Payments under financing
6 contracts of the state shall be made by the state from currently
7 appropriated funds or funds not constituting "general state revenues"
8 as defined in Article VIII, section 1 of the state Constitution.
9 Except as provided in subsection (4)(b) of this section, payments under
10 financing contracts of the state on behalf of any other agency shall be
11 made solely from the sources identified in the financing contract,
12 which may not obligate general state revenues as defined in Article
13 VII, section 1 of the state Constitution. The treasurer of an other
14 agency shall remit payments under financing contracts to the office of
15 the state treasurer or to the state treasurer's designee. In the event
16 of any deficiency of payments by an other agency under a financing
17 contract, the treasurer of the other agency shall transfer any legally
18 available funds of the other agency in satisfaction of the other
19 agency's obligations under the financing contract if such funds have
20 been obligated by the other agency under the financing contract and, if
21 such deficiency is not thereby cured, the office of the state treasurer
22 is directed to withdraw from that agency's share of state revenues for
23 distribution or other money an amount sufficient to fulfill the terms
24 and conditions of the financing contract. The term of any financing
25 contract shall not exceed thirty years or the remaining useful life of
26 the property, whichever is shorter. Financing contracts may include
27 other terms and conditions agreed upon by the parties.

28 (2) The state for itself or on behalf of an other agency may enter
29 into contracts for credit enhancement, which shall limit the recourse
30 of the provider of credit enhancement solely to the security provided
31 under the financing contract secured by the credit enhancement.

32 (3) The state or an other agency may grant a security interest in
33 real or personal property acquired under financing contracts. The
34 security interest may be perfected as provided by the uniform
35 commercial code - secured transactions, or otherwise as provided by law
36 for perfecting liens on real estate. Other terms and conditions may be
37 included as agreed upon by the parties.

1 (4)(a) (~~Except under (b) of this subsection,~~) Financing contracts
2 and contracts for credit enhancement entered into under the limitations
3 set forth in this chapter shall not constitute a debt or the
4 contracting of indebtedness under (~~RCW 39.42.060 or~~) any (~~other~~)
5 law limiting debt of the state. It is the intent of the legislature
6 that such contracts also shall not constitute a debt or the contracting
7 of indebtedness under Article VIII, section 1 of the state
8 Constitution. Certificates of participation in payments to be made
9 under financing contracts also shall not constitute a debt or the
10 contracting of an indebtedness under (~~RCW 39.42.060~~) any law limiting
11 debt of the state if payment is conditioned upon payment by the state
12 under the financing contract with respect to which the same relates.
13 It is the intent of the legislature that such certificates also shall
14 not constitute a debt or the contracting of indebtedness under Article
15 VIII, section 1 of the state Constitution if payment of the
16 certificates is conditioned upon payment by the state under the
17 financing contract with respect to which those certificates relate.

18 (b) A financing contract made by the state on behalf of an other
19 agency may be secured by the pledge of revenues of the other agency or
20 other agency's full faith and credit or may, at the option of the state
21 finance committee, include a contingent obligation by the state for
22 payment under such financing contract.

23 **Sec. 8.** RCW 43.99H.060 and 1991 sp.s. c 31 s 15 are each amended
24 to read as follows:

25 (1) For bonds issued for the purposes of RCW 43.99H.020(16), on
26 each date on which any interest or principal and interest payment is
27 due, the board of regents or the board of trustees of Washington State
28 University shall cause the amount computed in RCW 43.99H.040(1) to be
29 paid out of the appropriate building account or capital projects
30 account to the state treasurer for deposit into the general fund of the
31 state treasury.

32 (2) For bonds issued for the purposes of RCW 43.99H.020(15), on
33 each date on which any interest or principal and interest payment is
34 due, the state treasurer shall transfer the amount computed in RCW
35 43.99H.040(2) from the capitol campus reserve account, hereby created
36 in the state treasury, to the general fund of the state treasury. At
37 the time of sale of the bonds issued for the purposes of RCW

1 43.99H.020(15), and on or before June 30th of each succeeding year
2 while such bonds remain outstanding, the state finance committee shall
3 determine, based on current balances and estimated receipts and
4 expenditures from the capitol campus reserve account, that portion of
5 principal and interest on such RCW 43.99H.020(15) bonds which will, by
6 virtue of payments from the capitol campus reserve account, be
7 reimbursed from sources other than "general state revenues" as that
8 term is defined in Article VIII, section 1 of the state Constitution.
9 (~~The amount so determined by the state finance committee, as from time
10 to time adjusted in accordance with this subsection, shall not
11 constitute indebtedness for purposes of the limitations set forth in
12 RCW 39.42.060.~~)

13 (3) For bonds issued for the purposes of RCW 43.99H.020(17), on
14 each date on which any interest or principal and interest payment is
15 due, the director of the department of labor and industries shall cause
16 fifty percent of the amount computed in RCW 43.99H.040(3) to be
17 transferred from the accident fund created in RCW 51.44.010 and fifty
18 percent of the amount computed in RCW 43.99H.040(3) to be transferred
19 from the medical aid fund created in RCW 51.44.020, to the general fund
20 of the state treasury.

21 (4) For bonds issued for the purposes of RCW 43.99H.020(18), on
22 each date on which any interest or principal and interest payment is
23 due, the board of regents of the University of Washington shall cause
24 the amount computed in RCW 43.99H.040(4) to be paid out of University
25 of Washington nonappropriated local funds to the state treasurer for
26 deposit into the general fund of the state treasury.

27 (5) For bonds issued for the purposes of RCW 43.99H.020(20), on
28 each date on which any interest or principal and interest payment is
29 due, the state treasurer shall transfer the amount computed in RCW
30 43.99H.040(5) from the public safety and education account created in
31 RCW 43.08.250 to the general fund of the state treasury.

32 (6) For bonds issued for the purposes of RCW 43.99H.020(4), on each
33 date on which any interest or principal and interest payment is due,
34 the state treasurer shall transfer from property taxes in the state
35 general fund levied for the support of the common schools under RCW
36 84.52.065 to the general fund of the state treasury for unrestricted
37 use the amount computed in RCW 43.99H.040(6).

1 **Sec. 9.** RCW 43.99Q.120 and 2001 2nd sp.s. c 9 s 13 are each
2 amended to read as follows:

3 The legislature finds that it is necessary to complete the
4 rehabilitation of the state legislative building, to extend the useful
5 life of the building, and provide for the permanent relocation of
6 offices displaced by the rehabilitation and create new space for public
7 uses.

8 Furthermore, it is the intent of the legislature to fund the
9 majority of the rehabilitation and construction using bonds repaid by
10 the capitol building construction account, as provided for in the
11 enabling act and dedicated by the federal government for the sole
12 purpose of establishing a state capitol, to fund the cash elements of
13 the project using capital project surcharge revenues in the Thurston
14 county capital facilities account, and to support the establishment of
15 a private foundation to engage the public in the preservation of the
16 state legislative building and raise private funds for restoration and
17 educational efforts. ~~((The bonds repaid by the capitol building
18 construction account, whose revenues are from the sale of capitol
19 building lands, timber, or other materials, shall be exempt from the
20 state debt limit under RCW 39.42.060, and if at any time the capitol
21 building construction account has insufficient revenues to repay the
22 bonds, the legislature may provide additional means for the payment of
23 the bonds, but any such additional means shall be subject to the state
24 debt limit.))~~

25 **Sec. 10.** RCW 43.99Q.130 and 2001 2nd sp.s. c 9 s 14 are each
26 amended to read as follows:

27 For the purpose of providing funds for the planning, design,
28 construction, and other necessary costs for the rehabilitation of the
29 state legislative building, the state finance committee is authorized
30 to issue general obligation bonds of the state of Washington in the sum
31 of eighty-two million five hundred ten thousand dollars or as much
32 thereof as may be required to finance the rehabilitation and
33 improvements to the legislative building and all costs incidental
34 thereto. The approved rehabilitation plan includes costs associated
35 with earthquake repairs and future earthquake mitigation and allows for
36 associated relocation costs and the acquisition of appropriate
37 relocation space. ~~((Bonds authorized in this section shall not~~

1 ~~constitute indebtedness for purposes of the limitations set forth in~~
2 ~~RCW 39.42.060, to the extent that the bond payments are paid from the~~
3 ~~capitol building construction account.)~~) Bonds authorized in this
4 section may be sold at a price the state finance committee determines.
5 No bonds authorized in this section may be offered for sale without
6 prior legislative appropriation of the net proceeds of the sale of the
7 bonds. The proceeds of the sale of the bonds issued for the purposes
8 of this section shall be deposited in the capitol historic district
9 construction account hereby created in the state treasury. These
10 proceeds shall be used exclusively for the purposes specified in this
11 section and for the payment of expenses incurred in the issuance and
12 sale of the bonds issued for the purposes of this section, and shall be
13 administered by the office of financial management subject to
14 legislative appropriation.

15 **Sec. 11.** RCW 67.70.240 and 2001 c 3 s 4 are each amended to read
16 as follows:

17 The moneys in the state lottery account shall be used only:

18 (1) For the payment of prizes to the holders of winning lottery
19 tickets or shares;

20 (2) For purposes of making deposits into the reserve account
21 created by RCW 67.70.250 and into the lottery administrative account
22 created by RCW 67.70.260;

23 (3) For purposes of making deposits into the education construction
24 fund and student achievement fund created in RCW 43.135.045. For the
25 transition period from July 1, 2001, until and including June 30, 2002,
26 fifty percent of the moneys not otherwise obligated under this section
27 shall be placed in the student achievement fund and fifty percent of
28 these moneys shall be placed in the education construction fund. On
29 and after July 1, 2002, until June 30, 2004, seventy-five percent of
30 these moneys shall be placed in the student achievement fund and
31 twenty-five percent shall be placed in the education construction fund.
32 On and after July 1, 2004, all deposits not otherwise obligated under
33 this section shall be placed in the education construction fund(~~(-~~
34 ~~Moneys in the state lottery account deposited in the education~~
35 ~~construction fund and the student achievement fund are included in~~
36 ~~"general state revenues" under RCW 39.42.070))~~);

1 (4) For distribution to a county for the purpose of paying the
2 principal and interest payments on bonds issued by the county to
3 construct a baseball stadium, as defined in RCW 82.14.0485, including
4 reasonably necessary preconstruction costs. Three million dollars
5 shall be distributed under this subsection during calendar year 1996.
6 During subsequent years, such distributions shall equal the prior
7 year's distributions increased by four percent. Distributions under
8 this subsection shall cease when the bonds issued for the construction
9 of the baseball stadium are retired, but not more than twenty years
10 after the tax under RCW 82.14.0485 is first imposed;

11 (5) For distribution to the stadium and exhibition center account,
12 created in RCW 43.99N.060. Subject to the conditions of RCW
13 43.99N.070, six million dollars shall be distributed under this
14 subsection during the calendar year 1998. During subsequent years,
15 such distribution shall equal the prior year's distributions increased
16 by four percent. No distribution may be made under this subsection
17 after December 31, 1999, unless the conditions for issuance of the
18 bonds under RCW 43.99N.020(2) are met. Distributions under this
19 subsection shall cease when the bonds are retired, but not later than
20 December 31, 2020;

21 (6) For the purchase and promotion of lottery games and game-
22 related services; and

23 (7) For the payment of agent compensation.

24 The office of financial management shall require the allotment of
25 all expenses paid from the account and shall report to the ways and
26 means committees of the senate and house of representatives any changes
27 in the allotments.

28 NEW SECTION. **Sec. 12.** RCW 43.99N.110 (Bonds exempt from statutory
29 indebtedness) and 1997 c 220 s 219 are each repealed.

30 NEW SECTION. **Sec. 13.** RCW 39.42.060 (Limitation on issuance of
31 evidences of indebtedness--Annual computation of amount required to pay
32 on outstanding debt) and 2008 c 179 s 301, 2003 c 147 s 13, 2002 c 240
33 s 7, 2001 2nd sp.s. c 9 s 18, 1999 c 273 s 9, 1997 c 220 s 220, & 1993
34 c 52 s 1 are each repealed.

1 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 July 1, 2009.

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