

Annual Out-of-State Issuer (OOSI) Report to Legislature

December 1, 2012

Higher Education Facilities Authority (WHEFA) Washington State Housing Finance Commission (WSHFC)

Background:

On April, 29, 2011 Governor Gregoire signed new legislation regulating the ability of out-of-state bond issuers to issue private activity bonds for a project in the State of Washington.

Effective on July 22, 2011, the legislation (SHB 1761) amended RCW 39.46 by adding RCW 39.46.170 to the laws of the State of Washington.

The basic legislative controls consist of:

1. Requiring an out-of-state issuer proposing to issue bonds for a project in Washington to submit specified information to the relevant Washington statewide bond issuing authority. That authority will then determine whether or not the project may proceed to public hearing, based on the project's consistency with state laws, public policies, and the best interests of Washington State.
2. Prohibiting the Department of Commerce from allocating a portion of the state's tax-exempt private activity bond cap to an out-of-state issuer.

The law requires Washington State issuers to report to the legislature if out-of-state issuers apply to finance a project within the state.

In Washington there are 5 state-chartered issuing authorities:

- the Washington State Housing Finance Commission,
- the Washington Higher Education Facilities Authority,
- the Washington Health Care Facilities Authority,
- the Washington Economic Development Finance Authority, and
- the Tobacco Settlement Authority

These issuers are responsible for insuring that the facilities financed with tax-exempt bonds in the State of Washington are used for the purposes for which the financing was provided and continue to provide the public benefit for which the facilities were approved for specific periods of time.

Summary of Annual Reporting Requirements:

RCW 39.46.170 requires that by December 1, 2011, annually each December 1st until December 1, 2014, and December 1st every five years thereafter, each statewide issuer receiving the notice required by the Law from an issuer formed or organized under the laws of another state shall, within existing funds, submit a report to the appropriate committees of the legislature.

Each report must provide the following information from the previous fiscal year and for other reports the following information from each of the previous fiscal years:

1. The number of proposed projects for which the statewide issuer received notice and the information about the projects as described under the Law;
2. A description of the projects for which notice was submitted;
3. The dollar amount of each proposed project;
4. The location of each proposed project;
5. Whether the proposed project was approved by the statewide issuer; and
6. For any project that was not approved by the statewide issuer, the reasons for the statewide issuer's decision.

Following is a summary of Out-of-State Issuer inquiries received by the Washington Higher Education Facilities Authority (WHEFA) and the Washington State Housing Finance Commission (WSHFC). Neither agency received a formal application.

WHEFA:

One inquiry with preliminary basic information was submitted to the Washington Higher Education Facilities Authority

Northwest University

Purpose: Refunding of outstanding bonds

Dollar Amount: Unknown

Location: Kirkland, Washington

After review of the facts and circumstances, it was determined that the University is pervasively religious and, therefore, not eligible for tax-exempt financing through WHEFA. A formal application was never submitted.

For future reference, we also note that the proposed transaction was a current refunding of outstanding bonds. Based upon IRS requirements, no public hearing is necessary or required in this circumstance. Therefore, the state statute was not triggered.

Northwest University completed its financing through the Wisconsin Public Finance Authority in 2012.

For more information about this project, please contact Carol Johnson at WHEFA (carol.johnson@wshfc.org or 206-287-4403).

WSHFC:

A preliminary telephone inquiry was made to the Washington State Housing Finance Commission in November of 2012:

The Bear Creek School

Purpose: New Money, specific project unknown at this time

Dollar Amount: Unknown

Location: Redmond, Washington

Similar to Northwest University (WHEFA), The Bear Creek School is pervasively religious and not eligible for tax-exempt financing through WSHFC. The Commission is discussing the situation with the school's representative to determine how they may need to proceed.

For more information about this project, please contact David Clifton at WSHFC (david.clifton@wshfc.org or 206-287-440).