

NEW SECTION. Sec. 17. The sum of twenty-five thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund for the biennium ending June 30, 1991, to carry out the purposes of this act.

Passed the House April 18, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

CHAPTER 356

[House Bill No. 1794]

STATE FINANCING CONTRACTS

AN ACT Relating to public contracts; amending RCW 39.42.060; adding a new section to chapter 28B.10 RCW; and adding a new chapter to Title 39 RCW.

Be it enacted by the Legislature of the State of Washington:

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

This chapter shall be liberally construed to effect its purposes.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Credit enhancement" includes insurance, letters of credit, lines of credit, or other similar agreements which enhance the security for the payment of the state's obligations under financing contracts.

(2) "Financing contract" means any contract entered into by the state which provides for the use and purchase of real or personal property by the state and provides for payment by the state over a term of more than one year, and which provides that title to the subject property shall, upon exercise of an option, transfer to the state for a nominal amount or for a price determined without reference to fair market value upon the termination of

the contract. Financing contracts shall include, but not be limited to, conditional sales contracts, financing leases, lease purchase contracts, or refinancing contracts, but shall not include operating or true leases. For purposes of this chapter, the term "financing contract" shall not include any nonrecourse financing contract or other obligation payable only from money or other property received from private sources and not payable from any public money or property. The term "financing contract" shall include a "master financing contract."

(3) "Master financing contract" means a financing contract which provides for the use and purchase of property by the state, and which may include more than one financing contract and appropriation.

(4) "State" means the state, agency, department, or instrumentality of the state, the state board for community college education, and any state institution of higher education.

(5) "State finance committee" means the state finance committee under chapter 43.33 RCW.

(6) "Trustee" means a bank or trust company, within or without the state, authorized by law to exercise trust powers.

NEW SECTION. Sec. 3. (1) The state may enter into financing contracts for the use and acquisition for public purposes of real and personal property. Payments under financing contracts shall be made by the state from currently appropriated funds or funds not constituting "general state revenues" as defined in Article VIII, section 1 of the state Constitution. The term of any financing contract shall not exceed thirty years or the remaining useful life of the property, whichever is shorter. Financing contracts may include other terms and conditions agreed upon by the parties.

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

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

(4) Financing contracts and contracts for credit enhancement entered into under the limitations set forth in this chapter shall not constitute a debt or the contracting of indebtedness under RCW 39.42.060 or any other law limiting debt of the state. It is the intent of the legislature that such contracts also shall not constitute a debt or the contracting of indebtedness under Article VIII, section 1 of the state Constitution. Certificates of participation in payments to be made under financing contracts also shall

not constitute a debt or the contracting of an indebtedness under RCW 39-.42.060 if payment is conditioned upon payment by the state under the financing contract with respect to which the same relates. It is the intent of the legislature that such certificates also shall not constitute a debt or the contracting of indebtedness under Article VIII, section 1 of the state Constitution if payment of the certificates is conditioned upon payment by the state under the financing contract with respect to which those certificates relate.

NEW SECTION. Sec. 4. (1) Except as provided in section 6 of this act, the state may not enter into any financing contract if the aggregate principal amount payable thereunder is greater than an amount to be established from time to time by the state finance committee or participate in a program providing for the issuance of certificates of participation, including any contract for credit enhancement, without the prior approval of the state finance committee. Except as provided in section 6 of this act, the state finance committee shall approve the form of all financing contracts or a standard format for all financing contracts. The state finance committee also may:

(a) Consolidate existing or potential financing contracts into master financing contracts with respect to property acquired by one or more agencies, departments, instrumentalities of the state, the state board for community college education, or a state institution of higher learning;

(b) Approve programs providing for the issuance of certificates of participation in master financing contracts;

(c) Enter into agreements with trustees relating to master financing contracts; and

(d) Make appropriate rules for the performance of its duties under this chapter.

(2) In the performance of its duties under this chapter, the state finance committee may consult with representatives from the department of general administration, the office of financial management, and the department of information services.

(3) With the approval of the state finance committee, the state also may enter into agreements with trustees relating to financing contracts and the issuance of certificates of participation.

(4) The state may not enter into any financing contract for real property without prior approval of the legislature.

NEW SECTION. Sec. 5. The provisions of this chapter shall apply to all financing contracts entered into following the effective date of this act.

NEW SECTION. Sec. 6. A new section is added to chapter 28B.10 RCW to read as follows:

The boards of regents of the state universities and the boards of trustees of the regional universities, The Evergreen State College, and the state

board for community college education, are severally authorized to enter into financing contracts as provided in sections 1 through 5 of this act. Except as provided in this section, financing contracts shall be subject to the approval of the state finance committee. The board of regents of a state university may enter into financing contracts which are payable solely from and secured by all or any component of the fees and revenues of the university derived from its ownership and operation of its facilities not subject to appropriation by the legislature and not constituting "general state revenues," as defined in Article VIII, section 1 of the state Constitution, without the prior approval of the state finance committee. The board of regents shall notify the state finance committee at least sixty days prior to entering into such contract and provide information relating to such contract as requested by the state finance committee.

Sec. 7. Section 6, chapter 184, Laws of 1971 ex. sess. as last amended by section 1, chapter 36, Laws of 1983 1st ex. sess. and RCW 39.42.060 are each amended to read as follows:

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

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

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

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

(4) Any indebtedness which has been refunded; ~~((and))~~

(5) Financing contracts entered into under sections 1 through 5 of this act; and

(6) Indebtedness incurred pursuant to statute heretofore or hereafter enacted which requires that the state treasury be reimbursed, in the amount

of the principal of and the interest on such indebtedness, from money other than general state revenues or from the special excise tax imposed pursuant to chapter 67.40 RCW.

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

NEW SECTION. Sec. 8. Sections 1 through 5 of this act shall constitute a new chapter in Title 39 RCW.

Passed the House March 15, 1989.

Passed the Senate April 11, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

CHAPTER 357

[Substitute House Bill No. 1711]

CRIME PREVENTION TRAINING FOR EMPLOYEES OF LATE NIGHT BUSINESSES

AN ACT Relating to establishing a crime prevention employee training program in businesses operating during late night hours; adding a new chapter to Title 49 RCW; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Department" means the department of labor and industries.

(2) "Late night retail establishment" means any business or commercial establishment making sales to the public between the hours of eleven o'clock p.m. and six o'clock a.m., except restaurants, hotels, taverns, or any lodging facility.

(3) "Employer" means the operator, lessee, or franchisee of a late night retail establishment.

****NEW SECTION. Sec. 2. All employers operating late night retail establishments shall provide to their employees crime prevention training. Such crime prevention training shall be a part of the accident prevention program requirements imposed pursuant to the Washington industrial safety and health act of 1973, chapter 49.17 RCW, and shall be limited to:***

(1) Providing a training manual developed and distributed by the department to employers or a manual which has been certified by the department pursuant to this section containing security policies, safety and security procedures, and personal safety and crime avoidance techniques; and