

Chapter 35.45 RCW
LOCAL IMPROVEMENTS—BONDS AND WARRANTS

Sections

- 35.45.010 Authority to issue bonds.
- 35.45.020 Bond issue—Due date—Interest.
- 35.45.030 Bonds—Form—Content.
- 35.45.040 Bonds—Sale of.
- 35.45.050 Call of bonds.
- 35.45.060 Interest on bonds—How payable.
- 35.45.065 Interest on bonds—Payment from general revenues—
Authority—Procedure.
- 35.45.070 Nonliability of city or town.
- 35.45.080 Remedy of bondholders.
- 35.45.090 Excess to be refunded—Demand—Right of action.
- 35.45.130 Warrants against local improvement fund authorized.
- 35.45.140 Warrants acceptable in payment of assessments.
- 35.45.150 Installment notes—Interest certificates.
- 35.45.155 Installment notes—Refunding.
- 35.45.160 Consolidated local improvement districts—Authorized—
Purpose.
- 35.45.170 Refunding bonds—Limitations.
- 35.45.180 Transfer from general fund to local improvement fund
authorized—Ordinance.

RCW 35.45.010 Authority to issue bonds. The city or town council may provide by ordinance for the payment of the whole or any portion of the cost and expense of any local improvement by bonds of the improvement district, but no bonds shall be issued in excess of the cost and expense of the improvement, nor shall they be issued prior to twenty days after the thirty days allowed for the payment of assessments without penalty or interest. [1965 c 7 s 35.45.010. Prior: (i) 1911 c 98 s 46, part; 1899 c 124 s 1; RRS s 9399, part. (ii) 1917 c 139 s 1, part; 1915 c 168 s 4, part; 1911 c 98 s 47, part; 1899 c 124 s 2, part; RRS s 9400, part. (iii) 1911 c 98 s 50, part; RRS s 9403, part.]

RCW 35.45.020 Bond issue—Due date—Interest. Local improvement bonds shall be issued pursuant to ordinance and shall be made payable on or before a date not to exceed thirty years from and after the date of issue, which latter date may be fixed by ordinance or resolution of the council, and bear interest at such rate or rates as authorized by the council. The council may, in addition to issuing bonds callable under the provisions of RCW 35.45.050 whenever sufficient moneys are available, issue bonds with a fixed maturity schedule or with a fixed maximum annual retirement schedule. [1971 ex.s. c 116 s 10; 1970 ex.s. c 56 s 35; 1969 ex.s. c 258 s 11; 1969 c 81 s 1; 1965 c 7 s 35.45.020. Prior: 1917 c 139 s 1, part; 1915 c 168 s 4, part; 1911 c 98 s 47, part; 1899 c 124 s 2, part; RRS s 9400, part.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Rights not impaired—1969 c 81: "No phrase, clause, subdivision or section of this 1969 amendatory act shall be construed to impair the rights of bondholders as to any bonds issued prior to the effective date of this 1969 amendatory act." [1969 c 81 s 2.]

RCW 35.45.030 Bonds—Form—Content. (1) Local improvement bonds shall be in such denominations as may be provided in the ordinance authorizing their issue and shall be numbered from one upwards consecutively. Each bond shall (a) be signed by the mayor and attested by the clerk, (b) have the seal of the city or town affixed thereto, (c) refer to the improvement to pay for which it is issued and the ordinance ordering it, (d) provide that the principal sum therein named and the interest thereon shall be payable out of the local improvement fund created for the cost and expense of the improvement and out of the local improvement guaranty fund, unless the ordinance under which it was issued provides that the bonds shall not be secured by the local improvement guaranty fund; and out of a reserve fund, if one is established for such bonds pursuant to RCW 35.51.040; or, with respect to interest only, shall be payable out of the general revenues of the city or town, but only if pledged to the payment of such interest pursuant to RCW 35.45.065, and not otherwise, (e) provide that the bond owners' remedy in case of nonpayment shall be confined to the enforcement of the special assessments made for the improvement and to the guaranty fund and reserve fund, as applicable, and (f) be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

Any interest coupons may be signed by the mayor and attested by the clerk, or in lieu thereof, may have printed thereon a facsimile of their signatures.

(2) Notwithstanding subsection (1) of this section, but subject to RCW 35.45.010, such bonds may be issued and sold in accordance with chapter 39.46 RCW. [2002 c 41 s 1; 1983 c 167 s 41; 1967 ex.s. c 44 s 1; 1965 c 7 s 35.45.030. Prior: (i) 1917 c 139 s 1, part; 1915 c 168 s 4, part; 1911 c 98 s 47, part; 1899 c 124 s 2; RRS s 9400, part. (ii) 1927 c 209 s 5, part; 1925 ex.s. c 183 s 5, part; 1923 c 141 s 5, part; RRS s 9351-5, part. (iii) 1911 c 98 s 52, part; RRS s 9405, part.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

RCW 35.45.040 Bonds—Sale of. (1) Local improvement bonds may be issued to the contractor or sold by the officers authorized by the ordinance directing their issue to do so, in the manner prescribed therein at the price established by the legislative authority of the city or town. Any portion of the bonds of any issue remaining unsold may be issued to the contractor constructing the improvement in payment thereof.

The proceeds of all sales of bonds shall be applied in payment of the cost and expense of the improvement.

(2) Notwithstanding subsection (1) of this section, such bonds may be sold in accordance with chapter 39.46 RCW. [1983 c 167 s 42; 1981 c 323 s 2; 1965 c 7 s 35.45.040. Prior: (i) 1911 c 98 s 46, part;

1899 c 124 s 1; RRS s 9399, part. (ii) 1911 c 98 s 48; 1899 c 124 s 3; RRS s 9401.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

RCW 35.45.050 Call of bonds. Except when bonds have been issued with a fixed maturity schedule or with a fixed maximum annual retirement schedule as authorized in RCW 35.45.020, the city or town treasurer shall call in and pay the principal of one or more bonds of any issue (1) in their numerical order; or (2) where bonds are issued with an estimated redemption schedule, in either numerical order or chronological order by maturity and within each maturity by date of estimated redemption as determined in the bond authorizing ordinance, whenever there is sufficient money in any local improvement fund, against which the bonds have been issued, over and above that which is sufficient for the payment of interest on all unpaid bonds of that issue. The call shall be made for publication in the city or town official newspaper in its first publication following the date of delinquency of any installment of the assessment or as soon thereafter as practicable. The call shall state that bonds No. . . . (giving the serial number or numbers of the bonds called) will be paid on the day the next interest payments are due and that interest on those bonds will cease upon that date. [2003 c 139 s 2; 1983 c 167 s 43; 1971 ex.s. c 116 s 11; 1965 c 7 s 35.45.050. Prior: 1911 c 98 s 54, part; RRS s 9407, part.]

Effective date—2003 c 139: See note following RCW 35.45.180.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

RCW 35.45.060 Interest on bonds—How payable. The city or town treasurer shall pay interest on the bonds issued against local improvement funds out of the local improvement fund from which the bonds are payable. [1965 c 7 s 35.45.060. Prior: 1911 c 98 s 54, part; RRS s 9407, part.]

RCW 35.45.065 Interest on bonds—Payment from general revenues—Authority—Procedure. The city or town council may provide by ordinance that all or part of the interest upon said bonds shall be paid from the general revenues of the city or town and may create a local improvement district bond interest fund for this purpose. If the city or town council determine that the city or town shall pay all interest on such bonds from its general revenues, the interest coupons attached to the bond shall recite that the interest thereby evidenced is payable from general revenues. If the city or town council determines that the city or town council shall pay a part of the interest on such bonds from its general revenues, the interest coupons representing interest payable from the general revenues of the city or town shall be denominated as "B" coupons and shall recite that the interest payable thereunder is payable from the general revenues of the city or town. [1967 ex.s. c 44 s 2.]

RCW 35.45.070 Nonliability of city or town. (1)(a) Neither the holder nor owner of any bond, interest coupon, warrant, or other short-term obligation issued against a local improvement fund shall have any claim therefor against the city or town by which it is issued, except for payment from the special assessments made for the improvement for which the bond or warrant was issued and except also for payment from the local improvement guaranty fund of the city or town as to bonds issued after the creation of a local improvement guaranty fund of that city or town. The city or town shall not be liable to the holder or owner of any bond, interest coupon, warrant, or other short-term obligation for any loss to the local improvement guaranty fund occurring in the lawful operation thereof.

(b) A copy of the foregoing in (a) of this subsection shall be plainly written, printed, or engraved on each bond, interest coupon, warrant, or other short-term obligation.

(2) Notwithstanding the provisions of subsection (1) of this section, with respect to bonds, interest coupons, warrants, or other short-term obligations issued under an ordinance providing that the obligations are not secured by the local improvement guaranty fund:

(a) Neither the holder nor owner of any obligation issued against a local improvement fund shall have any claim against the city or town by which it is issued, except for payment from the special assessments made for the improvement for which the obligation was issued.

(b) A copy of the foregoing in (a) of this subsection shall be plainly written, printed, or engraved on each bond, interest coupon, warrant, or other short-term obligation. [2002 c 41 s 2; 1965 c 7 s 35.45.070. Prior: (i) 1911 c 98 s 52, part; RRS s 9405, part. (ii) 1927 c 209 s 5; 1925 ex.s. c 183 s 5; 1923 c 141 s 5, part; RRS s 9351-5, part.]

RCW 35.45.080 Remedy of bondholders. If a city or town fails to pay any bonds or to promptly collect any local improvement assessments when due, the owner of the bonds may proceed in his or her own name to collect the assessment and foreclose the lien thereof in any court of competent jurisdiction and shall recover in addition to the amount of the bond and interest thereon, five percent, together with the cost of suit. Any number of holders of bonds for any single improvement may join as plaintiffs and any number of owners of property upon which the assessments are liens may be joined as defendants in the same suit.

The owners of local improvement bonds issued by a city or town after the creation of a local improvement guaranty fund therein, shall also have recourse against the local improvement guaranty fund of such city or town unless the ordinance under which the bonds were issued provides that the bonds are not secured by the local improvement guaranty fund. [2009 c 549 s 2081; 2002 c 41 s 3; 1965 c 7 s 35.45.080. Prior: (i) 1927 c 209 s 5, part; 1925 ex.s. c 183 s 5, part; 1923 c 141 s 5, part; RRS s 9351-5, part. (ii) 1911 c 98 s 51; 1899 c 124 s 6; RRS s 9404.]

RCW 35.45.090 Excess to be refunded—Demand—Right of action. Any funds in the treasury of any municipal corporation belonging to the fund of any local improvement district after the payment of the whole cost and expense of such improvement, in excess of the total sum required to defray all the expenditures by such municipal corporation

on account thereof, shall be refunded, on demand, to the payers into such fund. Each such payer shall be entitled to such proportion of such excess as his or her original assessment bears to the entire original assessment levied for such improvement. Such municipal corporation may, after one year from the date on which the last installment becomes due, transfer any balance remaining on hand to the general fund of such municipal corporation, but shall, notwithstanding such transfer remain liable for the refund herein provided for until such refund shall have been made, unless the actual cost involved in making such refund shall exceed the excess in such fund.

Such demand shall be made in writing to the treasurer of such municipal corporation. No action shall be commenced in any court to obtain any such refund, except upon such demand, and until ninety days after making such demand. No excess shall be recovered in any action where the excess in the fund does not average the sum of one dollar in favor of all payers into such fund.

This section shall not be deemed to require the refunding of any balance left in any local improvement fund after the payment of all outstanding obligations issued against such fund, where such balance accrues from any saving in interest or from penalties collected upon delinquent assessments, but any such balance, whether accruing heretofore or hereafter, may be turned into the general fund or otherwise disposed of, as the legislative authority of the city may direct.

The provisions of this chapter relating to the refund of excess local improvement district funds shall not apply to any district whose obligations are guaranteed by the local improvement guaranty fund. [2009 c 549 s 2082; 1965 c 7 s 35.45.090. Prior: 1917 c 140 s 1; 1909 c 108 s 1; RRS s 9351.]

RCW 35.45.130 Warrants against local improvement fund authorized. Every city and town may provide by ordinance for the issuance of warrants in payment of the cost and expense of any local improvement, payable out of the local improvement district fund. The warrants shall bear interest at a rate or rates established by the issuing officer under the direction of the legislative authority of the city or town and shall be redeemed either in cash or by local improvement bonds for the same improvement authorized by ordinance.

All warrants against any local improvement fund sold by the city or town or issued to a contractor and by him or her sold or hypothecated for a valuable consideration shall be claims and liens against the improvement fund against which they are drawn prior and superior to any right, lien, or claim of any surety upon the bond or bonds given to the city or town by or for the contractor to secure the performance of his or her contract or to secure the payment of persons who have performed work thereon, furnished materials therefor, or provisions and supplies for the carrying on of the work. [2009 c 549 s 2083; 1981 c 323 s 3; 1970 ex.s. c 56 s 36; 1965 c 7 s 35.45.130. Prior: 1953 c 117 s 1; prior: 1915 c 168 s 3; 1911 c 98 s 72; 1899 c 146 s 7; RRS 9425.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

RCW 35.45.140 Warrants acceptable in payment of assessments.

Cities and towns may accept warrants drawn against any local improvement fund upon such conditions as they may by ordinance or resolution prescribe, in satisfaction of:

- (1) Assessments levied to supply such fund, in due order of priority of right;
- (2) Judgments rendered against property owners who have become delinquent in the payment of assessments levied to supply such fund; and
- (3) In payment of certificates of purchase in cases where property of delinquents has been sold under execution or at tax sale for failure to pay assessments levied to supply such fund. [1965 c 7 s 35.45.140. Prior: (i) 1899 c 97 s 1; RRS s 9346. (ii) 1899 c 97 s 2; RRS s 9347. (iii) 1899 c 97 s 3; RRS s 9348. (iv) 1899 c 97 s 4; RRS s 9349. (v) 1899 c 97 s 5; RRS s 9350.]

RCW 35.45.150 Installment notes—Interest certificates.

In addition to the issuance of bonds and warrants in payment of the cost and expense of any local improvement, any city or town may also issue and sell installment notes payable out of the local improvement district fund. Such installment notes may be issued any time after the thirty day period allowed by law for the payment of assessments of any district without penalty or interest, and may bear any denomination or denominations, the aggregate of which shall represent the balance of the cost and expense of the local improvement district which is to be borne by the property owners therein.

Application of local improvement district funds for the reduction of the principal and interest amounts due on any notes herein provided to finance said improvement shall be made not less than once each year beginning with the issue date thereof. Appropriate notification of such application of funds shall be made by the city or town treasurer to the registered payees of said notes, except those notes owned by funds of the issuing municipality. Such notes may be registered as provided in RCW 39.46.030. If more than one local improvement installment note is issued for a single district, said notes shall be numbered consecutively. All notes issued shall bear on the face thereof: (1) The name of the payee; (2) the number of the local improvement district from whose funds the notes are payable; (3) the date of issue of each note; (4) the date on which the note, or the final installment thereon shall become due; (5) the rate or rates of interest, as provided by the city or town legislative authority, to be paid on the unpaid balance thereof, and; (6) such manual or facsimile signatures and attestations as are required by state statute or city charter to appear on the warrants of each issuing municipality.

The reverse side of each installment note issued pursuant to this section shall bear a tabular payment record which shall indicate at prescribed installment dates, the receipt of any local improvement district funds for the purpose of servicing the debt evidenced by said notes. Such receipts shall first be applied toward the interest due on the unpaid balance of the note, and any additional moneys shall thereafter apply as a reduction of the principal amount thereof. The tabular payment record shall, in addition to the above, show the unpaid principal balance due on each installment note, together with sufficient space opposite each transaction affecting said note for the manual signature of the city's or town's clerk, treasurer or other

properly designated receiving officer of the municipality, or of any other registered payee presenting said note for such installment payments.

Whenever there are insufficient funds in a local improvement district to meet any payment of installment interest due on any note herein authorized, a noninterest-bearing defaulted installment interest certificate shall be issued by the city or town treasurer which shall consist of a written statement certifying the amount of such defaulted interest installment; the name of the payee of the note to whom the interest is due and the number of the local improvement district from whose funds the note and interest thereon is payable. Such certificates may be registered as provided in RCW 39.46.030. The certificate herein provided shall bear the manual signature of the city or town treasurer or his or her authorized agent. The defaulted installment interest certificate so issued shall be redeemed for the face amount thereof with any available funds in the local improvement guaranty fund.

Whenever at the date of maturity of any installment note issued pursuant to this section, there are insufficient funds in a local improvement district, due to delinquencies in the collection of assessments, to pay the final installment of the principal due thereon, the note shall be redeemed with any available funds in the local improvement guaranty fund for the amount of said final installment.

All certificates and notes issued pursuant to this section are to become subject to the same redemption privileges as apply to any local improvement district bonds and warrants now accorded the protection of the local improvement guaranty fund as provided in chapter 35.54 RCW, and whenever the certificates or notes issued as herein provided are redeemed by said local improvement guaranty fund, they shall be held therein as investments thereof in the same manner as prescribed for other defaulted local improvement district obligations.

Notwithstanding any other statutory provisions, local improvement installment notes authorized by this section which are within the protection of the local improvement guaranty fund law shall be considered legal investments for any available surplus funds of the issuing municipality which now or hereafter may be authorized to be invested in the city's or town's local improvement districts' bonds or warrants and shall be considered legal investments for all national and state banks, savings and loan institutions, and any and all other commercial banking or financial institutions to the same extent that the local improvement district bonds and any coupons issued pursuant to the provisions of this chapter have been and are legal investments for such institutions. Any such local improvement installment notes may be transferred or sold by said city or town upon such terms or conditions and in such manner as the local governing body of said city or town may determine, or may be issued to another fund of the city or town: PROVIDED, HOWEVER, That the same shall not be sold at less than par plus accrued interest.

Notwithstanding the provisions of this section, such notes and certificates may be issued, and such notes may be sold, in accordance with chapter 39.46 RCW. [2009 c 549 s 2084; 1983 c 167 s 44. Prior: 1981 c 323 s 4; 1981 c 156 s 2; prior: 1970 ex.s. c 93 s 2; 1970 ex.s. c 56 s 37; 1965 c 7 s 35.45.150; prior: 1961 c 165 s 1.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Severability—1970 ex.s. c 93: See note following RCW 39.60.050.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Investment of public funds in notes, debentures: RCW 39.60.050.

RCW 35.45.155 Installment notes—Refunding. Any city or town having issued one or more installment notes pursuant to RCW 35.45.150 may refund all of such notes or the principal thereof then outstanding payable from any one local improvement district fund by the issuance of local improvement district bonds pursuant to chapter 35.45 RCW and by the payment into the city or town fund or funds holding such notes the then outstanding principal amount of such notes plus the interest thereon accrued to the date of such refunding. The bonds shall be payable from the same local improvement district fund from which such notes were payable; shall be payable no later than the final payment date of the notes being refunded; shall be in the same total principal amount as the outstanding principal amount of the notes being refunded less any sums in the local improvement district fund the city or town applies to the redemption of such notes; and shall be sold at not less than par plus accrued interest to date of delivery. Any interest payable on the bonds in excess of the interest payable on assessment installments payable into the local improvement district fund shall be paid from the general fund of the city or town in accordance with RCW 35.45.065. The principal proceeds and interest accrued to date of delivery of the bonds shall be paid into the local improvement district fund and the notes shall be redeemed on that date. The city or town shall pay all costs and expenses of such refunding from moneys available therefor. [1969 ex.s. c 258 s 12.]

RCW 35.45.160 Consolidated local improvement districts—Authorized—Purpose. For the purpose of issuing bonds only, the governing body of any municipality may authorize the establishment of consolidated local improvement districts. The local improvements within such consolidated districts need not be adjoining, vicinal or neighboring. If the governing body orders the creation of such consolidated local improvement districts, the moneys received from the installment payment of the principal of and interest on assessments levied within original local assessment districts shall be deposited in a consolidated local improvement district bond redemption fund to be used to redeem outstanding consolidated local improvement district bonds. [1967 ex.s. c 44 s 3.]

RCW 35.45.170 Refunding bonds—Limitations. The legislative authority of any city or town may issue and sell bonds to refund outstanding local improvement district or consolidated local improvement district bonds issued after June 7, 1984, on the earliest date such outstanding bonds may be redeemed following the date of issuance of such refunding bonds. Such refunding shall be subject to the following:

(1) The refunding shall result in a net interest cost savings after paying the costs and expenses of the refunding, and the principal amount of the refunding bonds may not exceed the principal balance of the assessment roll or rolls pledged to pay the bonds being refunded at the time of the refunding.

(2) The refunding bonds shall be paid from the same local improvement fund or bond redemption fund as the bonds being refunded.

(3) The costs and expenses of the refunding shall be paid from the proceeds of the refunding bonds, or the same local improvement district fund or bond redemption fund for the bonds being refunded, except the city or town may advance such costs and expenses to such fund pending the receipt of assessment payments available to reimburse such advances.

(4) The last maturity of the refunding bonds shall be no later than one year after the last maturity of bonds being refunded.

(5) The refunding bonds may be exchanged for the bonds being refunded or may be sold in the same manner permitted at the time of sale for local improvement district bonds.

(6) All other provisions of law applicable to the refunded bonds shall apply to the refunding bonds. [1984 c 186 s 66.]

Purpose—1984 c 186: See note following RCW 39.46.110.

RCW 35.45.180 Transfer from general fund to local improvement fund authorized—Ordinance. Any city or town, when authorized by ordinance, may transfer permanently or temporarily, money from its general fund, or from any other municipal fund as its council shall specify in that ordinance, to its local improvement guaranty fund or any of its local improvement funds to be used for the purposes of these local improvement funds, including the payment of bonds, interest coupons, warrants, or other short-term obligations. The powers granted by this section are to be exercised at the discretion of a council when found to be in the public interest, but money transferred by means of these powers shall not be pledged to the payment of any local improvement district obligations. [2003 c 139 s 1.]

Effective date—2003 c 139: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 7, 2003]." [2003 c 139 s 4.]