



## Legislation Text

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**File #:** 2002-0451, **Version:** 2

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A MOTION accepting a bond purchase agreement for the purchase of the county's Limited Tax General Obligation (Public Transportation Sales Tax) Refunding Bonds, 2002, in the aggregate principal amount of \$64,285,000, and establishing certain terms of such bonds and a plan of refunding, all in accordance with Ordinance 14490.

WHEREAS, the county council by Ordinance 14490 passed September 30, 2002 (the "Bond Ordinance"), authorized the issuance and sale of limited tax general obligation (public transportation sales tax) refunding bonds (the "Bonds") of the county in the aggregate principal amount of not to exceed \$70,000,000 for the purpose of refunding certain outstanding Limited Sales Tax General Obligation Bonds, Series 1993 (Refunding) of the county; and

WHEREAS, the Bond Ordinance provided that the Bonds be sold as determined by the county's manager of finance and business operations (the "Finance Manager") in consultation with the county's financial advisors; and

WHEREAS, the Finance Manager has determined that the Bonds be sold as provided herein; and

WHEREAS, pursuant to the Bond Ordinance, the Finance Manager has negotiated the sale of the Bonds to UBS PaineWebber Inc. and Siebert Brandford Shank & Co., LLC (the "Underwriters"), and a preliminary official statement dated October 14, 2002, has been prepared for the sale of the Bonds; and

WHEREAS it is in the best interest of the county that the Bonds be sold to the Underwriters on the terms set forth in the attached bond purchase agreement, the Bond Ordinance and this motion;

NOW, THEREFORE, BE IT MOVED by the Council of King County:

A. Definitions. Except as expressly authorized herein, capitalized terms used in this motion have the meanings set forth in the Bond Ordinance.

B. Approval of Bond Purchase Agreement and Authorization of Bonds. The issuance of the Bonds, designated as the county's Limited Tax General Obligation (Public Transportation Sales Tax) Refunding Bonds, 2002, in the aggregate principal amount of \$64,285,000 and the terms and conditions thereof as set forth in the Bond Purchase Agreement attached hereto as Exhibit A (the "Purchase Agreement") are hereby ratified and confirmed, and the Purchase Agreement is hereby approved. The Bonds shall bear interest at the rates set forth in the Purchase Agreement and shall conform in all other respects to the terms and conditions specified in the Purchase Agreement and the Bond Ordinance.

The Bonds shall be subject to optional redemption as set forth in the Purchase Agreement.

C. Refunding of Refunded Bonds.

1. Plan of Refunding. The proper county officials are authorized to carry out the Refunding Plan in accordance with Section 15 of the Bond Ordinance. The Finance Manager is authorized to transfer money in the Receiving Fund allocable to the January 1, 2003, debt service payment on the Refunded Bonds (or such lesser amount as the Finance Manager shall determine) to the Escrow Agent to carry out the Refunding Plan.

2. Escrow Agent. The selection of U.S. Bank, N.A., of Seattle, Washington, as Escrow Agent is hereby ratified and confirmed.

3. Findings of Savings and Defeasance. The council finds and determines that a substantial savings will be effected by the difference between the principal and interest cost over the life of the Bonds and the principal and interest cost over the life of the Refunded Bonds but for such refunding, and that the Acquired Obligations to be deposited with the Escrow Agent and the income therefrom, together with any necessary beginning cash balance, are sufficient to defease and redeem the above-referenced Refunded Bonds and will discharge and satisfy the obligations of the county with respect to such Refunded Bonds under the Refunded

Bond Resolutions and the pledges of the county therein. Immediately upon the delivery of such Acquired Obligations to the Escrow Agent and the deposit of any necessary beginning cash balance, the Refunded Bonds shall be deemed not to be outstanding under the Refunded Bond Resolutions and shall cease to be entitled to any lien, benefit or security thereunder except the right to receive payment from the Acquired Obligations and beginning cash balance so set aside and pledged.

D. Undertaking to Provide Ongoing Disclosure.

1. Contract/Undertaking. This Section D constitutes the county's written undertaking for the benefit of the owners and Beneficial Owners of the Bonds as required by Section (b)(5) of the Rule.

2. Financial Statements/Operating Data. The county agrees to provide or cause to be provided to each NRMSIR and to the SID, if any, in each case as designated by the Commission in accordance with the Rule, the following annual financial information and operating data for the prior fiscal year (commencing in 2003 for the fiscal year ended December 31, 2002):

(a) Annual financial statements prepared in accordance with the Budget Accounting and Reporting System ("BARS") prescribed by the Washington State Auditor pursuant to RCW 43.09.200 (or any successor statute) and generally of the type included in the official statement for the Bonds under the heading "Appendix B: Audited 2001 Financial Statements";

(b) A summary of budgeted general fund revenues and appropriations;

(c) A summary of the assessed valuation of taxable property in the county;

(d) A summary of the *ad valorem* property tax levy and delinquency rate;

(e) A schedule of the aggregate annual debt service on tax-supported indebtedness of the county;

(f) A summary of outstanding tax-supported indebtedness of the county; and

(g) Public Transportation Sales Taxes collected by the county pursuant to RCW 82.14.045.

Items (b) through (g) shall be required only to the extent that such information is not included in the annual financial statements.

Such annual information and operating data described above shall be provided on or before seven months after the end of the county's fiscal year. The county's fiscal year currently ends on December 31. The county may adjust such fiscal year by providing written notice of the change of fiscal year to each then existing NRMSIR and the SID, if any. In lieu of providing such annual financial information and operating data, the county may cross-reference to other documents provided to the NRMSIR, the SID or to the Commission, and, if such document is a final official statement within the meaning of the Rule, available from the MSRB.

If not provided as part of the annual financial information discussed above, the county shall provide the county's audited annual financial statement prepared in accordance with BARS when and if available to each then existing NRMSIR and the SID, if any.

3. Material Events. The county agrees to provide or cause to be provided, in a timely manner, to the SID, if any, and to each NRMSIR or to the MSRB notice of the occurrence of any of the following events with respect to the Bonds, if material:

(a) Principal and interest payment delinquencies;

(b) Non-payment related defaults;

(c) Unscheduled draws on debt service reserves reflecting financial difficulties;

(d) Unscheduled draws on credit enhancements reflecting financial difficulties;

(e) Substitution of credit or liquidity providers, or their failure to perform;

(f) Adverse tax opinions or events affecting the tax-exempt status of the Bonds;

- (g) Modifications to rights of Bond holders;
- (h) Optional, contingent or unscheduled calls of any Bonds other than scheduled sinking fund redemptions for which notice is given pursuant to Exchange Act Release 34-23856;
- (i) Defeasances;
- (j) Release, substitution or sale of property securing repayment of the Bonds; and
- (k) Rating changes.

Solely for purposes of disclosure, and not intending to modify this undertaking, the county advises with reference to items (c) and (j) above that no debt service reserves secure payment of the Bonds and no property secures repayment of the Bonds.

4. Notification Upon Failure to Provide Financial Data. The county agrees to provide or cause to be provided, in a timely manner, to each NRMSIR or to the MSRB and to the SID, if any, notice of its failure to provide the annual financial information described in subsection 2 above on or prior to the date set forth in subsection 2 above.

5. Termination/Modification. The county's obligations to provide annual financial information and notices of material events shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. This section, or any provision hereof, shall be null and void if the county (i) obtains an opinion of nationally recognized bond counsel to the effect that those portions of the Rule which require this section, or any such provision, are invalid, have been repealed retroactively or otherwise do not apply to the Bonds; and (ii) notifies each then existing NRMSIR and the SID, if any, of such opinion and the cancellation of this section.

Notwithstanding any other provision of this motion, the county may amend this Section D, and any provision of this Section D may be waived, with an approving opinion of nationally recognized bond counsel

and in accordance with the Rule.

In the event of any amendment or waiver of a provision of this Section D, the county shall describe such amendment in the next annual report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the county. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a material event under subsection 3, and (ii) the annual report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

6. Bond Owner's Remedies Under This Section. The right of any Bond Owner or Beneficial Owner of Bonds to enforce the provisions of this section shall be limited to a right to obtain specific enforcement of the county's obligations hereunder, and any failure by the county to comply with the provisions of this undertaking shall not be an event of default with respect to the Bonds hereunder. For purposes of this section, "Beneficial Owner" means any person who has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds, including persons holding Bonds through nominees or depositories.

E. Bond Insurance. The county council finds that it is in the county's best interest to purchase, and that a savings will result from purchasing, municipal bond insurance for the Bonds. The county shall purchase from Financial Security Assurance Inc. a municipal bond insurance policy insuring the prompt payment of the principal of and interest on the Bonds and agrees to the conditions for obtaining that policy, including the payment of the premium therefor.

F. Further Authority. The county officials, their agents, and representatives are hereby authorized and directed to do everything necessary for the prompt issuance and delivery of the Bonds and for the proper

use and application of the proceeds of such sale.

G. Severability. The covenants contained in this motion shall constitute a contract between the county and the owners of each and every Bond. If any provision in this motion to be performed on the part of the County shall be declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this motion and shall in no way affect the validity of the other provisions of this motion or of the Bonds.