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HOUSE BILL 1705

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Barlow, Ormsby, Kenney and Wood

Read first time 01/25/2007.    Referred to Committee on Technology,  
Energy & Communications.

1            AN ACT Relating to the creation of health sciences and services  
2 authorities; reenacting and amending RCW 42.56.270 and 42.56.270;  
3 adding a new section to chapter 82.04 RCW; adding a new section to  
4 chapter 82.32 RCW; adding a new chapter to Title 35 RCW; creating a new  
5 section; providing an effective date; and providing an expiration date.

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

7            NEW SECTION.    **Sec. 1.**    DEFINITIONS.    The definitions in this  
8 section apply throughout this chapter unless the context clearly  
9 requires otherwise.

10            (1) "Authority" means a health sciences and services authority  
11 created pursuant to this chapter.

12            (2) "Board" means the governing board of trustees of an authority.

13            (3) "Department" means the department of community, trade, and  
14 economic development.

15            (4) "Director" means the director of the department of community,  
16 trade, and economic development.

17            (5) "Health sciences and services" means biosciences that advance  
18 new therapies and procedures to combat disease and promote public  
19 health.

1 (6) "Local government" means a city, town, or county.

2 (7) "Sponsoring local government" means a city, town, or county  
3 that creates a health sciences and services authority.

4 NEW SECTION. **Sec. 2.** PURPOSE. The health sciences and services  
5 program is created to promote bioscience-based economic development and  
6 advance new therapies and procedures to combat disease and promote  
7 public health.

8 NEW SECTION. **Sec. 3.** CREATION. A local government must establish  
9 by ordinance or resolution an authority. At a minimum, the ordinance  
10 must:

11 (1) Specify the powers to be exercised by the authority;

12 (2) Reserve the local government's right to dissolve the authority  
13 after its contractual responsibilities have expired;

14 (3) Establish an administrative board, including: (a) The number  
15 of board members; (b) the times and terms of appointment for each board  
16 position; (c) the amount of compensation, if any, to be paid to board  
17 members; (d) the procedures for removing board members and filing  
18 vacancies; and (e) the qualifications for the appointment of  
19 individuals to the board;

20 (4) Establish the authority's boundaries, which must be contiguous  
21 tracts of land;

22 (5) Ensure that private and public funds provided to the authority  
23 will be segregated;

24 (6) Establish guidelines under which the authority may invest its  
25 funds;

26 (7) Provide the requirements for auditing the records of the  
27 authority; and

28 (8) Require the local government's legal counsel to also provide  
29 legal services to the authority.

30 NEW SECTION. **Sec. 4.** APPLICATIONS. (1) The department may  
31 approve applications submitted by local governments for an area's  
32 designation as a health sciences and services authority under this  
33 chapter. The application for designation shall be in the form and  
34 manner and contain such information as the department may prescribe,  
35 provided the application shall:

1 (a) Contain sufficient information to enable the director to  
2 determine the viability of the proposal;

3 (b) Demonstrate that an ordinance or resolution has been passed by  
4 the legislative authority of a local government that delineates the  
5 boundaries of an area that may be designated an authority;

6 (c) Be submitted on behalf of the local government, or, if that  
7 office does not exist, by the legislative body of the local government;

8 (d) Demonstrate that the public funds directed to programs or  
9 facilities in the authority will leverage private sector resources and  
10 contributions to activities to be performed;

11 (e) Provide a plan or plans for the development of the authority as  
12 an entity to advance as a cluster for health sciences education, health  
13 sciences research, biotechnology development, biotechnology product  
14 commercialization, and/or health care services; and

15 (f) Demonstrate that the state has previously provided funds to  
16 health sciences and services programs or facilities in the applicant  
17 city, town, or county.

18 (2) The department may develop criteria to evaluate the  
19 application, including:

20 (a) The presence of infrastructure capable of spurring development  
21 of the area as a center of health sciences and services;

22 (b) The presence of higher education facilities where undergraduate  
23 or graduate coursework or research is conducted; and

24 (c) The presence of facilities in which health services are  
25 provided.

26 (3) There shall be no more than four authorities statewide.

27 (4) The director may reject or approve an application. When  
28 denying an application, the director must specify the application's  
29 deficiencies. The decision regarding such designation as it relates to  
30 a specific local government is final; however, a rejected application  
31 may be resubmitted.

32 (5) Applications are due December 31, 2008, and must be processed  
33 within sixty days of submission.

34 (6) The director may, at his or her discretion, amend the  
35 boundaries of an authority upon the request of the local government.

36 (7) The department may adopt any rules necessary to implement this  
37 act within one hundred twenty days of the effective date of this act.

1 (8) The department must develop evaluation and performance measures  
2 in order to evaluate the effectiveness of the programs in the  
3 authorities that are funded with public resources. A report to the  
4 legislature shall be due on a biennial basis beginning December 1,  
5 2009. In addition, the department shall develop evaluation criteria  
6 that enables the local governments to measure the effectiveness of the  
7 program.

8 NEW SECTION. **Sec. 5.** BOARD. (1) An authority shall be overseen  
9 by a board with not more than fourteen members. Board members shall be  
10 appointed by the sponsoring local government and must reside within the  
11 jurisdiction of the local government that created the authority. The  
12 authority board shall select the chair.

13 (2) A simple majority of the board members shall constitute a  
14 quorum.

15 (3) The board shall annually elect a secretary and any other  
16 officers it deems necessary.

17 (4) The local government shall designate an individual with  
18 financial experience to serve as treasurer. The individual may be a  
19 city or county treasurer, city or county auditor, or a private party.  
20 If the treasurer is a private party, the local government shall require  
21 a bond in an amount and under such terms and conditions as the local  
22 government deems necessary to protect the authority. The treasurer  
23 shall have the power to create and maintain funds, issue warrants, and  
24 invest funds in its possession.

25 (5) The board may adopt bylaws or rules for their own governance.

26 (6) Meetings of the board shall be held in accordance with the open  
27 public meetings act, chapter 42.30 RCW, and at the call of the chair or  
28 when a majority of the board so requests. Meetings of the board may be  
29 held at any location and board members may participate in a meeting of  
30 the board by means of a conference telephone or similar communication  
31 equipment under RCW 23B.08.200.

32 NEW SECTION. **Sec. 6.** POWERS AND DUTIES. (1) The authority has  
33 all the general powers necessary to carry out its purposes and duties  
34 and to exercise its specific powers, including the authority may:

35 (a) Sue and be sued in its own name;

1 (b) Make and execute agreements, contracts, and other instruments,  
2 with any public or private entity or person, in accordance with this  
3 chapter;

4 (c) Employ, contract with, or engage independent counsel, financial  
5 advisors, auditors, other technical or professional assistants, and  
6 such other personnel as are necessary or desirable to implement this  
7 chapter;

8 (d) Establish such special funds, and control deposits to and  
9 disbursements from them, as it finds convenient for the implementation  
10 of this chapter;

11 (e) Enter into contracts with public and private entities for  
12 research to be conducted in this state;

13 (f) Delegate any of its powers and duties if consistent with the  
14 purposes of this chapter;

15 (g) Exercise any other power reasonably required to implement the  
16 purposes of this chapter; and

17 (h) Hire staff and pay administrative costs; however, such expenses  
18 shall be paid from moneys provided by the sponsoring local government  
19 and moneys received from gifts, grants, and bequests and the interest  
20 earned on the authority's accounts and investments.

21 (2) In addition to other powers and duties prescribed in this  
22 chapter, the authority is empowered to:

23 (a) Use the authority's public moneys, leveraging those moneys with  
24 amounts received from other public and private sources in accordance  
25 with contribution agreements, promote bioscience-based economic  
26 development, and advance new therapies and procedures to combat disease  
27 and promote public health;

28 (b) Solicit and receive gifts, grants, and bequests, and enter into  
29 contribution agreements with private entities and public entities to  
30 receive moneys in consideration of the authority's promise to leverage  
31 those moneys with the revenue generated by the tax authorized pursuant  
32 to section 12 of this act and contributions from other public entities  
33 and private entities, in order to use those moneys to promote  
34 bioscience-based economic development and advance new therapies and  
35 procedures to combat disease and promote public health;

36 (c) Hold funds received by the authority in trust for their use  
37 pursuant to this chapter to promote bioscience-based economic

1 development and advance new therapies and procedures to combat disease  
2 and promote public health;

3 (d) Manage its funds, obligations, and investments as necessary and  
4 consistent with its purpose, including the segregation of revenues into  
5 separate funds and accounts;

6 (e) Make grants to entities pursuant to contract to promote  
7 bioscience-based economic development and advance new therapies and  
8 procedures to combat disease and promote public health. Grant  
9 agreements shall specify the deliverables to be provided by the  
10 recipient pursuant to the grant. Grants to private entities may only  
11 be provided under a contractual agreement that ensures the state will  
12 receive appropriate consideration, such as an assurance of job creation  
13 or retention, or the delivery of services that provide for the public  
14 health, safety, and welfare. The authority shall solicit requests for  
15 funding and evaluate the requests by reference to factors such as: (i)  
16 The quality of the proposed research; (ii) its potential to improve  
17 health outcomes, with particular attention to the likelihood that it  
18 will also lower health care costs, substitute for a more costly  
19 diagnostic or treatment modality, or offer a breakthrough treatment for  
20 a particular disease or condition; (iii) its potential to leverage  
21 additional funding; (iv) its potential to provide health care benefits;  
22 (v) its potential to stimulate employment; and (vi) evidence of public  
23 and private collaboration;

24 (f) Create one or more advisory boards composed of scientists,  
25 industrialists, and others familiar with health sciences and services;  
26 and

27 (g) Adopt policies and procedures to facilitate the orderly process  
28 of grant application, review, and reward.

29 (3) The records of the authority shall be subject to audit by the  
30 office of the state auditor.

31 NEW SECTION. **Sec. 7.** GENERAL INDEBTEDNESS--GENERAL OBLIGATION  
32 BONDS. A local government that creates a health sciences and services  
33 authority may incur general indebtedness, and issue general obligation  
34 bonds, to finance the grants and other programs and retire the  
35 indebtedness in whole or in part from the funds distributed pursuant to  
36 section 12 of this act.



1       **Sec. 13.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c  
2 338 s 5, 2006 c 302 s 12, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c  
3 171 s 8 are each reenacted and amended to read as follows:

4       The following financial, commercial, and proprietary information is  
5 exempt from disclosure under this chapter:

6       (1) Valuable formulae, designs, drawings, computer source code or  
7 object code, and research data obtained by any agency within five years  
8 of the request for disclosure when disclosure would produce private  
9 gain and public loss;

10       (2) Financial information supplied by or on behalf of a person,  
11 firm, or corporation for the purpose of qualifying to submit a bid or  
12 proposal for (a) a ferry system construction or repair contract as  
13 required by RCW 47.60.680 through 47.60.750 or (b) highway construction  
14 or improvement as required by RCW 47.28.070;

15       (3) Financial and commercial information and records supplied by  
16 private persons pertaining to export services provided under chapters  
17 43.163 and 53.31 RCW, and by persons pertaining to export projects  
18 under RCW 43.23.035;

19       (4) Financial and commercial information and records supplied by  
20 businesses or individuals during application for loans or program  
21 services provided by chapters 15.110, 43.163, 43.160, 43.330, and  
22 43.168 RCW, or during application for economic development loans or  
23 program services provided by any local agency;

24       (5) Financial information, business plans, examination reports, and  
25 any information produced or obtained in evaluating or examining a  
26 business and industrial development corporation organized or seeking  
27 certification under chapter 31.24 RCW;

28       (6) Financial and commercial information supplied to the state  
29 investment board by any person when the information relates to the  
30 investment of public trust or retirement funds and when disclosure  
31 would result in loss to such funds or in private loss to the providers  
32 of this information;

33       (7) Financial and valuable trade information under RCW 51.36.120;

34       (8) Financial, commercial, operations, and technical and research  
35 information and data submitted to or obtained by the clean Washington  
36 center in applications for, or delivery of, program services under  
37 chapter 70.95H RCW;



1 (9) Financial and commercial information requested by the public  
2 stadium authority from any person or organization that leases or uses  
3 the stadium and exhibition center as defined in RCW 36.102.010;

4 (10)(a) Financial information, including but not limited to account  
5 numbers and values, and other identification numbers supplied by or on  
6 behalf of a person, firm, corporation, limited liability company,  
7 partnership, or other entity related to an application for a horse  
8 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor  
9 license, gambling license, or lottery retail license;

10 (b) Financial or proprietary information supplied to the liquor  
11 control board including the amount of beer or wine sold by a domestic  
12 winery, brewery, microbrewery, or certificate of approval holder under  
13 RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or  
14 wine purchased by a retail licensee in connection with a retail  
15 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of  
16 shipments of beer or wine.

17 (11) Proprietary data, trade secrets, or other information that  
18 relates to: (a) A vendor's unique methods of conducting business; (b)  
19 data unique to the product or services of the vendor; or (c)  
20 determining prices or rates to be charged for services, submitted by  
21 any vendor to the department of social and health services for purposes  
22 of the development, acquisition, or implementation of state purchased  
23 health care as defined in RCW 41.05.011;

24 (12)(a) When supplied to and in the records of the department of  
25 community, trade, and economic development:

26 (i) Financial and proprietary information collected from any person  
27 and provided to the department of community, trade, and economic  
28 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

29 (ii) Financial or proprietary information collected from any person  
30 and provided to the department of community, trade, and economic  
31 development or the office of the governor in connection with the  
32 siting, recruitment, expansion, retention, or relocation of that  
33 person's business and until a siting decision is made, identifying  
34 information of any person supplying information under this subsection  
35 and the locations being considered for siting, relocation, or expansion  
36 of a business;

37 (b) When developed by the department of community, trade, and

1 economic development based on information as described in (a)(i) of  
2 this subsection, any work product is not exempt from disclosure;

3 (c) For the purposes of this subsection, "siting decision" means  
4 the decision to acquire or not to acquire a site;

5 (d) If there is no written contact for a period of sixty days to  
6 the department of community, trade, and economic development from a  
7 person connected with siting, recruitment, expansion, retention, or  
8 relocation of that person's business, information described in (a)(ii)  
9 of this subsection will be available to the public under this chapter;

10 (13) Financial and proprietary information submitted to or obtained  
11 by the department of ecology or the authority created under chapter  
12 70.95N RCW to implement chapter 70.95N RCW;

13 (14) Financial, commercial, operations, and technical and research  
14 information and data submitted to or obtained by the life sciences  
15 discovery fund authority in applications for, or delivery of, grants  
16 under chapter 43.350 RCW, to the extent that such information, if  
17 revealed, would reasonably be expected to result in private loss to the  
18 providers of this information;

19 (15) Financial and commercial information provided as evidence to  
20 the department of licensing as required by RCW 19.112.110 or  
21 19.112.120, except information disclosed in aggregate form that does  
22 not permit the identification of information related to individual fuel  
23 licensees;

24 (16) Any production records, mineral assessments, and trade secrets  
25 submitted by a permit holder, mine operator, or landowner to the  
26 department of natural resources under RCW 78.44.085; ~~((and))~~

27 (17)(a) Farm plans developed by conservation districts, unless  
28 permission to release the farm plan is granted by the landowner or  
29 operator who requested the plan, or the farm plan is used for the  
30 application or issuance of a permit~~((-))~~;

31 (b) Farm plans developed under chapter 90.48 RCW and not under the  
32 federal clean water act, 33 U.S.C. Sec. 1251 are subject to RCW  
33 42.56.610 and 90.64.190; and

34 (18) Financial, commercial, operations, and technical and research  
35 information and data submitted to or obtained by a health sciences and  
36 services authority in applications for, or delivery of, grants under  
37 sections 1 through 6 of this act, to the extent that such information,

1 if revealed, would reasonably be expected to result in private loss to  
2 providers of this information.

3 **Sec. 14.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c  
4 338 s 5, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c 171 s 8 are each  
5 reenacted and amended to read as follows:

6 The following financial, commercial, and proprietary information is  
7 exempt from disclosure under this chapter:

8 (1) Valuable formulae, designs, drawings, computer source code or  
9 object code, and research data obtained by any agency within five years  
10 of the request for disclosure when disclosure would produce private  
11 gain and public loss;

12 (2) Financial information supplied by or on behalf of a person,  
13 firm, or corporation for the purpose of qualifying to submit a bid or  
14 proposal for (a) a ferry system construction or repair contract as  
15 required by RCW 47.60.680 through 47.60.750 or (b) highway construction  
16 or improvement as required by RCW 47.28.070;

17 (3) Financial and commercial information and records supplied by  
18 private persons pertaining to export services provided under chapters  
19 43.163 and 53.31 RCW, and by persons pertaining to export projects  
20 under RCW 43.23.035;

21 (4) Financial and commercial information and records supplied by  
22 businesses or individuals during application for loans or program  
23 services provided by chapters 15.110, 43.163, 43.160, 43.330, and  
24 43.168 RCW, or during application for economic development loans or  
25 program services provided by any local agency;

26 (5) Financial information, business plans, examination reports, and  
27 any information produced or obtained in evaluating or examining a  
28 business and industrial development corporation organized or seeking  
29 certification under chapter 31.24 RCW;

30 (6) Financial and commercial information supplied to the state  
31 investment board by any person when the information relates to the  
32 investment of public trust or retirement funds and when disclosure  
33 would result in loss to such funds or in private loss to the providers  
34 of this information;

35 (7) Financial and valuable trade information under RCW 51.36.120;

36 (8) Financial, commercial, operations, and technical and research

1 information and data submitted to or obtained by the clean Washington  
2 center in applications for, or delivery of, program services under  
3 chapter 70.95H RCW;

4 (9) Financial and commercial information requested by the public  
5 stadium authority from any person or organization that leases or uses  
6 the stadium and exhibition center as defined in RCW 36.102.010;

7 (10) Financial information, including but not limited to account  
8 numbers and values, and other identification numbers supplied by or on  
9 behalf of a person, firm, corporation, limited liability company,  
10 partnership, or other entity related to an application for a horse  
11 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor  
12 license, gambling license, or lottery retail license;

13 (11) Proprietary data, trade secrets, or other information that  
14 relates to: (a) A vendor's unique methods of conducting business; (b)  
15 data unique to the product or services of the vendor; or (c)  
16 determining prices or rates to be charged for services, submitted by  
17 any vendor to the department of social and health services for purposes  
18 of the development, acquisition, or implementation of state purchased  
19 health care as defined in RCW 41.05.011;

20 (12)(a) When supplied to and in the records of the department of  
21 community, trade, and economic development:

22 (i) Financial and proprietary information collected from any person  
23 and provided to the department of community, trade, and economic  
24 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

25 (ii) Financial or proprietary information collected from any person  
26 and provided to the department of community, trade, and economic  
27 development or the office of the governor in connection with the  
28 siting, recruitment, expansion, retention, or relocation of that  
29 person's business and until a siting decision is made, identifying  
30 information of any person supplying information under this subsection  
31 and the locations being considered for siting, relocation, or expansion  
32 of a business;

33 (b) When developed by the department of community, trade, and  
34 economic development based on information as described in (a)(i) of  
35 this subsection, any work product is not exempt from disclosure;

36 (c) For the purposes of this subsection, "siting decision" means  
37 the decision to acquire or not to acquire a site;

1 (d) If there is no written contact for a period of sixty days to  
2 the department of community, trade, and economic development from a  
3 person connected with siting, recruitment, expansion, retention, or  
4 relocation of that person's business, information described in (a)(ii)  
5 of this subsection will be available to the public under this chapter;

6 (13) Financial and proprietary information submitted to or obtained  
7 by the department of ecology or the authority created under chapter  
8 70.95N RCW to implement chapter 70.95N RCW;

9 (14) Financial, commercial, operations, and technical and research  
10 information and data submitted to or obtained by the life sciences  
11 discovery fund authority in applications for, or delivery of, grants  
12 under chapter 43.350 RCW, to the extent that such information, if  
13 revealed, would reasonably be expected to result in private loss to the  
14 providers of this information;

15 (15) Financial and commercial  
16 information provided as evidence to the department of licensing as  
17 required by RCW 19.112.110 or 19.112.120, except information disclosed  
18 in aggregate form that does not permit the identification of  
19 information related to individual fuel licensees;

20 (16) Any production records, mineral assessments, and trade secrets  
21 submitted by a permit holder, mine operator, or landowner to the  
22 department of natural resources under RCW 78.44.085; ~~((and))~~

23 (17)(a) Farm plans developed by conservation districts, unless  
24 permission to release the farm plan is granted by the landowner or  
25 operator who requested the plan, or the farm plan is used for the  
26 application or issuance of a permit~~((-))~~;

27 (b) Farm plans developed under chapter 90.48 RCW and not under the  
28 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to  
29 RCW 42.56.610 and 90.64.190; and

30 (18) Financial, commercial, operations, and technical and research  
31 information and data submitted to or obtained by a health sciences and  
32 services authority in applications for, or delivery of, grants under  
33 sections 1 through 6 of this act, to the extent that such information,  
34 if revealed, would reasonably be expected to result in private loss to  
providers of this information.

35 NEW SECTION. Sec. 15. CAPTIONS. Captions used in this act are  
36 not any part of the law.

1        NEW SECTION.   **Sec. 16.**   SEVERABILITY.   If any provision of this act  
2   or its application to any person or circumstance is held invalid, the  
3   remainder of the act or the application of the provision to other  
4   persons or circumstances is not affected.

5        NEW SECTION.   **Sec. 17.**   CODIFICATION.   Sections 1 through 10 of  
6   this act constitute a new chapter in Title 35 RCW.

7        NEW SECTION.   **Sec. 18.**   EXPIRATION DATE.   Section 13 of this act  
8   expires June 30, 2008.

9        NEW SECTION.   **Sec. 19.**   EFFECTIVE DATE.   Section 14 of this act  
10   takes effect June 30, 2008.

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