

HOUSE BILL REPORT

2SSB 6140

As Reported by House Committee On:
Community & Economic Development & Housing

Title: An act relating to local economic development financing.

Brief Description: Concerning local economic development financing.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Becker, King, Regala, Conway, Shin and Chase).

Brief History:

Committee Activity:

Community & Economic Development & Housing: 2/16/12, 2/20/12 [DPA].

**Brief Summary of Second Substitute Bill
(As Amended by Committee)**

- Authorizes the creation of local economic development finance authorities that may issue taxable and tax-exempt nonrecourse revenue bond financing for economic development projects, participate in federal and other governmental economic development finance programs, and conduct programs to stimulate and encourage the development of new products.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & HOUSING

Majority Report: Do pass as amended. Signed by 8 members: Representatives Kenney, Chair; Finn, Vice Chair; Smith, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Maxwell, Ryu, Santos and Walsh.

Minority Report: Do not pass. Signed by 1 member: Representative Ahern.

Staff: Jennifer Thornton (786-7147).

Background:

Financing Industrial Development Facilities.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In 1981 legislation passed with the stated purpose of facilitating economic development and employment opportunities through the financing of the project costs of industrial development facilities. The Legislature also approved a proposal to amend the Washington State Constitution, which prohibits lending or giving credit to private persons. That year, Washington voters passed a constitutional amendment which permitted the Legislature to enact laws authorizing local governments to create public corporations that can issue tax-exempt nonrecourse revenue bonds for financing industrial development facilities.

Six cities, three counties, and 10 port districts subsequently created public corporations for the purpose of issuing tax-exempt nonrecourse revenue bonds to finance industrial development facilities. These public corporations created under the 1981 implementing legislation do not have the authority to issue taxable revenue bonds and are unable to participate in some recently developed federal programs designed to assist local businesses and economic development projects.

Washington Economic Development Finance Authority.

The Washington Economic Development Finance Authority (WEDFA) was enacted by legislation in 1989 to further stimulate economic development by acting as a financial conduit to businesses through the issuance of nonrecourse revenue bonds. The WEDFA has the authority to issue these bonds on both a taxable and tax-exempt basis, and has a debt limit of \$1.5 billion.

The WEDFA is a public body governed by a 17 member board of directors that helps small and medium-sized businesses meet their capital needs. The primary types of projects that qualify for financing include, but are not limited to, manufacturing, processing, and waste disposal facilities. The WEDFA does not receive state funds, and does not lend the credit of the state or local governments.

A 1992 case challenged the WEDFA's authority to issue bonds in a manner inconsistent with the terms of the 1981 constitutional amendment. The Washington Supreme Court (Court) ruled that because the bonds at issue were not created pursuant to the 1981 amendment, the limitations of the amendment did not apply. The Court ordered the State Treasurer to sign the bond issuance resolution at issue in the case. Since then, the WEDFA has issued millions of dollars in both taxable and nontaxable revenue bonds.

Summary of Amended Bill:

Statutory Purpose.

The statutory purpose is to allow certain cities, towns, counties, and port districts to build on their expertise with tax-exempt nonrecourse revenue bond financing, by creating local economic development finance authorities (authorities) to act as a financial conduit to help facilitate access to needed capital by Washington businesses.

Creation of Authorities.

Cities, towns, counties, and port districts with currently existing public corporations created prior to 2012 for the purpose of issuing tax-exempt nonrecourse revenue bonds to finance

industrial development facilities are given the authority to enact an ordinance creating an authority. The ordinance creating an authority must include provisions establishing a board of directors.

Allowable Activities, Requirements, and Restrictions.

An authority may use legally available funds to improve economic development by assisting businesses and farm enterprises that do not have access to capital at terms and rates comparable to large corporations due to the location of the business, the size of the business, the lack of financial expertise, or other appropriate reasons. Authorities are allowed to: offer programs providing taxable and tax-exempt nonrecourse revenue bond financing for economic development projects; participate in federal and other governmental economic development finance programs; and conduct programs to stimulate and encourage the development of new products in Washington by infusing financial aid for invention and innovation. The Department of Commerce and the WEDFA may assist a local economic development finance authority in organizing itself and in designing programs.

Authorities must adopt a general plan of economic development finance objectives. Prior to implementing any program, the authority must adopt operating procedures for that program including setting appropriate financing and loan securitization standards, and the expectation that a borrower will increase or maintain jobs or capital.

The finances of an authority are subject to examination by the creating municipality and the State Auditor. An authority may receive no appropriation of state funds, and municipalities may not provide money or property to aid an authority. Authorities are not municipal corporations or political subdivisions of the state, and do not have taxing, eminent domain, or police powers.

Authorities are prohibited from: giving or loaning state money, property or credit; acting as a bank; financing projects that the Washington State Housing Finance Commission, Washington Health Care Facilities Authority, or Washington Higher Education Facilities Authority have the authority to finance; and financing projects are not wholly located within the geographic boundaries of the creating municipality, with specific exceptions for solid waste disposal facilities and energy facilities.

Nonrecourse Revenue Bonds.

The municipality that created the authority, and the county, city, or town that has planning jurisdiction for the economic development activity to be financed, must approve the issuance of any revenue bonds. A letter certifying the credit worthiness of the borrower, confirmation that the borrower arranged for placement of the bonds with an institutional investor, or confirmation that the borrower has an investment grade credit rating must also be obtained by the authority before bonds can be issued.

Bonds may be issued by an authority on a taxable or tax-exempt basis. Bonds are not considered to constitute a debt of the state or municipality. No tax funds or governmental revenue may be used to pay principal or interest of the bonds, and neither the faith and credit nor the taxing power of the state or municipality may be pledged to the payment of these bonds. The revenue bonds may only be paid for by the revenues derived as a result of the economic development activities funded by the revenue bonds.

Amended Bill Compared to Second Substitute Bill:

Language is added to the stated purpose clarifying that the reason certain cities, counties, and port districts are given the authority to create local economic development finance authorities is because of their expertise with tax-exempt nonrecourse revenue bond financing.

Language stating that the boards of an authority and a public corporation can be composed of the same members and that a municipality can obligate an authority to assume responsibilities of a public corporation are removed.

The credit-related documents that must be obtained before issuing bonds are modified to require one of the following:

1. a letter of credit supporting the creditworthiness of the borrower from a bank with an investment grade credit rating;
2. confirmation that the borrower has arranged for private placement of the bonds with an institutional investor; or
3. confirmation that the borrower has an investment grade credit rating of their own.

An "investment grade credit rating" is defined to mean a rating of at least BBB- by Standard & Poor's, Baa3 by Moody's Investors Service, or BBB- by Fitch.

The requirements related to the boundaries of economic development activities financed by an authority are changed so that except for financing related to energy facilities and solid waste disposal facilities, activities must take place wholly within the boundaries of the municipality that created the authority.

Appropriation: None.

Fiscal Note: Requested on February 15, 2012.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Public corporations issue tax-exempt industrial development revenue bonds, which are typically able to offer financing at 1 to 3 percent below market rate for manufacturing and processing projects. Over the last 20 to 25 years, the Economic Development Corporation of Pierce County issued tax-exempt industrial development revenue bonds for dozens of projects that created thousands of jobs in the county and created millions of dollars of capital investment. This bill allows local areas to expand financing by allowing the issuance of taxable and tax-credit bonds which will open up access to a larger number of projects and a wider range of projects. Sometimes companies would benefit from a small taxable transaction, which would allow them to finance the cost of something that does not qualify for tax-exempt financing, such as a warehouse or office space attached to a manufacturing facility. This will be an easier tool for companies to use because everything

can be rolled into a single credit package. This is a jobs bill that encourages more capital investment from the private sector. After revisions in the Senate, and hopefully, an amendment in this committee, the WEDFA is comfortable that this is an appropriate bill. This bill has limited the number of the issuers that can be created to those with experience issuing industrial development revenue bonds. Everyone is concerned about debt and risk. This approach involves no public debt, puts no public funds at risk, does not pledge the faith and credit of the state, and has no cost to taxpayers.

(Opposed) None.

Persons Testifying: Senator Kilmer, prime sponsor; Chris Green, Economic Development Board for Tacoma-Pierce County; Rodney Wendt, Washington Economic Development Finance Authority; and Noah Reandeau, Washington Economic Development Association.

Persons Signed In To Testify But Not Testifying: None.