
SUBSTITUTE SENATE BILL 6140

State of Washington

62nd Legislature

2012 Regular Session

By Senate Economic Development, Trade & Innovation (originally sponsored by Senators Kilmer, Becker, King, Regala, Conway, Shin, and Chase)

READ FIRST TIME 02/01/12.

1 AN ACT Relating to local economic development financing; adding a
2 new chapter to Title 39 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that the issuance
5 of taxable nonrecourse revenue bonds by the Washington economic
6 development finance authority has provided a number of Washington firms
7 with the financing necessary to grow and create jobs. The legislature
8 further finds that municipal authority to issue taxable nonrecourse
9 revenue bonds does not exist and that authorizing the local issuance of
10 taxable bonds for economic development purposes will increase local
11 capacity to strengthen businesses and create jobs.

12 (2) It is the purpose of this chapter to permit cities, counties
13 and port districts that created public corporations created under
14 chapter 39.84 RCW prior to 2012 to create local economic development
15 finance authorities to act as a financial conduit that, without using
16 state or local government funds or lending the credit of the state or
17 local governments, can issue taxable and nontaxable nonrecourse revenue
18 bonds, and participate in federal, state, and local economic
19 development programs to help facilitate access to needed capital by

1 Washington businesses. It is also a primary purpose of this chapter to
2 encourage the development of local innovative approaches to the problem
3 of unmet capital needs. This chapter must be construed liberally to
4 carry out its purposes and objectives.

5 NEW SECTION. **Sec. 2.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Authority" means a local economic development finance
8 authority created under this chapter. An authority is a public body
9 within the meaning of RCW 39.53.010.

10 (2) "Board of directors" means the board of directors of an
11 authority.

12 (3) "Bonds" means any bonds, notes, debentures, interim
13 certificates, conditional sales or lease financing agreements, lines of
14 credit, forward purchase agreements, investment agreements, and other
15 banking or financial arrangements, guaranties, or other obligations
16 issued by or entered into by the authority. Such bonds may be issued
17 on either a tax-exempt or taxable basis.

18 (4) "Borrower" means one or more public or private persons or
19 entities acting as lessee, purchaser, mortgagor, or borrower who has
20 obtained or is seeking to obtain financing either from an authority or
21 from an eligible banking organization that has obtained or is seeking
22 to obtain funds from the authority to finance a project. A borrower
23 may include a party who transfers the right of use and occupancy to
24 another party by lease, sublease, or otherwise, or a party who is
25 seeking or has obtained a financial guaranty from the authority.

26 (5) "Economic development activities" means activities related to:
27 Manufacturing, processing, the commercialization of research,
28 production, assembly, tooling, warehousing, exporting products made in
29 Washington or services provided by Washington firms, airports, docks
30 and wharves, mass commuting facilities, high-speed intercity rail
31 facilities, public broadcasting, pollution control, solid waste
32 disposal, federally qualified hazardous waste facilities, energy
33 generating, conservation, or transmission facilities, sports
34 facilities, industrial parks, and activities conducted within a
35 federally designated enterprise or empowerment zone or geographic area
36 of similar nature.

1 (6) "Eligible banking organization" means any organization subject
2 to regulation by the director of the department of financial
3 institutions, any national bank, federal savings and loan association,
4 and federal credit union located within this state.

5 (7) "Eligible person" means an individual, partnership,
6 corporation, or joint venture carrying on business, or proposing to
7 carry on business, within the state and seeking financial assistance
8 under this act.

9 (8) "Financial assistance" means the infusion of capital to persons
10 for use in the development and exploitation of specific inventions and
11 products.

12 (9) "Financing agreements" means, and includes without limitation,
13 a contractual arrangement with an eligible person whereby an authority
14 obtains rights from or in an invention or product or proceeds from an
15 invention or product in exchange for the granting of financial and
16 other assistance to the person.

17 (10) "Financing document" means an instrument executed by an
18 authority and one or more persons or entities pertaining to the
19 issuance of or security for bonds, or the application of the proceeds
20 of bonds or other funds of, or payable to, the authority. A financing
21 document may include, but need not be limited to, a lease, installment
22 sale agreement, conditional sale agreement, mortgage, loan agreement,
23 trust agreement or indenture, security agreement, letter or line of
24 credit, reimbursement agreement, insurance policy, guaranty agreement,
25 or currency or interest rate swap agreement. A financing document also
26 may be an agreement between the authority and an eligible banking
27 organization which has agreed to make a loan to a borrower.

28 (11) "Municipality" means a city, town, county, or port district of
29 this state.

30 (12) "Ordinance" means any appropriate method of taking official
31 action or adopting a legislative decision by any municipality, whether
32 known as a resolution, ordinance, or otherwise.

33 (13) "Plan" means the general plan of economic development finance
34 objectives developed and adopted by the authority, and updated from
35 time to time, as required under RCW 43.163.090.

36 (14) "Product" means a product, device, technique, or process that
37 is or may be exploitable commercially. "Product" does not refer to

1 pure research, but does apply to products, devices, techniques, or
2 processes that have advanced beyond the theoretic stage and are readily
3 capable of being, or have been, reduced to practice.

4 (15) "Project costs" means costs of:

5 (a) Acquisition, lease, construction, reconstruction, remodeling,
6 refurbishing, rehabilitation, extension, and enlargement of land,
7 rights to land, buildings, structures, docks, wharves, fixtures,
8 machinery, equipment, excavations, paving, landscaping, utilities,
9 approaches, roadways and parking, handling and storage areas, and
10 similar ancillary facilities, and any other real or personal property
11 included in an economic development activity;

12 (b) Architectural, engineering, consulting, accounting, and legal
13 costs related directly to the development, financing, acquisition,
14 lease, construction, reconstruction, remodeling, refurbishing,
15 rehabilitation, extension, and enlargement of an activity included
16 under subsection (5) of this section, including costs of studies
17 assessing the feasibility of an economic development activity;

18 (c) Finance costs, including the costs of credit enhancement and
19 discounts, if any, the costs of issuing revenue bonds, and costs
20 incurred in carrying out any financing document;

21 (d) Start-up costs, working capital, capitalized research and
22 development costs, capitalized interest during construction and during
23 the eighteen months after estimated completion of construction, and
24 capitalized debt service or repair and replacement or other appropriate
25 reserves;

26 (e) The refunding of any outstanding obligations incurred for any
27 of the costs outlined in this subsection; and

28 (f) Other costs incidental to any of the costs listed in this
29 subsection.

30 NEW SECTION. **Sec. 3.** (1) A municipality that formed a public
31 corporation under chapter 39.84 RCW prior to January 1, 2012, may, if
32 that public corporation is still in existence, enact an ordinance
33 creating an economic development finance authority for the purposes
34 authorized in this chapter. The ordinance creating the authority must
35 approve a charter for the authority containing such provisions as are
36 authorized by and not in conflict with this chapter. Any charter
37 issued under this chapter must contain in substance the limitations set

1 forth in section 4 of this act. In any suit, action, or proceeding
2 involving the validity or enforcement of or relating to any contract of
3 the authority, the authority is conclusively presumed to be established
4 and authorized to transact business and exercise its powers under this
5 chapter upon proof of the adoption of the ordinance creating the
6 authority by the governing body. A copy of the ordinance duly
7 certified by the clerk of the governing body of the municipality is
8 admissible in evidence in any suit, action, or proceeding.

9 (2) An authority created by a municipality pursuant to this chapter
10 may be dissolved by the municipality if: (a) The authority has no
11 property to administer, other than funds or property, if any, to be
12 paid or transferred to the municipality by which it was established;
13 and (b) all the authority's outstanding obligations have been
14 satisfied. Such a dissolution must be accomplished by the governing
15 body of the municipality adopting an ordinance providing for the
16 dissolution.

17 (3) The creating municipality may, at its discretion and at any
18 time, alter or change the structure, organizational programs, or
19 activities of an authority, including termination of the authority if
20 contracts entered into by the authority are not impaired. Any net
21 earnings of an authority, beyond those necessary for retirement of
22 indebtedness incurred by it, do not inure to the benefit of any person
23 other than the creating municipality. Upon dissolution of an
24 authority, title to all property owned by the authority vests in the
25 municipality.

26 (4) The ordinance creating an authority must include provisions
27 establishing a board of directors to govern the affairs of the
28 authority, what constitutes a quorum of the board of directors, and how
29 the authority must conduct its affairs. The board of directors may be
30 composed, in whole or in part, of members who also serve on the board
31 of directors of the public corporation created by the municipality
32 under chapter 39.84 RCW.

33 (5) For a period of ten years after any financing through an
34 authority, it is illegal for a director, officer, agent, or employee of
35 an authority to have, directly or indirectly, any financial interest in
36 any property to be included in or any contract for property, services,
37 or materials to be furnished or used in connection with any economic

1 development activity financed through the authority. Violation of any
2 provision of this section is a gross misdemeanor.

3 (6) The finances of any authority are subject to examination by the
4 state auditor's office pursuant to RCW 43.09.260.

5 (7) The creating municipality may obligate the authority to assume
6 and administer some or all of the obligations and functions of the
7 public corporation created by such municipality pursuant to chapter
8 39.84 RCW, but only if contracts previously entered into by the public
9 corporation are not thereby impaired.

10 NEW SECTION. **Sec. 4.** No municipality may give or lend any money
11 or property in aid of an authority. The municipality that creates an
12 authority must annually review any financial statements of the
13 authority and at all times must have access to the books and records of
14 the authority. No authority may issue revenue obligations under this
15 chapter except upon the approval of both the municipality under the
16 auspices of which it was created and the county, city, or town within
17 whose planning jurisdiction the economic development activity to be
18 financed lies. An authority established under the terms of this
19 chapter constitutes an authority and an instrumentality (within the
20 meaning of those terms in the regulations of the United States treasury
21 and the rulings of the internal revenue service prescribed pursuant to
22 26 U.S.C. Sec. 103 of the federal internal revenue code of 1986, as
23 amended) may act on behalf of the municipality under whose auspices it
24 is created for the specific public purposes authorized by this chapter.
25 The authority is not a municipal corporation within the meaning of the
26 state Constitution and the laws of the state, or a political
27 subdivision within the meaning of the state Constitution and the laws
28 of the state, including without limitation, Article VIII, section 7 of
29 the Washington state Constitution. A municipality may not delegate to
30 an authority any of the municipality's attributes of sovereignty
31 including, without limitation, the power to tax, the power of eminent
32 domain, and the police power.

33 NEW SECTION. **Sec. 5.** (1) An authority established pursuant to
34 this chapter may develop and conduct a program or programs to provide
35 nonrecourse revenue bond financing for the project costs for economic
36 development activities.

1 (2) An authority is authorized to participate fully in federal and
2 other governmental economic development finance programs and to take
3 such actions as are necessary and consistent with this chapter to
4 secure the benefits of those programs and to meet their requirements.

5 (3) An authority may develop and conduct a program that will
6 stimulate and encourage the development of new products within
7 Washington state by the infusion of financial aid for invention and
8 innovation in situations in which the financial aid would not otherwise
9 be reasonably available from commercial sources. The authority is
10 authorized to provide nonrecourse revenue bond financing for this
11 program.

12 (a) For the purposes of this program, the authority has the
13 following powers and duties:

14 (i) To enter into financing agreements with eligible persons doing
15 business in Washington state, upon terms and on conditions consistent
16 with the purposes of this chapter, for the advancement of financial and
17 other assistance to the persons for the development of specific
18 products, procedures, and techniques, to be developed and produced in
19 this state, and to condition the agreements upon contractual assurances
20 that the benefits of increasing or maintaining employment and tax
21 revenues remain in this state and accrue to it;

22 (ii) Own, possess, and take license in patents, copyrights, and
23 proprietary processes and negotiate and enter into contracts and
24 establish charges for the use of the patents, copyrights, and
25 proprietary processes when the patents and licenses for products result
26 from assistance provided by the authority;

27 (iii) Negotiate royalty payments to the authority on patents and
28 licenses for products arising as a result of assistance provided by the
29 authority;

30 (iv) Negotiate and enter into other types of contracts with
31 eligible persons that assure that public benefits will result from the
32 provision of services by the authority; provided that the contracts are
33 consistent with the state Constitution;

34 (v) Encourage and provide technical assistance to eligible persons
35 in the process of developing new products;

36 (vi) Refer eligible persons to researchers or laboratories for the
37 purpose of testing and evaluating new products, processes, or
38 innovations; and

1 (vii) To the extent permitted under its contract with eligible
2 persons, to consent to a termination, modification, forgiveness, or
3 other change of a term of a contractual right, payment, royalty,
4 contract, or agreement of any kind to which the authority is a party.

5 (b) Eligible persons seeking financial and other assistance under
6 this program must forward an application, together with an application
7 fee prescribed by rule, to the authority. An investigation and report
8 concerning the advisability of approving an application for assistance
9 must be completed by the staff of the authority. The investigation and
10 report may include, but is not limited to, facts about the company
11 under consideration as its history, wage standards, job opportunities,
12 stability of employment, past and present financial condition and
13 structure, pro forma income statements, present and future markets and
14 prospects, integrity of management as well as the feasibility of the
15 proposed product and invention to be granted financial assistance,
16 including the state of development of the product as well as the
17 likelihood of its commercial feasibility. After receipt and
18 consideration of the report set out in this subsection and after other
19 action as is deemed appropriate, the application must be approved or
20 denied by the authority. The applicant must be promptly notified of
21 action by the authority.

22 (4) An authority may receive no appropriation of state funds. The
23 department of commerce and the Washington economic development finance
24 authority may assist a local economic development finance authority in
25 organizing itself and in designing programs.

26 (5) An authority may use any funds legally available to it for any
27 purpose specifically authorized by this chapter, or for otherwise
28 improving economic development by assisting businesses and farm
29 enterprises that do not have access to capital at terms and rates
30 comparable to large corporations due to the location of the business,
31 the size of the business, the lack of financial expertise, or other
32 appropriate reasons.

33 (6) An authority must coordinate its activities with those,
34 including bond issuance activities, of the creating municipality and
35 the public corporation created under chapter 39.84 RCW by the creating
36 municipality.

1 NEW SECTION. **Sec. 6.** (1) An authority established pursuant to
2 this chapter must adopt general operating procedures for the authority.
3 The authority must also adopt operating procedures for individual
4 programs as they are developed for obtaining funds and for providing
5 funds to borrowers. These operating procedures must be adopted by
6 resolution prior to the authority operating the applicable programs.

7 (2) The operating procedures must include, but are not limited to:

8 (a) Appropriate standards for securing loans and other financing
9 the authority provides to borrowers, such as guarantees or collateral;
10 and

11 (b) Strict standards for providing financing to borrowers, such as:

12 (i) The borrower is a responsible party with a high probability of
13 being able to repay the financing provided by the authority;

14 (ii) The financing is reasonably expected to benefit the creating
15 municipality by enabling a borrower to increase or maintain jobs or
16 capital in the municipality;

17 (iii) The borrowers with the greatest needs or that provide the
18 most public benefit are given higher priority by the authority; and

19 (iv) The financing is consistent with any plan adopted by the
20 authority under the provisions of section 7 of this act.

21 NEW SECTION. **Sec. 7.** (1) Any authority established pursuant to
22 this chapter must adopt a general plan of economic development finance
23 objectives to be implemented by the authority during the period of the
24 plan. The authority may exercise the powers authorized under this
25 chapter prior to the adoption of the initial plan. In developing the
26 plan, the authority must consider and set objectives for:

27 (a) Employment generation associated with the authority's programs;

28 (b) The application of funds to economic sectors and economic
29 development activity evidencing need for improved access to capital
30 markets and funding resources;

31 (c) Eligibility criteria for participants in authority programs;

32 (d) The use of funds and resources available from or through
33 federal, state, local, and private sources and programs;

34 (e) New programs which serve a targeted need for financing
35 assistance within the purposes of this chapter; and

36 (f) Opportunities to improve capital access as evidenced by

1 programs existent in other localities or as they are made possible by
2 results of private capital market circumstances.

3 (2) Upon adoption of the general plan the authority must conduct
4 its programs in observance of the objectives established in the plan.
5 The authority may periodically update the plan as determined necessary
6 by the authority.

7 NEW SECTION. **Sec. 8.** In addition to carrying out the economic
8 development finance activities and programs specifically authorized in
9 this chapter, an authority may:

10 (1) Maintain an office or offices;

11 (2) Sue and be sued in its own name, and plead and be impleaded;

12 (3) Engage consultants, agents, attorneys, and advisers, contract
13 with federal, state, and local governmental entities for services, and
14 hire such employees, agents, and other personnel as the authority deems
15 necessary, useful, or convenient to accomplish its purposes;

16 (4) Make and execute all manner of contracts, agreements and
17 instruments, and financing documents with public and private parties as
18 the authority deems necessary, useful, or convenient to accomplish its
19 purposes;

20 (5) Acquire and hold real or personal property, or any interest
21 therein, in the name of the authority, and to sell, assign, lease,
22 encumber, mortgage, or otherwise dispose of the same in such manner as
23 the authority deems necessary, useful, or convenient to accomplish its
24 purposes;

25 (6) Open and maintain accounts in qualified public depositories and
26 otherwise provide for the investment of any funds not required for
27 immediate disbursement, and provide for the selection of investments;

28 (7) Appear in its own behalf before boards, commissions,
29 departments, or agencies of federal, state, or local government;

30 (8) Procure such insurance in such amounts and from such insurers
31 as the authority deems desirable including, but not limited to,
32 insurance against any loss or damage to its property or other assets,
33 public liability insurance for injuries to persons or property, and
34 directors and officers liability insurance;

35 (9) Apply for and accept subventions, grants, loans, advances, and
36 contributions from any source of money, property, labor, or other

1 things of value, to be held, used, and applied as the authority deems
2 necessary, useful, or convenient to accomplish its purposes;

3 (10) Establish guidelines for the participation by eligible banking
4 organizations in programs conducted by the authority under this
5 chapter;

6 (11) Act as an agent, by agreement, for federal, state, or local
7 governmental entities to carry out the programs authorized in this
8 chapter;

9 (12) Establish, revise, and collect such fees and charges as the
10 authority deems necessary, useful, or convenient to accomplish its
11 purposes;

12 (13) Make such expenditures as are appropriate for paying the
13 administrative costs and expenses of the authority in carrying out the
14 provisions of this chapter;

15 (14) Establish such reserves and special funds, and controls on
16 deposits to and disbursements from them, as the authority deems
17 necessary, useful, or convenient to accomplish its purposes;

18 (15) Prepare, publish, and distribute, with or without charge, such
19 studies, reports, bulletins, and other material as the authority deems
20 necessary, useful, or convenient to accomplish its purposes;

21 (16) Delegate any of its powers and duties if consistent with the
22 purposes of this chapter;

23 (17) Adopt rules concerning its exercise of the powers authorized
24 by this chapter; and

25 (18) Exercise any other power the authority deems necessary,
26 useful, or convenient to accomplish its purposes and exercise the
27 powers expressly granted in this chapter.

28 NEW SECTION. **Sec. 9.** Notwithstanding any other provision of this
29 chapter, an authority may not:

30 (1) Give any municipal or state money or property or loan any
31 municipal or state money or credit to or in aid of any individual,
32 association, company, or corporation, or become directly or indirectly
33 the owner of any stock in or bonds of any association, company, or
34 corporation;

35 (2) Issue bills of credit or accept deposits of money for time or
36 demand deposit, administer trusts, engage in any form or manner in, or

1 in the conduct of, any private or commercial banking business, or act
2 as a savings bank or savings and loan association other than as
3 provided in this chapter;

4 (3) Be or constitute a bank or trust company within the
5 jurisdiction or under the control of the director of financial
6 institutions, the comptroller of the currency of the United States of
7 America, or the treasury department thereof;

8 (4) Be or constitute a bank, broker, or dealer in securities within
9 the meaning of, or subject to the provisions of, any securities,
10 securities exchange, or securities dealers' law of the United States of
11 America or the state;

12 (5) Engage in the financing of housing as provided for in chapter
13 43.180 RCW;

14 (6) Engage in the financing of health care facilities as provided
15 for in chapter 70.37 RCW;

16 (7) Engage in financing higher education facilities as provided for
17 in chapter 28B.07 RCW; or

18 (8) Finance projects outside the geographic jurisdiction of the
19 municipality creating the authority without the express authorization
20 of the jurisdiction in which the project is to be located.

21 NEW SECTION. **Sec. 10.** (1) An authority may issue its nonrecourse
22 revenue bonds in order to obtain the funds to carry out the programs
23 authorized in this chapter. The bonds must be special obligations of
24 the authority, payable solely out of the special fund or funds
25 established by the authority for their repayment.

26 (2) Any bonds issued under this chapter may be secured by a
27 financing document between the authority and the purchasers or owners
28 of such bonds or between the authority and a corporate trustee, which
29 may be any trust company or bank having the powers of a trust company
30 within or without the state.

31 (a) The financing document may pledge or assign, in whole or in
32 part, the revenues and funds held or to be received by the authority,
33 any present or future contract or other rights to receive the same, and
34 the proceeds thereof.

35 (b) The financing document may contain such provisions for
36 protecting and enforcing the rights, security, and remedies of bond
37 owners as may be reasonable and proper including, without limiting the

1 generality of the foregoing, provisions defining defaults and providing
2 for remedies in the event of default which may include the acceleration
3 of maturities, restrictions on the individual rights of action by bond
4 owners, and covenants setting forth duties of and limitations on the
5 authority in conduct of its programs and the management of its
6 property.

7 (c) In addition to other security provided in this chapter or
8 otherwise by law, bonds issued by the authority may be secured, in
9 whole or in part, by financial guaranties, by insurance or by letters
10 of credit issued to the authority or a trustee or any other person, by
11 any bank, trust company, insurance or surety company, or other
12 financial institution, within or without the state. The authority may
13 pledge or assign, in whole or in part, the revenues and funds held or
14 to be received by the authority, any present or future contract or
15 other rights to receive the same, and the proceeds thereof, as security
16 for such guaranties or insurance or for the reimbursement by the
17 authority to any issuer of such letter of credit of any payments made
18 under such letter of credit.

19 (3) Without limiting the powers of the authority contained in this
20 chapter, in connection with each issue of its obligation bonds, the
21 authority must create and establish one or more special funds
22 including, but not limited to, debt service and sinking funds, reserve
23 funds, project funds, and such other special funds as the authority
24 deems necessary, useful, or convenient.

25 (4) Any security interest created against the unexpended bond
26 proceeds and against the special funds created by the authority is
27 immediately valid and binding against the money and any securities in
28 which the money may be invested without authority or trustee
29 possession. The security interest must be prior to any party having
30 any competing claim against the moneys or securities, without filing or
31 recording under Article 9A of the uniform commercial code, Title 62A
32 RCW, and regardless of whether the party has notice of the security
33 interest.

34 (5) The bonds may be issued as serial bonds, term bonds, or any
35 other type of bond instrument consistent with the provisions of this
36 chapter. The bonds must bear such date or dates; mature at such time
37 or times; bear interest at such rate or rates, either fixed or
38 variable; be payable at such time or times; be in such denominations;

1 be in such form; bear such privileges of transferability,
2 exchangeability, and interchangeability; be subject to such terms of
3 redemption; and be sold at public or private sale, in such manner, at
4 such time or times, and at such price or prices as the authority
5 determines. The bonds must be executed by the manual or facsimile
6 signatures of the authority's chair and either its secretary or
7 executive director, and may be authenticated by the trustee (if the
8 authority determines to use a trustee) or any registrar which may be
9 designated for the bonds by the authority.

10 (6) Bonds may be issued by the authority to refund other
11 outstanding authority bonds, at or prior to maturity of, and to pay any
12 redemption premium on, the outstanding bonds. Bonds issued for
13 refunding purposes may be combined with bonds issued for the financing
14 or refinancing of new projects. Pending the application of the
15 proceeds of the refunding bonds to the redemption of the bonds to be
16 redeemed, the authority may enter into an agreement or agreements with
17 a corporate trustee regarding the interim investment of the proceeds
18 and the application of the proceeds and the earnings on the proceeds to
19 the payment of the principal of and interest on, and the redemption of,
20 the bonds to be redeemed.

21 (7) The bonds of the authority may be negotiable instruments under
22 Title 62A RCW.

23 (8) Neither the board of directors of the authority, nor its
24 employees or agents, nor any person executing the bonds is personally
25 liable on the bonds or subject to any personal liability or
26 accountability by reason of the issuance of the bonds.

27 (9) The authority may purchase its bonds with any of its funds
28 available for the purchase. The authority may hold, pledge, cancel, or
29 resell the bonds subject to and in accordance with agreements with bond
30 owners.

31 (10) The state finance committee must be notified in advance of the
32 issuance of bonds by the authority in order to promote the orderly
33 offering of obligations in the financial markets.

34 NEW SECTION. **Sec. 11.** (1) Bonds issued by an authority
35 established under this chapter are not considered to constitute a debt
36 of the state, of the municipality, or of any other municipal
37 corporation, quasi-municipal corporation, subdivision, or agency of

1 this state or to pledge any or all of the faith and credit of any of
2 these entities. The revenue bonds are payable solely from both the
3 revenues derived as a result of the economic development activities
4 funded by the revenue bonds including, without limitation, amounts
5 received under the terms of any financing document or by reason of any
6 additional security furnished by beneficiaries of the economic
7 development activity in connection with the financing thereof, and
8 money and other property received from private sources. The issuance
9 of bonds under this chapter do not obligate, directly, indirectly, or
10 contingently, the state or any political subdivision of the state to
11 levy any taxes or appropriate or expend any funds for the payment of
12 the principal or the interest on the bonds. Each revenue bond must
13 contain on its face, and any disclosure document prepared in
14 conjunction with the offer and sale of bonds must include, statements
15 to the effect that:

16 (a) Neither the state, the municipality, or any other municipal
17 corporation, quasi-municipal corporation, subdivision, or agency of the
18 state is obligated to pay the principal or the interest thereon;

19 (b) No tax funds or governmental revenue may be used to pay the
20 principal or interest thereon; and

21 (c) Neither any or all of the faith and credit nor the taxing power
22 of the state, the municipality, or any other municipal corporation,
23 quasi-municipal corporation, subdivision, or agency thereof is pledged
24 to the payment of the principal of or the interest on the revenue bond.

25 (2) Neither the proceeds of bonds issued under this chapter nor any
26 money used or to be used to pay the principal of, premium, if any, or
27 interest on the bonds constitute public money or property. All of such
28 money must be kept segregated and set apart from funds of the state and
29 any political subdivision of the state and are not subject to
30 appropriation or allotment by the state or subject to the provisions of
31 chapter 43.88 RCW.

32 (3) Contracts entered into by an authority must be entered into in
33 the name of the authority and not in the name of the state or any
34 political subdivision of the state. The obligations of the authority
35 under such contracts are obligations only of the authority and are not,
36 in any way, obligations of the municipality creating the authority or
37 the state. An authority may incur only those financial obligations
38 which will be paid from revenues received pursuant to financing

1 documents, from fees or charges paid by beneficiaries of the economic
2 development activities funded by the revenue bonds, or from the
3 proceeds of revenue bonds.

4 NEW SECTION. **Sec. 12.** (1)(a) An authority may enter into
5 financing documents with borrowers regarding bonds issued by the
6 authority that may provide for the payment by each borrower of amounts
7 sufficient, together with other revenues available to the authority, if
8 any, to:

9 (i) Pay the borrower's share of the fees established by the
10 authority;

11 (ii) Pay the principal of, premium, if any, and interest on
12 outstanding bonds of the authority issued in respect of such borrower
13 as the same become due and payable; and

14 (iii) Create and maintain reserves required or provided for by the
15 authority in connection with the issuance of such bonds.

16 (b) The payments are not subject to supervision or regulation by
17 any department, committee, board, body, bureau, or agency of the state.

18 (2) All money received by or on behalf of the authority with
19 respect to this issuance of its bonds must be trust funds to be held
20 and applied solely as provided in this chapter. The authority, in lieu
21 of receiving and applying the moneys itself, may enter into trust
22 agreement or indenture with one or more banks or trust companies having
23 the power and authority to conduct trust business in the state to:

24 (a) Perform all or any part of the obligations of the authority
25 with respect to:

26 (i) Bonds issued by it;

27 (ii) The receipt, investment, and application of the proceeds of
28 the bonds and money paid by a participant or available from other
29 sources for the payment of the bonds;

30 (iii) The enforcement of the obligations of a borrower in
31 connection with the financing or refinancing of any project; and

32 (iv) Other matters relating to the exercise of the authority's
33 powers under this chapter;

34 (b) Receive, hold, preserve, and enforce any security interest or
35 evidence of security interest granted by a participant for purposes of
36 securing the payment of the bonds; and

1 (c) Act on behalf of the authority or the owners of bonds of the
2 authority for purposes of assuring or enforcing the payment of the
3 bonds, when due.

4 NEW SECTION. **Sec. 13.** (1) Any owner of bonds issued under this
5 chapter by any authority, and the trustee under any trust agreement or
6 indenture, may, either at law or in equity, by suit, action, mandamus,
7 or other proceeding, protect and enforce any of their respective
8 rights, and may become the purchaser at any foreclosure sale if the
9 person is the highest bidder, except to the extent the rights given are
10 restricted by the authority in any bond resolution or trust agreement
11 or indenture authorizing the issuance of the bonds.

12 (2) The bonds of an authority are securities in which all public
13 officers and bodies of this state and all counties, cities, municipal
14 corporations, and political subdivisions, all banks, eligible banking
15 organizations, bankers, trust companies, savings banks and
16 institutions, building and loan associations, savings and loan
17 associations, investment companies, insurance companies and
18 associations, and all executors, administrators, guardians, trustees,
19 and other fiduciaries may legally invest any sinking funds, moneys, or
20 other funds belonging to them or within their control.

21 NEW SECTION. **Sec. 14.** This chapter provides a complete,
22 additional, and alternative method for accomplishing the purposes of
23 this chapter and must be regarded as supplemental and additional to
24 powers conferred by other laws. The issuance of bonds and refunding
25 bonds under this chapter need not comply with the requirements of any
26 other law applicable to the issuance of bonds.

27 NEW SECTION. **Sec. 15.** Insofar as the provisions of this chapter
28 are inconsistent with the provisions of any general or special law, or
29 parts thereof, the provisions of this chapter are controlling.

30 NEW SECTION. **Sec. 16.** Sections 1 through 15 of this act
31 constitute a new chapter in Title 39 RCW.

32 NEW SECTION. **Sec. 17.** If any provision of this act or its

1 application to any person or circumstance is held invalid, the
2 remainder of the act or the application of the provision to other
3 persons or circumstances is not affected.

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