

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 6140

62nd Legislature
2012 Regular Session

Passed by the Senate March 5, 2012
YEAS 33 NAYS 15

President of the Senate

Passed by the House March 1, 2012
YEAS 88 NAYS 9

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 6140** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 6140

AS AMENDED BY THE HOUSE

Passed Legislature - 2012 Regular Session

State of Washington 62nd Legislature 2012 Regular Session

By Senate Ways & Means (originally sponsored by Senators Kilmer, Becker, King, Regala, Conway, Shin, and Chase)

READ FIRST TIME 02/07/12.

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 grant new authority for
13 cities, counties, and port districts that created public corporations
14 under chapter 39.84 RCW prior to 2012, in order to build on the
15 expertise with tax-exempt nonrecourse revenue bond financing developed
16 by these municipalities. Therefore, these municipalities are permitted
17 to create local economic development finance authorities to act as a
18 financial conduit that, without using state or local government funds
19 or lending the credit of the state or local governments, can issue

1 taxable and nontaxable nonrecourse revenue bonds, and participate in
2 federal, state, and local economic development programs to help
3 facilitate access to needed capital by Washington businesses. It is
4 also a primary purpose of this chapter to encourage the development of
5 local innovative approaches to the problem of unmet capital needs.
6 This chapter must be construed liberally to carry out its purposes and
7 objectives.

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

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

13 (2) "Board of directors" means the board of directors of an
14 authority.

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

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

29 (5) "Economic development activities" means activities related to:
30 Manufacturing, processing, the commercialization of research,
31 production, assembly, tooling, warehousing, exporting products made in
32 Washington or services provided by Washington firms, airports, docks
33 and wharves, mass commuting facilities, high-speed intercity rail
34 facilities, public broadcasting, pollution control, solid waste
35 disposal, federally qualified hazardous waste facilities, energy
36 generating, conservation, or transmission facilities, sports

1 facilities, industrial parks, and activities conducted within a
2 federally designated enterprise or empowerment zone or geographic area
3 of similar nature.

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

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

12 (8) "Financial assistance" means the infusion of capital to persons
13 for use in the development and exploitation of specific inventions and
14 products.

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

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

31 (11) "Investment grade credit rating" means a rating of at least
32 BBB- by standard & poor's, Baa3 by moody's investors service, or BBB-
33 by fitch.

34 (12) "Municipality" means a city, town, county, or port district of
35 this state.

36 (13) "Ordinance" means any appropriate method of taking official
37 action or adopting a legislative decision by any municipality, whether
38 known as a resolution, ordinance, or otherwise.

1 (14) "Plan" means the general plan of economic development finance
2 objectives developed and adopted by the authority, and updated from
3 time to time, as required under RCW 43.163.090.

4 (15) "Product" means a product, device, technique, or process that
5 is or may be exploitable commercially. "Product" does not refer to
6 pure research, but does apply to products, devices, techniques, or
7 processes that have advanced beyond the theoretic stage and are readily
8 capable of being, or have been, reduced to practice.

9 (16) "Project costs" means costs of:

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

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

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

26 (d) Start-up costs, working capital, capitalized research and
27 development costs, capitalized interest during construction and during
28 the eighteen months after estimated completion of construction, and
29 capitalized debt service or repair and replacement or other appropriate
30 reserves;

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

33 (f) Other costs incidental to any of the costs listed in this
34 subsection.

35 NEW SECTION. **Sec. 3.** (1) A municipality that formed a public
36 corporation under chapter 39.84 RCW prior to January 1, 2012, may, if
37 that public corporation is still in existence, enact an ordinance

1 creating an economic development finance authority for the purposes
2 authorized in this chapter. The ordinance creating the authority must
3 approve a charter for the authority containing such provisions as are
4 authorized by and not in conflict with this chapter. Any charter
5 issued under this chapter must contain in substance the limitations set
6 forth in section 4 of this act. In any suit, action, or proceeding
7 involving the validity or enforcement of or relating to any contract of
8 the authority, the authority is conclusively presumed to be established
9 and authorized to transact business and exercise its powers under this
10 chapter upon proof of the adoption of the ordinance creating the
11 authority by the governing body. A copy of the ordinance duly
12 certified by the clerk of the governing body of the municipality is
13 admissible in evidence in any suit, action, or proceeding.

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

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

31 (4) The ordinance creating an authority must include provisions
32 establishing a board of directors to govern the affairs of the
33 authority, what constitutes a quorum of the board of directors, and how
34 the authority must conduct its affairs.

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

1 or materials to be furnished or used in connection with any economic
2 development activity financed through the authority. Violation of any
3 provision of this section is a gross misdemeanor.

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

6 NEW SECTION. **Sec. 4.** (1) No municipality may give or lend any
7 money or property in aid of an authority. The municipality that
8 creates an authority must annually review any financial statements of
9 the authority and at all times must have access to the books and
10 records of the authority. No authority may issue revenue obligations
11 under this chapter except upon the approval of both the municipality
12 under the auspices of which it was created and the county, city, or
13 town within whose planning jurisdiction the economic development
14 activity to be financed lies. Upon receiving approval from these
15 jurisdictions, an authority must, before bonds may be issued, obtain
16 one of the following:

17 (a) A letter of credit supporting the creditworthiness of the
18 borrower from a bank with an investment grade credit rating;

19 (b) Confirmation that the borrower has arranged for private
20 placement of the bonds with an institutional investor; or

21 (c) Confirmation that the borrower has an investment grade credit
22 rating of their own.

23 (2) An authority established under the terms of this chapter
24 constitutes an authority and an instrumentality (within the meaning of
25 those terms in the regulations of the United States treasury and the
26 rulings of the internal revenue service prescribed pursuant to 26
27 U.S.C. Sec. 103 of the federal internal revenue code of 1986, as
28 amended) may act on behalf of the municipality under whose auspices it
29 is created for the specific public purposes authorized by this chapter.
30 The authority is not a municipal corporation within the meaning of the
31 state Constitution and the laws of the state, or a political
32 subdivision within the meaning of the state Constitution and the laws
33 of the state, including without limitation, Article VIII, section 7 of
34 the Washington state Constitution. A municipality may not delegate to
35 an authority any of the municipality's attributes of sovereignty
36 including, without limitation, the power to tax, the power of eminent
37 domain, and the police power.

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

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

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

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

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

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

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

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

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

3 (vi) Refer eligible persons to researchers or laboratories for the
4 purpose of testing and evaluating new products, processes, or
5 innovations; and

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

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

27 (4) An authority may receive no appropriation of state funds. The
28 department of commerce and the Washington economic development finance
29 authority may assist a local economic development finance authority in
30 organizing itself and in designing programs.

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

1 (6) An authority must coordinate its activities with those,
2 including bond issuance activities, of the creating municipality and
3 the public corporation created under chapter 39.84 RCW by the creating
4 municipality.

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

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

12 (a) Appropriate standards for securing loans and other financing
13 the authority provides to borrowers, such as guarantees or collateral;
14 and

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

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

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

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

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

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

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

32 (b) The application of funds to economic sectors and economic
33 development activity evidencing need for improved access to capital
34 markets and funding resources;

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

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

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

5 (f) Opportunities to improve capital access as evidenced by
6 programs existent in other localities or as they are made possible by
7 results of private capital market circumstances.

8 (2) Upon adoption of the general plan the authority must conduct
9 its programs in observance of the objectives established in the plan.
10 The authority may periodically update the plan as determined necessary
11 by the authority.

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

15 (1) Maintain an office or offices;

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

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

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

25 (5) Acquire and hold real or personal property, or any interest
26 therein, in the name of the authority, and to sell, assign, lease,
27 encumber, mortgage, or otherwise dispose of the same in such manner as
28 the authority deems necessary, useful, or convenient to accomplish its
29 purposes;

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

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

35 (8) Procure such insurance in such amounts and from such insurers
36 as the authority deems desirable including, but not limited to,

1 insurance against any loss or damage to its property or other assets,
2 public liability insurance for injuries to persons or property, and
3 directors and officers liability insurance;

4 (9) Apply for and accept subventions, grants, loans, advances, and
5 contributions from any source of money, property, labor, or other
6 things of value, to be held, used, and applied as the authority deems
7 necessary, useful, or convenient to accomplish its purposes;

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

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

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

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

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

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

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

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

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

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

35 (1) Give any municipal or state money or property or loan any
36 municipal or state money or credit to or in aid of any individual,

1 association, company, or corporation, or become directly or indirectly
2 the owner of any stock in or bonds of any association, company, or
3 corporation;

4 (2) Issue bills of credit or accept deposits of money for time or
5 demand deposit, administer trusts, engage in any form or manner in, or
6 in the conduct of, any private or commercial banking business, or act
7 as a savings bank or savings and loan association other than as
8 provided in this chapter;

9 (3) Be or constitute a bank or trust company within the
10 jurisdiction or under the control of the director of financial
11 institutions, the comptroller of the currency of the United States of
12 America, or the treasury department thereof;

13 (4) Be or constitute a bank, broker, or dealer in securities within
14 the meaning of, or subject to the provisions of, any securities,
15 securities exchange, or securities dealers' law of the United States of
16 America or the state;

17 (5) Engage in the financing of housing as provided for in chapter
18 43.180 RCW;

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

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

23 (8) Exercise any of the powers authorized in this chapter or issue
24 any revenue bonds with respect to any economic development activity
25 unless the economic development activity is located wholly within the
26 boundaries of the municipality under whose auspices the authority is
27 created or unless the economic development activity comprises energy
28 facilities or solid waste disposal facilities which provide energy for
29 or dispose of solid waste from the municipality or the residents
30 thereof.

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

36 (2) Any bonds issued under this chapter may be secured by a
37 financing document between the authority and the purchasers or owners

1 of such bonds or between the authority and a corporate trustee, which
2 may be any trust company or bank having the powers of a trust company
3 within or without the state.

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

8 (b) The financing document may contain such provisions for
9 protecting and enforcing the rights, security, and remedies of bond
10 owners as may be reasonable and proper including, without limiting the
11 generality of the foregoing, provisions defining defaults and providing
12 for remedies in the event of default which may include the acceleration
13 of maturities, restrictions on the individual rights of action by bond
14 owners, and covenants setting forth duties of and limitations on the
15 authority in conduct of its programs and the management of its
16 property.

17 (c) In addition to other security provided in this chapter or
18 otherwise by law, bonds issued by the authority may be secured, in
19 whole or in part, by financial guaranties, by insurance or by letters
20 of credit issued to the authority or a trustee or any other person, by
21 any bank, trust company, insurance or surety company, or other
22 financial institution, within or without the state. The authority may
23 pledge or assign, in whole or in part, the revenues and funds held or
24 to be received by the authority, any present or future contract or
25 other rights to receive the same, and the proceeds thereof, as security
26 for such guaranties or insurance or for the reimbursement by the
27 authority to any issuer of such letter of credit of any payments made
28 under such letter of credit.

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

35 (4) Any security interest created against the unexpended bond
36 proceeds and against the special funds created by the authority is
37 immediately valid and binding against the money and any securities in
38 which the money may be invested without authority or trustee

1 possession. The security interest must be prior to any party having
2 any competing claim against the moneys or securities, without filing or
3 recording under Article 9A of the uniform commercial code, Title 62A
4 RCW, and regardless of whether the party has notice of the security
5 interest.

6 (5) The bonds may be issued as serial bonds, term bonds, or any
7 other type of bond instrument consistent with the provisions of this
8 chapter. The bonds must bear such date or dates; mature at such time
9 or times; bear interest at such rate or rates, either fixed or
10 variable; be payable at such time or times; be in such denominations;
11 be in such form; bear such privileges of transferability,
12 exchangeability, and interchangeability; be subject to such terms of
13 redemption; and be sold at public or private sale, in such manner, at
14 such time or times, and at such price or prices as the authority
15 determines. The bonds must be executed by the manual or facsimile
16 signatures of the authority's chair and either its secretary or
17 executive director, and may be authenticated by the trustee (if the
18 authority determines to use a trustee) or any registrar which may be
19 designated for the bonds by the authority.

20 (6) Bonds may be issued by the authority to refund other
21 outstanding authority bonds, at or prior to maturity of, and to pay any
22 redemption premium on, the outstanding bonds. Bonds issued for
23 refunding purposes may be combined with bonds issued for the financing
24 or refinancing of new projects. Pending the application of the
25 proceeds of the refunding bonds to the redemption of the bonds to be
26 redeemed, the authority may enter into an agreement or agreements with
27 a corporate trustee regarding the interim investment of the proceeds
28 and the application of the proceeds and the earnings on the proceeds to
29 the payment of the principal of and interest on, and the redemption of,
30 the bonds to be redeemed.

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

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

37 (9) The authority may purchase its bonds with any of its funds

1 available for the purchase. The authority may hold, pledge, cancel, or
2 resell the bonds subject to and in accordance with agreements with bond
3 owners.

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

7 NEW SECTION. **Sec. 11.** (1) Bonds issued by an authority
8 established under this chapter are not considered to constitute a debt
9 of the state, of the municipality, or of any other municipal
10 corporation, quasi-municipal corporation, subdivision, or agency of
11 this state or to pledge any or all of the faith and credit of any of
12 these entities. The revenue bonds are payable solely from both the
13 revenues derived as a result of the economic development activities
14 funded by the revenue bonds including, without limitation, amounts
15 received under the terms of any financing document or by reason of any
16 additional security furnished by beneficiaries of the economic
17 development activity in connection with the financing thereof, and
18 money and other property received from private sources. The issuance
19 of bonds under this chapter do not obligate, directly, indirectly, or
20 contingently, the state or any political subdivision of the state to
21 levy any taxes or appropriate or expend any funds for the payment of
22 the principal or the interest on the bonds. Each revenue bond must
23 contain on its face, and any disclosure document prepared in
24 conjunction with the offer and sale of bonds must include, statements
25 to the effect that:

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

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

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

35 (2) Neither the proceeds of bonds issued under this chapter nor any
36 money used or to be used to pay the principal of, premium, if any, or
37 interest on the bonds constitute public money or property. All of such

1 money must be kept segregated and set apart from funds of the state and
2 any political subdivision of the state and are not subject to
3 appropriation or allotment by the state or subject to the provisions of
4 chapter 43.88 RCW.

5 (3) Contracts entered into by an authority must be entered into in
6 the name of the authority and not in the name of the state or any
7 political subdivision of the state. The obligations of the authority
8 under such contracts are obligations only of the authority and are not,
9 in any way, obligations of the municipality creating the authority or
10 the state. An authority may incur only those financial obligations
11 which will be paid from revenues received pursuant to financing
12 documents, from fees or charges paid by beneficiaries of the economic
13 development activities funded by the revenue bonds, or from the
14 proceeds of revenue bonds.

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

20 (i) Pay the borrower's share of the fees established by the
21 authority;

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

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

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

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

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

37 (i) Bonds issued by it;

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

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

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

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

11 (c) Act on behalf of the authority or the owners of bonds of the
12 authority for purposes of assuring or enforcing the payment of the
13 bonds, when due.

14 NEW SECTION. **Sec. 13.** (1) Any owner of bonds issued under this
15 chapter by any authority, and the trustee under any trust agreement or
16 indenture, may, either at law or in equity, by suit, action, mandamus,
17 or other proceeding, protect and enforce any of their respective
18 rights, and may become the purchaser at any foreclosure sale if the
19 person is the highest bidder, except to the extent the rights given are
20 restricted by the authority in any bond resolution or trust agreement
21 or indenture authorizing the issuance of the bonds.

22 (2) The bonds of an authority are securities in which all public
23 officers and bodies of this state and all counties, cities, municipal
24 corporations, and political subdivisions, all banks, eligible banking
25 organizations, bankers, trust companies, savings banks and
26 institutions, building and loan associations, savings and loan
27 associations, investment companies, insurance companies and
28 associations, and all executors, administrators, guardians, trustees,
29 and other fiduciaries may legally invest any sinking funds, moneys, or
30 other funds belonging to them or within their control. However, a
31 municipality under the auspices of which an authority was created and
32 the county, city, or town within whose planning jurisdiction the
33 economic development activity to be financed lies, may not invest in
34 bonds issued by the authority.

35 NEW SECTION. **Sec. 14.** This chapter provides a complete,
36 additional, and alternative method for accomplishing the purposes of

1 this chapter and must be regarded as supplemental and additional to
2 powers conferred by other laws. The issuance of bonds and refunding
3 bonds under this chapter need not comply with the requirements of any
4 other law applicable to the issuance of bonds.

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

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

10 NEW SECTION. **Sec. 17.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

--- END ---