

2 **SHB 1295** - S COMM AMD

3 By Committee on Economic Development & Telecommunications

4 ADOPTED 04/05/01

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 43.163.090 and 1998 c 245 s 50 are each amended to  
8 read as follows:

9 The authority shall adopt a general plan of economic development  
10 finance objectives to be implemented by the authority during the period  
11 of the plan. The authority may exercise the powers authorized under  
12 this chapter prior to the adoption of the initial plan. In developing  
13 the plan, the authority shall consider and set objectives for:

14 (1) Employment generation associated with the authority's programs;

15 (2) The application of funds to sectors and regions of the state  
16 economy evidencing need for improved access to capital markets and  
17 funding resources;

18 (3) Geographic distribution of funds and programs available through  
19 the authority;

20 (4) Eligibility criteria for participants in authority programs;

21 (5) The use of funds and resources available from or through  
22 federal, state, local, and private sources and programs;

23 (6) Standards for economic viability and growth opportunities of  
24 participants in authority programs;

25 (7) New programs which serve a targeted need for financing  
26 assistance within the purposes of this chapter; and

27 (8) Opportunities to improve capital access as evidenced by  
28 programs existent in other states or as they are made possible by  
29 results of private capital market circumstances.

30 The authority shall, as part of the finance plan required under  
31 this section, develop an outreach and marketing plan designed to  
32 increase its financial services to ~~((distressed))~~ rural counties. As  
33 used in this section, "~~((distressed))~~ rural counties" ~~((has the same~~  
34 ~~meaning as distressed area))~~ means counties smaller than two hundred  
35 twenty-five square miles or as defined in RCW 43.168.020.

1 At least one public hearing shall be conducted by the authority on  
2 the plan prior to its adoption. The plan shall be adopted by  
3 resolution of the authority no later than November 15, 1990. The  
4 authority may periodically update the plan as determined necessary by  
5 the authority. The plan or updated plan shall include a report on  
6 authority activities conducted since the commencement of authority  
7 operation or since the last plan was reported, whichever is more  
8 recent, including a statement of results achieved under the purposes of  
9 this chapter and the plan. Upon adoption, the authority shall conduct  
10 its programs in observance of the objectives established in the plan.

11 **Sec. 2.** RCW 43.163.130 and 1998 c 48 s 1 are each amended to read  
12 as follows:

13 (1) The authority may issue its nonrecourse revenue bonds in order  
14 to obtain the funds to carry out the programs authorized in this  
15 chapter. The bonds shall be special obligations of the authority,  
16 payable solely out of the special fund or funds established by the  
17 authority for their repayment.

18 (2) Any bonds issued under this chapter may be secured by a  
19 financing document between the authority and the purchasers or owners  
20 of such bonds or between the authority and a corporate trustee, which  
21 may be any trust company or bank having the powers of a trust company  
22 within or without the state.

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

27 (b) The financing document may contain such provisions for  
28 protecting and enforcing the rights, security, and remedies of  
29 bondowners as may be reasonable and proper, including, without limiting  
30 the generality of the foregoing, provisions defining defaults and  
31 providing for remedies in the event of default which may include the  
32 acceleration of maturities, restrictions on the individual rights of  
33 action by bondowners, and covenants setting forth duties of and  
34 limitations on the authority in conduct of its programs and the  
35 management of its property.

36 (c) In addition to other security provided in this chapter or  
37 otherwise by law, bonds issued by the authority may be secured, in  
38 whole or in part, by financial guaranties, by insurance or by letters

1 of credit issued to the authority or a trustee or any other person, by  
2 any bank, trust company, insurance or surety company or other financial  
3 institution, within or without the state. The authority may pledge or  
4 assign, in whole or in part, the revenues and funds held or to be  
5 received by the authority, any present or future contract or other  
6 rights to receive the same, and the proceeds thereof, as security for  
7 such guaranties or insurance or for the reimbursement by the authority  
8 to any issuer of such letter of credit of any payments made under such  
9 letter of credit.

10 (3) Without limiting the powers of the authority contained in this  
11 chapter, in connection with each issue of its obligation bonds, the  
12 authority shall create and establish one or more special funds,  
13 including, but not limited to debt service and sinking funds, reserve  
14 funds, project funds, and such other special funds as the authority  
15 deems necessary, useful, or convenient.

16 (4) Any security interest created against the unexpended bond  
17 proceeds and against the special funds created by the authority shall  
18 be immediately valid and binding against the money and any securities  
19 in which the money may be invested without authority or trustee  
20 possession. The security interest shall be prior to any party having  
21 any competing claim against the moneys or securities, without filing or  
22 recording under Article 9 of the Uniform Commercial Code, Title 62A  
23 RCW, and regardless of whether the party has notice of the security  
24 interest.

25 (5) The bonds may be issued as serial bonds, term bonds or any  
26 other type of bond instrument consistent with the provisions of this  
27 chapter. The bonds shall bear such date or dates; mature at such time  
28 or times; bear interest at such rate or rates, either fixed or  
29 variable; be payable at such time or times; be in such denominations;  
30 be in such form; bear such privileges of transferability,  
31 exchangeability, and interchangeability; be subject to such terms of  
32 redemption; and be sold at public or private sale, in such manner, at  
33 such time or times, and at such price or prices as the authority shall  
34 determine. The bonds shall be executed by the manual or facsimile  
35 signatures of the authority's chair and either its secretary or  
36 executive director, and may be authenticated by the trustee (if the  
37 authority determines to use a trustee) or any registrar which may be  
38 designated for the bonds by the authority.

1 (6) Bonds may be issued by the authority to refund other  
2 outstanding authority bonds, at or prior to maturity of, and to pay any  
3 redemption premium on, the outstanding bonds. Bonds issued for  
4 refunding purposes may be combined with bonds issued for the financing  
5 or refinancing of new projects. Pending the application of the  
6 proceeds of the refunding bonds to the redemption of the bonds to be  
7 redeemed, the authority may enter into an agreement or agreements with  
8 a corporate trustee regarding the interim investment of the proceeds  
9 and the application of the proceeds and the earnings on the proceeds to  
10 the payment of the principal of and interest on, and the redemption of,  
11 the bonds to be redeemed.

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

14 (8) Neither the members of the authority, nor its employees or  
15 agents, nor any person executing the bonds shall be personally liable  
16 on the bonds or be subject to any personal liability or accountability  
17 by reason of the issuance of the bonds.

18 (9) The authority may purchase its bonds with any of its funds  
19 available for the purchase. The authority may hold, pledge, cancel or  
20 resell the bonds subject to and in accordance with agreements with  
21 bondowners.

22 (10) The authority shall not exceed (~~five~~) seven hundred fifty  
23 million dollars in total outstanding debt at any time.

24 (11) The state finance committee shall be notified in advance of  
25 the issuance of bonds by the authority in order to promote the orderly  
26 offering of obligations in the financial markets.

27 (12) The authority may not issue any bonds after June 30, (~~2004~~)  
28 2006.

29 **Sec. 3.** RCW 43.163.210 and 1998 c 48 s 2 are each amended to read  
30 as follows:

31 For the purpose of facilitating economic development in the state  
32 of Washington and encouraging the employment of Washington workers at  
33 meaningful wages:

34 (1) The authority may develop and conduct a program or programs to  
35 provide nonrecourse revenue bond financing for the project costs for  
36 economic development activities.

37 (2) The authority may develop and conduct a program that will  
38 stimulate and encourage the development of new products within

1 Washington state by the infusion of financial aid for invention and  
2 innovation in situations in which the financial aid would not otherwise  
3 be reasonably available from commercial sources. The authority is  
4 authorized to provide nonrecourse revenue bond financing for this  
5 program.

6 (a) For the purposes of this program, the authority shall have the  
7 following powers and duties:

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

16 (ii) Own, possess, and take license in patents, copyrights, and  
17 proprietary processes and negotiate and enter into contracts and  
18 establish charges for the use of the patents, copyrights, and  
19 proprietary processes when the patents and licenses for products result  
20 from assistance provided by the authority;

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

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

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

30 (vi) Refer eligible persons to researchers or laboratories for the  
31 purpose of testing and evaluating new products, processes, or  
32 innovations; and

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

37 (b) Eligible persons seeking financial and other assistance under  
38 this program shall forward an application, together with an application  
39 fee prescribed by rule, to the authority. An investigation and report

1 concerning the advisability of approving an application for assistance  
2 shall be completed by the staff of the authority. The investigation  
3 and report may include, but is not limited to, facts about the company  
4 under consideration as its history, wage standards, job opportunities,  
5 stability of employment, past and present financial condition and  
6 structure, pro forma income statements, present and future markets and  
7 prospects, integrity of management as well as the feasibility of the  
8 proposed product and invention to be granted financial aid, including  
9 the state of development of the product as well as the likelihood of  
10 its commercial feasibility. After receipt and consideration of the  
11 report set out in this subsection and after other action as is deemed  
12 appropriate, the application shall be approved or denied by the  
13 authority. The applicant shall be promptly notified of action by the  
14 authority. In making the decision as to approval or denial of an  
15 application, priority shall be given to those persons operating or  
16 planning to operate businesses of special importance to Washington's  
17 economy, including, but not limited to: (i) Existing resource-based  
18 industries of agriculture, forestry, and fisheries; (ii) existing  
19 advanced technology industries of electronics, computer and instrument  
20 manufacturing, computer software, and information and design; and (iii)  
21 emerging industries such as environmental technology, biotechnology,  
22 biomedical sciences, materials sciences, and optics.

23 (3) The authority may also develop and implement, if authorized by  
24 the legislature, such other economic development financing programs  
25 adopted in future general plans of economic development finance  
26 objectives developed under RCW 43.163.090.

27 (4) The authority may not issue any bonds for the programs  
28 authorized under this section after June 30, (~~2004~~) 2006.

29 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of the  
31 state government and its existing public institutions, and takes effect  
32 immediately."

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4 On page 1, line 2 of the title, after "authority;" strike the  
5 remainder of the title and insert "amending RCW 43.163.090, 43.163.130,  
6 and 43.163.210; and declaring an emergency."

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