

HB 1430 - S AMD 397
By Senator Kline

OUT OF ORDER 04/11/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 35.21.735 and 1995 c 212 s 2 are each amended to read
4 as follows:

5 (1) The legislature hereby declares that carrying out the purposes
6 of federal grants or programs is both a public purpose and an
7 appropriate function for a city, town, county, or public corporation.
8 The provisions of RCW 35.21.730 through 35.21.755 and RCW 35.21.660 and
9 35.21.670 and the enabling authority herein conferred to implement
10 these provisions shall be construed to accomplish the purposes of RCW
11 35.21.730 through 35.21.755.

12 (2) All cities, towns, counties, and public corporations shall have
13 the power and authority to enter into agreements with the United States
14 or any agency or department thereof, or any agency of the state
15 government or its political subdivisions, and pursuant to such
16 agreements may receive and expend, or cause to be received and expended
17 by a custodian or trustee, federal or private funds for any lawful
18 public purpose. Pursuant to any such agreement, a city, town, county,
19 or public corporation may issue bonds, notes, or other evidences of
20 indebtedness that are guaranteed or otherwise secured by funds or other
21 instruments provided by or through the federal government or by the
22 federal government or an agency or instrumentality thereof under
23 section 108 of the housing and community development act of 1974 (42
24 U.S.C. Sec. 5308), as amended, or its successor, and may agree to repay
25 and reimburse for any liability thereon any guarantor of any such
26 bonds, notes, or other evidences of indebtedness issued by such
27 jurisdiction or public corporation, or issued by any other public
28 entity. For purposes of this subsection, federal housing mortgage
29 insurance shall not constitute a federal guarantee or security.

1 (3) A city, town, county, or public corporation may pledge, as
2 security for any such bonds, notes, or other evidences of indebtedness
3 or for its obligations to repay or reimburse any guarantor thereof, its
4 right, title, and interest in and to any or all of the following: (a)
5 Any federal grants or payments received or that may be received in the
6 future; (b) any of the following that may be obtained directly or
7 indirectly from the use of any federal or private funds received as
8 authorized in this section: (i) Property and interests therein, and
9 (ii) revenues; (c) any payments received or owing from any person
10 resulting from the lending of any federal or private funds received as
11 authorized in this section; (d) any proceeds under (a), (b), or (c) of
12 this subsection and any securities or investments in which (a), (b), or
13 (c) of this subsection or proceeds thereof may be invested; (e) any
14 interest or other earnings on (a), (b), (c), or (d) of this subsection.

15 (4) A city, town, county, or public corporation may establish one
16 or more special funds relating to any or all of the sources listed in
17 subsection (3)(a) through (e) of this section and pay or cause to be
18 paid from such fund the principal, interest, premium if any, and other
19 amounts payable on any bonds, notes, or other evidences of indebtedness
20 authorized under this section, and pay or cause to be paid any amounts
21 owing on any obligations for repayment or reimbursement of guarantors
22 of any such bonds, notes, or other evidences of indebtedness. A city,
23 town, county, or public corporation may contract with a financial
24 institution either to act as trustee or custodian to receive,
25 administer, and expend any federal or private funds, or to collect,
26 administer, and make payments from any special fund as authorized under
27 this section, or both, and to perform other duties and functions in
28 connection with the transactions authorized under this section. If the
29 bonds, notes, or other evidences of indebtedness and related agreements
30 comply with subsection (6) of this section, then any such funds held by
31 any such trustee or custodian, or by a public corporation, shall not
32 constitute public moneys or funds of any city, town, or county and at
33 all times shall be kept segregated and set apart from other funds.

34 (5) For purposes of this section, "lawful public purpose" includes,
35 without limitation, any use of funds, including loans thereof to public
36 or private parties, authorized by the agreements with the United States
37 or any department or agency thereof under which federal or private

1 funds are obtained, or authorized under the federal laws and
2 regulations pertinent to such agreements.

3 (6) If any such federal or private funds are loaned or granted to
4 any private party or used to guarantee any obligations of any private
5 party, then any bonds, notes, other evidences of indebtedness issued or
6 entered into for the purpose of receiving or causing the receipt of
7 such federal or private funds, and any agreements to repay or reimburse
8 guarantors, shall not be obligations of any city, town, or county and
9 shall be payable only from a special fund as authorized in this section
10 or from any of the security pledged pursuant to the authority of this
11 section, or both. Any bonds, notes, or other evidences of indebtedness
12 to which this subsection applies shall contain a recital to the effect
13 that they are not obligations of the city, town, or county or the state
14 of Washington and that neither the faith and credit nor the taxing
15 power of the state or any municipal corporation or subdivision of the
16 state or any agency of any of the foregoing, is pledged to the payment
17 of principal, interest, or premium, if any, thereon. Any bonds, notes,
18 other evidences of indebtedness, or other obligations to which this
19 subsection applies shall not be included in any computation for
20 purposes of limitations on indebtedness. To the extent expressly
21 agreed in writing by a city, town, county, or public corporation, this
22 subsection shall not apply to bonds, notes, or other evidences of
23 indebtedness issued for, or obligations incurred for, the necessary
24 support of the poor and infirm by that city, town, county, or public
25 corporation.

26 (7) Any bonds, notes, or other evidences of indebtedness issued by,
27 or reimbursement obligations incurred by, a city, town, county, or
28 public corporation consistent with the provisions of this section but
29 prior to May 3, 1995, and any loans or pledges made by a city, town, or
30 county in connection therewith substantially consistent with the
31 provisions of this section but prior to May 3, 1995, are deemed
32 authorized and shall not be held void, voidable, or invalid due to any
33 lack of authority under the laws of this state.

34 (8) All cities, towns, counties, public corporations, and port
35 districts may create partnerships and limited liability companies and
36 enter into agreements with public or private entities, including
37 community preservation and development authorities as authorized under
38 sections 3 through 10 of this act, and including partnership agreements

1 and limited liability company agreements, to implement within their
2 boundaries the federal new markets tax credit program established by
3 the community renewal tax relief act of 2000 (26 U.S.C. Sec. 45D) or
4 its successor statute.

5 NEW SECTION. **Sec. 2.** The authority granted by RCW 35.21.735 is
6 additional and supplemental to any other authority of any city, town,
7 county, public corporation, or port district. This act may not be
8 construed to imply that any of the power or authority granted in this
9 act was not available to any city, town, county, public corporation, or
10 port district under prior law. Any previous actions consistent with
11 this act are ratified and confirmed.

12 NEW SECTION. **Sec. 3.** (1) Major public facilities, public works,
13 and capital projects with significant public funding generally aim to
14 accrue broad benefits to the people of Washington. However, sometimes
15 the interest of the stakeholder community that bears the
16 disproportionate cost of the broad public benefit by absorbing a
17 deleterious impact upon itself is overlooked or inadequately addressed.
18 These impacts may include dislocation, displacement, and the overall
19 disintegration of an identifiable existing community and its historical
20 and cultural character. The legislature finds that the preservation
21 and restoration of the character of such a community, and the
22 community's historical and cultural character, are important public
23 policy goals that can be achieved through the creation of community
24 preservation and development authorities.

25 (2) Community preservation and development authorities are hereby
26 created to restore or enhance the health, safety, and economic well-
27 being of communities adversely impacted by the construction of, or
28 ongoing operation of, multiple major public facilities, public works,
29 and capital projects with significant public funding.

30 (3) Community preservation and development authorities have the
31 following purposes:

32 (a) To revitalize, enhance, and preserve the unique character of
33 impacted communities;

34 (b) To mitigate the adverse effects of multiple major public
35 facilities projects, public works projects, or capital projects with

1 significant public funding, or a secure community transition facility
2 as defined in RCW 71.09.020(14);

3 (c) To restore a local area's sense of community;

4 (d) To reduce the displacement of community members and businesses;

5 (e) To stimulate the community's economic vitality;

6 (f) To enhance public service provisions;

7 (g) To improve the standard of living of community members; and

8 (h) To preserve historic buildings or areas by returning them to
9 economically productive uses that are compatible with or enhance their
10 historic character.

11 NEW SECTION. **Sec. 4.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires otherwise.

13 (1) "Community" means a group of people who reside or work in the
14 geographic area established by the community preservation and
15 development authority board or the proposal to create the authority and
16 who currently or historically share a distinct cultural identity or
17 local history.

18 (2) "Community preservation and development authority" or
19 "authority" means an authority created by members of an impacted
20 community.

21 (3) "Constituency" means the general membership of the community
22 preservation and development authority, which membership shall be open
23 to all persons eighteen years of age and over who are residents,
24 property owners, employees, or business persons within the geographic
25 boundaries established by the authority or the proposal to create the
26 authority.

27 (4) "Impacted community" means a community that has been adversely
28 impacted by the construction of, or ongoing operation of, multiple
29 major public facilities, public works, and capital projects with
30 significant public funding.

31 (5) "Major public facilities project, public works project, or
32 capital project with significant public funding" means any capital
33 project whose total cost exceeds ten million dollars. On July 1, 2009,
34 and on July 1st of each odd-numbered year thereafter, the capital
35 project cost threshold shall be adjusted by the capital project cost
36 adjustment factor for inflation established by the office of financial
37 management.

1 NEW SECTION. **Sec. 5.** (1) The residents, property owners,
2 employees, or business owners of an impacted community may propose
3 formation of a community preservation and development authority to the
4 state legislative delegation representing the area in which the
5 community is located. The proposal to form a community preservation
6 and development authority must be presented in writing to the
7 appropriate legislative committee in both the house of representatives
8 and the senate. The proposal must contain proposed general geographic
9 boundaries that will be used to define the community for the purposes
10 of the authority. Proposals presented after January 1, 2008, must
11 identify in its proposal one or more stable revenue sources that (a)
12 have a nexus with the multiple publicly funded facilities that have
13 adversely impacted the community, and (b) can be used to support future
14 operating or capital projects that will be identified in the strategic
15 plan required under section 7 of this act.

16 (2) Formation of the community preservation and development
17 authority is subject to legislative authorization by statute. The
18 legislature must find that (a) the area within the proposal's
19 geographic boundaries meets the definition of "impacted community"
20 contained in section 4(4) of this act and (b) those persons that have
21 brought forth the proposal are members of the community as defined in
22 section 4(1) of this act and, if the authority were approved, would
23 meet the definition of constituency contained in section 4(3) of this
24 act. For proposals brought after January 1, 2008, the legislature must
25 also find that the community has identified one or more stable revenue
26 sources as required in subsection (1) of this section. The legislature
27 may then act to authorize the establishment of the community
28 preservation and development authority in law.

29 (3) The affairs of a community preservation and development
30 authority shall be managed by a board of directors, consisting of the
31 following members:

32 (a) Two members who own, operate, or represent businesses within
33 the community;

34 (b) Two members who are involved in providing nonprofit community
35 or social services within the community;

36 (c) Two members who are involved in the arts and entertainment
37 within the community;

1 (d) Two members with knowledge of the community's culture and
2 history; and

3 (e) One member who is involved in a nonprofit or public planning
4 organization that directly serves the impacted community.

5 (4) No member of the board shall hold office for more than four
6 years. Board positions shall be numbered one through nine, and the
7 terms staggered as follows:

8 (a) Board members elected to positions one through five shall serve
9 two-year terms, and if reelected, may serve no more than one additional
10 two-year term.

11 (b) Board members initially elected to positions six through nine
12 shall serve a three-year term only.

13 (c) Board members elected to positions six through nine after the
14 initial three-year term shall serve two-year terms, and if reelected,
15 may serve no more than one additional two-year term.

16 (5) With respect to an authority's initial board of directors: The
17 state legislative delegation and those proposing formation of the
18 authority shall jointly establish a committee to develop a list of
19 candidates to stand for election once the authority has received
20 legislative approval as established in subsection (2) of this section.
21 For the purpose of developing the list and identifying those persons
22 who meet the criteria in subsection (3)(a) through (e) of this section,
23 community shall mean the proposed geographic boundaries as set out in
24 the proposal. The board of directors shall be elected by the
25 constituency during a meeting convened for that purpose by the state
26 legislative delegation.

27 (6) With respect to subsequent elections of an authority's board of
28 directors: A list of candidates shall be developed by the authority's
29 existing board of directors and the election shall be held during the
30 annual local town hall meeting as required in section 7 of this act.

31 NEW SECTION. **Sec. 6.** (1) A community preservation and development
32 authority shall have the power to:

33 (a) Accept gifts, grants, loans, or other aid from public or
34 private entities;

35 (b) Contract and enter into partnerships with individuals,
36 associations, corporations, and local, state, and federal governments;

37 (c) Buy, own, lease, and sell real and personal property;

- 1 (d) Hold in trust, improve, and develop land;
 - 2 (e) Invest, deposit, and reinvest its funds;
 - 3 (f) Incur debt in furtherance of its mission;
 - 4 (g) Lend its funds, property, credit, or services for corporate
 - 5 purposes; and
 - 6 (h) Exercise such additional powers as may be authorized by law.
- 7 (2) A community preservation and development authority shall have
- 8 no power of eminent domain nor any power to levy taxes or special
- 9 assessments.

10 NEW SECTION. **Sec. 7.** A community preservation and development

11 authority shall have the duty to:

12 (1) Establish specific geographic boundaries for the authority

13 within its bylaws based on the general geographic boundaries

14 established in the proposal submitted and approved by the legislature;

15 (2) Solicit input from members of its community and develop a

16 strategic preservation and development plan to promote the health,

17 safety, and economic well-being of the impacted community and to

18 preserve its cultural and historical identity;

19 (3) Include within the strategic plan a prioritized list of

20 projects identified and supported by the community, including capital

21 or operating components that address one or more of the purposes under

22 section 3(3) of this act;

23 (4) Establish funding mechanisms to support projects and programs

24 identified in the strategic plan including but not limited to grants

25 and loans;

26 (5) Use gifts, grants, loans, and other aid from public or private

27 entities to contract and enter into partnerships with individuals,

28 associations, corporations, and local, state, and federal governments

29 to carry out projects identified in the strategic plan. Projects may

30 include but are not limited to those that: (a) Enhance public safety;

31 (b) reduce community blight; (c) provide ongoing mitigation of the

32 adverse effects of multiple publicly funded projects on the impacted

33 community; and (d) address other purposes identified in section 3(3) of

34 this act; and

35 (6) Demonstrate ongoing accountability for its actions by:

36 (a) Reporting to the appropriate committees of the legislature, one

1 year after formation and every biennium thereafter, on the authority's
2 strategic plan, activities, accomplishments, and any recommendations
3 for statutory changes;

4 (b) Reporting any changes in the authority's geographic boundaries
5 to the appropriate committees of the legislature when the legislature
6 next convenes in regular session;

7 (c) Convening a local town hall meeting with its constituency on an
8 annual basis to: (i) Report its activities and accomplishments from
9 the previous year; (ii) present and receive input from members of the
10 impacted community regarding its proposed strategic plan and activities
11 for the upcoming year; and (iii) hold board member elections as
12 necessary; and

13 (d) Maintaining books and records as appropriate for the conduct of
14 its affairs.

15 NEW SECTION. **Sec. 8.** The legislature finds that the Pioneer
16 Square-International District within the city of Seattle meets the
17 requirements contained in section 5(2) of this act, and that formation
18 of a community preservation and development authority has been proposed
19 to the appropriate state legislative delegation as authorized in
20 section 5(1) of this act. Therefore, the legislature authorizes the
21 establishment of the Pioneer Square-International District community
22 preservation and development authority.

23 NEW SECTION. **Sec. 9.** The community preservation and development
24 authority account is created in the state treasury. The account is
25 composed of two subaccounts, one for moneys to be appropriated for
26 operating purposes, and the other for moneys to be appropriated for
27 capital purposes. Moneys in the account may be spent only after
28 appropriation. Expenditures from the account may be used only for
29 projects under this chapter.

30 NEW SECTION. **Sec. 10.** Prior to making siting, design, and
31 construction decisions for future major public facilities, public works
32 projects, or capital projects with significant public funding, state
33 and local government agencies shall to the extent possible:

34 (1) Communicate and consult with the community preservation and

1 development authority and impacted community, including assessing the
2 compatibility of the proposed project with the strategic plan adopted
3 by the authority; and

4 (2) Make reasonable efforts to ensure that negative, cumulative
5 effects of multiple projects upon the impacted community are minimized.

6 NEW SECTION. **Sec. 11.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 12.** Sections 3 through 10 of this act
11 constitute a new chapter in Title 43 RCW."

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12 On page 1, line 1 of the title, after "development;" strike the
13 remainder of the title and insert "amending RCW 35.21.735; adding a new
14 chapter to title 43 RCW; and creating a new section."

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