

2 **ESHB 2737** - S COMM AMD

3 By Committee on Trade, Technology & Economic Development

4 ADOPTED 3/3/94

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

7 "Sec. 1. RCW 43.163.010 and 1989 c 279 s 2 are each amended to
8 read as follows:

9 As used in this chapter, the following words and terms have the
10 following meanings, unless the context requires otherwise:

11 (1) "Authority" means the Washington economic development finance
12 authority created under RCW 43.163.020 or any board, body, commission,
13 department or officer succeeding to the principal functions of the
14 authority or to whom the powers conferred upon the authority shall be
15 given by law;

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

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

30 (4) "Eligible banking organization" means any organization subject
31 to regulation by the (~~state supervisor of banking or the state~~
32 ~~supervisor of savings and loans~~) director of the department of
33 financial institutions, any national bank, federal savings and loan
34 association, and federal credit union located within this state;

35 (5) "Eligible export transaction" means any preexport or export
36 activity by a person or entity located in the state of Washington

1 involving a sale for export and product sale which, in the judgment of
2 the authority: (a) Will create or maintain employment in the state of
3 Washington, (b) will obtain a material percent of its value from
4 manufactured goods or services made, processed or occurring in
5 Washington, and (c) could not otherwise obtain financing on reasonable
6 terms from an eligible banking organization;

7 (6) "Eligible farmer" means any person who is a resident of the
8 state of Washington and whose specific acreage qualifying for receipts
9 from the federal department of agriculture under its conservation
10 reserve program is within the state of Washington;

11 (7) "Eligible person" means an individual, partnership,
12 corporation, or joint venture carrying on business, or proposing to
13 carry on business within the state and is seeking financial assistance
14 under section 5 of this act;

15 (8) "Financial assistance" means the infusion of capital to persons
16 for use in the development and exploitation of specific inventions and
17 products;

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

29 ((+8)) (10) "Plan" means the general plan of economic development
30 finance objectives developed and adopted by the authority, and updated
31 from time to time, as required under RCW 43.163.090((-))i

32 (11) "Economic development activities" include, but are not limited
33 to those activities related to: Manufacturing, processing, research,
34 production, assembly, tooling, warehousing, export assistance, tourism,
35 pollution control, energy generating, conservation, transmission, and
36 sports facilities and industrial parks;

37 (12) "Project costs" means costs of:

38 (a) Acquisition, lease, construction, reconstruction, remodeling,
39 refurbishing, rehabilitation, extension, and enlargement of land,

1 rights to land, buildings, structures, docks, wharves, fixtures,
2 machinery, equipment, excavations, paving, landscaping, utilities,
3 approaches, roadways and parking, handling and storage areas, and
4 similar ancillary facilities, and any other real or personal property
5 included in an economic development activity;

6 (b) Architectural, engineering, consulting, accounting, and legal
7 costs related directly to the development, financing, acquisition,
8 lease, construction, reconstruction, remodeling, refurbishing,
9 rehabilitation, extension, and enlargement of an activity included
10 under subsection (11) of this section, including costs of studies
11 assessing the feasibility of an economic development activity;

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

15 (d) Start-up costs, working capital, capitalized research and
16 development costs, capitalized interest during construction and during
17 the eighteen months after estimated completion of construction, and
18 capitalized debt service or repair and replacement or other appropriate
19 reserves;

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

22 (f) Other costs incidental to any of the costs listed in this
23 section;

24 (13) "Product" means a product, device, technique, or process that
25 is or may be exploitable commercially. "Product" does not refer to
26 pure research, but shall be construed to apply to products, devices,
27 techniques, or processes that have advanced beyond the theoretic stage
28 and are readily capable of being, or have been, reduced to practice;

29 (14) "Financing agreements" means, and includes without limitation,
30 a contractual arrangement with an eligible person whereby the authority
31 obtains rights from or in an invention or product or proceeds from an
32 invention or product in exchange for the granting of financial and
33 other assistance to the person.

34 **Sec. 2.** RCW 43.163.070 and 1990 c 53 s 4 are each amended to read
35 as follows:

36 The authority may use any funds legally available to it for any
37 purpose specifically authorized by this chapter, or for otherwise
38 improving economic development in this state by assisting businesses

1 and farm enterprises that do not have access to capital at terms and
2 rates comparable to large corporations due to the location of the
3 business, the size of the business, the lack of financial expertise, or
4 other appropriate reasons(~~(:—PROVIDED, That)~~). However, no funds of
5 the state shall be used for such purposes; except that funds of the
6 state may be used to support the administrative and technical
7 assistance functions of the programs created under section 5 of this
8 act.

9 **Sec. 3.** RCW 43.163.080 and 1990 c 53 s 5 are each amended to read
10 as follows:

11 (1) The authority shall adopt general operating procedures for the
12 authority. The authority shall also adopt operating procedures for
13 individual programs as they are developed for obtaining funds and for
14 providing funds to borrowers. These operating procedures shall be
15 adopted by resolution prior to the authority operating the applicable
16 programs.

17 (2) The operating procedures shall include, but are not limited to:
18 (a) Appropriate minimum reserve requirements to secure the authority's
19 bonds and other obligations; (b) appropriate standards for securing
20 loans and other financing the authority provides to borrowers, such as
21 guarantees or collateral; and (c) (~~appropriate~~) strict standards for
22 providing financing to borrowers, such as (i) the borrower is a
23 responsible party with a high probability of being able to repay the
24 financing provided by the authority, (ii) the financing is reasonably
25 expected to provide economic growth or stability in the state by
26 enabling a borrower to increase or maintain jobs or capital in the
27 state, (iii) the borrowers with the greatest needs or that provide the
28 most public benefit are given higher priority by the authority, and
29 (iv) the financing is consistent with any plan adopted by the authority
30 under RCW 43.163.090.

31 **Sec. 4.** RCW 43.163.120 and 1989 c 279 s 13 are each amended to
32 read as follows:

33 The authority shall receive no appropriation of state funds; except
34 that funds of the state may be used to support the administrative and
35 technical assistance functions of the programs created under section 5
36 of this act. The department of community, trade, and economic
37 development shall provide staff to the authority, to the extent

1 permitted by law, to enable the authority to accomplish its purposes;
2 the staff from the department of community, trade, and economic
3 development may assist the authority in organizing itself and in
4 designing programs, but shall not be involved in the issuance of bonds
5 or in making credit decisions regarding financing provided to borrowers
6 by the authority. The authority shall report each December on its
7 activities to the ((~~house trade and economic development committee and~~
8 ~~to the senate economic development and labor committee~~)) appropriate
9 standing committees of the house of representatives and senate.

10 NEW SECTION. Sec. 5. A new section is added to chapter 43.163 RCW
11 to read as follows:

12 For the purpose of facilitating economic development in the state
13 of Washington and encouraging the employment of Washington workers at
14 meaningful wages:

15 (1) The authority may develop and conduct a program or programs to
16 provide nonrecourse revenue bond financing for the project costs for no
17 more than five economic development activities included under the
18 authority's existing general plan of economic development finance
19 objectives;

20 (2) The authority shall also develop and conduct a program that
21 will stimulate and encourage the development of new products within
22 Washington state by the infusion of financial aid for invention and
23 innovation in situations in which the financial aid would not otherwise
24 be reasonably available from commercial sources. The authority is
25 authorized to provide nonrecourse revenue bond financing for this
26 program.

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

29 (i) To enter into financing agreements with eligible persons doing
30 business in Washington state, upon terms and on conditions consistent
31 with the purposes of this chapter, for the advancement of financial and
32 other assistance to the persons for the development of specific
33 products, procedures, and techniques, to be developed and produced in
34 this state, and to condition the agreements upon contractual assurances
35 that the benefits of increasing or maintaining employment and tax
36 revenues shall remain in this state and accrue to it;

37 (ii) Own, possess, and take license in patents, copyrights, and
38 proprietary processes and negotiate and enter into contracts and

1 establish charges for the use of the patents, copyrights, and
2 proprietary processes when the patents and licenses for products result
3 from assistance provided by the authority;

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

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

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

13 (vi) Refer eligible persons to researchers or laboratories for the
14 purpose of testing and evaluating new products, processes, or
15 innovations; and

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

20 (b) Eligible persons seeking financial and other assistance under
21 this program shall forward an application, together with an application
22 fee prescribed by rule, to the authority. An investigation and report
23 concerning the advisability of approving an application for assistance
24 shall be completed by the staff of the authority. The investigation
25 and report may include, but is not limited to, facts about the company
26 under consideration as its history, wage standards, job opportunities,
27 stability of employment, past and present financial condition and
28 structure, pro forma income statements, present and future markets and
29 prospects, integrity of management as well as the feasibility of the
30 proposed product and invention to be granted financial aid, including
31 the state of development of the product as well as the likelihood of
32 its commercial feasibility. After receipt and consideration of the
33 report set out in this subsection and after other action as is deemed
34 appropriate, the application shall be approved or denied by the
35 authority. The applicant shall be promptly notified of action by the
36 authority. In making the decision as to approval or denial of an
37 application, priority shall be given to those persons operating or
38 planning to operate businesses of special importance to Washington's
39 economy, including, but not limited to: (i) Existing resource-based

1 industries of agriculture, forestry, and fisheries; (ii) existing
2 advanced technology industries of electronics, computer and instrument
3 manufacturing, computer software, and information and design; and (iii)
4 emerging industries such as environmental technology, biotechnology,
5 biomedical sciences, materials sciences, and optics.

6 (3) The authority may also develop and implement such other
7 economic development financing programs adopted in future general plans
8 of economic development finance objectives developed under RCW
9 43.163.090.

10 NEW SECTION. **Sec. 6.** 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.

14 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and shall take
17 effect immediately."

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21 On page 1, line 2 of the title, after "authority;" strike the
22 remainder of the title and insert "amending RCW 43.163.010, 43.163.070,
23 43.163.080, and 43.163.120; adding a new section to chapter 43.163 RCW;
24 and declaring an emergency."

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