
HOUSE BILL 1799

State of Washington

53rd Legislature

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By Representatives Wineberry, Forner, Shin, Morris, Springer, Valle and Karahalios

Read first time 02/10/93. Referred to Committee on Trade, Economic Development & Housing.

1 AN ACT Relating to the economic development finance authority; and
2 amending RCW 43.163.070, 43.163.100, 43.163.130, 43.163.090, and
3 43.163.901.

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

5 **Sec. 1.** RCW 43.163.070 and 1990 c 53 s 4 are each amended to read
6 as follows:

7 The authority may use any funds legally available to it: (1) For
8 any ((purpose)) program specifically authorized by this chapter((7))i
9 or (2) for ((otherwise)) other loan or loan guarantee programs
10 developed by the authority for improving economic development in this
11 state by assisting businesses and farm enterprises that do not have
12 access to capital at terms and rates comparable to large corporations
13 due to the location of the business, the size of the business, the lack
14 of financial expertise, or other appropriate reasons: PROVIDED, That
15 no funds of the state shall be used for such purposes and that loans
16 made to persons, firms, or entities shall not exceed five million
17 dollars per borrower or per project. The programs developed by the
18 authority shall emphasize assistance to small businesses and women and
19 minority-owned businesses.

1 **Sec. 2.** RCW 43.163.100 and 1990 c 53 s 6 are each amended to read
2 as follows:

3 In addition to accomplishing the economic development finance
4 (~~programs specifically~~) assistance authorized (~~in this chapter~~)
5 under RCW 43.163.070, the authority may:

6 (1) Maintain an office or offices;

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

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

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

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

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

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

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

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

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

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

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

7 (13) Make such expenditures as are appropriate for paying the
8 administrative costs and expenses of the authority in carrying out the
9 provisions of this chapter: PROVIDED, That expenditures with respect
10 to the economic development financing programs of the authority shall
11 not be made from funds of the state;

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

15 (15) Give assistance to public bodies by providing information,
16 guidelines, forms, and procedures for implementing their financing
17 programs;

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

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

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

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

28 **Sec. 3.** RCW 43.163.130 and 1989 c 279 s 14 are each amended to
29 read as follows:

30 (1) The authority may issue its nonrecourse revenue bonds in order
31 to obtain ~~((the))~~ funds for use pursuant to RCW 43.163.070 to carry out
32 the ~~((programs authorized in))~~ purposes of this chapter. The bonds
33 shall be special obligations of the authority, payable solely out of
34 the special fund or funds established by the authority for their
35 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
38 of such bonds or between the authority and a corporate trustee, which

1 may be any trust company or bank having the powers of a trust company
2 within or without the state.

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

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

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

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

34 (4) Any security interest created against the unexpended bond
35 proceeds and against the special funds created by the authority shall
36 be immediately valid and binding against the money and any securities
37 in which the money may be invested without authority or trustee
38 possession. The security interest shall be prior to any party having
39 any competing claim against the moneys or securities, without filing or

1 recording under Article 9 of the Uniform Commercial Code, Title 62A
2 RCW, and regardless of whether the party has notice of the security
3 interest.

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

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

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

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

35 (9) The authority may purchase its bonds with any of its funds
36 available for the purchase. The authority may hold, pledge, cancel or
37 resell the bonds subject to and in accordance with agreements with
38 bondowners.

1 (10) The authority shall not exceed two hundred fifty million
2 dollars in total outstanding debt at any time.

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

6 **Sec. 4.** RCW 43.163.090 and 1989 c 279 s 10 are each amended to
7 read as follows:

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

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

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

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

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

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

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

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

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

29 At least one public hearing shall be conducted by the authority on
30 the plan, and updates to the plan, prior to its adoption or update.

31 The plan shall be adopted by resolution of the authority no later than
32 November 15, 1990. The plan shall be submitted to the chief clerk of
33 the house of representatives and secretary of the senate for
34 transmittal to and review by the appropriate standing committees no
35 later than December 15, 1990, and each December 15th thereafter. The

36 authority shall ~~((periodically))~~ update the plan ~~((as determined
37 necessary by the authority, but not less than once every two years))~~
38 annually. The plan or updated plan shall include a report on authority

1 activities conducted since the commencement of authority operation or
2 since the last plan was reported, whichever is more recent, including
3 a statement of results achieved under the purposes of this chapter and
4 the plan. Upon adoption, the authority shall conduct its programs in
5 observance of the objectives established in the plan.

6 **Sec. 5.** RCW 43.163.901 and 1989 c 279 s 26 are each amended to
7 read as follows:

8 If any provision of this ~~((act))~~ chapter or its application to any
9 person or circumstance is held invalid, the remainder of the ~~((act))~~
10 chapter or the application of the provision to other persons or
11 circumstances is not affected.

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