

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1295

Chapter 304, Laws of 2001

57th Legislature
2001 Regular Legislative Session

ECONOMIC DEVELOPMENT FINANCE AUTHORITY

EFFECTIVE DATE: 5/14/01

Passed by the House April 17, 2001
Yeas 91 Nays 0

FRANK CHOPP
Speaker of the House of Representatives

CLYDE BALLARD
Speaker of the House of Representatives

Passed by the Senate April 5, 2001
Yeas 49 Nays 0

BRAD OWEN
President of the Senate

Approved May 14, 2001

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1295** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 14, 2001 - 3:52 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1295

AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By House Committee on Trade & Economic Development (originally sponsored by Representatives Dunn, Dunshee, Mielke, Fromhold, Hunt, Miloscia, Roach and Benson)

Read first time . Referred to Committee on .

1 AN ACT Relating to the Washington economic development finance
2 authority; amending RCW 43.163.090, 43.163.130, and 43.163.210; and
3 declaring an emergency.

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

5 **Sec. 1.** RCW 43.163.090 and 1998 c 245 s 50 are each amended to
6 read as follows:

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

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

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

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

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

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

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

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

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

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

16 At least one public hearing shall be conducted by the authority on
17 the plan prior to its adoption. The plan shall be adopted by
18 resolution of the authority no later than November 15, 1990. The
19 authority may periodically update the plan as determined necessary by
20 the authority. The plan or updated plan shall include a report on
21 authority activities conducted since the commencement of authority
22 operation or since the last plan was reported, whichever is more
23 recent, including a statement of results achieved under the purposes of
24 this chapter and the plan. Upon adoption, the authority shall conduct
25 its programs in observance of the objectives established in the plan.

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

28 (1) The authority may issue its nonrecourse revenue bonds in order
29 to obtain the funds to carry out the programs authorized in this
30 chapter. The bonds shall be special obligations of the authority,
31 payable solely out of the special fund or funds established by the
32 authority for their repayment.

33 (2) Any bonds issued under this chapter may be secured by a
34 financing document between the authority and the purchasers or owners
35 of such bonds or between the authority and a corporate trustee, which
36 may be any trust company or bank having the powers of a trust company
37 within or without the state.

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

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

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

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

32 (4) Any security interest created against the unexpended bond
33 proceeds and against the special funds created by the authority shall
34 be immediately valid and binding against the money and any securities
35 in which the money may be invested without authority or trustee
36 possession. The security interest shall be prior to any party having
37 any competing claim against the moneys or securities, without filing or
38 recording under Article 9 of the Uniform Commercial Code, Title 62A

1 RCW, and regardless of whether the party has notice of the security
2 interest.

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

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

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

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

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

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

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

4 (12) The authority may not issue any bonds after June 30, ((2004))
5 2006.

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

8 For the purpose of facilitating economic development in the state
9 of Washington and encouraging the employment of Washington workers at
10 meaningful wages:

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

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

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

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

31 (ii) Own, possess, and take license in patents, copyrights, and
32 proprietary processes and negotiate and enter into contracts and
33 establish charges for the use of the patents, copyrights, and
34 proprietary processes when the patents and licenses for products result
35 from assistance provided by the authority;

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

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

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

7 (vi) Refer eligible persons to researchers or laboratories for the
8 purpose of testing and evaluating new products, processes, or
9 innovations; and

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

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

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

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

7 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and takes effect
10 immediately.

Passed the House April 17, 2001.

Passed the Senate April 5, 2001.

Approved by the Governor May 14, 2001.

Filed in Office of Secretary of State May 14, 2001.