

---

HOUSE BILL 1428

---

State of Washington

59th Legislature

2005 Regular Session

By Representatives Condotta, Pettigrew, Dunn, Linville and Chase

Read first time 01/24/2005. Referred to Committee on Economic Development, Agriculture & Trade.

1 AN ACT Relating to the Washington economic development finance  
2 authority; amending RCW 43.163.210; and reenacting and amending RCW  
3 43.163.130.

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

5 **Sec. 1.** RCW 43.163.130 and 2001 c 304 s 2 and 2001 c 32 s 2 are  
6 each reenacted and amended to read as follows:

7 (1) The authority may issue its nonrecourse revenue bonds in order  
8 to obtain the funds to carry out the programs authorized in this  
9 chapter. The bonds shall be special obligations of the authority,  
10 payable solely out of the special fund or funds established by the  
11 authority for their repayment.

12 (2) Any bonds issued under this chapter may be secured by a  
13 financing document between the authority and the purchasers or owners  
14 of such bonds or between the authority and a corporate trustee, which  
15 may be any trust company or bank having the powers of a trust company  
16 within or without the state.

17 (a) The financing document may pledge or assign, in whole or in  
18 part, the revenues and funds held or to be received by the authority,

1 any present or future contract or other rights to receive the same, and  
2 the proceeds thereof.

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

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

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

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

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

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

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

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

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

36 (10) The authority shall not exceed (~~seven hundred fifty million~~)  
37 one billion 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, 2006.~~)

5 **Sec. 2.** RCW 43.163.210 and 2001 c 304 s 3 are each amended to read  
6 as follows:

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

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

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

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

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

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

35 (iii) Negotiate royalty payments to the authority on patents and  
36 licenses for products arising as a result of assistance provided by the  
37 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, 2006.~~)

--- END ---