

Chapter 35.104 RCW
HEALTH SCIENCES AND SERVICES AUTHORITIES

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RCW 35.104.010 Purpose. The health sciences and services program is created to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health. [2007 c 251 § 2.]

Captions not law—2007 c 251: "Captions used in this act are not any part of the law." [2007 c 251 § 14.]

Severability—2007 c 251: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2007 c 251 § 15.]

RCW 35.104.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means a health sciences and services authority created pursuant to this chapter.

(2) "Board" means the governing board of trustees of an authority.

(3) "Director" means the executive director of the student achievement council.

(4) "Health sciences and services" means biosciences that advance new therapies and procedures to combat disease and promote public health.

(5) "Local government" means a city, town, or county.

(6) "Sponsoring local government" means a city, town, or county that creates a health sciences and services authority. [2012 c 229 § 580; 2007 c 251 § 1.]

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Captions not law—Severability—2007 c 251: See notes following RCW 35.104.010.

RCW 35.104.030 Creation. A local government must establish by ordinance or resolution an authority. At a minimum, the ordinance must:

- (1) Specify the powers to be exercised by the authority;
- (2) Reserve the local government's right to dissolve the authority after its contractual responsibilities have expired;
- (3) Establish an administrative board, including: (a) The number of board members; (b) the times and terms of appointment for each board position; (c) the amount of compensation, if any, to be paid to board members; (d) the procedures for removing board members and filing vacancies; and (e) the qualifications for the appointment of individuals to the board;
- (4) Establish the authority's boundaries, which must be contiguous tracts of land;
- (5) Ensure that private and public funds provided to the authority will be segregated;
- (6) Establish guidelines under which the authority may invest its funds;
- (7) Provide the requirements for auditing the records of the authority; and
- (8) Require the local government's legal counsel to also provide legal services to the authority. [2007 c 251 § 3.]

Captions not law—Severability—2007 c 251: See notes following RCW 35.104.010.

RCW 35.104.040 Applications. (1) The student achievement council may approve applications submitted by local governments for an area's designation as a health sciences and services authority under this chapter. The director must determine the division to review applications submitted by local governments under this chapter. The application for designation must be in the form and manner and contain such information as the student achievement council may prescribe, provided the application:

- (a) Contains sufficient information to enable the director to determine the viability of the proposal;
 - (b) Demonstrates that an ordinance or resolution has been passed by the legislative authority of a local government that delineates the boundaries of an area that may be designated an authority;
 - (c) Is submitted on behalf of the local government, or, if that office does not exist, by the legislative body of the local government;
 - (d) Demonstrates that the public funds directed to programs or facilities in the authority will leverage private sector resources and contributions to activities to be performed;
 - (e) Provides a plan or plans for the development of the authority as an entity to advance as a cluster for health sciences education, health sciences research, biotechnology development, biotechnology product commercialization, and/or health care services; and
 - (f) Demonstrates that the state has previously provided funds to health sciences and services programs or facilities in the applicant city, town, or county.
- (2) The director must determine the division to develop criteria to evaluate the application. The criteria must include:

(a) The presence of infrastructure capable of spurring development of the area as a center of health sciences and services;

(b) The presence of higher education facilities where undergraduate or graduate coursework or research is conducted; and

(c) The presence of facilities in which health services are provided.

(3) There may be no more than two authorities statewide.

(4) An authority may only be created in a county with a population of less than one million persons and located east of the crest of the Cascade mountains.

(5) The director may reject or approve an application. When denying an application, the director must specify the application's deficiencies. The decision regarding such designation as it relates to a specific local government is final; however, a rejected application may be resubmitted.

(6) Applications are due by December 31, 2010, and must be processed within sixty days of submission.

(7) The director may, at his or her discretion, amend the boundaries of an authority upon the request of the local government.

(8) The student achievement council may adopt any rules necessary to implement this chapter.

(9) The student achievement council must develop evaluation criteria that enables the local governments to measure the effectiveness of the program. [2012 c 229 § 581; 2011 c 155 § 1; 2010 1st sp.s. c 33 § 2; 2007 c 251 § 4.]

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Captions not law—Severability—2007 c 251: See notes following RCW 35.104.010.

RCW 35.104.050 Governing board. (1) An authority shall be overseen by a board with not more than fourteen members. The authority board shall select the chair. Board members must have some experience with the mission of the authority. The board members shall be appointed as follows:

(a) The governor shall appoint three members;

(b) The county legislative authority in which the authority resides shall appoint three members;

(c) The mayor of the city in which the authority is created, or the mayor of the largest city within the authority if created by a county, shall appoint three members; and

(d) Up to five additional members may be appointed by the board.

(2) A simple majority of the board members shall constitute a quorum.

(3) The board shall annually elect a secretary and any other officers it deems necessary.

(4) The local government shall designate an individual with financial experience to serve as treasurer. The individual may be a city or county treasurer, city or county auditor, or a private party. If the treasurer is a private party, the local government shall require a bond in an amount and under such terms and conditions as the local government deems necessary to protect the authority. The

treasurer shall have the power to create and maintain funds, issue warrants, and invest funds in its possession.

(5) The board may adopt bylaws or rules for their own governance.

(6) Meetings of the board shall be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the chair or when a majority of the board so requests. Meetings of the board may be held at any location and board members may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200. [2007 c 251 § 5.]

Captions not law—Severability—2007 c 251: See notes following RCW 35.104.010.

RCW 35.104.060 Powers and duties. (1) The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers, including the authority may:

(a) Sue and be sued in its own name;

(b) Make and execute agreements, contracts, and other instruments, with any public or private entity or person, in accordance with this chapter;

(c) Employ, contract with, or engage independent counsel, financial advisors, auditors, other technical or professional assistants, and such other personnel as are necessary or desirable to implement this chapter;

(d) Establish such special funds, and control deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;

(e) Enter into contracts with public and private entities for research to be conducted in this state;

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

(g) Exercise any other power reasonably required to implement the purposes of this chapter; and

(h) Hire staff and pay administrative costs; however, such expenses shall be paid from moneys provided by the sponsoring local government and moneys received from gifts, grants, and bequests and the interest earned on the authority's accounts and investments. No more than ten percent of the amounts received under RCW 82.14.480 may be used by a health sciences and services authority for the purposes of subsections (1)(c) and (h) of this section.

(2) In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

(a) Use the authority's public moneys, leveraging those moneys with amounts received from other public and private sources in accordance with contribution agreements, to promote bioscience-based economic development, and to advance new therapies and procedures to combat disease and promote public health;

(b) Solicit and receive gifts, grants, and bequests, and enter into contribution agreements with private entities and public entities to receive moneys in consideration of the authority's promise to leverage those moneys with the revenue generated by the tax authorized under RCW 82.14.480 and contributions from other public entities and private entities, in order to use those moneys to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health;

(c) Hold funds received by the authority in trust for their use pursuant to this chapter to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health;

(d) Manage its funds, obligations, and investments as necessary and consistent with its purpose, including the segregation of revenues into separate funds and accounts;

(e) Borrow money and incur indebtedness pursuant to RCW 35.104.110;

(f) Make grants to entities pursuant to contract to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health. Grant agreements shall specify the deliverables to be provided by the recipient pursuant to the grant. Grants to private entities may only be provided under a contractual agreement that ensures the state will receive appropriate consideration, such as an assurance of job creation or retention, or the delivery of services that provide for the public health, safety, and welfare. The authority shall solicit requests for funding and evaluate the requests by reference to factors such as: (i) The quality of the proposed research; (ii) its potential to improve health outcomes, with particular attention to the likelihood that it will also lower health care costs, substitute for a more costly diagnostic or treatment modality, or offer a breakthrough treatment for a particular disease or condition; (iii) its potential to leverage additional funding; (iv) its potential to provide health care benefits; (v) its potential to stimulate employment; and (vi) evidence of public and private collaboration;

(g) Create one or more advisory boards composed of scientists, industrialists, and others familiar with health sciences and services; and

(h) Adopt policies and procedures to facilitate the orderly process of grant application, review, and reward.

(3) The records of the authority shall be subject to audit by the office of the state auditor. [2010 1st sp.s. c 33 § 1; 2009 c 564 § 921; 2007 c 251 § 6.]

Effective date—2009 c 564: See note following RCW 2.68.020.

Captions not law—Severability—2007 c 251: See notes following RCW 35.104.010.

RCW 35.104.070 General indebtedness—General obligation bonds.

(1) A local government that creates a health sciences and services authority may incur general indebtedness, and issue general obligation bonds, to finance the grants and other programs and retire the indebtedness in whole or in part from the funds distributed pursuant to RCW 82.14.480 and subject to the following requirements:

(a) The ordinance adopted by the local government creating the authority and authorizing the use of the excise tax in RCW 82.14.480 indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

(b) The local government includes this statement of the intent in all notices.

(2) The general indebtedness incurred under this section may be payable from other tax revenues, the full faith and credit of the

sponsoring local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the local government for payment of costs of the grants and other programs or associated debt service on the general indebtedness. [2007 c 251 § 7.]

Captions not law—Severability—2007 c 251: See notes following RCW 35.104.010.

RCW 35.104.080 Limitation on bonds issued. The bonds issued by a local government under RCW 35.104.070 shall not constitute an obligation of the state of Washington, either general or special. [2007 c 251 § 8.]

Captions not law—Severability—2007 c 251: See notes following RCW 35.104.010.

RCW 35.104.090 Liability. (1) Members of the board, as well as other persons acting on behalf of the authority, while acting within the scope of their employment or agency, shall not be subject to personal liability resulting from their official duties conferred on them under this chapter.

(2) The state, the local government that created the authority, and the authority shall not be liable for any loss, damage, harm, or other consequences resulting directly or indirectly from grants provided by the authority or from programs, services, research, or other activities funded with such grants. [2007 c 251 § 9.]

Captions not law—Severability—2007 c 251: See notes following RCW 35.104.010.

RCW 35.104.100 Dissolution of sponsoring local government. The board may petition the sponsoring local government to be dissolved upon a showing that it has no reason to exist and that any assets it retains must be returned to the state treasurer. [2007 c 251 § 10.]

Captions not law—Severability—2007 c 251: See notes following RCW 35.104.010.

RCW 35.104.110 Borrowed moneys—Liability. (1) A local government that has established a health sciences and services authority under RCW 35.104.030 may, by ordinance or resolution, authorize the authority to borrow money under the conditions set forth in this section.

(2) Moneys borrowed by an authority must be secured by funds derived from gifts or grants from any source, public or private, federal, state, or local government grants or payments, or intergovernmental transfers.

(3) The authority shall incur no expense or liability that is an obligation, either general or special, of the state or local government, or a general obligation of the authority, and shall pay no

expense or liability from funds other than funds of the authority.
[2010 1st sp.s. c 33 § 4.]