
SUBSTITUTE HOUSE BILL 2836

State of Washington 52nd Legislature 1992 Regular Session

By House Committee on Trade & Economic Development (originally sponsored by Representatives Rasmussen, Forner, Cantwell, Ludwig, Sheldon, Wineberry, Paris and Bowman)

Read first time 02/07/92.

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

1 no funds of the state shall be used for such purposes and that loans
2 made to persons, firms, or entities shall not exceed five million
3 dollars per borrower or per project.

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

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

9 (1) Maintain an office or offices;

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

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

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

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

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

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

1 (8) Procure such insurance in such amounts and from such insurers
2 as the authority deems desirable, including, but not limited to,
3 insurance against any loss or damage to its property or other assets,
4 public liability insurance for injuries to persons or property, and
5 directors and officers liability insurance;

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

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

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

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

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

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

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

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

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

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

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

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

13 (1) The authority may issue its nonrecourse revenue bonds in order
14 to obtain ~~((the))~~ funds for use pursuant to RCW 43.163.070 to carry out
15 the ~~((programs authorized in))~~ purposes of this chapter. The bonds
16 shall be special obligations of the authority, payable solely out of
17 the special fund or funds established by the authority for their
18 repayment.

19 (2) Any bonds issued under this chapter may be secured by a
20 financing document between the authority and the purchasers or owners
21 of such bonds or between the authority and a corporate trustee, which
22 may be any trust company or bank having the powers of a trust company
23 within or without the state.

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

28 (b) The financing document may contain such provisions for
29 protecting and enforcing the rights, security, and remedies of

1 bondowners as may be reasonable and proper, including, without limiting
2 the generality of the foregoing, provisions defining defaults and
3 providing for remedies in the event of default which may include the
4 acceleration of maturities, restrictions on the individual rights of
5 action by bondowners, and covenants setting forth duties of and
6 limitations on the authority in conduct of its programs and the
7 management of its property.

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

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

26 (4) Any security interest created against the unexpended bond
27 proceeds and against the special funds created by the authority shall
28 be immediately valid and binding against the money and any securities
29 in which the money may be invested without authority or trustee
30 possession. The security interest shall be prior to any party having

1 any competing claim against the moneys or securities, without filing or
2 recording under Article 9 of the Uniform Commercial Code, Title 62A
3 RCW, and regardless of whether the party has notice of the security
4 interest.

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

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

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

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

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

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

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

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

18 The authority shall adopt a general plan of economic development
19 finance objectives to be implemented by the authority during the period
20 of the plan. The authority may exercise the powers authorized under
21 this chapter prior to the adoption of the initial plan. In developing
22 the plan, the authority shall consider and set objectives for:

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

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

27 (3) Geographic distribution of funds and programs available through
28 the authority;

29 (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 At least one public hearing shall be conducted by the authority on
11 the plan, and updates to the plan, prior to its adoption or update.
12 The plan shall be adopted by resolution of the authority no later than
13 November 15, 1990. The plan shall be submitted to the chief clerk of
14 the house of representatives and secretary of the senate for
15 transmittal to and review by the appropriate standing committees no
16 later than December 15, 1990, and each December 15th thereafter. The
17 authority shall ~~((periodically))~~ update the plan ~~((as determined
18 necessary by the authority, but not less than once every two years))~~
19 annually. The plan or updated plan shall include a report on authority
20 activities conducted since the commencement of authority operation or
21 since the last plan was reported, whichever is more recent, including
22 a statement of results achieved under the purposes of this chapter and
23 the plan. Upon adoption, the authority shall conduct its programs in
24 observance of the objectives established in the plan.

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

27 If any provision of this ~~((act))~~ chapter or its application to any
28 person or circumstance is held invalid, the remainder of the ~~((act))~~
29 chapter or the application of the provision to other persons or

1 circumstances is not affected.