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**ENGROSSED SUBSTITUTE HOUSE BILL 2737**

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**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** House Committee on Capital Budget (originally sponsored by Representatives Wineberry, Sheldon, Schoesler, Shin and Springer; by request of Department of Trade and Economic Development)

Read first time 02/08/94.

1       AN ACT Relating to the Washington economic development finance  
2 authority; amending RCW 43.163.010, 43.163.080, and 43.163.120; adding  
3 a new section to chapter 43.163 RCW; repealing RCW 43.163.030,  
4 43.163.040, and 43.163.050; and declaring an emergency.

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

6       **Sec. 1.** RCW 43.163.010 and 1989 c 279 s 2 are each amended to read  
7 as follows:

8       As used in this chapter, the following words and terms have the  
9 following meanings, unless the context requires otherwise:

10       (1) "Authority" means the Washington economic development finance  
11 authority created under RCW 43.163.020 or any board, body, commission,  
12 department or officer succeeding to the principal functions of the  
13 authority or to whom the powers conferred upon the authority shall be  
14 given by law;

15       (2) "Bonds" means any bonds, notes, debentures, interim  
16 certificates, conditional sales or lease financing agreements, lines of  
17 credit, forward purchase agreements, investment agreements, and other  
18 banking or financial arrangements, guaranties, or other obligations

1 issued by or entered into by the authority. Such bonds may be issued  
2 on either a tax-exempt or taxable basis;

3 (3) "Borrower" means one or more public or private persons or  
4 entities acting as lessee, purchaser, mortgagor, or borrower who has  
5 obtained or is seeking to obtain financing either from the authority or  
6 from an eligible banking organization that has obtained or is seeking  
7 to obtain funds from the authority to finance a project. A borrower  
8 may include a party who transfers the right of use and occupancy to  
9 another party by lease, sublease or otherwise, or a party who is  
10 seeking or has obtained a financial guaranty from the authority;

11 (4) "Eligible banking organization" means any organization subject  
12 to regulation by the (~~state supervisor of banking or the state~~  
13 ~~supervisor of savings and loans~~) director of the department of  
14 financial institutions, any national bank, federal savings and loan  
15 association, and federal credit union located within this state;

16 (5) "Eligible export transaction" means any preexport or export  
17 activity by a person or entity located in the state of Washington  
18 involving a sale for export and product sale which, in the judgment of  
19 the authority: (a) Will create or maintain employment in the state of  
20 Washington, (b) will obtain a material percent of its value from  
21 manufactured goods or services made, processed or occurring in  
22 Washington, and (c) could not otherwise obtain financing on reasonable  
23 terms from an eligible banking organization;

24 (6) "Eligible farmer" means any person who is a resident of the  
25 state of Washington and whose specific acreage qualifying for receipts  
26 from the federal department of agriculture under its conservation  
27 reserve program is within the state of Washington;

28 (7) "Financing document" means an instrument executed by the  
29 authority and one or more persons or entities pertaining to the  
30 issuance of or security for bonds, or the application of the proceeds  
31 of bonds or other funds of, or payable to, the authority. A financing  
32 document may include, but need not be limited to, a lease, installment  
33 sale agreement, conditional sale agreement, mortgage, loan agreement,  
34 trust agreement or indenture, security agreement, letter or line of  
35 credit, reimbursement agreement, insurance policy, guaranty agreement,  
36 or currency or interest rate swap agreement. A financing document also  
37 may be an agreement between the authority and an eligible banking  
38 organization which has agreed to make a loan to a borrower;

1 (8) "Plan" means the general plan of economic development finance  
2 objectives developed and adopted by the authority, and updated from  
3 time to time, as required under RCW 43.163.090.

4 (9) "Economic development facilities" means manufacturing,  
5 processing, research, production, assembly, tooling, energy generating,  
6 conservation and transmission, and sports facilities and industrial  
7 parks.

8 (10) "Project costs" means costs of:

9 (a) Acquisition, lease, construction, reconstruction, remodeling,  
10 refurbishing, rehabilitation, extension, and enlargement of land,  
11 rights to land, buildings, structures, docks, wharves, fixtures,  
12 machinery, equipment, excavations, paving, landscaping, utilities,  
13 approaches, roadways and parking, handling and storage areas, and  
14 similar ancillary facilities, and any other real or personal property  
15 included in an economic development facility;

16 (b) Architectural, engineering, consulting, accounting, and legal  
17 costs related directly to the development, financing, acquisition,  
18 lease, construction, reconstruction, remodeling, refurbishing,  
19 rehabilitation, extension, and enlargement of an economic development  
20 facility, including costs of studies assessing the feasibility of an  
21 economic development facility;

22 (c) Finance costs, including the costs of credit enhancement and  
23 discounts, if any, the costs of issuing revenue bonds, and costs  
24 incurred in carrying out any financing document;

25 (d) Start-up costs, working capital, capitalized research and  
26 development costs, capitalized interest during construction and during  
27 the eighteen months after estimated completion of construction, and  
28 capitalized debt service or repair and replacement or other appropriate  
29 reserves;

30 (e) The refunding of any outstanding obligations incurred for any  
31 of the costs outlined in this subsection; and

32 (f) Other costs incidental to any of the costs listed in this  
33 section.

34 **Sec. 2.** RCW 43.163.080 and 1990 c 53 s 5 are each amended to read  
35 as follows:

36 (1) The authority shall adopt general operating procedures for the  
37 authority. The authority shall also adopt operating procedures for  
38 individual programs as they are developed for obtaining funds and for

1 providing funds to borrowers. These operating procedures shall be  
2 adopted by resolution prior to the authority operating the applicable  
3 programs.

4 (2) The operating procedures shall include, but are not limited to:

5 (a) Appropriate minimum reserve requirements to secure the authority's  
6 bonds and other obligations; (b) appropriate standards for securing  
7 loans and other financing the authority provides to borrowers, such as  
8 guarantees or collateral; and (c) (~~appropriate~~) strict standards for  
9 providing financing to borrowers, such as (i) the borrower is a  
10 responsible party with a high probability of being able to repay the  
11 financing provided by the authority, (ii) the financing is reasonably  
12 expected to provide economic growth or stability in the state by  
13 enabling a borrower to increase or maintain jobs or capital in the  
14 state, (iii) the borrowers with the greatest needs or that provide the  
15 most public benefit are given higher priority by the authority, and  
16 (iv) the financing is consistent with any plan adopted by the authority  
17 under RCW 43.163.090.

18 **Sec. 3.** RCW 43.163.120 and 1989 c 279 s 13 are each amended to  
19 read as follows:

20 The authority shall receive no appropriation of state funds. The  
21 department of community, trade, and economic development shall provide  
22 staff to the authority, to the extent permitted by law, to enable the  
23 authority to accomplish its purposes; the staff from the department of  
24 community, trade, and economic development may assist the authority in  
25 organizing itself and in designing programs, but shall not be involved  
26 in the issuance of bonds or in making credit decisions regarding  
27 financing provided to borrowers by the authority. The authority shall  
28 report each December, until 1999, on its activities to the house trade  
29 and economic development committee (~~and to~~), the senate economic  
30 development and labor committee, and the appropriate fiscal committees  
31 of the house of representatives and the senate.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.163 RCW  
33 to read as follows:

34 For the purpose of facilitating economic development in the state  
35 of Washington and encouraging the employment of Washington workers at  
36 meaningful wages, the authority may develop and conduct a pilot program  
37 or programs to provide nonrecourse revenue bond financing for the

1 project costs for no more than five economic development facilities.  
2 The authority, in consultation with the director of the department of  
3 community, trade, and economic development and the community economic  
4 revitalization board, shall study the possibility of merging the powers  
5 and duties of the economic development finance authority with the  
6 community economic revitalization board. The authority shall report  
7 results of the study and its recommendations to the legislature by  
8 January 15, 1995. The authority shall not provide nonrecourse revenue  
9 bond financing for the project costs of economic development facilities  
10 after July 1, 1999.

11 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each  
12 repealed:

- 13 (1) RCW 43.163.030 and 1989 c 279 s 4;  
14 (2) RCW 43.163.040 and 1989 c 279 s 5; and  
15 (3) RCW 43.163.050 and 1990 c 53 s 3 & 1989 c 279 s 6.

16 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
17 preservation of the public peace, health, or safety, or support of the  
18 state government and its existing public institutions, and shall take  
19 effect immediately.

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