
SENATE BILL 5984

State of Washington

58th Legislature

2003 Regular Session

By Senators Shin, Prentice, T. Sheldon, Franklin, Rasmussen and Winsley

Read first time 02/26/2003. Referred to Committee on Economic Development.

1 AN ACT Relating to employment training; and adding a new chapter to
2 Title 28B RCW.

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

4 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
5 section apply throughout this chapter unless the context clearly
6 requires otherwise:

7 (1) "Authority" means the employment training finance authority
8 created under section 3 of this act or any board, body, commission,
9 department, or officer succeeding to the principal functions of the
10 authority or to whom the powers conferred upon the authority shall be
11 given by law.

12 (2) "Bond resolution" means any resolution of the authority,
13 adopted under this chapter, authorizing the issuance and sale of bonds.

14 (3) "Bonds" means bonds, notes, commercial paper, certificates of
15 indebtedness, or other evidences of indebtedness of the authority
16 issued under this chapter.

17 (4) "Community college" has the definition in RCW 28B.50.030.

18 (5) "Participant" means a community college that, under this
19 chapter, undertakes a training program with a private employer.

1 (6) "Program cost" means any cost related to providing training for
2 an employer under this chapter, including development of training and
3 contracting for training.

4 (7) "Training program" means a program funded under this chapter at
5 a community college.

6 (8) "Trust indenture" means any agreement, trust indenture, or
7 other similar instrument by and between the authority and one or more
8 corporate trustees.

9 NEW SECTION. **Sec. 2.** EMPLOYMENT TRAINING PROGRAM. (1) The
10 authority, in conjunction with the higher education coordinating board,
11 shall establish a program that allows companies considering locating or
12 expanding in the state to receive training assistance to provide
13 training for employees through community colleges.

14 (2) To qualify for and receive assistance under this section, the
15 company must present a proposal to a community college in the location
16 in which it desires employee training.

17 (3) The community college shall contract for or design a training
18 program to meet the needs presented in the proposal. The training
19 shall result in a portable credential from the community college.

20 (4) The employer shall pay a fee of at least fifty percent of the
21 cost of the training. The remaining cost of training shall be paid for
22 from funds of the authority.

23 (5) The higher education coordinating board may adopt rules to
24 implement this section.

25 NEW SECTION. **Sec. 3.** EMPLOYMENT TRAINING FINANCE AUTHORITY. (1)
26 The employment training finance authority is hereby established as a
27 public body corporate and politic, with perpetual corporate succession,
28 constituting an agency of the state of Washington exercising essential
29 governmental functions. The authority is a "public body" within the
30 meaning of RCW 39.53.010.

31 (2) The authority shall consist of seven members as follows: The
32 governor, lieutenant governor, executive director of the higher
33 education coordinating board, the director of the state system of
34 community and technical colleges, and three public members. The public
35 members shall be residents of the state and appointed by the governor,
36 subject to confirmation by the senate, on the basis of their interest

1 or expertise in the provision of higher education and the financing of
2 higher education. The public members of the authority shall serve for
3 terms of four years. The initial terms of the public members shall be
4 staggered in a manner determined by the governor. In the event of a
5 vacancy on the authority due to death, resignation, or removal of one
6 of the public members, and upon the expiration of the term of any
7 public member, the governor shall appoint a successor for a term
8 expiring on the fourth anniversary of the successor's date of the
9 appointment. If any of the state offices are abolished, the resulting
10 vacancy on the authority shall be filled by the state officer who shall
11 succeed substantially to the power and duties of the abolished office.
12 Any public member of the authority may be removed by the governor for
13 misfeasance, malfeasance, willful neglect of duty, or any other cause
14 after notice and a public hearing, unless such notice and hearing shall
15 be expressly waived in writing.

16 (3) The governor shall serve as chairperson of the authority. The
17 authority shall elect annually one of its members as secretary. If the
18 governor is absent from a meeting of the authority, the secretary shall
19 preside. However, the governor may designate an employee of the
20 governor's office to act on the governor's behalf in all other respects
21 during the absence of the governor at any meeting of the authority. If
22 the designation is in writing and is presented to the person presiding
23 at the meetings of the authority who is included in the designation,
24 the vote of the designee has the same effect as if cast by the
25 governor.

26 (4) Any person designated by resolution of the authority shall keep
27 a record of the proceedings of the authority and shall be the custodian
28 of all books, documents, and papers filed with the authority, the
29 minute book or a journal of the authority, and the authority's official
30 seal, if any. The person may cause copies to be made of all minutes
31 and other records and documents of the authority, and may give
32 certificates to the effect that such copies are true copies. All
33 persons dealing with the authority may rely upon the certificates.

34 (5) Four members of the authority constitute a quorum. The
35 authority may act on the basis of a motion except when authorizing the
36 issuance and sale of bonds, in which case the authority shall act by
37 resolution. Bond resolutions and other resolutions shall be adopted
38 upon the affirmative vote of four members of the authority, and shall

1 be signed by those members voting yes. Motions shall be adopted upon
2 the affirmative vote of a majority of a quorum of members present at
3 any meeting of the authority. All actions taken by the authority shall
4 take effect immediately without need for publication or other public
5 notice. A vacancy in the membership of the authority does not impair
6 the power of the authority to act under this chapter.

7 (6) The members of the authority shall be compensated in accordance
8 with RCW 43.03.240 and shall be entitled to reimbursement, solely from
9 the funds of the authority, for travel expenses as determined by the
10 authority incurred in the discharge of their duties under this chapter.

11 NEW SECTION. **Sec. 4.** POWERS AND DUTIES. The authority is
12 authorized and empowered to do the following, on such terms, with such
13 security and undertakings, subject to such conditions, and in return
14 for such consideration, as the authority shall determine in its
15 discretion to be necessary, useful, or convenient in accomplishing the
16 purposes of this chapter:

17 (1) To adopt rules in accordance with chapter 34.05 RCW;

18 (2) To adopt an official seal and to alter the same at pleasure;

19 (3) To maintain an office at any place or places as the authority
20 may designate;

21 (4) To sue and be sued in its own name, and to plead and be
22 impleaded;

23 (5) To make and execute agreements with participants and others and
24 all other instruments necessary, useful, or convenient for the
25 accomplishment of the purposes of this chapter;

26 (6) To provide long-term or short-term financing or refinancing to
27 participants for program costs, by way of loan or other financing or
28 security device or any such combination;

29 (7) To accept and receive funds, grants, gifts, pledges,
30 guarantees, mortgages, trust deeds, other security instruments, and
31 property from the federal government or the state or other public body,
32 entity, or agency and from any public or private institution,
33 association, corporation, or organization, including participants. It
34 shall not accept or receive from the state or any taxing agency any
35 money derived from taxes;

36 (8) To open and maintain a bank account or accounts in one or more

1 qualified public depositories in this state and to deposit all or any
2 part of authority funds therein;

3 (9) To charge to and equitably apportion among participants the
4 administrative costs and expenses incurred in the exercise of the
5 powers and duties conferred by this chapter;

6 (10) To consult with the higher education coordinating board to
7 determine program priorities under the purposes of this chapter; and

8 (11) To do all other things necessary, useful, or convenient to
9 carry out the purposes of this chapter.

10 In the exercise of any of these powers, the authority shall incur
11 no expense or liability that is an obligation, either general or
12 special, of the state, or a general obligation of the authority, and
13 shall pay no expense or liability from funds other than funds of the
14 authority. Funds of the state shall not be used for such purpose.

15 NEW SECTION. **Sec. 5.** SPECIAL OBLIGATION BONDS--ISSUANCE. (1) The
16 authority may, from time to time, issue its special obligation bonds in
17 order to carry out the purposes of this chapter and to enable the
18 authority to exercise any of the powers granted to it in this chapter.
19 The bonds shall be issued pursuant to a bond resolution or trust
20 indenture and shall be payable solely out of the special fund or funds
21 created by the authority in the bond resolution or trust indenture.
22 The special fund or funds shall be funded in whole or in part from
23 moneys paid by one or more participants for whose benefit such bonds
24 were issued and from the sources, if any, described in section 4(7) of
25 this act or from the proceeds of bonds issued by the authority for the
26 purpose of refunding any outstanding bonds of the authority.

27 (2) The bonds may be secured by:

28 (a) A first lien against any unexpended proceeds of the bonds;

29 (b) A first lien against moneys in the special fund or funds
30 created by the authority for their payment;

31 (c) A first or subordinate lien against the revenue and receipts of
32 the participant or participants, which revenue is derived in whole or
33 in part from the training program financed by the authority;

34 (d) A first or subordinate security interest against any real or
35 personal property, tangible or intangible, of the participant or
36 participants, including, but not limited to, the training program
37 financed by the authority;

1 (e) Any other real or personal property, tangible or intangible; or

2 (f) Any combination of (a) through (e) of this subsection.

3 Any security interest created against the unexpended bond proceeds
4 and against the special funds created by the authority shall be
5 immediately valid and binding against the moneys and any securities in
6 which the moneys may be invested without authority or trustee
7 possession, and the security interest shall be prior to any party
8 having any competing claim against the moneys or securities, without
9 filing or recording under Article 9A of the Uniform Commercial Code,
10 Title 62A RCW, and regardless of whether the party has notice of the
11 security interest.

12 (3) The bonds may be issued as serial bonds or as term bonds or any
13 such combination. The bonds shall bear such date or dates; mature at
14 such time or times; bear interest at such rate or rates, either fixed
15 or variable; be payable at such time or times; be in such
16 denominations; be in such form, either coupon or registered, or both;
17 carry such registration privileges; be made transferable, exchangeable,
18 and interchangeable; be payable in lawful money of the United States of
19 America at such place or places; be subject to such terms of
20 redemption; and be sold at public or private sale, in such manner, at
21 such time, and at such price as the authority shall determine. The
22 bonds shall be executed by the manual or facsimile signatures of the
23 chairperson and the authority's duly-elected secretary or its executive
24 director, and by the trustee if the authority determines to use a
25 trustee. At least one signature shall be manually subscribed. Coupon
26 bonds shall have attached interest coupons bearing the facsimile
27 signatures of the chairperson and the secretary or the executive
28 director.

29 (4) Any bond resolution, trust indenture, or agreement with a
30 participant relating to bonds issued by the authority or the financing
31 or refinancing made available by the authority may contain provisions,
32 which may be made a part of the contract with the holders or owners of
33 the bonds to be issued, pertaining to the following, among other
34 matters:

35 (a) The security interests granted by the participant to secure
36 repayment of any amounts financed and the performance by the
37 participant of its other obligations in the financing;

1 (b) The security interests granted to the holders or owners of the
2 bonds to secure repayment of the bonds;

3 (c) Rentals, fees, and other amounts to be charged, and the sums to
4 be raised in each year through such charges, and the use, investment,
5 and disposition of the sums;

6 (d) The segregation of reserves or sinking funds, and the
7 regulation, investment, and disposition thereof;

8 (e) Limitations on the uses of the project;

9 (f) Limitations on the purposes to which, or the investments in
10 which, the proceeds of the sale of any issue of bonds may be applied;

11 (g) Terms pertaining to the issuance of additional parity bonds;

12 (h) Terms pertaining to the incurrence of parity debt;

13 (i) The refunding of outstanding bonds;

14 (j) Procedures, if any, by which the terms of any contract with
15 bondholders may be amended or abrogated;

16 (k) Acts or failures to act that constitute a default by the
17 participant or the authority in their respective obligations and the
18 rights and remedies in the event of a default;

19 (l) Terms governing performance by the trustee of its obligation;
20 or

21 (m) Such other additional covenants, agreements, and provisions as
22 are deemed necessary, useful, or convenient by the authority for the
23 security of the holders of the bonds.

24 (5) Bonds may be issued by the authority to refund other
25 outstanding authority bonds, at or before the maturity thereof, and to
26 pay any redemption premium with respect thereto. Bonds issued for such
27 refunding purposes may be combined with bonds issued for the financing
28 or refinancing of new training programs. Pending the application of
29 the proceeds of the refunding bonds to the redemption of the bonds to
30 be redeemed, the authority may enter into an agreement or agreements
31 with a corporate trustee under section 8 of this act with respect to
32 the interim investment of the proceeds and the application of the
33 proceeds and the earnings on the proceeds to the payment of the
34 principal of and interest on, and the redemption of the bonds to be
35 redeemed.

36 (6) All bonds and any interest coupons appertaining to the bonds
37 are negotiable instruments under Title 62A RCW.

1 (7) Neither the members of the authority, nor its employees or
2 agents, nor any person executing the bonds is liable personally on the
3 bonds or subject to any personal liability or accountability by reason
4 of the issuance of the bonds.

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

9 (9) The total outstanding bonded indebtedness of the authority
10 shall not exceed fifty million dollars.

11 NEW SECTION. **Sec. 6.** SPECIAL OBLIGATION BONDS--PAYMENT--
12 SEGREGATION OF PROCEEDS AND MONEYS. Bonds issued under this chapter
13 shall not be deemed to constitute obligations, either general or
14 special, of the state or of any political subdivision of the state, or
15 a pledge of the faith and credit of the state or of any political
16 subdivision, or a general obligation of the authority. The bonds shall
17 be special obligations of the authority and shall be payable solely
18 from the special fund or funds created by the authority in the bond
19 resolution or trust indenture under which the bonds were issued.
20 Except for initial appropriations for the biennium ending June 30,
21 2005, the fund or funds shall be funded in whole or in part from moneys
22 paid by one or more participants for whose benefit the bonds were
23 issued, from the sources, if any, under section 4(7) of this act, or
24 from the proceeds of bonds issued by the authority for the purpose of
25 refunding any outstanding bonds of the authority. The issuance of
26 bonds under this chapter shall not obligate, directly, indirectly, or
27 contingently, the state or any political subdivision of the state to
28 levy any taxes or appropriate or expend any funds for the payment of
29 the principal or the interest on the bonds.

30 Neither the proceeds of bonds issued under this chapter, any moneys
31 used or to be used to pay the principal of or interest on the bonds,
32 nor any moneys received by the authority to defray its administrative
33 costs shall constitute public money or property. All of such moneys
34 shall be kept segregated and set apart from funds of the state and any
35 political subdivision of the state and shall not be subject to
36 appropriation or allotment by the state or subject to the provisions of
37 chapter 43.88 RCW.

1 NEW SECTION. **Sec. 7.** AGREEMENTS WITH PARTICIPANTS--PAYMENT OF
2 COSTS AND EXPENSES. In connection with any bonds issued by the
3 authority, the authority shall enter into agreements with participants
4 which shall provide for the payment by each participant of amounts
5 which shall be sufficient, together with other revenues available to
6 the authority, if any, to: (1) Pay the participant's share of the
7 administrative costs and expenses of the authority; (2) pay the costs
8 of conducting the training program financed by the authority, to the
9 extent that the payment of the costs has not otherwise been adequately
10 provided for; (3) pay the principal of, premium, if any, and interest
11 on outstanding bonds of the authority issued in respect of such program
12 or programs as the same shall become due and payable; and (4) create
13 and maintain reserves required or provided for in any bond resolution
14 or trust indenture authorizing the issuance of such bonds of the
15 authority. The payments shall not be subject to supervision or
16 regulation by any department, committee, board, body, bureau, or agency
17 of the state other than the authority.

18 NEW SECTION. **Sec. 8.** MONEYS DEEMED TRUST FUNDS--AGREEMENT OR
19 TRUST INDENTURE WITH BANK OR TRUST COMPANY. All moneys received by or
20 on behalf of the authority under this chapter, whether as proceeds from
21 the sale of bonds or from participants or from other sources shall be
22 deemed to be trust funds to be held and applied solely as provided in
23 this chapter. The authority, in lieu of receiving and applying the
24 moneys itself, may enter into an agreement or trust indenture with one
25 or more banks or trust companies having the power and authority to
26 conduct trust business in the state to:

27 (1) Perform all of any part of the obligations of the authority
28 with respect to: (a) Bonds issued by it; (b) the receipt, investment,
29 and application of the proceeds of the bonds and moneys paid by a
30 participant or available from other sources for the payment of the
31 bonds; (c) the enforcement of the obligations of a participant in
32 connection with the financing or refinancing of any project; and (d)
33 other matters relating to the exercise of the authority's powers under
34 this chapter;

35 (2) Receive, hold, preserve, and enforce any security interest or
36 evidence of security interest granted by a participant for purposes of
37 securing the payment of the bonds; and

1 (3) Act on behalf of the authority or the holders or owners of
2 bonds of the authority for purposes of assuring or enforcing the
3 payment of the bonds, when due.

4 NEW SECTION. **Sec. 9.** HOLDERS OR OWNERS OF BONDS--TRUSTEES--
5 ENFORCEMENT OF RIGHTS. Any holder or owner of bonds of the authority
6 issued under this chapter or any holder of the coupons appertaining to
7 the bonds, and the trustee or trustees under any trust indenture,
8 except to the extent the rights given are restricted by the authority
9 in any bond resolution or trust indenture authorizing the bonds, may,
10 either at law or in equity, by suit, action, mandamus, or other
11 proceedings, protect and enforce any of their respective rights.

12 NEW SECTION. **Sec. 10.** BONDS AS SECURITIES--LEGAL INVESTMENTS.
13 The bonds of the authority are securities in which all public officers
14 and bodies of this state and all counties, cities, municipal
15 corporations, and political subdivisions, all banks, bankers, trust
16 companies, savings banks and institutions, building and loan
17 associations, savings and loan associations, investment companies,
18 insurance companies and associations, and all executors,
19 administrators, guardians, trustees, and other fiduciaries may legally
20 invest any sinking funds, moneys, or other funds belonging to them or
21 within their control.

22 NEW SECTION. **Sec. 11.** BOND COUNSEL. (1) The authority shall
23 adopt written policies to provide for the selection of bond counsel.
24 The policies shall provide for the creation and maintenance of a roster
25 of attorneys whom the authority believes possess the requisite special
26 expertise and professional standing to provide bond counsel opinions
27 that would be accepted by the underwriters, bondholders, and other
28 members of the financial community, and that would be in furtherance of
29 the public interest in obtaining the lowest possible interest rates on
30 the bonds issued by the authority. Any attorney may apply to have his
31 or her name placed on the roster, but may not be placed on the roster
32 unless the attorney demonstrates to the authority's satisfaction that
33 the attorney would issue the kind of opinions required by this section.

34 (2) Before selecting an attorney or attorneys to provide bond
35 counsel services, the authority shall provide all attorneys on the

1 roster with a notice of its intentions to select bond counsel and shall
2 invite each of them to submit to the authority his or her fee schedule
3 for providing bond counsel services. The authority shall have wide
4 discretion in selecting the attorney or attorneys it considers to be
5 most appropriate to provide the services, but in the exercise of this
6 discretion the authority shall consider all submitted fee schedules and
7 the public interest in achieving issuance of bonds on terms most
8 favorable to the authority. At least once every two calendar years,
9 the authority shall select an attorney or attorneys to serve as bond
10 counsel. However, the authority may retain an attorney for longer than
11 two years when necessary to complete work on a particular bond issue.
12 An attorney previously retained may be selected again but only after
13 the authority has provided other attorneys on the roster with an
14 opportunity to be selected and has made the fee schedule review
15 required under this subsection. As an alternative to retaining counsel
16 for a period of time, the authority may appoint an attorney to serve as
17 counsel in respect to only a particular bond issue or issues.

18 NEW SECTION. **Sec. 12.** UNDERWRITERS. (1) The authority shall
19 adopt written policies to provide for the selection of underwriters.
20 The policies shall provide for the creation of a roster of underwriters
21 whom the authority believes possess the requisite special expertise and
22 professional standing to provide bond marketing services that would be
23 accepted by bondholders and other members of the financial community,
24 and that would be in furtherance of the public interest in marketing
25 the authority's bonds at the lowest possible costs. Any underwriter
26 may apply to have its name placed on the roster, but may not be placed
27 on the roster unless it demonstrates to the authority's satisfaction
28 that it meets the requirements of this section.

29 (2) Whenever the authority decides that it needs the services of an
30 underwriter, it shall provide all underwriters on the roster with a
31 notice of its intentions and shall invite each of them to submit to the
32 authority an itemization of its fees and other charges for providing
33 underwriting services on the issue. The itemization shall be by
34 categories designed by the authority. The authority shall have wide
35 discretion in selecting the underwriter it considers to be most
36 appropriate to provide the services, but in the exercise of this

1 discretion the authority shall consider the underwriter's fees and
2 other charges and the public interest in achieving issuance of bonds on
3 terms most favorable to the authority.

4 NEW SECTION. **Sec. 13.** CHAPTER SUPPLEMENTAL--APPLICATION OF OTHER
5 LAWS. This chapter provides a complete, additional, and alternative
6 method for accomplishing the purposes of this chapter and shall be
7 regarded as supplemental and additional to powers conferred by other
8 laws. The issuance of bonds and refunding bonds under this chapter
9 need not comply with the requirements of any other law applicable to
10 the issuance of bonds.

11 NEW SECTION. **Sec. 14.** CONSTRUCTION. This chapter, being
12 necessary for the welfare of the state and its inhabitants, shall be
13 liberally construed to effect its purposes. Insofar as the provisions
14 of this chapter are inconsistent with the provisions of any general or
15 special law, or parts thereof, the provisions of this chapter shall be
16 controlling.

17 NEW SECTION. **Sec. 15.** CAPTIONS NOT LAW. Captions used in this
18 chapter are not any part of the law.

19 NEW SECTION. **Sec. 16.** SEVERABILITY. If any provision of this act
20 or its application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 17.** Sections 1 through 16 of this act
24 constitute a new chapter in Title 28B RCW.

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