
SENATE BILL 5180

State of Washington

59th Legislature

2005 Regular Session

By Senators Kastama, Roach, Sheldon and Shin

Read first time 01/17/2005. Referred to Committee on Government Operations & Elections.

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.~~)

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