
SUBSTITUTE SENATE BILL 6326

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on International Trade & Economic Development (originally sponsored by Senators Shin, Rasmussen, Pflug, Doumit, Rockefeller, Weinstein, Pridemore, Hewitt, Jacobsen, Thibaudeau, Swecker, Sheldon, Oke, Keiser, Kohl-Welles, Franklin, Kline and Berkey)

READ FIRST TIME 01/26/06.

1 AN ACT Relating to providing a source of funding for customized
2 work force training; amending RCW 43.163.020; adding a new section to
3 chapter 82.04 RCW; adding a new section to chapter 43.163 RCW; and
4 adding a new chapter to Title 28C RCW.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the provision of
7 customized training is critical to attracting and retaining businesses,
8 and that the growth of many businesses is limited by an unmet need for
9 customized training. The legislature also finds that work force
10 training not only helps business, it also improves the quality of life
11 for workers and communities. Because of the statewide public benefit
12 to be gained from instituting a customized training program, the
13 legislature intends to create a new program to fund work force training
14 in a manner that reduces the up-front costs of training to new and
15 expanding firms.

16 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
17 section apply throughout this chapter unless the context clearly
18 requires otherwise.

1 (1) "Authority" means the Washington economic development finance
2 authority created under RCW 43.163.020, or any board, body, commission,
3 department, or officer succeeding to the principal functions of the
4 authority or to whom the powers conferred upon the authority shall be
5 given by law.

6 (2) "Board" means the state board for community and technical
7 colleges.

8 (3) "Bond resolution" means any resolution of the authority,
9 adopted under this chapter, authorizing the issuance and sale of bonds.

10 (4) "Bonds" means bonds, notes, commercial paper, certificates of
11 indebtedness, or other evidences of indebtedness of the authority
12 issued under this chapter.

13 (5) "Costs of training" means the direct payments made under a
14 contract with a qualified training institution for formal technical or
15 skill training, including basic skills. "Costs of training" includes
16 amounts in the contract for costs of instruction, materials, equipment,
17 rental of class space, marketing, and overhead. "Costs of training"
18 does not include employee tuition reimbursements unless the tuition
19 reimbursement is specifically included in a contract.

20 (6) "Participant" means a private employer that, under this
21 chapter, undertakes a training program with a qualified training
22 institution and makes deposits or payments consistent with the
23 requirements of section 3 of this act.

24 (7) "Qualified training institution" means a public community or
25 technical college or a private vocational school licensed by either the
26 work force training and education coordinating board or the higher
27 education coordinating board.

28 (8) "Training program" means a program funded under this chapter at
29 a qualified training institution.

30 (9) "Trust indenture" means any agreement, trust indenture, or
31 other similar instrument by and between the authority and one or more
32 corporate trustees.

33 NEW SECTION. **Sec. 3.** (1) The Washington customized employment
34 training program is hereby created to allow employers locating or
35 expanding in the state to receive training assistance to provide
36 training for employees.

1 (2)(a) Application to receive funding under this program shall be
2 made to the board in a form and manner as specified by the board.
3 Successful applicants shall be provided with a training grant from a
4 qualified training institution to be used to pay for the costs of
5 training. Employers may not receive funds for training costs which
6 exceed the maximum annual training cost per employee, as established by
7 the board, and are not eligible to receive total grants over five
8 hundred thousand dollars per calendar year.

9 (b) Approval shall be granted for applicants who meet the following
10 criteria:

11 (i) The employer must have entered into an agreement with a
12 qualified training institution to engage in customized training and the
13 employer must agree to: (A) Reimburse the institution in an amount
14 equal to one-half of the amount of the training grant; (B) make a
15 deposit into the account specified in section 12 of this act in an
16 amount equal to the amount that would be due under chapter 82.04 RCW if
17 not for the provisions of section 11 of this act; and (C) make such
18 other payments as the institution or authority specifies to ensure
19 payments into the account specified in section 12 of this act
20 sufficient to cover the costs associated with the bonds issued under
21 section 4 of this act. The deposits in the account specified in
22 section 12 of this act do not constitute payment to the institution.

23 (ii) The employer must either: (A) Be engaged in activities that
24 will generate sufficient revenue over a ten-year period to make annual
25 deposits of at least one-tenth of the amount of the grant, or, if more
26 than one grant is received, at least one-tenth the total of all grants
27 received for which payments are being deposited into the account
28 specified in section 12 of this act; or (B) document the availability
29 of a job skills grant under RCW 28C.04.420 or other funds sufficient to
30 pay the costs associated with any bond issued under section 4 of this
31 act within ten years of the issuance of the bond.

32 (iii) The employer must ensure that the number of employees an
33 employer has in the state during the calendar year following the
34 completion of the training program will equal the number of employees
35 the employer had in the state in the calendar year preceding the start
36 of the training program plus seventy-five percent of the number of
37 trainees. The agreement with the qualified training institution
38 provided for in (b)(i) of this subsection shall specify terms for

1 additional reimbursement or payment to the account specified in section
2 12 of this act by the employer if the criterion of this subsection is
3 not met.

4 (iv) The training grant may not be used to train workers who have
5 been hired as a result of a strike or lockout.

6 (3) Qualified training institutions may enter into agreements with
7 four-year institutions of higher education as defined in RCW 28B.10.016
8 in accordance with the interlocal cooperation act, chapter 39.34 RCW.

9 (4) The board may adopt rules to implement this section.

10 NEW SECTION. **Sec. 4.** SPECIAL OBLIGATION BONDS--ISSUANCE. (1) The
11 authority shall notify the department of revenue of those employers
12 participating in the program under section 3 of this act.

13 (2) The authority may, from time to time, issue its special
14 obligation bonds in order to carry out the purposes of this chapter and
15 to enable the authority to exercise any of the powers granted to it in
16 this chapter. The bonds may be issued on either a taxable or federally
17 tax-exempt basis. The bonds shall be issued pursuant to a bond
18 resolution or trust indenture and shall be payable solely out of the
19 account specified in section 12 of this act. The account specified in
20 section 12 of this act shall be funded in whole or in part from moneys
21 paid by one or more participants for whose benefit such bonds were
22 issued and from any other sources authorized by law, including from the
23 proceeds of bonds issued by the authority for the purpose of refunding
24 any outstanding bonds of the authority.

25 (3) The bonds may be secured by:

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

27 (b) A first lien against moneys in the account specified in section
28 12 of this act;

29 (c) A first or subordinate lien against the revenue and receipts of
30 the participant or participants;

31 (d) A first or subordinate security interest against any real or
32 personal property, tangible or intangible, of the participant or
33 participants;

34 (e) Any other real or personal property of the participant or
35 participants, tangible or intangible;

36 (f) Any combination of (a) through (e) of this subsection; or

1 (g) Any other security the authority may deem appropriate or
2 necessary.

3 Any security interest created against the unexpended bond proceeds
4 and against the account specified in section 12 of this act 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 (4) 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; carry such registration privileges; be made
17 transferable, exchangeable, and interchangeable; be payable in lawful
18 money of the United States of America at such place or places; be
19 subject to such terms of redemption; and be sold at public or private
20 sale, in such manner, at such time, and at such price as the authority
21 shall determine. The bonds shall be executed by the manual or
22 facsimile signatures of the chairperson and the authority's duly
23 elected secretary or its executive director, and by the trustee if the
24 authority determines to use a trustee. At least one signature shall be
25 manually subscribed.

26 (5) Any bond resolution, trust indenture, or agreement with a
27 participant relating to bonds issued by the authority or the financing
28 or refinancing made available by this act may contain provisions, which
29 may be made a part of the contract with the holders or owners of the
30 bonds to be issued, pertaining to the following, among other matters:

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

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

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

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

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

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

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

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

8 (i) The refunding of outstanding bonds;

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

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

14 (l) Terms governing performance by the trustee of its obligation;
15 or

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

19 (6) Bonds may be issued by the authority to refund other
20 outstanding authority bonds, at or before the maturity thereof, and to
21 pay any redemption premium with respect thereto. Bonds issued for such
22 refunding purposes may be combined with bonds issued for the financing
23 or refinancing of new training programs. Pending the application of
24 the proceeds of the refunding bonds to the redemption of the bonds to
25 be redeemed, the authority may enter into an agreement or agreements
26 with a corporate trustee under section 7 of this act with respect to
27 the interim investment of the proceeds and the application of the
28 proceeds and the earnings on the proceeds to the payment of the
29 principal of and interest on, and the redemption of the bonds to be
30 redeemed.

31 (7) All bonds and any interest coupons appertaining to the bonds
32 are negotiable instruments under Title 62A RCW.

33 (8) Neither the members of the authority, nor its employees or
34 agents, nor any person executing the bonds is liable personally on the
35 bonds or subject to any personal liability or accountability by reason
36 of the issuance of the bonds.

37 (9) The authority may purchase its bonds with any of its funds

1 available for the purchase. The authority may hold, pledge, cancel, or
2 resell the bonds subject to and in accordance with agreements with
3 bondholders.

4 NEW SECTION. **Sec. 5.** SPECIAL OBLIGATION BONDS--PAYMENT--
5 SEGREGATION OF PROCEEDS AND MONEYS. Bonds issued under this chapter
6 shall not be deemed to constitute obligations, either general or
7 special, of the state or of any political subdivision of the state, or
8 a pledge of the faith and credit of the state or of any political
9 subdivision, or a general obligation of the authority. The bonds shall
10 be special obligations of the authority and shall be payable solely
11 from the account specified in section 12 of this act. Except for any
12 initial appropriations which may be made, the fund or funds shall be
13 funded in whole or in part from moneys paid by one or more participants
14 for whose benefit such bonds were issued and from any other sources
15 authorized by law, including from the proceeds of bonds issued by the
16 authority for the purpose of refunding any outstanding bonds of the
17 authority. The issuance of bonds under this chapter shall not
18 obligate, directly, indirectly, or contingently, the state or any
19 political subdivision of the state to levy any taxes or appropriate or
20 expend any funds for the payment of the principal or the interest on
21 the bonds.

22 Neither the proceeds of bonds issued under this chapter, any moneys
23 used or to be used to pay the principal of or interest on the bonds,
24 nor any moneys received by the authority to defray its administrative
25 costs shall constitute public money or property. All of such moneys
26 shall be kept segregated and set apart from funds of the state and any
27 political subdivision of the state and shall not be subject to
28 appropriation or allotment by the state or subject to the provisions of
29 chapter 43.88 RCW.

30 NEW SECTION. **Sec. 6.** AGREEMENTS WITH PARTICIPANTS--PAYMENT OF
31 COSTS AND EXPENSES. In connection with any bonds issued by the
32 authority, the authority shall enter into agreements with participants
33 which shall provide for the payment by each participant of amounts
34 which shall be sufficient, together with other revenues available to
35 the authority, if any, to: (1) Pay the issuance and administrative
36 fees set by the authority; (2) pay the costs of conducting the training

1 program financed by the authority, to the extent that the payment of
2 the costs has not otherwise been adequately provided for; (3) pay an
3 amount equal to the amount that would be due under chapter 82.04 RCW,
4 if not for the exemption provided for in section 11 of this act, into
5 the account specified in section 12 of this act to pay the principal
6 of, premium, if any, and interest on outstanding bonds of the authority
7 issued in respect of such program or programs as the same shall become
8 due and payable; and (4) create and maintain reserves required or
9 provided for in any bond resolution or trust indenture authorizing the
10 issuance of such bonds of the authority. The payments shall not be
11 subject to supervision or regulation by any department, committee,
12 board, body, bureau, or agency of the state other than the authority.

13 NEW SECTION. **Sec. 7.** MONEYS DEEMED TRUST FUNDS--AGREEMENT OR
14 TRUST INDENTURE WITH BANK OR TRUST COMPANY. All moneys received by or
15 on behalf of the authority under this chapter, whether as proceeds from
16 the sale of bonds or from participants or from other sources, shall be
17 deemed to be trust funds to be held and applied solely as provided in
18 this chapter. The authority, in lieu of receiving and applying the
19 moneys itself, may enter into an agreement or trust indenture with one
20 or more banks or trust companies having the power and authority to
21 conduct trust business in the state to:

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

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

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

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

8 NEW SECTION. **Sec. 9.** CONSTRUCTION. This chapter, being necessary
9 for the welfare of the state and its inhabitants, shall be liberally
10 construed to effect its purposes. Insofar as the provisions of this
11 chapter are inconsistent with the provisions of any general or special
12 law, or parts thereof, the provisions of this chapter shall be
13 controlling.

14 NEW SECTION. **Sec. 10.** CAPTIONS NOT LAW. Captions used in this
15 chapter are not any part of the law.

16 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.04 RCW
17 to read as follows:

18 (1) This chapter does not apply to any person that is a participant
19 in the Washington customized employment training program in chapter
20 28C.-- RCW (sections 1 through 10 and 12 of this act).

21 (2) "Participant" has the same meaning as provided in section 2 of
22 this act.

23 NEW SECTION. **Sec. 12.** (1) The payments received from a person who
24 is an employer participating under section 3 of this act shall be
25 deposited by the authority into a separate and identifiable account
26 opened and maintained at a qualified public depository. Only the
27 authority may authorize expenditures from the account. The money in
28 the account must be used for the purposes of bond resolution or trust
29 indenture under which the bonds are issued under this chapter. The
30 collection of payments and deposit of revenue under this section from
31 a participant shall cease when the authority specifies that the
32 participant has met the monetary obligations of the program.

33 (2) When a participant has met the monetary obligation of the
34 program, the authority shall notify:

1 (a) The participant of that fact and of the obligation to pay any
2 taxes due under chapter 82.04 RCW; and

3 (b) The department of revenue, within thirty days of when the
4 monetary obligations of the participant have been met, that the
5 participant is no longer eligible for the tax exemption provided for in
6 section 11 of this act.

7 **Sec. 13.** RCW 43.163.020 and 1995 c 399 s 89 are each amended to
8 read as follows:

9 The Washington economic development finance authority is
10 established as a public body corporate and politic, with perpetual
11 corporate succession, constituting an instrumentality of the state of
12 Washington exercising essential governmental functions. The authority
13 is a public body within the meaning of RCW 39.53.010.

14 The authority shall consist of eighteen (~~(seventeen)~~) members as
15 follows: The director of the department of community, trade, and
16 economic development, the director of the department of agriculture,
17 the state board for community and technical colleges, the state
18 treasurer, one member from each caucus in the house of representatives
19 appointed by the speaker of the house, one member from each caucus in
20 the senate appointed by the president of the senate, and ten public
21 members with one representative of women-owned businesses and one
22 representative of minority-owned businesses and with at least three of
23 the members residing east of the Cascades. The public members shall be
24 residents of the state appointed by the governor on the basis of their
25 interest or expertise in trade, agriculture or business finance or jobs
26 creation and development. One of the public members shall be appointed
27 by the governor as chair of the authority and shall serve as chair of
28 the authority at the pleasure of the governor. The authority may
29 select from its membership such other officers as it deems appropriate.

30 The term of the persons appointed by the governor as public members
31 of the authority, including the public member appointed as chair, shall
32 be four years from the date of appointment, except that the term of
33 three of the initial appointees shall be for two years from the date of
34 appointment and the term of four of the initial appointees shall be for
35 three years from the date of appointment. The governor shall designate
36 the appointees who will serve the two-year and three-year terms.

1 In the event of a vacancy on the authority due to death,
2 resignation or removal of one of the public members, or upon the
3 expiration of the term of one of the public members, the governor shall
4 appoint a successor for the remainder of the unexpired term. If either
5 of the state offices is abolished, the resulting vacancy on the
6 authority shall be filled by the state officer who shall succeed
7 substantially to the power and duties of the abolished office.

8 Any public member of the authority may be removed by the governor
9 for misfeasance, malfeasance or willful neglect of duty after notice
10 and a public hearing, unless such notice and hearing shall be expressly
11 waived in writing by the affected public member.

12 The state officials serving in ex officio capacity may each
13 designate an employee of their respective departments to act on their
14 behalf in all respects with regard to any matter to come before the
15 authority. Such designations shall be made in writing in such manner
16 as is specified by the rules of the authority.

17 The members of the authority shall serve without compensation but
18 shall be entitled to reimbursement, solely from the funds of the
19 authority, for expenses incurred in the discharge of their duties under
20 this chapter. The authority may borrow funds from the department for
21 the purpose of reimbursing members for expenses; however, the authority
22 shall repay the department as soon as practicable.

23 A majority of the authority shall constitute a quorum.

24 NEW SECTION. **Sec. 14.** A new section is added to chapter 43.163
25 RCW to read as follows:

26 The authority is authorized to conduct the Washington customized
27 employment training program created in chapter 28C.-- RCW (sections 1
28 through 10 and 12 of this act).

29 NEW SECTION. **Sec. 15.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

33 NEW SECTION. **Sec. 16.** Sections 1 through 10 and 12 of this act

1 constitute a new chapter in Title 28C RCW.

--- **END** ---