

E2SHB 1705 - S COMM AMD
By Committee on Ways & Means

NOT ADOPTED 04/12/2007

1 Strike everything after the enacting clause and insert the
2 following:

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

6 (1) "Authority" means a health sciences and services authority
7 created pursuant to this chapter.

8 (2) "Board" means the governing board of trustees of an authority.

9 (3) "Department" means the department of community, trade, and
10 economic development.

11 (4) "Director" means the director of the department of community,
12 trade, and economic development.

13 (5) "Health sciences and services" means biosciences that advance
14 new therapies and procedures to combat disease and promote public
15 health.

16 (6) "Local government" means a city, town, or county.

17 (7) "Sponsoring local government" means a city, town, or county
18 that creates a health sciences and services authority.

19 NEW SECTION. **Sec. 2.** PURPOSE. The health sciences and services
20 program is created to promote bioscience-based economic development and
21 advance new therapies and procedures to combat disease and promote
22 public health.

23 NEW SECTION. **Sec. 3.** CREATION. A local government must establish
24 by ordinance or resolution an authority. At a minimum, the ordinance
25 must:

26 (1) Specify the powers to be exercised by the authority;

27 (2) Reserve the local government's right to dissolve the authority
28 after its contractual responsibilities have expired;

1 (3) Establish an administrative board, including: (a) The number
2 of board members; (b) the times and terms of appointment for each board
3 position; (c) the amount of compensation, if any, to be paid to board
4 members; (d) the procedures for removing board members and filling
5 vacancies; and (e) the qualifications for the appointment of
6 individuals to the board;

7 (4) Establish the authority's boundaries, which must be contiguous
8 tracts of land;

9 (5) Ensure that private and public funds provided to the authority
10 will be segregated;

11 (6) Establish guidelines under which the authority may invest its
12 funds;

13 (7) Provide the requirements for auditing the records of the
14 authority; and

15 (8) Require the local government's legal counsel to also provide
16 legal services to the authority.

17 NEW SECTION. **Sec. 4.** APPLICATIONS. (1) The department may
18 approve applications submitted by local governments for an area's
19 designation as a health sciences and services authority under this
20 chapter. The director shall determine the division to review
21 applications submitted by local governments under this chapter. The
22 application for designation shall be in the form and manner and contain
23 such information as the department may prescribe, provided the
24 application shall:

25 (a) Contain sufficient information to enable the director to
26 determine the viability of the proposal;

27 (b) Demonstrate that an ordinance or resolution has been passed by
28 the legislative authority of a local government that delineates the
29 boundaries of an area that may be designated an authority;

30 (c) Be submitted on behalf of the local government, or, if that
31 office does not exist, by the legislative body of the local government;

32 (d) Demonstrate that the public funds directed to programs or
33 facilities in the authority will leverage private sector resources and
34 contributions to activities to be performed;

35 (e) Provide a plan or plans for the development of the authority as
36 an entity to advance as a cluster for health sciences education, health

1 sciences research, biotechnology development, biotechnology product
2 commercialization, and/or health care services; and

3 (f) Demonstrate that the state has previously provided funds to
4 health sciences and services programs or facilities in the applicant
5 city, town, or county.

6 (2) The director shall determine the division to develop criteria
7 to evaluate the application. The criteria shall include:

8 (a) The presence of infrastructure capable of spurring development
9 of the area as a center of health sciences and services;

10 (b) The presence of higher education facilities where undergraduate
11 or graduate coursework or research is conducted; and

12 (c) The presence of facilities in which health services are
13 provided.

14 (3) There shall be no more than one authority statewide.

15 (4) An authority may only be created in a county with a population
16 of less than one million persons.

17 (5) The director may reject or approve an application. When
18 denying an application, the director must specify the application's
19 deficiencies. The decision regarding such designation as it relates to
20 a specific local government is final; however, a rejected application
21 may be resubmitted.

22 (6) Applications are due December 31, 2007, and must be processed
23 within sixty days of submission.

24 (7) The director may, at his or her discretion, amend the
25 boundaries of an authority upon the request of the local government.

26 (8) The department may adopt any rules necessary to implement this
27 act within one hundred twenty days of the effective date of this
28 section.

29 (9) The department must develop evaluation and performance measures
30 in order to evaluate the effectiveness of the programs in the
31 authorities that are funded with public resources. A report to the
32 legislature shall be due on a biennial basis beginning December 1,
33 2009. In addition, the department shall develop evaluation criteria
34 that enables the local governments to measure the effectiveness of the
35 program.

36 NEW SECTION. **Sec. 5.** BOARD. (1) An authority shall be overseen
37 by a board with not more than fourteen members. Board members shall be

1 appointed by the sponsoring local government and must reside within the
2 jurisdiction of the local government that created the authority. The
3 authority board shall select the chair.

4 (2) A simple majority of the board members shall constitute a
5 quorum.

6 (3) The board shall annually elect a secretary and any other
7 officers it deems necessary.

8 (4) The local government shall designate an individual with
9 financial experience to serve as treasurer. The individual may be a
10 city or county treasurer, city or county auditor, or a private party.
11 If the treasurer is a private party, the local government shall require
12 a bond in an amount and under such terms and conditions as the local
13 government deems necessary to protect the authority. The treasurer
14 shall have the power to create and maintain funds, issue warrants, and
15 invest funds in its possession.

16 (5) The board may adopt bylaws or rules for their own governance.

17 (6) Meetings of the board shall be held in accordance with the open
18 public meetings act, chapter 42.30 RCW, and at the call of the chair or
19 when a majority of the board so requests. Meetings of the board may be
20 held at any location and board members may participate in a meeting of
21 the board by means of a conference telephone or similar communication
22 equipment under RCW 23B.08.200.

23 NEW SECTION. **Sec. 6.** POWERS AND DUTIES. (1) The authority has
24 all the general powers necessary to carry out its purposes and duties
25 and to exercise its specific powers, including the authority may:

26 (a) Sue and be sued in its own name;

27 (b) Make and execute agreements, contracts, and other instruments,
28 with any public or private entity or person, in accordance with this
29 chapter;

30 (c) Employ, contract with, or engage independent counsel, financial
31 advisors, auditors, other technical or professional assistants, and
32 such other personnel as are necessary or desirable to implement this
33 chapter;

34 (d) Establish such special funds, and control deposits to and
35 disbursements from them, as it finds convenient for the implementation
36 of this chapter;

1 (e) Enter into contracts with public and private entities for
2 research to be conducted in this state;

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

5 (g) Exercise any other power reasonably required to implement the
6 purposes of this chapter; and

7 (h) Hire staff and pay administrative costs; however, such expenses
8 shall be paid from moneys provided by the sponsoring local government
9 and moneys received from gifts, grants, and bequests and the interest
10 earned on the authority's accounts and investments.

11 (2) In addition to other powers and duties prescribed in this
12 chapter, the authority is empowered to:

13 (a) Use the authority's public moneys, leveraging those moneys with
14 amounts received from other public and private sources in accordance
15 with contribution agreements, promote bioscience-based economic
16 development, and advance new therapies and procedures to combat disease
17 and promote public health;

18 (b) Solicit and receive gifts, grants, and bequests, and enter into
19 contribution agreements with private entities and public entities to
20 receive moneys in consideration of the authority's promise to leverage
21 those moneys with the revenue generated by the tax authorized under
22 section 11 of this act and contributions from other public entities and
23 private entities, in order to use those moneys to promote bioscience-
24 based economic development and advance new therapies and procedures to
25 combat disease and promote public health;

26 (c) Hold funds received by the authority in trust for their use
27 pursuant to this chapter to promote bioscience-based economic
28 development and advance new therapies and procedures to combat disease
29 and promote public health;

30 (d) Manage its funds, obligations, and investments as necessary and
31 consistent with its purpose, including the segregation of revenues into
32 separate funds and accounts;

33 (e) Make grants to entities pursuant to contract to promote
34 bioscience-based economic development and advance new therapies and
35 procedures to combat disease and promote public health. Grant
36 agreements shall specify the deliverables to be provided by the
37 recipient pursuant to the grant. Grants to private entities may only
38 be provided under a contractual agreement that ensures the state will

1 receive appropriate consideration, such as an assurance of job creation
2 or retention, or the delivery of services that provide for the public
3 health, safety, and welfare. The authority shall solicit requests for
4 funding and evaluate the requests by reference to factors such as: (i)
5 The quality of the proposed research; (ii) its potential to improve
6 health outcomes, with particular attention to the likelihood that it
7 will also lower health care costs, substitute for a more costly
8 diagnostic or treatment modality, or offer a breakthrough treatment for
9 a particular disease or condition; (iii) its potential to leverage
10 additional funding; (iv) its potential to provide health care benefits;
11 (v) its potential to stimulate employment; and (vi) evidence of public
12 and private collaboration;

13 (f) Create one or more advisory boards composed of scientists,
14 industrialists, and others familiar with health sciences and services;
15 and

16 (g) Adopt policies and procedures to facilitate the orderly process
17 of grant application, review, and reward.

18 (3) The records of the authority shall be subject to audit by the
19 office of the state auditor.

20 NEW SECTION. **Sec. 7. GENERAL INDEBTEDNESS--GENERAL OBLIGATION**
21 **BONDS.** (1) A local government that creates a health sciences and
22 services authority may incur general indebtedness, and issue general
23 obligation bonds, to finance the grants and other programs and retire
24 the indebtedness in whole or in part from the funds distributed
25 pursuant to section 11 of this act and subject to the following
26 requirements:

27 (a) The ordinance adopted by the local government creating the
28 authority and authorizing the use of the excise tax in section 11 of
29 this act indicates an intent to incur this indebtedness and the maximum
30 amount of this indebtedness that is contemplated; and

31 (b) The local government includes this statement of the intent in
32 all notices.

33 (2) The general indebtedness incurred under this section may be
34 payable from other tax revenues, the full faith and credit of the
35 sponsoring local government, and nontax income, revenues, fees, and
36 rents from the public improvements, as well as contributions, grants,

1 and nontax money available to the local government for payment of costs
2 of the grants and other programs or associated debt service on the
3 general indebtedness.

4 NEW SECTION. **Sec. 8.** LIMITATION ON BONDS ISSUED. The bonds
5 issued by a local government under section 7 of this act shall not
6 constitute an obligation of the state of Washington, either general or
7 special.

8 NEW SECTION. **Sec. 9.** LIABILITY. (1) Members of the board, as
9 well as other persons acting on behalf of the authority, while acting
10 within the scope of their employment or agency, shall not be subject to
11 personal liability resulting from their official duties conferred on
12 them under this chapter.

13 (2) The state, the local government that created the authority, and
14 the authority shall not be liable for any loss, damage, harm, or other
15 consequences resulting directly or indirectly from grants provided by
16 the authority or from programs, services, research, or other activities
17 funded with such grants.

18 NEW SECTION. **Sec. 10.** DISSOLUTION. The board may petition the
19 sponsoring local government to be dissolved upon a showing that it has
20 no reason to exist and that any assets it retains must be returned to
21 the state treasurer.

22 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.14 RCW
23 to read as follows:

24 (1) The legislative authority of a local jurisdiction that has
25 created a health sciences and services authority under section 3 of
26 this act may impose a sales and use tax in accordance with the terms of
27 this chapter. The tax is in addition to other taxes authorized by law
28 and shall be collected from those persons who are taxable by the state
29 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable
30 event within the local jurisdiction. The rate of the tax shall not
31 exceed 0.015 percent of the selling price in the case of a sales tax or
32 the value of the article used in the case of a use tax.

33 (2) The tax imposed under subsection (1) of this section shall be
34 deducted from the amount of tax otherwise required to be collected or

1 paid over to the department under chapter 82.08 or 82.12 RCW. The
2 amounts received under this section may only be used in accordance with
3 section 6 of this act or to finance and retire the indebtedness
4 incurred pursuant to section 7 of this act, in whole or in part.

5 **Sec. 12.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c
6 338 s 5, 2006 c 302 s 12, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c
7 171 s 8 are each reenacted and amended to read as follows:

8 The following financial, commercial, and proprietary information is
9 exempt from disclosure under this chapter:

10 (1) Valuable formulae, designs, drawings, computer source code or
11 object code, and research data obtained by any agency within five years
12 of the request for disclosure when disclosure would produce private
13 gain and public loss;

14 (2) Financial information supplied by or on behalf of a person,
15 firm, or corporation for the purpose of qualifying to submit a bid or
16 proposal for (a) a ferry system construction or repair contract as
17 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
18 or improvement as required by RCW 47.28.070;

19 (3) Financial and commercial information and records supplied by
20 private persons pertaining to export services provided under chapters
21 43.163 and 53.31 RCW, and by persons pertaining to export projects
22 under RCW 43.23.035;

23 (4) Financial and commercial information and records supplied by
24 businesses or individuals during application for loans or program
25 services provided by chapters 15.110, 43.163, 43.160, 43.330, and
26 43.168 RCW, or during application for economic development loans or
27 program services provided by any local agency;

28 (5) Financial information, business plans, examination reports, and
29 any information produced or obtained in evaluating or examining a
30 business and industrial development corporation organized or seeking
31 certification under chapter 31.24 RCW;

32 (6) Financial and commercial information supplied to the state
33 investment board by any person when the information relates to the
34 investment of public trust or retirement funds and when disclosure
35 would result in loss to such funds or in private loss to the providers
36 of this information;

37 (7) Financial and valuable trade information under RCW 51.36.120;

1 (8) Financial, commercial, operations, and technical and research
2 information and data submitted to or obtained by the clean Washington
3 center in applications for, or delivery of, program services under
4 chapter 70.95H RCW;

5 (9) Financial and commercial information requested by the public
6 stadium authority from any person or organization that leases or uses
7 the stadium and exhibition center as defined in RCW 36.102.010;

8 (10)(a) Financial information, including but not limited to account
9 numbers and values, and other identification numbers supplied by or on
10 behalf of a person, firm, corporation, limited liability company,
11 partnership, or other entity related to an application for a horse
12 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
13 license, gambling license, or lottery retail license;

14 (b) Financial or proprietary information supplied to the liquor
15 control board including the amount of beer or wine sold by a domestic
16 winery, brewery, microbrewery, or certificate of approval holder under
17 RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or
18 wine purchased by a retail licensee in connection with a retail
19 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of
20 shipments of beer or wine.

21 (11) Proprietary data, trade secrets, or other information that
22 relates to: (a) A vendor's unique methods of conducting business; (b)
23 data unique to the product or services of the vendor; or (c)
24 determining prices or rates to be charged for services, submitted by
25 any vendor to the department of social and health services for purposes
26 of the development, acquisition, or implementation of state purchased
27 health care as defined in RCW 41.05.011;

28 (12)(a) When supplied to and in the records of the department of
29 community, trade, and economic development:

30 (i) Financial and proprietary information collected from any person
31 and provided to the department of community, trade, and economic
32 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

33 (ii) Financial or proprietary information collected from any person
34 and provided to the department of community, trade, and economic
35 development or the office of the governor in connection with the
36 siting, recruitment, expansion, retention, or relocation of that
37 person's business and until a siting decision is made, identifying

1 information of any person supplying information under this subsection
2 and the locations being considered for siting, relocation, or expansion
3 of a business;

4 (b) When developed by the department of community, trade, and
5 economic development based on information as described in (a)(i) of
6 this subsection, any work product is not exempt from disclosure;

7 (c) For the purposes of this subsection, "siting decision" means
8 the decision to acquire or not to acquire a site;

9 (d) If there is no written contact for a period of sixty days to
10 the department of community, trade, and economic development from a
11 person connected with siting, recruitment, expansion, retention, or
12 relocation of that person's business, information described in (a)(ii)
13 of this subsection will be available to the public under this chapter;

14 (13) Financial and proprietary information submitted to or obtained
15 by the department of ecology or the authority created under chapter
16 70.95N RCW to implement chapter 70.95N RCW;

17 (14) Financial, commercial, operations, and technical and research
18 information and data submitted to or obtained by the life sciences
19 discovery fund authority in applications for, or delivery of, grants
20 under chapter 43.350 RCW, to the extent that such information, if
21 revealed, would reasonably be expected to result in private loss to the
22 providers of this information;

23 (15) Financial and commercial information provided as evidence to
24 the department of licensing as required by RCW 19.112.110 or
25 19.112.120, except information disclosed in aggregate form that does
26 not permit the identification of information related to individual fuel
27 licensees;

28 (16) Any production records, mineral assessments, and trade secrets
29 submitted by a permit holder, mine operator, or landowner to the
30 department of natural resources under RCW 78.44.085; ~~((and))~~

31 (17)(a) Farm plans developed by conservation districts, unless
32 permission to release the farm plan is granted by the landowner or
33 operator who requested the plan, or the farm plan is used for the
34 application or issuance of a permit~~((-))~~;

35 (b) Farm plans developed under chapter 90.48 RCW and not under the
36 federal clean water act, 33 U.S.C. Sec. 1251 are subject to RCW
37 42.56.610 and 90.64.190; and

1 would result in loss to such funds or in private loss to the providers
2 of this information;

3 (7) Financial and valuable trade information under RCW 51.36.120;

4 (8) Financial, commercial, operations, and technical and research
5 information and data submitted to or obtained by the clean Washington
6 center in applications for, or delivery of, program services under
7 chapter 70.95H RCW;

8 (9) Financial and commercial information requested by the public
9 stadium authority from any person or organization that leases or uses
10 the stadium and exhibition center as defined in RCW 36.102.010;

11 (10) Financial information, including but not limited to account
12 numbers and values, and other identification numbers supplied by or on
13 behalf of a person, firm, corporation, limited liability company,
14 partnership, or other entity related to an application for a horse
15 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
16 license, gambling license, or lottery retail license;

17 (11) Proprietary data, trade secrets, or other information that
18 relates to: (a) A vendor's unique methods of conducting business; (b)
19 data unique to the product or services of the vendor; or (c)
20 determining prices or rates to be charged for services, submitted by
21 any vendor to the department of social and health services for purposes
22 of the development, acquisition, or implementation of state purchased
23 health care as defined in RCW 41.05.011;

24 (12)(a) When supplied to and in the records of the department of
25 community, trade, and economic development:

26 (i) Financial and proprietary information collected from any person
27 and provided to the department of community, trade, and economic
28 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

29 (ii) Financial or proprietary information collected from any person
30 and provided to the department of community, trade, and economic
31 development or the office of the governor in connection with the
32 siting, recruitment, expansion, retention, or relocation of that
33 person's business and until a siting decision is made, identifying
34 information of any person supplying information under this subsection
35 and the locations being considered for siting, relocation, or expansion
36 of a business;

37 (b) When developed by the department of community, trade, and

1 economic development based on information as described in (a)(i) of
2 this subsection, any work product is not exempt from disclosure;

3 (c) For the purposes of this subsection, "siting decision" means
4 the decision to acquire or not to acquire a site;

5 (d) If there is no written contact for a period of sixty days to
6 the department of community, trade, and economic development from a
7 person connected with siting, recruitment, expansion, retention, or
8 relocation of that person's business, information described in (a)(ii)
9 of this subsection will be available to the public under this chapter;

10 (13) Financial and proprietary information submitted to or obtained
11 by the department of ecology or the authority created under chapter
12 70.95N RCW to implement chapter 70.95N RCW;

13 (14) Financial, commercial, operations, and technical and research
14 information and data submitted to or obtained by the life sciences
15 discovery fund authority in applications for, or delivery of, grants
16 under chapter 43.350 RCW, to the extent that such information, if
17 revealed, would reasonably be expected to result in private loss to the
18 providers of this information;

19 (15) Financial and commercial
20 information provided as evidence to the department of licensing as
21 required by RCW 19.112.110 or 19.112.120, except information disclosed
22 in aggregate form that does not permit the identification of
23 information related to individual fuel licensees;

24 (16) Any production records, mineral assessments, and trade secrets
25 submitted by a permit holder, mine operator, or landowner to the
26 department of natural resources under RCW 78.44.085; ~~((and))~~

27 (17)(a) Farm plans developed by conservation districts, unless
28 permission to release the farm plan is granted by the landowner or
29 operator who requested the plan, or the farm plan is used for the
30 application or issuance of a permit~~((-))~~;

31 (b) Farm plans developed under chapter 90.48 RCW and not under the
32 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
33 RCW 42.56.610 and 90.64.190; and

34 (18) Financial, commercial, operations, and technical and research
35 information and data submitted to or obtained by a health sciences and
36 services authority in applications for, or delivery of, grants under
37 sections 1 through 6 of this act, to the extent that such information,
38 if revealed, would reasonably be expected to result in private loss to
providers of this information.

