
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1705

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Finance (originally sponsored by Representatives Barlow, Ormsby, Kenney and Wood)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to the creation of health sciences and services
2 authorities; reenacting and amending RCW 42.56.270 and 42.56.270;
3 adding a new section to chapter 82.32 RCW; adding a new chapter to
4 Title 35 RCW; creating a new section; providing an effective date; and
5 providing expiration dates.

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

7 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
8 section apply throughout this chapter unless the context clearly
9 requires otherwise.

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

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

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

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

17 (5) "Health sciences and services" means biosciences that advance
18 new therapies and procedures to combat disease and promote public
19 health.

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

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

4 NEW SECTION. **Sec. 2.** PURPOSE. The health sciences and services
5 program is created to promote bioscience-based economic development and
6 advance new therapies and procedures to combat disease and promote
7 public health.

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

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

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

14 (3) Establish an administrative board, including: (a) The number
15 of board members; (b) the times and terms of appointment for each board
16 position; (c) the amount of compensation, if any, to be paid to board
17 members; (d) the procedures for removing board members and filing
18 vacancies; and (e) the qualifications for the appointment of
19 individuals to the board;

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

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

24 (6) Establish guidelines under which the authority may invest its
25 funds;

26 (7) Provide the requirements for auditing the records of the
27 authority; and

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

30 NEW SECTION. **Sec. 4.** APPLICATIONS. (1) The department may
31 approve applications submitted by local governments for an area's
32 designation as a health sciences and services authority under this
33 chapter. The director shall determine the division to review
34 applications submitted by local governments under this chapter. The

1 application for designation shall be in the form and manner and contain
2 such information as the department may prescribe, provided the
3 application shall:

4 (a) Contain sufficient information to enable the director to
5 determine the viability of the proposal;

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

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

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

14 (e) Provide a plan or plans for the development of the authority as
15 an entity to advance as a cluster for health sciences education, health
16 sciences research, biotechnology development, biotechnology product
17 commercialization, and/or health care services; and

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

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

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

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

27 (c) The presence of facilities in which health services are
28 provided.

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

30 (4) The director may reject or approve an application. When
31 denying an application, the director must specify the application's
32 deficiencies. The decision regarding such designation as it relates to
33 a specific local government is final; however, a rejected application
34 may be resubmitted.

35 (5) Applications are due December 31, 2007, and must be processed
36 within sixty days of submission.

37 (6) The director may, at his or her discretion, amend the
38 boundaries of an authority upon the request of the local government.

1 (7) The department may adopt any rules necessary to implement this
2 act within one hundred twenty days of the effective date of this
3 section.

4 (8) The department must develop evaluation and performance measures
5 in order to evaluate the effectiveness of the programs in the
6 authorities that are funded with public resources. A report to the
7 legislature shall be due on a biennial basis beginning December 1,
8 2009. In addition, the department shall develop evaluation criteria
9 that enables the local governments to measure the effectiveness of the
10 program.

11 NEW SECTION. **Sec. 5.** BOARD. (1) An authority shall be overseen
12 by a board with not more than fourteen members. Board members shall be
13 appointed by the sponsoring local government and must reside within the
14 jurisdiction of the local government that created the authority. The
15 authority board shall select the chair.

16 (2) A simple majority of the board members shall constitute a
17 quorum.

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

20 (4) The local government shall designate an individual with
21 financial experience to serve as treasurer. The individual may be a
22 city or county treasurer, city or county auditor, or a private party.
23 If the treasurer is a private party, the local government shall require
24 a bond in an amount and under such terms and conditions as the local
25 government deems necessary to protect the authority. The treasurer
26 shall have the power to create and maintain funds, issue warrants, and
27 invest funds in its possession.

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

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

35 NEW SECTION. **Sec. 6.** POWERS AND DUTIES. (1) The authority has

1 all the general powers necessary to carry out its purposes and duties
2 and to exercise its specific powers, including the authority may:

- 3 (a) Sue and be sued in its own name;
- 4 (b) Make and execute agreements, contracts, and other instruments,
5 with any public or private entity or person, in accordance with this
6 chapter;
- 7 (c) Employ, contract with, or engage independent counsel, financial
8 advisors, auditors, other technical or professional assistants, and
9 such other personnel as are necessary or desirable to implement this
10 chapter;
- 11 (d) Establish such special funds, and control deposits to and
12 disbursements from them, as it finds convenient for the implementation
13 of this chapter;
- 14 (e) Enter into contracts with public and private entities for
15 research to be conducted in this state;
- 16 (f) Delegate any of its powers and duties if consistent with the
17 purposes of this chapter;
- 18 (g) Exercise any other power reasonably required to implement the
19 purposes of this chapter; and
- 20 (h) Hire staff and pay administrative costs; however, such expenses
21 shall be paid from moneys provided by the sponsoring local government
22 and moneys received from gifts, grants, and bequests and the interest
23 earned on the authority's accounts and investments.

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

- 26 (a) Use the authority's public moneys, leveraging those moneys with
27 amounts received from other public and private sources in accordance
28 with contribution agreements, promote bioscience-based economic
29 development, and advance new therapies and procedures to combat disease
30 and promote public health;
- 31 (b) Solicit and receive gifts, grants, and bequests, and enter into
32 contribution agreements with private entities and public entities to
33 receive moneys in consideration of the authority's promise to leverage
34 those moneys with the revenue generated by the tax authorized under
35 section 11 of this act and contributions from other public entities and
36 private entities, in order to use those moneys to promote bioscience-
37 based economic development and advance new therapies and procedures to
38 combat disease and promote public health;

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

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

8 (e) Make grants to entities pursuant to contract to promote
9 bioscience-based economic development and advance new therapies and
10 procedures to combat disease and promote public health. Grant
11 agreements shall specify the deliverables to be provided by the
12 recipient pursuant to the grant. Grants to private entities may only
13 be provided under a contractual agreement that ensures the state will
14 receive appropriate consideration, such as an assurance of job creation
15 or retention, or the delivery of services that provide for the public
16 health, safety, and welfare. The authority shall solicit requests for
17 funding and evaluate the requests by reference to factors such as: (i)
18 The quality of the proposed research; (ii) its potential to improve
19 health outcomes, with particular attention to the likelihood that it
20 will also lower health care costs, substitute for a more costly
21 diagnostic or treatment modality, or offer a breakthrough treatment for
22 a particular disease or condition; (iii) its potential to leverage
23 additional funding; (iv) its potential to provide health care benefits;
24 (v) its potential to stimulate employment; and (vi) evidence of public
25 and private collaboration;

26 (f) Create one or more advisory boards composed of scientists,
27 industrialists, and others familiar with health sciences and services;
28 and

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

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

33 NEW SECTION. **Sec. 7.** GENERAL INDEBTEDNESS--GENERAL OBLIGATION
34 BONDS. (1) A local government that creates a health sciences and
35 services authority may incur general indebtedness, and issue general
36 obligation bonds, to finance the grants and other programs and retire

1 the indebtedness in whole or in part from the funds distributed
2 pursuant to section 11 of this act and subject to the following
3 requirements:

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

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

10 (2) The general indebtedness incurred under this section may be
11 payable from other tax revenues, the full faith and credit of the
12 sponsoring local government, and nontax income, revenues, fees, and
13 rents from the public improvements, as well as contributions, grants,
14 and nontax money available to the local government for payment of costs
15 of the grants and other programs or associated debt service on the
16 general indebtedness.

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

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

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

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

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.32 RCW
2 to read as follows:

3 (1) Beginning October 1, 2007, the department shall distribute, on
4 a quarterly basis, to a local government with a health sciences and
5 services authority an amount equal to 0.0075 percent of the proceeds
6 generated by the taxes authorized under chapters 82.08 and 82.12 RCW
7 within that local government's jurisdiction during the previous
8 quarter. The amounts received under this section may only be used in
9 accordance with section 6 of this act or to finance and retire the
10 indebtedness incurred pursuant to section 7 of this act, in whole or in
11 part.

12 (2) This section expires January 1, 2013.

13 **Sec. 12.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c
14 338 s 5, 2006 c 302 s 12, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c
15 171 s 8 are each reenacted and amended to read as follows:

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

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

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

27 (3) Financial and commercial information and records supplied by
28 private persons pertaining to export services provided under chapters
29 43.163 and 53.31 RCW, and by persons pertaining to export projects
30 under RCW 43.23.035;

31 (4) Financial and commercial information and records supplied by
32 businesses or individuals during application for loans or program
33 services provided by chapters 15.110, 43.163, 43.160, 43.330, and
34 43.168 RCW, or during application for economic development loans or
35 program services provided by any local agency;

36 (5) Financial information, business plans, examination reports, and

1 any information produced or obtained in evaluating or examining a
2 business and industrial development corporation organized or seeking
3 certification under chapter 31.24 RCW;

4 (6) Financial and commercial information supplied to the state
5 investment board by any person when the information relates to the
6 investment of public trust or retirement funds and when disclosure
7 would result in loss to such funds or in private loss to the providers
8 of this information;

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

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

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

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

23 (b) Financial or proprietary information supplied to the liquor
24 control board including the amount of beer or wine sold by a domestic
25 winery, brewery, microbrewery, or certificate of approval holder under
26 RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or
27 wine purchased by a retail licensee in connection with a retail
28 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of
29 shipments of beer or wine.

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

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

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

4 (ii) Financial or proprietary information collected from any person
5 and provided to the department of community, trade, and economic
6 development or the office of the governor in connection with the
7 siting, recruitment, expansion, retention, or relocation of that
8 person's business and until a siting decision is made, identifying
9 information of any person supplying information under this subsection
10 and the locations being considered for siting, relocation, or expansion
11 of a business;

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

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

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

22 (13) Financial and proprietary information submitted to or obtained
23 by the department of ecology or the authority created under chapter
24 70.95N RCW to implement chapter 70.95N RCW;

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

31 (15) Financial and commercial information provided as evidence to
32 the department of licensing as required by RCW 19.112.110 or
33 19.112.120, except information disclosed in aggregate form that does
34 not permit the identification of information related to individual fuel
35 licensees;

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

1 (17)(a) Farm plans developed by conservation districts, unless
2 permission to release the farm plan is granted by the landowner or
3 operator who requested the plan, or the farm plan is used for the
4 application or issuance of a permit((-));

5 (b) Farm plans developed under chapter 90.48 RCW and not under the
6 federal clean water act, 33 U.S.C. Sec. 1251 are subject to RCW
7 42.56.610 and 90.64.190; and

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

14 **Sec. 13.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c
15 338 s 5, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c 171 s 8 are each
16 reenacted and amended to read as follows:

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

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

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

28 (3) Financial and commercial information and records supplied by
29 private persons pertaining to export services provided under chapters
30 43.163 and 53.31 RCW, and by persons pertaining to export projects
31 under RCW 43.23.035;

32 (4) Financial and commercial information and records supplied by
33 businesses or individuals during application for loans or program
34 services provided by chapters 15.110, 43.163, 43.160, 43.330, and
35 43.168 RCW, or during application for economic development loans or
36 program services provided by any local agency;

1 (5) Financial information, business plans, examination reports, and
2 any information produced or obtained in evaluating or examining a
3 business and industrial development corporation organized or seeking
4 certification under chapter 31.24 RCW;

5 (6) Financial and commercial information supplied to the state
6 investment board by any person when the information relates to the
7 investment of public trust or retirement funds and when disclosure
8 would result in loss to such funds or in private loss to the providers
9 of this information;

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

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

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

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

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

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

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

36 (ii) Financial or proprietary information collected from any person
37 and provided to the department of community, trade, and economic
38 development or the office of the governor in connection with the

1 siting, recruitment, expansion, retention, or relocation of that
2 person's business and until a siting decision is made, identifying
3 information of any person supplying information under this subsection
4 and the locations being considered for siting, relocation, or expansion
5 of a business;

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

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

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

16 (13) Financial and proprietary information submitted to or obtained
17 by the department of ecology or the authority created under chapter
18 70.95N RCW to implement chapter 70.95N RCW;

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

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

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

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

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

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

7 NEW SECTION. Sec. 14. CAPTIONS. Captions used in this act are
8 not any part of the law.

9 NEW SECTION. Sec. 15. SEVERABILITY. If any provision of this act
10 or its application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. Sec. 16. CODIFICATION. Sections 1 through 10 of
14 this act constitute a new chapter in Title 35 RCW.

15 NEW SECTION. Sec. 17. EXPIRATION DATE. Section 12 of this act
16 expires June 30, 2008.

17 NEW SECTION. Sec. 18. EFFECTIVE DATE. Section 13 of this act
18 takes effect June 30, 2008.

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