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SECOND SUBSTITUTE HOUSE BILL 1705

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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 chapter to Title 35 RCW; creating a new section; providing  
4 an effective date; and providing an expiration date.

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

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

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

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

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

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

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

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

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

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

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

- 10 (1) Specify the powers to be exercised by the authority;
- 11 (2) Reserve the local government's right to dissolve the authority  
12 after its contractual responsibilities have expired;
- 13 (3) Establish an administrative board, including: (a) The number  
14 of board members; (b) the times and terms of appointment for each board  
15 position; (c) the amount of compensation, if any, to be paid to board  
16 members; (d) the procedures for removing board members and filing  
17 vacancies; and (e) the qualifications for the appointment of  
18 individuals to the board;
- 19 (4) Establish the authority's boundaries, which must be contiguous  
20 tracts of land;
- 21 (5) Ensure that private and public funds provided to the authority  
22 will be segregated;
- 23 (6) Establish guidelines under which the authority may invest its  
24 funds;
- 25 (7) Provide the requirements for auditing the records of the  
26 authority; and
- 27 (8) Require the local government's legal counsel to also provide  
28 legal services to the authority.

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

1 such information as the department may prescribe, provided the  
2 application shall:

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

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

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

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

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

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

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

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

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

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

28 (3) There shall be no more than two authorities statewide.

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

34 (5) Applications are due July 1, 2008, and must be processed within  
35 sixty days of submission.

36 (6) The director may, at his or her discretion, amend the  
37 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 contributions from other public entities and  
35 private entities, in order to use those moneys to promote bioscience-  
36 based economic development and advance new therapies and procedures to  
37 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. A local government that creates a health sciences and services  
35 authority may incur general indebtedness, and issue general obligation  
36 bonds, to finance the grants and other programs. The general  
37 indebtedness incurred under this section may be payable from other tax

1 revenues, the full faith and credit of the sponsoring local government,  
2 and nontax income, revenues, fees, and rents from the public  
3 improvements, as well as contributions, grants, and nontax money  
4 available to the local government for payment of costs of the grants  
5 and other programs or associated debt service on the general  
6 indebtedness.

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

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

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

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

25 **Sec. 11.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c  
26 338 s 5, 2006 c 302 s 12, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c  
27 171 s 8 are each reenacted and amended to read as follows:

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

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

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

6 (3) Financial and commercial information and records supplied by  
7 private persons pertaining to export services provided under chapters  
8 43.163 and 53.31 RCW, and by persons pertaining to export projects  
9 under RCW 43.23.035;

10 (4) Financial and commercial information and records supplied by  
11 businesses or individuals during application for loans or program  
12 services provided by chapters 15.110, 43.163, 43.160, 43.330, and  
13 43.168 RCW, or during application for economic development loans or  
14 program services provided by any local agency;

15 (5) Financial information, business plans, examination reports, and  
16 any information produced or obtained in evaluating or examining a  
17 business and industrial development corporation organized or seeking  
18 certification under chapter 31.24 RCW;

19 (6) Financial and commercial information supplied to the state  
20 investment board by any person when the information relates to the  
21 investment of public trust or retirement funds and when disclosure  
22 would result in loss to such funds or in private loss to the providers  
23 of this information;

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

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

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

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



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

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

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

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

20 (ii) Financial or proprietary information collected from any person  
21 and provided to the department of community, trade, and economic  
22 development or the office of the governor in connection with the  
23 siting, recruitment, expansion, retention, or relocation of that  
24 person's business and until a siting decision is made, identifying  
25 information of any person supplying information under this subsection  
26 and the locations being considered for siting, relocation, or expansion  
27 of a business;

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

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

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

1 (13) Financial and proprietary information submitted to or obtained  
2 by the department of ecology or the authority created under chapter  
3 70.95N RCW to implement chapter 70.95N RCW;

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

10 (15) Financial and commercial information provided as evidence to  
11 the department of licensing as required by RCW 19.112.110 or  
12 19.112.120, except information disclosed in aggregate form that does  
13 not permit the identification of information related to individual fuel  
14 licensees;

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

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

22 (b) Farm plans developed under chapter 90.48 RCW and not under the  
23 federal clean water act, 33 U.S.C. Sec. 1251 are subject to RCW  
24 42.56.610 and 90.64.190; and

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

31 **Sec. 12.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c  
32 338 s 5, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c 171 s 8 are each  
33 reenacted and amended to read as follows:

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

36 (1) Valuable formulae, designs, drawings, computer source code or

1 object code, and research data obtained by any agency within five years  
2 of the request for disclosure when disclosure would produce private  
3 gain and public loss;

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

9 (3) Financial and commercial information and records supplied by  
10 private persons pertaining to export services provided under chapters  
11 43.163 and 53.31 RCW, and by persons pertaining to export projects  
12 under RCW 43.23.035;

13 (4) Financial and commercial information and records supplied by  
14 businesses or individuals during application for loans or program  
15 services provided by chapters 15.110, 43.163, 43.160, 43.330, and  
16 43.168 RCW, or during application for economic development loans or  
17 program services provided by any local agency;

18 (5) Financial information, business plans, examination reports, and  
19 any information produced or obtained in evaluating or examining a  
20 business and industrial development corporation organized or seeking  
21 certification under chapter 31.24 RCW;

22 (6) Financial and commercial information supplied to the state  
23 investment board by any person when the information relates to the  
24 investment of public trust or retirement funds and when disclosure  
25 would result in loss to such funds or in private loss to the providers  
26 of this information;

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

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

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

35 (10) Financial information, including but not limited to account  
36 numbers and values, and other identification numbers supplied by or on  
37 behalf of a person, firm, corporation, limited liability company,

1 partnership, or other entity related to an application for a horse  
2 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor  
3 license, gambling license, or lottery retail license;

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

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

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

16 (ii) Financial or proprietary information collected from any person  
17 and provided to the department of community, trade, and economic  
18 development or the office of the governor in connection with the  
19 siting, recruitment, expansion, retention, or relocation of that  
20 person's business and until a siting decision is made, identifying  
21 information of any person supplying information under this subsection  
22 and the locations being considered for siting, relocation, or expansion  
23 of a business;

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

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

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

34 (13) Financial and proprietary information submitted to or obtained  
35 by the department of ecology or the authority created under chapter  
36 70.95N RCW to implement chapter 70.95N RCW;

37 (14) Financial, commercial, operations, and technical and research  
38 information and data submitted to or obtained by the life sciences

1 discovery fund authority in applications for, or delivery of, grants  
2 under chapter 43.350 RCW, to the extent that such information, if  
3 revealed, would reasonably be expected to result in private loss to the  
4 providers of this information; (15) Financial and commercial  
5 information provided as evidence to the department of licensing as  
6 required by RCW 19.112.110 or 19.112.120, except information disclosed  
7 in aggregate form that does not permit the identification of  
8 information related to individual fuel licensees;

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

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

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

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

25 NEW SECTION. Sec. 13. CAPTIONS. Captions used in this act are  
26 not any part of the law.

27 NEW SECTION. Sec. 14. SEVERABILITY. If any provision of this act  
28 or its application to any person or circumstance is held invalid, the  
29 remainder of the act or the application of the provision to other  
30 persons or circumstances is not affected.

31 NEW SECTION. Sec. 15. CODIFICATION. Sections 1 through 10 of  
32 this act constitute a new chapter in Title 35 RCW.

33 NEW SECTION. Sec. 16. EXPIRATION DATE. Section 11 of this act  
34 expires June 30, 2008.

1            NEW SECTION.   **Sec. 17.**   EFFECTIVE DATE.   Section 12 of this act  
2   takes effect June 30, 2008.

--- END ---