

SSB 6727 - H COMM AMD

By Committee on Community & Economic Development & Trade

NOT CONSIDERED 03/11/2010

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

3 "Sec. 1. RCW 35.104.060 and 2009 c 564 s 921 are each amended to
4 read as follows:

5 (1) The authority has all the general powers necessary to carry out
6 its purposes and duties and to exercise its specific powers, including
7 the authority may:

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

9 (b) Make and execute agreements, contracts, and other instruments,
10 with any public or private entity or person, in accordance with this
11 chapter;

12 (c) Employ, contract with, or engage independent counsel, financial
13 advisors, auditors, other technical or professional assistants, and
14 such other personnel as are necessary or desirable to implement this
15 chapter;

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

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

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

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

25 (h) Hire staff and pay administrative costs; however, such expenses
26 shall be paid from moneys provided by the sponsoring local government
27 and moneys received from gifts, grants, and bequests and the interest
28 earned on the authority's accounts and investments. (~~During the 2009-~~
29 ~~2011 fiscal biennium, up to~~) No more than ten percent of the amounts

1 received under RCW 82.14.480 may be used by a health sciences and
2 services (~~(and sciences)~~) authority for the purposes of subsections
3 (1)(c) and (h) of this section.

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

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

11 (b) Solicit and receive gifts, grants, and bequests, and enter into
12 contribution agreements with private entities and public entities to
13 receive moneys in consideration of the authority's promise to leverage
14 those moneys with the revenue generated by the tax authorized under RCW
15 82.14.480 and contributions from other public entities and private
16 entities, in order to use those moneys to promote bioscience-based
17 economic development and advance new therapies and procedures to combat
18 disease and promote public health;

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

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

26 (e) Borrow money and incur indebtedness pursuant to section 4 of
27 this act;

28 (f) Make grants to entities pursuant to contract to promote
29 bioscience-based economic development and advance new therapies and
30 procedures to combat disease and promote public health. Grant
31 agreements shall specify the deliverables to be provided by the
32 recipient pursuant to the grant. Grants to private entities may only
33 be provided under a contractual agreement that ensures the state will
34 receive appropriate consideration, such as an assurance of job creation
35 or retention, or the delivery of services that provide for the public
36 health, safety, and welfare. The authority shall solicit requests for
37 funding and evaluate the requests by reference to factors such as: (i)
38 The quality of the proposed research; (ii) its potential to improve

1 health outcomes, with particular attention to the likelihood that it
2 will also lower health care costs, substitute for a more costly
3 diagnostic or treatment modality, or offer a breakthrough treatment for
4 a particular disease or condition; (iii) its potential to leverage
5 additional funding; (iv) its potential to provide health care benefits;
6 (v) its potential to stimulate employment; and (vi) evidence of public
7 and private collaboration;

8 ~~((f))~~ (g) Create one or more advisory boards composed of
9 scientists, industrialists, and others familiar with health sciences
10 and services; and

11 ~~((g))~~ (h) Adopt policies and procedures to facilitate the orderly
12 process of grant application, review, and reward.

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

15 **Sec. 2.** RCW 35.104.040 and 2007 c 251 s 4 are each amended to read
16 as follows:

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

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

27 (b) Demonstrates 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))~~ Is submitted on behalf of the local government, or, if
31 that office does not exist, by the legislative body of the local
32 government;

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

36 (e) Provides a plan or plans for the development of the authority

1 as an entity to advance as a cluster for health sciences education,
2 health sciences research, biotechnology development, biotechnology
3 product commercialization, and/or health care services; and

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

7 (2) The director (~~shall~~) must determine the division to develop
8 criteria to evaluate the application. The criteria (~~shall~~) must
9 include:

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

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

14 (c) The presence of facilities in which health services are
15 provided.

16 (3) There (~~shall~~) may be no more than (~~one authority~~) two
17 authorities statewide.

18 (4) An authority may only be created in a county with a population
19 of less than one million persons and located east of the crest of the
20 Cascade mountains.

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

26 (6) Applications are due by December 31, (~~2007~~) 2010, and must be
27 processed within sixty days of submission.

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

30 (8) The higher education coordinating board may adopt any rules
31 necessary to implement this chapter (~~(251, Laws of 2007 within one~~
32 ~~hundred twenty days of July 22, 2007)~~).

33 (9) The higher education coordinating board must develop evaluation
34 and performance measures in order to evaluate the effectiveness of the
35 programs in the authorities that are funded with public resources. A
36 report to the legislature (~~shall be~~) is due on a biennial basis
37 beginning December 1, 2009. In addition, the higher education

1 coordinating board (~~shall~~) must develop evaluation criteria that
2 enables the local governments to measure the effectiveness of the
3 program.

4 **Sec. 3.** RCW 82.14.480 and 2007 c 251 s 11 are each amended to read
5 as follows:

6 (1) The legislative authority of a local jurisdiction that has
7 created a health sciences and services authority under RCW 35.104.030,
8 prior to January 1, 2010, may impose a sales and use tax in accordance
9 with the terms of this chapter. The tax is in addition to other taxes
10 authorized by law and (~~shall~~) must be collected from those persons
11 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
12 the occurrence of any taxable event within the local jurisdiction. The
13 rate of the tax (~~shall~~) may not exceed 0.020 percent of the selling
14 price in the case of a sales tax or the value of the article used in
15 the case of a use tax.

16 (2) The tax imposed under subsection (1) of this section (~~shall~~)
17 must be deducted from the amount of tax otherwise required to be
18 collected or paid over to the department under chapter 82.08 or 82.12
19 RCW. The department of revenue (~~shall~~) must perform the collection
20 of the tax on behalf of the authority at no cost to the authority.

21 (3) The amounts received under this section may only be used in
22 accordance with RCW 35.104.060 or to finance and retire the
23 indebtedness incurred pursuant to RCW 35.104.070, in whole or in part.

24 (4) This section expires January 1, 2023.

25 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.104 RCW
26 to read as follows:

27 (1) A local government that has established a health sciences and
28 services authority under RCW 35.104.030 may, by ordinance or
29 resolution, authorize the authority to borrow money under the
30 conditions set forth in this section.

31 (2) Moneys borrowed by an authority must be secured by funds
32 derived from gifts or grants from any source, public or private,
33 federal, state, or local government grants or payments, or
34 intergovernmental transfers.

35 (3) The authority shall incur no expense or liability that is an

1 obligation, either general or special, of the state or local
2 government, or a general obligation of the authority, and shall pay no
3 expense or liability from funds other than funds of the authority.

4 **Sec. 5.** RCW 42.30.110 and 2005 c 424 s 13 are each amended to read
5 as follows:

6 (1) Nothing contained in this chapter may be construed to prevent
7 a governing body from holding an executive session during a regular or
8 special meeting:

9 (a) To consider matters affecting national security;

10 (b) To consider the selection of a site or the acquisition of real
11 estate by lease or purchase when public knowledge regarding such
12 consideration would cause a likelihood of increased price;

13 (c) To consider the minimum price at which real estate will be
14 offered for sale or lease when public knowledge regarding such
15 consideration would cause a likelihood of decreased price. However,
16 final action selling or leasing public property shall be taken in a
17 meeting open to the public;

18 (d) To review negotiations on the performance of publicly bid
19 contracts when public knowledge regarding such consideration would
20 cause a likelihood of increased costs;

21 (e) To consider, in the case of an export trading company,
22 financial and commercial information supplied by private persons to the
23 export trading company;

24 (f) To receive and evaluate complaints or charges brought against
25 a public officer or employee. However, upon the request of such
26 officer or employee, a public hearing or a meeting open to the public
27 shall be conducted upon such complaint or charge;

28 (g) To evaluate the qualifications of an applicant for public
29 employment or to review the performance of a public employee. However,
30 subject to RCW 42.30.140(4), discussion by a governing body of
31 salaries, wages, and other conditions of employment to be generally
32 applied within the agency shall occur in a meeting open to the public,
33 and when a governing body elects to take final action hiring, setting
34 the salary of an individual employee or class of employees, or
35 discharging or disciplining an employee, that action shall be taken in
36 a meeting open to the public;

1 (h) To evaluate the qualifications of a candidate for appointment
2 to elective office. However, any interview of such candidate and final
3 action appointing a candidate to elective office shall be in a meeting
4 open to the public;

5 (i) To discuss with legal counsel representing the agency matters
6 relating to agency enforcement actions, or to discuss with legal
7 counsel representing the agency litigation or potential litigation to
8 which the agency, the governing body, or a member acting in an official
9 capacity is, or is likely to become, a party, when public knowledge
10 regarding the discussion is likely to result in an adverse legal or
11 financial consequence to the agency.

12 This subsection (1)(i) does not permit a governing body to hold an
13 executive session solely because an attorney representing the agency is
14 present. For purposes of this subsection (1)(i), "potential
15 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)
16 concerning:

17 (~~(A)~~) (i) Litigation that has been specifically threatened to
18 which the agency, the governing body, or a member acting in an official
19 capacity is, or is likely to become, a party;

20 (~~(B)~~) (ii) Litigation that the agency reasonably believes may be
21 commenced by or against the agency, the governing body, or a member
22 acting in an official capacity; or

23 (~~(C)~~) (iii) Litigation or legal risks of a proposed action or
24 current practice that the agency has identified when public discussion
25 of the litigation or legal risks is likely to result in an adverse
26 legal or financial consequence to the agency;

27 (j) To consider, in the case of the state library commission or its
28 advisory bodies, western library network prices, products, equipment,
29 and services, when such discussion would be likely to adversely affect
30 the network's ability to conduct business in a competitive economic
31 climate. However, final action on these matters shall be taken in a
32 meeting open to the public;

33 (k) To consider, in the case of the state investment board,
34 financial and commercial information when the information relates to
35 the investment of public trust or retirement funds and when public
36 knowledge regarding the discussion would result in loss to such funds
37 or in private loss to the providers of this information;

1 (1) To consider proprietary or confidential nonpublished
2 information related to the development, acquisition, or implementation
3 of state purchased health care services as provided in RCW 41.05.026;

4 (m) To consider in the case of the life sciences discovery fund
5 authority, the substance of grant applications and grant awards when
6 public knowledge regarding the discussion would reasonably be expected
7 to result in private loss to the providers of this information;

8 (n) To consider in the case of a health sciences and services
9 authority, the substance of grant applications and grant awards when
10 public knowledge regarding the discussion would reasonably be expected
11 to result in private loss to the providers of this information.

12 (2) Before convening in executive session, the presiding officer of
13 a governing body shall publicly announce the purpose for excluding the
14 public from the meeting place, and the time when the executive session
15 will be concluded. The executive session may be extended to a stated
16 later time by announcement of the presiding officer."

17 Correct the title.

EFFECT: The amendment (1) changes the due date for Health Sciences and Services Authority applications from December 31, 2007, to December 31, 2010; (2) removes a date limitation so that the Higher Education Coordinating Board has continuing authority to adopt any necessary rules; and (3) makes a grammatical correction.

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