
ENGROSSED SUBSTITUTE HOUSE BILL 2125

State of Washington

61st Legislature

2009 Regular Session

By House Community & Economic Development & Trade (originally sponsored by Representatives Santos and Kenney)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to community preservation and development
2 authorities; amending RCW 43.167.010, 43.167.020, 43.167.030, and
3 43.167.050; adding new sections to chapter 43.167 RCW; and creating a
4 new section.

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

6 NEW SECTION. **Sec. 1.** Major public facilities, public works, and
7 capital projects with significant public funding generally seek to
8 accrue broad benefits for the people of Washington. At times, however,
9 the needs and concerns of a stakeholder community that is required to
10 bear a disproportionate burden of the broad public benefit by absorbing
11 deleterious impacts are overlooked or inadequately addressed. These
12 impacts may include dislocation, displacement, and the overall
13 disintegration of an identifiable, existing community and its
14 historical and cultural character.

15 The legislature finds that preserving and restoring the character,
16 history, and cultural values of a community that is, has been, or may
17 be disproportionately affected by major public facilities, public
18 works, and capital projects with significant public funding are

1 important public policy goals that can be achieved through the creation
2 of community preservation and development authorities.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.167 RCW
4 to read as follows:

5 (1) Community preservation and development authorities may be
6 created to restore or enhance the health, safety, and economic well-
7 being of communities adversely impacted by the construction or ongoing
8 operation of multiple major public facilities, public works, and
9 capital projects with significant public funding.

10 (2) Community preservation and development authorities have the
11 following purposes:

12 (a) Revitalizing, enhancing, and preserving the unique character of
13 impacted communities;

14 (b) Mitigating the adverse effects of multiple major public
15 facilities projects, public works projects, or capital projects with
16 significant public funding, or secure community transition facilities
17 as defined in RCW 71.09.020(14);

18 (c) Restoring a local area's sense of community;

19 (d) Reducing the displacement of community members and businesses;

20 (e) Stimulating the community's economic vitality;

21 (f) Enhancing public service provisions;

22 (g) Improving the standard of living of community members;

23 (h) Preserving historic buildings or areas by returning them to
24 economically productive uses that are compatible with, or beneficial
25 to, their historic character; and

26 (i) Raising the visibility and consequences of public policy
27 decisions and actions.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.167 RCW
29 to read as follows:

30 The definitions in this section apply throughout this chapter
31 unless the context clearly requires otherwise.

32 (1) "Community" means a group of people who: (a) Currently or
33 historically share a distinct cultural identity or local history; and
34 (b) reside or work in the geographic area of an established or proposed
35 authority.

1 (2) "Community preservation and development authority" or
2 "authority" means an authority established under this chapter.

3 (3) "Constituency" means the general membership of the community
4 preservation and development authority. Membership shall be open to
5 all persons eighteen years of age and over who are residents, property
6 owners, employees, or business persons within the geographic boundaries
7 of an established or proposed authority.

8 (4) "Director" means a member of the board of directors of an
9 authority.

10 (5) "Impacted community" means a community that has been or may be
11 adversely impacted by the construction of, or ongoing operation of,
12 multiple major public facilities, public works, and capital projects
13 with significant public funding.

14 (6) "Major public facilities project, public works project, or
15 capital project with significant public funding" means any capital
16 project whose total cost exceeds ten million dollars. On July 1, 2011,
17 and on July 1st of each odd-numbered year thereafter, the capital
18 project cost threshold shall be adjusted by the capital project cost
19 adjustment factor for inflation established by the office of financial
20 management.

21 **Sec. 4.** RCW 43.167.010 and 2007 c 501 s 3 are each amended to read
22 as follows:

23 (1) The residents, property owners, employees, or business owners
24 of an impacted community may propose formation of a community
25 preservation and development authority. The proposal to form ((a
26 ~~community preservation and development~~)) an authority must be presented
27 in writing to the appropriate legislative committees in ((~~both~~)) the
28 house of representatives and the senate. The proposal must contain
29 proposed general geographic boundaries that will be used to define the
30 community for the purposes of the authority. Proposals presented after
31 January 1, 2008, must identify in its proposal one or more stable
32 revenue sources that (a) have a nexus with the multiple publicly funded
33 facilities that have adversely impacted the community, and (b) can be
34 used to support future operating or capital projects that will be
35 identified in the strategic plan required under RCW 43.167.030.

36 (2) Formation of the community preservation and development
37 authority is subject to legislative authorization by statute. Prior to

1 authorizing the formation of an authority, the legislature must find
2 that (a) the area within the proposal's geographic boundaries meets the
3 definition of "impacted community" contained in section (~~(2(4))~~) 3 of
4 this act and (b) those persons that have brought forth the proposal are
5 members of the community as defined in section (~~(2(1))~~) 3 of this act
6 and, if the authority were approved, would meet the definition of
7 constituency contained in section (~~(2(3))~~) 3 of this act. For
8 proposals brought after January 1, 2008, the legislature must also find
9 that the community has identified one or more stable revenue sources as
10 required in subsection (1) of this section. The legislature may then
11 act to authorize the establishment of the (~~community preservation and~~
12 ~~development~~) authority in law.

13 (3) The affairs of a community preservation and development
14 authority shall be managed by a board of directors, consisting of the
15 following members:

16 (a) Two members who own, operate, or represent businesses within
17 the community;

18 (b) Two members who reside in the community;

19 (c) Two members who are involved in providing nonprofit community
20 or social services within the community;

21 (~~(e)~~) (d) Two members who are involved in the arts and
22 entertainment within the community;

23 (~~(d)~~) (e) Two members with knowledge of the community's culture
24 and history; and

25 (~~(e)~~) (f) One member who is involved in a nonprofit or public
26 planning organization that directly serves the impacted community.

27 (4) No member of the board shall hold office for more than four
28 years. Board positions shall be numbered one through (~~(nine)~~) eleven,
29 and the terms staggered shall be as follows:

30 (a) Board members elected to positions one through five shall serve
31 two-year terms, and if reelected, may serve no more than one additional
32 two-year term.

33 (b) Board members initially elected to positions six through
34 (~~(nine)~~) eleven shall serve a three-year term only.

35 (c) Board members elected to positions six through (~~(nine)~~) eleven
36 after the initial three-year term shall serve two-year terms, and if
37 reelected, may serve no more than one additional two-year term.

1 (5) ~~((With respect to an authority's))~~ The initial board of
2 directors~~((: The state legislative delegation))~~ of an authority shall
3 be established through the election process established in this
4 subsection. Two or more members of the legislative delegation from the
5 legislative district within which the authority is located, and those
6 proposing formation of the authority, shall jointly establish a
7 committee to develop a list of candidates to stand for election
8 ~~((one))~~ after the authority has received legislative approval as
9 ~~((established))~~ provided in subsection (2) of this section. ~~((For the~~
10 ~~purpose of developing the list and identifying those persons who meet~~
11 ~~the criteria in subsection (3)(a) through (e) of this section,~~
12 ~~community shall mean the proposed geographic boundaries as set out in~~
13 ~~the proposal.))~~ The ~~((board of))~~ initial directors shall be elected by
14 the constituency during a meeting convened for that purpose by two or
15 more members of the ~~((state))~~ applicable legislative delegation.

16 (6) ~~((With respect to subsequent elections of an authority's board~~
17 ~~of directors:))~~ Subsequent directors shall be determined through the
18 election process established in this subsection. A list of candidates
19 shall be developed by the authority's existing ~~((board of))~~ directors
20 and the election shall be held during the annual local town hall
21 meeting as required in RCW 43.167.030.

22 **Sec. 5.** RCW 43.167.020 and 2007 c 501 s 4 are each amended to read
23 as follows:

24 (1) A community preservation and development authority shall have
25 the power to:

26 (a) Accept gifts, grants, loans, or other aid from public or
27 private entities; ~~((and~~

28 ~~(b) Exercise such additional powers as may be authorized by law))~~

29 (b) Employ and appoint such agents, attorneys, officers, and
30 employees as may be necessary to implement the purposes and duties of
31 an authority;

32 (c) Contract and enter into partnerships with individuals,
33 associations, corporations, and local, state, and federal governments;

34 (d) Buy, own, lease, and sell real and personal property;

35 (e) Hold in trust, improve, and develop land;

36 (f) Invest, deposit, and reinvest its funds;

37 (g) Incur debt in furtherance of its mission;

1 (h) Lend its funds, property, credit, or services for corporate
2 purposes; and

3 (i) Exercise additional powers as may be authorized by law.

4 (2) A community preservation and development authority (~~shall~~
5 ~~have~~) has no power of eminent domain nor any power to levy taxes or
6 special assessments.

7 (3) A community preservation and development authority that accepts
8 public funds under subsection (1)(a) of this section:

9 (a) Is subject in all respects to Article VIII, section 5 or 7, as
10 appropriate, of the state Constitution, and to RCW 42.17.128; and

11 (b) May not use the funds to support or oppose a candidate, ballot
12 proposition, political party, or political committee.

13 **Sec. 6.** RCW 43.167.030 and 2007 c 501 s 5 are each amended to read
14 as follows:

15 A community preservation and development authority shall have the
16 duty to:

17 (1) Establish specific geographic boundaries for the authority
18 within its bylaws based on the general geographic boundaries
19 established in the proposal submitted and approved by the legislature;

20 (2) Solicit input from members of its community and develop a
21 strategic preservation and development plan to restore and promote the
22 health, safety, and economic well-being of the impacted community and
23 to restore and preserve its cultural and historical identity;

24 (3) Include within the strategic plan a prioritized list of
25 projects identified and supported by the community, including capital
26 or operating components that address one or more of the purposes under
27 section (~~(1(3))~~) 2(2) of this act;

28 (4) Establish funding mechanisms to support projects and programs
29 identified in the strategic plan including but not limited to grants
30 and loans;

31 (5) Use gifts, grants, loans, and other aid from public or private
32 entities to carry out projects identified in the strategic plan
33 including, but not limited to, those that: (a) Enhance public safety;
34 (b) reduce community blight; (c) provide ongoing mitigation of the
35 adverse effects of multiple publicly funded projects on the impacted
36 community; and (d) address other purposes consistent with section 2 of
37 this act; and

1 (6) Demonstrate ongoing accountability for its actions by:

2 (a) Reporting to the appropriate committees of the legislature, one
3 year after formation and every biennium thereafter, on the authority's
4 strategic plan, activities, accomplishments, and any recommendations
5 for statutory changes;

6 (b) Reporting any changes in the authority's geographic boundaries
7 to the appropriate committees of the legislature when the legislature
8 next convenes in regular session;

9 (c) Convening a local town hall meeting with its constituency on an
10 annual basis to: (i) Report its activities and accomplishments from
11 the previous year; (ii) present and receive input from members of the
12 impacted community regarding its proposed strategic plan and activities
13 for the upcoming year; and (iii) hold board member elections as
14 necessary; and

15 (d) Maintaining books and records as appropriate for the conduct of
16 its affairs.

17 **Sec. 7.** RCW 43.167.050 and 2007 c 501 s 8 are each amended to read
18 as follows:

19 Prior to making siting, design, and construction decisions for
20 future major public facilities, public works projects, or capital
21 projects with significant public funding, state and local government
22 agencies (~~may~~) must:

23 (1) Communicate and consult fully with the community preservation
24 and development authority and impacted community, including assessing
25 the compatibility of the proposed project with the strategic plan
26 adopted by the authority; and

27 (2) Make reasonable efforts to ensure that negative, cumulative
28 effects of multiple projects upon the impacted community are minimized.

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