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**Community & Economic Development &  
Housing Committee**

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**2SSB 6140**

**Brief Description:** Concerning local economic development financing.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Becker, King, Regala, Conway, Shin and Chase).

**Brief Summary of Second Substitute Bill**

- Authorizes the creation of local economic development finance authorities that may issue taxable and tax-exempt nonrecourse revenue bond financing for economic development projects, participate in federal and other governmental economic development finance programs, and conduct programs to stimulate and encourage the development of new products.

**Hearing Date:** 2/16/12

**Staff:** Jennifer Thornton (786-7147).

**Background:**

Financing Industrial Development Facilities.

In 1981, legislation passed with the stated purpose of facilitating economic development and employment opportunities through the financing of the project costs of industrial development facilities. The Legislature also approved a proposal to amend the Washington State Constitution, which prohibits lending or giving credit to private persons. That year, Washington voters passed a constitutional amendment which permitted the Legislature to enact laws authorizing local governments to create public corporations that can issue tax-exempt nonrecourse revenue bonds for financing industrial development facilities.

Six cities, three counties, and 10 port districts subsequently created public corporations for the purpose of issuing tax-exempt nonrecourse revenue bonds to finance industrial development

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facilities. These public corporations created under the 1981 implementing legislation do not have the authority to issue taxable revenue bonds and are unable to participate in some recently developed federal programs designed to assist local businesses and economic development projects.

#### Washington Economic Development Finance Authority.

The Washington Economic Development Finance Authority (WEDFA) was enacted by legislation in 1989 to further stimulate economic development by acting as a financial conduit to businesses through the issuance of nonrecourse revenue bonds. The WEDFA has the authority to issue these bonds on both a taxable and tax-exempt basis, and has a debt limit of \$1.5 billion.

The WEDFA is a public body governed by a 17 member board of directors that helps small and medium-sized businesses meet their capital needs. The primary types of projects that qualify for financing include, but are not limited to, manufacturing, processing, and waste disposal facilities. The WEDFA does not receive state funds, and does not lend the credit of the state or local governments.

A 1992 case challenged WEDFA's authority to issue bonds in a manner inconsistent with the terms of the 1981 constitutional amendment. The Washington Supreme Court ruled that because the bonds at issue were not created pursuant to the 1981 amendment, the limitations of the amendment did not apply. The Court ordered the State Treasurer to sign the bond issuance resolution at issue in the case. Since then, WEDFA has issued millions of dollars in both taxable and nontaxable revenue bonds.

#### **Summary of Bill:**

##### Statutory Purpose.

The statutory purpose is to allow certain cities, towns, counties and port districts, to create local economic development finance authorities (authorities) to act as a financial conduit to help facilitate access to needed capital by Washington businesses.

##### Creation of Authorities.

Cities, towns, counties, and port districts with currently existing public corporations created prior to 2012 for the purpose of issuing tax-exempt nonrecourse revenue bonds to finance industrial development facilities are given the authority to enact an ordinance creating an authority.

The ordinance creating an authority must include provisions establishing a board of directors, which may include members who also serve on the board of directors of the public corporation created to issue tax-exempt nonrecourse revenue bonds to finance industrial development facilities. Obligations and functions of the previously created public corporation may be assumed by the authority.

##### Allowable Activities, Requirements and Restrictions.

An authority may use legally available funds to improve economic development by assisting businesses and farm enterprises that do not have access to capital at terms and rates comparable to large corporations due to the location of the business, the size of the business, the lack of financial expertise, or other appropriate reasons. Authorities are allowed to: offer programs providing taxable and tax-exempt nonrecourse revenue bond financing for economic

development projects; participate in federal and other governmental economic development finance programs; and conduct programs to stimulate and encourage the development of new products in Washington by infusing financial aid for invention and innovation. The Department of Commerce and the WEDFA may assist a local economic development finance authority in organizing itself and in designing programs.

Authorities must adopt a general plan of economic development finance objectives. Prior to implementing any program, the authority must adopt operating procedures for that program including setting appropriate financing and loan securitization standards, and the expectation that a borrower will increase or maintain jobs or capital.

The finances of an authority are subject to examination by the creating municipality and the State Auditor. An authority may receive no appropriation of state funds, and municipalities may not provide money or property to aid an authority. Authorities are not municipal corporations or political subdivisions of the state, and do not have taxing, eminent domain, or police powers.

Authorities are prohibited from: giving or loaning state money, property or credit; acting as a bank; financing projects that the Washington State Housing Finance Commission, Washington Health Care Facilities Authority, or Washington Higher Education Facilities Authority have the authority to finance; and financing projects outside their geographic jurisdiction without authorization of the jurisdiction in which the project is to be located.

#### Nonrecourse Revenue Bonds.

The municipality that created the authority, and the county, city, or town that has planning jurisdiction for the economic development activity to be financed must approve the issuance of any revenue bonds. A letter certifying the credit worthiness of the borrower and its ability to repay the principal and interest debt incurred must also be obtained by the authority before bonds can be issued.

Bonds may be issued by an authority on a taxable or tax-exempt basis. Bonds are not considered to constitute a debt of the state or municipality. No tax funds or governmental revenue may be used to pay principal or interest of the bonds, and neither the faith and credit nor the taxing power of the state or municipality may be pledged to the payment of these bonds. The revenue bonds may only be paid for by the revenues derived as a result of the economic development activities funded by the revenue bonds.

**Appropriation:** None.

**Fiscal Note:** Available on Substitute Senate Bill. New fiscal note requested Second Substitute Senate Bill on February 15, 2012.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.