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SENATE BILL 5367

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State of Washington                      62nd Legislature                      2011 Regular Session

By Senators Kastama, Chase, Holmquist Newbry, Shin, and Kilmer

Read first time 01/21/11. Referred to Committee on Economic Development, Trade & Innovation.

1            AN ACT Relating to authorizing the economic development finance  
2 authority to continue issuing bonds; and amending RCW 43.163.130.

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

4            **Sec. 1.** RCW 43.163.130 and 2005 c 137 s 1 are each amended to read  
5 as follows:

6            (1) The authority may issue its nonrecourse revenue bonds in order  
7 to obtain the funds to carry out the programs authorized in this  
8 chapter. The bonds (~~shall~~) must be special obligations of the  
9 authority, payable solely out of the special fund or funds established  
10 by the authority for their repayment.

11            (2) Any bonds issued under this chapter may be secured by a  
12 financing document between the authority and the purchasers or owners  
13 of such bonds or between the authority and a corporate trustee, which  
14 may be any trust company or bank having the powers of a trust company  
15 within or without the state.

16            (a) The financing document may pledge or assign, in whole or in  
17 part, the revenues and funds held or to be received by the authority,  
18 any present or future contract or other rights to receive the same, and  
19 the proceeds thereof.

1 (b) The financing document may contain such provisions for  
2 protecting and enforcing the rights, security, and remedies of  
3 bondowners as may be reasonable and proper, including, without limiting  
4 the generality of the foregoing, provisions defining defaults and  
5 providing for remedies in the event of default which may include the  
6 acceleration of maturities, restrictions on the individual rights of  
7 action by bondowners, and covenants setting forth duties of and  
8 limitations on the authority in conduct of its programs and the  
9 management of its property.

10 (c) In addition to other security provided in this chapter or  
11 otherwise by law, bonds issued by the authority may be secured, in  
12 whole or in part, by financial guaranties, by insurance or by letters  
13 of credit issued to the authority or a trustee or any other person, by  
14 any bank, trust company, insurance or surety company or other financial  
15 institution, within or without the state. The authority may pledge or  
16 assign, in whole or in part, the revenues and funds held or to be  
17 received by the authority, any present or future contract or other  
18 rights to receive the same, and the proceeds thereof, as security for  
19 such guaranties or insurance or for the reimbursement by the authority  
20 to any issuer of such letter of credit of any payments made under such  
21 letter of credit.

22 (3) Without limiting the powers of the authority contained in this  
23 chapter, in connection with each issue of its obligation bonds, the  
24 authority (~~shall~~) must create and establish one or more special  
25 funds, including, but not limited to debt service and sinking funds,  
26 reserve funds, project funds, and such other special funds as the  
27 authority deems necessary, useful, or convenient.

28 (4) Any security interest created against the unexpended bond  
29 proceeds and against the special funds created by the authority (~~shall~~  
30 ~~be~~) is immediately valid and binding against the money and any  
31 securities in which the money may be invested without authority or  
32 trustee possession. The security interest (~~shall~~) must be prior to  
33 any party having any competing claim against the moneys or securities,  
34 without filing or recording under Article 9A of the Uniform Commercial  
35 Code, Title 62A RCW, and regardless of whether the party has notice of  
36 the security interest.

37 (5) The bonds may be issued as serial bonds, term bonds or any  
38 other type of bond instrument consistent with the provisions of this

1 chapter. The bonds shall bear such date or dates; mature at such time  
2 or times; bear interest at such rate or rates, either fixed or  
3 variable; be payable at such time or times; be in such denominations;  
4 be in such form; bear such privileges of transferability,  
5 exchangeability, and interchangeability; be subject to such terms of  
6 redemption; and be sold at public or private sale, in such manner, at  
7 such time or times, and at such price or prices as the authority  
8 (~~shall~~) determines. The bonds (~~shall~~) must be executed by the  
9 manual or facsimile signatures of the authority's chair and either its  
10 secretary or executive director, and may be authenticated by the  
11 trustee (if the authority determines to use a trustee) or any registrar  
12 which may be designated for the bonds by the authority.

13 (6) Bonds may be issued by the authority to refund other  
14 outstanding authority bonds, at or prior to maturity of, and to pay any  
15 redemption premium on, the outstanding bonds. Bonds issued for  
16 refunding purposes may be combined with bonds issued for the financing  
17 or refinancing of new projects. Pending the application of the  
18 proceeds of the refunding bonds to the redemption of the bonds to be  
19 redeemed, the authority may enter into an agreement or agreements with  
20 a corporate trustee regarding the interim investment of the proceeds  
21 and the application of the proceeds and the earnings on the proceeds to  
22 the payment of the principal of and interest on, and the redemption of,  
23 the bonds to be redeemed.

24 (7) The bonds of the authority may be negotiable instruments under  
25 Title 62A RCW.

26 (8) Neither the members of the authority, nor its employees or  
27 agents, nor any person executing the bonds (~~shall-be~~) is personally  
28 liable on the bonds or be subject to any personal liability or  
29 accountability by reason of the issuance of the bonds.

30 (9) The authority may purchase its bonds with any of its funds  
31 available for the purchase. The authority may hold, pledge, cancel or  
32 resell the bonds subject to and in accordance with agreements with  
33 bondowners.

34 (10) The authority (~~shall~~) may not exceed one billion five  
35 hundred million dollars in total outstanding debt at any time.

36 (11) The state finance committee (~~shall~~) must be notified in

1 advance of the issuance of bonds by the authority in order to promote  
2 the orderly offering of obligations in the financial markets.

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