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**SUBSTITUTE HOUSE BILL 1170**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** House Local Government (originally sponsored by Representatives Clibborn, Zeiger, Tarleton, Wilcox, Springer, Jinkins, Fey, Kilduff, Fitzgibbon, Gregerson, and Tharinger)

AN ACT Relating to the administrative powers of port districts; and amending RCW 35.21.730, 35.21.735, 35.21.740, 35.21.745, 35.21.747, 35.21.750, and 35.21.755.

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

**Sec.**  RCW 35.21.730 and 2002 c 218 s 23 are each amended to read as follows:

In order to improve the administration of authorized federal grants or programs, to improve governmental efficiency ((~~and~~)), services, or operations, or to improve the general living conditions in the urban areas of the state, any city, town, or county ((~~may~~)) by lawfully adopted ordinance or resolution, or port districts by lawfully adopted resolution, may:

(1) Transfer to any public corporation, commission, or authority created under this section, with or without consideration, any funds, real or personal property, property interests, or services;

(2) Organize and participate in joint operations or cooperative organizations funded by the federal government when acting solely as coordinators or agents of the federal government;

(3) Continue federally-assisted programs, projects, and activities after expiration of contractual term or after expending allocated federal funds as deemed appropriate to fulfill contracts made in connection with such agreements or as may be proper to permit an orderly readjustment by participating corporations, associations, or individuals;

(4) Enter into contracts with public corporations, commissions, and authorities for the purpose of exercising any powers of a community renewal agency under chapter 35.81 RCW; and

(5) Create public corporations, commissions, and authorities, including joint creation of a public corporation by two or more port districts pursuant to an agreement for joint or cooperative action pursuant to the interlocal cooperation act, chapter 39.34 RCW, to: Administer and execute federal grants or programs; receive and administer private funds, goods, or services for any lawful public purpose; and perform any lawful public purpose or public function, including, subject to any limitations in this chapter, the exercise of any or all the powers of each of its creating jurisdictions. The ordinance or resolution shall limit the liability of such public corporations, commissions, and authorities to the assets and properties of such public corporation, commission, or authority in order to prevent recourse to such cities, towns, ((~~or~~)) counties, or port districts or their assets or credit.

**Sec.**  RCW 35.21.735 and 2007 c 230 s 2 are each amended to read as follows:

(1) The legislature hereby declares that carrying out the purposes of federal grants or programs is both a public purpose and an appropriate function for a city, town, county, port district, or public corporation. The provisions of RCW 35.21.730 through 35.21.755 and 35.21.660 and 35.21.670 and the enabling authority herein conferred to implement these provisions shall be construed to accomplish the purposes of RCW 35.21.730 through 35.21.755.

(2) All cities, towns, counties, port districts, and public corporations shall have the power and authority to enter into agreements with the United States or any agency or department thereof, or any agency of the state government or its political subdivisions, and pursuant to such agreements may receive and expend, or cause to be received and expended by a custodian or trustee, federal or private funds for any lawful public purpose. Pursuant to any such agreement, a city, town, county, port district, or public corporation may issue bonds, notes, or other evidences of indebtedness that are guaranteed or otherwise secured by funds or other instruments provided by or through the federal government or by the federal government or an agency or instrumentality thereof under section 108 of the housing and community development act of 1974 (42 U.S.C. Sec. 5308), as amended, or its successor, and may agree to repay and reimburse for any liability thereon any guarantor of any such bonds, notes, or other evidences of indebtedness issued by such jurisdiction or public corporation, or issued by any other public entity. For purposes of this subsection, federal housing mortgage insurance shall not constitute a federal guarantee or security.

(3) A city, town, county, port district, or public corporation may pledge, as security for any such bonds, notes, or other evidences of indebtedness or for its obligations to repay or reimburse any guarantor thereof, its right, title, and interest in and to any or all of the following: (a) Any federal grants or payments received or that may be received in the future; (b) any of the following that may be obtained directly or indirectly from the use of any federal or private funds received as authorized in this section: (i) Property and interests therein, and (ii) revenues; (c) any payments received or owing from any person resulting from the lending of any federal or private funds received as authorized in this section; (d) any proceeds under (a), (b), or (c) of this subsection and any securities or investments in which (a), (b), or (c) of this subsection or proceeds thereof may be invested; (e) any interest or other earnings on (a), (b), (c), or (d) of this subsection.

(4) A city, town, county, port district, or public corporation may establish one or more special funds relating to any or all of the sources listed in subsection (3)(a) through (e) of this section and pay or cause to be paid from such fund the principal, interest, premium if any, and other amounts payable on any bonds, notes, or other evidences of indebtedness authorized under this section, and pay or cause to be paid any amounts owing on any obligations for repayment or reimbursement of guarantors of any such bonds, notes, or other evidences of indebtedness. A city, town, county, port district, or public corporation may contract with a financial institution either to act as trustee or custodian to receive, administer, and expend any federal or private funds, or to collect, administer, and make payments from any special fund as authorized under this section, or both, and to perform other duties and functions in connection with the transactions authorized under this section. If the bonds, notes, or other evidences of indebtedness and related agreements comply with subsection (6) of this section, then any such funds held by any such trustee or custodian, or by a public corporation, shall not constitute public moneys or funds of any city, town, ((~~or~~)) county, or port district and at all times shall be kept segregated and set apart from other funds.

(5) For purposes of this section, "lawful public purpose" includes, without limitation, any use of funds, including loans thereof to public or private parties, authorized by the agreements with the United States or any department or agency thereof under which federal or private funds are obtained, or authorized under the federal laws and regulations pertinent to such agreements.

(6) If any such federal or private funds are loaned or granted to any private party or used to guarantee any obligations of any private party, then any bonds, notes, other evidences of indebtedness issued or entered into for the purpose of receiving or causing the receipt of such federal or private funds, and any agreements to repay or reimburse guarantors, shall not be obligations of any city, town, ((~~or~~)) county, or port district and shall be payable only from a special fund as authorized in this section or from any of the security pledged pursuant to the authority of this section, or both. Any bonds, notes, or other evidences of indebtedness to which this subsection applies shall contain a recital to the effect that they are not obligations of the city, town, ((~~or~~)) county, or port district or the state of Washington and that neither the faith and credit nor the taxing power of the state or any municipal corporation or subdivision of the state or any agency of any of the foregoing, is pledged to the payment of principal, interest, or premium, if any, thereon. Any bonds, notes, other evidences of indebtedness, or other obligations to which this subsection applies shall not be included in any computation for purposes of limitations on indebtedness. To the extent expressly agreed in writing by a city, town, county, port district, or public corporation, this subsection shall not apply to bonds, notes, or other evidences of indebtedness issued for, or obligations incurred for, the necessary support of the poor and infirm by that city, town, county, port district, or public corporation.

(7) Any bonds, notes, or other evidences of indebtedness issued by, or reimbursement obligations incurred by, a city, town, county, or public corporation consistent with the provisions of this section but prior to May 3, 1995, and any loans or pledges made by a city, town, or county in connection therewith substantially consistent with the provisions of this section but prior to May 3, 1995, are deemed authorized and shall not be held void, voidable, or invalid due to any lack of authority under the laws of this state.

(8) All cities, towns, counties, public corporations, and port districts may create partnerships and limited liability companies and enter into agreements with public or private entities, including partnership agreements and limited liability company agreements, to implement within their boundaries the federal new markets tax credit program established by the community renewal tax relief act of 2000 (26 U.S.C. Sec. 45D) or its successor statute.

**Sec.**  RCW 35.21.740 and 1985 c 332 s 4 are each amended to read as follows:

Powers, authorities, or rights expressly or impliedly granted to any city, town, ((~~or~~)) county, or port district or their agents under any provision of RCW 35.21.730 through 35.21.755 shall not be operable or applicable, or have any effect beyond the limits of the incorporated area of any city ((~~or~~)), town, or port district implementing RCW 35.21.730 through 35.21.755, unless so provided by contract between the city and another city ((~~or~~)), county or port district, or among one or more port districts, or as provided in an agreement for joint or cooperative action pursuant to the interlocal cooperation act, chapter 39.34 RCW.

**Sec.**  RCW 35.21.745 and 2002 c 218 s 24 are each amended to read as follows:

(1) Any city, town, or county which shall create, or port districts that individually or jointly create, a public corporation, commission, or authority pursuant to RCW 35.21.730 or 35.21.660, shall provide for its organization and operations and shall control and oversee its operation and funds in order to correct any deficiency and to assure that the purposes of each program undertaken are reasonably accomplished.

(2) Any public corporation, commission, or authority created as provided in RCW 35.21.730 may be empowered to own and sell real and personal property; to contract with ((~~a city, town, or county~~))cities, towns, counties, or port districts to conduct community renewal activities under chapter 35.81 RCW; to contract with individuals, associations, and corporations, and the state and the United States; to sue and be sued; to loan and borrow funds and issue bonds and other instruments evidencing indebtedness; transfer any funds, real or personal property, property interests, or services; to do anything a natural person may do; and to perform all manner and type of community services. However, the public corporation, commission, or authority shall have no power of eminent domain nor any power to levy taxes or special assessments.

**Sec.**  RCW 35.21.747 and 1990 c 189 s 1 are each amended to read as follows:

(1) In transferring real property to a public corporation, commission, or authority under RCW 35.21.730, the city, town, ((~~or~~)) county, or port district creating such public corporation, commission, or authority shall impose appropriate deed restrictions necessary to ensure the continued use of such property for the public purpose or purposes for which such property is transferred.

(2) The city, town, or county that creates, or port district that individually or jointly creates, a public corporation, commission, or authority under RCW 35.21.730 shall require of such public corporation, commission, or authority thirty days' advance written notice of any proposed sale or encumbrance of any real property transferred by such city, town, ((~~or~~)) county, or port district to such public corporation, commission, or authority pursuant to RCW 35.21.730(1). At a minimum, such notice shall be provided by such public corporation, commission, or authority to the chief executive or administrative officer of such city, town, ((~~or~~)) county, or port district and to all members of its legislative body, and to each local newspaper of general circulation, and to each local radio or television station or other news medium which has on file with such corporation, commission, or authority a written request to be notified.

(3) Any property transferred by ((~~the~~))a city, town, ((~~or~~)) county, or port district that created such public corporation, commission, or authority may be sold or encumbered by such public corporation, commission, or authority only after approval of such sale or encumbrance by the governing body of the public corporation, commission, or authority at a public meeting of which notice was provided pursuant to RCW 42.30.080. Nothing in this section shall be construed to prevent the governing body of the public corporation, commission, or authority from holding an executive session during a regular or special meeting in accordance with RCW 42.30.110(1)(c). In addition, the public corporation, commission, or authority shall advertise notice of the meeting in a local newspaper of general circulation at least twice no less than seven days and no more than two weeks before the public meeting.

**Sec.**  RCW 35.21.750 and 1974 ex.s. c 37 s 6 are each amended to read as follows:

In the event of the insolvency or dissolution of a public corporation, commission, or authority, the superior court of the county in which the public corporation, commission, or authority is or was operating shall have jurisdiction and authority to appoint trustees or receivers of corporate property and assets and supervise such trusteeship or receivership: PROVIDED, That all liabilities incurred by such public corporation, commission, or authority shall be satisfied exclusively from the assets and properties of such public corporation, commission, or authority and no creditor or other person shall have any right of action against ((~~the~~))a city, town, ((~~or~~)) county, or port district creating such corporation, commission or authority on account of any debts, obligations, or liabilities of such public corporation, commission, or authority.

**Sec.**  RCW 35.21.755 and 2007 c 104 s 16 are each amended to read as follows:

(1) A public corporation, commission, or authority created pursuant to RCW 35.21.730, 35.21.660, or 81.112.320 shall receive the same immunity or exemption from taxation as that of the city, town, ((~~or~~)) county, or port district creating the same: PROVIDED, That, except for (a) any property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites or (b) any property owned, operated, or controlled by a public corporation that is used primarily for low-income housing, or that is used as a convention center, performing arts center, public assembly hall, public meeting place, public esplanade, street, public way, public open space, park, public utility corridor, or view corridor for the general public or (c) any blighted property owned, operated, or controlled by a public corporation that was acquired for the purpose of remediation and redevelopment of the property in accordance with an agreement or plan approved by the city, town, ((~~or~~)) county, or port district in which the property is located, or (d) any property owned, operated, or controlled by a public corporation created under RCW 81.112.320, any such public corporation, commission, or authority shall pay to the county treasurer an annual excise tax equal to the amounts which would be paid upon real property and personal property devoted to the purposes of such public corporation, commission, or authority were it in private ownership, and such real property and personal property is acquired and/or operated under RCW 35.21.730 through 35.21.755, and the proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership: PROVIDED FURTHER, That the provisions of chapter 82.29A RCW shall not apply to property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites and which is controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1987: AND PROVIDED FURTHER, That property within a special review district established by ordinance prior to January 1, 1976, or property which is listed on any federal or state register of historical sites and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1976, shall receive the same immunity or exemption from taxation as if such property had been within a district listed on any such federal or state register of historical sites as of January 1, 1976, and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 which was in existence prior to January 1, 1976.

(2) As used in this section:

(a) "Low-income" means a total annual income, adjusted for family size, not exceeding fifty percent of the area median income.

(b) "Area median income" means:

(i) For an area within a standard metropolitan statistical area, the area median income reported by the United States department of housing and urban development for that standard metropolitan statistical area; or

(ii) For an area not within a standard metropolitan statistical area, the county median income reported by the department of ((~~community, trade, and economic development~~))commerce.

(c) "Blighted property" means property that is contaminated with hazardous substances as defined under RCW 70.105D.020.

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