

2SSB 6140 - H COMM AMD

By Committee on Community & Economic Development & Housing

ADOPTED 03/01/2012

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that the issuance
4 of taxable nonrecourse revenue bonds by the Washington economic
5 development finance authority has provided a number of Washington firms
6 with the financing necessary to grow and create jobs. The legislature
7 further finds that municipal authority to issue taxable nonrecourse
8 revenue bonds does not exist and that authorizing the local issuance of
9 taxable bonds for economic development purposes will increase local
10 capacity to strengthen businesses and create jobs.

11 (2) It is the purpose of this chapter to grant new authority for
12 cities, counties, and port districts that created public corporations
13 under chapter 39.84 RCW prior to 2012, in order to build on the
14 expertise with tax-exempt nonrecourse revenue bond financing developed
15 by these municipalities. Therefore, these municipalities are permitted
16 to create local economic development finance authorities to act as a
17 financial conduit that, without using state or local government funds
18 or lending the credit of the state or local governments, can issue
19 taxable and nontaxable nonrecourse revenue bonds, and participate in
20 federal, state, and local economic development programs to help
21 facilitate access to needed capital by Washington businesses. It is
22 also a primary purpose of this chapter to encourage the development of
23 local innovative approaches to the problem of unmet capital needs.
24 This chapter must be construed liberally to carry out its purposes and
25 objectives.

26 NEW SECTION. **Sec. 2.** The definitions in this section apply
27 throughout this chapter unless the context clearly requires otherwise.

28 (1) "Authority" means a local economic development finance

1 authority created under this chapter. An authority is a public body
2 within the meaning of RCW 39.53.010.

3 (2) "Board of directors" means the board of directors of an
4 authority.

5 (3) "Bonds" means any bonds, notes, debentures, interim
6 certificates, conditional sales or lease financing agreements, lines of
7 credit, forward purchase agreements, investment agreements, and other
8 banking or financial arrangements, guaranties, or other obligations
9 issued by or entered into by the authority. Such bonds may be issued
10 on either a tax-exempt or taxable basis.

11 (4) "Borrower" means one or more public or private persons or
12 entities acting as lessee, purchaser, mortgagor, or borrower who has
13 obtained or is seeking to obtain financing either from an authority or
14 from an eligible banking organization that has obtained or is seeking
15 to obtain funds from the authority to finance a project. A borrower
16 may include a party who transfers the right of use and occupancy to
17 another party by lease, sublease, or otherwise, or a party who is
18 seeking or has obtained a financial guaranty from the authority.

19 (5) "Economic development activities" means activities related to:
20 Manufacturing, processing, the commercialization of research,
21 production, assembly, tooling, warehousing, exporting products made in
22 Washington or services provided by Washington firms, airports, docks
23 and wharves, mass commuting facilities, high-speed intercity rail
24 facilities, public broadcasting, pollution control, solid waste
25 disposal, federally qualified hazardous waste facilities, energy
26 generating, conservation, or transmission facilities, sports
27 facilities, industrial parks, and activities conducted within a
28 federally designated enterprise or empowerment zone or geographic area
29 of similar nature.

30 (6) "Eligible banking organization" means any organization subject
31 to regulation by the director of the department of financial
32 institutions, any national bank, federal savings and loan association,
33 and federal credit union located within this state.

34 (7) "Eligible person" means an individual, partnership,
35 corporation, or joint venture carrying on business, or proposing to
36 carry on business, within the state and seeking financial assistance
37 under this act.

1 (8) "Financial assistance" means the infusion of capital to persons
2 for use in the development and exploitation of specific inventions and
3 products.

4 (9) "Financing agreements" means, and includes without limitation,
5 a contractual arrangement with an eligible person whereby an authority
6 obtains rights from or in an invention or product or proceeds from an
7 invention or product in exchange for the granting of financial and
8 other assistance to the person.

9 (10) "Financing document" means an instrument executed by an
10 authority and one or more persons or entities pertaining to the
11 issuance of or security for bonds, or the application of the proceeds
12 of bonds or other funds of, or payable to, the authority. A financing
13 document may include, but need not be limited to, a lease, installment
14 sale agreement, conditional sale agreement, mortgage, loan agreement,
15 trust agreement or indenture, security agreement, letter or line of
16 credit, reimbursement agreement, insurance policy, guaranty agreement,
17 or currency or interest rate swap agreement. A financing document also
18 may be an agreement between the authority and an eligible banking
19 organization which has agreed to make a loan to a borrower.

20 (11) "Investment grade credit rating" means a rating of at least
21 BBB- by standard & poor's, Baa3 by moody's investors service, or BBB-
22 by fitch.

23 (12) "Municipality" means a city, town, county, or port district of
24 this state.

25 (13) "Ordinance" means any appropriate method of taking official
26 action or adopting a legislative decision by any municipality, whether
27 known as a resolution, ordinance, or otherwise.

28 (14) "Plan" means the general plan of economic development finance
29 objectives developed and adopted by the authority, and updated from
30 time to time, as required under RCW 43.163.090.

31 (15) "Product" means a product, device, technique, or process that
32 is or may be exploitable commercially. "Product" does not refer to
33 pure research, but does apply to products, devices, techniques, or
34 processes that have advanced beyond the theoretic stage and are readily
35 capable of being, or have been, reduced to practice.

36 (16) "Project costs" means costs of:

37 (a) Acquisition, lease, construction, reconstruction, remodeling,
38 refurbishing, rehabilitation, extension, and enlargement of land,

1 rights to land, buildings, structures, docks, wharves, fixtures,
2 machinery, equipment, excavations, paving, landscaping, utilities,
3 approaches, roadways and parking, handling and storage areas, and
4 similar ancillary facilities, and any other real or personal property
5 included in an economic development activity;

6 (b) Architectural, engineering, consulting, accounting, and legal
7 costs related directly to the development, financing, acquisition,
8 lease, construction, reconstruction, remodeling, refurbishing,
9 rehabilitation, extension, and enlargement of an activity included
10 under subsection (5) of this section, including costs of studies
11 assessing the feasibility of an economic development activity;

12 (c) Finance costs, including the costs of credit enhancement and
13 discounts, if any, the costs of issuing revenue bonds, and costs
14 incurred in carrying out any financing document;

15 (d) Start-up costs, working capital, capitalized research and
16 development costs, capitalized interest during construction and during
17 the eighteen months after estimated completion of construction, and
18 capitalized debt service or repair and replacement or other appropriate
19 reserves;

20 (e) The refunding of any outstanding obligations incurred for any
21 of the costs outlined in this subsection; and

22 (f) Other costs incidental to any of the costs listed in this
23 subsection.

24 NEW SECTION. **Sec. 3.** (1) A municipality that formed a public
25 corporation under chapter 39.84 RCW prior to January 1, 2012, may, if
26 that public corporation is still in existence, enact an ordinance
27 creating an economic development finance authority for the purposes
28 authorized in this chapter. The ordinance creating the authority must
29 approve a charter for the authority containing such provisions as are
30 authorized by and not in conflict with this chapter. Any charter
31 issued under this chapter must contain in substance the limitations set
32 forth in section 4 of this act. In any suit, action, or proceeding
33 involving the validity or enforcement of or relating to any contract of
34 the authority, the authority is conclusively presumed to be established
35 and authorized to transact business and exercise its powers under this
36 chapter upon proof of the adoption of the ordinance creating the

1 authority by the governing body. A copy of the ordinance duly
2 certified by the clerk of the governing body of the municipality is
3 admissible in evidence in any suit, action, or proceeding.

4 (2) An authority created by a municipality pursuant to this chapter
5 may be dissolved by the municipality if: (a) The authority has no
6 property to administer, other than funds or property, if any, to be
7 paid or transferred to the municipality by which it was established;
8 and (b) all the authority's outstanding obligations have been
9 satisfied. Such a dissolution must be accomplished by the governing
10 body of the municipality adopting an ordinance providing for the
11 dissolution.

12 (3) The creating municipality may, at its discretion and at any
13 time, alter or change the structure, organizational programs, or
14 activities of an authority, including termination of the authority if
15 contracts entered into by the authority are not impaired. Any net
16 earnings of an authority, beyond those necessary for retirement of
17 indebtedness incurred by it, do not inure to the benefit of any person
18 other than the creating municipality. Upon dissolution of an
19 authority, title to all property owned by the authority vests in the
20 municipality.

21 (4) The ordinance creating an authority must include provisions
22 establishing a board of directors to govern the affairs of the
23 authority, what constitutes a quorum of the board of directors, and how
24 the authority must conduct its affairs.

25 (5) For a period of ten years after any financing through an
26 authority, it is illegal for a director, officer, agent, or employee of
27 an authority to have, directly or indirectly, any financial interest in
28 any property to be included in or any contract for property, services,
29 or materials to be furnished or used in connection with any economic
30 development activity financed through the authority. Violation of any
31 provision of this section is a gross misdemeanor.

32 (6) The finances of any authority are subject to examination by the
33 state auditor's office pursuant to RCW 43.09.260.

34 NEW SECTION. **Sec. 4.** (1) No municipality may give or lend any
35 money or property in aid of an authority. The municipality that
36 creates an authority must annually review any financial statements of
37 the authority and at all times must have access to the books and

1 records of the authority. No authority may issue revenue obligations
2 under this chapter except upon the approval of both the municipality
3 under the auspices of which it was created and the county, city, or
4 town within whose planning jurisdiction the economic development
5 activity to be financed lies. Upon receiving approval from these
6 jurisdictions, an authority must, before bonds may be issued, obtain
7 one of the following:

8 (a) A letter of credit supporting the creditworthiness of the
9 borrower from a bank with an investment grade credit rating;

10 (b) Confirmation that the borrower has arranged for private
11 placement of the bonds with an institutional investor; or

12 (c) Confirmation that the borrower has an investment grade credit
13 rating of their own.

14 (2) An authority established under the terms of this chapter
15 constitutes an authority and an instrumentality (within the meaning of
16 those terms in the regulations of the United States treasury and the
17 rulings of the internal revenue service prescribed pursuant to 26
18 U.S.C. Sec. 103 of the federal internal revenue code of 1986, as
19 amended) may act on behalf of the municipality under whose auspices it
20 is created for the specific public purposes authorized by this chapter.
21 The authority is not a municipal corporation within the meaning of the
22 state Constitution and the laws of the state, or a political
23 subdivision within the meaning of the state Constitution and the laws
24 of the state, including without limitation, Article VIII, section 7 of
25 the Washington state Constitution. A municipality may not delegate to
26 an authority any of the municipality's attributes of sovereignty
27 including, without limitation, the power to tax, the power of eminent
28 domain, and the police power.

29 NEW SECTION. **Sec. 5.** (1) An authority established pursuant to
30 this chapter may develop and conduct a program or programs to provide
31 nonrecourse revenue bond financing for the project costs for economic
32 development activities.

33 (2) An authority is authorized to participate fully in federal and
34 other governmental economic development finance programs and to take
35 such actions as are necessary and consistent with this chapter to
36 secure the benefits of those programs and to meet their requirements.

1 (3) An authority may develop and conduct a program that will
2 stimulate and encourage the development of new products within
3 Washington state by the infusion of financial aid for invention and
4 innovation in situations in which the financial aid would not otherwise
5 be reasonably available from commercial sources. The authority is
6 authorized to provide nonrecourse revenue bond financing for this
7 program.

8 (a) For the purposes of this program, the authority has the
9 following powers and duties:

10 (i) To enter into financing agreements with eligible persons doing
11 business in Washington state, upon terms and on conditions consistent
12 with the purposes of this chapter, for the advancement of financial and
13 other assistance to the persons for the development of specific
14 products, procedures, and techniques, to be developed and produced in
15 this state, and to condition the agreements upon contractual assurances
16 that the benefits of increasing or maintaining employment and tax
17 revenues remain in this state and accrue to it;

18 (ii) Own, possess, and take license in patents, copyrights, and
19 proprietary processes and negotiate and enter into contracts and
20 establish charges for the use of the patents, copyrights, and
21 proprietary processes when the patents and licenses for products result
22 from assistance provided by the authority;

23 (iii) Negotiate royalty payments to the authority on patents and
24 licenses for products arising as a result of assistance provided by the
25 authority;

26 (iv) Negotiate and enter into other types of contracts with
27 eligible persons that assure that public benefits will result from the
28 provision of services by the authority; provided that the contracts are
29 consistent with the state Constitution;

30 (v) Encourage and provide technical assistance to eligible persons
31 in the process of developing new products;

32 (vi) Refer eligible persons to researchers or laboratories for the
33 purpose of testing and evaluating new products, processes, or
34 innovations; and

35 (vii) To the extent permitted under its contract with eligible
36 persons, to consent to a termination, modification, forgiveness, or
37 other change of a term of a contractual right, payment, royalty,
38 contract, or agreement of any kind to which the authority is a party.

1 (b) Eligible persons seeking financial and other assistance under
2 this program must forward an application, together with an application
3 fee prescribed by rule, to the authority. An investigation and report
4 concerning the advisability of approving an application for assistance
5 must be completed by the staff of the authority. The investigation and
6 report may include, but is not limited to, facts about the company
7 under consideration as its history, wage standards, job opportunities,
8 stability of employment, past and present financial condition and
9 structure, pro forma income statements, present and future markets and
10 prospects, integrity of management as well as the feasibility of the
11 proposed product and invention to be granted financial assistance,
12 including the state of development of the product as well as the
13 likelihood of its commercial feasibility. After receipt and
14 consideration of the report set out in this subsection and after other
15 action as is deemed appropriate, the application must be approved or
16 denied by the authority. The applicant must be promptly notified of
17 action by the authority.

18 (4) An authority may receive no appropriation of state funds. The
19 department of commerce and the Washington economic development finance
20 authority may assist a local economic development finance authority in
21 organizing itself and in designing programs.

22 (5) An authority may use any funds legally available to it for any
23 purpose specifically authorized by this chapter, or for otherwise
24 improving economic development by assisting businesses and farm
25 enterprises that do not have access to capital at terms and rates
26 comparable to large corporations due to the location of the business,
27 the size of the business, the lack of financial expertise, or other
28 appropriate reasons.

29 (6) An authority must coordinate its activities with those,
30 including bond issuance activities, of the creating municipality and
31 the public corporation created under chapter 39.84 RCW by the creating
32 municipality.

33 NEW SECTION. **Sec. 6.** (1) An authority established pursuant to
34 this chapter must adopt general operating procedures for the authority.
35 The authority must also adopt operating procedures for individual
36 programs as they are developed for obtaining funds and for providing

1 funds to borrowers. These operating procedures must be adopted by
2 resolution prior to the authority operating the applicable programs.

3 (2) The operating procedures must include, but are not limited to:

4 (a) Appropriate standards for securing loans and other financing
5 the authority provides to borrowers, such as guarantees or collateral;
6 and

7 (b) Strict standards for providing financing to borrowers, such as:

8 (i) The borrower is a responsible party with a high probability of
9 being able to repay the financing provided by the authority;

10 (ii) The financing is reasonably expected to benefit the creating
11 municipality by enabling a borrower to increase or maintain jobs or
12 capital in the municipality;

13 (iii) The borrowers with the greatest needs or that provide the
14 most public benefit are given higher priority by the authority; and

15 (iv) The financing is consistent with any plan adopted by the
16 authority under the provisions of section 7 of this act.

17 NEW SECTION. **Sec. 7.** (1) Any authority established pursuant to
18 this chapter must adopt a general plan of economic development finance
19 objectives to be implemented by the authority during the period of the
20 plan. The authority may exercise the powers authorized under this
21 chapter prior to the adoption of the initial plan. In developing the
22 plan, the authority must consider and set objectives for:

23 (a) Employment generation associated with the authority's programs;

24 (b) The application of funds to economic sectors and economic
25 development activity evidencing need for improved access to capital
26 markets and funding resources;

27 (c) Eligibility criteria for participants in authority programs;

28 (d) The use of funds and resources available from or through
29 federal, state, local, and private sources and programs;

30 (e) New programs which serve a targeted need for financing
31 assistance within the purposes of this chapter; and

32 (f) Opportunities to improve capital access as evidenced by
33 programs existent in other localities or as they are made possible by
34 results of private capital market circumstances.

35 (2) Upon adoption of the general plan the authority must conduct
36 its programs in observance of the objectives established in the plan.

1 The authority may periodically update the plan as determined necessary
2 by the authority.

3 NEW SECTION. **Sec. 8.** In addition to carrying out the economic
4 development finance activities and programs specifically authorized in
5 this chapter, an authority may:

6 (1) Maintain an office or offices;

7 (2) Sue and be sued in its own name, and plead and be impleaded;

8 (3) Engage consultants, agents, attorneys, and advisers, contract
9 with federal, state, and local governmental entities for services, and
10 hire such employees, agents, and other personnel as the authority deems
11 necessary, useful, or convenient to accomplish its purposes;

12 (4) Make and execute all manner of contracts, agreements and
13 instruments, and financing documents with public and private parties as
14 the authority deems necessary, useful, or convenient to accomplish its
15 purposes;

16 (5) Acquire and hold real or personal property, or any interest
17 therein, in the name of the authority, and to sell, assign, lease,
18 encumber, mortgage, or otherwise dispose of the same in such manner as
19 the authority deems necessary, useful, or convenient to accomplish its
20 purposes;

21 (6) Open and maintain accounts in qualified public depositories and
22 otherwise provide for the investment of any funds not required for
23 immediate disbursement, and provide for the selection of investments;

24 (7) Appear in its own behalf before boards, commissions,
25 departments, or agencies of federal, state, or local government;

26 (8) Procure such insurance in such amounts and from such insurers
27 as the authority deems desirable including, but not limited to,
28 insurance against any loss or damage to its property or other assets,
29 public liability insurance for injuries to persons or property, and
30 directors and officers liability insurance;

31 (9) Apply for and accept subventions, grants, loans, advances, and
32 contributions from any source of money, property, labor, or other
33 things of value, to be held, used, and applied as the authority deems
34 necessary, useful, or convenient to accomplish its purposes;

35 (10) Establish guidelines for the participation by eligible banking
36 organizations in programs conducted by the authority under this
37 chapter;

1 (11) Act as an agent, by agreement, for federal, state, or local
2 governmental entities to carry out the programs authorized in this
3 chapter;

4 (12) Establish, revise, and collect such fees and charges as the
5 authority deems necessary, useful, or convenient to accomplish its
6 purposes;

7 (13) Make such expenditures as are appropriate for paying the
8 administrative costs and expenses of the authority in carrying out the
9 provisions of this chapter;

10 (14) Establish such reserves and special funds, and controls on
11 deposits to and disbursements from them, as the authority deems
12 necessary, useful, or convenient to accomplish its purposes;

13 (15) Prepare, publish, and distribute, with or without charge, such
14 studies, reports, bulletins, and other material as the authority deems
15 necessary, useful, or convenient to accomplish its purposes;

16 (16) Delegate any of its powers and duties if consistent with the
17 purposes of this chapter;

18 (17) Adopt rules concerning its exercise of the powers authorized
19 by this chapter; and

20 (18) Exercise any other power the authority deems necessary,
21 useful, or convenient to accomplish its purposes and exercise the
22 powers expressly granted in this chapter.

23 NEW SECTION. **Sec. 9.** Notwithstanding any other provision of this
24 chapter, an authority may not:

25 (1) Give any municipal or state money or property or loan any
26 municipal or state money or credit to or in aid of any individual,
27 association, company, or corporation, or become directly or indirectly
28 the owner of any stock in or bonds of any association, company, or
29 corporation;

30 (2) Issue bills of credit or accept deposits of money for time or
31 demand deposit, administer trusts, engage in any form or manner in, or
32 in the conduct of, any private or commercial banking business, or act
33 as a savings bank or savings and loan association other than as
34 provided in this chapter;

35 (3) Be or constitute a bank or trust company within the
36 jurisdiction or under the control of the director of financial

1 institutions, the comptroller of the currency of the United States of
2 America, or the treasury department thereof;

3 (4) Be or constitute a bank, broker, or dealer in securities within
4 the meaning of, or subject to the provisions of, any securities,
5 securities exchange, or securities dealers' law of the United States of
6 America or the state;

7 (5) Engage in the financing of housing as provided for in chapter
8 43.180 RCW;

9 (6) Engage in the financing of health care facilities as provided
10 for in chapter 70.37 RCW;

11 (7) Engage in financing higher education facilities as provided for
12 in chapter 28B.07 RCW; or

13 (8) Exercise any of the powers authorized in this chapter or issue
14 any revenue bonds with respect to any economic development activity
15 unless the economic development activity is located wholly within the
16 boundaries of the municipality under whose auspices the authority is
17 created or unless the economic development activity comprises energy
18 facilities or solid waste disposal facilities which provide energy for
19 or dispose of solid waste from the municipality or the residents
20 thereof.

21 NEW SECTION. **Sec. 10.** (1) An authority may issue its nonrecourse
22 revenue bonds in order to obtain the funds to carry out the programs
23 authorized in this chapter. The bonds must be special obligations of
24 the authority, payable solely out of the special fund or funds
25 established by the authority for their repayment.

26 (2) Any bonds issued under this chapter may be secured by a
27 financing document between the authority and the purchasers or owners
28 of such bonds or between the authority and a corporate trustee, which
29 may be any trust company or bank having the powers of a trust company
30 within or without the state.

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

35 (b) The financing document may contain such provisions for
36 protecting and enforcing the rights, security, and remedies of bond
37 owners as may be reasonable and proper including, without limiting the

1 generality of the foregoing, provisions defining defaults and providing
2 for remedies in the event of default which may include the acceleration
3 of maturities, restrictions on the individual rights of action by bond
4 owners, and covenants setting forth duties of and limitations on the
5 authority in conduct of its programs and the management of its
6 property.

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

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

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

34 (5) The bonds may be issued as serial bonds, term bonds, or any
35 other type of bond instrument consistent with the provisions of this
36 chapter. The bonds must bear such date or dates; mature at such time
37 or times; bear interest at such rate or rates, either fixed or
38 variable; be payable at such time or times; be in such denominations;

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

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

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

23 (8) Neither the board of directors of the authority, nor its
24 employees or agents, nor any person executing the bonds is personally
25 liable on the bonds or subject to any personal liability or
26 accountability by reason of the issuance of the bonds.

27 (9) The authority may purchase its bonds with any of its funds
28 available for the purchase. The authority may hold, pledge, cancel, or
29 resell the bonds subject to and in accordance with agreements with bond
30 owners.

31 (10) The state finance committee must be notified in advance of the
32 issuance of bonds by the authority in order to promote the orderly
33 offering of obligations in the financial markets.

34 NEW SECTION. **Sec. 11.** (1) Bonds issued by an authority
35 established under this chapter are not considered to constitute a debt
36 of the state, of the municipality, or of any other municipal
37 corporation, quasi-municipal corporation, subdivision, or agency of

1 this state or to pledge any or all of the faith and credit of any of
2 these entities. The revenue bonds are payable solely from both the
3 revenues derived as a result of the economic development activities
4 funded by the revenue bonds including, without limitation, amounts
5 received under the terms of any financing document or by reason of any
6 additional security furnished by beneficiaries of the economic
7 development activity in connection with the financing thereof, and
8 money and other property received from private sources. The issuance
9 of bonds under this chapter do not obligate, directly, indirectly, or
10 contingently, the state or any political subdivision of the state to
11 levy any taxes or appropriate or expend any funds for the payment of
12 the principal or the interest on the bonds. Each revenue bond must
13 contain on its face, and any disclosure document prepared in
14 conjunction with the offer and sale of bonds must include, statements
15 to the effect that:

16 (a) Neither the state, the municipality, or any other municipal
17 corporation, quasi-municipal corporation, subdivision, or agency of the
18 state is obligated to pay the principal or the interest thereon;

19 (b) No tax funds or governmental revenue may be used to pay the
20 principal or interest thereon; and

21 (c) Neither any or all of the faith and credit nor the taxing power
22 of the state, the municipality, or any other municipal corporation,
23 quasi-municipal corporation, subdivision, or agency thereof is pledged
24 to the payment of the principal of or the interest on the revenue bond.

25 (2) Neither the proceeds of bonds issued under this chapter nor any
26 money used or to be used to pay the principal of, premium, if any, or
27 interest on the bonds constitute public money or property. All of such
28 money must be kept segregated and set apart from funds of the state and
29 any political subdivision of the state and are not subject to
30 appropriation or allotment by the state or subject to the provisions of
31 chapter 43.88 RCW.

32 (3) Contracts entered into by an authority must be entered into in
33 the name of the authority and not in the name of the state or any
34 political subdivision of the state. The obligations of the authority
35 under such contracts are obligations only of the authority and are not,
36 in any way, obligations of the municipality creating the authority or
37 the state. An authority may incur only those financial obligations
38 which will be paid from revenues received pursuant to financing

1 documents, from fees or charges paid by beneficiaries of the economic
2 development activities funded by the revenue bonds, or from the
3 proceeds of revenue bonds.

4 NEW SECTION. **Sec. 12.** (1)(a) An authority may enter into
5 financing documents with borrowers regarding bonds issued by the
6 authority that may provide for the payment by each borrower of amounts
7 sufficient, together with other revenues available to the authority, if
8 any, to:

9 (i) Pay the borrower's share of the fees established by the
10 authority;

11 (ii) Pay the principal of, premium, if any, and interest on
12 outstanding bonds of the authority issued in respect of such borrower
13 as the same become due and payable; and

14 (iii) Create and maintain reserves required or provided for by the
15 authority in connection with the issuance of such bonds.

16 (b) The payments are not subject to supervision or regulation by
17 any department, committee, board, body, bureau, or agency of the state.

18 (2) All money received by or on behalf of the authority with
19 respect to this issuance of its bonds must be trust funds to be held
20 and applied solely as provided in this chapter. The authority, in lieu
21 of receiving and applying the moneys itself, may enter into trust
22 agreement or indenture with one or more banks or trust companies having
23 the power and authority to conduct trust business in the state to:

24 (a) Perform all or any part of the obligations of the authority
25 with respect to:

26 (i) Bonds issued by it;

27 (ii) The receipt, investment, and application of the proceeds of
28 the bonds and money paid by a participant or available from other
29 sources for the payment of the bonds;

30 (iii) The enforcement of the obligations of a borrower in
31 connection with the financing or refinancing of any project; and

32 (iv) Other matters relating to the exercise of the authority's
33 powers under this chapter;

34 (b) Receive, hold, preserve, and enforce any security interest or
35 evidence of security interest granted by a participant for purposes of
36 securing the payment of the bonds; and

1 (c) Act on behalf of the authority or the owners of bonds of the
2 authority for purposes of assuring or enforcing the payment of the
3 bonds, when due.

4 NEW SECTION. **Sec. 13.** (1) Any owner of bonds issued under this
5 chapter by any authority, and the trustee under any trust agreement or
6 indenture, may, either at law or in equity, by suit, action, mandamus,
7 or other proceeding, protect and enforce any of their respective
8 rights, and may become the purchaser at any foreclosure sale if the
9 person is the highest bidder, except to the extent the rights given are
10 restricted by the authority in any bond resolution or trust agreement
11 or indenture authorizing the issuance of the bonds.

12 (2) The bonds of an authority are securities in which all public
13 officers and bodies of this state and all counties, cities, municipal
14 corporations, and political subdivisions, all banks, eligible banking
15 organizations, bankers, trust companies, savings banks and
16 institutions, building and loan associations, savings and loan
17 associations, investment companies, insurance companies and
18 associations, and all executors, administrators, guardians, trustees,
19 and other fiduciaries may legally invest any sinking funds, moneys, or
20 other funds belonging to them or within their control. However, a
21 municipality under the auspices of which an authority was created and
22 the county, city, or town within whose planning jurisdiction the
23 economic development activity to be financed lies, may not invest in
24 bonds issued by the authority.

25 NEW SECTION. **Sec. 14.** This chapter provides a complete,
26 additional, and alternative method for accomplishing the purposes of
27 this chapter and must be regarded as supplemental and additional to
28 powers conferred by other laws. The issuance of bonds and refunding
29 bonds under this chapter need not comply with the requirements of any
30 other law applicable to the issuance of bonds.

31 NEW SECTION. **Sec. 15.** Insofar as the provisions of this chapter
32 are inconsistent with the provisions of any general or special law, or
33 parts thereof, the provisions of this chapter are controlling.

1 NEW SECTION. **Sec. 16.** Sections 1 through 15 of this act
2 constitute a new chapter in Title 39 RCW.

3 NEW SECTION. **Sec. 17.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected."

7 Correct the title.

EFFECT: Adds language clarifying that certain cities, counties,
and port districts are only given the authority to create local
economic development finance authorities because of their expertise in
tax-exempt nonrecourse revenue bond financing. Removes language
stating that the boards of an authority and a public corporation can be
composed of the same members. Also, removes language stating that a
municipality can obligate an authority to assume responsibilities of a
public corporation.

Clarifies the credit-related documents that an authority must
obtain before issuing bonds. Specifies that a local economic
development finance authority's activities, with two exceptions, must
take place wholly within the boundaries of the municipality that
created the authority.

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