
SUBSTITUTE SENATE BILL 5616

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Marr, McCaslin, Brown, Oemig, Kastama, Regala, McAuliffe, Kilmer, Berkey, Keiser, Spanel, Eide, Murray, Shin and Kohl-Welles)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to the creation of health sciences and services
2 authorities; reenacting and amending RCW 42.56.270 and 42.56.270;
3 adding a new chapter to Title 35 RCW; creating new sections; providing
4 an effective date; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
7 section apply throughout this chapter unless the context clearly
8 requires otherwise.

9 (1) "Authority" means a health sciences and services authority
10 created pursuant to this chapter.

11 (2) "Board" means the governing board of trustees of an authority.

12 (3) "Department" means the department of community, trade, and
13 economic development.

14 (4) "Director" means the director of the department of community,
15 trade, and economic development.

16 (5) "Health sciences and services" means biosciences that advance
17 new therapies and procedures to combat disease and promote public
18 health.

19 (6) "Local government" means a city, town, or county.

1 (7) "Sponsoring local government" means a city, town, or county
2 that creates a health sciences and services authority.

3 NEW SECTION. **Sec. 2.** PURPOSE. The health sciences and services
4 program is created to promote bioscience-based economic development and
5 advance new therapies and procedures to combat disease and promote
6 public health.

7 NEW SECTION. **Sec. 3.** CREATION. A local government must establish
8 by ordinance or resolution an authority. At a minimum, the ordinance
9 must:

- 10 (1) Specify the powers to be exercised by the authority;
- 11 (2) Reserve the local government's right to dissolve the authority
12 after its contractual responsibilities have expired;
- 13 (3) Establish an administrative board, including: (a) The number
14 of board members; (b) the times and terms of appointment for each board
15 position; (c) the amount of compensation, if any, to be paid to board
16 members; (d) the procedures for removing board members and filing
17 vacancies; and (e) the qualifications for the appointment of
18 individuals to the board;
- 19 (4) Establish the authority's boundaries, which must be contiguous
20 tracts of land;
- 21 (5) Ensure that private and public funds provided to the authority
22 will be segregated;
- 23 (6) Establish guidelines under which the authority may invest its
24 funds;
- 25 (7) Provide the requirements for auditing the records of the
26 authority; and
- 27 (8) Require the local government's legal counsel to also provide
28 legal services to the authority.

29 NEW SECTION. **Sec. 4.** APPLICATIONS. (1) The department may
30 approve applications submitted by local governments for an area's
31 designation as a health sciences and services authority under this
32 chapter. The application for designation shall be in the form and
33 manner and contain such information as the department may prescribe,
34 provided the application shall:

1 (a) Contain sufficient information to enable the director to
2 determine the viability of the proposal;

3 (b) Demonstrate that an ordinance or resolution has been passed by
4 the legislative authority of a local government that delineates the
5 boundaries of an area that may be designated an authority;

6 (c) Be submitted on behalf of the local government, or, if that
7 office does not exist, by the legislative body of the local government;

8 (d) Demonstrate that the public funds directed to programs or
9 facilities in the authority will leverage private sector resources and
10 contributions to activities to be performed;

11 (e) Provide a plan or plans for the development of the authority as
12 an entity to advance as a cluster for health sciences education, health
13 sciences research, biotechnology development, biotechnology product
14 commercialization, and/or health care services; and

15 (f) Demonstrate that the state has previously provided funds to
16 health sciences and services programs or facilities in the applicant
17 city, town, or county.

18 (2) The department may develop criteria to evaluate the
19 application, including:

20 (a) The presence of infrastructure capable of spurring development
21 of the area as a center of health sciences and services;

22 (b) The presence of higher education facilities where undergraduate
23 or graduate coursework or research is conducted; and

24 (c) The presence of facilities in which health services are
25 provided.

26 (3) There shall be no more than two authorities statewide.

27 (4) An authority may only be created in a county with a population
28 of less than one million persons.

29 (5) The director may reject or approve an application. When
30 denying an application, the director must specify the application's
31 deficiencies. The decision regarding such designation as it relates to
32 a specific local government is final; however, a rejected application
33 may be resubmitted.

34 (6) Applications are due December 31, 2008, and must be processed
35 within sixty days of submission.

36 (7) The director may, at his or her discretion, amend the
37 boundaries of an authority upon the request of the local government.

1 (8) The department may adopt any rules necessary to implement this
2 act within one hundred twenty days of the effective date of this
3 section.

4 (9) The department must develop evaluation and performance measures
5 in order to evaluate the effectiveness of the programs in the
6 authorities that are funded with public resources. A report to the
7 legislature shall be due on a biennial basis beginning December 1,
8 2009. In addition, the department shall develop evaluation criteria
9 that enables the local governments to measure the effectiveness of the
10 program.

11 NEW SECTION. **Sec. 5.** BOARD. (1) An authority shall be overseen
12 by a board with not more than fourteen members. Board members shall be
13 appointed by the sponsoring local government and must reside within the
14 jurisdiction of the local government that created the authority. The
15 authority board shall select the chair.

16 (2) A simple majority of the board members shall constitute a
17 quorum.

18 (3) The board shall annually elect a secretary and any other
19 officers it deems necessary.

20 (4) The local government shall designate an individual with
21 financial experience to serve as treasurer. The individual may be a
22 city or county treasurer, city or county auditor, or a private party.
23 If the treasurer is a private party, the local government shall require
24 a bond in an amount and under such terms and conditions as the local
25 government deems necessary to protect the authority. The treasurer
26 shall have the power to create and maintain funds, issue warrants, and
27 invest funds in its possession.

28 (5) The board may adopt bylaws or rules for their own governance.

29 (6) Meetings of the board shall be held in accordance with the open
30 public meetings act, chapter 42.30 RCW, and at the call of the chair or
31 when a majority of the board so requests. Meetings of the board may be
32 held at any location and board members may participate in a meeting of
33 the board by means of a conference telephone or similar communication
34 equipment under RCW 23B.08.200.

35 NEW SECTION. **Sec. 6.** POWERS AND DUTIES. (1) The authority has

1 all the general powers necessary to carry out its purposes and duties
2 and to exercise its specific powers, including the authority may:

3 (a) Sue and be sued in its own name;

4 (b) Make and execute agreements, contracts, and other instruments,
5 with any public or private entity or person, in accordance with this
6 chapter;

7 (c) Employ, contract with, or engage independent counsel, financial
8 advisors, auditors, other technical or professional assistants, and
9 such other personnel as are necessary or desirable to implement this
10 chapter;

11 (d) Establish such special funds, and control deposits to and
12 disbursements from them, as it finds convenient for the implementation
13 of this chapter;

14 (e) Enter into contracts with public and private entities for
15 research to be conducted in this state;

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

18 (g) Exercise any other power reasonably required to implement the
19 purposes of this chapter; and

20 (h) Hire staff and pay administrative costs; however, such expenses
21 shall be paid from moneys provided by the sponsoring local government
22 and moneys received from gifts, grants, and bequests and the interest
23 earned on the authority's accounts and investments.

24 (2) In addition to other powers and duties prescribed in this
25 chapter, the authority is empowered to:

26 (a) Use the authority's public moneys, including moneys received
27 from the life sciences discovery fund created in RCW 43.350.070,
28 leveraging those moneys with amounts received from other public and
29 private sources in accordance with contribution agreements, promote
30 bioscience-based economic development, and advance new therapies and
31 procedures to combat disease and promote public health;

32 (b) Solicit and receive gifts, grants, and bequests, and enter into
33 contribution agreements with private entities and public entities to
34 receive moneys in consideration of the authority's promise to leverage
35 those moneys with the revenue generated by contributions from other
36 public entities and private entities, in order to use those moneys to
37 promote bioscience-based economic development and advance new therapies
38 and procedures to combat disease and promote public health;

1 (c) Hold funds received by the authority in trust for their use
2 pursuant to this chapter to promote bioscience-based economic
3 development and advance new therapies and procedures to combat disease
4 and promote public health;

5 (d) Manage its funds, obligations, and investments as necessary and
6 consistent with its purpose, including the segregation of revenues into
7 separate funds and accounts;

8 (e) Make grants to entities pursuant to contract to promote
9 bioscience-based economic development and advance new therapies and
10 procedures to combat disease and promote public health. Grant
11 agreements shall specify the deliverables to be provided by the
12 recipient pursuant to the grant. Grants to private entities may only
13 be provided under a contractual agreement that ensures the state will
14 receive appropriate consideration, such as an assurance of job creation
15 or retention, or the delivery of services that provide for the public
16 health, safety, and welfare. The authority shall solicit requests for
17 funding and evaluate the requests by reference to factors such as: (i)
18 The quality of the proposed research; (ii) its potential to improve
19 health outcomes, with particular attention to the likelihood that it
20 will also lower health care costs, substitute for a more costly
21 diagnostic or treatment modality, or offer a breakthrough treatment for
22 a particular disease or condition; (iii) its potential to leverage
23 additional funding; (iv) its potential to provide health care benefits;
24 (v) its potential to stimulate employment; and (vi) evidence of public
25 and private collaboration;

26 (f) Create one or more advisory boards composed of scientists,
27 industrialists, and others familiar with health sciences and services;
28 and

29 (g) Adopt policies and procedures to facilitate the orderly process
30 of grant application, review, and reward.

31 (3) The records of the authority shall be subject to audit by the
32 office of the state auditor.

33 NEW SECTION. **Sec. 7.** GENERAL INDEBTEDNESS--GENERAL OBLIGATION
34 BONDS. (1) A local government that creates a health sciences and
35 services authority may incur general indebtedness, and issue general
36 obligation bonds, to finance the grants and other programs and retire

1 the indebtedness in whole or in part from excise tax revenue and
2 subject to the following requirements:

3 (a) The ordinance adopted by the local government creating the
4 authority and authorizing the use of the excise tax indicates an intent
5 to incur this indebtedness and the maximum amount of this indebtedness
6 that is contemplated; and

7 (b) The local government includes this statement of the intent in
8 all notices.

9 (2) The general indebtedness incurred under subsection (1) of this
10 section may be payable from other tax revenues, the full faith and
11 credit of the sponsoring local government, and nontax income, revenues,
12 fees, and rents from the public improvements, as well as contributions,
13 grants, and nontax money available to the local government for payment
14 of costs of the grants and other programs or associated debt service on
15 the general indebtedness.

16 NEW SECTION. **Sec. 8.** LIMITATION ON BONDS ISSUED. The bonds
17 issued by a local government under section 7 of this act shall not
18 constitute an obligation of the state of Washington, either general or
19 special.

20 NEW SECTION. **Sec. 9.** LIABILITY. (1) Members of the board, as
21 well as other persons acting on behalf of the authority, while acting
22 within the scope of their employment or agency, shall not be subject to
23 personal liability resulting from their official duties conferred on
24 them under this chapter.

25 (2) The state, the local government that created the authority, and
26 the authority shall not be liable for any loss, damage, harm, or other
27 consequences resulting directly or indirectly from grants provided by
28 the authority or from programs, services, research, or other activities
29 funded with such grants.

30 NEW SECTION. **Sec. 10.** DISSOLUTION. The board may petition the
31 sponsoring local government to be dissolved upon a showing that it has
32 no reason to exist. All assets must be distributed to one or more
33 similar entities approved by the sponsoring local government.

1 **Sec. 11.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c
2 338 s 5, 2006 c 302 s 12, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c
3 171 s 8 are each reenacted and amended to read as follows:

4 The following financial, commercial, and proprietary information is
5 exempt from disclosure under this chapter:

6 (1) Valuable formulae, designs, drawings, computer source code or
7 object code, and research data obtained by any agency within five years
8 of the request for disclosure when disclosure would produce private
9 gain and public loss;

10 (2) Financial information supplied by or on behalf of a person,
11 firm, or corporation for the purpose of qualifying to submit a bid or
12 proposal for (a) a ferry system construction or repair contract as
13 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
14 or improvement as required by RCW 47.28.070;

15 (3) Financial and commercial information and records supplied by
16 private persons pertaining to export services provided under chapters
17 43.163 and 53.31 RCW, and by persons pertaining to export projects
18 under RCW 43.23.035;

19 (4) Financial and commercial information and records supplied by
20 businesses or individuals during application for loans or program
21 services provided by chapters 15.110, 43.163, 43.160, 43.330, and
22 43.168 RCW, or during application for economic development loans or
23 program services provided by any local agency;

24 (5) Financial information, business plans, examination reports, and
25 any information produced or obtained in evaluating or examining a
26 business and industrial development corporation organized or seeking
27 certification under chapter 31.24 RCW;

28 (6) Financial and commercial information supplied to the state
29 investment board by any person when the information relates to the
30 investment of public trust or retirement funds and when disclosure
31 would result in loss to such funds or in private loss to the providers
32 of this information;

33 (7) Financial and valuable trade information under RCW 51.36.120;

34 (8) Financial, commercial, operations, and technical and research
35 information and data submitted to or obtained by the clean Washington
36 center in applications for, or delivery of, program services under
37 chapter 70.95H RCW;

1 (9) Financial and commercial information requested by the public
2 stadium authority from any person or organization that leases or uses
3 the stadium and exhibition center as defined in RCW 36.102.010;

4 (10)(a) Financial information, including but not limited to account
5 numbers and values, and other identification numbers supplied by or on
6 behalf of a person, firm, corporation, limited liability company,
7 partnership, or other entity related to an application for a horse
8 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
9 license, gambling license, or lottery retail license;

10 (b) Financial or proprietary information supplied to the liquor
11 control board including the amount of beer or wine sold by a domestic
12 winery, brewery, microbrewery, or certificate of approval holder under
13 RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or
14 wine purchased by a retail licensee in connection with a retail
15 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of
16 shipments of beer or wine.

17 (11) Proprietary data, trade secrets, or other information that
18 relates to: (a) A vendor's unique methods of conducting business; (b)
19 data unique to the product or services of the vendor; or (c)
20 determining prices or rates to be charged for services, submitted by
21 any vendor to the department of social and health services for purposes
22 of the development, acquisition, or implementation of state purchased
23 health care as defined in RCW 41.05.011;

24 (12)(a) When supplied to and in the records of the department of
25 community, trade, and economic development:

26 (i) Financial and proprietary information collected from any person
27 and provided to the department of community, trade, and economic
28 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

29 (ii) Financial or proprietary information collected from any person
30 and provided to the department of community, trade, and economic
31 development or the office of the governor in connection with the
32 siting, recruitment, expansion, retention, or relocation of that
33 person's business and until a siting decision is made, identifying
34 information of any person supplying information under this subsection
35 and the locations being considered for siting, relocation, or expansion
36 of a business;

37 (b) When developed by the department of community, trade, and

1 economic development based on information as described in (a)(i) of
2 this subsection, any work product is not exempt from disclosure;

3 (c) For the purposes of this subsection, "siting decision" means
4 the decision to acquire or not to acquire a site;

5 (d) If there is no written contact for a period of sixty days to
6 the department of community, trade, and economic development from a
7 person connected with siting, recruitment, expansion, retention, or
8 relocation of that person's business, information described in (a)(ii)
9 of this subsection will be available to the public under this chapter;

10 (13) Financial and proprietary information submitted to or obtained
11 by the department of ecology or the authority created under chapter
12 70.95N RCW to implement chapter 70.95N RCW;

13 (14) Financial, commercial, operations, and technical and research
14 information and data submitted to or obtained by the life sciences
15 discovery fund authority in applications for, or delivery of, grants
16 under chapter 43.350 RCW, to the extent that such information, if
17 revealed, would reasonably be expected to result in private loss to the
18 providers of this information;

19 (15) Financial and commercial information provided as evidence to
20 the department of licensing as required by RCW 19.112.110 or
21 19.112.120, except information disclosed in aggregate form that does
22 not permit the identification of information related to individual fuel
23 licensees;

24 (16) Any production records, mineral assessments, and trade secrets
25 submitted by a permit holder, mine operator, or landowner to the
26 department of natural resources under RCW 78.44.085; ~~((and))~~

27 (17)(a) Farm plans developed by conservation districts, unless
28 permission to release the farm plan is granted by the landowner or
29 operator who requested the plan, or the farm plan is used for the
30 application or issuance of a permit~~((-))~~;

31 (b) Farm plans developed under chapter 90.48 RCW and not under the
32 federal clean water act, 33 U.S.C. Sec. 1251 are subject to RCW
33 42.56.610 and 90.64.190; and

34 (18) Financial, commercial, operations, and technical and research
35 information and data submitted to or obtained by a health sciences and
36 services authority in applications for, or delivery of, grants under
37 sections 1 through 6 of this act, to the extent that such information,

1 if revealed, would reasonably be expected to result in private loss to
2 providers of this information.

3 **Sec. 12.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c
4 338 s 5, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c 171 s 8 are each
5 reenacted and amended to read as follows:

6 The following financial, commercial, and proprietary information is
7 exempt from disclosure under this chapter:

8 (1) Valuable formulae, designs, drawings, computer source code or
9 object code, and research data obtained by any agency within five years
10 of the request for disclosure when disclosure would produce private
11 gain and public loss;

12 (2) Financial information supplied by or on behalf of a person,
13 firm, or corporation for the purpose of qualifying to submit a bid or
14 proposal for (a) a ferry system construction or repair contract as
15 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
16 or improvement as required by RCW 47.28.070;

17 (3) Financial and commercial information and records supplied by
18 private persons pertaining to export services provided under chapters
19 43.163 and 53.31 RCW, and by persons pertaining to export projects
20 under RCW 43.23.035;

21 (4) Financial and commercial information and records supplied by
22 businesses or individuals during application for loans or program
23 services provided by chapters 15.110, 43.163, 43.160, 43.330, and
24 43.168 RCW, or during application for economic development loans or
25 program services provided by any local agency;

26 (5) Financial information, business plans, examination reports, and
27 any information produced or obtained in evaluating or examining a
28 business and industrial development corporation organized or seeking
29 certification under chapter 31.24 RCW;

30 (6) Financial and commercial information supplied to the state
31 investment board by any person when the information relates to the
32 investment of public trust or retirement funds and when disclosure
33 would result in loss to such funds or in private loss to the providers
34 of this information;

35 (7) Financial and valuable trade information under RCW 51.36.120;

36 (8) Financial, commercial, operations, and technical and research

1 information and data submitted to or obtained by the clean Washington
2 center in applications for, or delivery of, program services under
3 chapter 70.95H RCW;

4 (9) Financial and commercial information requested by the public
5 stadium authority from any person or organization that leases or uses
6 the stadium and exhibition center as defined in RCW 36.102.010;

7 (10) Financial information, including but not limited to account
8 numbers and values, and other identification numbers supplied by or on
9 behalf of a person, firm, corporation, limited liability company,
10 partnership, or other entity related to an application for a horse
11 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
12 license, gambling license, or lottery retail license;

13 (11) Proprietary data, trade secrets, or other information that
14 relates to: (a) A vendor's unique methods of conducting business; (b)
15 data unique to the product or services of the vendor; or (c)
16 determining prices or rates to be charged for services, submitted by
17 any vendor to the department of social and health services for purposes
18 of the development, acquisition, or implementation of state purchased
19 health care as defined in RCW 41.05.011;

20 (12)(a) When supplied to and in the records of the department of
21 community, trade, and economic development:

22 (i) Financial and proprietary information collected from any person
23 and provided to the department of community, trade, and economic
24 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

25 (ii) Financial or proprietary information collected from any person
26 and provided to the department of community, trade, and economic
27 development or the office of the governor in connection with the
28 siting, recruitment, expansion, retention, or relocation of that
29 person's business and until a siting decision is made, identifying
30 information of any person supplying information under this subsection
31 and the locations being considered for siting, relocation, or expansion
32 of a business;

33 (b) When developed by the department of community, trade, and
34 economic development based on information as described in (a)(i) of
35 this subsection, any work product is not exempt from disclosure;

36 (c) For the purposes of this subsection, "siting decision" means
37 the decision to acquire or not to acquire a site;

1 (d) If there is no written contact for a period of sixty days to
2 the department of community, trade, and economic development from a
3 person connected with siting, recruitment, expansion, retention, or
4 relocation of that person's business, information described in (a)(ii)
5 of this subsection will be available to the public under this chapter;

6 (13) Financial and proprietary information submitted to or obtained
7 by the department of ecology or the authority created under chapter
8 70.95N RCW to implement chapter 70.95N RCW;

9 (14) Financial, commercial, operations, and technical and research
10 information and data submitted to or obtained by the life sciences
11 discovery fund authority in applications for, or delivery of, grants
12 under chapter 43.350 RCW, to the extent that such information, if
13 revealed, would reasonably be expected to result in private loss to the
14 providers of this information;

15 (15) Financial and commercial
16 information provided as evidence to the department of licensing as
17 required by RCW 19.112.110 or 19.112.120, except information disclosed
18 in aggregate form that does not permit the identification of
19 information related to individual fuel licensees;

20 (16) Any production records, mineral assessments, and trade secrets
21 submitted by a permit holder, mine operator, or landowner to the
22 department of natural resources under RCW 78.44.085; ~~((and))~~

23 (17)(a) Farm plans developed by conservation districts, unless
24 permission to release the farm plan is granted by the landowner or
25 operator who requested the plan, or the farm plan is used for the
26 application or issuance of a permit~~((-))~~;

27 (b) Farm plans developed under chapter 90.48 RCW and not under the
28 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
29 RCW 42.56.610 and 90.64.190; and

30 (18) Financial, commercial, operations, and technical and research
31 information and data submitted to or obtained by a health sciences and
32 services authority in applications for, or delivery of, grants under
33 sections 1 through 6 of this act, to the extent that such information,
34 if revealed, would reasonably be expected to result in private loss to
providers of this information.

35 NEW SECTION. Sec. 13. The legislature finds that accountability
36 and effectiveness are important aspects of setting tax policy. In

1 order to make policy choices regarding the best use of limited state
2 resources the legislature needs information on how a tax incentive is
3 used.

4 A local jurisdiction imposing the tax under this act shall report
5 to the legislature by December 10, 2011, an analysis of the
6 effectiveness of this act. The analysis must give evidence of the
7 effectiveness of this act on the promotion of bioscience-based economic
8 development and the advancement of new therapies and procedures to
9 combat disease and promote public health.

10 NEW SECTION. **Sec. 14.** CAPTIONS. Captions used in this act are
11 not any part of the law.

12 NEW SECTION. **Sec. 15.** SEVERABILITY. If any provision of this act
13 or its application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 16.** CODIFICATION. Sections 1 through 10 of
17 this act constitute a new chapter in Title 35 RCW.

18 NEW SECTION. **Sec. 17.** EXPIRATION DATE. Section 11 of this act
19 expires June 30, 2008.

20 NEW SECTION. **Sec. 18.** EFFECTIVE DATE. Section 12 of this act
21 takes effect June 30, 2008.

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