

Chapter 43.163 RCW
ECONOMIC DEVELOPMENT FINANCE AUTHORITY

Sections

- 43.163.005 Purpose—Construction.
- 43.163.010 Definitions.
- 43.163.020 Economic development finance authority created—
Membership.
- 43.163.030 Small businesses—Funding of export transactions.
- 43.163.040 Farmers—Advance financing, agriculture conservation
reserve program.
- 43.163.050 Pooling of loans.
- 43.163.060 Scope of authority's powers—Duties of other agencies.
- 43.163.070 Use of funds.
- 43.163.080 General operating procedures.
- 43.163.090 Economic development finance objectives plan.
- 43.163.100 Powers of the authority.
- 43.163.110 Restrictions on authority's activity.
- 43.163.120 Staffing, restrictions—Authority not to receive
appropriated state funds.
- 43.163.130 Nonrecourse revenue bonds—Issuance.
- 43.163.140 Nonrecourse revenue bonds—Contracts—Restrictions.
- 43.163.150 Nonrecourse revenue bonds—Financing documents, scope.
- 43.163.160 Nonrecourse revenue bonds—Money received shall be trust
funds.
- 43.163.170 Nonrecourse revenue bonds—Owner and trustee, enforcement
of rights.
- 43.163.180 Nonrecourse revenue bonds as legal investment.
- 43.163.190 Chapter as an alternative bond issuance method.
- 43.163.200 Construction.
- 43.163.210 Nonrecourse revenue bond financing—Economic development
activities—New products.

Bonds to finance conservation measures: RCW 43.19.695.

Public records: Chapter 42.56 RCW.

RCW 43.163.005 Purpose—Construction. Economic development is essential to the health, safety, and welfare of all Washington citizens by broadening and strengthening state and local tax bases, providing meaningful employment opportunities and thereby enhancing the quality of life. Economic development increasingly is dependent upon the ability of small-sized and medium-sized businesses and farms to finance growth and trade activities. Many of these businesses face an unmet need for capital that limits their growth. These unmet capital needs are a problem in both urban and rural areas which cannot be solved by the private sector alone. There presently exist some federal programs, private credit enhancements and other financial tools to complement the private banking industry in providing this needed capital. More research is needed to develop effective strategies to enhance access to capital and thereby stimulate economic development.

It is the purpose of this chapter to establish a state economic development finance authority to act as a financial conduit that,

without using state funds or lending the credit of the state or local governments, can issue nonrecourse revenue bonds, and participate in federal, state, and local economic development programs to help facilitate access to needed capital by Washington businesses that cannot otherwise readily obtain needed capital on terms and rates comparable to large corporations, and can help local governments obtain capital more efficiently. It is also a primary purpose of this chapter to encourage the employment and retention of Washington workers at meaningful wages and to develop innovative approaches to the problem of unmet capital needs. This chapter is enacted to accomplish these and related purposes and shall be construed liberally to carry out its purposes and objectives. [1990 c 53 s 1; 1989 c 279 s 1.]

Findings—Purpose—1994 c 302: "The legislature finds that when public funds are used to support private enterprise, the public may gain through the creation of new jobs, the diversification of the economy, or higher quality jobs for existing workers. The legislature further finds that such returns on public investments are not automatic and that tax-based incentives, in particular, may result in a greater tax burden on businesses and individuals that are not eligible for the public support. It is the purpose of this *chapter to collect information sufficient to allow the legislature and the executive branch to make informed decisions about the merits of existing tax-based incentives and loan programs intended to encourage economic development in the state." [1994 c 302 s 1.]

***Reviser's note:** 1994 c 302 s 2 was vetoed. 1994 c 302 s 3 is a codification direction and 1994 c 302 s 4 is an emergency clause. The code reviser's office chose not to create a new chapter for the only remaining section, section 1.

RCW 43.163.010 Definitions. As used in this chapter, the following words and terms have the following meanings, unless the context requires otherwise:

(1) "Authority" means the Washington economic development finance authority created under RCW 43.163.020 or any board, body, commission, department or officer succeeding to the principal functions of the authority or to whom the powers conferred upon the authority shall be given by law;

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

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

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

(5) "Eligible export transaction" means any preexport or export activity by a person or entity located in the state of Washington involving a sale for export and product sale which, in the judgment of the authority: (a) Will create or maintain employment in the state of Washington, (b) will obtain a material percent of its value from manufactured goods or services made, processed or occurring in Washington, and (c) could not otherwise obtain financing on reasonable terms from an eligible banking organization;

(6) "Eligible farmer" means any person who is a resident of the state of Washington and whose specific acreage qualifying for receipts from the federal department of agriculture under its conservation reserve program is within the state of Washington;

(7) "Eligible person" means an individual, partnership, corporation, or joint venture carrying on business, or proposing to carry on business within the state and is seeking financial assistance under RCW 43.163.210;

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

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

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

(11) "Economic development activities" means activities related to: Manufacturing, processing, research, production, assembly, tooling, warehousing, airports, docks and wharves, mass commuting facilities, high-speed intercity rail facilities, public broadcasting, pollution control, solid waste disposal, federally qualified hazardous waste facilities, energy generating, conservation, or transmission facilities, and sports facilities and industrial parks and activities conducted within a federally designated enterprise or empowerment zone or geographic area of similar nature;

(12) "Project costs" means costs of:

(a) Acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of land, rights to land, buildings, structures, docks, wharves, fixtures, machinery, equipment, excavations, paving, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities, and any other real or personal property included in an economic development activity;

(b) Architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, acquisition, lease, construction, reconstruction, remodeling, refurbishing,

rehabilitation, extension, and enlargement of an activity included under subsection (11) of this section, including costs of studies assessing the feasibility of an economic development activity;

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

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

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

(f) Other costs incidental to any of the costs listed in this section;

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

(14) "Financing agreements" means, and includes without limitation, a contractual arrangement with an eligible person whereby the authority obtains rights from or in an invention or product or proceeds from an invention or product in exchange for the granting of financial and other assistance to the person. [1999 c 294 s 1. Prior: 1994 c 238 s 1; 1994 c 92 s 498; 1989 c 279 s 2.]

Effective date—1999 c 294: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 13, 1999]." [1999 c 294 s 2.]

Severability—1994 c 238: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 238 s 6.]

Effective date—1994 c 238: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1994]." [1994 c 238 s 7.]

RCW 43.163.020 Economic development finance authority created—Membership. The Washington economic development finance authority is established as a public body corporate and politic, with perpetual corporate succession, constituting an instrumentality of the state of Washington exercising essential governmental functions. The authority is a public body within the meaning of RCW 39.53.010.

The authority shall consist of 17 members as follows: The director of the department of commerce, the director of the department of agriculture, the state treasurer, one member from each caucus in the house of representatives appointed by the speaker of the house, one member from each caucus in the senate appointed by the president of the senate, and ten public members with one representative of

women-owned businesses and one representative of minority-owned businesses and with at least three of the members residing east of the Cascades. The public members shall be residents of the state appointed by the governor on the basis of their interest or expertise in trade, agriculture or business finance or jobs creation and development. One of the public members shall be appointed by the governor as chair of the authority and shall serve as chair of the authority at the pleasure of the governor. The authority may select from its membership such other officers as it deems appropriate.

The term of the persons appointed by the governor as public members of the authority, including the public member appointed as chair, shall be four years from the date of appointment, except that the term of three of the initial appointees shall be for two years from the date of appointment and the term of four of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms.

In the event of a vacancy on the authority due to death, resignation or removal of one of the public members, or upon the expiration of the term of one of the public members, the governor shall appoint a successor for the remainder of the unexpired term. If either of the state offices is abolished, the resulting vacancy on the authority shall be filled by the state officer who shall succeed substantially to the power and duties of the abolished office.

Any public member of the authority may be removed by the governor for misfeasance, malfeasance or willful neglect of duty after notice and a public hearing, unless such notice and hearing shall be expressly waived in writing by the affected public member.

The state officials serving in ex officio capacity may each designate an employee of their respective departments to act on their behalf in all respects with regard to any matter to come before the authority. Such designations shall be made in writing in such manner as is specified by the rules of the authority.

The members of the authority shall serve without compensation but shall be entitled to reimbursement, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter. The authority may borrow funds from the department for the purpose of reimbursing members for expenses; however, the authority shall repay the department as soon as practicable.

A majority of the authority shall constitute a quorum. [2023 c 470 s 2063; 1995 c 399 s 89; 1990 c 53 s 2; 1989 c 279 s 3.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

RCW 43.163.030 Small businesses—Funding of export transactions.

(1) The authority, in cooperation with the small business export finance assistance center and other export assistance entities, is authorized to develop and conduct a program or programs to provide for the funding of export transactions for small businesses which are unable to obtain funding from private commercial lenders.

(2) The authority is authorized to secure or provide guaranties or insurance for loans and otherwise to provide for loans for any eligible export transaction. Loans may be made either directly by the authority or through an eligible banking organization. For such

purpose, the authority may use funds legally available to it to provide for insurance or to guarantee eligible export transactions for which guaranteed funding has been provided.

(3) The authority shall make every effort to cause guaranties or insurance to be provided from the export-import bank of the United States, the foreign credit insurance association, the small business administration or such other similar or succeeding federal or private programs whose financial performance in the guarantee or insurance of export transactions is sound and recognized in the financial community. The maximum amount payable under any guaranty shall be specifically set forth in writing at the time any such guaranteed funding is entered into by the authority.

(4) Prior to providing or securing a guarantee of funding or otherwise providing for a loan for any eligible export transaction hereunder, the authority shall obtain assurance that there has been made an investigation of the credit of the exporter in order to determine its viability, the economic benefits to be derived from the eligible export transaction, the prospects for repayment, and such other facts as it deems necessary in order to determine that such guaranteed funding is consistent with the purposes of this chapter. [1989 c 279 s 4.]

Small business export finance assistance center: Chapter 43.210 RCW.

RCW 43.163.040 Farmers—Advance financing, agriculture conservation reserve program. To provide capital for economic development purposes, the authority is authorized to develop and conduct a program or programs to provide advance financing to eligible farmers in respect of the contract payments due to them under the federal department of agriculture conservation reserve program. Such advance financing may be provided in the form of lease, sale, loan or other similar financing transactions. [1989 c 279 s 5.]

RCW 43.163.050 Pooling of loans. The authority is authorized to develop and conduct a program or programs to promote small business and agricultural financing in the state through the pooling of loans or portions of loans made or guaranteed through programs administered by federal agencies including the small business or farmers home administrations. For such purpose, the authority may acquire from eligible banking organizations and other financial intermediaries who make or hold loans made or guaranteed through programs administered by the federal small business or farmers home administrations all or portions of such loans, and the authority may contract or coordinate with parties authorized to acquire or pool loans made or guaranteed by a federal agency or with parties authorized to administer such loan or guarantee programs. [1990 c 53 s 3; 1989 c 279 s 6.]

RCW 43.163.060 Scope of authority's powers—Duties of other agencies. (1) The authority is authorized to participate fully in federal and other governmental economic development finance programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and to meet their requirements.

(2) The authority shall coordinate its programs with those contributing to a common purpose found elsewhere in the departments of *community, trade, and economic development, agriculture or employment security, or any other department or organization of, or affiliated with, the state or federal government, and shall avoid any duplication of such activities or programs provided elsewhere. The departments of *community, trade, and economic development, agriculture, employment security and other relevant state agencies shall provide to the authority all reports prepared in the course of their ongoing activities which may assist in the identification of unmet capital financing needs by small-sized and medium-sized businesses in the state. [1995 c 399 s 90; 1989 c 279 s 7.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

RCW 43.163.070 Use of funds. The authority may use any funds legally available to it for any purpose specifically authorized by this chapter, or for otherwise improving economic development in this state by assisting businesses and farm enterprises that do not have access to capital at terms and rates comparable to large corporations due to the location of the business, the size of the business, the lack of financial expertise, or other appropriate reasons: PROVIDED, That no funds of the state shall be used for such purposes. [1990 c 53 s 4; 1989 c 279 s 8.]

RCW 43.163.080 General operating procedures. (1) The authority shall adopt general operating procedures for the authority. The authority shall also adopt operating procedures for individual programs as they are developed for obtaining funds and for providing funds to borrowers. These operating procedures shall be adopted by resolution prior to the authority operating the applicable programs.

(2) The operating procedures shall include, but are not limited to: (a) Appropriate minimum reserve requirements to secure the authority's bonds and other obligations; (b) appropriate standards for securing loans and other financing the authority provides to borrowers, such as guarantees or collateral; and (c) strict standards for providing financing to borrowers, such as (i) the borrower is a responsible party with a high probability of being able to repay the financing provided by the authority, (ii) the financing is reasonably expected to provide economic growth or stability in the state by enabling a borrower to increase or maintain jobs or capital in the state, (iii) the borrowers with the greatest needs or that provide the most public benefit are given higher priority by the authority, and (iv) the financing is consistent with any plan adopted by the authority under RCW 43.163.090. [1994 c 238 s 2; 1990 c 53 s 5; 1989 c 279 s 9.]

Severability—Effective date—1994 c 238: See notes following RCW 43.163.010.

RCW 43.163.090 Economic development finance objectives plan. The authority shall adopt a general plan of economic development

finance objectives to be implemented by the authority during the period of the plan. The authority may exercise the powers authorized under this chapter prior to the adoption of the initial plan. In developing the plan, the authority shall consider and set objectives for:

- (1) Employment generation associated with the authority's programs;
- (2) The application of funds to sectors and regions of the state economy evidencing need for improved access to capital markets and funding resources;
- (3) Geographic distribution of funds and programs available through the authority;
- (4) Eligibility criteria for participants in authority programs;
- (5) The use of funds and resources available from or through federal, state, local, and private sources and programs;
- (6) Standards for economic viability and growth opportunities of participants in authority programs;
- (7) New programs which serve a targeted need for financing assistance within the purposes of this chapter; and
- (8) Opportunities to improve capital access as evidenced by programs existent in other states or as they are made possible by results of private capital market circumstances.

The authority shall, as part of the finance plan required under this section, develop an outreach and marketing plan designed to increase its financial services to rural counties. As used in this section, "rural counties" means counties smaller than two hundred twenty-five square miles or as defined in RCW 43.168.020.

At least one public hearing shall be conducted by the authority on the plan prior to its adoption. The plan shall be adopted by resolution of the authority no later than November 15, 1990. The authority may periodically update the plan as determined necessary by the authority. The plan or updated plan shall include a report on authority activities conducted since the commencement of authority operation or since the last plan was reported, whichever is more recent, including a statement of results achieved under the purposes of this chapter and the plan. Upon adoption, the authority shall conduct its programs in observance of the objectives established in the plan. [2001 c 304 s 1; 1998 c 245 s 50; 1997 c 257 s 1; 1989 c 279 s 10.]

Effective date—2001 c 304: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 14, 2001]." [2001 c 304 s 4.]

RCW 43.163.100 Powers of the authority. In addition to accomplishing the economic development finance programs specifically authorized in this chapter, the authority may:

- (1) Maintain an office or offices;
- (2) Sue and be sued in its own name, and plead and be impleaded;
- (3) Engage consultants, agents, attorneys, and advisers, contract with federal, state, and local governmental entities for services, and hire such employees, agents and other personnel as the authority deems necessary, useful, or convenient to accomplish its purposes;

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

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

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

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

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

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

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

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

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

(13) Make such expenditures as are appropriate for paying the administrative costs and expenses of the authority in carrying out the provisions of this chapter: PROVIDED, That expenditures with respect to the economic development financing programs of the authority shall not be made from funds of the state;

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

(15) Give assistance to public bodies by providing information, guidelines, forms, and procedures for implementing their financing programs;

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

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

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

(19) Exercise any other power the authority deems necessary, useful, or convenient to accomplish its purposes and exercise the powers expressly granted in this chapter. [1990 c 53 s 6; 1989 c 279 s 11.]

Bonds to finance conservation measures: RCW 43.19.695.

RCW 43.163.110 Restrictions on authority's activity.

Notwithstanding any other provision of this chapter, the authority shall not:

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

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

(3) Be or constitute a bank or trust company within the jurisdiction or under the control of the director of financial institutions, the comptroller of the currency of the United States of America or the treasury department thereof;

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

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

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

(7) Engage in financing higher education facilities as provided for in chapter 28B.07 RCW. [1994 c 92 s 499; 1989 c 279 s 12.]

RCW 43.163.120 Staffing, restrictions—Authority not to receive appropriated state funds. The authority shall receive no appropriation of state funds. The department of commerce shall provide staff to the authority, to the extent permitted by law, to enable the authority to accomplish its purposes; the staff from the department of commerce may assist the authority in organizing itself and in designing programs, but shall not be involved in the issuance of bonds or in making credit decisions regarding financing provided to borrowers by the authority. [2023 c 470 s 2064; 1998 c 245 s 51; 1994 c 238 s 3; 1989 c 279 s 13.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Severability—Effective date—1994 c 238: See notes following RCW 43.163.010.

RCW 43.163.130 Nonrecourse revenue bonds—Issuance. (1) The authority may issue its nonrecourse revenue bonds in order to obtain the funds to carry out the programs authorized in this chapter. The bonds must be special obligations of the authority, payable solely out of the special fund or funds established by the authority for their repayment.

(2) Any bonds issued under this chapter may be secured by a financing document between the authority and the purchasers or owners of such bonds or between the authority and a corporate trustee, which

may be any trust company or bank having the powers of a trust company within or without the state.

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

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

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

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

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

(5) The bonds may be issued as serial bonds, term bonds or any other type of bond instrument consistent with the provisions of this chapter. The bonds shall bear such date or dates; mature at such time or times; bear interest at such rate or rates, either fixed or variable; be payable at such time or times; be in such denominations; be in such form; bear such privileges of transferability, exchangeability, and interchangeability; be subject to such terms of redemption; and be sold at public or private sale, in such manner, at such time or times, and at such price or prices as the authority determines. The bonds must be executed by the manual or facsimile signatures of the authority's chair and either its secretary or executive director, and may be authenticated by the trustee (if the authority determines to use a trustee) or any registrar which may be designated for the bonds by the authority.

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

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

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

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

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

(11) The state finance committee must be notified in advance of the issuance of bonds by the authority in order to promote the orderly offering of obligations in the financial markets. [2011 c 176 s 1; 2005 c 137 s 1. Prior: 2001 c 304 s 2; 2001 c 32 s 2; 1998 c 48 s 1; 1994 c 238 s 5; 1989 c 279 s 14.]

Effective date—2001 c 304: See note following RCW 43.163.090.

Effective date—2001 c 32: See note following RCW 62A.9A-102.

Severability—Effective date—1994 c 238: See notes following RCW 43.163.010.

Bonds to finance conservation measures: RCW 43.19.695.

RCW 43.163.140 Nonrecourse revenue bonds—Contracts—

Restrictions. (1) Bonds issued by the authority under this chapter shall not be deemed to constitute obligations, either general, special or moral, of the state or of any political subdivision of the state, or pledge of the faith and credit of the state or of any political subdivision, or general obligations of the authority. The bonds shall be special obligations of the authority and shall be payable solely from the special fund or funds created by the authority for their repayment. The issuance of bonds under this chapter shall not obligate, directly, indirectly, or contingently, the state or any political subdivision of the state to levy any taxes or appropriate or expend any funds for the payment of the principal or the interest on the bonds. The substance of the limitations included in this paragraph shall be plainly printed, written, engraved, or reproduced on each bond and in any disclosure document prepared in conjunction with the offer and sale of bonds.

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

(3) Contracts entered into by the authority shall be entered into in the name of the authority and not in the name of the state. The obligations of the authority under such contracts shall be obligations only of the authority and shall not, in any way, constitute obligations of the state. [1989 c 279 s 15.]

RCW 43.163.150 Nonrecourse revenue bonds—Financing documents, scope. The authority may enter into financing documents with borrowers regarding bonds issued by the authority that may provide for the payment by each borrower of amounts sufficient, together with other revenues available to the authority, if any, to: (1) Pay the borrower's share of the fees established by the authority; (2) pay the principal of, premium, if any, and interest on outstanding bonds of the authority issued in respect of such borrower as the same shall become due and payable; and (3) create and maintain reserves required or provided for by the authority in connection with the issuance of such bonds. The payments shall not be subject to supervision or regulation by any department, committee, board, body, bureau, or agency of the state other than the authority. [1989 c 279 s 16.]

RCW 43.163.160 Nonrecourse revenue bonds—Money received shall be trust funds. All money received by or on behalf of the authority with respect to this issuance of its bonds shall be trust funds to be held and applied solely as provided in this chapter. The authority, in lieu of receiving and applying the moneys itself, may enter into trust agreement or indenture with one or more banks or trust companies having the power and authority to conduct trust business in the state to:

(1) Perform all of any part of the obligations of the authority with respect to: (a) Bonds issued by it; (b) the receipt, investment and application of the proceeds of the bonds and money paid by a participant or available from other sources for the payment of the bonds; (c) the enforcement of the obligations of a borrower in connection with the financing or refinancing of any project; and (d) other matters relating to the exercise of the authority's powers under this chapter;

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

(3) Act on behalf of the authority or the owners of bonds of the authority for purposes of assuring or enforcing the payment of the bonds, when due. [1989 c 279 s 17.]

RCW 43.163.170 Nonrecourse revenue bonds—Owner and trustee, enforcement of rights. Any owner of bonds of the authority issued under this chapter, and the trustee under any trust agreement or

indenture, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any of their respective rights, and may become the purchaser at any foreclosure sale if the person is the highest bidder, except to the extent the rights given are restricted by the authority in any bond resolution or trust agreement or indenture authorizing the issuance of the bonds. [1989 c 279 s 18.]

RCW 43.163.180 Nonrecourse revenue bonds as legal investment.

The bonds or [of] the authority are securities in which all public officers and bodies of this state and all counties, cities, municipal corporations and political subdivisions, all banks, eligible banking organizations, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control. [1989 c 279 s 19.]

RCW 43.163.190 Chapter as an alternative bond issuance method.

This chapter provides a complete, additional and alternative method for accomplishing the purposes of this chapter and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds. [1989 c 279 s 20.]

RCW 43.163.200 Construction. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, or parts thereof, the provisions of this chapter are controlling. [1989 c 279 s 21.]

RCW 43.163.210 Nonrecourse revenue bond financing—Economic development activities—New products. For the purpose of facilitating economic development in the state of Washington and encouraging the employment of Washington workers at meaningful wages:

(1) The authority may develop and conduct a program or programs to provide nonrecourse revenue bond financing for the project costs for economic development activities.

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

(a) For the purposes of this program, the authority shall have the following powers and duties:

(i) To enter into financing agreements with eligible persons doing business in Washington state, upon terms and on conditions consistent with the purposes of this chapter, for the advancement of

financial and other assistance to the persons for the development of specific products, procedures, and techniques, to be developed and produced in this state, and to condition the agreements upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in this state and accrue to it;

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

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

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

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

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

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

(b) Eligible persons seeking financial and other assistance under this program shall forward an application, together with an application fee prescribed by rule, to the authority. An investigation and report concerning the advisability of approving an application for assistance shall be completed by the staff of the authority. The investigation and report may include, but is not limited to, facts about the company under consideration as its history, wage standards, job opportunities, stability of employment, past and present financial condition and structure, pro forma income statements, present and future markets and prospects, integrity of management as well as the feasibility of the proposed product and invention to be granted financial aid, including the state of development of the product as well as the likelihood of its commercial feasibility. After receipt and consideration of the report set out in this subsection and after other action as is deemed appropriate, the application shall be approved or denied by the authority. The applicant shall be promptly notified of action by the authority. In making the decision as to approval or denial of an application, priority shall be given to those persons operating or planning to operate businesses of special importance to Washington's economy, including, but not limited to: (i) Existing resource-based industries of agriculture, forestry, and fisheries; (ii) existing advanced technology industries of electronics, computer and instrument manufacturing, computer software, and information and design; and (iii) emerging industries such as environmental technology, biotechnology, biomedical sciences, materials sciences, and optics.

(3) The authority may also develop and implement, if authorized by the legislature, such other economic development financing programs adopted in future general plans of economic development finance objectives developed under RCW 43.163.090. [2005 c 137 s 2; 2001 c

304 s 3; 1998 c 48 s 2; 1997 c 257 s 2; 1996 c 310 s 1; 1994 c 238 s 4.]

Effective date—2001 c 304: See note following RCW 43.163.090.

Effective date—1996 c 310 s 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 30, 1996]." [1996 c 310 s 3.]

Severability—Effective date—1994 c 238: See notes following RCW 43.163.010.