

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 6727

61st Legislature
2010 1st Special Session

Passed by the Senate April 12, 2010
YEAS 43 NAYS 1

President of the Senate

Passed by the House April 12, 2010
YEAS 71 NAYS 23

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6727** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6727

AS AMENDED BY THE HOUSE

Passed Legislature - 2010 1st Special Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Ways & Means (originally sponsored by Senators Marr and Brown)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to health sciences and services authorities;
2 amending RCW 35.104.060, 35.104.040, 82.14.480, and 42.30.110; and
3 adding a new section to chapter 35.104 RCW.

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

5 **Sec. 1.** RCW 35.104.060 and 2009 c 564 s 921 are each amended to
6 read as follows:

7 (1) The authority has all the general powers necessary to carry out
8 its purposes and duties and to exercise its specific powers, including
9 the authority may:

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

11 (b) Make and execute agreements, contracts, and other instruments,
12 with any public or private entity or person, in accordance with this
13 chapter;

14 (c) Employ, contract with, or engage independent counsel, financial
15 advisors, auditors, other technical or professional assistants, and
16 such other personnel as are necessary or desirable to implement this
17 chapter;

18 (d) Establish such special funds, and control deposits to and

1 disbursements from them, as it finds convenient for the implementation
2 of this chapter;

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

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

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

9 (h) Hire staff and pay administrative costs; however, such expenses
10 shall be paid from moneys provided by the sponsoring local government
11 and moneys received from gifts, grants, and bequests and the interest
12 earned on the authority's accounts and investments. (~~During the 2009-~~
13 ~~2011 fiscal biennium, up to~~) No more than ten percent of the amounts
14 received under RCW 82.14.480 may be used by a health sciences and
15 services (~~and sciences~~) authority for the purposes of subsections
16 (1)(c) and (h) of this section.

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

19 (a) Use the authority's public moneys, leveraging those moneys with
20 amounts received from other public and private sources in accordance
21 with contribution agreements, to promote bioscience-based economic
22 development, and to advance new therapies and procedures to combat
23 disease and promote public health;

24 (b) Solicit and receive gifts, grants, and bequests, and enter into
25 contribution agreements with private entities and public entities to
26 receive moneys in consideration of the authority's promise to leverage
27 those moneys with the revenue generated by the tax authorized under RCW
28 82.14.480 and contributions from other public entities and private
29 entities, in order to use those moneys to promote bioscience-based
30 economic development and advance new therapies and procedures to combat
31 disease and promote public health;

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

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

1 (e) Borrow money and incur indebtedness pursuant to section 4 of
2 this act;

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

21 ((+f)) (g) Create one or more advisory boards composed of
22 scientists, industrialists, and others familiar with health sciences
23 and services; and

24 ((+g)) (h) Adopt policies and procedures to facilitate the orderly
25 process of grant application, review, and reward.

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

28 **Sec. 2.** RCW 35.104.040 and 2007 c 251 s 4 are each amended to read
29 as follows:

30 (1) The higher education coordinating board may approve
31 applications submitted by local governments for an area's designation
32 as a health sciences and services authority under this chapter. The
33 director ((shall)) must determine the division to review applications
34 submitted by local governments under this chapter. The application for
35 designation ((shall)) must be in the form and manner and contain such
36 information as the higher education coordinating board may prescribe,
37 provided the application ((shall)):

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

3 (b) Demonstrates 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))~~ Is submitted on behalf of the local government, or, if
7 that office does not exist, by the legislative body of the local
8 government;

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

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

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

19 (2) The director ~~((shall))~~ must determine the division to develop
20 criteria to evaluate the application. The criteria ~~((shall))~~ must
21 include:

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

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

26 (c) The presence of facilities in which health services are
27 provided.

28 (3) There ~~((shall))~~ may be no more than ~~((one—authority))~~ two
29 authorities statewide.

30 (4) An authority may only be created in a county with a population
31 of less than one million persons and located east of the crest of the
32 Cascade mountains.

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

1 (6) Applications are due by December 31, (~~(2007)~~) 2010, and must be
2 processed within sixty days of submission.

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

5 (8) The higher education coordinating board may adopt any rules
6 necessary to implement this chapter (~~((251, Laws of 2007 within one
7 hundred twenty days of July 22, 2007))~~).

8 (9) The higher education coordinating board must develop evaluation
9 and performance measures in order to evaluate the effectiveness of the
10 programs in the authorities that are funded with public resources. A
11 report to the legislature (~~((shall be))~~) is due on a biennial basis
12 beginning December 1, 2009. In addition, the higher education
13 coordinating board (~~((shall))~~) must develop evaluation criteria that
14 enables the local governments to measure the effectiveness of the
15 program.

16 **Sec. 3.** RCW 82.14.480 and 2007 c 251 s 11 are each amended to read
17 as follows:

18 (1) The legislative authority of a local jurisdiction that has
19 created a health sciences and services authority under RCW 35.104.030,
20 prior to January 1, 2010, may impose a sales and use tax in accordance
21 with the terms of this chapter. The tax is in addition to other taxes
22 authorized by law and (~~((shall))~~) must be collected from those persons
23 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
24 the occurrence of any taxable event within the local jurisdiction. The
25 rate of the tax (~~((shall))~~) may not exceed 0.020 percent of the selling
26 price in the case of a sales tax or the value of the article used in
27 the case of a use tax.

28 (2) The tax imposed under subsection (1) of this section (~~((shall))~~)
29 must be deducted from the amount of tax otherwise required to be
30 collected or paid over to the department under chapter 82.08 or 82.12
31 RCW. The department of revenue (~~((shall))~~) must perform the collection
32 of the tax on behalf of the authority at no cost to the authority.

33 (3) The amounts received under this section may only be used in
34 accordance with RCW 35.104.060 or to finance and retire the
35 indebtedness incurred pursuant to RCW 35.104.070, in whole or in part.

36 (4) This section expires January 1, 2023.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.104 RCW
2 to read as follows:

3 (1) A local government that has established a health sciences and
4 services authority under RCW 35.104.030 may, by ordinance or
5 resolution, authorize the authority to borrow money under the
6 conditions set forth in this section.

7 (2) Moneys borrowed by an authority must be secured by funds
8 derived from gifts or grants from any source, public or private,
9 federal, state, or local government grants or payments, or
10 intergovernmental transfers.

11 (3) The authority shall incur no expense or liability that is an
12 obligation, either general or special, of the state or local
13 government, or a general obligation of the authority, and shall pay no
14 expense or liability from funds other than funds of the authority.

15 **Sec. 5.** RCW 42.30.110 and 2005 c 424 s 13 are each amended to read
16 as follows:

17 (1) Nothing contained in this chapter may be construed to prevent
18 a governing body from holding an executive session during a regular or
19 special meeting:

20 (a) To consider matters affecting national security;

21 (b) To consider the selection of a site or the acquisition of real
22 estate by lease or purchase when public knowledge regarding such
23 consideration would cause a likelihood of increased price;

24 (c) To consider the minimum price at which real estate will be
25 offered for sale or lease when public knowledge regarding such
26 consideration would cause a likelihood of decreased price. However,
27 final action selling or leasing public property shall be taken in a
28 meeting open to the public;

29 (d) To review negotiations on the performance of publicly bid
30 contracts when public knowledge regarding such consideration would
31 cause a likelihood of increased costs;

32 (e) To consider, in the case of an export trading company,
33 financial and commercial information supplied by private persons to the
34 export trading company;

35 (f) To receive and evaluate complaints or charges brought against
36 a public officer or employee. However, upon the request of such

1 officer or employee, a public hearing or a meeting open to the public
2 shall be conducted upon such complaint or charge;

3 (g) To evaluate the qualifications of an applicant for public
4 employment or to review the performance of a public employee. However,
5 subject to RCW 42.30.140(4), discussion by a governing body of
6 salaries, wages, and other conditions of employment to be generally
7 applied within the agency shall occur in a meeting open to the public,
8 and when a governing body elects to take final action hiring, setting
9 the salary of an individual employee or class of employees, or
10 discharging or disciplining an employee, that action shall be taken in
11 a meeting open to the public;

12 (h) To evaluate the qualifications of a candidate for appointment
13 to elective office. However, any interview of such candidate and final
14 action appointing a candidate to elective office shall be in a meeting
15 open to the public;

16 (i) To discuss with legal counsel representing the agency matters
17 relating to agency enforcement actions, or to discuss with legal
18 counsel representing the agency litigation or potential litigation to
19 which the agency, the governing body, or a member acting in an official
20 capacity is, or is likely to become, a party, when public knowledge
21 regarding the discussion is likely to result in an adverse legal or
22 financial consequence to the agency.

23 This subsection (1)(i) does not permit a governing body to hold an
24 executive session solely because an attorney representing the agency is
25 present. For purposes of this subsection (1)(i), "potential
26 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)
27 concerning:

28 ~~((A))~~ (i) Litigation that has been specifically threatened to
29 which the agency, the governing body, or a member acting in an official
30 capacity is, or is likely to become, a party;

31 ~~((B))~~ (ii) Litigation that the agency reasonably believes may be
32 commenced by or against the agency, the governing body, or a member
33 acting in an official capacity; or

34 ~~((C))~~ (iii) Litigation or legal risks of a proposed action or
35 current practice that the agency has identified when public discussion
36 of the litigation or legal risks is likely to result in an adverse
37 legal or financial consequence to the agency;

1 (j) To consider, in the case of the state library commission or its
2 advisory bodies, western library network prices, products, equipment,
3 and services, when such discussion would be likely to adversely affect
4 the network's ability to conduct business in a competitive economic
5 climate. However, final action on these matters shall be taken in a
6 meeting open to the public;

7 (k) To consider, in the case of the state investment board,
8 financial and commercial information when the information relates to
9 the investment of public trust or retirement funds and when public
10 knowledge regarding the discussion would result in loss to such funds
11 or in private loss to the providers of this information;

12 (l) To consider proprietary or confidential nonpublished
13 information related to the development, acquisition, or implementation
14 of state purchased health care services as provided in RCW 41.05.026;

15 (m) To consider in the case of the life sciences discovery fund
16 authority, the substance of grant applications and grant awards when
17 public knowledge regarding the discussion would reasonably be expected
18 to result in private loss to the providers of this information;

19 (n) To consider in the case of a health sciences and services
20 authority, the substance of grant applications and grant awards when
21 public knowledge regarding the discussion would reasonably be expected
22 to result in private loss to the providers of this information.

23 (2) Before convening in executive session, the presiding officer of
24 a governing body shall publicly announce the purpose for excluding the
25 public from the meeting place, and the time when the executive session
26 will be concluded. The executive session may be extended to a stated
27 later time by announcement of the presiding officer.

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