



House Joint Resolution 7

PROPOSED CONSTITUTIONAL AMENDMENT

Vote cast by the 1981 Legislature on final passage:
HOUSE: Yeas, 86; Nays, 12; Absent or Not Voting, 0.
SENATE: Yeas, 37; Nays, 12; Absent or Not Voting, 0.

Statement for

A CONSTITUTIONAL AMENDMENT

HJR 7 is a proposed amendment to the Washington State Constitution that provides for the sale of tax-free revenue bonds, payable only from private sources, to finance pollution control, job and economic development projects.

STRONG STATE ECONOMY

The use of special tax-free financing to encourage job and economic development is a Federal tax incentive program designed by Congress. When 49 other states make use of some form of tax-free economic development bonds, Washington is placed at a definite competitive disadvantage in attracting the kind of business and industry that we desire to keep our state both clean and economically strong.

MORE JOBS

The state of Massachusetts is one of the best examples of how tax-exempt borrowing can be used. In Boston, construction is underway on a 100,000 square foot new plant for P & L Sportswear. As many as 700 people will work in this facility, which was made possible by tax-exempt financing.

POLLUTION CONTROL

Three major uses of this type of financing would be private investment in air and water pollution control facilities and the development of solid waste resource recovery facilities using private sector management.

NO TAXES

No tax dollars would be used to repay these bonds. Tax-free bonds are sold to investors who are, in turn, repaid by

Official Ballot Title:

Shall industrial development bonds, repaid by such developments, not by public funds, be authorized for issuance by public governmental entities?

The law as it now exists:

Federal law exempts from income tax the interest paid on bonds issued by or on behalf of states or municipalities. This tax exemption results in a lower interest cost to the state and municipal borrowers than to private borrowers. Some states now issue nonrecourse bonds, the proceeds of which are used for private industrial development. A nonrecourse bond is a bond, the repayment of which is made solely from revenue derived from the industrial development or other

money that is generated by the new business or project that has been financed. In the event of a default or any other loss, the investor has no recourse against tax dollars or public credit.

HJR 7 YES!

A CLEAN, STRONG WASHINGTON

Rebuttal of Statement against

The arguments made against HJR 7 are unfounded and untrue. After thorough study, more than two thirds of the state legislature voted for HJR 7. It is supported by the governor, treasurer, and secretary of state, State Labor Council, Farm Bureau, Association of Washington Business, chambers of commerce, Association of Washington Cities, and many others who have studied it. This broad support is the best evidence that HJR 7 will not create higher taxes and will create new jobs.

Voters Pamphlet Statement Prepared by:

GEORGE SELLAR, State Senator; GEORGE FLEMING, State Senator; ROD CHANDLER, State Representative.

Advisory Committee: JOHN SPELLMAN, Governor; ROBERT S. O'BRIEN, State Treasurer; PHYLLIS SHRAUGER, President, Association of Washington Cities; MARVIN WILLIAMS, President, Washington State Labor Council, AFL-CIO; ROBERT CHAMBLERAIN, State Representative.

private sources, and not from any public funds. Such bonds are state or municipal bonds for the purposes of the income tax exemption.

The Washington State Constitution now prohibits the loaning or giving of credit to private persons and thus prevents the issuance of such nonrecourse tax exempt industrial development bonds.

The effect of House Joint Resolution No. 7, if approved into law:

The legislature would be authorized to allow the state and local governments to issue nonrecourse revenue bonds for private industrial development purposes. Nonrecourse revenue bonds would be repayable only from funds derived from industrial projects financed by the bonds or other private sources and would not be repayable from public funds. Such bonds may be issued only if the interest thereon is exempt from federal income taxation.

1981 legislation defines industrial development as including pollution control, solid waste disposal, transportation, manufacturing, processing, production, assembly, warehousing and energy facilities. Any legislative redefinition of industrial development would require a

sixty percent favorable vote of each house of the legislature.

State and local governments would be prohibited from using government powers such as taxation or eminent domain on behalf of any industrial project financed under this measure.

NOTE: The ballot title and explanatory statement were written by the Attorney General as required by state law. The complete text of House Joint Resolution 7 and its implementing legislation begins on page 18.

Statement against

HJR 7 WILL FORCE TAXES HIGHER

The loss of revenue due to the tax exempt status of the bonds must be made up by increasing other taxes. Experience in other states shows that industrial projects impact the zoning classification of adjacent neighborhoods, thereby often increasing property taxes.

HJR 7 WILL HURT SMALL BUSINESS

Unfair competition from publicly subsidized developments will decrease profits and drive some small businesses into bankruptcy.

HJR 7 WILL ELIMINATE JOBS

State studies such as a recent one by the Oregon Governor's Task Force prove that industrial revenue bonds have failed to create one single job. In fact, HJR 7 will cause some jobs to be lost, because unfair subsidized competition will destroy many small businesses.

HJR 7 BENEFITS ONLY THE ELITE

Industrial revenue bonds benefit only small groups of wealthy people, such as financiers, speculators, and multinational cartels and do little to benefit the public.

HJR 7 WILL INCREASE INTEREST RATES AND THE COST OF PUBLIC WORKS

Tax free bonds authorized by HJR 7 will compete with other projects such as public works for a limited pool of investor funds, thereby driving up interest costs. The national debt is already one trillion dollars with annual interest of \$100 billion. Can we really allow these astronomical costs to go still higher?

HJR 7 DESTROYS NEIGHBORHOODS AND SMALL TOWNS

If HJR 7 passes, many neighborhoods and small towns will have their character radically altered or completely destroyed by the unfettered expansion of unnecessary or questionable projects.

VOTE "NO" ON HJR 7

A vote against HJR 7 is a vote against higher taxes, against higher interest rates, against unfair government subsidization, against elimination of jobs, and against destruction of neighborhoods.

Rebuttal of Statement for

End Corporate Food Stamps. Pro-business Barron's (8/17/81) calls Industrial Revenue Bonds "Corporate Food Stamps" and recommends they be eliminated completely. K-Mart and McDonald's have used hundreds of millions of tax free dollars — our dollars! Even Congress wants to scrap IRB's! At current tax exempt interest rates, tax avoidance is over \$1 BILLION annually — perhaps doubling by 1986! More jobs? No! If the Boston plant were a sound business venture, it would be built without IRB's.

Voters Pamphlet Statement Prepared by:

KENT PULLEN, State Senator; JOANNE J. BREKKE, State Representative; A. L. "SLIM" RASMUSSEN, State Senator.

Advisory Committee: PAUL O. SNYDER, Citizen Taxpayers Association; GLADYS E. EDWARDS, Property Owners Protection Association; RICHARD PARGETER, Small Businessman; A. N. "BUD" SHIN-POCH, State Senator; ELLEN CRASWELL, State Senator.

they are to be voted upon, he shall submit the same to the vote of the people at the said election. If such petitions are filed not less than ten days before any regular session of the legislature, he shall ~~((transmit the same to the legislature as soon as it convenes and organizes))~~ certify the results within forty days of the filing. If certification is not complete by the date that the legislature convenes, he shall provisionally certify the measure pending final certification of the measure. Such initiative measures, whether certified or provisionally certified, shall take precedence over all other measures in the legislature except appropriation bills and shall be either enacted or rejected without change or amendment by the legislature before the end of such regular session. If any such initiative measures shall be enacted by the legislature it shall be subject to the referendum petition, or it may be enacted and referred by the legislature to the people for approval or rejection at the next regular election. If it is rejected or if no action is taken upon it by the legislature before the end of such regular session, the secretary of state shall submit it to the people for approval or rejection at the next ensuing regular general election. The legislature may reject any measure so proposed by initiative petition and propose a different one dealing with the same subject, and in such event both measures shall be submitted by the secretary of state to the people for approval or rejection at the next ensuing regular general election. When conflicting measures are submitted to the people the ballots shall be so printed that a voter can express separately by making one cross (X) for each, two preferences, first, as between either measure and neither, and secondly, as between one and the other. If the majority of those voting on the first issue is for neither, both fail, but in that case the votes on the second issue shall nevertheless be carefully counted and made public. If a majority voting on the first issue is for either, then the measure receiving a majority of the votes on the second issue shall be law.

(b) Referendum. The second power reserved by the people is the referendum, and it may be ordered on any act, bill, law, or any part thereof passed by the legislature, except such laws as may be necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions, either by petition signed by the required percentage of the legal voters, or by the legislature as other bills are enacted: PROVIDED, That the legislature may not order a referendum on any initiative measure enacted by the legislature under the foregoing subsection (a). ~~((Six per centum, but in no case more than thirty thousand, of the legal voters shall be required to sign and make a valid referendum petition.))~~ The number of valid signatures of registered voters required on a petition for referendum of an act of the legislature or any part thereof, shall be equal to or exceeding four percent of the votes cast for the office of governor at the last gubernatorial election preceding the filing of the text of the referendum measure with the secretary of state.

(c) No act, law, or bill subject to referendum shall take effect until ninety days after the adjournment of the session at which it was enacted. No act, law, or bill approved by a majority of the electors voting thereon shall be amended or repealed by the legislature within a period of two years following such enactment: PROVIDED, That any such act, law, or bill may be amended within two years after such enactment at any regular or special session of the legislature by a vote of two-thirds of all the members elected to each house with full compliance with section 12, Article III, of the Washington Constitution, and no amendatory law adopted in accordance with this provision shall be subject to referendum. But such enactment may be amended or repealed at any general regular or special election by direct vote of the people thereon.

(d) The filing of a referendum petition against one or more items, sections, or parts of any act, law, or bill shall not delay the remainder of the measure from becoming operative. Referendum petitions against measures passed by the legislature shall be filed with the secretary of state not later than ninety days after the final adjournment

of the session of the legislature which passed the measure on which the referendum is demanded. The veto power of the governor shall not extend to measures initiated by or referred to the people. All elections on measures referred to the people of the state shall be had at the ~~((biennial))~~ next succeeding regular general election~~((s))~~ following the filing of the measure with the secretary of state, except when the legislature shall order a special election. Any measure initiated by the people or referred to the people as herein provided shall take effect and become the law if it is approved by a majority of the votes cast thereon: PROVIDED, That the vote cast upon such question or measure shall equal one-third of the total votes cast at such election and not otherwise. Such measure shall be in operation on and after the thirtieth day after the election at which it is approved. The style of all bills proposed by initiative petition shall be: "Be it enacted by the people of the State of Washington." This section shall not be construed to deprive any member of the legislature of the right to introduce any measure. ~~((The whole number of electors who voted for governor at the regular gubernatorial election last preceding the filing of any petition for the initiative or for the referendum shall be the basis on which the number of legal voters necessary to sign such petition shall be counted.))~~ All such petitions shall be filed with the secretary of state, who shall be guided by the general laws in submitting the same to the people until additional legislation shall especially provide therefor. This section is self-executing, but legislation may be enacted especially to facilitate its operation.

~~((The legislature shall provide methods of publicity of all laws or parts of laws, and amendments to the Constitution referred to the people with arguments for and against the laws and amendments so referred, so that each voter of the state shall receive the publication at least fifty days before the election at which they are to be voted upon.))~~

(e) The legislature shall provide methods of publicity of all laws or parts of laws, and amendments to the Constitution referred to the people with arguments for and against the laws and amendments so referred. The secretary of state shall send one copy of the publication to each individual place of residence in the state and shall make such additional distribution as he shall determine necessary to reasonably assure that each voter will have an opportunity to study the measures prior to election. ~~((These provisions supersede the provisions set forth in the last paragraph of section 1 of this article as amended by the seventh amendment to the Constitution of this state.))~~

Article II, section 1(a). ~~((INITIATIVES AND REFERENDUM; SIGNATURES REQUIRED: Hereafter, the number of valid signatures of legal voters required upon a petition for an initiative measure shall be equal to eight per centum of the number of voters registered and voting for the office of governor at the last preceding regular gubernatorial election. Hereafter, the number of valid signatures of legal voters required upon a petition for a referendum of an act of the legislature or any part thereof, shall be equal to four per centum of the number of voters registered and voting for the office of governor at the last preceding regular gubernatorial election. These provisions supersede the requirements specified in section 1 of this article as amended by the seventh amendment to the Constitution of this state.))~~

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of the foregoing constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

House Joint Resolution 7

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state there

shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to the Constitution of the state of Washington by adding a new section thereto to read as follows:

Article XXXII. Section 1. SPECIAL REVENUE FINANCING. The legislature may enact laws authorizing the state, counties, cities, towns, port districts, or public corporations established thereby to issue nonrecourse revenue bonds or other nonrecourse revenue obligations and to apply the proceeds thereof in the manner and for the purposes heretofore or hereafter authorized by law, subject to the following limitations:

(a) Nonrecourse revenue bonds and other nonrecourse revenue obligations issued pursuant to this section shall be payable only from money or other property received as a result of projects financed by the nonrecourse revenue bonds or other nonrecourse revenue obligations and from money and other property received from private sources.

(b) Nonrecourse revenue bonds and other nonrecourse revenue obligations issued pursuant to this section shall not be payable from or secured by any tax funds or governmental revenue or by all or part of the faith and credit of the state or any unit of local government.

(c) Nonrecourse revenue bonds or other nonrecourse revenue obligations issued pursuant to this section may be issued only if the issuer certifies that it reasonably believes that the interest paid on the bonds or obligations will be exempt from income taxation by the federal government.

(d) Nonrecourse revenue bonds or other nonrecourse revenue obligations may only be used to finance industrial development projects as defined in legislation.

(e) The state, counties, cities, towns, port districts, or public corporations established thereby, shall never exercise their respective attributes of sovereignty, including but not limited to, the power to tax, the power of eminent domain, and the police power on behalf of any industrial development project authorized pursuant to this section.

After the initial adoption of a law by the legislature authorizing the issuance of nonrecourse revenue bonds or other nonrecourse revenue obligations, no amendment to such act which expands the definition of industrial development project shall be valid unless the amendment is enacted by a favorable vote of three-fifths of the members elected to each house of the legislature and is subject to referendum petition.

Sections 5 and 7 of Article VIII and section 9 of Article XII shall not be construed as a limitation upon the authority granted by this section. The proceeds of revenue bonds and other revenue obligations issued pursuant to this section for the purpose of financing privately owned property or loans to private persons or corporations shall be subject to audit by the state but shall not otherwise be deemed to be public money or public property for purposes of this Constitution. This section is supplemental to and shall not be construed as a repeal of or limitation on any other authority lawfully exercisable under the Constitution and laws of this state, including, among others, any existing authority to issue revenue bonds.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of the foregoing constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

SPECIAL NOTE: The following is the complete text of Chapter 300, Laws of 1981. Although this measure will not be voted upon at the state general election on November 3, it contains the implementing statutes for House Joint Resolution 7 and will become effective if that proposed constitutional amendment is approved by a majority of the voters. The text of this law is included to facilitate the voter's understanding of the effect of the adoption of that proposed amendment to the state constitution.

AN ACT Relating to local economic development; adding a new chapter to Title 39 RCW; creating new sections; and prescribing penalties.

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

NEW SECTION. Section 1. FINDING AND DECLARATION OF NECESSITY. The legislature hereby finds and declares that this state urgently needs to do the following: Promote higher employment; encourage the development of new jobs; maintain and supplement the capital investments in industry that currently exist in this state; encourage future employment by ensuring future capital investment; attract environmentally sound industry to the state; protect and enhance the quality of natural resources and the environment; and promote the production and conservation of energy.

NEW SECTIONS. Sec. 2. DEFINITIONS. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Board of directors" means the board of directors of a public corporation.

(2) "Construction" or "construct" means construction and acquisition, whether by devise, purchase, gift, lease, or otherwise.

(3) "Facilities" means land, rights in land, buildings, structures, docks, wharves, machinery, transmission equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities.

(4) "Financing document" means a lease, sublease, installment, sale agreement, conditional sale agreement, loan agreement, mortgage, deed of trust guaranty agreement, or other agreement for the purpose of providing funds to pay or secure debt service on revenue bonds.

(5) "Improvement" means reconstruction, remodeling, rehabilitation, extension, and enlargement; and "to improve" means to reconstruct, to remodel, to rehabilitate, to extend, and to enlarge.

(6) "Industrial development facilities" means manufacturing, processing, production, assembly, warehousing, transportation, pollution control, solid waste disposal, and energy facilities.

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

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

(9) "Project costs" means costs of (a) acquisition, construction, and improvement of any facilities included in an industrial development facility; (b) architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, and construction of an industrial development facility, including costs of studies assessing the feasibility of an industrial development facility; (c) finance costs, including discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any trust agreement; (d) interest during construction and during the six 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.

(10) "Revenue bond" means a nonrecourse revenue bond, nonrecourse revenue note, or other nonrecourse revenue obligation issued for the purpose of financing an industrial development facility on an interim or permanent basis.

(11) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and may include a party who transfers the right of use and occupancy to another party by lease, sublease, or otherwise.

NEW SECTION. Sec. 3. PUBLIC CORPORATIONS—CREATION, DISSOLUTION. (1) For the purpose of facilitating economic development and employment opportunities in the state of Washington through the financing of the project costs of industrial development facilities, a municipality may enact an ordinance creating a public corporation for the purposes authorized in this chapter. The ordinance creating the public corporation shall approve a charter for the public corporation containing such provisions as are authorized by and not in conflict with this chapter. Any charter issued under this chapter shall contain in substance the limitations set forth in section 6 of this act. In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the public corporation, the public corporation is conclusively presumed to be established and authorized to transact business and exercise its powers under this chapter upon proof of the adoption of the ordinance creating the public corporation by the governing body. A copy of the ordinance duly certified by the clerk of the governing body of the municipality shall be admissible in evidence in any suit, action, or proceeding.

(2) A public corporation created by a municipality pursuant to this chapter may be dissolved by the municipality if the public corporation: (a) Has no property to administer, other than funds or property, if any, to be paid or transferred to the municipality by which it was established; and (b) all its outstanding obligations have been satisfied. Such a dissolution shall be accomplished by the governing body of the municipality adopting an ordinance providing for the dissolution.

(3) The creating municipality may, at its discretion and at any time, alter or change the structure, organizational programs, or activities of a public corporation, including termination of the public corporation if contracts entered into by the public corporation are not impaired. Any net earnings of a public corporation, beyond those necessary for retirement of indebtedness incurred by it, shall not inure to the benefit of any person other than the creating municipality. Upon dissolution of a public corporation, title to all property owned by the public corporation shall vest in the municipality.

NEW SECTION. Sec. 4. BOARD OF DIRECTORS OF PUBLIC CORPORATION. The ordinance creating a public corporation shall include provisions establishing a board of directors to govern the affairs of the public corporation, what constitutes a quorum of the board of directors, and how the public corporation shall conduct its affairs.

NEW SECTION. Sec. 5. PUBLIC CORPORATIONS—DIRECTORS. It shall be illegal for a director, officer, agent, or employee of a public corporation to have, directly or indirectly, any financial interest in any property to be included in or any contract for property, services, or materials to be furnished or used in connection with any industrial development facility financed through the public corporation. Violation of any provision of this section is a gross misdemeanor.

NEW SECTION. Sec. 6. PUBLIC CORPORATIONS—LIMITATIONS. No municipality may give or lend any money or property in aid of a public corporation. The municipality that creates a public corporation shall annually review any financial statements of the public corporation and at all times shall have access to the books and records of the public corporation. No public corporation may issue revenue obligations under this chapter except upon the approval of both the municipality under the auspices of which it was created and the county, city, or town within whose planning jurisdiction the proposed

industrial development facility lies. No revenue bonds may be issued pursuant to this chapter unless the board of directors of the public corporation proposing to issue revenue bonds makes a finding that in its opinion the interest paid on the bonds will be exempt from income taxation by the federal government. Revenue bonds issued by a public corporation under this chapter shall not be considered to constitute a debt of the state, of the municipality, or of any other municipal corporation, quasi municipal corporation, subdivision, or agency of this state or to pledge any or all of the faith and credit of any of these entities. The revenue bonds shall be payable solely from both the revenues derived as a result of the industrial development facilities funded by the revenue bonds, including, without limitation, amounts received under the terms of any financing document or by reason of any additional security furnished by the user of the industrial development facility in connection with the financing thereof, and money and other property received from private sources. Each revenue bond shall contain on its face statements to the effect that: (1) Neither the state, the municipality, or any other municipal corporation, quasi municipal corporation, subdivision, or agency of the state is obligated to pay the principal or the interest thereon; (2) no tax funds or governmental revenue may be used to pay the principal or interest thereon; and (3) neither any or all of the faith and credit nor the taxing power of the state, the municipality, or any other municipal corporation, quasi municipal corporation, subdivision, or agency thereof is pledged to the payment of the principal of or the interest on the revenue bond. A public corporation may incur only those financial obligations which will be paid from revenues received pursuant to financing documents, from fees or charges paid by users or prospective users of the industrial development facilities funded by the revenue bonds, or from the proceeds of revenue bonds. A public corporation established under the terms of this chapter constitutes an authority and an instrumentality (within the meaning of those terms in the regulations of the United States treasury and the rulings of the Internal Revenue Service prescribed pursuant to section 103 of the Internal Revenue Code of 1954, as amended) and may act on behalf of the municipality under whose auspices it is created for the specific public purposes authorized by this chapter. The public corporation is not a municipal corporation within the meaning of the state Constitution and the laws of the state, or a political subdivision within the meaning of the state Constitution and the laws of the state, including without limitation, Article VIII, section 7, of the Washington state Constitution. A municipality shall not delegate to a public corporation any of the municipality's attributes of sovereignty, including, without limitation, the power to tax, the power of eminent domain, and the police power.

NEW SECTION. Sec. 7. PUBLIC CORPORATIONS—AUDIT BY STATE. The finances of any public corporation are subject to examination by the state auditor's office pursuant to RCW 43.09.260.

NEW SECTION. Sec. 8. PUBLIC CORPORATIONS—POWERS. (1) A public corporation created under this chapter has the following powers with respect to industrial development facilities together with all powers incidental thereto or necessary for the performance thereof:

(a) To construct and maintain one or more industrial development facilities;

(b) To lease to a lessee all or any part of any industrial development facility for such rentals and upon such terms and conditions, including options to purchase, as its board of directors considers advisable and not in conflict with this chapter;

(c) To sell by installment contract or otherwise and convey all or any part of any industrial development facility for such purchase price and upon such terms and conditions as its board of directors considers advisable which are not in conflict with this chapter;

(d) To make secured loans for the purpose of providing temporary or permanent financing or refinancing of all or part of the project cost of any industrial development facility, including the refunding of

any outstanding obligations, mortgages, or advances issued, made, or given by any person for the project costs; and to charge and collect interest on the loans for the loan payments upon such terms and conditions as its board of directors considers advisable which are not in conflict with this chapter;

(e) To issue revenue bonds for the purpose of financing all or part of the project cost of any industrial development facility and to secure the payment of the revenue bonds as provided in this chapter;

(f) As security for the payment of the principal of and interest on any revenue bonds issued and any agreements made in connection therewith, to mortgage, pledge, or otherwise encumber any or all of its industrial development facilities or any part or parts thereof, whether then owned or thereafter acquired, and to assign any mortgage and repledge any security conveyed to the public corporation, to secure any loan made by the public corporation and to pledge the revenues and receipts therefrom;

(g) To sue and be sued, complain, and defend in its corporate name;

(h) To make contracts and to execute all instruments necessary or convenient for the carrying out of its business;

(i) To have a corporate seal and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced;

(j) Subject to the limitations of section 6 of this act, to borrow money, accept grants from, or contract with any local, state, or federal governmental agency or with any financial, public, or private corporation;

(k) To make and alter bylaws not inconsistent with its charter for the administration and regulation of the affairs of the corporation;

(l) To collect fees or charges from users or prospective users of industrial development facilities to recover actual or anticipated administrative costs;

(m) To execute financing documents incidental to the powers enumerated in this subsection.

(2) No public corporation created under this chapter may operate any industrial development facility as a business other than as lessor, seller, or lender. The purchase and holding of mortgages, deeds of trust, or other security interests and contracting for any servicing thereof is not considered the operation of an industrial development facility.

(3) No public corporation may exercise any of the powers authorized in this section or issue any revenue bonds with respect to any industrial development facility unless the industrial development facility is located wholly within the boundaries of the municipality under whose auspices the public corporation is created or unless the industrial development facility comprises energy facilities or solid waste disposal facilities which provide energy for or dispose of solid waste from the municipality or the residents thereof.

NEW SECTION. Sec. 9. REPORTING TO THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT. (1) Prior to issuance of any revenue bonds, each public corporation shall submit a copy of its enabling ordinance and charter, a description of any industrial development facility proposed to be undertaken, and the basis for its qualification as an industrial development facility to the department of commerce and economic development.

(2) If the industrial development facility is not eligible under this chapter, the department of commerce and economic development shall give notice to the public corporation, in writing and by certified mail, within twelve working days of receipt of the description.

(3) The department of commerce and economic development shall report annually to the legislature and the governor on the amount of capital investment undertaken under this chapter and the amount of permanent employment reasonably related to the existence of such industrial development facilities.

(4) The department of commerce and economic development shall provide such advice and assistance to public corporations and

municipalities which have created or may wish to create public corporations as the public corporations or municipalities request and the department of commerce and economic development considers appropriate.

NEW SECTION. Sec. 10. REVENUE BONDS—PROVISIONS. (1) The principal of and the interest on any revenue bonds issued by a public corporation shall be payable solely from the funds provided for this payment from the revenues of the industrial development facilities funded by the revenue bonds. Each issue of revenue bonds shall be dated, shall bear interest at such rate or rates, and shall mature at such time or times as may be determined by the board of directors, and may be made redeemable before maturity at such price or prices and under such terms and conditions as may be fixed by the board of directors prior to the issuance of the revenue bonds or other revenue obligations.

(2) The board of directors shall determine the form and the manner of execution of the revenue bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the revenue bonds and the place or places of payment of principal and interest. If any officer whose signature or a facsimile of whose signature appears on any revenue bonds or coupons ceases to be an officer before the delivery of the revenue bonds, the signature shall for all purposes have the same effect as if he had remained in office until delivery. The revenue bonds may be issued in coupon or in registered form or both as the board of directors may determine, and provisions may be made for the registration of any coupon revenue bonds as to the principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. A public corporation may sell revenue bonds at public or private sale for such price and bearing interest at such fixed or variable rate as may be determined by the board of directors.

(3) The proceeds of the revenue bonds of each issue shall be used solely for the payment of all or part of the project cost of or for the making of a loan in the amount of all or part of the project cost of the industrial development facility for which authorized and shall be disbursed in such manner and under such restrictions, if any, provided in the resolution authorizing the issuance of the revenue bonds or in the trust agreement securing the bonds. If the proceeds of the revenue bonds of any series issued with respect to the cost of any industrial development facility exceeds the cost of the industrial development facility for which issued, the surplus shall be deposited to the credit of the debt service fund for the revenue bonds or used to purchase revenue bonds in the open market.

(4) A public corporation may issue interim notes in the manner provided for the issuance of revenue bonds to fund industrial development facilities prior to issuing other revenue bonds to fund such facilities. A public corporation may issue revenue bonds to fund industrial development facilities that are exchangeable for other revenue bonds when these other revenue bonds are executed and available for delivery.

(5) The principal of and interest on any revenue bonds issued by a public corporation shall be secured by a pledge of unexpended bond proceeds and the revenues and receipts received by the public corporation from the industrial development facilities funded by the revenue bonds pursuant to financing documents. The resolution under which the revenue bonds are authorized to be issued and any financing document may contain agreements and provisions respecting the maintenance or use of the industrial development facility covered thereby, the fixing and collection of rents, purchase price payments or loan payments, the creation and maintenance of special funds from such revenues or from revenue bond proceeds, the rights and remedies available in the event of default, and other provisions relating to the security for the bonds, all as the board of directors consider advisable which are not in conflict with this chapter.

(6) The governing body of the municipality under whose

auspices the public corporation is created shall approve by resolution any agreement to issue revenue bonds adopted by a public corporation, which agreement and resolution shall set out the amount and purpose of the revenue bonds. Additionally, no issue of revenue bonds, including refunding bonds, may be sold and delivered by a public corporation without a resolution of the governing body of the municipality under whose auspices the public corporation is created, adopted no more than sixty days before the date of sale of the revenue bonds specifically, approving the resolution of the public corporation providing for the issuance of the revenue bonds.

(7) All revenue bonds issued under this chapter and all interest coupons applicable thereto are negotiable instruments within the meaning of Article 8 of the Uniform Commercial Code, Title 62A RCW, regardless of form or character.

NEW SECTION. Sec. 11. REVENUE BONDS—REFUNDING. Each public corporation may provide by resolution for the issuance of revenue refunding bonds for the purpose of refunding any revenue bonds issued for an industrial development facility under this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption or maturity of the revenue bonds and, if considered advisable by the public corporation, for the additional purposes of financing improvements, extensions, or enlargements to the industrial development facility for another industrial development facility. The issuance of the revenue bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the public corporation in respect to the same shall be governed by this chapter insofar as applicable.

NEW SECTION. Sec. 12. TRUST AGREEMENTS. Any bonds issued under this chapter may be secured by a trust agreement between the public corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. The trust agreement may evidence a pledge or assignment of the financing documents and lease, sale, or loan revenues to be received from a lessee or purchaser of or borrower with respect to an industrial development facility for the payment of principal of and interest and any premium on the bonds as the same shall become due and payable and may provide for creation and maintenance of reserves for these purposes. A trust agreement or resolution providing for the issuance of the revenue bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties in relation to the acquisition of property and the construction, improvement, maintenance, use, repair, operation, and insurance of the industrial development facility for which the bonds are authorized, and the custody, safeguarding, and application of all money. Any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of revenue bonds or of revenues may furnish such indemnifying bonds or pledge such securities as may be required by the corporation. A trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of private corporations. In addition, a trust agreement may contain such provisions as the public corporation considers reasonable and proper for the security of the bondholders which are not in conflict with this chapter.

NEW SECTION. Sec. 13. COMMINGLING OF BOND PROCEEDS OR REVENUES WITH MUNICIPAL FUNDS PROHIBITED. No part of the proceeds received from the sale of any revenue bonds under this chapter, of any revenues derived from any industrial development facility acquired or held under this chapter, or of any interest realized on moneys received under this chapter may be commingled by the public corporation with funds of the municipality creating the public corporation.

NEW SECTION. Sec. 14. SUBLEASES AND ASSIGNMENTS. A lessee or contracting party under a sale contract or loan agreement shall not be required to be the eventual user of an industrial development facility if any sublessee or assignee assumes all of the obligations of the lessee or contracting party under the lease, sale contract, or loan agreement, but the lessee or contracting party or their successors shall remain primarily liable for all of its obligations under the lease, sale contract, or loan agreement and the use of the industrial development facility shall be consistent with the purposes of this chapter.

NEW SECTION. Sec. 15. DETERMINATION OF RENT. Before entering into a lease, sale contract, or loan agreement with respect to any industrial development facility, the public corporation shall determine that there are sufficient revenues to pay (1) the principal of and the interest on the revenue bonds proposed to be issued to finance the industrial development facility; (2) the amount necessary to be paid each year into any reserve funds which the public corporation considers advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the industrial development facility; and (3) unless the terms of the lease, sale contract, or loan agreement provide that the lessee or contracting party shall maintain the industrial development facility and carry all proper insurance with respect thereto, the estimated cost of maintaining the industrial development facility in good repair and keeping it properly insured.

NEW SECTION. Sec. 16. PROCEEDINGS IN THE EVENT OF DEFAULT. The proceedings authorizing any revenue bonds under this chapter or any financing document securing the revenue bonds may provide that if there is a default in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained in the proceedings or financing document, the payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan repayments, and to apply the revenues from the industrial development facility in accordance with the proceedings or provisions of the financing document. Any financing document entered into under this chapter to secure revenue bonds issued under this chapter may also provide that if there is a default in the payment thereof or a violation of any agreement contained in the financing document, the industrial development facility may be foreclosed and sold under proceedings in equity or in any other manner now or hereafter permitted by law. Any financing document may also provide that any trustee under the financing document or the holder of any revenue bonds secured thereby may become the purchaser at any foreclosure sale if it is the highest bidder.

NEW SECTION. Sec. 17. CONSTRUCTION—SUPPLEMENTAL NATURE OF CHAPTER. This chapter supplements and neither restricts nor limits any powers which a municipality or presently authorized public corporation might otherwise have under any laws of this state.

NEW SECTION. Sec. 18. LEGISLATIVE DIRECTIVE. Sections 1 through 17 of this act shall constitute a new chapter in Title 39 RCW.

NEW SECTION. Sec. 19. CAPTIONS NOT PART OF LAW. As used in this chapter, captions constitute no part of the law.

NEW SECTION. Sec. 20. SEVERABILITY. If any provision of this act or its application to any person or circumstances is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.