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SUBSTITUTE HOUSE BILL 1170

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State of Washington

64th Legislature

2015 Regular Session

**By** House Local Government (originally sponsored by Representatives Clibborn, Zeiger, Tarleton, Wilcox, Springer, Jinkins, Fey, Kilduff, Fitzgibbon, Gregerson, and Tharinger)

1       AN ACT Relating to the administrative powers of port districts;  
2 and amending RCW 35.21.730, 35.21.735, 35.21.740, 35.21.745,  
3 35.21.747, 35.21.750, and 35.21.755.

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

5       **Sec. 1.** RCW 35.21.730 and 2002 c 218 s 23 are each amended to  
6 read as follows:

7       In order to improve the administration of authorized federal  
8 grants or programs, to improve governmental efficiency ~~((and))~~,  
9 services, or operations, or to improve the general living conditions  
10 in the urban areas of the state, any city, town, or county ~~((may))~~ by  
11 lawfully adopted ordinance or resolution, or port districts by  
12 lawfully adopted resolution, may:

13       (1) Transfer to any public corporation, commission, or authority  
14 created under this section, with or without consideration, any funds,  
15 real or personal property, property interests, or services;

16       (2) Organize and participate in joint operations or cooperative  
17 organizations funded by the federal government when acting solely as  
18 coordinators or agents of the federal government;

19       (3) Continue federally-assisted programs, projects, and  
20 activities after expiration of contractual term or after expending  
21 allocated federal funds as deemed appropriate to fulfill contracts

1 made in connection with such agreements or as may be proper to permit  
2 an orderly readjustment by participating corporations, associations,  
3 or individuals;

4 (4) Enter into contracts with public corporations, commissions,  
5 and authorities for the purpose of exercising any powers of a  
6 community renewal agency under chapter 35.81 RCW; and

7 (5) Create public corporations, commissions, and authorities,  
8 including joint creation of a public corporation by two or more port  
9 districts pursuant to an agreement for joint or cooperative action  
10 pursuant to the interlocal cooperation act, chapter 39.34 RCW, to:  
11 Administer and execute federal grants or programs; receive and  
12 administer private funds, goods, or services for any lawful public  
13 purpose; and perform any lawful public purpose or public function,  
14 including, subject to any limitations in this chapter, the exercise  
15 of any or all the powers of each of its creating jurisdictions. The  
16 ordinance or resolution shall limit the liability of such public  
17 corporations, commissions, and authorities to the assets and  
18 properties of such public corporation, commission, or authority in  
19 order to prevent recourse to such cities, towns, ~~((or))~~ counties, or  
20 port districts or their assets or credit.

21 **Sec. 2.** RCW 35.21.735 and 2007 c 230 s 2 are each amended to  
22 read as follows:

23 (1) The legislature hereby declares that carrying out the  
24 purposes of federal grants or programs is both a public purpose and  
25 an appropriate function for a city, town, county, port district, or  
26 public corporation. The provisions of RCW 35.21.730 through 35.21.755  
27 and 35.21.660 and 35.21.670 and the enabling authority herein  
28 conferred to implement these provisions shall be construed to  
29 accomplish the purposes of RCW 35.21.730 through 35.21.755.

30 (2) All cities, towns, counties, port districts, and public  
31 corporations shall have the power and authority to enter into  
32 agreements with the United States or any agency or department  
33 thereof, or any agency of the state government or its political  
34 subdivisions, and pursuant to such agreements may receive and expend,  
35 or cause to be received and expended by a custodian or trustee,  
36 federal or private funds for any lawful public purpose. Pursuant to  
37 any such agreement, a city, town, county, port district, or public  
38 corporation may issue bonds, notes, or other evidences of  
39 indebtedness that are guaranteed or otherwise secured by funds or

1 other instruments provided by or through the federal government or by  
2 the federal government or an agency or instrumentality thereof under  
3 section 108 of the housing and community development act of 1974 (42  
4 U.S.C. Sec. 5308), as amended, or its successor, and may agree to  
5 repay and reimburse for any liability thereon any guarantor of any  
6 such bonds, notes, or other evidences of indebtedness issued by such  
7 jurisdiction or public corporation, or issued by any other public  
8 entity. For purposes of this subsection, federal housing mortgage  
9 insurance shall not constitute a federal guarantee or security.

10 (3) A city, town, county, port district, or public corporation  
11 may pledge, as security for any such bonds, notes, or other evidences  
12 of indebtedness or for its obligations to repay or reimburse any  
13 guarantor thereof, its right, title, and interest in and to any or  
14 all of the following: (a) Any federal grants or payments received or  
15 that may be received in the future; (b) any of the following that may  
16 be obtained directly or indirectly from the use of any federal or  
17 private funds received as authorized in this section: (i) Property  
18 and interests therein, and (ii) revenues; (c) any payments received  
19 or owing from any person resulting from the lending of any federal or  
20 private funds received as authorized in this section; (d) any  
21 proceeds under (a), (b), or (c) of this subsection and any securities  
22 or investments in which (a), (b), or (c) of this subsection or  
23 proceeds thereof may be invested; (e) any interest or other earnings  
24 on (a), (b), (c), or (d) of this subsection.

25 (4) A city, town, county, port district, or public corporation  
26 may establish one or more special funds relating to any or all of the  
27 sources listed in subsection (3)(a) through (e) of this section and  
28 pay or cause to be paid from such fund the principal, interest,  
29 premium if any, and other amounts payable on any bonds, notes, or  
30 other evidences of indebtedness authorized under this section, and  
31 pay or cause to be paid any amounts owing on any obligations for  
32 repayment or reimbursement of guarantors of any such bonds, notes, or  
33 other evidences of indebtedness. A city, town, county, port district,  
34 or public corporation may contract with a financial institution  
35 either to act as trustee or custodian to receive, administer, and  
36 expend any federal or private funds, or to collect, administer, and  
37 make payments from any special fund as authorized under this section,  
38 or both, and to perform other duties and functions in connection with  
39 the transactions authorized under this section. If the bonds, notes,  
40 or other evidences of indebtedness and related agreements comply with

1 subsection (6) of this section, then any such funds held by any such  
2 trustee or custodian, or by a public corporation, shall not  
3 constitute public moneys or funds of any city, town, ((~~or~~)) county,  
4 or port district and at all times shall be kept segregated and set  
5 apart from other funds.

6 (5) For purposes of this section, "lawful public purpose"  
7 includes, without limitation, any use of funds, including loans  
8 thereof to public or private parties, authorized by the agreements  
9 with the United States or any department or agency thereof under  
10 which federal or private funds are obtained, or authorized under the  
11 federal laws and regulations pertinent to such agreements.

12 (6) If any such federal or private funds are loaned or granted to  
13 any private party or used to guarantee any obligations of any private  
14 party, then any bonds, notes, other evidences of indebtedness issued  
15 or entered into for the purpose of receiving or causing the receipt  
16 of such federal or private funds, and any agreements to repay or  
17 reimburse guarantors, shall not be obligations of any city, town,  
18 ((~~or~~)) county, or port district and shall be payable only from a  
19 special fund as authorized in this section or from any of the  
20 security pledged pursuant to the authority of this section, or both.  
21 Any bonds, notes, or other evidences of indebtedness to which this  
22 subsection applies shall contain a recital to the effect that they  
23 are not obligations of the city, town, ((~~or~~)) county, or port  
24 district or the state of Washington and that neither the faith and  
25 credit nor the taxing power of the state or any municipal corporation  
26 or subdivision of the state or any agency of any of the foregoing, is  
27 pledged to the payment of principal, interest, or premium, if any,  
28 thereon. Any bonds, notes, other evidences of indebtedness, or other  
29 obligations to which this subsection applies shall not be included in  
30 any computation for purposes of limitations on indebtedness. To the  
31 extent expressly agreed in writing by a city, town, county, port  
32 district, or public corporation, this subsection shall not apply to  
33 bonds, notes, or other evidences of indebtedness issued for, or  
34 obligations incurred for, the necessary support of the poor and  
35 infirm by that city, town, county, port district, or public  
36 corporation.

37 (7) Any bonds, notes, or other evidences of indebtedness issued  
38 by, or reimbursement obligations incurred by, a city, town, county,  
39 or public corporation consistent with the provisions of this section  
40 but prior to May 3, 1995, and any loans or pledges made by a city,

1 town, or county in connection therewith substantially consistent with  
2 the provisions of this section but prior to May 3, 1995, are deemed  
3 authorized and shall not be held void, voidable, or invalid due to  
4 any lack of authority under the laws of this state.

5 (8) All cities, towns, counties, public corporations, and port  
6 districts may create partnerships and limited liability companies and  
7 enter into agreements with public or private entities, including  
8 partnership agreements and limited liability company agreements, to  
9 implement within their boundaries the federal new markets tax credit  
10 program established by the community renewal tax relief act of 2000  
11 (26 U.S.C. Sec. 45D) or its successor statute.

12 **Sec. 3.** RCW 35.21.740 and 1985 c 332 s 4 are each amended to  
13 read as follows:

14 Powers, authorities, or rights expressly or impliedly granted to  
15 any city, town, ~~(( $\emptyset$ ))~~ county, or port district or their agents under  
16 any provision of RCW 35.21.730 through 35.21.755 shall not be  
17 operable or applicable, or have any effect beyond the limits of the  
18 incorporated area of any city ~~(( $\emptyset$ ))~~, town, or port district  
19 implementing RCW 35.21.730 through 35.21.755, unless so provided by  
20 contract between the city and another city ~~(( $\emptyset$ ))~~, county or port  
21 district, or among one or more port districts, or as provided in an  
22 agreement for joint or cooperative action pursuant to the interlocal  
23 cooperation act, chapter 39.34 RCW.

24 **Sec. 4.** RCW 35.21.745 and 2002 c 218 s 24 are each amended to  
25 read as follows:

26 (1) Any city, town, or county which shall create, or port  
27 districts that individually or jointly create, a public corporation,  
28 commission, or authority pursuant to RCW 35.21.730 or 35.21.660,  
29 shall provide for its organization and operations and shall control  
30 and oversee its operation and funds in order to correct any  
31 deficiency and to assure that the purposes of each program undertaken  
32 are reasonably accomplished.

33 (2) Any public corporation, commission, or authority created as  
34 provided in RCW 35.21.730 may be empowered to own and sell real and  
35 personal property; to contract with ~~((a city, town, or county))~~  
36 cities, towns, counties, or port districts to conduct community  
37 renewal activities under chapter 35.81 RCW; to contract with  
38 individuals, associations, and corporations, and the state and the

1 United States; to sue and be sued; to loan and borrow funds and issue  
2 bonds and other instruments evidencing indebtedness; transfer any  
3 funds, real or personal property, property interests, or services; to  
4 do anything a natural person may do; and to perform all manner and  
5 type of community services. However, the public corporation,  
6 commission, or authority shall have no power of eminent domain nor  
7 any power to levy taxes or special assessments.

8 **Sec. 5.** RCW 35.21.747 and 1990 c 189 s 1 are each amended to  
9 read as follows:

10 (1) In transferring real property to a public corporation,  
11 commission, or authority under RCW 35.21.730, the city, town, ((~~or~~))  
12 county, or port district creating such public corporation,  
13 commission, or authority shall impose appropriate deed restrictions  
14 necessary to ensure the continued use of such property for the public  
15 purpose or purposes for which such property is transferred.

16 (2) The city, town, or county that creates, or port district that  
17 individually or jointly creates, a public corporation, commission, or  
18 authority under RCW 35.21.730 shall require of such public  
19 corporation, commission, or authority thirty days' advance written  
20 notice of any proposed sale or encumbrance of any real property  
21 transferred by such city, town, ((~~or~~)) county, or port district to  
22 such public corporation, commission, or authority pursuant to RCW  
23 35.21.730(1). At a minimum, such notice shall be provided by such  
24 public corporation, commission, or authority to the chief executive  
25 or administrative officer of such city, town, ((~~or~~)) county, or port  
26 district and to all members of its legislative body, and to each  
27 local newspaper of general circulation, and to each local radio or  
28 television station or other news medium which has on file with such  
29 corporation, commission, or authority a written request to be  
30 notified.

31 (3) Any property transferred by ((~~the~~)) a city, town, ((~~or~~))  
32 county, or port district that created such public corporation,  
33 commission, or authority may be sold or encumbered by such public  
34 corporation, commission, or authority only after approval of such  
35 sale or encumbrance by the governing body of the public corporation,  
36 commission, or authority at a public meeting of which notice was  
37 provided pursuant to RCW 42.30.080. Nothing in this section shall be  
38 construed to prevent the governing body of the public corporation,  
39 commission, or authority from holding an executive session during a

1 regular or special meeting in accordance with RCW 42.30.110(1)(c). In  
2 addition, the public corporation, commission, or authority shall  
3 advertise notice of the meeting in a local newspaper of general  
4 circulation at least twice no less than seven days and no more than  
5 two weeks before the public meeting.

6 **Sec. 6.** RCW 35.21.750 and 1974 ex.s. c 37 s 6 are each amended  
7 to read as follows:

8 In the event of the insolvency or dissolution of a public  
9 corporation, commission, or authority, the superior court of the  
10 county in which the public corporation, commission, or authority is  
11 or was operating shall have jurisdiction and authority to appoint  
12 trustees or receivers of corporate property and assets and supervise  
13 such trusteeship or receivership: PROVIDED, That all liabilities  
14 incurred by such public corporation, commission, or authority shall  
15 be satisfied exclusively from the assets and properties of such  
16 public corporation, commission, or authority and no creditor or other  
17 person shall have any right of action against ~~((the))~~ a city, town,  
18 ~~((or))~~ county, or port district creating such corporation, commission  
19 or authority on account of any debts, obligations, or liabilities of  
20 such public corporation, commission, or authority.

21 **Sec. 7.** RCW 35.21.755 and 2007 c 104 s 16 are each amended to  
22 read as follows:

23 (1) A public corporation, commission, or authority created  
24 pursuant to RCW 35.21.730, 35.21.660, or 81.112.320 shall receive the  
25 same immunity or exemption from taxation as that of the city, town,  
26 ~~((or))~~ county, or port district creating the same: PROVIDED, That,  
27 except for (a) any property within a special review district  
28 established by ordinance prior to January 1, 1976, or listed on or  
29 which is within a district listed on any federal or state register of  
30 historical sites or (b) any property owned, operated, or controlled  
31 by a public corporation that is used primarily for low-income  
32 housing, or that is used as a convention center, performing arts  
33 center, public assembly hall, public meeting place, public esplanade,  
34 street, public way, public open space, park, public utility corridor,  
35 or view corridor for the general public or (c) any blighted property  
36 owned, operated, or controlled by a public corporation that was  
37 acquired for the purpose of remediation and redevelopment of the  
38 property in accordance with an agreement or plan approved by the

1 city, town, (~~or~~) county, or port district in which the property is  
2 located, or (d) any property owned, operated, or controlled by a  
3 public corporation created under RCW 81.112.320, any such public  
4 corporation, commission, or authority shall pay to the county  
5 treasurer an annual excise tax equal to the amounts which would be  
6 paid upon real property and personal property devoted to the purposes  
7 of such public corporation, commission, or authority were it in  
8 private ownership, and such real property and personal property is  
9 acquired and/or operated under RCW 35.21.730 through 35.21.755, and  
10 the proceeds of such excise tax shall be allocated by the county  
11 treasurer to the various taxing authorities in which such property is  
12 situated, in the same manner as though the property were in private  
13 ownership: PROVIDED FURTHER, That the provisions of chapter 82.29A  
14 RCW shall not apply to property within a special review district  
15 established by ordinance prior to January 1, 1976, or listed on or  
16 which is within a district listed on any federal or state register of  
17 historical sites and which is controlled by a public corporation,  
18 commission, or authority created pursuant to RCW 35.21.730 or  
19 35.21.660, which was in existence prior to January 1, 1987: AND  
20 PROVIDED FURTHER, That property within a special review district  
21 established by ordinance prior to January 1, 1976, or property which  
22 is listed on any federal or state register of historical sites and  
23 controlled by a public corporation, commission, or authority created  
24 pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior  
25 to January 1, 1976, shall receive the same immunity or exemption from  
26 taxation as if such property had been within a district listed on any  
27 such federal or state register of historical sites as of January 1,  
28 1976, and controlled by a public corporation, commission, or  
29 authority created pursuant to RCW 35.21.730 or 35.21.660 which was in  
30 existence prior to January 1, 1976.

31 (2) As used in this section:

32 (a) "Low-income" means a total annual income, adjusted for family  
33 size, not exceeding fifty percent of the area median income.

34 (b) "Area median income" means:

35 (i) For an area within a standard metropolitan statistical area,  
36 the area median income reported by the United States department of  
37 housing and urban development for that standard metropolitan  
38 statistical area; or



1           (ii) For an area not within a standard metropolitan statistical  
2 area, the county median income reported by the department of  
3 (~~community, trade, and economic development~~) commerce.

4           (c) "Blighted property" means property that is contaminated with  
5 hazardous substances as defined under RCW 70.105D.020.

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