

# What is a Washington State Public Development Authority?

## **A public development authority:**

- Is created by a municipality or a county to undertake public projects with the option of entering into private partnerships. (RCW 35.21.730 through RCW 35.21.757)
- Has a public purpose and function.
- May apply for public funds
- May purchase and receive property
- May issue bonds
- May invest its funds
- Does not create a liability for the municipality that created it
- Indemnifies Board members and their relatives against all costs, expenses, judgments and liabilities
- Is made up of a board of volunteers
- Will be subject to state audit
- Will require insurance
- Must comply with the public meeting laws
- Is formed by ordinance supported by a charter and by-laws.

## **Limitations**

- Does not have taxing authority
- Does not have the power of eminent domain
- No part of the earnings of the PDA shall be distributed to the PDA Board members
- Can be dissolved by the entity that formed it

### **Summary of the PDA adoption process:**

**Step 1:** Municipality or County adopts an ordinance, charter and by-laws forming the PDA

**Step 2:** Mayor or Board of Commissioners appoints the members of the PDA

**Step 3:** Members elect an Executive Board

**Step 4:** New PDA is registered with the State as a non-profit corporation

### **Examples of other rural Public Development Authorities in Eastern Washington**

- Odessa PDA
- Ritzville PDA
- Northwest Lincoln County Regional PDA (Wilbur, Creston & Almira)
- Washtucna PDA
- Republic PDA
- Sprague PDA
- Harrington PDA
- Reardan PDA
- Garfield PDA
- Tekoa PDA
- Phoenix Development Authority – Ellensburg

## **RCW 35.21.730**

### **Public corporations -- Powers of cities, towns, and counties -- Administration.**

In order to improve the administration of authorized federal grants or programs, to improve governmental efficiency and services, or to improve the general living conditions in the urban areas of the state, any city, town, or county may by lawfully adopted ordinance or resolution:

- (1) Transfer to any public corporation, commission, or authority created under this section, with or without consideration, any funds, real or personal property, property interests, or services;
- (2) Organize and participate in joint operations or cooperative organizations funded by the federal government when acting solely as coordinators or agents of the federal government;
- (3) Continue federally-assisted programs, projects, and activities after expiration of contractual term or after expending allocated federal funds as deemed appropriate to fulfill contracts made in connection with such agreements or as may be proper to permit an orderly readjustment by participating corporations, associations, or individuals;
- (4) Enter into contracts with public corporations, commissions, and authorities for the purpose of exercising any powers of a community renewal agency under chapter [35.81](#) RCW; and
- (5) Create public corporations, commissions, and authorities to: Administer and execute federal grants or programs; receive and administer private funds, goods, or services for any lawful public purpose; and perform any lawful public purpose or public function. The ordinance or resolution shall limit the liability of such public corporations, commissions, and authorities to the assets and properties of such public corporation, commission, or authority in order to prevent recourse to such cities, towns, or counties or their assets or credit.

[2002 c 218 § 23; 1985 c 332 § 1; 1974 ex.s. c 37 § 2.]

### **NOTES:**

**Severability -- Savings -- Construction -- 2002 c 218:** See notes following RCW [35.81.005](#).

## **RCW 35.21.735**

### **Public corporations -- Declaration of public purpose -- Power and authority to enter into agreements, receive and expend funds -- Security.**

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

(2) All cities, towns, counties, and public corporations shall have the power and authority to enter into agreements with the United States or any agency or department thereof, or any agency of the state government or its political subdivisions, and pursuant to such agreements may receive and expend, or cause to be received and expended by a custodian or trustee, federal or private funds for any lawful public purpose. Pursuant to any such agreement, a city, town, county, or public corporation may issue bonds, notes, or other evidences of indebtedness that are guaranteed or otherwise secured by funds or other instruments provided by or through the federal government or by the federal government or an agency or instrumentality thereof under section 108 of the housing and community development act of 1974 (42 U.S.C. Sec. 5308), as amended, or its successor, and may agree to repay and reimburse for any liability thereon any guarantor of any such bonds, notes, or other evidences of indebtedness issued by such jurisdiction or public corporation, or issued by any other public entity. For purposes of this subsection federal housing mortgage insurance shall not constitute a federal guarantee or security.

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

(4) A city, town, county, or public corporation may establish one or more special funds relating to any or all of the sources listed in subsection (3)(a) through (e) of this section and pay or cause to be paid from such fund the principal, interest, premium if any, and other amounts payable on any bonds, notes, or other evidences of indebtedness authorized under this section, and pay or cause to be paid any amounts owing on any obligations for repayment or reimbursement of guarantors of any such bonds, notes, or other evidences of indebtedness. A city, town, county, or public corporation may contract with a financial institution either to act as trustee or custodian to receive, administer, and

expend any federal or private funds, or to collect, administer, and make payments from any special fund as authorized under this section, or both, and to perform other duties and functions in connection with the transactions authorized under this section. If the bonds, notes, or other evidences of indebtedness and related agreements comply with subsection (6) of this section, then any such funds held by any such trustee or custodian, or by a public corporation, shall not constitute public moneys or funds of any city, town, or county and at all times shall be kept segregated and set apart from other funds.

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

(6) If any such federal or private funds are loaned or granted to any private party or used to guarantee any obligations of any private party, then any bonds, notes, other evidences of indebtedness issued or entered into for the purpose of receiving or causing the receipt of such federal or private funds, and any agreements to repay or reimburse guarantors, shall not be obligations of any city, town, or county and shall be payable only from a special fund as authorized in this section or from any of the security pledged pursuant to the authority of this section, or both. Any bonds, notes, or other evidences of indebtedness to which this subsection applies shall contain a recital to the effect that they are not obligations of the city, town, or county or the state of Washington and that neither the faith and credit nor the taxing power of the state or any municipal corporation or subdivision of the state or any agency of any of the foregoing, is pledged to the payment of principal, interest, or premium, if any, thereon. Any bonds, notes, other evidences of indebtedness, or other obligations to which this subsection applies shall not be included in any computation for purposes of limitations on indebtedness. To the extent expressly agreed in writing by a city, town, county, or public corporation, this subsection shall not apply to bonds, notes, or other evidences of indebtedness issued for, or obligations incurred for, the necessary support of the poor and infirm by that city, town, county, or public corporation.

(7) Any bonds, notes, or other evidences of indebtedness issued by, or reimbursement obligations incurred by, a city, town, county, or public corporation consistent with the provisions of this section but prior to May 3, 1995, and any loans or pledges made by a city, town, or county in connection therewith substantially consistent with the provisions of this section but prior to May 3, 1995, are deemed authorized and shall not be held void, voidable, or invalid due to any lack of authority under the laws of this state.

[1995 c 212 § 2; 1985 c 332 § 3; 1974 ex.s. c 37 § 3.]

#### **NOTES:**

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**Purpose -- 1995 c 212:** "The purpose of this act is to assist community and economic development by clarifying the authority of all cities, towns, counties, and public corporations to engage in federally guaranteed "conduit financings" and to specify procedures that may be used for such conduit financings. Generally, in such a conduit financing a municipality borrows funds from the federal government or from private sources with the help of federal guarantees, without pledging the credit or tax revenues of the municipality, and then lends the proceeds for private projects that both fulfill public purposes, such as community and economic development, and provide the revenues to retire the municipal borrowings. Such conduit financings include issuance by municipalities of federally guaranteed notes under section 108 of the housing and community development act of 1974, as amended, to finance projects eligible under federal community development block grant regulations." [1995 c 212 § 1.]

**Severability -- 1995 c 212:** "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." [1995 c 212 § 3.]

**Construction -- 1995 c 212:** "The authority granted by this act is additional and supplemental to any other authority of any city, town, county, or public corporation. Nothing in this act may be construed to imply that any of the power or authority granted hereby was not available to any city, town, county, or public corporation under prior law. Any previous actions consistent with the provisions of this act are ratified and confirmed." [1995 c 212 § 4.]

**Effective date -- 1995 c 212:** "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 [May 3, 1995]." [1995 c 212 § 5.]

**RCW 35.21.740**

**Public corporations -- Exercise of powers, authorities, or rights -- Territorial jurisdiction.**

Powers, authorities, or rights expressly or impliedly granted to any city, town, or county or their agents under any provision of RCW [35.21.730](#) through [35.21.755](#) shall not be operable or applicable, or have any effect beyond the limits of the incorporated area of any city or town implementing RCW [35.21.730](#) through [35.21.755](#), unless so provided by contract between the city and another city or county

## **RCW 35.21.745**

### **Public corporations -- Provision for, control over -- Powers.**

(1) Any city, town, or county which shall create a public corporation, commission, or authority pursuant to RCW [35.21.730](#) or [35.21.660](#), shall provide for its organization and operations and shall control and oversee its operation and funds in order to correct any deficiency and to assure that the purposes of each program undertaken are reasonably accomplished.

(2) Any public corporation, commission, or authority created as provided in RCW [35.21.730](#) may be empowered to own and sell real and personal property; to contract with a city, town, or county to conduct community renewal activities under chapter [35.81](#) RCW; to contract with individuals, associations, and corporations, and the state and the United States; to sue and be sued; to loan and borrow funds and issue bonds and other instruments evidencing indebtedness; transfer any funds, real or personal property, property interests, or services; to do anything a natural person may do; and to perform all manner and type of community services. However, the public corporation, commission, or authority shall have no power of eminent domain nor any power to levy taxes or special assessments.

[2002 c 218 § 24; 1985 c 332 § 2; 1974 ex.s. c 37 § 5.]

### **NOTES:**

**Severability -- Savings -- Construction -- 2002 c 218:** See notes following RCW [35.81.005](#).

## **RCW 35.21.747**

### **Public corporations -- Real property transferred by city, town, or county -- Restrictions, notice, public meeting.**

(1) In transferring real property to a public corporation, commission, or authority under RCW [35.21.730](#), the city, town, or county creating such public corporation, commission, or authority shall impose appropriate deed restrictions necessary to ensure the continued use of such property for the public purpose or purposes for which such property is transferred.

(2) The city, town, or county that creates a public corporation, commission, or authority under RCW [35.21.730](#) shall require of such public corporation, commission, or authority thirty days' advance written notice of any proposed sale or encumbrance of any real property transferred by such city, town, or county to such public corporation, commission, or authority pursuant to RCW [35.21.730](#)(1). At a minimum, such notice shall be provided by such public corporation, commission, or authority to the chief executive or administrative officer of such city, town, or county, and to all members of its legislative body, and to each local newspaper of general circulation, and to each local radio or television station or other news medium which has on file with such corporation, commission, or authority a written request to be notified.

(3) Any property transferred by the city, town, or county that created such public corporation, commission, or authority may be sold or encumbered by such public corporation, commission, or authority only after approval of such sale or encumbrance by the governing body of the public corporation, commission, or authority at a public meeting of which notice was provided pursuant to RCW [42.30.080](#). Nothing in this section shall be construed to prevent the governing body of the public corporation, commission, or authority from holding an executive session during a regular or special meeting in accordance with RCW [42.30.110](#)(1)(c). In addition, the public corporation, commission, or authority shall advertise notice of the meeting in a local newspaper of general circulation at least twice no less than seven days and no more than two weeks before the public meeting.

[1990 c 189 § 1.]

**RCW 35.21.750****Public corporations -- Insolvency or dissolution.**

In the event of the insolvency or dissolution of a public corporation, commission, or authority, the superior court of the county in which the public corporation, commission, or authority is or was operating shall have jurisdiction and authority to appoint trustees or receivers of corporate property and assets and supervise such trusteeship or receivership: PROVIDED, That all liabilities incurred by such public corporation, commission, or authority shall be satisfied exclusively from the assets and properties of such public corporation, commission, or authority and no creditor or other person shall have any right of action against the city, town, or county creating such corporation, commission or authority on account of any debts, obligations, or liabilities of such public corporation, commission, or authority.

## **RCW 35.21.755**

### **Public corporations -- Exemption or immunity from taxation -- In lieu excise tax.**

(1) A public corporation, commission, or authority created pursuant to RCW [35.21.730](#), [35.21.660](#), or [81.112.320](#) shall receive the same immunity or exemption from taxation as that of the city, town, or county creating the same: PROVIDED, That, except for (a) any property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites or (b) any property owned, operated, or controlled by a public corporation that is used primarily for low-income housing, or that is used as a convention center, performing arts center, public assembly hall, public meeting place, public esplanade, street, public way, public open space, park, public utility corridor, or view corridor for the general public or (c) any blighted property owned, operated, or controlled by a public corporation that was acquired for the purpose of remediation and redevelopment of the property in accordance with an agreement or plan approved by the city, town, or county in which the property is located, or (d) any property owned, operated, or controlled by a public corporation created under RCW [81.112.320](#), any such public corporation, commission, or authority shall pay to the county treasurer an annual excise tax equal to the amounts which would be paid upon real property and personal property devoted to the purposes of such public corporation, commission, or authority were it in private ownership, and such real property and personal property is acquired and/or operated under RCW [35.21.730](#) through [35.21.755](#), and the proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership: PROVIDED FURTHER, That the provisions of chapter [82.29A](#) RCW shall not apply to property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites and which is controlled by a public corporation, commission, or authority created pursuant to RCW [35.21.730](#) or [35.21.660](#), which was in existence prior to January 1, 1987: AND PROVIDED FURTHER, That property within a special review district established by ordinance prior to January 1, 1976, or property which is listed on any federal or state register of historical sites and controlled by a public corporation, commission, or authority created pursuant to RCW [35.21.730](#) or [35.21.660](#), which was in existence prior to January 1, 1976, shall receive the same immunity or exemption from taxation as if such property had been within a district listed on any such federal or state register of historical sites as of January 1, 1976, and controlled by a public corporation, commission, or authority created pursuant to RCW [35.21.730](#) or [35.21.660](#) which was in existence prior to January 1, 1976.

(2) As used in this section:

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

(b) "Area median income" means:

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

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

(c) "Blighted property" means property that is contaminated with hazardous substances as defined under RCW [70.105D.020](#)(7).

[2000 2nd sp.s. c 4 § 29; 1999 c 266 § 1; 1995 c 399 § 38; 1993 c 220 § 1; 1990 c 131 § 1; 1987 c 282 § 1; 1985 c 332 § 5; 1984 c 116 § 1; 1979 ex.s. c 196 § 9; 1977 ex.s. c 35 § 1; 1974 ex.s. c 37 § 7.]

#### **NOTES:**

**Findings -- Construction -- 2000 2nd sp.s. c 4 §§ 18-30:** See notes following RCW [81.112.300](#).

**Effective date -- 1979 ex.s. c 196:** See note following RCW [82.04.240](#).

**Effective date -- 1977 ex.s. c 35:** "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1977." [1977 ex.s. c 35 § 2.]