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HOUSE BILL 1051

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State of Washington

65th Legislature

2017 Regular Session

By Representative DeBolt

Prefiled 12/28/16.

1 AN ACT Relating to financing essential public infrastructure;  
2 amending RCW 43.155.020, 43.155.030, 43.155.040, 43.155.060,  
3 43.155.065, 43.155.068, 43.155.070, 43.155.075, and 43.155.120;  
4 reenacting and amending RCW 43.155.050; adding new sections to  
5 chapter 43.155 RCW; creating a new section; making an appropriation;  
6 and providing a contingent effective date.

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

8

**PART 1**

9

**FINDINGS AND INTENT**

10 NEW SECTION. **Sec. 101.** The legislature finds that local  
11 governments that borrow small amounts or access capital markets  
12 infrequently can have difficulty accessing low-cost financing for  
13 their essential public infrastructure projects. Competition has  
14 increased between prior efforts to finance essential public  
15 infrastructure projects with state tax resources and other growing  
16 essential demands on those same state taxes. This competition has  
17 eroded the reliability of state tax funded public infrastructure  
18 financing programs that in turn has created uncertainty and delay in  
19 improving local public infrastructure. The state's excellent credit  
20 standing and frequency of access to capital markets allows the state

1 to issue bonds at a significantly lower total cost than can be  
2 obtained by many local governments. Therefore, the legislature  
3 intends to improve access and reliability to low-cost financing for  
4 local government infrastructure projects by authorizing public works  
5 bonds when local governments can demonstrate: (1) The importance of  
6 the project; (2) their difficulties accessing existing private credit  
7 markets for borrowings at reasonable interest rates; and (3) the  
8 ability to reliably repay their share of the state's total cost of  
9 retiring the public works bonds.

10 **PART 2**

11 **CHANGES TO THE EXISTING PUBLIC WORKS PROGRAM**

12 **Sec. 201.** RCW 43.155.020 and 2009 c 565 s 33 are each amended to  
13 read as follows:

14 ~~((Unless the context clearly requires otherwise,))~~ The  
15 definitions in this section ((shall)) apply throughout this chapter  
16 unless the context clearly requires otherwise.

17 (1) "Board" means the public works board created in RCW  
18 43.155.030.

19 (2) "Capital facility plan" means a capital facility plan  
20 required by the growth management act under chapter 36.70A RCW or,  
21 for local governments not fully planning under the growth management  
22 act, a plan required by the public works board.

23 (3) "Department" means the department of commerce.

24 (4) ~~(("Financing guarantees" means the pledge of money in the~~  
25 ~~public works assistance account, or money to be received by the~~  
26 ~~public works assistance account, to the repayment of all or a portion~~  
27 ~~of the principal of or interest on obligations issued by local~~  
28 ~~governments to finance public works projects.~~

29 ~~(5))~~ "Local governments" means cities, towns, counties, special  
30 purpose districts, and any other municipal corporations or quasi-  
31 municipal corporations in the state excluding school districts and  
32 port districts.

33 ~~((6))~~ (5) "Public works financing assistance program" is the  
34 program established in sections 301 through 305 of this act.

35 (6) "Public works financing loans" are loans made with bond  
36 proceeds of bonds issued by the state and repaid from loan repayments  
37 under provisions of the public works financing assistance program  
38 created in sections 301 through 305 of this act.

1       (7) "Public works project" means a project of a local government  
2 for the planning, acquisition, construction, repair, reconstruction,  
3 replacement, rehabilitation, or improvement of streets and roads,  
4 bridges, water systems, or storm and sanitary sewage systems and  
5 solid waste facilities, including recycling facilities. A planning  
6 project may include the compilation of biological, hydrological, or  
7 other data on a county, drainage basin, or region necessary to  
8 develop a base of information for a capital facility plan.

9       (~~(7)~~) (8) "Solid waste or recycling project" means remedial  
10 actions necessary to bring abandoned or closed landfills into  
11 compliance with regulatory requirements and the repair, restoration,  
12 and replacement of existing solid waste transfer, recycling  
13 facilities, and landfill projects limited to the opening of landfill  
14 cells that are in existing and permitted landfills.

15       (~~(8)~~) (9) "Technical assistance" means training and other  
16 services provided to local governments to: (a) Help such local  
17 governments plan, apply, and qualify for loans and financing  
18 guarantees from the board, and (b) help local governments improve  
19 their ability to plan for, finance, acquire, construct, repair,  
20 replace, rehabilitate, and maintain public facilities.

21       **Sec. 202.** RCW 43.155.030 and 1999 c 153 s 58 are each amended to  
22 read as follows:

23       (1) The public works board is hereby created.

24       (2) The board shall be composed of (~~(thirteen)~~) seventeen members  
25 appointed by the governor for terms of four years, except that five  
26 members initially shall be appointed for terms of two years. The  
27 board shall include: (a) Three members, two of whom shall be elected  
28 officials and one shall be a public works manager, appointed from a  
29 list of at least six persons nominated by the association of  
30 Washington cities or its successor; (b) three members, two of whom  
31 shall be elected officials and one shall be a public works manager,  
32 appointed from a list of at least six persons nominated by the  
33 Washington state association of counties or its successor; (c) three  
34 members appointed from a list of at least six persons nominated  
35 jointly by the Washington public utility districts association and a  
36 state association of water-sewer districts, or their successors; (d)  
37 one member from each of the two major caucuses of the house of  
38 representatives to be appointed by the speaker of the house of  
39 representatives and one member from each of the two major caucuses of

1 the senate to be appointed by the president of the senate: (i) Each  
2 member of the house of representatives who is appointed to the public  
3 works board under this chapter may designate another member from the  
4 house of representatives to take his or her place on the board for  
5 meetings at which the member will be absent, as long as the  
6 designated member belongs to the same caucus; the designee has all  
7 powers to vote and participate in board deliberations as have the  
8 other board members; (ii) each member of the senate who is appointed  
9 to the public works board under this chapter may designate another  
10 member from the senate to take his or her place on the board for  
11 meetings at which the member will be absent, as long as the  
12 designated member belongs to the same caucus; the designee has all  
13 powers to vote and participate in board deliberations as have the  
14 other board members; and ((+d)) (e) four members appointed from the  
15 general public. In appointing the four general public members, the  
16 governor shall endeavor to balance the geographical composition of  
17 the board and to include members with special expertise in relevant  
18 fields such as public finance, architecture and civil engineering,  
19 and public works construction. The governor shall appoint one of the  
20 general public members of the board as chair. The term of the chair  
21 shall coincide with the term of the governor.

22 (3) Staff support to the board shall be provided by the  
23 department.

24 (4) Members of the board shall receive no compensation but shall  
25 be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

26 (5) If a vacancy on the board occurs by death, resignation, or  
27 otherwise, the governor shall fill the vacant position for the  
28 unexpired term. Each vacancy in a position appointed from lists  
29 provided by the associations under subsection (2) of this section  
30 shall be filled from a list of at least three persons nominated by  
31 the relevant association or associations. Any members of the board,  
32 appointive or otherwise, may be removed by the governor for cause in  
33 accordance with RCW 43.06.070 and 43.06.080.

34 **Sec. 203.** RCW 43.155.040 and 1985 c 446 s 10 are each amended to  
35 read as follows:

36 The board may:

37 (1) Accept from any state or federal agency, loans or grants for  
38 the planning or financing of any public works project and enter into  
39 agreements with any such agency concerning the loans or grants;

- 1 (2) Provide technical assistance to local governments;
- 2 (3) Accept any gifts, grants, or loans of funds, property, or  
3 financial or other aid in any form from any other source on any terms  
4 and conditions which are not in conflict with this chapter;
- 5 (4) Adopt rules under chapter 34.05 RCW as necessary to carry out  
6 the purposes of this chapter;
- 7 (5) Do all acts and things necessary or convenient to carry out  
8 the powers expressly granted or implied under this chapter;
- 9 (6) Implement the public works financing assistance program  
10 created in sections 301 through 305 of this act.

11 **Sec. 204.** RCW 43.155.050 and 2015 3rd sp.s. c 4 s 959 and 2015  
12 3rd sp.s. c 3 s 7032 are each reenacted and amended to read as  
13 follows:

14 The public works assistance account is ~~((hereby))~~ established in  
15 the state treasury. ~~((Money may be placed in the public works  
16 assistance account from the proceeds of bonds when authorized by the  
17 legislature or from any other lawful source.))~~ Money in the public  
18 works assistance account shall be used to make loans ~~((and to give  
19 financial guarantees))~~ to local governments for public works  
20 projects. Moneys in the account may also be appropriated or  
21 transferred to the water pollution control revolving account and the  
22 drinking water assistance account to provide for state match  
23 requirements under federal law ~~((for projects and activities  
24 conducted and financed by the board under the drinking water  
25 assistance account. Not more than fifteen percent of the biennial  
26 capital budget appropriation to the public works board from this  
27 account may be expended or obligated)).~~ Money in the account may also  
28 be appropriated for the administration of the public works financing  
29 assistance program. Money in the account may also be appropriated for  
30 preconstruction loans~~((τ))~~ and emergency loans~~((τ, or loans for~~  
31 ~~capital facility planning under this chapter; of this amount, not~~  
32 ~~more than ten percent of the biennial capital budget appropriation~~  
33 ~~may be expended for emergency loans and not more than one percent of~~  
34 ~~the biennial capital budget appropriation may be expended for capital~~  
35 ~~facility planning loans. During the 2015-2017 fiscal biennium, the~~  
36 ~~legislature may transfer from the public works assistance account to~~  
37 ~~the general fund, the water pollution control revolving account, and~~  
38 ~~the drinking water assistance account such amounts as reflect the~~  
39 ~~excess fund balance of the account. During the 2013-2015 fiscal~~

1 ~~biennium, the legislature may transfer from the public works~~  
2 ~~assistance account to the education legacy trust account such amounts~~  
3 ~~as specified by the legislature)). During the 2015-2017 fiscal~~  
4 ~~biennium, the legislature may appropriate moneys from the account for~~  
5 ~~activities related to the growth management act and the voluntary~~  
6 ~~stewardship program. During the 2015-2017 fiscal biennium, the~~  
7 ~~legislature may transfer from the public works assistance account to~~  
8 ~~the state general fund such amounts as specified by the legislature.~~  
9 ~~((In the 2017-2019 fiscal biennium the legislature intends to~~  
10 ~~allocate seventy three million dollars of future loan repayments paid~~  
11 ~~into the public works assistance account to support basic~~  
12 ~~education.))~~

13 **Sec. 205.** RCW 43.155.060 and 1988 c 93 s 2 are each amended to  
14 read as follows:

15 (1) In order to aid the financing of public works projects, the  
16 board may:

17 ~~((1))~~ (a) Make ~~((low interest or interest free))~~ loans to local  
18 governments from the public works assistance account ~~((or other funds~~  
19 ~~and accounts))~~ for the purpose of assisting local governments in  
20 financing public works projects. The board may require such terms and  
21 conditions and may charge such rates of interest on its loans as it  
22 deems necessary or convenient to carry out the purposes of this  
23 ~~((chapter))~~ section. Money received from local governments in  
24 repayment of loans made under this section shall be paid into the  
25 public works assistance account for uses consistent with this  
26 chapter.

27 ~~((2) Pledge money in the public works assistance account, or~~  
28 ~~money to be received by the public works assistance account, to the~~  
29 ~~repayment of all or a portion of the principal of or interest on~~  
30 ~~obligations issued by local governments to finance public works~~  
31 ~~projects. The board shall not pledge any amount greater than the sum~~  
32 ~~of money in the public works assistance account plus money to be~~  
33 ~~received from the payment of the debt service on loans made from that~~  
34 ~~account, nor shall the board pledge the faith and credit or the~~  
35 ~~taxing power of the state or any agency or subdivision thereof to the~~  
36 ~~repayment of obligations issued by any local government.~~

37 ~~(3))~~ (b) Create such subaccounts in the public works assistance  
38 account as the board deems necessary to carry out the purposes of  
39 this chapter.

1       (~~(4)~~) (c) Provide a method for the allocation of loans (~~and~~  
2 ~~financing guarantees~~) and the provision of technical assistance  
3 under this chapter.

4       (2) When establishing interest rates for loan programs authorized  
5 in this chapter, the board must base interest rates on the average  
6 daily market interest rate for tax-exempt municipal bonds as  
7 published in the bond buyer's index for the period from sixty to  
8 thirty days before the start of the application cycle.

9       (a) For projects with a repayment period between five and twenty  
10 years, the rate must be fifty percent of the market rate.

11       (b) For projects with a repayment period under five years, the  
12 rate must be twenty-five percent of the market rate.

13       (c) For any year in which the average daily market interest rate  
14 for tax-exempt municipal bonds for the period from sixty to thirty  
15 days before the start of an application cycle is nine percent or  
16 greater, the board may cap interest rates at four percent for  
17 projects with a repayment period between five and twenty years and at  
18 two percent for projects with a repayment period under five years.

19       (d) The board must also provide reduced interest rates, extended  
20 repayment periods, or interest-free loans for projects that meet  
21 financial hardship criteria as measured by the affordability index or  
22 similar standard measure of financial hardship.

23       (3) All local public works projects aided in whole or in part  
24 under the provisions of this chapter shall be put out for competitive  
25 bids, except for emergency public works under RCW 43.155.065 for  
26 which the recipient jurisdiction shall comply with this requirement  
27 to the extent feasible and practicable. The competitive bids called  
28 for shall be administered in the same manner as all other public  
29 works projects put out for competitive bidding by the local  
30 governmental entity aided under this chapter.

31       **Sec. 206.** RCW 43.155.065 and 2001 c 131 s 3 are each amended to  
32 read as follows:

33       The board may make (~~low-interest or interest-free~~) loans to  
34 local governments for emergency public works projects from the public  
35 works assistance account. Emergency public works projects shall  
36 include the construction, repair, reconstruction, replacement,  
37 rehabilitation, or improvement of a public water system that is in  
38 violation of health and safety standards and is being operated by a  
39 local government on a temporary basis. The loans may be used to help

1 fund all or part of an emergency public works project less any  
2 reimbursement from any of the following sources: (1) Federal disaster  
3 or emergency funds, including funds from the federal emergency  
4 management agency; (2) state disaster or emergency funds; (3)  
5 insurance settlements; or (4) litigation.

6 **Sec. 207.** RCW 43.155.068 and 2001 c 131 s 4 are each amended to  
7 read as follows:

8 (1) The board may make (~~low-interest or interest-free~~) loans to  
9 local governments from the public works assistance account for  
10 preconstruction activities on public works projects before the  
11 legislature approves the construction phase of the project.  
12 Preconstruction activities include design, engineering, bid-document  
13 preparation, environmental studies, right-of-way acquisition, and  
14 other preliminary phases of public works projects as determined by  
15 the board. The purpose of the loans authorized in this section is to  
16 accelerate the completion of public works projects by allowing  
17 preconstruction activities to be performed before the approval of the  
18 construction phase of the project by the legislature.

19 (2) Projects receiving loans for preconstruction activities under  
20 this section must be evaluated using the priority process and factors  
21 in RCW 43.155.070(~~(+2)~~) (4)(a). The receipt of a loan for  
22 preconstruction activities does not ensure the receipt of a  
23 construction loan for the project under this chapter. Construction  
24 loans for projects receiving a loan for preconstruction activities  
25 under this section are subject to legislative approval under RCW  
26 43.155.070 (~~((4) and (5))~~) (4)(a). The board shall adopt a single  
27 application process for local governments seeking both a loan for  
28 preconstruction activities under this section and a construction loan  
29 for the project from the public works assistance account.

30 **Sec. 208.** RCW 43.155.070 and 2015 3rd sp.s. c 3 s 7033 are each  
31 amended to read as follows:

32 (1) To qualify for financial assistance from the public works  
33 assistance account under this chapter the board must determine that a  
34 local government meets all of the following conditions:

35 (a) The city or county must be imposing a tax under chapter 82.46  
36 RCW at a rate of at least one-quarter of one percent;

37 (b) The local government must have developed a capital facility  
38 plan; and



1 (c) The local government must be using all local revenue sources  
2 which are reasonably available for funding public works, taking into  
3 consideration local employment and economic factors.

4 (2) Except where necessary to address a public health need or  
5 substantial environmental degradation, a county, city, or town  
6 planning under RCW 36.70A.040 may not receive financial assistance  
7 from the public works assistance account under this chapter unless it  
8 has adopted a comprehensive plan, including a capital facilities plan  
9 element, and development regulations as required by RCW 36.70A.040.  
10 This subsection does not require any county, city, or town planning  
11 under RCW 36.70A.040 to adopt a comprehensive plan or development  
12 regulations before requesting or receiving financial assistance under  
13 this chapter if such request is made before the expiration of the  
14 time periods specified in RCW 36.70A.040. A county, city, or town  
15 planning under RCW 36.70A.040 that has not adopted a comprehensive  
16 plan and development regulations within the time periods specified in  
17 RCW 36.70A.040 may apply for and receive financial assistance under  
18 this chapter if the comprehensive plan and development regulations  
19 are adopted as required by RCW 36.70A.040 before executing a  
20 contractual agreement for financial assistance with the board.

21 (3) In considering awarding financial assistance from the public  
22 works assistance account for public facilities to special districts  
23 requesting funding for a proposed facility located in a county, city,  
24 or town planning under RCW 36.70A.040, the board must consider  
25 whether the county, city, or town planning under RCW 36.70A.040 in  
26 whose planning jurisdiction the proposed facility is located has  
27 adopted a comprehensive plan and development regulations as required  
28 by RCW 36.70A.040.

29 ~~(4) ((The board must develop a priority process for public works~~  
30 ~~projects as provided in this section. The intent of the priority~~  
31 ~~process is to maximize the value of public works projects~~  
32 ~~accomplished with assistance under this chapter. The board must~~  
33 ~~attempt to assure a geographical balance in assigning priorities to~~  
34 ~~projects. The board must consider at least the following factors in~~  
35 ~~assigning a priority to a project:~~

36 ~~(a) Whether the local government receiving assistance has~~  
37 ~~experienced severe fiscal distress resulting from natural disaster or~~  
38 ~~emergency public works needs;~~

1 ~~(b) Except as otherwise conditioned by RCW 43.155.110, whether~~  
2 ~~the entity receiving assistance is a Puget Sound partner, as defined~~  
3 ~~in RCW 90.71.010;~~

4 ~~(c) Whether the project is referenced in the action agenda~~  
5 ~~developed by the Puget Sound partnership under RCW 90.71.310;~~

6 ~~(d) Whether the project is critical in nature and would affect~~  
7 ~~the health and safety of a great number of citizens;~~

8 ~~(e) Whether the applicant's permitting process has been certified~~  
9 ~~as streamlined by the office of regulatory assistance;~~

10 ~~(f) Whether the applicant has developed and adhered to guidelines~~  
11 ~~regarding its permitting process for those applying for development~~  
12 ~~permits consistent with section 1(2), chapter 231, Laws of 2007;~~

13 ~~(g) The cost of the project compared to the size of the local~~  
14 ~~government and amount of loan money available;~~

15 ~~(h) The number of communities served by or funding the project;~~

16 ~~(i) Whether the project is located in an area of high~~  
17 ~~unemployment, compared to the average state unemployment;~~

18 ~~(j) Whether the project is the acquisition, expansion,~~  
19 ~~improvement, or renovation by a local government of a public water~~  
20 ~~system that is in violation of health and safety standards, including~~  
21 ~~the cost of extending existing service to such a system;~~

22 ~~(k) Except as otherwise conditioned by RCW 43.155.120, and~~  
23 ~~effective one calendar year following the development of model~~  
24 ~~evergreen community management plans and ordinances under RCW~~  
25 ~~35.105.050, whether the entity receiving assistance has been~~  
26 ~~recognized, and what gradation of recognition was received, in the~~  
27 ~~evergreen community recognition program created in RCW 35.105.030;~~

28 ~~(l) The relative benefit of the project to the community,~~  
29 ~~considering the present level of economic activity in the community~~  
30 ~~and the existing local capacity to increase local economic activity~~  
31 ~~in communities that have low economic growth; and~~

32 ~~(m) Other criteria that the board considers advisable.~~

33 ~~(5) For the 2015-2017 fiscal biennium, in place of the criteria,~~  
34 ~~ranking, and submission processes for construction loan lists~~  
35 ~~provided in subsections (4) and (7) of this section:)~~

36 (a) The board must develop a process for numerically ranking  
37 applications for construction loans submitted by local governments  
38 for financing through the public works assistance account. The board  
39 must consider, at a minimum and in any order, the following factors  
40 in assigning a numerical ranking to a project:

1 (i) Whether the project is critical in nature and would affect  
2 the health and safety of many people;  
3 (ii) The extent to which the project leverages nonstate funds;  
4 (iii) The extent to which the project is ready to proceed to  
5 construction;  
6 (iv) Whether the project is located in an area of high  
7 unemployment, compared to the average state unemployment;  
8 (v) Whether the project promotes the sustainable use of resources  
9 and environmental quality;  
10 (vi) Whether the project consolidates or regionalizes systems;  
11 (vii) Whether the project encourages economic development through  
12 mixed-use and mixed income development consistent with chapter 36.70A  
13 RCW;  
14 (viii) Whether the system is being well-managed in the present  
15 and for long-term sustainability;  
16 (ix) Achieving equitable distribution of funds by geography and  
17 population;  
18 (x) The extent to which the project meets the following state  
19 policy objectives:  
20 (A) Efficient use of state resources;  
21 (B) Preservation and enhancement of health and safety;  
22 (C) Abatement of pollution and protection of the environment;  
23 (D) Creation of new, family-wage jobs, and avoidance of shifting  
24 existing jobs from one Washington state community to another;  
25 (E) Fostering economic development consistent with chapter 36.70A  
26 RCW;  
27 (F) Efficiency in delivery of goods and services, public transit,  
28 and transportation;  
29 (G) Avoidance of additional costs to state and local governments  
30 that adversely impact local residents and small businesses; and  
31 (H) Reduction of the overall cost of public infrastructure; and  
32 (xi) Other criteria that the board considers necessary to achieve  
33 the purposes of this chapter.  
34 (b) Before November (~~17, 2016~~) 1st of each even-numbered year,  
35 the board must develop and submit to the appropriate fiscal  
36 committees of the senate and house of representatives a numerically  
37 ranked list of qualified public works projects which have been  
38 evaluated by the board and are recommended for funding by the  
39 legislature. The maximum amount of funding that the board may  
40 recommend for any jurisdiction is ten million dollars per biennium.

1 For each project on the numerically ranked list, as well as for  
2 eligible projects not recommended for funding, the board must  
3 document the numerical ranking that was assigned. The list must  
4 include, but not be limited to, a description of each project and  
5 recommended financing, the terms and conditions of the loan or  
6 financial guarantee, the local government jurisdiction and  
7 unemployment rate, demonstration of the jurisdiction's critical need  
8 for the project, and documentation of local funds being used to  
9 finance the public works project. The list must also include measures  
10 of fiscal capacity for each jurisdiction recommended for financial  
11 assistance, compared to authorized limits and state averages,  
12 including local government sales taxes; real estate excise taxes;  
13 property taxes; and charges for or taxes on sewerage, water, garbage,  
14 and other utilities.

15 ((+6)) (5) Existing debt or financial obligations of local  
16 governments may not be refinanced under this chapter. Each local  
17 government applicant must provide documentation of attempts to secure  
18 additional local or other sources of funding for each public works  
19 project for which financial assistance is sought under this chapter.

20 ((+7)) (6) Before November 1st of each even-numbered year, the  
21 board must develop and submit to the appropriate fiscal committees of  
22 the senate and house of representatives a description of the loans  
23 made under RCW 43.155.065, 43.155.068, and subsection ((+10)) (9) of  
24 this section during the preceding fiscal year ~~((and a prioritized~~  
25 ~~list of projects which are recommended for funding by the~~  
26 ~~legislature, including one copy to the staff of each of the~~  
27 ~~committees. The list must include, but not be limited to, a~~  
28 ~~description of each project and recommended financing, the terms and~~  
29 ~~conditions of the loan or financial guarantee, the local government~~  
30 ~~jurisdiction and unemployment rate, demonstration of the~~  
31 ~~jurisdiction's critical need for the project and documentation of~~  
32 ~~local funds being used to finance the public works project. The list~~  
33 ~~must also include measures of fiscal capacity for each jurisdiction~~  
34 ~~recommended for financial assistance, compared to authorized limits~~  
35 ~~and state averages, including local government sales taxes; real~~  
36 ~~estate excise taxes; property taxes; and charges for or taxes on~~  
37 ~~sewerage, water, garbage, and other utilities)).~~

38 ((+8)) (7) The board may not sign contracts or otherwise  
39 financially obligate funds from the public works assistance account  
40 before the legislature has appropriated funds for a specific list of

1 public works projects. The legislature may remove projects from the  
2 list recommended by the board. The legislature may not change the  
3 order of the priorities recommended for funding by the board.

4 ~~((9))~~ (8) Subsection ~~((8))~~ (7) of this section does not apply  
5 to loans made under RCW 43.155.065, 43.155.068, and subsection  
6 ~~((10))~~ (9) of this section.

7 ~~((10))~~ (9) Loans made for the purpose of capital facilities  
8 plans are exempted from subsection ~~((8))~~ (7) of this section.

9 ~~((11))~~ (10) To qualify for loans ~~((or pledges))~~ from the public  
10 works assistance account for solid waste or recycling facilities  
11 under this chapter, a city or county must demonstrate that the solid  
12 waste or recycling facility is consistent with and necessary to  
13 implement the comprehensive solid waste management plan adopted by  
14 the city or county under chapter 70.95 RCW.

15 ~~((12))~~ (11) After January 1, 2010, any project designed to  
16 address the effects of storm water or wastewater on Puget Sound may  
17 be funded from the public works assistance account under this section  
18 only if the project is not in conflict with the action agenda  
19 developed by the Puget Sound partnership under RCW 90.71.310.

20 ~~((13) During the 2015-2017 fiscal biennium,))~~ (12) For projects  
21 funded from the public works assistance account involving repair,  
22 replacement, or improvement of a wastewater treatment plant or other  
23 public works facility for which an investment grade efficiency audit  
24 is obtainable, the public works board must require as a contract  
25 condition that the project sponsor undertake an investment grade  
26 efficiency audit. The project sponsor may finance the costs of the  
27 audit as part of its public works assistance account program loan.

28 ~~((14)(a) For public works assistance account application rounds~~  
29 ~~conducted during the 2015-2017 fiscal biennium,))~~ (13) The board must  
30 implement policies and procedures designed to maximize local  
31 government use of federal funds to finance local infrastructure  
32 including, but not limited to, drinking water and clean water state  
33 revolving funds operated by the state departments of health and  
34 ecology. Projects that are eligible for the drinking water and clean  
35 water state revolving funds may receive public works board  
36 preconstruction loans. Projects that are eligible for the drinking  
37 water and clean water state revolving funds are not eligible for  
38 public works board construction loans. For purposes of this  
39 subsection "eligible for drinking water and clean water state  
40 revolving funds" means:

1 ((i)) (a) Projects that have applied to the state revolving  
2 funds and are awaiting a funding decision;

3 ((ii)) (b) Projects that have been rejected for funding solely  
4 due to not meeting readiness requirements; and

5 ((iii)) (c) Projects that have not applied, but would likely be  
6 eligible if the project applied and met the project readiness  
7 requirements.

8 ~~((b) For all construction loan projects proposed to the  
9 legislature for funding during the 2015-2017 fiscal biennium, the  
10 board must base interest rates on the average daily market interest  
11 rate for tax-exempt municipal bonds as published in the bond buyer's  
12 index for the period from sixty to thirty days before the start of  
13 the application cycle. For projects with a repayment period between  
14 five and twenty years, the rate must be sixty percent of the market  
15 rate. For projects with a repayment period under five years, the rate  
16 must be thirty percent of the market rate. The board must also  
17 provide reduced interest rates, extended repayment periods, or  
18 forgivable principal loans for projects that meet financial hardship  
19 criteria as measured by the affordability index or similar standard  
20 measure of financial hardship.))~~

21 **Sec. 209.** RCW 43.155.075 and 2001 c 227 s 10 are each amended to  
22 read as follows:

23 In providing loans for public works projects from the public  
24 works assistance account, the board shall require recipients to  
25 incorporate the environmental benefits of the project into their  
26 applications, and the board shall utilize the statement of  
27 environmental benefits in its prioritization and selection process.  
28 The board shall also develop appropriate outcome-focused performance  
29 measures to be used both for management and performance assessment of  
30 the loan program. To the extent possible, the department should  
31 coordinate its performance measure system with other natural  
32 resource-related agencies as defined in RCW 43.41.270. The board  
33 shall consult with affected interest groups in implementing this  
34 section.

35 **Sec. 210.** RCW 43.155.120 and 2008 c 299 s 30 are each amended to  
36 read as follows:

37 When administering funds from the public works assistance account  
38 under this chapter, the board shall give preference only to an

1 evergreen community recognized under RCW 35.105.030 in comparison to  
2 other entities that are eligible to receive evergreen community  
3 designation. Entities not eligible for designation as an evergreen  
4 community shall not be given less preferential treatment than an  
5 evergreen community.

6 **PART 3**

7 **PUBLIC WORKS FINANCING ASSISTANCE PROGRAM**

8 NEW SECTION. **Sec. 301.** A new section is added to chapter 43.155  
9 RCW to read as follows:

10 (1) A public infrastructure project eligible for the public works  
11 financing assistance program is a capital project by an eligible  
12 local government, as identified in subsection (2) of this section,  
13 that is necessary to:

14 (a) Provide safe and adequate drinking water;

15 (b) Collect, manage, and treat wastewater and storm water;

16 (c) Provide safe and efficient transportation, including public  
17 parking facilities, public transit facilities, and nonmotorized  
18 transportation;

19 (d) Provide or renovate facilities for safe and readily  
20 accessible recreation;

21 (e) Provide flood control and floodplain management facilities  
22 and improvements;

23 (f) Provide water supply improvements and water basin management  
24 enhancements, including culvert replacement projects to improve fish  
25 passage;

26 (g) Provide or renovate county or city criminal justice  
27 facilities;

28 (h) Provide or renovate fire protection or emergency medical  
29 response services facilities; or

30 (i) Provide or renovate public library facilities.

31 (2) In order to be eligible for the public works financing  
32 assistance program a local government must:

33 (a) Demonstrate difficulties accessing existing private credit  
34 markets for borrowings at reasonable interest rates. The public works  
35 board must determine compliance with this requirement under guidance  
36 and advice by the state treasurer's office;

37 (b) Demonstrate the ability to reliably pay all periodic  
38 financing costs to retire the loan or loans provided under the public

1 works financing assistance program. The public works board must  
2 determine compliance with this requirement under guidance and advice  
3 by the state treasurer's office; and

4 (c) Demonstrate that bond proceeds loaned to the local government  
5 would be expended for capital expenditures on a public works project  
6 eligible to be financed with the proceeds of tax-exempt bonds under  
7 the internal revenue code. The public works board must determine  
8 compliance with this requirement under guidance and advice by the  
9 state treasurer's office.

10 (3) The board must prioritize applications for assistance under  
11 the public works financing assistance program to achieve the greatest  
12 community benefit in jurisdictions that would most benefit from this  
13 assistance as measured by the difference in the total cost of  
14 financing under this program compared to financing cost from private  
15 capital markets. The board must adopt criteria for prioritizing  
16 applications and submit the scoring under those criteria in the  
17 annual report required in section 302 of this act.

18 NEW SECTION. **Sec. 302.** A new section is added to chapter 43.155  
19 RCW to read as follows:

20 (1) The board must not sign contracts or otherwise financially  
21 obligate funds from the public works financing assistance account  
22 created in section 303 of this act unless the legislature has  
23 authorized the necessary bonds and appropriated sufficient amounts  
24 from the account for the approved projects.

25 (2) The board must execute contracts for project loans with local  
26 governments under the public works financing program to ensure that:

27 (a) Disbursements against authorized loans are in predictable  
28 amounts as required to meet project expenditures without resulting in  
29 prolonged and excessive project fund balances;

30 (b) Repayments by local governments are sufficient and timely to  
31 cover the state's repayment obligations of public works financing  
32 bond issued on behalf of the project;

33 (c) All other requirements are met, including compliance with  
34 state laws regarding the issuance and limits on local government  
35 debt; and

36 (d) The board has sufficient recourse against the local  
37 government borrower in the event that the borrower defaults on its  
38 public works financing loan payment obligations.



1 (3) Every contract entered into by a local government for a  
2 public works financing loan must allow for the following:

3 (a) In the event of a default by a local government in the  
4 payment of any amounts due under the public works financing loan:

5 (i) The board must notify the local government's treasurer of the  
6 default. The local government's treasurer must transfer any legally  
7 available funds in satisfaction of the local government's obligations  
8 under the public works financing loan;

9 (ii) If the local government's treasurer is unable to transfer  
10 sufficient funds to meet the local government's obligations under the  
11 public works financing loan, the board must notify the state  
12 treasurer. The state treasurer must withdraw the local government's  
13 share of state revenues for distribution or any other funds held by  
14 the state treasurer on behalf of the local government in an amount  
15 sufficient to meet the shortfall;

16 (iii) The state treasurer must deposit any funds collected  
17 pursuant to this subsection into the public works financing  
18 assistance bond repayment account.

19 (b) If neither the local government treasurer nor the state  
20 treasurer has sufficient funds of the local government or due to be  
21 paid by the local government to meet its obligations under the public  
22 works financing loan, the board may take whatever actions are legally  
23 permissible against the local government including, but not limited  
24 to:

25 (i) Instituting litigation proceedings;

26 (ii) Seeking legislation to provide greater assurance that timely  
27 payments will be made by the defaulting local government; and

28 (iii) Refusing to enter into any other contracts to provide funds  
29 to the local government.

30 (4) By July 1st of each year, the board must submit a report to  
31 the state treasurer, the office of financial management, and the  
32 fiscal committees of the legislature. The report must include:

33 (a) The list of projects approved in the preceding fiscal year  
34 with the project scores against the board's prioritization criteria;

35 (b) The total amount of loan disbursements made from the public  
36 works financing assistance bond repayment account, created in section  
37 304 of this act, in the preceding fiscal year;

38 (c) The total amount of loan repayments in the preceding fiscal  
39 year for outstanding loans made from the public works financing  
40 assistance account;

1 (d) The total amount of loan repayments due from local  
2 governments for outstanding loans by fiscal year over the following  
3 ten-year period; and

4 (e) Any further information required by the state treasurer's  
5 office necessary to meet internal revenue service requirements for  
6 tax compliance, or for determining whether projected revenues are  
7 sufficient to meet projected debt service obligations.

8 NEW SECTION. **Sec. 303.** A new section is added to chapter 43.155  
9 RCW to read as follows:

10 The public works financing assistance account is created in the  
11 state treasury. All bond proceeds issued to support public works  
12 financing assistance projects must be deposited in the account.  
13 Moneys in the account may be spent only after appropriation.  
14 Expenditures from the account may be used only for the public works  
15 financing assistance program.

16 NEW SECTION. **Sec. 304.** A new section is added to chapter 43.155  
17 RCW to read as follows:

18 The public works financing assistance bond repayment account is  
19 created in the custody of the state treasury. All repayments for  
20 public works financing loans from local governments must be deposited  
21 in the account. Expenditures from the account must only be made for  
22 payment of principal and interest to retire bonds issued pursuant to  
23 this section. The account is subject to the allotment procedures  
24 under chapter 43.88 RCW, but an appropriation is not required for  
25 expenditures.

26 NEW SECTION. **Sec. 305.** A new section is added to chapter 43.155  
27 RCW to read as follows:

28 (1) To ensure that sufficient revenues are collected to meet debt  
29 service requirements on bonds issued in accordance with this chapter:

30 (a) The board:

31 (i) May charge an additional amount on public works financing  
32 loans to local governments to create a reserve to meet potential  
33 shortfalls; or

34 (ii) Must take other actions as are necessary to ensure that  
35 sufficient revenues are collected to meet debt service obligations on  
36 bonds issued to support a public works financing loan.

1 (2) If the board is unable to collect sufficient revenues to meet  
2 debt service obligations on bonds issued to support public works  
3 financing loans, the legislature must take any action legally  
4 authorized to raise such revenue from loan repayments to meet this  
5 obligation, including, but not limited to, collect loan repayments  
6 directly from distributions to local governments in the event of  
7 nonpayment, or any other method deemed appropriate to ensure that  
8 adequate revenues are received to meet debt service obligations.

9 (3) If there is insufficient revenue to meet projected debt  
10 service obligations, as determined by the office of the state  
11 treasurer, the state finance committee may not approve the issuance  
12 or sale of bonds for this purpose until such time as the projected  
13 amount of revenue is at least equal to the projected amount of debt  
14 service then owed on bonds issued to support public works financing  
15 loans.

16 **PART 4**

17 **MISCELLANEOUS PROVISIONS**

18 NEW SECTION. **Sec. 401.** Sections 301 through 305 of this act  
19 take effect January 1, 2018, if the proposed amendment to Article  
20 VIII, section 1 of the state Constitution, contained in House Joint  
21 Resolution No. .... (H-0423/17), is validly submitted to and is  
22 approved and ratified by voters at the next general election. If the  
23 proposed amendment is not approved and ratified, sections 301 through  
24 305 of this act are void in their entirety.

25 NEW SECTION. **Sec. 402.** The sum of fifty million dollars, or as  
26 much thereof as may be necessary, is appropriated for the biennium  
27 ending June 30, 2019, from the public works assistance account to the  
28 department of commerce for the purpose of providing loans to local  
29 governments for infrastructure projects. In addition to meeting the  
30 eligibility requirements in chapter 43.155 RCW, a local government  
31 must meet the definition of a rural county as defined in RCW  
32 82.14.370 to be eligible for public works assistance account loans  
33 funded under this section.

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