
SENATE BILL 5844

State of Washington 62nd Legislature 2011 Regular Session

By Senators Kilmer, Parlette, Murray, Kastama, Fraser, Hobbs, Hatfield, Regala, Sheldon, and Hewitt

Read first time 02/21/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to financing local government infrastructure;
2 amending RCW 43.155.010, 43.155.020, 43.155.050, and 43.155.060; adding
3 a new section to chapter 43.155 RCW; and repealing RCW 43.155.055,
4 43.155.075, 43.155.100, 43.155.110, and 43.155.120.

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

6 **Sec. 1.** RCW 43.155.010 and 1996 c 168 s 1 are each amended to read
7 as follows:

8 (1) ~~The legislature finds that ((there exists in the state of~~
9 ~~Washington over four billion dollars worth of critical projects for the~~
10 ~~planning, acquisition, construction, repair, replacement,~~
11 ~~rehabilitation, or improvement of streets and roads, bridges, water~~
12 ~~systems, and storm and sanitary sewage systems. The December, 1983~~
13 ~~Washington state public works report prepared by the planning and~~
14 ~~community affairs agency documented that local governments expect to be~~
15 ~~capable of financing over two billion dollars worth of the costs of~~
16 ~~those critical projects but will not be able to fund nearly half of the~~
17 ~~documented needs.~~

18 ~~The legislature further finds that Washington's local governments~~

1 ~~have unmet financial needs for solid waste disposal, including~~
2 ~~recycling, and encourages the board to make an equitable geographic~~
3 ~~distribution of the funds.~~

4 ~~It is the policy of the state of Washington to encourage self-~~
5 ~~reliance by local governments in meeting their public works needs and~~
6 ~~to assist in the financing of critical public works projects by making~~
7 ~~loans, financing guarantees, and technical assistance available to~~
8 ~~local governments for these projects.)), since the creation of the~~
9 public works board and the public works assistance account twenty-five
10 years ago, over two billion dollars in low interest loans to local
11 governments have financed needed infrastructure repairs and
12 improvements. Many of these loans have built wastewater treatment
13 systems resulting in water quality improvements in rivers, lakes, and
14 Puget Sound. Some of these loans have improved the safety and
15 efficiency of drinking water systems. Other loans repaired roads and
16 bridges and financed solid waste recycling programs. Some of these
17 public work improvements would not have occurred without the low
18 interest public works loan. Others would have been delayed, and many
19 would have been constructed with a higher financial burden on utility
20 ratepayers. Even with these successes, there remains a significant
21 backlog of projects to repair and improve public infrastructure.

22 (2) The legislature finds that capital facilities planning by local
23 government has improved, and there are many new grant and loan programs
24 for local government infrastructure financed with state and federal
25 resources. Prior studies of state programs that provide assistance for
26 local infrastructure have identified significant duplication and
27 redundancy among the various programs leading to coordination
28 challenges in determining the entire state investment in a particular
29 project. These studies have also identified the need to clarify state
30 policy objectives for programs that provide state financial assistance
31 for local government infrastructure. Further, these studies have found
32 that state assistance is often delayed by unnecessary steps in the
33 process and that programs do not rapidly adapt to emerging needs.

34 (3) The legislature also finds that low interest loans can provide
35 significant assistance for jurisdictions that have difficulty in
36 accessing traditional private market tax exempt bond financing.

37 (4) The legislature recognizes that prior efforts to reform
38 programs providing assistance for local infrastructure have lacked a

1 clear and strong enough mandate to the daunting complexity of
2 consolidating and simplifying the many statutes, boards, programs, and
3 accounts.

4 (5) The legislature intends to modernize the public works
5 assistance program and other programs providing state and federal
6 funding assistance for local infrastructure by:

7 (a) Clarifying the policy objectives of state assistance for local
8 infrastructure;

9 (b) Focusing the criteria to prioritize investment of state
10 resources according to those policy objectives;

11 (c) Eliminating redundancy and duplication among the various
12 infrastructure assistance programs;

13 (d) Increasing the speed of delivering state assistance for local
14 infrastructure and the ability to respond to emerging infrastructure
15 needs;

16 (e) Maximizing the acquisition and use of federal funding sources;

17 (f) Ensuring transparency in total state and federal assistance for
18 individual projects;

19 (g) Improving access to the lowest cost private market financing;
20 and

21 (h) Ensuring periodic review of progress on meeting the objectives
22 in (a) through (g) of this subsection.

23 (6) It is state policy that planning for, developing, and
24 adequately maintaining local public infrastructure is the
25 responsibility of local governments. In the provision of utility
26 services, such as drinking water and wastewater systems, it is the
27 responsibility of local governments to establish adequate rates to pay
28 for these systems. While reinforcing that policy of local
29 responsibility, the legislature recognizes that, in some cases,
30 compelling state policy objectives justify providing state assistance
31 for both utility-based and nonutility-based infrastructure. The
32 legislature intends to create a system for providing assistance for
33 local infrastructure that is organized around the state policy
34 objectives for that assistance while reinforcing that foundation policy
35 of local responsibility.

36 NEW SECTION. Sec. 2. A new section is added to chapter 43.155 RCW
37 to read as follows:

1 (1) The board must prepare and submit to the appropriate committees
2 of the legislature by November 1, 2011, an implementation plan to
3 create a reformed state system for providing assistance for local
4 infrastructure. The implementation plan must include draft legislation
5 and the organizational and budgetary changes necessary to implement the
6 new system in time for the 2013-2015 budget cycle. In developing the
7 implementation plan, the board must consult with the appropriate state
8 agencies that provide infrastructure funding and technical assistance.
9 In addition, the board must consult with local governments or entities
10 that would benefit from state and federal infrastructure funding and
11 technical assistance. The new system must have the following
12 characteristics:

13 (a) Transparency. State assistance for a specific project must be
14 a consolidated package of loans and/or grants from all sources. For
15 large, multiphased projects, the consolidated package of assistance may
16 describe an intent to fund multiple phases over more than one biennium.
17 In accepting the package of assistance, the applicant must agree to not
18 seek additional state assistance unless there are significant changes
19 to the project or fiscal capacity of the applicant. All assistance in
20 the form of low interest loans must describe the annual debt service
21 value of the low interest loan compared to the likely annual debt
22 service payments with private market financing. It is the
23 responsibility of the board to consolidate reporting of all state
24 assistance for local infrastructure to ensure transparency;

25 (b) Accountability. Applicants for state assistance for local
26 infrastructure must accept the foundation policy of local
27 responsibility described in RCW 43.155.010. It is the responsibility
28 of the board to collect and monitor information necessary to report to
29 the legislature progress in meeting this policy. The board must also
30 offer technical assistance to local governments most challenged by this
31 policy. The board, in consultation with the departments of health and
32 ecology, must establish minimum requirements for adequate utility rate
33 systems, capital planning, asset management, and financial reporting to
34 ensure the long-term maintenance, sustainability, and future
35 replacement of the proposed project. Applicants for state assistance
36 for local infrastructure not meeting these minimum requirements must
37 agree to an implementation plan to meet those requirements as a
38 condition of accepting state assistance;

1 (c) Efficiency. The reformed system of state assistance must use
2 resources efficiently while accomplishing the policies in this section.
3 Redundancy and duplication must be eliminated. Processes must be
4 redesigned to reduce steps that unnecessarily delay projects.
5 Organizational responsibilities to implement the new system must
6 minimize the portion of infrastructure assistance funding diverted to
7 agency indirect administrative expenses. Measures of efficiency and
8 performance must be developed and reported every two years; and

9 (d) Policy-focused investments. The legislature intends to
10 consolidate appropriations from all available funds for the following
11 policy-focused local infrastructure investments. Each policy-focused
12 appropriation must be to the agency with the greatest expertise in that
13 policy objective. Each agency must develop specific criteria to
14 prioritize applications for assistance. The board must simultaneously
15 review applications for assistance to determine level of compliance
16 with the foundation policy of local responsibility and the policies
17 described in (a) through (c) of this subsection.

18 (i) Water quality. State assistance for water quality
19 infrastructure must support projects that result in the greatest
20 improvements in the state's surface and groundwater, for communities
21 least able to pay for those projects and for jurisdictions who are
22 early adopters of new regulations and effective new technology. Water
23 quality projects must be evaluated and prioritized against these policy
24 objectives by the department of ecology.

25 (ii) Safe drinking water. State assistance for water quality
26 infrastructure must support projects that result in the greatest
27 improvements in the safety and quality of drinking water, for
28 communities least able to pay for those projects and for jurisdictions
29 who are early adopters of new regulations and effective new technology.
30 Safe drinking water projects must be evaluated and prioritized against
31 these policy objectives by the department of health.

32 (iii) Storm water. State assistance for storm water infrastructure
33 shall support projects that result in the greatest improvements
34 necessary to meet national pollution discharge elimination system
35 requirements for communities least able to pay for those projects and
36 for jurisdictions who are early adopters of new regulations and
37 effective new technology. Storm water projects must be evaluated and

1 prioritized against these policy objectives by the department of
2 ecology.

3 (iv) Economic development. State assistance for economic
4 development infrastructure must support projects that result in
5 retention or creation of businesses with family wage jobs and long-term
6 growth potential, especially in areas of the state with patterns of
7 high unemployment. Economic development infrastructure must include
8 systems that support innovation partnership zones under RCW 43.330.270.
9 Economic development projects must be evaluated and prioritized against
10 these policies by the community economic revitalization board under
11 chapter 43.160 RCW.

12 (v) Access to private financing. State assistance for local
13 infrastructure must expand capacity to improve local infrastructure.
14 Improving access to and reducing the cost of private market financing
15 for local government infrastructure supports the foundation policy of
16 local responsibility while expanding the capacity to improve local
17 infrastructure. The board and the state treasurer must develop an
18 application and due diligence process for the evaluation and
19 prioritization of projects receiving assistance to improve access to
20 private financing under RCW 43.155.060.

21 (2) The implementation plan must also make recommendations on how
22 nonrate-based utilities could receive state infrastructure assistance.

23 **Sec. 3.** RCW 43.155.020 and 2009 c 565 s 33 are each amended to
24 read as follows:

25 Unless the context clearly requires otherwise, the definitions in
26 this section (~~(shall)~~) apply throughout this chapter.

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

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

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

33 (4) (~~("Financing guarantees" means the pledge of money in the
34 public works assistance account, or money to be received by the public
35 works assistance account, to the repayment of all or a portion of the
36 principal of or interest on obligations issued by local governments to
37 finance public works projects.)~~) "Contingent loan agreement" means an

1 agreement between the state and a local government in which the state
2 provides an absolute and unconditional commitment to make a loan to a
3 local government from the infrastructure financing account in order to
4 enhance the credit of local government borrowing.

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

9 (6) "Public works project" means a project of a local government
10 for the planning, acquisition, construction, repair, reconstruction,
11 replacement, rehabilitation, or improvement of streets and roads,
12 bridges, water systems, or storm and sanitary sewage systems and
13 (~~solid waste facilities~~) other capital facilities that support the
14 policy objectives of the state's local infrastructure investments
15 described in section 2 of this act, including recycling facilities. A
16 planning project may include the compilation of biological,
17 hydrological, or other data on a county, drainage basin, or region
18 necessary to develop a base of information for a capital facility plan.

19 (~~(7) ("Solid waste or recycling project" means remedial actions~~
20 ~~necessary to bring abandoned or closed landfills into compliance with~~
21 ~~regulatory requirements and the repair, restoration, and replacement of~~
22 ~~existing solid waste transfer, recycling facilities, and landfill~~
23 ~~projects limited to the opening of landfill cells that are in existing~~
24 ~~and permitted landfills.~~

25 (~~8~~)) "Technical assistance" means training and other services
26 provided to local governments to help such local governments:

27 (a) (~~Help such local governments~~) Plan, apply, and qualify for
28 loans (~~and financing guarantees from the board~~), grants, and
29 contingent loan agreements; and

30 (b) (~~help local governments~~) Improve their ability to plan for,
31 finance, acquire, construct, repair, replace, rehabilitate, and
32 maintain public facilities; and

33 (c) Comply with the policies of local responsibility described in
34 section 2 of this act.

35 **Sec. 4.** RCW 43.155.050 and 2010 1st sp.s. c 37 s 932 are each
36 amended to read as follows:

37 The public works assistance account is hereby established in the

1 state treasury. Money may be placed in the public works assistance
2 account from the proceeds of bonds when authorized by the legislature
3 or from any other lawful source. Money in the public works assistance
4 account (~~(shall)~~) must be used to make loans and to give financial
5 guarantees to local governments for public works projects. Moneys in
6 the account may also be appropriated to provide for state match
7 requirements (~~(under federal law for projects and activities conducted~~
8 ~~and financed by the board under the drinking water assistance account)~~)
9 for federal assistance for clean water and drinking water local
10 infrastructure. Moneys in the account may also be appropriated for
11 payments required under contingent loan agreements for infrastructure
12 projects. Moneys in the account may be appropriated to provide
13 financial assistance through the water system acquisition and
14 rehabilitation program created in chapter 70.119A RCW. Not more than
15 fifteen percent of the biennial capital budget appropriation to the
16 public works board from this account may be expended or obligated for
17 preconstruction loans, emergency loans, or loans for capital facility
18 planning under this chapter; of this amount, not more than ten percent
19 of the biennial capital budget appropriation may be expended for
20 emergency loans and not more than one percent of the biennial capital
21 budget appropriation may be expended for capital facility planning
22 loans. ((For the 2007-2009 biennium, moneys in the account may be used
23 for grants for projects identified in section 138, chapter 488, Laws of
24 2005 and section 1033, chapter 520, Laws of 2007. During the 2009-2011
25 fiscal biennium, sums in the public works assistance account may be
26 used for the water pollution control revolving fund program match in
27 section 3013, chapter 36, Laws of 2010 1st sp. sess. During the 2009-
28 2011 fiscal biennium, the legislature may transfer from the job
29 development fund to the general fund such amounts as reflect the excess
30 fund balance of the fund.))

31 **Sec. 5.** RCW 43.155.060 and 1988 c 93 s 2 are each amended to read
32 as follows:

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

35 ~~((1))~~ (a) Make low-interest or interest-free loans and make
36 grants to local governments from the public works assistance account or
37 other funds and accounts for the purpose of assisting local governments

1 in financing public works projects. The board may require such terms
2 and conditions and may charge such rates of interest on its loans as it
3 deems necessary or convenient to carry out the purposes of this
4 chapter. Money received from local governments in repayment of loans
5 made under this section (~~shall~~) must be paid into the public works
6 assistance account for uses consistent with this chapter;

7 (b) Make loans to local governments to assist those local
8 governments to pay all or a portion of the principal of or interest on
9 obligations issued to finance infrastructure projects pursuant to
10 contingent loan agreements; and

11 (c)(i) Coordinate with the Washington state treasurer who, on
12 behalf of the state of Washington, may prescribe the terms of and enter
13 into a contingent loan agreement between the state and a local
14 government if the state treasurer determines that such a contingent
15 loan agreement is financially prudent and is consistent with the
16 provisions of this chapter. Contingent loan agreements may be entered
17 into by the state treasurer only with local governments whose limited
18 tax general obligations or senior revenue obligations, as applicable to
19 the obligations concerned, are rated not higher than A1 or A+ by at
20 least one of the nationally recognized rating agencies.

21 (ii) The state's obligation to make any loan to a local government
22 pursuant to the terms of a contingent loan agreement is subject to
23 appropriation from the infrastructure financing account.

24 (iii) The office of the state treasurer may charge a fee to local
25 governments to recover the costs of creating the contingent loan
26 agreements.

27 (iv) In order to provide for the state's obligations under the
28 terms of contingent loan agreements, the legislature must provide, from
29 time to time in appropriations acts, for such amounts as may be
30 required to make timely payments from the infrastructure financing
31 account.

32 ~~(2) ((Pledge money in the public works assistance account, or money~~
33 ~~to be received by the public works assistance account, to the repayment~~
34 ~~of all or a portion of the principal of or interest on obligations~~
35 ~~issued by local governments to finance public works projects. The~~
36 ~~board shall not pledge any amount greater than the sum of money in the~~
37 ~~public works assistance account plus money to be received from the~~
38 ~~payment of the debt service on loans made from that account, nor shall~~

1 ~~the board~~) Neither the board nor the state treasurer may pledge the
2 faith and credit or the taxing power of the state or any agency or
3 subdivision thereof to the repayment of obligations issued by any local
4 government.

5 (3) In order to aid the financing of public works projects, the
6 board may:

7 (a) Create such subaccounts in the public works assistance account
8 as the board deems necessary to carry out the purposes of this
9 chapter(~~(-)~~); and

10 (~~(+4)~~) (b) Provide a method for the allocation of loans (~~and~~
11 ~~financing guarantees~~), grants, and contingent loan agreements and the
12 provision of technical assistance under this chapter.

13 (4) All local public works projects aided in whole or in part under
14 the provisions of this chapter (~~shall~~) must be put out for
15 competitive bids, except for emergency public works under RCW
16 43.155.065 for which the recipient jurisdiction (~~shall~~) must comply
17 with this requirement to the extent feasible and practicable. The
18 competitive bids called for (~~shall~~) must be administered in the same
19 manner as all other public works projects put out for competitive
20 bidding by the local governmental entity aided under this chapter.

21 NEW SECTION. Sec. 6. The following acts or parts of acts are each
22 repealed:

23 (1) RCW 43.155.055 (Water storage projects and water systems
24 facilities subaccount) and 2003 c 330 s 1;

25 (2) RCW 43.155.075 (Loans for public works projects--Statement of
26 environmental benefits--Development of outcome-focused performance
27 measures) and 2001 c 227 s 10;

28 (3) RCW 43.155.100 (Water conservation account) and 2002 c 329 s
29 11;

30 (4) RCW 43.155.110 (Puget Sound partners) and 2007 c 341 s 25; and

31 (5) RCW 43.155.120 (Administering funds--Preference to an evergreen
32 community) and 2008 c 299 s 30.

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