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HOUSE BILL 2116

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Murray, Delvin, Hankins and Fromhold; by request of Governor Locke, Department of Community, Trade, and Economic Development and Public Works Board

Read first time 02/14/2001. Referred to Committee on Capital Budget.

1 AN ACT Relating to public works board projects; amending RCW  
2 43.155.010, 43.155.020, 43.155.065, 43.155.068, and 43.155.070; and  
3 reenacting and amending RCW 43.155.050.

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

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

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

17 ~~The legislature further finds that Washington's local governments~~  
18 ~~have unmet financial needs for solid waste disposal, including~~  
19 ~~recycling, and encourages the board to make an equitable geographic~~

1 ~~distribution of the funds))~~ are several billion dollars worth of  
2 critical local government projects for the planning, acquisition,  
3 construction, repair, replacement, rehabilitation, or improvement of  
4 bridges, streets and roads, domestic water systems, sanitary sewer  
5 systems, storm water systems, solid waste/recycling systems, and adult  
6 or juvenile correction and detention facilities that are not funded.  
7 This finding is supported by infrastructure needs assessments of 1983,  
8 1988, and other documents.

9 It is the policy of the state of Washington to encourage self-  
10 reliance by local governments in meeting their public works needs and  
11 to assist in the financing of critical public works projects by making  
12 loans, financing guarantees, and technical assistance available to  
13 local governments for these projects.

14 **Sec. 2.** RCW 43.155.020 and 1996 c 168 s 2 are each amended to read  
15 as follows:

16 Unless the context clearly requires otherwise, the definitions in  
17 this section shall apply throughout this chapter.

18 (1) "Adult or juvenile correction or detention facilities" means  
19 jails as defined by RCW 70.48.020(5).

20 (2) "Board" means the public works board created in RCW 43.155.030.

21 ~~((+2))~~ (3) "Capital facility plan" means a capital facility plan  
22 required by the growth management act under chapter 36.70A RCW or, for  
23 local governments not fully planning under the growth management act,  
24 a plan required by the public works board.

25 (4) "Department" means the department of community, trade, and  
26 economic development.

27 ~~((+3))~~ (5) "Financing guarantees" means the pledge of money in the  
28 public works assistance account, or money to be received by the public  
29 works assistance account, to the repayment of all or a portion of the  
30 principal of or interest on obligations issued by local governments to  
31 finance public works projects.

32 ~~((+4))~~ (6) "Local governments" means cities, towns, counties,  
33 special purpose districts, and any other municipal corporations or  
34 quasi-municipal corporations in the state excluding school districts  
35 and port districts.

36 ~~((+5))~~ (7) "Public works project" means a project of a local  
37 government for the planning, acquisition, construction, repair,  
38 reconstruction, replacement, rehabilitation, or improvement of

1 (~~streets and roads, bridges, water systems, or storm and sanitary~~  
2 ~~sewage systems and solid waste facilities, including recycling~~  
3 ~~facilities~~) bridges, streets and roads, domestic water systems,  
4 sanitary sewer systems, storm water systems, solid waste/recycling  
5 systems, and adult or juvenile correction and detention facilities. A  
6 planning project may include the compilation of biological,  
7 hydrological, or other data on a county, drainage basin, or region  
8 necessary to develop a base of information for a capital facility plan.

9 ((~~6~~)) (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 facilities,  
13 and landfill projects limited to the opening of landfill cells that are  
14 in existing and permitted landfills.

15 ((~~7~~)) (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 guarantees  
18 from the board, and (b) help local governments improve their ability to  
19 plan for, finance, acquire, construct, repair, replace, rehabilitate,  
20 and maintain public facilities.

21 **Sec. 3.** RCW 43.155.050 and 1995 2nd sp.s. c 18 s 918 and 1995 c  
22 376 s 11 are each reenacted and amended to read as follows:

23 The public works assistance account is hereby established in the  
24 state treasury. Money may be placed in the public works assistance  
25 account from the proceeds of bonds when authorized by the legislature  
26 or from any other lawful source. Money in the public works assistance  
27 account shall be used to make loans and to give financial guarantees to  
28 local governments for public works projects. Moneys in the account may  
29 also be appropriated to provide for state match requirements under  
30 federal law for projects and activities conducted and financed by the  
31 board under the drinking water assistance account. (~~During the 1995-~~  
32 ~~97 fiscal biennium, moneys in the public works assistance account may~~  
33 ~~be appropriated for transfer to the flood control assistance account to~~  
34 ~~be used for flood control assistance, including grants under chapter~~  
35 ~~86.26 RCW. To the extent that moneys in the public works assistance~~  
36 ~~account are not appropriated during the 1995-97 fiscal biennium for~~  
37 ~~public works or flood control assistance, the legislature may direct~~  
38 ~~their transfer to the state general fund. In awarding grants under~~

1 ~~chapter 86.26 RCW, the department of ecology shall give strong~~  
2 ~~preference to local governments that have: (1) Implemented, or are in~~  
3 ~~the process of implementing, an ordinance that establishes a flood~~  
4 ~~plain policy that is substantially more stringent than minimum federal~~  
5 ~~requirements; (2) completed a comprehensive flood control plan meeting~~  
6 ~~the requirements of RCW 86.12.200; or (3) constructed, or are in the~~  
7 ~~process of constructing, a system of overtopping dikes or levees that~~  
8 ~~allow public access.)) Not more than fifteen percent of the biennial~~  
9 ~~capital budget appropriation to the public works board from this~~  
10 ~~account may be expended or obligated for preconstruction loans,~~  
11 ~~emergency loans, or loans for capital facility planning under this~~  
12 ~~chapter. Not more than ten percent of the biennial capital budget~~  
13 ~~appropriation may be expended for emergency loans under this chapter.~~  
14 ~~Not more than one percent of the biennial capital budget appropriation~~  
15 ~~may be expended for capital facility planning loans under this chapter.~~

16 **Sec. 4.** RCW 43.155.065 and 1990 c 133 s 7 are each amended to read  
17 as follows:

18 The board may make low-interest or interest-free loans to local  
19 governments for emergency public works projects. Emergency public  
20 works projects shall include the construction, repair, reconstruction,  
21 replacement, rehabilitation, or improvement of a public water system  
22 that is in violation of health and safety standards and is being  
23 operated by a local government on a temporary basis. The loans may be  
24 used to help fund all or part of an emergency public works project less  
25 any reimbursement from any of the following sources: (1) Federal  
26 disaster or emergency funds, including funds from the federal emergency  
27 management agency; (2) state disaster or emergency funds; (3) insurance  
28 settlements; or (4) litigation. ~~((Emergency loans may be made only~~  
29 ~~from those funds specifically appropriated from the public works~~  
30 ~~assistance account for such purpose by the legislature. The amount~~  
31 ~~appropriated from the public works assistance account for emergency~~  
32 ~~loan purposes shall not exceed five percent of the total amount~~  
33 ~~appropriated from this account in any biennium.))~~

34 **Sec. 5.** RCW 43.155.068 and 1995 c 363 s 2 are each amended to read  
35 as follows:

36 (1) The board may make low-interest or interest-free loans to local  
37 governments for preconstruction activities on public works projects

1 (~~before the legislature approves the construction phase of the~~  
2 ~~project~~). Preconstruction activities include design, engineering,  
3 bid-document preparation, environmental studies, right of way  
4 acquisition, and other preliminary phases of public works projects as  
5 determined by the board. (~~The purpose of the loans authorized in this~~  
6 ~~section is to accelerate the completion of public works projects by~~  
7 ~~allowing preconstruction activities to be performed before the approval~~  
8 ~~of the construction phase of the project by the legislature.~~)

9 (2) Projects receiving loans for preconstruction activities under  
10 this section must be evaluated using the priority process and factors  
11 in RCW 43.155.070(~~(+2)~~) (4). The receipt of a loan for  
12 preconstruction activities does not ensure the receipt of a  
13 construction loan for the project under this chapter. (~~Construction~~  
14 ~~loans for projects receiving a loan for preconstruction activities~~  
15 ~~under this section are subject to legislative approval under RCW~~  
16 ~~43.155.070 (4) and (5).~~) The board shall adopt a single application  
17 process for local governments seeking both a loan for preconstruction  
18 activities under this section and a construction loan for the project.

19 (~~(3) Preconstruction activity loans under this section may be made~~  
20 ~~only from those funds specifically appropriated from the public works~~  
21 ~~assistance account for such a purpose by the legislature.~~)

22 **Sec. 6.** RCW 43.155.070 and 1999 c 164 s 602 are each amended to  
23 read as follows:

24 (1) To qualify for loans or pledges under this chapter the board  
25 must determine that a local government meets all of the following  
26 conditions:

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

29 (b) The local government must have developed a (~~long-term~~)  
30 capital facility plan (~~for financing public works needs~~); and

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

34 (2) Except where necessary to address a public health need or  
35 substantial environmental degradation, a county, city, or town planning  
36 under RCW 36.70A.040 must have adopted a comprehensive plan, including  
37 a capital facilities plan element, and development regulations (~~as~~  
38 ~~required by RCW 36.70A.040~~) in conformance with the requirements of

1 chapter 36.70A RCW. This subsection does not require any county, city,  
2 or town planning under RCW 36.70A.040 to adopt a comprehensive plan or  
3 development regulations before requesting or receiving a loan or loan  
4 guarantee under this chapter if such request is made before the  
5 expiration of the time periods specified in RCW 36.70A.040. A county,  
6 city, or town planning under RCW 36.70A.040 which has not adopted a  
7 comprehensive plan and development regulations within the time periods  
8 specified in RCW 36.70A.040 is not prohibited from receiving a loan or  
9 loan guarantee under this chapter if the comprehensive plan and  
10 development regulations are adopted as required by RCW 36.70A.040  
11 before submitting a request for a loan or loan guarantee.

12 (3) In considering awarding loans for public facilities to special  
13 districts requesting funding for a proposed facility located in a  
14 county, city, or town planning under RCW 36.70A.040, the board shall  
15 consider whether the county, city, or town planning under RCW  
16 36.70A.040 in whose planning jurisdiction the proposed facility is  
17 located has adopted a comprehensive plan and development regulations  
18 ~~((as required by RCW 36.70A.040))~~ in conformance with the requirements  
19 of chapter 36.70A RCW.

20 (4) The board shall develop a priority process for public works  
21 projects as provided in this section. The intent of the priority  
22 process is to maximize the value of public works projects accomplished  
23 with assistance under this chapter. The board shall attempt to assure  
24 a geographical balance in assigning priorities to projects. The board  
25 ~~((shall consider at least the following factors in assigning a priority~~  
26 ~~to a project))~~ is empowered to select projects based on the greatest  
27 need and proof of local management efforts as based on criteria  
28 established by the board, which may include:

29 (a) Whether the local government receiving assistance has  
30 experienced severe fiscal distress resulting from natural disaster or  
31 emergency public works needs;

32 (b) Whether the project is critical in nature and would affect the  
33 health and safety of a great number of citizens;

34 (c) The cost of the project compared to the size of the local  
35 government and amount of loan money available;

36 (d) The number of communities served by or funding the project;

37 (e) Whether the project is located in an area of high unemployment,  
38 compared to the average state unemployment;

1 (f) Whether the project is the acquisition, expansion, improvement,  
2 or renovation by a local government of a public water system that is in  
3 violation of health and safety standards, including the cost of  
4 extending existing service to such a system;

5 (g) The relative benefit of the project to the community,  
6 considering the present level of economic activity in the community and  
7 the existing local capacity to increase local economic activity in  
8 communities that have low economic growth; ~~((and))~~

9 (h) Whether the project is included in the local comprehensive plan  
10 or capital facilities plan; and

11 (i) Other criteria that the board considers advisable.

12 (5) Existing debt or financial obligations of local governments  
13 shall not be refinanced under this chapter. Each local government  
14 applicant shall provide documentation of attempts to secure additional  
15 local or other sources of funding for each public works project for  
16 which financial assistance is sought under this chapter.

17 (6) Before ~~((November))~~ February 1 of each year, the board shall  
18 develop and submit to the appropriate fiscal committees of the senate  
19 and house of representatives a ~~((description))~~ report of the loans made  
20 under ~~((RCW 43.155.065, 43.155.068, and subsection (9) of this section~~  
21 ~~during the preceding fiscal year and a prioritized list of projects~~  
22 ~~which are recommended for funding by the legislature, including one~~  
23 ~~copy to the staff of each of the committees. The list))~~ this chapter  
24 and RCW 70.119A.170 during the previous year. The report shall  
25 include, but not be limited to, a description of each project and  
26 recommended financing, the terms and conditions of the loan or  
27 financial guarantee, the local government jurisdiction, and the  
28 unemployment rate~~((, demonstration of the jurisdiction's critical need~~  
29 ~~for the project and documentation of local funds being used to finance~~  
30 ~~the public works project. The list shall also include measures of~~  
31 ~~fiscal capacity for each jurisdiction recommended for financial~~  
32 ~~assistance, compared to authorized limits and state averages, including~~  
33 ~~local government sales taxes; real estate excise taxes; property taxes;~~  
34 ~~and charges for or taxes on sewerage, water, garbage, and other~~  
35 ~~utilities))~~.

36 (7) The board shall not sign ~~((contracts or otherwise financially~~  
37 ~~obligate funds from the public works assistance account before the~~  
38 ~~legislature has appropriated funds for a specific list of public works~~  
39 ~~projects. The legislature may remove projects from the list~~

1 recommended by the board. The legislature shall not change the order  
2 of the priorities recommended for funding by the board.

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

5 ~~(9)(a) Loans made for the purpose of capital facilities plans shall~~  
6 ~~be exempted from subsection (7) of this section. In no case shall the~~  
7 ~~total amount of funds utilized for capital facilities plans and~~  
8 ~~emergency loans exceed the limitation in RCW 43.155.065.~~

9 ~~(b) For the purposes of this section "capital facilities plans"~~  
10 ~~means those plans required by the growth management act, chapter 36.70A~~  
11 ~~RCW, and plans required by the public works board for local governments~~  
12 ~~not subject to the growth management act)) loan agreements until all~~  
13 ~~standards of this chapter have been met.~~

14 ~~((10)) (8) To qualify for loans or pledges for solid waste or~~  
15 ~~recycling facilities under this chapter, a city or county must~~  
16 ~~demonstrate that the solid waste or recycling facility is consistent~~  
17 ~~with and necessary to implement the comprehensive solid waste~~  
18 ~~management plan adopted by the city or county under chapter 70.95 RCW.~~

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