
SENATE BILL 6529

State of Washington 60th Legislature 2008 Regular Session

By Senators Kastama, Pridemore, Shin, and Rasmussen

Read first time 01/17/08. Referred to Committee on Economic Development, Trade & Management.

1 AN ACT Relating to creating incentives for economic development
2 infrastructure projects; amending RCW 47.26.160, 43.160.060, and
3 39.102.040; reenacting and amending RCW 43.155.070; and adding a new
4 chapter to Title 35 RCW.

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

6 NEW SECTION. **Sec. 1.** The purpose of this act is to provide
7 eligible cities additional incentives for economic development in order
8 to: Assist with the costs of infrastructure necessary to create or
9 retain jobs within an eligible city; reduce the deficit between job
10 growth and population growth; reduce carbon footprints; increase
11 density and reduce urban sprawl consistent with adopted plans; and
12 reduce future transportation costs.

13 NEW SECTION. **Sec. 2.** (1) A city that imposes a local tax on
14 public and private utilities may impose an additional tax, at a rate of
15 up to one percent, on all utility services within the city limits of
16 the city, if that city has a population of twenty-five thousand persons
17 or more, and is located in a county with a projected job growth rate

1 that is ten percent lower than the projected population growth rate
2 according to the adopted regional growth strategy of the Puget Sound
3 regional council.

4 (2) Revenue from the tax authorized under subsection (1) of this
5 section may be used by an eligible city solely for the purpose of
6 construction, reconstruction, financing, refinancing, design,
7 operation, and maintenance of public infrastructure necessary for
8 economic development projects, which create or retain businesses and
9 family wage jobs in the eligible city.

10 NEW SECTION. **Sec. 3.** (1) The definitions in this section apply
11 throughout this chapter unless the context clearly requires otherwise.

12 (a) "Eligible city" means a city that has imposed the tax provided
13 for in section 2 of this act.

14 (b) "Department" means the department of revenue.

15 (c) "Economic development infrastructure project" means a project
16 within an eligible city that develops public infrastructure that
17 facilitates the creation or retention of businesses and family wage
18 jobs.

19 (2)(a) If an eligible city applies for a competitive loan or grant
20 for a project with the transportation improvement board, the community
21 and economic revitalization board, the public works trust fund, or the
22 local infrastructure financing tool, the city is entitled to receive
23 additional points, worth a minimum of ten percent of the total score,
24 which must be added to the project's score in the application review
25 process as provided in RCW 47.26.160, 43.160.060, 43.155.070, and
26 39.102.040.

27 (b)(i) An eligible city may apply for a refund of taxes on public
28 economic development infrastructure projects for the amount of the
29 state portion of sales and use taxes levied and collected under
30 chapters 82.08 and 82.12 RCW. Application must be made to the
31 department in a form and manner prescribed by the department. The
32 application must contain information required by the department,
33 necessary to determine whether the project for which the refund is
34 sought is an economic development infrastructure project. The
35 department must approve the application within sixty days if it meets
36 the requirements of this chapter. No more than two million dollars in
37 refunds shall be given to each eligible city in any calendar year.

1 (ii) Applications and any other information received by the
2 department under this section are not confidential and are subject to
3 disclosure. Chapter 82.32 RCW applies to the administration of this
4 section.

5 (iii) An eligible city may retain the proceeds of the state sales
6 and use tax refund provided for in this section and combine this
7 revenue with (A) the proceeds of one or more additional economic
8 development infrastructure projects for which the refund has been
9 granted; (B) revenue from the tax authorized in section 2 of this act;
10 and (C) other revenue sources available to the eligible city for the
11 purposes of constructing economic development infrastructure projects.

12 **Sec. 4.** RCW 47.26.160 and 1995 c 269 s 2607 are each amended to
13 read as follows:

14 The transportation improvement board shall:

15 (1) Adopt rules necessary to implement the provisions of chapter
16 47.66 RCW and this chapter relating to the allocation of funds;

17 (2) Adopt reasonably uniform design standards for city and county
18 arterials;

19 (3) Use a scoring system in evaluating applications for the
20 allocation of funds and the board shall assign additional points, worth
21 ten percent of the total score, which must be added to the project's
22 final score, for cities that are eligible cities under section 3 of
23 this act.

24 **Sec. 5.** RCW 43.160.060 and 2007 c 231 s 3 are each amended to read
25 as follows:

26 The board is authorized to make direct loans to political
27 subdivisions of the state and to federally recognized Indian tribes for
28 the purposes of assisting the political subdivisions and federally
29 recognized Indian tribes in financing the cost of public facilities,
30 including development of land and improvements for public facilities,
31 project-specific environmental, capital facilities, land use,
32 permitting, feasibility, and marketing studies and plans; project
33 design, site planning, and analysis; project debt and revenue impact
34 analysis; as well as the construction, rehabilitation, alteration,
35 expansion, or improvement of the facilities. A grant may also be
36 authorized for purposes designated in this chapter, but only when, and

1 to the extent that, a loan is not reasonably possible, given the
2 limited resources of the political subdivision or the federally
3 recognized Indian tribe and the finding by the board that financial
4 circumstances require grant assistance to enable the project to move
5 forward. However, at least ten percent of all financial assistance
6 provided by the board in any biennium shall consist of grants to
7 political subdivisions and federally recognized Indian tribes.

8 Application for funds shall be made in the form and manner as the
9 board may prescribe. In making grants or loans the board shall conform
10 to the following requirements:

11 (1) The board shall not provide financial assistance:

12 (a) For a project the primary purpose of which is to facilitate or
13 promote a retail shopping development or expansion.

14 (b) For any project that evidence exists would result in a
15 development or expansion that would displace existing jobs in any other
16 community in the state.

17 (c) For the acquisition of real property, including buildings and
18 other fixtures which are a part of real property.

19 (d) For a project the primary purpose of which is to facilitate or
20 promote gambling.

21 (2) The board shall only provide financial assistance:

22 (a) For those projects which would result in specific private
23 developments or expansions (i) in manufacturing, production, food
24 processing, assembly, warehousing, advanced technology, research and
25 development, and industrial distribution; (ii) for processing
26 recyclable materials or for facilities that support recycling,
27 including processes not currently provided in the state, including but
28 not limited to, de-inking facilities, mixed waste paper, plastics, yard
29 waste, and problem-waste processing; (iii) for manufacturing facilities
30 that rely significantly on recyclable materials, including but not
31 limited to waste tires and mixed waste paper; (iv) which support the
32 relocation of businesses from nondistressed urban areas to rural
33 counties or rural natural resources impact areas; or (v) which
34 substantially support the trading of goods or services outside of the
35 state's borders.

36 (b) For projects which it finds will improve the opportunities for
37 the successful maintenance, establishment, or expansion of industrial

1 or commercial plants or will otherwise assist in the creation or
2 retention of long-term economic opportunities.

3 (c) When the application includes convincing evidence that a
4 specific private development or expansion is ready to occur and will
5 occur only if the public facility improvement is made.

6 (3) The board shall prioritize each proposed project according to:

7 (a) The relative benefits provided to the community by the jobs the
8 project would create, not just the total number of jobs it would create
9 after the project is completed and according to the unemployment rate
10 in the area in which the jobs would be located;

11 (b) The rate of return of the state's investment, that includes the
12 expected increase in state and local tax revenues associated with the
13 project; and

14 (c) Whether the applicant has developed and adhered to guidelines
15 regarding its permitting process for those applying for development
16 permits consistent with section 1(2), chapter 231, Laws of 2007.

17 (4) In assigning priority to a project as required under subsection
18 (3) of this section, the board shall use a scoring system and, for
19 cities that are eligible cities under section 3 of this act, assign
20 additional points, worth ten percent of the total score, which must be
21 added to the project's score in the application review process.

22 (5) A responsible official of the political subdivision or the
23 federally recognized Indian tribe shall be present during board
24 deliberations and provide information that the board requests.

25 Before any financial assistance application is approved, the
26 political subdivision or the federally recognized Indian tribe seeking
27 the assistance must demonstrate to the community economic
28 revitalization board that no other timely source of funding is
29 available to it at costs reasonably similar to financing available from
30 the community economic revitalization board.

31 **Sec. 6.** RCW 43.155.070 and 2007 c 341 s 24 and 2007 c 231 s 2 are
32 each reenacted and amended to read as follows:

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

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

1 (b) The local government must have developed a capital facility
2 plan; and

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

6 (2) Except where necessary to address a public health need or
7 substantial environmental degradation, a county, city, or town planning
8 under RCW 36.70A.040 must have adopted a comprehensive plan, including
9 a capital facilities plan element, and development regulations as
10 required by RCW 36.70A.040. This subsection does not require any
11 county, city, or town planning under RCW 36.70A.040 to adopt a
12 comprehensive plan or development regulations before requesting or
13 receiving a loan or loan guarantee under this chapter if such request
14 is made before the expiration of the time periods specified in RCW
15 36.70A.040. A county, city, or town planning under RCW 36.70A.040
16 which has not adopted a comprehensive plan and development regulations
17 within the time periods specified in RCW 36.70A.040 is not prohibited
18 from receiving a loan or loan guarantee under this chapter if the
19 comprehensive plan and development regulations are adopted as required
20 by RCW 36.70A.040 before submitting a request for a loan or loan
21 guarantee.

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

29 (4) The board shall 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 accomplished
32 with assistance under this chapter. The board shall attempt to assure
33 a geographical balance in assigning priorities to projects. The board
34 shall consider at least the following factors in assigning a priority
35 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 the
2 entity receiving assistance is a Puget Sound partner, as defined in RCW
3 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 the
7 health and safety of a great number of citizens;

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

11 (f) The cost of the project compared to the size of the local
12 government and amount of loan money available;

13 (g) The number of communities served by or funding the project;

14 (h) Whether the project is located in an area of high unemployment,
15 compared to the average state unemployment;

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

20 (j) The relative benefit of the project to the community,
21 considering the present level of economic activity in the community and
22 the existing local capacity to increase local economic activity in
23 communities that have low economic growth; and

24 (k) Other criteria that the board considers advisable.

25 (5) In assigning priority to a project as required under subsection
26 (4) of this section, the board shall use a scoring system and, for
27 cities that are eligible cities under section 3 of this act, assign
28 additional points, worth ten percent of the total score, which must be
29 added to the project's score in the application review process.

30 (6) Existing debt or financial obligations of local governments
31 shall not be refinanced under this chapter. Each local government
32 applicant shall provide documentation of attempts to secure additional
33 local or other sources of funding for each public works project for
34 which financial assistance is sought under this chapter.

35 ~~((+6))~~ (7) Before November 1st of each year, the board shall
36 develop and submit to the appropriate fiscal committees of the senate
37 and house of representatives a description of the loans made under RCW
38 43.155.065, 43.155.068, and subsection ~~((+9))~~ (10) of this section

1 during the preceding fiscal year and a prioritized list of projects
2 which are recommended for funding by the legislature, including one
3 copy to the staff of each of the committees. The list shall include,
4 but not be limited to, a description of each project and recommended
5 financing, the terms and conditions of the loan or financial guarantee,
6 the local government jurisdiction and unemployment rate, demonstration
7 of the jurisdiction's critical need for the project and documentation
8 of local funds being used to finance the public works project. The
9 list shall also include measures of fiscal capacity for each
10 jurisdiction recommended for financial assistance, compared to
11 authorized limits and state averages, including local government sales
12 taxes; real estate excise taxes; property taxes; and charges for or
13 taxes on sewerage, water, garbage, and other utilities.

14 ~~((+7))~~ (8) The board shall not sign contracts or otherwise
15 financially obligate funds from the public works assistance account
16 before the legislature has appropriated funds for a specific list of
17 public works projects. The legislature may remove projects from the
18 list recommended by the board. The legislature shall not change the
19 order of the priorities recommended for funding by the board.

20 ~~((+8))~~ (9) Subsection ~~((+7))~~ (8) of this section does not apply
21 to loans made under RCW 43.155.065, 43.155.068, and subsection ~~((+9))~~
22 (10) of this section.

23 ~~((+9))~~ (10) Loans made for the purpose of capital facilities plans
24 shall be exempted from subsection ~~((+7))~~ (8) of this section.

25 ~~((+10))~~ (11) To qualify for loans or pledges for solid waste or
26 recycling facilities under this chapter, a city or county must
27 demonstrate that the solid waste or recycling facility is consistent
28 with and necessary to implement the comprehensive solid waste
29 management plan adopted by the city or county under chapter 70.95 RCW.

30 ~~((+11))~~ (12) After January 1, 2010, any project designed to
31 address the effects of storm water or wastewater on Puget Sound may be
32 funded under this section only if the project is not in conflict with
33 the action agenda developed by the Puget Sound partnership under RCW
34 90.71.310.

35 **Sec. 7.** RCW 39.102.040 and 2007 c 229 s 2 are each amended to read
36 as follows:

1 (1) Prior to applying to the board to use local infrastructure
2 financing, a sponsoring local government shall:

3 (a) Designate a revenue development area within the limitations in
4 RCW 39.102.060;

5 (b) Certify that the conditions in RCW 39.102.070 are met;

6 (c) Complete the process in RCW 39.102.080;

7 (d) Provide public notice as required in RCW 39.102.100; and

8 (e) Pass an ordinance adopting the revenue development area as
9 required in RCW 39.102.090.

10 (2) Any local government that has created an increment area under
11 chapter 39.89 RCW and has not issued bonds to finance any public
12 improvement may apply to the board and have its increment area
13 considered for approval as a revenue development area under this
14 chapter without adopting a new revenue development area under RCW
15 39.102.090 and 39.102.100 if it amends its ordinance to comply with RCW
16 39.102.090(1) and otherwise meets the conditions and limitations under
17 this chapter.

18 (3) As a condition to imposing a sales and use tax under RCW
19 82.14.475, a sponsoring local government, including any cosponsoring
20 local government seeking authority to impose a sales and use tax under
21 RCW 82.14.475, must apply to the board and be approved for a project
22 award amount. The application shall be in a form and manner prescribed
23 by the board and include but not be limited to information establishing
24 that the applicant is an eligible candidate to impose the local sales
25 and use tax under RCW 82.14.475, the anticipated effective date for
26 imposing the tax, the estimated number of years that the tax will be
27 imposed, and the estimated amount of tax revenue to be received in each
28 fiscal year that the tax will be imposed. The board shall make
29 available forms to be used for this purpose. As part of the
30 application, each applicant must provide to the board a copy of the
31 ordinance or ordinances creating the revenue development area as
32 required in RCW 39.102.090. A notice of approval to use local
33 infrastructure financing shall contain a project award that represents
34 the maximum amount of state contribution that the applicant, including
35 any cosponsoring local governments, can earn each year that local
36 infrastructure financing is used. The total of all project awards
37 shall not exceed the annual state contribution limit. The
38 determination of a project award shall be made based on information

1 contained in the application and the remaining amount of annual state
2 contribution limit to be awarded. Determination of a project award by
3 the board is final.

4 (4)(a) Sponsoring local governments, and any cosponsoring local
5 governments, applying in calendar year 2007 for a competitive project
6 award, must submit completed applications to the board no later than
7 July 1, 2007. By September 15, 2007, in consultation with the
8 department of revenue and the department of community, trade, and
9 economic development, the board shall approve competitive project
10 awards from competitive applications submitted by the 2007 deadline.
11 No more than two million five hundred thousand dollars in competitive
12 project awards shall be approved in 2007. For projects not approved by
13 the board in 2007, sponsoring and cosponsoring local governments may
14 apply again to the board in 2008 for approval of a project.

15 (b) Sponsoring local governments, and any cosponsoring local
16 governments, applying in calendar year 2008 for a competitive project
17 award, must submit completed applications to the board no later than
18 July 1, 2008. By September 18, 2008, in consultation with the
19 department of revenue and the department of community, trade, and
20 economic development, the board shall approve competitive project
21 awards from competitive applications submitted by the 2008 deadline.

22 (c) Except as provided in RCW 39.102.050(2), a total of no more
23 than five million dollars in competitive project awards shall be
24 approved for local infrastructure financing.

25 (d) The project selection criteria and weighting developed prior to
26 July 22, 2007, for the application evaluation and approval process
27 shall apply to applications received prior to November 1, 2007. In
28 evaluating applications for a competitive project award after November
29 1, 2007, the board shall, in consultation with the Washington state
30 economic development commission, develop the relative weight to be
31 assigned to the following criteria:

32 (i) The project's potential to enhance the sponsoring local
33 government's regional and/or international competitiveness;

34 (ii) The project's ability to encourage mixed use and transit-
35 oriented development and the redevelopment of a geographic area;

36 (iii) Achieving an overall distribution of projects statewide that
37 reflect geographic diversity;

- 1 (iv) The estimated wages and benefits for the project is greater
2 than the average labor market area;
- 3 (v) The estimated state and local net employment change over the
4 life of the project;
- 5 (vi) The current economic health and vitality of the proposed
6 revenue development area and the contiguous community and the estimated
7 impact of the proposed project on the proposed revenue development area
8 and contiguous community;
- 9 (vii) The estimated state and local net property tax change over
10 the life of the project;
- 11 (viii) The estimated state and local sales and use tax increase
12 over the life of the project;
- 13 (ix) An analysis that shows that, over the life of the project,
14 neither the local excise tax allocation revenues nor the local property
15 tax allocation revenues will constitute more than eighty percent of the
16 total local funds as described in RCW 39.102.020(29)(c); and
- 17 (x) If a project is located within an urban growth area, evidence
18 that the project utilizes existing urban infrastructure and that the
19 transportation needs of the project will be adequately met through the
20 use of local infrastructure financing or other sources.
- 21 (e) In assigning weight to a project as required under (d) of this
22 subsection, the board shall, for cities that are eligible cities under
23 section 3 of this act, assign additional points, worth ten percent of
24 the total score, which must be added to the project's score in the
25 application review process.
- 26 (f)(i) Except as provided in this subsection (4)((+e)) (f), the
27 board may not approve the use of local infrastructure financing within
28 more than one revenue development area per county.
- 29 (ii) In a county in which the board has approved the use of local
30 infrastructure financing, the use of such financing in additional
31 revenue development areas may be approved, subject to the following
32 conditions:
- 33 (A) The sponsoring local government is located in more than one
34 county; and
- 35 (B) The sponsoring local government designates a revenue
36 development area that comprises portions of a county within which the
37 use of local infrastructure financing has not yet been approved.

1 (iii) In a county where the local infrastructure financing tool is
2 authorized under RCW 39.102.050, the board may approve additional use
3 of the local infrastructure financing tool.

4 (5) Once the board has approved the sponsoring local government,
5 and any cosponsoring local governments, to use local infrastructure
6 financing, notification must be sent by the board to the sponsoring
7 local government, and any cosponsoring local governments, authorizing
8 the sponsoring local government, and any cosponsoring local
9 governments, to impose the local sales and use tax authorized under RCW
10 82.14.475, subject to the conditions in RCW 82.14.475.

11 NEW SECTION. **Sec. 8.** Sections 1 through 3 of this act constitute
12 a new chapter in Title 35 RCW.

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