

E2SSB 5138 - H AMD TO H AMD (H-3124.1/09) **622**
By Representative Dunshee

NOT CONSIDERED 04/26/2009

1 On page 6, after line 37 of the amendment, insert the following:

2 "Sec. 7. RCW 43.155.070 and 2008 c 299 s 25 are each amended to
3 read as follows:

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

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

9 (b) The local government must have developed a capital facility
10 plan; and

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

14 (2) Except where necessary to address a public health need or
15 substantial environmental degradation, a county, city, or town planning
16 under RCW 36.70A.040 must have adopted a comprehensive plan, including
17 a capital facilities plan element, and development regulations as
18 required by RCW 36.70A.040. This subsection does not require any
19 county, city, or town planning under RCW 36.70A.040 to adopt a
20 comprehensive plan or development regulations before requesting or
21 receiving a loan or loan guarantee under this chapter if such request
22 is made before the expiration of the time periods specified in RCW
23 36.70A.040. A county, city, or town planning under RCW 36.70A.040
24 which has not adopted a comprehensive plan and development regulations
25 within the time periods specified in RCW 36.70A.040 is not prohibited
26 from receiving a loan or loan guarantee under this chapter if the
27 comprehensive plan and development regulations are adopted as required
28 by RCW 36.70A.040 before submitting a request for a loan or loan
29 guarantee.

1 (3) In considering awarding loans for public facilities to special
2 districts requesting funding for a proposed facility located in a
3 county, city, or town planning under RCW 36.70A.040, the board shall
4 consider whether the county, city, or town planning under RCW
5 36.70A.040 in whose planning jurisdiction the proposed facility is
6 located has adopted a comprehensive plan and development regulations as
7 required by RCW 36.70A.040.

8 (4) Beginning in 2010, in awarding loans, the board must consider
9 whether the local government has adopted policies to reduce greenhouse
10 gas emissions that, at least, include policies consistent with the
11 requirements of (a) through (c) of this subsection. If the local
12 government has not adopted policies to reduce greenhouse gas emissions,
13 the board must consider whether the project is consistent with the
14 following:

15 (a) The state's limits on the emissions of greenhouse gases
16 established in RCW 70.235.020;

17 (b) Statewide goals to reduce annual per capita vehicle miles
18 traveled by 2050, in accordance with RCW 47.01.440; and

19 (c) Applicable federal emissions reduction requirements.

20 (5) 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:

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

30 (b) Except as otherwise conditioned by RCW 43.155.110, whether the
31 entity receiving assistance is a Puget Sound partner, as defined in RCW
32 90.71.010;

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

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

37 (e) Whether the applicant has developed and adhered to guidelines

1 regarding its permitting process for those applying for development
2 permits consistent with section 1(2), chapter 231, Laws of 2007;

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

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

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

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

12 (j) Except as otherwise conditioned by RCW 43.155.120, and
13 effective one calendar year following the development of model
14 evergreen community management plans and ordinances under RCW
15 35.105.050, whether the entity receiving assistance has been
16 recognized, and what gradation of recognition was received, in the
17 evergreen community recognition program created in RCW 35.105.030;

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

22 (l) Other criteria that the board considers advisable.

23 ~~((+5+))~~ (6) Existing debt or financial obligations of local
24 governments shall not be refinanced under this chapter. Each local
25 government applicant shall provide documentation of attempts to secure
26 additional local or other sources of funding for each public works
27 project for which financial assistance is sought under this chapter.

28 ~~((+6+))~~ (7) Before November 1st of each year, the board shall
29 develop and submit to the appropriate fiscal committees of the senate
30 and house of representatives a description of the loans made under RCW
31 43.155.065, 43.155.068, and subsection ~~((+9+))~~ (10) of this section
32 during the preceding fiscal year and a prioritized list of projects
33 which are recommended for funding by the legislature, including one
34 copy to the staff of each of the committees. The list shall include,
35 but not be limited to, a description of each project and recommended
36 financing, the terms and conditions of the loan or financial guarantee,
37 the local government jurisdiction and unemployment rate, demonstration
38 of the jurisdiction's critical need for the project, a description of

1 local policies or project consistency with state greenhouse emissions
2 goals, and documentation of local funds being used to finance the
3 public works project. The list shall also include measures of fiscal
4 capacity for each jurisdiction recommended for financial assistance,
5 compared to authorized limits and state averages, including local
6 government sales taxes; real estate excise taxes; property taxes; and
7 charges for or taxes on sewerage, water, garbage, and other utilities.

8 ~~((7))~~ (8) The board shall not sign contracts or otherwise
9 financially obligate funds from the public works assistance account
10 before the legislature has appropriated funds for a specific list of
11 public works projects. The legislature may remove projects from the
12 list recommended by the board. The legislature shall not change the
13 order of the priorities recommended for funding by the board.

14 ~~((8))~~ (9) Subsection ~~((7))~~ (8) of this section does not apply
15 to loans made under RCW 43.155.065, 43.155.068, and subsection ~~((9))~~
16 (10) of this section.

17 ~~((9))~~ (10) Loans made for the purpose of capital facilities plans
18 shall be exempted from subsection ~~((7))~~ (8) of this section.

19 ~~((10))~~ (11) To qualify for loans or pledges for solid waste or
20 recycling facilities under this chapter, a city or county must
21 demonstrate that the solid waste or recycling facility is consistent
22 with and necessary to implement the comprehensive solid waste
23 management plan adopted by the city or county under chapter 70.95 RCW.

24 ~~((11))~~ (12) After January 1, 2010, any project designed to
25 address the effects of storm water or wastewater on Puget Sound may be
26 funded under this section only if the project is not in conflict with
27 the action agenda developed by the Puget Sound partnership under RCW
28 90.71.310.

29 **Sec. 8.** RCW 43.160.060 and 2008 c 327 s 5 are each amended to read
30 as follows:

31 The board is authorized to make direct loans to political
32 subdivisions of the state and to federally recognized Indian tribes for
33 the purposes of assisting the political subdivisions and federally
34 recognized Indian tribes in financing the cost of public facilities,
35 including development of land and improvements for public facilities,
36 project-specific environmental, capital facilities, land use,
37 permitting, feasibility, and marketing studies and plans; project

1 design, site planning, and analysis; project debt and revenue impact
2 analysis; as well as the construction, rehabilitation, alteration,
3 expansion, or improvement of the facilities. A grant may also be
4 authorized for purposes designated in this chapter, but only when, and
5 to the extent that, a loan is not reasonably possible, given the
6 limited resources of the political subdivision or the federally
7 recognized Indian tribe and the finding by the board that financial
8 circumstances require grant assistance to enable the project to move
9 forward. However, no more than twenty-five percent of all financial
10 assistance approved by the board in any biennium may consist of grants
11 to political subdivisions and federally recognized Indian tribes.

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

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

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

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

21 (c) For a project the primary purpose of which is to facilitate or
22 promote gambling.

23 (d) For a project located outside the jurisdiction of the applicant
24 political subdivision or federally recognized Indian tribe.

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

26 (a) For a project demonstrating convincing evidence that a specific
27 private development or expansion is ready to occur and will occur only
28 if the public facility improvement is made that:

29 (i) Results in the creation of significant private sector jobs or
30 significant private sector capital investment as determined by the
31 board and is consistent with the state comprehensive economic
32 development plan developed by the Washington economic development
33 commission pursuant to chapter 43.162 RCW, once the plan is adopted;
34 and

35 (ii) Will improve the opportunities for the successful maintenance,
36 establishment, or expansion of industrial or commercial plants or will
37 otherwise assist in the creation or retention of long-term economic
38 opportunities;

1 (b) For a project that cannot meet the requirement of (a) of this
2 subsection but is a project that:

3 (i) Results in the creation of significant private sector jobs or
4 significant private sector capital investment as determined by the
5 board and is consistent with the state comprehensive economic
6 development plan developed by the Washington economic development
7 commission pursuant to chapter 43.162 RCW, once the plan is adopted;

8 (ii) Is part of a local economic development plan consistent with
9 applicable state planning requirements;

10 (iii) Can demonstrate project feasibility using standard economic
11 principles; and

12 (iv) Is located in a rural community as defined by the board, or a
13 rural county;

14 (c) For site-specific plans, studies, and analyses that address
15 environmental impacts, capital facilities, land use, permitting,
16 feasibility, marketing, project engineering, design, site planning, and
17 project debt and revenue impacts, as grants not to exceed fifty
18 thousand dollars.

19 (3) The board shall develop guidelines for local participation and
20 allowable match and activities.

21 (4) Beginning in 2010, in awarding loans and grants the board must
22 consider whether the applicant has adopted policies to reduce
23 greenhouse gas emissions that, at least, include policies consistent
24 with the requirements of (a) through (c) of this subsection. If the
25 applicant has not adopted policies to reduce greenhouse gas emissions,
26 the board must consider whether the project is consistent with (a)
27 through (c) of this subsection.

28 (a) The state's limits on the emissions of greenhouse gases
29 established in RCW 70.235.020;

30 (b) Statewide goals to reduce annual per capita vehicle miles
31 traveled by 2050, in accordance with RCW 47.01.440, except that the
32 board shall consider whether project locations in rural counties
33 defined in RCW 43.160.020 will maximize the reduction of vehicle miles
34 traveled; and

35 (c) Applicable federal emissions reduction requirements.

36 (5) None of the considerations directed in subsection (4) of this
37 section shall relieve the board of its duty to approve financial
38 assistance to rural communities as required in RCW 43.160.076.

1 (6) An application must demonstrate local match and local
2 participation, in accordance with guidelines developed by the board.

3 ~~((+5))~~ (7) An application must be approved by the political
4 subdivision and supported by the local associate development
5 organization or local workforce development council or approved by the
6 governing body of the federally recognized Indian tribe.

7 ~~((+6))~~ (8) The board may allow de minimis general system
8 improvements to be funded if they are critically linked to the
9 viability of the project.

10 ~~((+7))~~ (9) An application must demonstrate convincing evidence
11 that the median hourly wage of the private sector jobs created after
12 the project is completed will exceed the countywide median hourly wage.

13 ~~((+8))~~ (10) The board shall prioritize each proposed project
14 according to:

15 (a) The relative benefits provided to the community by the jobs the
16 project would create, not just the total number of jobs it would create
17 after the project is completed, but also giving consideration to the
18 unemployment rate in the area in which the jobs would be located;

19 (b) The rate of return of the state's investment, including, but
20 not limited to, the leveraging of private sector investment,
21 anticipated job creation and retention, and expected increases in state
22 and local tax revenues associated with the project;

23 (c) Whether the proposed project offers a health insurance plan for
24 employees that includes an option for dependents of employees;

25 (d) Whether the public facility investment will increase existing
26 capacity necessary to accommodate projected population and employment
27 growth in a manner that supports infill and redevelopment of existing
28 urban or industrial areas that are served by adequate public
29 facilities. Projects should maximize the use of existing
30 infrastructure and provide for adequate funding of necessary
31 transportation improvements; and

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

35 ~~((+9))~~ (11) A responsible official of the political subdivision or
36 the federally recognized Indian tribe shall be present during board
37 deliberations and provide information that the board requests.

1 Before any financial assistance application is approved, the
2 political subdivision or the federally recognized Indian tribe seeking
3 the assistance must demonstrate to the community economic
4 revitalization board that no other timely source of funding is
5 available to it at costs reasonably similar to financing available from
6 the community economic revitalization board.

7 **Sec. 9.** RCW 43.160.900 and 2008 c 327 s 9 are each amended to read
8 as follows:

9 (1) The community economic revitalization board shall conduct
10 biennial outcome-based evaluations of the financial assistance provided
11 under this chapter. The evaluations shall include information on the
12 number of applications for community economic revitalization board
13 assistance; the number and types of projects approved; the grant or
14 loan amount awarded each project; the projected number of jobs created
15 or retained by each project; the actual number and cost of jobs created
16 or retained by each project; the wages and health benefits associated
17 with the jobs; a description of local policies or project consistency
18 with state greenhouse emissions goals; the amount of state funds and
19 total capital invested in projects; the number and types of businesses
20 assisted by funded projects; the location of funded projects; the
21 transportation infrastructure available for completed projects; the
22 local match and local participation obtained; the number of delinquent
23 loans; and the number of project terminations. The evaluations may
24 also include additional performance measures and recommendations for
25 programmatic changes.

26 (2)(a) By September 1st of each even-numbered year, the board shall
27 forward its draft evaluation to the Washington state economic
28 development commission for review and comment(~~(, as required in section~~
29 ~~10 of this act)~~). The board shall provide any additional information
30 as may be requested by the commission for the purpose of its review.

31 (b) Any written comments or recommendations provided by the
32 commission as a result of its review shall be included in the board's
33 completed evaluation. The evaluation must be presented to the governor
34 and appropriate committees of the legislature by December 31st of each
35 even-numbered year. The initial evaluation must be submitted by
36 December 31, 2010.

1 **Sec. 10.** RCW 39.102.040 and 2007 c 229 s 2 are each amended to
2 read as follows:

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

5 (a) Designate a revenue development area within the limitations in
6 RCW 39.102.060;

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

8 (c) Complete the process in RCW 39.102.080;

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

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

12 (2) Any local government that has created an increment area under
13 chapter 39.89 RCW and has not issued bonds to finance any public
14 improvement may apply to the board and have its increment area
15 considered for approval as a revenue development area under this
16 chapter without adopting a new revenue development area under RCW
17 39.102.090 and 39.102.100 if it amends its ordinance to comply with RCW
18 39.102.090(1) and otherwise meets the conditions and limitations under
19 this chapter.

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

1 shall not exceed the annual state contribution limit. The
2 determination of a project award shall be made based on information
3 contained in the application and the remaining amount of annual state
4 contribution limit to be awarded. Determination of a project award by
5 the board is final.

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

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

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

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

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

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

1 (iii) Achieving an overall distribution of projects statewide that
2 reflect geographic diversity;

3 (iv) The estimated wages and benefits for the project is greater
4 than the average labor market area;

5 (v) The estimated state and local net employment change over the
6 life of the project;

7 (vi) The current economic health and vitality of the proposed
8 revenue development area and the contiguous community and the estimated
9 impact of the proposed project on the proposed revenue development area
10 and contiguous community;

11 (vii) The estimated state and local net property tax change over
12 the life of the project;

13 (viii) The estimated state and local sales and use tax increase
14 over the life of the project;

15 (ix) An analysis that shows that, over the life of the project,
16 neither the local excise tax allocation revenues nor the local property
17 tax allocation revenues will constitute more than eighty percent of the
18 total local funds as described in RCW 39.102.020(29)(c); and

19 (x) If a project is located within an urban growth area, evidence
20 that the project utilizes existing urban infrastructure and that the
21 transportation needs of the project will be adequately met through the
22 use of local infrastructure financing or other sources.

23 (e)(i) Except as provided in this subsection (4)(e), the board may
24 not approve the use of local infrastructure financing within more than
25 one revenue development area per county.

26 (ii) In a county in which the board has approved the use of local
27 infrastructure financing, the use of such financing in additional
28 revenue development areas may be approved, subject to the following
29 conditions:

30 (A) The sponsoring local government is located in more than one
31 county; and

32 (B) The sponsoring local government designates a revenue
33 development area that comprises portions of a county within which the
34 use of local infrastructure financing has not yet been approved.

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

1 (5) Beginning in 2010, as part of the approval process, the board
2 must consider whether the sponsoring local government has adopted
3 policies to reduce greenhouse gas emissions that, at least, include
4 policies consistent with (a) through (c) of this subsection.

5 (a) The state's limits on the emissions of greenhouse gases
6 established in RCW 70.235.020;

7 (b) Statewide goals to reduce annual per capita vehicle miles
8 traveled by 2050, in accordance with RCW 47.01.440; and

9 (c) Applicable federal emissions reduction requirements.

10 (6) Once the board has approved the sponsoring local government,
11 and any cosponsoring local governments, to use local infrastructure
12 financing, notification must be sent by the board to the sponsoring
13 local government, and any cosponsoring local governments, authorizing
14 the sponsoring local government, and any cosponsoring local
15 governments, to impose the local sales and use tax authorized under RCW
16 82.14.475, subject to the conditions in RCW 82.14.475.

17 **Sec. 11.** RCW 47.26.282 and 2002 c 189 s 5 are each amended to read
18 as follows:

19 In any project funded by the transportation improvement board,
20 except for projects in cities having a population of less than five
21 thousand persons, and in addition to any other items required to be
22 considered by statute, the board also shall consider the land use
23 implications of the project, such as whether the programs and projects:

24 (1) Support development in and revitalization of existing
25 downtowns;

26 (2) Implement local comprehensive plans for rural and urban
27 residential and nonresidential densities;

28 (3) Have land use planning and regulations encouraging compact
29 development for rural and urban residential and nonresidential
30 densities; ~~((and))~~

31 (4) Promote the use of multimodal transportation; and

32 (5) Beginning in 2010, are located in jurisdictions that have
33 adopted policies to reduce greenhouse gas emissions that, at least,
34 include policies consistent with (a) the state's limits on the
35 emissions of greenhouse gases established in RCW 70.235.020; (b)
36 statewide goals to reduce annual per capita vehicle miles traveled by

1 2050, in accordance with RCW 47.01.440; and (c) applicable federal
2 emissions reduction requirements."

3 Renumber the remaining sections consecutively and correct any
4 internal references accordingly.

EFFECT: Beginning in 2010, the public works board (PWB), the community economic revitalization board (CERB), the local infrastructure financing tool, and the transportation improvement board are required, when reviewing projects for the award of funds, to consider whether the applicant has adopted policies to reduce greenhouse gas emissions. The policies must be consistent with the requirements of the state's limits on the emissions of greenhouse gases, the state's goals to reduce annual per capita vehicle miles traveled, and federal emissions reduction requirements. The CERB must consider whether projects located in rural areas maximize a reduction of vehicle miles traveled instead of being consistent with state goals to reduce annual per capita vehicle miles traveled.

The PWB and CERB must include a description of local policies or project consistency with the state greenhouse gas emissions limitations.

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