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HOUSE BILL 1164

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Dunshee, Ormsby, Kenney, and Sullivan; by request of Office of Financial Management

Read first time 01/14/09. Referred to Committee on Capital Budget.

1 AN ACT Relating to loans to local governments for public works  
2 projects; amending RCW 43.155.050, 43.155.068, and 43.155.070; and  
3 providing an expiration date.

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

5 **Sec. 1.** RCW 43.155.050 and 2008 c 328 s 6002 are each amended to  
6 read as follows:

7 (1) The public works assistance account is hereby established in  
8 the state treasury. Money may be placed in the public works assistance  
9 account from the proceeds of bonds when authorized by the legislature  
10 or from any other lawful source. Money in the public works assistance  
11 account shall be used to make loans and to give financial guarantees to  
12 local governments for public works projects. Moneys in the account may  
13 also be appropriated to provide for state match requirements under  
14 federal law for projects and activities conducted and financed by the  
15 board under the drinking water assistance account. Not more than  
16 fifteen percent of the biennial capital budget appropriation to the  
17 public works board from this account may be expended or obligated for  
18 preconstruction loans, emergency loans, or loans for capital facility  
19 planning under this chapter; of this amount, not more than ten percent

1 of the biennial capital budget appropriation may be expended for  
2 emergency loans and not more than one percent of the biennial capital  
3 budget appropriation may be expended for capital facility planning  
4 loans. For the 2007-2009 biennium, moneys in the account may be used  
5 for grants for projects identified in section 138, chapter 488, Laws of  
6 2005, for the infrastructure investment system implementation plan  
7 identified in section 1022, chapter 328, Laws of 2008; for the interest  
8 rate buy-down pilot program identified in section 1004, chapter 328,  
9 Laws of 2008; and for the housing assistance, weatherization, and  
10 affordable housing program identified in section 1005, chapter 328,  
11 Laws of 2008.

12 (2) The job development fund is hereby established in the state  
13 treasury. Up to fifty million dollars each biennium from the public  
14 works assistance account may be transferred into the job development  
15 fund. Money in the job development fund may be used solely for job  
16 development fund program grants, administrative expenses related to the  
17 administration of the job development fund program created in RCW  
18 43.160.230, and for the report prepared by the joint legislative audit  
19 and review committee pursuant to RCW 44.28.801(2). Moneys in the job  
20 development fund may be spent only after appropriation. The board  
21 shall prepare a prioritized list of proposed projects of up to fifty  
22 million dollars as part of the department's 2007-09 biennial budget  
23 request. The board may provide an additional alternate job development  
24 fund project list of up to ten million dollars. ~~((The legislature may  
25 remove projects from the list recommended by the board. The  
26 legislature may not change the prioritization of projects recommended  
27 for funding by the board, but may add projects from the alternate list  
28 in order of priority, as long as the total funding does not exceed  
29 fifty million dollars.))~~

30 **Sec. 2.** RCW 43.155.068 and 2001 c 131 s 4 are each amended to read  
31 as follows:

32 (1) The board may make low-interest or interest-free loans to local  
33 governments for preconstruction activities on public works projects  
34 before ~~((the legislature approves))~~ the construction phase of the  
35 project. Preconstruction activities include design, engineering, bid-  
36 document preparation, environmental studies, right-of-way acquisition,  
37 and other preliminary phases of public works projects as determined by

1 the board. The purpose of the loans authorized in this section is to  
2 accelerate the completion of public works projects by allowing  
3 preconstruction activities to be performed before the approval of the  
4 construction phase of the project (~~(by the legislature)~~).

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

16 **Sec. 3.** RCW 43.155.070 and 2008 c 299 s 25 are each amended to  
17 read as follows:

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

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

23 (b) The local government must have developed a capital facility  
24 plan; and

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

28 (2) Except where necessary to address a public health need or  
29 substantial environmental degradation, a county, city, or town planning  
30 under RCW 36.70A.040 must have adopted a comprehensive plan, including  
31 a capital facilities plan element, and development regulations as  
32 required by RCW 36.70A.040. This subsection does not require any  
33 county, city, or town planning under RCW 36.70A.040 to adopt a  
34 comprehensive plan or development regulations before requesting or  
35 receiving a loan or loan guarantee under this chapter if such request  
36 is made before the expiration of the time periods specified in RCW  
37 36.70A.040. A county, city, or town planning under RCW 36.70A.040

1 which has not adopted a comprehensive plan and development regulations  
2 within the time periods specified in RCW 36.70A.040 is not prohibited  
3 from receiving a loan or loan guarantee under this chapter if the  
4 comprehensive plan and development regulations are adopted as required  
5 by RCW 36.70A.040 before submitting a request for a loan or loan  
6 guarantee.

7 (3) In considering awarding loans for public facilities to special  
8 districts requesting funding for a proposed facility located in a  
9 county, city, or town planning under RCW 36.70A.040, the board shall  
10 consider whether the county, city, or town planning under RCW  
11 36.70A.040 in whose planning jurisdiction the proposed facility is  
12 located has adopted a comprehensive plan and development regulations as  
13 required by RCW 36.70A.040.

14 (4) The board shall develop a priority process for public works  
15 projects as provided in this section. The intent of the priority  
16 process is to maximize the value of public works projects accomplished  
17 with assistance under this chapter. The board shall attempt to assure  
18 a geographical balance in assigning priorities to projects. The board  
19 shall consider at least the following factors in assigning a priority  
20 to a project:

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

24 (b) Except as otherwise conditioned by RCW 43.155.110, whether the  
25 entity receiving assistance is a Puget Sound partner, as defined in RCW  
26 90.71.010;

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

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

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

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

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

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

1 (i) 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 (j) Except as otherwise conditioned by RCW 43.155.120, and  
6 effective one calendar year following the development of model  
7 evergreen community management plans and ordinances under RCW  
8 35.105.050, whether the entity receiving assistance has been  
9 recognized, and what gradation of recognition was received, in the  
10 evergreen community recognition program created in RCW 35.105.030;

11 (k) The relative benefit of the project to the community,  
12 considering the present level of economic activity in the community and  
13 the existing local capacity to increase local economic activity in  
14 communities that have low economic growth; and

15 (1) Other criteria that the board considers advisable.

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

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

1 (7) The board shall not sign contracts or otherwise financially  
2 obligate funds from the public works assistance account (~~((before the~~  
3 ~~legislature has appropriated funds for a specific list of public works~~  
4 ~~projects. The legislature may remove projects from the list~~  
5 ~~recommended by the board. The legislature shall not change the order~~  
6 ~~of the priorities recommended for funding by the board))~~ unless the  
7 project has been considered under the priority process provided in this  
8 section.

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

11 (9) Loans made for the purpose of capital facilities plans shall be  
12 exempted from subsection (7) of this section.

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

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

22 NEW SECTION. **Sec. 4.** Section 1 of this act expires June 30, 2011.

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