Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Capital Budget Committee

HB 1915

Brief Description: Concerning state assistance for financing local government infrastructure.

Sponsors: Representatives Dunshee, Warnick, Ormsby, Condotta, Sells, Anderson, Green and Armstrong; by request of State Treasurer.

Brief Summary of Bill

- Requires that public utility and solid waste collection tax revenues currently deposited into the Public Works Assistance Account be deposited instead into a Local Infrastructure Assistance Account in the State Treasury and distributed to counties to fund local infrastructure projects.
- Authorizes the State Treasurer to enter into contingent loan agreements with local governments to provide credit support for infrastructure project financings, and authorizes the Infrastructure Financing Board to make loans related to such agreements.
- Authorizes the Infrastructure Financing Board to make grants to local governments for infrastructure projects.
- Adds flood control levees to the list of eligible infrastructure systems.
- Eliminates the requirement that the Board's annual construction loan list receive legislative approval.
- Makes various changes in terminology, board memberships, and evaluation criteria.

Hearing Date: 2/15/11

Staff: Meg Van Schoorl (786-7105).

Background:

Public Works Assistance Account.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Public Works Assistance Account (Account), commonly known as the Public Works Trust Fund, was created by the Legislature in 1985 to provide a source of loan funds to assist local governments and special purpose districts with infrastructure projects. The Public Works Board (Board) is authorized to make low-interest or interest-free loans from the Account to finance the acquisition, construction, repair, replacement, or improvement of the following systems: bridges, streets and roads; water, storm and sanitary sewage systems; and solid waste facilities, including recycling. The Board also makes loans for pre-construction, emergency, and capital facility planning purposes. All local governments except port districts and school districts are eligible to receive loans.

The Account receives dedicated revenues from the public utility tax on water and sewer service, the solid waste collection tax, a portion of the real estate excise tax, and loan repayments. Money in the Account must be used to make loans and to give financial guarantees to local governments for public works projects and may also be appropriated as the required 20 percent state match to the federal Drinking Water State Revolving Fund jointly managed by the Board and the Department of Health. Appropriations from the Account are made in the capital budget, but the Board's ranked list of recommended construction projects is submitted annually to the Legislature in a separate bill. Funds cannot be obligated by the Board until the Legislature has appropriated funds for a specific list of projects. Loans approved by the Board for pre-construction, emergency and planning purposes are not subject to legislative approval.

The Board, staffed by the Department of Commerce, includes 13 voting members: two elected officials and one public works manager representing cities; two elected officials and one public works manager representing counties; three members representing public utility and water-sewer districts; and four members representing the general public.

Community Economic Revitalization Board.

The Community Economic Revitalization Board (CERB) was created by the Legislature in 1982 to help communities finance infrastructure, facilities, and sites that foster economic vitality and diversification. Entities eligible to apply for CERB financing are federally-recognized Indian Tribes and local governments including port districts, special purpose districts, and other municipal and quasi-municipal corporations that provide for public facilities. The CERB provides low-interest loans and, occasionally, grants to finance planning, pre-development and construction of public facilities for the purposes of job creation, retention or expansion. Eligible systems are: bridges and roads; domestic and industrial water; earth stabilization; sanitary and storm sewer; railroad; electricity; telecommunications; transportation; natural gas; general purpose industrial buildings or port facilities. Projects must provide convincing evidence that a specific private development or expansion is ready to occur and will only occur if the public facility improvement is made, or that the project will result in creation of significant private sector jobs or private capital investment. The CERB must approve at least 75 percent of the first $20 million available and at least 50 percent of any additional funds for projects in rural counties. Grants may not comprise more than 25 percent of all financial assistance provided by the CERB in a single biennium.

Financing for the CERB program is appropriated in the capital budget from the Public Facilities Construction Loan Revolving Account, which contains loan repayments and any funds directed to it by the Legislature.

The CERB, staffed by the Department of Commerce, includes four non-voting agency directors and 16 voting members: four legislators; an economist; one official each of a city, county, port district, and federally-recognized Indian tribe; one representative of the public; four representatives of small businesses and two executives of large businesses.

County Local Public Works Assistance Funds.

RCW 36.135 authorizes a county to establish a local public works assistance fund (Local Fund) to make loans to finance public works projects wholly or partially within the county. "Public works projects" and "local government" are defined as they are in the Public Works Assistance Account statute. In collaboration with local governments within the county, a county legislative authority must develop a funding process that prioritizes projects necessary to address public health needs, substantial environmental degradation, or accommodate projected population and employment growth. A county providing loans to other local governments must consider a number of statutory factors including severe fiscal distress, citizen health and safety, project cost, number of communities served or funding the project, and project outcomes. No more than 50 percent of the monies loaned from a Local Fund in a calendar year may be loaned to the county and at least 25 percent of the monies anticipated to be loaned must be made available for projects in cities or towns. A county may deposit monies from its existing revenue sources into the Local Fund, and loan repayments must be deposited into the Local Fund. A county may require terms and conditions and may charge interest on loans.

Bond Rating Agencies.

There are three primary bond rating companies: Moody's, Standard & Poor's, and Fitch. Their ratings of state and local governments are an indication of how the rating analysts view the repayment risk. The rating then impacts what interest rate investors will require when purchasing state and local government bonds. Typically, the higher the bond rating is, the lower the interest rate. Each of the rating companies use an alphabetical rating system, with AAA or Aaa being best, then AA or Aa, followed by A, BBB or Baa, BB or Ba, and so on. Each rating company has a modifier for all but the top rating. For Moody's, a "1" following the letter rating means it is in the high end of the rating category, a "2" means it is in the middle of the category, and a "3" means it is in the lower end of the rating category. For Standard & Poor's and Fitch, a "+" signifies it is in the top half of the rating category, while a "-" indicates the lower half.

Summary of Bill:

Intent.

The Legislature finds that a 1998 state study documented $8 billion in local infrastructure needs, that local governments face financial challenges to making infrastructure improvements, and that the deposit of certain tax revenues into county-level accounts will expand infrastructure financing. The Legislature intends to create an infrastructure bank to help local governments make infrastructure improvements related to health, safety, and the environment through a grant and loan program and credit support in the form of contingent loan agreements.

Infrastructure Financing Board.

"Public works projects" are renamed "infrastructure projects". Flood control levees are added to the list of eligible projects.

The "Public Works Board" is renamed the "Infrastructure Financing Board". Four member slots are added (one House member, one Senate member, the CERB chair, and one other CERB member) and four member slots are eliminated (one representative each from cities, counties, and public utility districts, and one representative of the general public).

The "Public Works Assistance Account" is renamed the "Infrastructure Financing Account" (Account). Moneys from the Account may only be spent after appropriation. The Real Estate Excise Tax and loan repayments for Infrastructure Financing Board loans continue to be deposited into the Infrastructure Financing Account.

New Infrastructure Financing Board Authorities.

The Board is authorized to *make loans and grants for preconstruction and emergency activities, capital facility planning, and infrastructure projects.* The authorization to use money for grants is a new policy direction as is the requirement that the loans and grants must be based on taxpayer and ratepayer costs related to median household income.

The Board is also provided with authority to *make loans to local governments related to "contingent loan agreements."* A contingent loan agreement is an agreement between the state and a local government in which the state provides an "absolute and unconditional" commitment to make a loan to the local government. The purpose of that commitment is to enhance the credit standing of the local government when it seeks financing through banks or the bond market.

The State Treasurer is authorized to enter into a contingent loan agreement only with those local governments whose limited tax general obligations or senior revenue obligations are rated not higher than A1 or A+ by at least one of the nationally recognized rating agencies. The State Treasurer is authorized to charge a fee to the local government for the cost of creating a contingent loan agreement. A local government that enters into a contingent loan agreement with the State Treasurer, receives financing from a bank or the bond market for an infrastructure project and then is unable to make debt service payments, can apply to the Infrastructure Financing Board for a loan to assist in making those debt service payments. The state's obligation to make such loans would be subject to a legislative appropriation from the Account. The Board and the State Treasurer are prohibited from pledging the full faith and credit or the taxing power of the state to repay local government obligations.

The Board's prioritized construction loan list is no longer subject to legislative approval, although the Board must still submit to the legislative fiscal committees descriptions of loans, grants and contingent loan agreements made during the preceding fiscal year.

Additional Criteria and Factors for Local Governments.

A local government must meet several new criteria to qualify for a loan, grant, or contingent loan agreement. It must have an equitable sewer user charge system for residential, commercial and industrial users that will provide for system maintenance and operation, and payment of all financial obligations. Sewer connection fees for new connections must reflect a fair share cost of infrastructure from which the new connections will benefit. The local government must have a capital wastewater facilities reserve fund dedicated to infrastructure and equipment replacement. A sewer use ordinance must restrict certain connections and wastes to protect the investment and enhance its stability and effluent quality.

Added to the prioritization factors the Board must consider is whether the project is energy efficient, LEED certified, or a green building as defined under an established program.

Local Infrastructure Boards and Funds.

"Public works projects" are renamed "infrastructure projects". Flood control levees are added to the list of eligible projects.

A "Local Infrastructure Assistance Account" is created in the State Treasury. Public utility and solid waste tax revenues, received by the state on or after August 1, 2011, that were formerly deposited in the Public Works Assistance Account must be deposited in the Local Infrastructure Assistance Account and distributed at least twice annually by the State Treasurer to all counties on the basis of population. Counties must place all monies received into local infrastructure assistance funds and use them in accordance with this chapter.

County legislative authorities may establish local infrastructure boards to fund infrastructure projects, and must appoint as board members a county official, two officials from different cities or towns within the county, and one utility district official.

"Public works assistance funds" are renamed "infrastructure assistance funds." Counties may form multicounty local infrastructure funds in order to fund projects located in more than one county. Counties may contract with the Infrastructure Financing Board to administer these funds.

Local infrastructure assistance funds may be used to make grants, as well as loans, to the county and other local governments. If a "project owner" (local government) has entered into a contingent loan agreement with the state and is obligated to repay a loan made pursuant to the agreement, the first use of a grant award must be to repay the state.

Other Provisions.

- The Infrastructure Financing Board and the CERB are required to consult with each other for coordination and consistency.

- The CERB membership is changed. Instead of four legislators (two from each of the two major caucuses of the House and Senate), the CERB will have one House member, appointed by the House Speaker, and one Senate member, appointed by the Senate President. Legislative members will retain the authority to designate another member from the same chamber to attend the CERB meeting in their absence and no longer must designate a member belonging to the same caucus. The legislative designees will retain the power to participate in board deliberations but as is the case with other designees, will not have voting powers.

- Moneys in the Account may be appropriated for the required state match under federal law for the Water Pollution Control Revolving Fund Program administered by the Department of Ecology. This transfer has been authorized in the 2009-11 operating budgets but has not been authorized specifically in law. Moneys in the Account may also be appropriated for Water System Acquisition and Rehabilitation Program grants to small water systems authorized under RCW 70.119A.

Appropriation: None.

Fiscal Note: Requested on 02/09/11.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.