
Capital Budget Committee

ESSB 5844

Brief Description: Financing local government infrastructure.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Parlette, Murray, Kastama, Fraser, Hobbs, Hatfield, Regala, Sheldon and Hewitt).

Brief Summary of Engrossed Substitute Bill

- Requires the Public Works Board to submit to legislative committees an implementation plan to create a reformed state system for local infrastructure assistance by November 1, 2011.
- States the Legislature's intent to consolidate the state's local infrastructure investments into seven policy areas and make appropriations to agencies accordingly.
- Authorizes the State Treasurer to enter into contingent loan agreements with local governments and the Public Works Board to make loans related to these agreements.
- Modifies the authority of the Public Works Board and the uses of the Public Works Assistance Account.

Hearing Date: 4/18/11

Staff: Meg Van Schoorl (786-7105).

Background:

Current State Assistance Programs for Local Infrastructure.

Public Works Assistance Account (Account) The Public Works Board (Board) makes loans from the Account to local governments and special purpose districts (excluding port districts) to acquire, construct, repair, replace, or improve bridges, streets, and roads; water, storm, and sanitary sewage systems; and solid waste facilities, including recycling. The Account has also been used to meet federal match requirements for the Drinking Water State Revolving Fund managed by the Department of Health (DOH) and the Water Pollution Control State Revolving Fund managed by the Department of Ecology (DOE).

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.

Community Economic Revitalization Board (CERB). Loans and a limited number of grants are provided to local governments (including port districts) and federally-recognized Indian tribes for public infrastructure improvements that encourage new business development and expansion in areas seeking economic growth. Bridges and roads, domestic and industrial water, telecommunications, and industrial buildings or port facilities are among the eligible systems.

Water Pollution Control State Revolving Fund and the Centennial Clean Water Grant Program. The DOE manages these programs jointly to provide low interest loans and grants to local governments and federally-recognized Indian tribes primarily to plan, design, acquire, construct, and improve water pollution control facilities such as wastewater or storm water treatment facilities. Funding is also provided for nonpoint source pollution control activities.

Drinking Water State Revolving Fund. This DOH program provides low-interest loans to publicly-owned and privately-owned drinking water systems for capital improvements that increase public health protection and compliance with drinking water regulations. Examples of eligible projects are new or improved reservoirs, treatment plant discharge improvements, water main or distribution improvements, and aging infrastructure replacement.

Water System Acquisition and Rehabilitation Program. This DOH program provides grants to well-managed, publicly owned water utilities to assist with the costs of acquiring troubled drinking water systems and permanently resolving contaminated water, failing infrastructure, and water shortage problems.

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 will be. Each of the rating companies uses an alphabetical rating system, with AAA or Aaa the highest, then AA or Aa, A, BBB or Baa, BB or Ba. 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:

Findings and Intent.

Despite \$2 billion in Board loans over 25 years, improved local capital facilities planning, and new state and federally-financed infrastructure grant and loan programs, the Legislature finds that a significant local infrastructure project backlog remains. In addition, the Legislature finds that prior state studies have identified: redundancy among programs; a lack of clarity of state policy objectives; delays in processes; and difficulties adapting to emerging needs. The Legislature also finds that low-interest loans can assist jurisdictions that have difficulty accessing traditional private market financing.

The Legislature intends to modernize the state's local infrastructure assistance programs by: (1) clarifying the state's policy objectives; (2) focusing criteria to prioritize state investments; (3) eliminating duplication; (4) increasing speed and ability to respond to emerging needs; (5) maximizing federal funding; (6) ensuring transparency on funding for individual projects; (7) improving access to private market financing; and (8) ensuring periodic review of progress. The programs included are the Account, the clean water and drinking water state revolving funds, the Centennial Clean Water program, the Water System Acquisition and Rehabilitation program, the CERB, and other relevant programs and funds.

It is state policy that local governments are responsible for planning for, developing and adequately maintaining local public infrastructure, including setting adequate rates to pay for utility services systems. The Legislature also recognizes that in some cases, "compelling" state policy objectives justify state assistance for local infrastructure.

Creating a Reformed State System for Local Infrastructure Assistance.

By November 1, 2011, the Board must submit to appropriate legislative committees an implementation plan to create a reformed state system for local infrastructure assistance, including draft legislation and the needed organizational and budget changes. In developing the plan, the Board must consult with relevant state agencies and cooperate with local governments.

The new system must have the following characteristics: (1) transparency, meaning that state assistance for a local project must be in a consolidated package representing all sources; (2) accountability, meaning that applicants must accept and demonstrate compliance with the state's policy of local responsibility; and (3) efficiency and performance, meaning standardized data requirements, reduced application steps, and minimized diversion of funds to agencies' indirect administrative costs.

The Legislature intends to consolidate appropriations from all available funds for seven policy-focused investments: (1) water quality; (2) safe drinking water; (3) storm water; (4) economic development; (5) access to private financing; (6) solid waste and recycling; and (7) flood levees. The Legislature intends to make appropriations to the agency with the greatest expertise in each policy objective. Water quality, storm water, solid waste, and flood levee projects must be evaluated and prioritized by the DOE; economic development projects by the CERB and Economic Development Commission; safe drinking water projects by the DOH; and the access to private financing objective by the Board and the Office of the State Treasurer (Treasurer).

The Board and relevant state agencies must develop financial policies, and must conduct a biennial survey and analysis of infrastructure needs and resources related to the policy objectives. Based on the analysis, the Board must recommend to the Governor and Legislature investment amounts for the various policy objectives within projected available funding levels.

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 Treasurer is authorized to prescribe the terms and enter into a contingent loan agreement with a local government 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 Treasurer must determine that the agreement is financially prudent and consistent with this chapter. The Treasurer may charge a fee to the local government to recover the cost of creating the agreement.

The Board is authorized to make loans to local governments pursuant to contingent loan agreements. The state's obligation to make such loans is subject to a legislative appropriation from the Account. The Legislature must, from time to time, provide in appropriations acts for such amounts that may be required.

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.

Changes to the Public Works Board Authorities and Public Works Assistance Account Uses.

The Board's authority to make low-interest and interest-free loans is eliminated, as are the qualifications, priorities, evaluation factors, and Board processes. The process of submitting a recommended loan list to the Legislature is eliminated. Technical assistance provided by the Board is broadened to include helping local governments comply with the policies of "local responsibility" described in the bill.

Ports are made eligible for assistance from the Account, as are "capital facilities" that support the local infrastructure investment policy objectives specified in the bill.

In addition to its current uses, moneys in the Account must be used to make grants. Moneys in the Account may be appropriated: (1) to meet federal match requirements for local clean water and drinking water infrastructure; (2) for payments required under contingent loan agreements; and, (3) for financial assistance through the state's Water System Acquisition and Rehabilitation Program.

The Water Storage Projects and Water Systems Facilities subaccount is eliminated. The Water Conservation Account is also eliminated.

The Board-related requirements that are eliminated are:

- that an application must include a statement of a project's environmental benefits and that the Board use the statement in its selection process;
- that the Board must develop outcome-focused performance measures; and
- that the Board must give preference to applicants that are Puget Sound Partners or Evergreen Communities.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on April 12, 2011.

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