

SENATE BILL REPORT

ESSB 5844

As Passed Senate, April 8, 2011

Title: An act relating to financing local government infrastructure.

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 History:

Committee Activity: Ways & Means: 2/21/11, 3/24/11 [DPS].
Passed Senate: 4/08/11, 35-13 (notice to reconsider); 41-8.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5844 be substituted therefor, and the substitute bill do pass.

Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Baumgartner, Baxter, Brown, Conway, Fraser, Hatfield, Hewitt, Holmquist Newbry, Honeyford, Kastama, Keiser, Kohl-Welles, Pflug, Pridemore, Rockefeller, Schoesler and Tom.

Staff: Brian Sims (786-7431)

Background: The Public Works Board and the Public Works Assistance Account were created in 1985 to help local government build, repair, and improve local infrastructure. Since its inception the program has provided over \$2.2 billion in low-interest construction loans to local governments. Seventy-eight percent of these loans have supported sewer and drinking water systems. Seventeen percent has been used for roads and bridges, 3 percent for storm water, and 1 percent for solid waste and recycling. Local governments owe about \$900 million in outstanding principal for loans already used. About \$100 million in previously authorized loans are expected to be used over the next several years as construction projects get underway. The account receives repayments from prior loans, and a portion of the real estate excise tax and public utility tax, and the solid waste tax.

The financial value of a low interest loan through the Public Works Assistance Account is the difference in debt service costs of the low interest loan compared to the debt service costs of financing through the private bond market. There are several factors that influence the

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private market costs, including the credit worthiness of the jurisdiction, the existence and reliability of credit enhancements, and the size of issuance.

Since 2005 three major studies of programs providing state assistance for local infrastructure have been completed. The studies have recommended clearer policy directions to prioritize resources, and reduce fragmentation and duplication to improve transparency and accountability.

Summary of Engrossed Substitute Bill: State assistance is restructured for local infrastructure from the existing system organized around pots of money to a system organized around state policy objectives. Six major policy objectives are defined: clean water, safe drinking water, storm water, economic development, solid waste and recycling, repair and improvement of flood levies, and improving local government's access to low-cost private market financing. Agency responsibilities for prioritizing projects within these six policy objectives are clarified – projects for clean water, storm water and solid waste and recycling are prioritized by the Department of Ecology, safe drinking water projects are prioritized by the Department of Health, economic development projects are prioritized by the Community Economic Revitalization Board, and the Office of the State Treasurer underwrites contingent loan agreements to reduce the cost of private market financing.

The Public Works Board, in cooperation with other appropriate agencies, must develop an implementation plan with draft legislation and budget structure changes to ensure the new system has the following characteristics: (1) transparency regarding total state and federal investment in any one project; (2) accountability in meeting the restated policy that local governments are responsible for funding, planning, building, repairing and replacing local infrastructure; and (3) efficiency in administering the system of infrastructure assistance and minimizing duplication and redundancy. The plan is due November 1, 2011.

The Public Works Board, working with other agencies, is responsible for reviewing all applications for infrastructure assistance to identify where technical assistance and conditions placed on offers of assistance are needed to improve long-range progress in meeting the policy of local responsibility for funding and maintaining local infrastructure.

Ports are eligible for economic development assistance funded with Public Works Assistance Account money, and economic development projects may include funding of facilities that support Innovation Partnership Zones.

A credit enhancement program is created for local infrastructure in the form of contingent loan agreements. The Office of the State Treasurer is allowed to enter into contingent loan agreements to provide local governments with loans for debt service payments if they cannot make the payment. The Office of the State Treasurer may underwrite contingent loan agreements for local governments with which limited tax general obligations or senior revenue obligations, as applicable to the obligations concerned, are rated not higher than A1 or A+ by at least one of the nationally recognized rating agencies. An appropriation is required to provide local government credit support in the form of contingent loan agreements, and does not affect the state's debt limit.

Solid waste and recycling projects are not eligible for assistance under the Public Works Assistance Account. Road and bridge projects are not eligible unless they meet the policy objectives for economic development. The account may also be used for state matching funds for federal clean water funding.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: OTHER: The contingent loan program will help small and medium sized jurisdictions access lower cost financing. It was put together last summer by the Treasurer working with many folks from local government. We need to do something about the large number of agencies and programs trying to address the same infrastructure problem. The bill moves in the direction recommended by prior studies. There needs to be a funding category for general government like courthouses and jails. The nature of infrastructure has changed since the Public Works Board began 25 years ago. Stewardship of existing infrastructure is important and the bill recognizes that, while recognizing a co-funding role between state and local government in some cases. The board should review infrastructure needs and resources every two years. There should be more guidance on the recommendations for non-rate-based infrastructure needs. The contingent loan amount should be capped. Clarification is needed so that funding is not just to communities least able to pay. The bill is a good start in focusing money on state priorities. With a system that generates more confidence in addressing those priorities you can get rid of the Legislative approval of the loan list. That approval causes costly delays in getting the work done.

Persons Testifying: OTHER: Scott Merriman, Association of Counties; Bob Mack, Tacoma Public Utilities; Julie Murray, Office of Financial Management; Ashley Probart, Association of Washington Cities.