

# HOUSE BILL REPORT

## HB 1484

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**As Reported by House Committee On:**  
Capital Budget

**Title:** An act relating to the public works board.

**Brief Description:** Concerning the public works board.

**Sponsors:** Representatives Stanford and Warnick; by request of Washington State Department of Commerce.

**Brief History:**

**Committee Activity:**

Capital Budget: 2/15/13, 2/28/13 [DPS].

**Brief Summary of Substitute Bill**

- Declares the state's intention to invest resources to address a significant backlog of local public infrastructure projects and to promote eight state priority policy objectives.
- Requires the Public Works Board to numerically rank applications, consider at least 11 factors in assigning the ranking, and submit to legislative fiscal committees an annual ranked list of projects recommended for funding.
- Modifies a requirement related to compliance with the Growth Management Act.

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### HOUSE COMMITTEE ON CAPITAL BUDGET

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Dunshee, Chair; Stanford, Vice Chair; Warnick, Ranking Minority Member; Appleton, Fey, Riccelli, Smith and Stonier.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Hawkins, Assistant Ranking Minority Member; MacEwen and Scott.

**Staff:** Meg Van Schoorl (786-7105).

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*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.*

## **Background:**

### Public Works Assistance Account.

The Public Works Assistance Account (Account) was established in 1985 to encourage local government self-reliance in meeting public works needs, and assist in financing critical infrastructure projects. Moneys in the Account must be used to make loans and give financial guarantees, and may also be appropriated to provide state match for federal dollars under the Drinking Water State Revolving Fund. Loan repayments and revenues from three tax sources have historically been deposited into the Account.

### Public Works Financing, Criteria and Process.

The Public Works Board (Board) may make low-interest or interest-free loans from the Account to finance the acquisition, construction, repair, replacement, or improvement of local: bridges, streets, and roads; water systems; storm and sanitary sewage systems; and solid waste facilities, including recycling. For up to a maximum of 15 percent of the biennial capital budget appropriation, the Board may make loans for pre-construction, emergency, and capital facilities planning. Local governments and special purpose districts, except port and school districts, are eligible to apply for loans from the Account. The Board may provide technical assistance. Existing debt or financial obligations may not be refinanced.

The Board must consider a number of factors in prioritizing projects: health and safety; unemployment rate; the Puget Sound Partnership Action Agenda; fiscal distress; permitting processes; relative project costs; number of communities served or funding the project; water system health and safety violations; Evergreen community recognition; and relative project benefits.

A county, city, or town planning under the Growth Management Act must be in compliance with comprehensive plan and development regulations before submitting an application for a loan.

By November 1 of each even-numbered year, the Board must develop and submit to legislative fiscal committees a prioritized recommended funding list of public works construction projects. The Legislature may remove projects from the list, but may not change the priority order of the Board's recommendations. Funds cannot be obligated by the Board until the Legislature has appropriated funds for a specific list of projects.

### Public Works Board-Membership.

The Board is staffed by the Department of Commerce (Commerce) and 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.

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## **Summary of Substitute Bill:**

### Intent and Definitions.

The Legislature finds that local governments are responsible for developing, managing, financing and maintaining local infrastructure systems, and that a significant backlog of local projects exists. The state intends to strategically invest resources in local systems to address the backlog and serve priority state policy objectives including: efficient use of state resources; preservation and enhancement of health and safety; pollution abatement and environmental protection; new family-wage job creation and avoidance of job-shifting among communities; economic development consistent with the Growth Management Act; efficient delivery of goods, services, public transit and transportation; avoidance of government costs that adversely impact local residents and small businesses; and reduction of public infrastructure costs.

Definitions are added or revised for: "capital facility plan," "construction," "director," "emergency," "financial assistance," "local government," "planning project," "policy objectives," "preconstruction," "public works project," and "technical assistance." Definitions of "financing guarantees" and "solid waste or recycling project" are removed.

#### The Account.

The Board must manage the Account to ensure its sustainability and must execute contracts and otherwise obligate funds in the Account for Board-approved projects.

Of the biennial capital budget appropriation from the Account, at least 85 percent must be obligated for construction loans. No more than 15 percent may be obligated for programs other than construction loans including state match for federal programs or funding for other state programs.

#### Public Works Financing, Criteria, and Process.

The Board is authorized to approve projects under the construction, preconstruction, planning, emergency, energy or water efficiency, water system acquisition and rehabilitation, and other legislatively-authorized programs.

By November 1 of every year, the Board must develop and submit to legislative fiscal committees a ranked list of qualified public works construction projects recommended for funding. The maximum amount of funds that the Board may recommend for any one project is \$10 million. The Legislature may remove projects from the list, but may not change the ranked order of the projects recommended for funding. Funds cannot be obligated by the Board until the Legislature has appropriated funding for a specific list of projects.

The Board must develop a process for numerically ranking applications and must establish the ranked list based, at a minimum, on consideration of the following eleven factors, in any order: critical nature of the project and its health and safety impact on a large percentage of the community; leverage of nonstate funds; readiness to proceed to construction; system consolidation or regionalization; the area's relative unemployment rate; system management; promotion of sustainable resource use and environmental quality; encouragement of economic development through mix-use and mixed-income development; extent to which the project meets the identified state policy objectives; equitable distribution of funds by geography and population; and other Board-determined criteria. Several other factors that must currently be considered by the Board are removed.

The Board must document the numerical ranking assigned to each project on the recommended list and to each eligible project not recommended for funding.

A county, city, or town planning under the Growth Management Act must be in compliance with comprehensive plan and development regulations before executing a contract for financial assistance with the Board.

As a threshold criterion, a local government must demonstrate the financial capacity to repay a loan.

The Board may provide grants for projects under the Water System Acquisition and Rehabilitation program (WSARP). The Board must provide technical assistance. The Board may not provide financial guarantees and may not refinance local government existing debt or financial obligations except for certain short-term debt.

#### Board-Membership.

Modifications are made to the Board positions. The requirement to have two Board members who are city and county public works managers is changed to two Board members who are city and county officials working in public works or a related field. The requirement to have three members jointly nominated by the Washington Public Utility Districts Association (PUD Association) and a state association of water-sewer districts (Sewer and Water District Association) is changed to require separate nominations: one member appointed from a list of the PUD Association nominees, and two members appointed from a list of Sewer and Water District Association nominees.

#### Other.

Beginning November 1, 2014, and November 1 of every biennium thereafter, the Board must report to the Governor and legislative fiscal committees on how the Board is using the state's priority policy objectives to guide its investment of Account funds and what outcomes have been produced.

The Board must collaborate with infrastructure financing-related organizations, provide advice to the Governor and legislative committees, and at the Governor's direction, provide information and advocacy nationally. The respective responsibilities of the Board and Commerce are set out.

#### **Substitute Bill Compared to Original Bill:**

The seven-state priority policy objectives identified in the original bill are replaced with 11-state priority policy objectives. The Board must develop a process for numerically ranking applications and to consider at least 11 factors in assigning the ranking. The list of qualified public works projects submitted by the Board must be ranked. The Board must document the numerical ranking assigned to each project on the recommended funding list and to each eligible project not on the recommended funding list. The maximum funding amount that can be recommended per project is \$10 million. A local government must demonstrate financial capacity to repay a loan, as a threshold requirement. The Board must report biennially on its use of the priority policy objectives to guide its investments and on the outcomes produced. The Board is not authorized to approve nontraditional public works

system projects, or to assess infrastructure needs and resources every four years. The RCW 43.155.075, requiring environmental benefit statements and outcome-focused performance measures, is not repealed.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) The Commerce requested this bill as an outgrowth of the legislatively-required modernization examination undertaken by the Board in 2011. The bill identifies the seven-state policy objectives that will be served by investments in local public works systems. Board authority to fund nontraditional systems is only applicable after traditional projects are approved. The list of criteria in section 10 brings the program out of the 1980s and into the twenty-first century. Counties support the change related to compliance with the Growth Management Act, but prefer the language contained in House Bill 1401. The PUD Association supports the modernization effort and the authority to provide the WSARP grants. There is some concern about the possible camel's-nose-under-the-tent potential of allowing approval of nontraditional projects. At the same time, we have seen piles of cash being taken out of the front door of the tent, and the most important thing is to protect the funds in the Account for local infrastructure. This has been an incredibly successful program, with the revolving loan-fund mechanism enabling multiple loans to be made in succession. In addition, there has been more than two to one leverage of federal and other nonstate funds.

(Opposed) Due to having had a pinching down of external funds flowing into the Account, this bill contains false hopes that there will be additional funding opportunities.

**Persons Testifying:** (In support) Representative Stanford, prime sponsor; Stan Finkelstein, Kathryn Gardow, and Dawn Eychaner, Public Works Board; Gary Rowe, Washington State Association of Counties; Bill Clarke, Washington Public Utility Districts Association; and Scott Hazelgrove, Washington Association of Sewer and Water Districts.

(Opposed) Steve Lindstrom, Sno-King Water District Coalition.

**Persons Signed In To Testify But Not Testifying:** None.