

HOUSE BILL REPORT

E2SHB 1484

As Passed House:
February 18, 2014

Title: An act relating to the public works board.

Brief Description: Concerning the public works board.

Sponsors: House Committee on Capital Budget (originally sponsored by 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], 1/30/14, 2/4/14 [DP2S].

Floor Activity:

Passed House: 2/18/14, 92-5.

Brief Summary of Engrossed Second Substitute Bill

- Declares the state's intention to invest resources to address a local public infrastructure project backlog and to serve eight state priority policy objectives.
- Requires the Public Works Board (Board) to numerically rank applications according to specific factors and submit an annual ranked list of projects recommended for funding to legislative fiscal committees.
- Requires the Board to set policies and procedures that maximize local government use of federally funded drinking water and clean water revolving funds.
- Requires Board lending policies and procedures to be consistent with long-term sustainability of the Public Works Assistance Account.
- Requires reduced rates and extended terms for projects that meet financial hardship criteria.
- Requires investment grade efficiency audits for projects when obtainable.

HOUSE COMMITTEE ON CAPITAL BUDGET

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.

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 9 members: Representatives Dunshee, Chair; Stanford, Vice Chair; DeBolt, Ranking Minority Member; Appleton, Riccelli, Robinson, Senn, Stonier and Warnick.

Minority Report: Do not pass. Signed by 4 members: Representatives MacEwen, Assistant Ranking Minority Member; Christian, Scott and Smith.

Staff: Meg VanSchoorl (786-7105).

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. Monies 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 and clean water state revolving funds. 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; drinking water systems; storm and sanitary sewage systems; and solid waste facilities, including recycling. Up to a maximum of 15 percent of the biennial capital budget appropriation, the Board may make loans for preconstruction, emergency, and capital facilities planning. The Board may require loan terms, conditions, and interest rates as it deems necessary or convenient to carry out these purposes. The Board may provide technical assistance. Existing debt or financial obligations may not be refinanced.

Local governments and special purpose districts, except port and school districts, are eligible to apply for loans from the Account.

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.

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.

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.

Summary of Engrossed Second 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 Washington 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 for "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. The Board may provide grants for projects under the Water System Acquisition and Rehabilitation program. The Board must provide technical assistance.

The Board must contractually require an investment grade efficiency audit for public facilities for which an audit is obtainable, and may allow the audit costs to be financed as part of the loan.

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

The Board must develop a process for numerically ranking construction loan applications and must establish the ranked list based on consideration of at least the following 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 mixed-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.

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 Board must document the numerical ranking assigned to each project on the recommended list and to each eligible project not recommended for funding. The maximum amount of funds that the Board may recommend for any one jurisdiction per biennium 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 implement policies and procedures designed to maximize local government use of federally funded drinking water and clean water state revolving funds. The Board and the departments of Health and Ecology must develop criteria and procedures to increase access for drinking water and wastewater projects to the Account for short-term preconstruction financing and to the federal funds for construction financing.

The Board must establish lending policies and procedures that are consistent with managing the Account for long-term sustainability. When determining loan terms for an application round, the Board must take into account applicable market rates but may, at its discretion, use additional factors to set the final terms.

The Board must provide reduced interest rates, or extended repayment periods, for projects that meet financial hardship criteria. 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.

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.

Appropriation: None.

Fiscal Note: Available on the original bill.

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

Staff Summary of Public Testimony:

See House Bill Report in the 2013 Regular Session.

Persons Testifying: See House Bill Report in the 2013 Regular Session.

Persons Signed In To Testify But Not Testifying: See House Bill Report in the 2013 Regular Session.