

HOUSE BILL REPORT

HB 2357

As Reported by House Committee On: Capital Budget

Title: An act relating to state general obligation bonds for flood hazard reduction and storm water projects.

Brief Description: Concerning state general obligation bonds for flood hazard reduction and storm water projects.

Sponsors: Representatives DeBolt, Dunshee, Ross, Orcutt, Johnson and Haler.

Brief History:

Committee Activity:

Capital Budget: 2/4/14, 2/10/14 [DPS].

Brief Summary of Substitute Bill

- Authorizes the issuance of \$757.5 million in general obligation bonds to finance flood hazard reduction projects that also protect or restore floodplain ecosystem functions.
- Authorizes the issuance of \$757.5 million in general obligation bonds to finance storm water projects that protect and improve water quality and improve watershed functionality.

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; DeBolt, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Appleton, Riccelli, Smith and Warnick.

Minority Report: Do not pass. Signed by 5 members: Representatives Christian, Robinson, Scott, Senn and Stonier.

Staff: Susan Howson (786-7142).

Background:

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.

State General Obligation Bonds.

Washington periodically issues general obligation bonds to finance projects authorized in the capital budget. General obligation bonds pledge the full faith, credit, and taxing power of the state towards payment of debt service. Legislation authorizing the issuance of bonds requires a 60 percent majority vote in both the House of Representatives and the Senate.

Bond authorization legislation generally specifies the account or accounts into which bond sale proceeds are deposited, as well as the source of debt service payments. When debt service payments are due, the State Treasurer (Treasurer) withdraws the amounts necessary to make the payments from the State General Fund and deposits them into bond retirement funds.

The State Finance Committee, composed of the Governor, the Lieutenant Governor, and the Treasurer, is responsible for supervising and controlling the issuance of all state bonds.

Constitutional Debt Limit.

The state Constitution places a firm limit on the amount of debt service the state can pay on certain forms of debt. Currently this limit is 9 percent of the average of the prior six years' general state revenue, defined as all unrestricted state tax revenues. Under a constitutional amendment approved by the voters in 2012, this limit is reduced over time as follows: beginning July 1, 2014, 8.5 percent; beginning July 1, 2016, 8.25 percent; and beginning July 1, 2034, 8 percent. The definition of general state revenues now includes state property taxes that are deposited into the State General Fund.

The state Constitution excludes some types of debt from the debt limit calculation, most notably: debt approved by both the Legislature and a majority of the voters in a general or special election and debt payable from specified highway and school revenues.

Flood Assistance.

The Department of Ecology (Ecology) is the state coordinating agency for floodplain management. Ecology assists local governments with flood management planning and flood hazard reduction projects, reviews and approves local floodplain management ordinances for compliance with state and federal requirements, and establishes the minimum state requirements related to the National Flood Insurance Program. The Military Department's Emergency Management Division, the Department of Fish and Wildlife, and the Department of Transportation are the other key state agencies involved in floodplain management planning and response.

According to Ecology, between 1980 and 2011 Washington had 22 Presidentially-declared flood disasters, and in 1997, the highest number of flood disasters in the United States.

The Flood Control Assistance Account (Account) in the State Treasury has been used in the past to provide grants to local governments for flood hazard reduction projects, support technical assistance by Ecology staff to local governments, make emergency flood grants, and provide matching funds for Federal Emergency Management Agency grants. By law, the Account is to receive \$4 million per biennium in a transfer from the State General Fund. However, in recent biennia, the annual transfer amount has been reduced and the grants program suspended.

In the 2009-11 and 2011-13 Capital Budgets, a total of \$28 million, mostly in state general obligation bonds, was appropriated to Ecology for levee improvements in specific communities and grants to protect communities from flood and drought. The 2013-15 Capital Budget includes \$50 million in state general obligation bonds appropriated to Ecology for Floodplain Management and Control Grants. Of that amount, \$11.25 million is for a flood hazard reduction competitive grant program, \$33 million is for grants to nine multi-benefit floodplain restoration projects in the Puget Sound Basin, and nearly \$6 million is for two additional local projects.

Bonds for Catastrophic Flood Relief.

In December 2007 a series of storms caused flood damage in southwest Washington. On December 8, 2007, the President declared a major disaster in the counties of Grays Harbor, Kitsap, Lewis, Mason, Pacific, and Thurston. Federal funding assistance was made available following this declaration. In 2008 the Legislature authorized \$50 million in state general obligation bonds for projects throughout the Chehalis River Basin.

Storm Water.

Storm water runoff occurs when rain and snowmelt flows over land or impervious surfaces such as paved streets, parking lots, and building rooftops, and does not percolate into the ground. As it flows, it accumulates debris, chemicals, oil, sediment, and other pollutants that can adversely affect water quality if the runoff is discharged untreated into a water body.

Federal Clean Water Act amendments in 1987 classified storm water discharges from certain industries and municipalities as point sources of pollution that require National Pollutant Discharge Elimination System (NPDES) permits. For the most part, states have been authorized to implement the NPDES storm water program, and in Washington, Ecology is the designated agency. Operators of municipal separate storm sewers, industrial facilities, and construction sites that discharge storm water must obtain a permit from Ecology and must use best management practices to control storm water. Ecology is required to collect permit fees, set in rule, to support the NPDES storm water program.

In the 2009-11, 2011-13, and 2013-15 Capital Budgets, a total of \$220 million was appropriated to Ecology from Model Toxics Control Accounts and state general obligation bonds for local storm water projects.

Summary of Substitute Bill:

Flood Hazard Reduction Bonds.

The State Finance Committee is authorized to issue \$757.5 million in state general obligation bonds over five biennia to finance flood hazard reduction projects that also protect or restore floodplain ecosystem functions. Bond proceeds must be deposited into a new Flood Hazard Reduction Account. The Treasurer is required to withdraw from state general revenues the amounts necessary to make the principal and interest payments on the bonds.

The Legislature intends to use the bond proceeds for grants for flood hazard reduction projects that also protect or restore floodplain ecosystem functions. Grants may be distributed on a competitive basis to counties, cities, federally recognized Indian tribes, port districts, flood control and flood control zone districts, and diking and drainage districts. Applicants must provide a 20 percent match from nonstate sources. Applicants may receive credit for properly documented nonstate matching funds that were contributed no earlier than 10 years prior to the grant solicitation round and that are related to the needs identified in the project application.

The Office of Financial Management (OFM), in consultation with Ecology, must evaluate, score, and rank applications based on the following criteria, in descending priority order:

- projects that achieve multiple benefits, including but not limited to: cost-effective flood hazard reduction, flood risk reduction, salmon recovery, water quality improvements, habitat restoration, agricultural viability, public access, and channel migration zone protection. Projects must address reduction and prevention of flood risks as well as protection or restoration of floodplain ecosystem function. First priority is given to projects that are located in counties that meet certain flood proclamation benchmarks and that are part of a basin-wide strategy created by a Governor's work group in collaboration with an Indian tribe and a multi-county flood authority. Next priority is given to projects in counties that are at greatest risk and most vulnerable to flooding;
- projects that are consistent with and recommended by a collaborative planning and approval process that includes public comment;
- projects that minimize or eliminate future costs for maintenance, operation, or emergency response; and
- projects that are ready to proceed with the scope of work, and whose sponsors have the capacity to complete the project successfully.

For the Chehalis River Basin, projects may also include but are not limited to, an upstream water retention facility.

Proceeds from the sale of bonds may not be used for the development of comprehensive flood hazard management plans, hazard mitigation plans, comprehensive plans, watershed plans, or other plans.

A maximum of 3 percent of the total biennial appropriation may be used by the OFM for administrative expenses.

Storm Water Bonds.

The State Finance Committee is authorized to issue \$757.5 million in state general obligation bonds over five biennia to finance an ongoing, statewide competitive program of grants to cities and counties for storm water projects that protect and improve water quality and improve watershed function. Bond proceeds must be deposited into a new Storm Water Financial Assistance Account. The Treasurer is required to withdraw from state general revenues the amounts necessary to make the principal and interest payments on the bonds.

The Legislature intends to use the bond proceeds for a competitive program of grants to cities and counties for storm water projects that protect and improve water quality and improve

watershed functionality. The competitive program must be administered by Ecology. Grants must be provided only for capital projects that implement pollutant reduction strategies which advance the state's compliance with the Federal Clean Water Act water quality standards and result from collaboration and agreement between a city or county and an Indian tribe or tribes.

A maximum of 3 percent of the total biennial appropriation may be used by Ecology for administrative expenses.

Substitute Bill Compared to Original Bill:

The substitute bill authorizes the issuance of \$1.515 billion in general obligation bonds, of which \$757.5 million is to finance flood hazard reduction projects that also protect or restore floodplain ecosystem functions, and \$757.5 million is to finance storm water projects that protect and improve water quality and improve watershed functionality. It removes a set aside of \$300 million of flood hazard reduction funding for Chehalis River Basin projects. It establishes as the highest priority for flood funding, those projects that achieve multiple benefits by addressing reduction and prevention of flood risks, and protection or restoration of floodplain ecosystem functions. The substitute bill gives first priority to projects that are located in counties that meet certain flood proclamation benchmarks and that are part of a basin-wide strategy created by a Governor's work group in collaboration with an Indian tribe and a multi-county flood authority. It gives next priority to projects in counties that are at greatest risk and most vulnerable to flooding. It requires that storm water grants be used only for capital projects that implement pollutant reduction strategies which advance the state's compliance with the Federal Clean Water Act water quality standards, and that result from collaboration and agreement between a city or county and an Indian tribe or tribes. The substitute bill also caps administrative expenses at 3 percent each for the OFM related to the flood program and for Ecology related to the storm water program.

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 entire community was devastated by the 2007 Chehalis Basin flood. This bill gives the state a chance to encourage development of basin-wide, multi-stakeholder approaches to flood mitigation. Although the price-tag seems high, the 2007 flood alone had estimated damages in excess of \$900 million. Both Highway 12 and Interstate 5, were impacted. The results of this bill will enable the county to remove flood warnings from our county's website so that we can encourage prospective employers to site businesses here. Houses have been in these locations since the 1900s; it's the development coming up around them that has caused the flooding to occur. Levees in the Green River Valley flowing

through the middle of Kent were originally built in the early 20th century and rebuilt in the 1960s when the area was primarily agricultural. Some do not meet federal standards, are in poor condition, and are nearing the end of their useful lives. This bill is well-timed, systemic, and could result in salmon habitat as well as flood protection improvements. Working together, we can provide benefits to fishing, farming, and tribal culture. We support the comprehensive flood plain management approach of having both storm water and floods addressed in the bill. Relating to floods, we would like to see the roles of the Office of Financial Management and the Department of Ecology switched, and to have a statewide competitive process rather than be confined to the list of eligible counties.

(In support with amendment(s)) We support the bill, but believe that lead responsibility for administering the flood program should be with Ecology, in consultation with the OFM, not the other way around. We also would like to see priority given to projects that are consistent with and recommended by a collaborative process, not just "examined" through such a process.

(Opposed) None.

Persons Testifying: (In support) Darcy Nonemacher, Washington Environmental Council; Mike Mactutis and Doug Levy, City of Kent; Bill Robinson, The Nature Conservancy; and Cindy Zender, Lewis County Public Utilities District.

(In support with amendment(s)) Genesee Adkins, King County.

(Opposed) None.

Persons Signed In To Testify But Not Testifying: None.