

SENATE BILL REPORT

E2SHB 1484

As Reported by Senate Committee On:
Governmental Operations, February 27, 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: Passed House: 2/18/14, 92-5.

Committee Activity: Governmental Operations: 2/27/14 [DPA].

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Majority Report: Do pass as amended.

Signed by Senators Roach, Chair; Benton, Vice Chair; Hasegawa, Ranking Member; Conway, Dandel, McCoy and Rivers.

Staff: Karen Epps (786-7424)

Background: The Public Works Assistance Account (Account), commonly known as the Public Works Trust Fund, was created by the Legislature in 1985 to provide a source of loan funds to assist local governments and special purpose districts with infrastructure projects.

The Account receives dedicated revenues from the public utility tax on water and sewer service, the solid waste collection tax, a portion of the real estate excise tax, and loan repayments. Money in the Account must be used to make loans, give financial guarantees to local governments for public works projects, and may also be appropriated as the required 20 percent state match to the federal Drinking Water State Revolving Fund jointly managed by the Public Works Board (Board) and the Department of Health.

The Board is authorized to make low-interest or interest-free loans from the Account to finance the acquisition, construction, repair, replacement, or improvement of the following systems: bridges, streets, and roads; water, storm, and sanitary sewage systems; and solid waste facilities, including recycling. The Board also makes loans for pre-construction, emergency, and capital facility planning purposes. The Board may require loan terms, conditions, and interest rates as it deems necessary or convenient to carry out these purposes.

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.

The Board may provide technical assistance. Existing debt or financial obligations may not be refinanced. All local governments except port districts and school districts are eligible to receive loans.

The Board, staffed by the Department of Commerce, 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.

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 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 communities funding the project; water system health and safety violations; Evergreen community recognition; and relative project benefits. 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.

Summary of Bill (Recommended Amendments): Modifications are made to the Board positions. The requirement to have three Board members who are city and county officials and one public works manager is changed to two Board members who are city and county officials and one official 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.

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. 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.

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. 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. 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. The Board must consider whether a project is consistent with the action

agenda developed by the Puget Sound partnership for any project designed to address the effects of stormwater or wastewater on Puget Sound when awarding assistance.

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 non-state 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.

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. 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.

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.

EFFECT OF CHANGES MADE BY GOVERNMENTAL OPERATIONS COMMITTEE (Recommended Amendments): Clarifies that the Board must consider whether a project is consistent with the action agenda developed by the Puget Sound partnership for any project designed to address the effects of stormwater or wastewater on Puget Sound when awarding assistance. Requires the Board to consult with the Puget Sound partnership on these projects.

Appropriation: None.

Fiscal Note: Available on the original bill.

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 Engrossed Second Substitute House Bill: PRO: This bill is designed to update the Board statutes. The prioritization and ranking system is a critical piece of this bill and provides good updates to those provisions. This bill makes several changes to the administration of the Public Works Trust Fund. This loan program is very successful and provides low-interest loans for critical public works projects. There has never been a default in the history of the program. This program is also a key tool for economic development. The prioritization and the ranking portions of the bill are very important. This bill maintains flexibility for the Board to set interest rates which is very important because low-interest rates are one of the main reasons this program works so well. The bill also requires the Board to maximize the use of federal funds, but there are a few concerns about how that might be implemented. The Board has a long history of protecting our communities by helping local governments pay for infrastructure projects which protect public health, preserve the environment, and support sustainable growth. Local governments have assessed \$2.8 billion from the Public Works Trust Fund and leveraged an additional \$4.6 billion to construct over 1975 projects across the state over the last 30 years. As our infrastructure ages, communities must continue to improve their systems and this bill will assist the Board in meeting those needs. This bill is requested by the Department of Commerce and the Board and it improves the way in which the Board serves local governments.

Persons Testifying: PRO: Representative Stafford, prime sponsor; Alison Hellberg, Assn. of WA Cities; Jerry VanderWood, Associated General Contractors of WA; Scott Hutsell, Public Works Board.