
HOUSE BILL 1484

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Stanford and Warnick; by request of Washington State Department of Commerce

Read first time 01/29/13. Referred to Committee on Capital Budget.

1 AN ACT Relating to the public works board; amending RCW 43.155.010,
2 43.155.020, 43.155.030, 43.155.050, and 43.155.070; adding new sections
3 to chapter 43.155 RCW; and repealing RCW 43.155.040, 43.155.060,
4 43.155.065, 43.155.068, 43.155.075, 43.155.110, and 43.155.120.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 43.155.010 and 1996 c 168 s 1 are each amended to read
7 as follows:

8 (1) ~~The legislature finds that ((there exists in the state of~~
9 ~~Washington over four billion dollars worth of critical projects for the~~
10 ~~planning, acquisition, construction, repair, replacement,~~
11 ~~rehabilitation, or improvement of streets and roads, bridges, water~~
12 ~~systems, and storm and sanitary sewage systems. The December, 1983~~
13 ~~Washington state public works report prepared by the planning and~~
14 ~~community affairs agency documented that local governments expect to be~~
15 ~~capable of financing over two billion dollars worth of the costs of~~
16 ~~those critical projects but will not be able to fund nearly half of the~~
17 ~~documented needs.~~

18 ~~The legislature further finds that Washington's local governments~~
19 ~~have unmet financial needs for solid waste disposal, including~~

1 ~~recycling, and encourages the board to make an equitable geographic~~
2 ~~distribution of the funds))~~ while local governments are responsible for
3 creating, developing, managing, financing, operating, and maintaining
4 local infrastructure systems, state priority policy objectives are
5 served by investing financial and technical resources in these local
6 systems. A significant backlog of projects to build, repair, and
7 improve local public infrastructure systems exists. The state intends
8 to strategically invest resources to address this backlog and to
9 promote the following priority policy objectives:

10 (a) Preservation, enhancement, or achievement of public health and
11 safety;

12 (b) Protection of the state's environment;

13 (c) Promotion of economic development;

14 (d) Encouragement of well-managed local infrastructure systems;

15 (e) Encouragement of the acquisition and use of federal funds to
16 finance local infrastructure projects;

17 (f) Sustaining the state's infrastructure assistance capacity; and

18 (g) Responding to state and federal regulatory requirements.

19 (2) It is the policy of the state of Washington to encourage self-
20 reliance by local governments in meeting their public works needs and
21 to assist in the financing of critical public works projects by
22 ((making loans, financing guarantees,)) providing financial and
23 technical assistance ((available)) to local governments for these
24 projects.

25 **Sec. 2.** RCW 43.155.020 and 2009 c 565 s 33 are each amended to
26 read as follows:

27 Unless the context clearly requires otherwise, the definitions in
28 this section shall apply throughout this chapter.

29 (1) "Board" means the public works board created in RCW 43.155.030.

30 (2) "Capital facility plan" means a capital facility plan required
31 by the growth management act under chapter 36.70A RCW or, for local
32 governments not fully planning under the growth management act, a plan
33 required by a regulating state agency or the public works board.

34 (3) "Construction" means construction of public works projects as
35 defined within this chapter.

36 (4) "Department" means the department of commerce.

1 ~~((4) "Financing guarantees" means the pledge of money in the~~
2 ~~public works assistance account, or money to be received by the public~~
3 ~~works assistance account, to the repayment of all or a portion of the~~
4 ~~principal of or interest on obligations issued by local governments to~~
5 ~~finance public works projects.))~~

6 (5) "Director" means the director of the department.

7 (6) "Emergency" means a construction project in a traditional
8 system made necessary by a natural disaster or an immediate and
9 emergent threat to the public health and safety due to unforeseen or
10 unavoidable circumstances as evidenced by a local government
11 declaration.

12 (7) "Financial assistance" means loans unless otherwise specified
13 in this chapter or by the legislature.

14 (8) "Local government((s))" means ((cities)) a city, town((s)),
15 ((counties)) county, special purpose district((s)), and any other
16 municipal corporation((s)) or quasi-municipal corporation((s)) in the
17 state, excluding school districts and port districts, authorized by law
18 to fund public works.

19 ((+6)) (9) "Nontraditional system" means telecommunications,
20 energy, flood levees, public buildings and facilities, rail, criminal
21 justice facilities, and parks and recreation facilities.

22 (10) "Planning project" means the process through which a
23 jurisdiction creates and adopts a capital facilities plan, a
24 comprehensive system plan, or equivalent.

25 (11) "Policy objectives" means state priorities that guide the
26 investment of public works assistance account funds as enumerated in
27 this chapter.

28 (12) "Preconstruction" means activities including, but not limited
29 to, project planning, design, engineering, bid document preparation,
30 environmental studies, right-of-way acquisition, and other preliminary
31 phases of construction projects as determined by the public works
32 board.

33 (13) "Public works project" means a project ((of a local government
34 for)) listed in a capital facilities plan or equivalent that results in
35 the planning, acquisition, construction, repair, reconstruction,
36 replacement, rehabilitation, or improvement of ((streets and roads,
37 bridges, water systems, or storm and sanitary sewage systems and solid
38 waste facilities, including recycling facilities. A planning project

1 may include the compilation of biological, hydrological, or other data
2 on a county, drainage basin, or region necessary to develop a base of
3 information for a capital facility plan)) a traditional system,
4 excluding rolling stock.

5 ((7) "Solid waste or recycling project" means remedial actions
6 necessary to bring abandoned or closed landfills into compliance with
7 regulatory requirements and the repair, restoration, and replacement of
8 existing solid waste transfer, recycling facilities, and landfill
9 projects limited to the opening of landfill cells that are in existing
10 and permitted landfills.

11 (8)) (14) "Technical assistance" means training and other services
12 provided to local governments to:

13 (a) ((Help such local governments plan, apply, and qualify for
14 loans and financing guarantees from the board, and (b) help local
15 governments improve their ability to plan for, finance, acquire,
16 construct, repair, replace, rehabilitate, and maintain public
17 facilities)) Improve their ability to plan for, finance, acquire,
18 construct, reconstruct, and maintain infrastructure systems; and/or

19 (b) Improve their technical, financial, and/or managerial capacity
20 to operate their infrastructure systems in a manner consistent with
21 federal and state requirements and ensure long-term sustainability of
22 the systems.

23 (15) "Traditional system" means a drinking water system, sanitary
24 sewer system, storm water system, solid waste or recycling system,
25 bridge, or roadway.

26 **Sec. 3.** RCW 43.155.030 and 1999 c 153 s 58 are each amended to
27 read as follows:

28 (1) The public works board is hereby created.

29 (2) The board shall be composed of thirteen members appointed by
30 the governor for terms of four years(~~(, except that five members~~
31 ~~initially shall be appointed for terms of two years)).~~ The board shall
32 include: (a) Three members, including two ((of whom shall be)) elected
33 officials and one (~~(shall be a public works manager))~~ official working
34 in public works or a related field, appointed from a list of (~~(at least~~
35 ~~six))~~ persons nominated by the association of Washington cities or its
36 successor; (b) three members, including two ((of whom shall be))
37 elected officials and one (~~(shall be a public works manager))~~ official

1 working in public works or a related field, appointed from a list of
2 ~~((at least six))~~ persons nominated by the Washington state association
3 of counties or its successor; (c) ~~((three members appointed from a list~~
4 ~~of at least six persons nominated jointly by the Washington public~~
5 ~~utility districts association and a state association of water sewer~~
6 ~~districts, or their successors))~~ one member appointed from a list of
7 persons nominated by the Washington public utility districts
8 association or its successor; (d) two members appointed from a list of
9 persons nominated by the Washington association of sewer and water
10 districts or its successor; and ~~((d))~~ (e) four members appointed from
11 the general public. In appointing the four general public members, the
12 governor shall endeavor to balance the geographical composition of the
13 board and to include members with special expertise in relevant fields
14 ~~((such as public finance, architecture and civil engineering, and~~
15 ~~public works construction))~~. The governor shall appoint one of the
16 general public members of the board as chair. The term of the chair
17 shall coincide with the term of the governor.

18 (3) ~~((Staff support to the board shall be provided by the~~
19 ~~department.~~

20 ~~(4))~~ Members of the board shall receive no compensation but shall
21 be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

22 ~~((5))~~ (4) If a vacancy on the board occurs by death, resignation,
23 or otherwise, the governor shall fill the vacant position for the
24 unexpired term. Each vacancy in a position appointed from lists
25 provided by the associations under subsection (2) of this section shall
26 be filled from a list of ~~((at least three))~~ persons nominated by the
27 relevant association or associations. Any members of the board~~((~~
28 ~~appointive or otherwise,))~~ may be removed by the governor for cause in
29 accordance with RCW 43.06.070 and 43.06.080.

30 NEW SECTION. Sec. 4. A new section is added to chapter 43.155 RCW
31 to read as follows:

- 32 (1) In order to assist local governments, the board:
- 33 (a) Must manage the public works assistance account in such a way
 - 34 as to ensure its sustainability;
 - 35 (b) Must execute contracts or otherwise financially obligate funds
 - 36 from the public works assistance account for projects approved for
 - 37 funding by the board;

1 (c) May approve projects in traditional systems for financial
2 assistance under the following programs:

3 (i) Construction;

4 (ii) Preconstruction;

5 (iii) Capital facilities planning;

6 (iv) Emergency;

7 (v) Energy or water efficiency;

8 (vi) Water system acquisition and rehabilitation as created by RCW
9 70.119A.190; and

10 (vii) Any other program authorized by the legislature;

11 (d) Beginning August 1, 2014, may approve projects in
12 nontraditional systems for financial assistance under the following
13 programs only after all eligible public works projects in traditional
14 systems have been approved for funding:

15 (i) Construction;

16 (ii) Emergency;

17 (iii) Energy or water efficiency; and

18 (iv) Preconstruction;

19 (e) Must, before November 1st of each year, develop and submit to
20 the appropriate fiscal committees of the senate and house of
21 representatives a list of qualified public works projects in
22 traditional systems which have been evaluated by the board and are
23 recommended for funding by the legislature;

24 (f) May, beginning November 1, 2014, and subsequently before
25 November 1st of each year, develop and submit to the appropriate fiscal
26 committees of the senate and house of representatives a list of
27 qualified public works projects in nontraditional systems which have
28 been evaluated by the board and are recommended for funding by the
29 legislature;

30 (g) May not sign contracts or otherwise financially obligate funds
31 from the public works assistance account before the legislature has
32 appropriated funds for a specific list of public works projects. The
33 legislature may remove projects from the lists recommended by the
34 board;

35 (h) May provide grants for water system acquisition and
36 rehabilitation projects;

37 (i) May require such terms and conditions and may charge such rates
38 of interest on its loans as it deems necessary or convenient to carry

1 out the purposes of this chapter. Money received from local
2 governments in repayment of loans made under this section must be paid
3 into the public works assistance account for uses consistent with this
4 chapter;

5 (j) May not refinance existing debt or financial obligations of
6 local governments, except for short-term debt associated with
7 construction projects approved by the board or other cases as defined
8 in rule by the board;

9 (k) Must provide technical assistance as defined in RCW 43.155.020.

10 (2) Subsection (1)(e) and (f) of this section do not apply to
11 financial assistance provided through the preconstruction, capital
12 facilities planning, emergency, energy or water efficiency programs,
13 water system acquisition and rehabilitation, or any other programs
14 authorized by the legislature.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.155 RCW
16 to read as follows:

17 (1) The board may, beginning in June 2015 and every four years
18 thereafter, provide the governor and appropriate committees of the
19 legislature with a comprehensive assessment of local infrastructure
20 needs and potential resources within the state to meet those needs.

21 (2) The board must:

22 (a) Establish and maintain direct collaborative relations with
23 governmental, private, and other financing organizations, advocate
24 groups, and other stakeholders associated with infrastructure
25 financing;

26 (b) Provide direct information and advice to the governor and
27 appropriate committees of the legislature on matters related to local
28 government infrastructure financing; and

29 (c) At the direction of the governor, provide information and
30 advocacy at the national level on matters related to local government
31 infrastructure financing.

32 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.155 RCW
33 to read as follows:

34 The board must:

35 (1) Consistent with the guidelines issued by the office of

1 financial management and in consultation with the department, prepare
2 biennial operating and capital budgets and, as needed, update these
3 budgets during the biennium;

4 (2) Accept or reject any gifts, grants, or loans of funds,
5 property, or financial or other aid in any form from any other source
6 on any terms and conditions that are not in conflict with this chapter;

7 (3) Adopt rules under chapter 34.05 RCW as necessary to carry out
8 the purposes of this chapter; and

9 (4) Do and perform all acts and things necessary or convenient to
10 carry out the powers expressly granted or implied under this chapter.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.155 RCW
12 to read as follows:

13 (1) The department must:

14 (a) In collaboration with the board, and in accordance with the
15 board's operating budget, provide staff to the board necessary to
16 efficiently and effectively carry out the duties of this chapter; and

17 (b) Submit the board's operating and capital budgets in accordance
18 with guidelines set by the office of financial management.

19 (2) The director must:

20 (a) Be accountable to the board for operating and capital
21 expenditures from the account; and

22 (b) Represent the interests and concerns of the board as a member
23 of the governor's executive cabinet.

24 **Sec. 8.** RCW 43.155.050 and 2012 2nd sp.s. c 2 s 6004 are each
25 amended to read as follows:

26 (1) The public works assistance account is hereby established in
27 the state treasury. Money may be placed in the public works assistance
28 account from the proceeds of bonds when authorized by the legislature
29 or from any other lawful source. Money in the public works assistance
30 account shall be used (~~(to make loans and to give financial guarantees~~
31 ~~to local governments for public works projects. Moneys in the account~~
32 ~~may also be appropriated to provide for state match requirements under~~
33 ~~federal law for projects and activities conducted and financed by the~~
34 ~~board under the drinking water assistance account)) for purposes as
35 authorized by this chapter.~~

1 regulations as required by RCW 36.70A.040. This subsection does not
2 require any county, city, or town planning under RCW 36.70A.040 to
3 adopt a comprehensive plan or development regulations before requesting
4 or receiving (~~(a loan or loan guarantee)~~) financial assistance under
5 this chapter if such request is made before the expiration of the time
6 periods specified in RCW 36.70A.040. A county, city, or town planning
7 under RCW 36.70A.040 which has not adopted a comprehensive plan and
8 development regulations within the time periods specified in RCW
9 36.70A.040 is not prohibited from receiving (~~(a loan or loan~~
10 ~~guarantee)~~) financial assistance under this chapter if the
11 comprehensive plan and development regulations are adopted as required
12 by RCW 36.70A.040 before (~~(submitting a request for a loan or loan~~
13 ~~guarantee)~~) executing a contractual agreement for financial assistance
14 with the board.

15 (3) In considering awarding (~~(loans)~~) financial assistance for
16 public facilities to special districts requesting funding for a
17 proposed facility located in a county, city, or town planning under RCW
18 36.70A.040, the board must consider whether the county, city, or town
19 planning under RCW 36.70A.040 in whose planning jurisdiction the
20 proposed facility is located has adopted a comprehensive plan and
21 development regulations as required by RCW 36.70A.040.

22 (4) (~~The board must develop a priority process for public works~~
23 ~~projects as provided in this section. The intent of the priority~~
24 ~~process is to maximize the value of public works projects accomplished~~
25 ~~with assistance under this chapter. The board must attempt to assure~~
26 ~~a geographical balance in assigning priorities to projects. The board~~
27 ~~must consider at least the following factors in assigning a priority to~~
28 ~~a project:~~

29 (a) ~~Whether the local government receiving assistance has~~
30 ~~experienced severe fiscal distress resulting from natural disaster or~~
31 ~~emergency public works needs;~~

32 (b) ~~Except as otherwise conditioned by RCW 43.155.110, whether the~~
33 ~~entity receiving assistance is a Puget Sound partner, as defined in RCW~~
34 ~~90.71.010;~~

35 (c) ~~Whether the project is referenced in the action agenda~~
36 ~~developed by the Puget Sound partnership under RCW 90.71.310;~~

37 (d) ~~Whether the project is critical in nature and would affect the~~
38 ~~health and safety of a great number of citizens;~~

1 ~~(e) Whether the applicant's permitting process has been certified~~
2 ~~as streamlined by the office of regulatory assistance;~~

3 ~~(f) Whether the applicant has developed and adhered to guidelines~~
4 ~~regarding its permitting process for those applying for development~~
5 ~~permits consistent with section 1(2), chapter 231, Laws of 2007;~~

6 ~~(g) The cost of the project compared to the size of the local~~
7 ~~government and amount of loan money available;~~

8 ~~(h) The number of communities served by or funding the project;~~

9 ~~(i) Whether the project is located in an area of high unemployment,~~
10 ~~compared to the average state unemployment;~~

11 ~~(j) Whether the project is the acquisition, expansion, improvement,~~
12 ~~or renovation by a local government of a public water system that is in~~
13 ~~violation of health and safety standards, including the cost of~~
14 ~~extending existing service to such a system;~~

15 ~~(k) Except as otherwise conditioned by RCW 43.155.120, and~~
16 ~~effective one calendar year following the development of model~~
17 ~~evergreen community management plans and ordinances under RCW~~
18 ~~35.105.050, whether the entity receiving assistance has been~~
19 ~~recognized, and what gradation of recognition was received, in the~~
20 ~~evergreen community recognition program created in RCW 35.105.030;~~

21 ~~(l) The relative benefit of the project to the community,~~
22 ~~considering the present level of economic activity in the community and~~
23 ~~the existing local capacity to increase local economic activity in~~
24 ~~communities that have low economic growth; and~~

25 ~~(m) Other criteria that the board considers advisable.~~

26 ~~(5) Existing debt or financial obligations of local governments may~~
27 ~~not be refinanced under this chapter. Each local government applicant~~
28 ~~must provide documentation of attempts to secure additional local or~~
29 ~~other sources of funding for each public works project for which~~
30 ~~financial assistance is sought under this chapter.~~

31 ~~(6) Before November 1st of each even-numbered year, the board must~~
32 ~~develop and submit to the appropriate fiscal committees of the senate~~
33 ~~and house of representatives a description of the loans made under RCW~~
34 ~~43.155.065, 43.155.068, and subsection (9) of this section during the~~
35 ~~preceding fiscal year and a prioritized list of projects which are~~
36 ~~recommended for funding by the legislature, including one copy to the~~
37 ~~staff of each of the committees. The list must include, but not be~~
38 ~~limited to, a description of each project and recommended financing,~~

1 the terms and conditions of the loan or financial guarantee, the local
2 government jurisdiction and unemployment rate, demonstration of the
3 jurisdiction's critical need for the project and documentation of local
4 funds being used to finance the public works project. The list must
5 also include measures of fiscal capacity for each jurisdiction
6 recommended for financial assistance, compared to authorized limits and
7 state averages, including local government sales taxes; real estate
8 excise taxes; property taxes; and charges for or taxes on sewerage,
9 water, garbage, and other utilities.

10 (7) The board may not sign contracts or otherwise financially
11 obligate funds from the public works assistance account before the
12 legislature has appropriated funds for a specific list of public works
13 projects. The legislature may remove projects from the list
14 recommended by the board. The legislature may not change the order of
15 the priorities recommended for funding by the board.

16 (8) Subsection (7) of this section does not apply to loans made
17 under RCW 43.155.065, 43.155.068, and subsection (9) of this section.

18 (9) Loans made for the purpose of capital facilities plans are
19 exempted from subsection (7) of this section.

20 (10) To qualify for loans or pledges for solid waste or recycling
21 facilities under this chapter, a city or county must demonstrate that
22 the solid waste or recycling facility is consistent with and necessary
23 to implement the comprehensive solid waste management plan adopted by
24 the city or county under chapter 70.95 RCW.

25 (11) After January 1, 2010, any project designed to address the
26 effects of storm water or wastewater on Puget Sound may be funded under
27 this section only if the project is not in conflict with the action
28 agenda developed by the Puget Sound partnership under RCW 90.71.310.))
29 When awarding financial assistance, the board must consider:

30 (a) Whether the entity receiving assistance is a Puget Sound
31 partner, as defined in RCW 90.71.010. Entities that are not eligible
32 to be a Puget Sound partner due to geographic location, composition,
33 exclusion from the scope of the action agenda developed by the Puget
34 Sound partnership under RCW 90.71.310, or for any other reason, may not
35 be given less preferential treatment than Puget Sound partners; and

36 (b) Whether the project is referenced in the action agenda
37 developed by the Puget Sound partnership under RCW 90.71.310.

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.155
2 RCW to read as follows:

3 The intent of the project selection process is to promote state
4 policy objectives as identified in this chapter and to maximize the
5 value of projects financed under this chapter. Some or all of the
6 following criteria in any order may be used by the board to prioritize
7 projects for recommendation for funding by the legislature:

8 (1) Achieving balanced distribution of funds by geography, system
9 type, and jurisdiction type;

10 (2) Whether the project would affect the health and safety of a
11 large percentage of the affected community's population;

12 (3) Whether the project consolidates or regionalizes systems;

13 (4) Whether the project is located in an area of high unemployment,
14 compared to the average state unemployment;

15 (5) Whether the system is being well-managed in the present and for
16 long-term sustainability;

17 (6) Whether the project promotes the sustainable use of resources
18 and environmental quality;

19 (7) Whether the project is ready to proceed; and

20 (8) Other criteria that the board considers necessary to achieve
21 the purposes of this chapter.

22 NEW SECTION. **Sec. 11.** The following acts or parts of acts are
23 each repealed:

24 (1) RCW 43.155.040 (General powers of the board) and 1985 c 446 s
25 10;

26 (2) RCW 43.155.060 (Public works financing powers--Competitive bids
27 on projects) and 1988 c 93 s 2 & 1985 c 446 s 11;

28 (3) RCW 43.155.065 (Emergency public works projects) and 2001 c 131
29 s 3, 1990 c 133 s 7, & 1988 c 93 s 1;

30 (4) RCW 43.155.068 (Loans for preconstruction activities) and 2001
31 c 131 s 4 & 1995 c 363 s 2;

32 (5) RCW 43.155.075 (Loans for public works projects--Statement of
33 environmental benefits--Development of outcome-focused performance
34 measures) and 2001 c 227 s 10;

35 (6) RCW 43.155.110 (Puget Sound partners) and 2007 c 341 s 25; and

1 (7) RCW 43.155.120 (Administering funds--Preference to an evergreen
2 community) and 2008 c 299 s 30.

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