

**SB 5624 - S AMD 189**

By Senators Keiser, Honeyford

**ADOPTED AS AMENDED 3/10/2015**

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"PART I**

4 **FINDINGS AND INTENT**

5 NEW SECTION. **Sec. 101.** The legislature finds that access to  
6 low-cost financing from the municipal bond market for essential  
7 public infrastructure is impaired for local governments that need to  
8 borrow small amounts or that access the capital market infrequently.  
9 Prior efforts to finance essential public infrastructure projects  
10 with state tax resources result in competition between those projects  
11 and other essential demands on those state taxes. That competition  
12 has eroded the reliability of the state tax funded public  
13 infrastructure financing programs, creating uncertainty and delay in  
14 improving public infrastructure. The legislature intends to improve  
15 access and reliability to low-cost financing for essential public  
16 infrastructure projects by providing credit enhancements and pooling  
17 access to private market capital.

18 **PART II**

19 **STATE FINANCE COMMITTEE PROVISIONS**

20 NEW SECTION. **Sec. 201.** The definitions in this section apply  
21 throughout this chapter unless the context clearly requires  
22 otherwise.

23 (1) "Bond" means any agreement which may or may not be  
24 represented by a physical instrument, including notes, warrants, or  
25 certificates of indebtedness, that evidences an indebtedness of a  
26 local government entity or a fund thereof, where the local government  
27 entity agrees to pay a specified amount of money, with or without  
28 interest, at a designated time or times to either registered owners  
29 or bearers.

1 (2) "Credit enhancement program" means the essential public works  
2 bond guarantee established by this chapter.

3 (3) "Essential public infrastructure project" or "project" is a  
4 project of a local government approved by the public works board  
5 under the provisions of section 304 of this act.

6 (4) "Guaranteed bond" means a bond that has been approved for  
7 credit enhancement pursuant to section 202 of this act by the state  
8 treasurer in accordance with policies established by the state  
9 finance committee.

10 (5) "Local government" means any county, city, town, port, water-  
11 sewer district, public utility district, metro-park district, park  
12 and recreation district, fire district, emergency medical services  
13 district, flood zone district, irrigation district, or library  
14 district in Washington state.

15 (6) "Paying agent" means the paying agent selected, from time to  
16 time, for a bond issue pursuant to state law.

17 (7) "Public works board" or "board" means the public works board  
18 or its successor organizations established in RCW 43.155.030.

19 NEW SECTION. **Sec. 202.** (1)(a) The full faith, credit, and  
20 taxing power of the state may be pledged to guarantee full and timely  
21 payment of the principal of and interest on bonds issued for  
22 essential public infrastructure projects as such payments become due.  
23 However, in the event of any acceleration of the due date of the  
24 principal by reason of mandatory redemption or acceleration resulting  
25 from default, the payments guaranteed shall be made in the amounts  
26 and at the times as payments of principal would have been due had  
27 there not been any acceleration.

28 (b) A guarantee pledged under (a) of this subsection does not  
29 extend to the payment of any redemption premium.

30 (c) Reference to this chapter by its title on the face of any  
31 bond conclusively establishes the guarantee provided to that bond  
32 under the provisions of this chapter.

33 (2)(a) The state pledges to and agrees with the owners of any  
34 guaranteed bonds that the state will not alter, impair, or limit the  
35 rights vested by the credit enhancement program with respect to a  
36 guaranteed bond until that guaranteed bond, together with applicable  
37 interest, is fully paid and discharged. However, this chapter does  
38 not preclude an alteration, impairment, or limitation if full

1 provision is made by law for the payment of an outstanding guaranteed  
2 bond.

3 (b) Each local government may refer to this pledge and  
4 undertaking by the state in its guaranteed bonds in accordance with  
5 rules adopted by the state finance committee.

6 (3) Only validly issued bonds issued after the effective date of  
7 this section may be guaranteed under this chapter.

8 NEW SECTION. **Sec. 203.** The state finance committee must adopt  
9 rules that establish the financial criteria to be met before any  
10 credit enhancement can be provided under this chapter. The state  
11 finance committee may also establish a program, by rule, that allows  
12 the state treasurer to issue bonds to support multiple local  
13 government projects that have been approved by the public works board  
14 in accordance with this chapter.

15 NEW SECTION. **Sec. 204.** (1)(a) Any local government, by  
16 resolution of its governing body, may request that the state  
17 treasurer issue a certificate evidencing the state's guarantee, under  
18 this chapter, of its bonds for essential public infrastructure.

19 (b) After reviewing the request, if the state treasurer  
20 determines that the local government is eligible under rules adopted  
21 by the state finance committee, and the project has been approved by  
22 the public works board under provisions of section 304 of this act,  
23 the state treasurer must promptly issue the certificate as to  
24 specific bonds of the local government and provide that certificate  
25 to the requesting government.

26 (c) The local government receiving the certificate and all other  
27 persons may rely on the certificate as evidencing the guarantee for  
28 bonds issued within one hundred twenty days, without making further  
29 inquiry during that time.

30 (2) Any local government that has issued guaranteed bonds, the  
31 principal of or interest on which has been paid, in whole or in part,  
32 by the state under this chapter, may not, unless approved by the  
33 state treasurer under rules adopted by the state finance committee,  
34 issue any additional bonds, other than refunding bonds.

35 (3) The state finance committee may establish by rule fees  
36 sufficient to cover the costs of administering this chapter.

1           NEW SECTION.    **Sec. 205.**    (1)(a) The treasurer for each local  
2 government with outstanding, unpaid guaranteed bonds shall transfer  
3 money sufficient for each scheduled debt service payment to its  
4 paying agent, a trustee, a custodian, or to the state treasurer no  
5 fewer than ten days before any principal or interest payment date for  
6 the guaranteed bonds.

7           (b) A treasurer for a local government who is unable to transfer  
8 a scheduled debt service payment on the transfer date must  
9 immediately notify the state treasurer of that inability by any  
10 method designated by the state treasurer for that notice.

11          (2) If sufficient funds are not transferred to the paying agent  
12 or the trustee as required by subsection (1) of this section, the  
13 paying agent or trustee shall immediately notify the state treasurer  
14 of that failure by any method designated by the state treasurer for  
15 such notification.

16          (3)(a) If sufficient money to pay the scheduled debt service  
17 payment has not been so transferred to the paying agent, trustee,  
18 custodian, or state treasurer, the state treasurer must make  
19 provision for its payment prior to the scheduled debt service payment  
20 date.

21          (b) The payment by the state treasurer:

22           (i) Discharges the obligation of the issuing local government to  
23 its bond owners for the payment, but does not retire any bond that  
24 has matured; and

25           (ii) Transfers the rights represented by the local government  
26 from the bond owners to the state.

27          (c) The local government must repay to the state the money so  
28 transferred by the state treasurer as provided in this chapter, by  
29 rules adopted by the state finance committee, and any terms and  
30 conditions set forth by the state treasurer upon the issuance of the  
31 guarantee.

32           NEW SECTION.    **Sec. 206.**    (1) Any local government that has issued  
33 guaranteed bonds for which the state has made all or part of a debt  
34 service payment must:

35           (a) Reimburse all money drawn by the state treasurer on its  
36 behalf in accordance with this chapter, rules set forth by the state  
37 finance committee, and any terms and conditions set forth by the  
38 state treasurer;

1 (b) Pay interest to the state on all money paid by the state from  
2 the date that money was drawn to the date the state is repaid, at a  
3 rate to be determined in accordance with a rule adopted by the state  
4 finance committee, and any terms and conditions set forth by the  
5 state treasurer; and

6 (c) Pay all penalties required by this chapter.

7 (3)(a)(i) If the state treasurer determines that reimbursement  
8 amounts paid by a local government under subsection (1) of this  
9 section will not reimburse the state in full within one year from the  
10 state's payment of a local government's scheduled debt service  
11 payment, the state treasurer may pursue any legal action, including  
12 mandamus, against the local government to compel it to meet its  
13 repayment obligations to the state.

14 (ii) In pursuing its rights under (a)(i) of this subsection, the  
15 state shall have the same substantive and procedural rights as would  
16 an owner of a guaranteed bond. If and to the extent that the state  
17 has made payments to the owners of guaranteed bonds under section 204  
18 of this act and has not been reimbursed by the local government, the  
19 state is subrogated to the rights of those guaranteed bond holders.

20 (b) The local government shall pay the fees, expenses, and costs  
21 incurred by the state in recovering amounts paid under the guarantee  
22 authorized by this chapter.

23 NEW SECTION. **Sec. 207.** If the state treasurer determines that a  
24 local government will be unable to meet its debt service obligations  
25 on guaranteed bonds on an ongoing basis, the legislature must make  
26 specific appropriations sufficient to meet the debt service  
27 obligations required to be paid pursuant to the guarantee provided  
28 for in this chapter or an amount sufficient to defease the bonds.

29 NEW SECTION. **Sec. 208.** To effect the provisions of Article  
30 VIII, section 1(m) of the state Constitution, Senate Joint Resolution  
31 No. 8204, the legislature shall make provision for such amounts as  
32 may be required to make timely payments under the credit enhancement  
33 program under this chapter in each and every biennial appropriations  
34 act.

35 NEW SECTION. **Sec. 209.** The state finance committee may adopt,  
36 under chapter 34.05 RCW, all rules necessary and appropriate for the  
37 implementation and administration of this chapter.

1 NEW SECTION. **Sec. 210.** If the state finance committee deems it  
2 appropriate, it may establish rules for pooling essential  
3 infrastructure projects for the sole purpose of financing.

4 **PART III**

5 **PUBLIC WORKS BOARD PROVISIONS**

6 **Sec. 301.** RCW 43.155.020 and 2009 c 565 s 33 are each amended to  
7 read as follows:

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

10 (1) "Board" means the public works board created in RCW  
11 43.155.030.

12 (2) "Capital facility plan" means a capital facility plan  
13 required by the growth management act under chapter 36.70A RCW or,  
14 for local governments not fully planning under the growth management  
15 act, a plan required by the public works board.

16 (3) "Department" means the department of commerce.

17 (4) "Essential public infrastructure projects" has the same  
18 meaning as in section 201 of this act.

19 (5) "Financing guarantees" means the pledge of money in the  
20 public works assistance account, or money to be received by the  
21 public works assistance account, to the repayment of all or a portion  
22 of the principal of or interest on obligations issued by local  
23 governments to finance public works projects.

24 ~~((+5))~~ (6) "Local governments" means cities, towns, counties,  
25 special purpose districts, and any other municipal corporations or  
26 quasi-municipal corporations in the state excluding school districts  
27 ~~((and port districts)).~~

28 ~~((+6))~~ (7) "Public works project" means a project of a local  
29 government for the planning, acquisition, construction, repair,  
30 reconstruction, replacement, rehabilitation, or improvement of  
31 streets and roads, bridges, water systems, or storm and sanitary  
32 sewage systems and solid waste facilities, including recycling  
33 facilities. A planning project may include the compilation of  
34 biological, hydrological, or other data on a county, drainage basin,  
35 or region necessary to develop a base of information for a capital  
36 facility plan.

37 ~~((+7))~~ (8) "Solid waste or recycling project" means remedial  
38 actions necessary to bring abandoned or closed landfills into

1 compliance with regulatory requirements and the repair, restoration,  
2 and replacement of existing solid waste transfer, recycling  
3 facilities, and landfill projects limited to the opening of landfill  
4 cells that are in existing and permitted landfills.

5 ~~((+8))~~ (9) "Technical assistance" means training and other  
6 services provided to local governments to: (a) Help such local  
7 governments plan, apply, and qualify for loans and financing  
8 guarantees from the board, and (b) help local governments improve  
9 their ability to plan for, finance, acquire, construct, repair,  
10 replace, rehabilitate, and maintain public facilities.

11 **Sec. 302.** RCW 43.155.040 and 1985 c 446 s 10 are each amended to  
12 read as follows:

13 The board may:

14 (1) Accept from any state or federal agency, loans or grants for  
15 the planning or financing of any public works project and enter into  
16 agreements with any such agency concerning the loans or grants;

17 (2) Provide technical assistance to local governments;

18 (3) Accept any gifts, grants, or loans of funds, property, or  
19 financial or other aid in any form from any other source on any terms  
20 and conditions which are not in conflict with this chapter;

21 (4) Adopt rules under chapter 34.05 RCW as necessary to carry out  
22 the purposes of this chapter;

23 (5) Do all acts and things necessary or convenient to carry out  
24 the powers expressly granted or implied under this chapter;

25 (6) Review and approve essential public infrastructure projects  
26 under the provisions of section 304 of this act.

27 **Sec. 303.** RCW 43.155.050 and 2013 2nd sp.s. c 4 s 983 are each  
28 amended to read as follows:

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

1 ~~under the drinking water assistance account. Not more than fifteen~~  
2 ~~percent of the biennial capital budget appropriation to the public~~  
3 ~~works board from this account may be expended or obligated)). Money~~  
4 ~~in the account may also be appropriated for the administration of the~~  
5 ~~essential public infrastructure project program established in~~  
6 ~~section 304 of this act and to offset or reduce fees charged by the~~  
7 ~~state treasurer to administer the program and issue bonds under the~~  
8 ~~program. Money in the account may also be appropriated for~~  
9 ~~preconstruction loans((~~τ~~)) and emergency loans((~~τ~~, or loans for~~  
10 ~~capital facility planning under this chapter; of this amount, not~~  
11 ~~more than ten percent of the biennial capital budget appropriation~~  
12 ~~may be expended for emergency loans and not more than one percent of~~  
13 ~~the biennial capital budget appropriation may be expended for capital~~  
14 ~~facility planning loans. During the 2011-2013 and 2013-2015 fiscal~~  
15 ~~biennium, the legislature may transfer from the public works~~  
16 ~~assistance account to the general fund, the water pollution control~~  
17 ~~revolving account, and the drinking water assistance account such~~  
18 ~~amounts as reflect the excess fund balance of the account. During the~~  
19 ~~2011-2013 fiscal biennium, the legislature may appropriate moneys~~  
20 ~~from the account for economic development, innovation, and export~~  
21 ~~grants, including brownfields; main street improvement grants; and~~  
22 ~~the loan program consolidation board. During the 2013-2015 fiscal~~  
23 ~~biennium, the legislature may transfer from the public works~~  
24 ~~assistance account to the education legacy trust account such amounts~~  
25 ~~as specified by the legislature)).~~

26 NEW SECTION. **Sec. 304.** A new section is added to chapter 43.155  
27 RCW to read as follows:

28 (1) An essential public infrastructure project, as defined in  
29 section 201 of this act, is a capital project by an eligible local  
30 government that is necessary to:

31 (a) Provide safe and adequate drinking water;

32 (b) Manage and treat wastewater and storm water;

33 (c) Provide safe and efficient transportation, including public  
34 parking facilities, public transit facilities, and nonmotorized  
35 transportation;

36 (d) Provide safe and readily accessible recreation;

37 (e) Provide flood control and floodplain management facilities  
38 and improvements;



1 (f) Provide water supply improvements and water basin management  
2 enhancements, including culvert replacement projects to improve fish  
3 passage;

4 (g) Provide or renovate county and city criminal justice  
5 facilities;

6 (h) Provide or renovate fire protection facilities;

7 (i) Provide industrial development facilities.

8 (2) A local government that is eligible for financing assistance  
9 for essential public infrastructure projects, as defined in section  
10 201 of this act, is one that can:

11 (a) Significantly benefit from the financing assistance under  
12 this section and under sections 201 through 207 of this act as  
13 determined by the public works board by considering the estimated net  
14 savings in financing cost achieved by this program and the relative  
15 ability of the local government and its taxpayers or ratepayers to  
16 pay for the project without the assistance of this program; and

17 (b) Meet the financial criteria established by the state finance  
18 committee.

19 (3) The board must adopt rules that establish the criteria for  
20 determining which local governments are eligible and what projects  
21 are necessary. The board must work with the state treasurer's office  
22 to determine the estimated amount and timing of financing assistance  
23 that can be provided annually to allow for a phase-in of this program  
24 based on interest and acceptance by the capital markets. The board  
25 must submit a prioritized and approved list of eligible essential  
26 public works projects within the estimated amounts to the state  
27 treasurer for a determination by the state treasurer as to whether  
28 the local government meets the financial criteria established by the  
29 state finance committee in order to assist those local governments  
30 that can most benefit from the assistance with projects that achieve  
31 the greatest community benefit.

32 **PART IV**

33 **MISCELLANEOUS PROVISIONS**

34 NEW SECTION. **Sec. 401.** This act takes effect January 1, 2016,  
35 if the proposed amendment to Article VIII, section 1 of the state  
36 Constitution, guaranteeing the obligation of debt for essential  
37 public infrastructure, is validly submitted to and is approved and  
38 ratified by voters at the next general election. If the proposed

1 amendment is not approved and ratified, this act is void in its  
2 entirety.

3 NEW SECTION. **Sec. 402.** Sections 201 through 210 of this act  
4 constitute a new chapter in Title 39 RCW."

**SB 5624 - S AMD 189**

By Senators Keiser, Honeyford

**ADOPTED AS AMENDED 3/10/2015**

5 On page 1, line 1 of the title, after "infrastructure;" strike  
6 the remainder of the title and insert "amending RCW 43.155.020,  
7 43.155.040, and 43.155.050; adding a new section to chapter 43.155  
8 RCW; adding a new chapter to Title 39 RCW; creating a new section;  
9 and providing a contingent effective date."

EFFECT: Modifies the definition of local governments eligible for  
the financial assistance and makes technical corrections of the bill  
at the request of the State Treasurer's Office.

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