

# HOUSE BILL REPORT

## HB 2146

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### As Reported by House Committee On: Capital Budget

**Title:** An act relating to the public works board regarding the public works assistance account program interest rates, project ranking, board membership, and other requirements.

**Brief Description:** Concerning public works assistance account program interest rates, project ranking, board membership, and other requirements.

**Sponsors:** Representatives Kilduff, Smith, Dunshee and Stanford.

#### **Brief History:**

##### **Committee Activity:**

Capital Budget: 2/23/15 [DPS], 2/5/16, 2/8/16 [DP2S].

#### **Brief Summary of Second Substitute Bill**

- Adds four legislators to the Public Works Board, requires numeric ranking of project applications, revises consideration factors, and adds requirements related to determining loan interest rates.

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### HOUSE COMMITTEE ON CAPITAL BUDGET

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 8 members: Representatives Tharinger, Chair; Stanford, Vice Chair; DeBolt, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Kilduff, Kochmar, Peterson and Riccelli.

**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 to assist in financing critical infrastructure projects. Moneys in the Account must be used to make loans and give

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financial guarantees, and may also be appropriated to provide state match for federal dollars. Loan repayments and revenues from three tax sources have historically been deposited into the Account. However, in recent years, repayment cash and tax revenues have largely been redirected to the State General Fund or Education Legacy Trust Account to support the operating budget.

#### Public Works Board Membership.

The Public Works Board (Board) is staffed by the Department of 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.

#### The Board Responsibilities.

The Board may make low-interest or interest-free loans from the Account to finance the acquisition, construction, repair, replacement, or improvement of the following local public works: bridges, streets, and roads; water systems; storm and sanitary sewage systems; and solid waste facilities, including recycling. For 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. Local governments and special purpose districts, except port and school districts, are eligible to apply for loans from the Account. The Board may provide technical assistance. Existing debt or financial obligations may not be refinanced.

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.

In both the 2013-15 Capital Budget (Engrossed Substitute Senate Bill 5035, Section 7032) and the 2015-2017 Capital Budget (Second Engrossed House Bill 1115, Section 7033), the Legislature required the Board to develop a process for numerically ranking applications for construction loans, and to use an alternative list of consideration factors in order to assign that ranking. In addition, the Capital Budget required the Board to:

- base loan interest rates for construction projects on tax-exempt municipal bond interest rates as published in the Bond Buyer's Index and provide special rates and terms for projects that meet standardized hardship criteria;
- contractually require an investment grade efficiency audit for public facilities for which an audit is obtainable, and allow the audit costs to be financed as part of the loan; and
- implement policies and procedures to maximize local government use of federally funded drinking water and clean water state revolving funds, including those operated by the Department of Ecology (DOE) and the Department of Health (DOH). The 2015-17

directive further specified that projects "eligible" for the DOE and DOH revolving funds are not eligible for Public Works Board construction loans and defined what "eligible" means.

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## **Summary of Second Substitute Bill:**

### The Board Membership.

The Board membership is increased from 13 to 17 by adding one member from each of the two major caucuses of the House of Representatives (House), appointed by the Speaker of the House, and one member from each of the two major caucuses of the Senate (Senate), appointed by the President of the Senate. Each appointed member may designate an alternate member from the same caucus to attend meetings from which the appointed member will be absent, and the designee will have the same voting and participation powers as other Board members.

### The Board Responsibilities.

The Board must assign a numeric ranking to the applications received for construction loans and must, at a minimum and in any order, consider the extent to which the project:

- is critical and affects the health and safety of many;
- leverages non-state funds;
- is ready to proceed;
- is in an area of high unemployment;
- promotes environmental quality;
- consolidates or regionalizes systems;
- encourages economic development through mixed-use and mixed-income development;
- is part of a well-managed system;
- results in equitable geographic and population distribution of funds; and
- meets eight specified state policy objectives.

The Board must submit to the Governor and Legislature a numerically ranked project list before November 1 each year,

The Board's general authority to make "low-interest or interest-free" loans to local governments for construction, emergency public works projects, and preconstruction activities is replaced by a requirement that the Board base interest rates on the average daily market interest rate for tax-exempt municipal bonds as published in the Bond Buyer's Index for 30 to 60 days prior to the start of the application cycle. Projects with a repayment period of five to 20 years must receive an interest rate that is 50 percent of the average daily market interest rate, and projects with a repayment period under five years must receive an interest rate that is 25 percent of the average daily market interest rate. When average daily market interest rates reach 9 percent or greater, the Board may cap interest rates on loans with five to 20-year repayment periods at 4 percent and loans with less than five-year repayment periods

at 2 percent. In addition, for projects that meet standardized hardship criteria, the Board must allow for reduced interest rates, extended repayment periods or forgivable principal loans.

The Board must adopt policies and procedures to maximize local government use of federal funds to finance local infrastructure projects.

For preconstruction and construction loans, 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 new responsibility, the Board must collaborate with other organizations to provide the Governor and appropriate legislative committees every four years with an assessment of local infrastructure needs and potential in-state resources to meet the needs.

### **Second Substitute Bill Compared to Original Bill:**

The second substitute requires the Board to submit a numerically ranked project list before November 1 each year, rather than each even-numbered year. Related to interest rates, projects with a repayment period of five to 20 years must receive an interest rate that is 50 percent of the average daily market interest rate for tax-exempt municipal bonds, and projects with a repayment period under five years must receive an interest rate that is 25 percent of the average daily market interest rate. However, when average daily market interest rates reach 9 percent or greater, the Board may cap interest rates on loans with five to 20-year repayment periods at 4 percent and loans with less than five-year repayment periods at 2 percent.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Second 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) This 31-year-old fund has been a national model, providing \$2.3 billion in loans for critical local infrastructure. The revolving loan fund was established during the infrastructure crisis of the 1980s by communities agreeing to tax themselves. If our community had had to go to the bond market to finance our wastewater treatment plant, it would have cost ratepayers \$2.8 million more in financing costs over 20 years compared to the 0.25 percent loan from the Account. The bill is going in the right direction. To make the program more robust and ready to deploy the projected repayments, the bill shores up the application process and establishes guardrails around loan interest rates and flexibility around financing for hardship communities. Having a periodic, multi-party evaluation of infrastructure needs will be valuable. Engaging legislators as board members, like the Community Economic Revitalization Board has, will help increase legislative familiarity

with the program. The bill focuses on operational details, when the more important issue is committing dollars to the program. It can cost a utility \$4,000 to \$5,000 to apply for a loan. With the redirections of the taxes and sweeps of the repayments in recent biennia, communities cannot count on the dollars being there for projects that make the loan list.

(Opposed) Please reconsider the interest rate increase. It is a step backwards that will make loans more costly for communities.

(Other) The continued existence of the Account remains in doubt. We need to restore the Account to what it used to be or have a plan for some other way to finance local infrastructure. Three provisions of this bill impose additional burdens in terms of expense or administrative challenges: tying the interest rates to municipal bond market rates; requiring investment grade efficiency audits; and requiring communities to go to federal infrastructure funding first. Consider capping the interest rates, at 3 or 4 percent, when market rates climb as projected.

**Persons Testifying:** (In support) Representative Kilduff, prime sponsor; Stan Finkelstein and Diane Pottinger, Public Works Board; Scott Hutsell, Public Works Board and Lincoln County; Steve Misurak, City of Gig Harbor; and Bill Clarke, Washington Public Utility District.

(Opposed) Jerry VanderWood, Associated General Contractors of Washington.

(Other) Carl Schroeder, Association of Washington Cities; Scott Hazelgrove, Washington Association of Sewer and Water Districts; and Steve Lindstrom, Sno-King Water-Sewer District.

**Persons Signed In To Testify But Not Testifying:** None.