
SUBSTITUTE HOUSE BILL 2010

State of Washington 61st Legislature 2009 Regular Session

By House Capital Budget (originally sponsored by Representatives
Dunshee and Nelson)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to state funding for local projects; amending RCW
2 43.155.070, 43.160.060, 43.160.900, 39.102.040, and 47.26.282; and
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the state capital
6 budget provides billions of dollars for projects in communities across
7 the state of Washington. These state dollars and policies shape the
8 map of urban, suburban, and rural communities in every region of the
9 state. This state investment sometimes leads to the unintended
10 consequences of failed small businesses, displaced jobs moved from one
11 community to another with no net gain in the number of jobs created,
12 additional requests for state funding to adjust for the unintended
13 consequences, and developed infrastructure on the margins of a
14 community instead of addressing the infrastructure needs in a
15 community's core where higher density is encouraged. Without careful
16 analysis, state funded capital projects may lead to sprawl and
17 inefficiencies in access to goods, services, transportation, and may
18 contradict the state's greenhouse gas emission reduction goals.

1 The legislature also finds that the 2007 study committee on public
2 infrastructure programs and funding structures recommended that state
3 infrastructure assistance to local governments should support projects
4 that are consistent with state policy goals, including the growth
5 management act, energy policy, transportation policy, sustainable
6 communities, workforce development goals, and economic development
7 goals.

8 Therefore, it is the intent of the legislature that state funded
9 capital projects create a net gain in economic activity, limit land use
10 patterns that contribute to the production of greenhouse gases, and
11 result in the following benefits to communities and the business
12 environment:

- 13 (1) Creation of additional family wage jobs, rather than displacing
14 jobs from one location to another;
- 15 (2) Promotion of the development and sustainability of small
16 businesses;
- 17 (3) A reduction of the overall cost for public infrastructure;
- 18 (4) Efficiencies in the delivery of goods and services, public
19 transit, and transportation; and
- 20 (5) The avoidance of additional costs to state and local
21 governments that adversely impact local residents and small businesses.

22 **Sec. 2.** RCW 43.155.070 and 2008 c 299 s 25 are each amended to
23 read as follows:

24 (1) To qualify for loans or pledges under this chapter the board
25 must determine that a local government meets all of the following
26 conditions:

- 27 (a) The city or county must be imposing a tax under chapter 82.46
28 RCW at a rate of at least one-quarter of one percent;
- 29 (b) The local government must have developed a capital facility
30 plan; and
- 31 (c) The local government must be using all local revenue sources
32 which are reasonably available for funding public works, taking into
33 consideration local employment and economic factors.

34 (2) Except where necessary to address a public health need or
35 substantial environmental degradation, a county, city, or town planning
36 under RCW 36.70A.040 must have adopted a comprehensive plan, including
37 a capital facilities plan element, and development regulations as

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

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

20 (4) Beginning in 2010, in awarding loans, the board must consider
21 whether the local government has adopted policies to reduce greenhouse
22 gas emissions that, at least, include policies consistent with the
23 requirements of (a) through (c) of this subsection. If the local
24 government has not adopted policies to reduce greenhouse gas emissions,
25 the board must consider whether the project is consistent with the
26 following:

27 (a) The state's limits on the emissions of greenhouse gases
28 established in RCW 70.235.020;

29 (b) Statewide goals to reduce annual per capita vehicle miles
30 traveled by 2050, in accordance with RCW 47.01.440; and

31 (c) Applicable federal emissions reduction requirements.

32 (5) The board shall develop a priority process for public works
33 projects as provided in this section. The intent of the priority
34 process is to maximize the value of public works projects accomplished
35 with assistance under this chapter. The board shall attempt to assure
36 a geographical balance in assigning priorities to projects. The board
37 shall consider at least the following factors in assigning a priority
38 to a project:

1 (a) Whether the local government receiving assistance has
2 experienced severe fiscal distress resulting from natural disaster or
3 emergency public works needs;

4 (b) Except as otherwise conditioned by RCW 43.155.110, whether the
5 entity receiving assistance is a Puget Sound partner, as defined in RCW
6 90.71.010;

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

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

11 (e) Whether the applicant has developed and adhered to guidelines
12 regarding its permitting process for those applying for development
13 permits consistent with section 1(2), chapter 231, Laws of 2007;

14 (f) The cost of the project compared to the size of the local
15 government and amount of loan money available;

16 (g) The number of communities served by or funding the project;

17 (h) Whether the project is located in an area of high unemployment,
18 compared to the average state unemployment;

19 (i) Whether the project is the acquisition, expansion, improvement,
20 or renovation by a local government of a public water system that is in
21 violation of health and safety standards, including the cost of
22 extending existing service to such a system;

23 (j) Except as otherwise conditioned by RCW 43.155.120, and
24 effective one calendar year following the development of model
25 evergreen community management plans and ordinances under RCW
26 35.105.050, whether the entity receiving assistance has been
27 recognized, and what gradation of recognition was received, in the
28 evergreen community recognition program created in RCW 35.105.030;

29 (k) The relative benefit of the project to the community,
30 considering the present level of economic activity in the community and
31 the existing local capacity to increase local economic activity in
32 communities that have low economic growth; and

33 (l) Other criteria that the board considers advisable.

34 ~~((+5))~~ (6) Existing debt or financial obligations of local
35 governments shall not be refinanced under this chapter. Each local
36 government applicant shall provide documentation of attempts to secure
37 additional local or other sources of funding for each public works
38 project for which financial assistance is sought under this chapter.

1 ~~((+6+))~~ (7) Before November 1st of each year, the board shall
2 develop and submit to the appropriate fiscal committees of the senate
3 and house of representatives a description of the loans made under RCW
4 43.155.065, 43.155.068, and subsection ~~((+9+))~~ (10) of this section
5 during the preceding fiscal year and a prioritized list of projects
6 which are recommended for funding by the legislature, including one
7 copy to the staff of each of the committees. The list shall include,
8 but not be limited to, a description of each project and recommended
9 financing, the terms and conditions of the loan or financial guarantee,
10 the local government jurisdiction and unemployment rate, demonstration
11 of the jurisdiction's critical need for the project, a description of
12 local policies or project consistency with state greenhouse emissions
13 goals, and documentation of local funds being used to finance the
14 public works project. The list shall also include measures of fiscal
15 capacity for each jurisdiction recommended for financial assistance,
16 compared to authorized limits and state averages, including local
17 government sales taxes; real estate excise taxes; property taxes; and
18 charges for or taxes on sewerage, water, garbage, and other utilities.

19 ~~((+7+))~~ (8) The board shall not sign contracts or otherwise
20 financially obligate funds from the public works assistance account
21 before the legislature has appropriated funds for a specific list of
22 public works projects. The legislature may remove projects from the
23 list recommended by the board. The legislature shall not change the
24 order of the priorities recommended for funding by the board.

25 ~~((+8+))~~ (9) Subsection ~~((+7+))~~ (8) of this section does not apply
26 to loans made under RCW 43.155.065, 43.155.068, and subsection ~~((+9+))~~
27 (10) of this section.

28 ~~((+9+))~~ (10) Loans made for the purpose of capital facilities plans
29 shall be exempted from subsection ~~((+7+))~~ (8) of this section.

30 ~~((+10+))~~ (11) To qualify for loans or pledges for solid waste or
31 recycling facilities under this chapter, a city or county must
32 demonstrate that the solid waste or recycling facility is consistent
33 with and necessary to implement the comprehensive solid waste
34 management plan adopted by the city or county under chapter 70.95 RCW.

35 ~~((+11+))~~ (12) After January 1, 2010, any project designed to
36 address the effects of storm water or wastewater on Puget Sound may be
37 funded under this section only if the project is not in conflict with

1 the action agenda developed by the Puget Sound partnership under RCW
2 90.71.310.

3 **Sec. 3.** RCW 43.160.060 and 2008 c 327 s 5 are each amended to read
4 as follows:

5 The board is authorized to make direct loans to political
6 subdivisions of the state and to federally recognized Indian tribes for
7 the purposes of assisting the political subdivisions and federally
8 recognized Indian tribes in financing the cost of public facilities,
9 including development of land and improvements for public facilities,
10 project-specific environmental, capital facilities, land use,
11 permitting, feasibility, and marketing studies and plans; project
12 design, site planning, and analysis; project debt and revenue impact
13 analysis; as well as the construction, rehabilitation, alteration,
14 expansion, or improvement of the facilities. A grant may also be
15 authorized for purposes designated in this chapter, but only when, and
16 to the extent that, a loan is not reasonably possible, given the
17 limited resources of the political subdivision or the federally
18 recognized Indian tribe and the finding by the board that financial
19 circumstances require grant assistance to enable the project to move
20 forward. However, no more than twenty-five percent of all financial
21 assistance approved by the board in any biennium may consist of grants
22 to political subdivisions and federally recognized Indian tribes.

23 Application for funds shall be made in the form and manner as the
24 board may prescribe. In making grants or loans the board shall conform
25 to the following requirements:

26 (1) The board shall not provide financial assistance:

27 (a) For a project the primary purpose of which is to facilitate or
28 promote a retail shopping development or expansion.

29 (b) For any project that evidence exists would result in a
30 development or expansion that would displace existing jobs in any other
31 community in the state.

32 (c) For a project the primary purpose of which is to facilitate or
33 promote gambling.

34 (d) For a project located outside the jurisdiction of the applicant
35 political subdivision or federally recognized Indian tribe.

36 (2) The board shall only provide financial assistance:

1 (a) For a project demonstrating convincing evidence that a specific
2 private development or expansion is ready to occur and will occur only
3 if the public facility improvement is made that:

4 (i) Results in the creation of significant private sector jobs or
5 significant private sector capital investment as determined by the
6 board and is consistent with the state comprehensive economic
7 development plan developed by the Washington economic development
8 commission pursuant to chapter 43.162 RCW, once the plan is adopted;
9 and

10 (ii) Will improve the opportunities for the successful maintenance,
11 establishment, or expansion of industrial or commercial plants or will
12 otherwise assist in the creation or retention of long-term economic
13 opportunities;

14 (b) For a project that cannot meet the requirement of (a) of this
15 subsection but is a project that:

16 (i) Results in the creation of significant private sector jobs or
17 significant private sector capital investment as determined by the
18 board and is consistent with the state comprehensive economic
19 development plan developed by the Washington economic development
20 commission pursuant to chapter 43.162 RCW, once the plan is adopted;

21 (ii) Is part of a local economic development plan consistent with
22 applicable state planning requirements;

23 (iii) Can demonstrate project feasibility using standard economic
24 principles; and

25 (iv) Is located in a rural community as defined by the board, or a
26 rural county;

27 (c) For site-specific plans, studies, and analyses that address
28 environmental impacts, capital facilities, land use, permitting,
29 feasibility, marketing, project engineering, design, site planning, and
30 project debt and revenue impacts, as grants not to exceed fifty
31 thousand dollars.

32 (3) The board shall develop guidelines for local participation and
33 allowable match and activities.

34 (4) Beginning in 2010, in awarding loans and grants the board must
35 consider whether the applicant has adopted policies to reduce
36 greenhouse gas emissions that, at least, include policies consistent
37 with the requirements of (a) through (c) of this subsection. If the

1 applicant has not adopted policies to reduce greenhouse gas emissions,
2 the board must consider whether the project is consistent with (a)
3 through (c) of this subsection.

4 (a) The state's limits on the emissions of greenhouse gases
5 established in RCW 70.235.020;

6 (b) Statewide goals to reduce annual per capita vehicle miles
7 traveled by 2050, in accordance with RCW 47.01.440, except that the
8 board shall consider whether project locations in rural counties
9 defined in RCW 43.160.020 will maximize the reduction of vehicle miles
10 traveled; and

11 (c) Applicable federal emissions reduction requirements.

12 (5) None of the considerations directed in subsection (4) of this
13 section shall relieve the board of its duty to approve financial
14 assistance to rural communities as required in RCW 43.160.076.

15 (6) An application must demonstrate local match and local
16 participation, in accordance with guidelines developed by the board.

17 ~~((+5))~~ (7) An application must be approved by the political
18 subdivision and supported by the local associate development
19 organization or local workforce development council or approved by the
20 governing body of the federally recognized Indian tribe.

21 ~~((+6))~~ (8) The board may allow de minimis general system
22 improvements to be funded if they are critically linked to the
23 viability of the project.

24 ~~((+7))~~ (9) An application must demonstrate convincing evidence
25 that the median hourly wage of the private sector jobs created after
26 the project is completed will exceed the countywide median hourly wage.

27 ~~((+8))~~ (10) The board shall prioritize each proposed project
28 according to:

29 (a) The relative benefits provided to the community by the jobs the
30 project would create, not just the total number of jobs it would create
31 after the project is completed, but also giving consideration to the
32 unemployment rate in the area in which the jobs would be located;

33 (b) The rate of return of the state's investment, including, but
34 not limited to, the leveraging of private sector investment,
35 anticipated job creation and retention, and expected increases in state
36 and local tax revenues associated with the project;

37 (c) Whether the proposed project offers a health insurance plan for
38 employees that includes an option for dependents of employees;

1 (d) Whether the public facility investment will increase existing
2 capacity necessary to accommodate projected population and employment
3 growth in a manner that supports infill and redevelopment of existing
4 urban or industrial areas that are served by adequate public
5 facilities. Projects should maximize the use of existing
6 infrastructure and provide for adequate funding of necessary
7 transportation improvements; and

8 (e) Whether the applicant has developed and adhered to guidelines
9 regarding its permitting process for those applying for development
10 permits consistent with section 1(2), chapter 231, Laws of 2007.

11 ~~((+9))~~ (11) A responsible official of the political subdivision or
12 the federally recognized Indian tribe shall be present during board
13 deliberations and provide information that the board requests.

14 Before any financial assistance application is approved, the
15 political subdivision or the federally recognized Indian tribe seeking
16 the assistance must demonstrate to the community economic
17 revitalization board that no other timely source of funding is
18 available to it at costs reasonably similar to financing available from
19 the community economic revitalization board.

20 **Sec. 4.** RCW 43.160.900 and 2008 c 327 s 9 are each amended to read
21 as follows:

22 (1) The community economic revitalization board shall conduct
23 biennial outcome-based evaluations of the financial assistance provided
24 under this chapter. The evaluations shall include information on the
25 number of applications for community economic revitalization board
26 assistance; the number and types of projects approved; the grant or
27 loan amount awarded each project; the projected number of jobs created
28 or retained by each project; the actual number and cost of jobs created
29 or retained by each project; the wages and health benefits associated
30 with the jobs; a description of local policies or project consistency
31 with state greenhouse emissions goals; the amount of state funds and
32 total capital invested in projects; the number and types of businesses
33 assisted by funded projects; the location of funded projects; the
34 transportation infrastructure available for completed projects; the
35 local match and local participation obtained; the number of delinquent
36 loans; and the number of project terminations. The evaluations may

1 also include additional performance measures and recommendations for
2 programmatic changes.

3 (2)(a) By September 1st of each even-numbered year, the board shall
4 forward its draft evaluation to the Washington state economic
5 development commission for review and comment(~~(, as required in section~~
6 ~~10 of this act)~~). The board shall provide any additional information
7 as may be requested by the commission for the purpose of its review.

8 (b) Any written comments or recommendations provided by the
9 commission as a result of its review shall be included in the board's
10 completed evaluation. The evaluation must be presented to the governor
11 and appropriate committees of the legislature by December 31st of each
12 even-numbered year. The initial evaluation must be submitted by
13 December 31, 2010.

14 **Sec. 5.** RCW 39.102.040 and 2007 c 229 s 2 are each amended to read
15 as follows:

16 (1) Prior to applying to the board to use local infrastructure
17 financing, a sponsoring local government shall:

18 (a) Designate a revenue development area within the limitations in
19 RCW 39.102.060;

20 (b) Certify that the conditions in RCW 39.102.070 are met;

21 (c) Complete the process in RCW 39.102.080;

22 (d) Provide public notice as required in RCW 39.102.100; and

23 (e) Pass an ordinance adopting the revenue development area as
24 required in RCW 39.102.090.

25 (2) Any local government that has created an increment area under
26 chapter 39.89 RCW and has not issued bonds to finance any public
27 improvement may apply to the board and have its increment area
28 considered for approval as a revenue development area under this
29 chapter without adopting a new revenue development area under RCW
30 39.102.090 and 39.102.100 if it amends its ordinance to comply with RCW
31 39.102.090(1) and otherwise meets the conditions and limitations under
32 this chapter.

33 (3) As a condition to imposing a sales and use tax under RCW
34 82.14.475, a sponsoring local government, including any cosponsoring
35 local government seeking authority to impose a sales and use tax under
36 RCW 82.14.475, must apply to the board and be approved for a project
37 award amount. The application shall be in a form and manner prescribed

1 by the board and include but not be limited to information establishing
2 that the applicant is an eligible candidate to impose the local sales
3 and use tax under RCW 82.14.475, the anticipated effective date for
4 imposing the tax, the estimated number of years that the tax will be
5 imposed, and the estimated amount of tax revenue to be received in each
6 fiscal year that the tax will be imposed. The board shall make
7 available forms to be used for this purpose. As part of the
8 application, each applicant must provide to the board a copy of the
9 ordinance or ordinances creating the revenue development area as
10 required in RCW 39.102.090. A notice of approval to use local
11 infrastructure financing shall contain a project award that represents
12 the maximum amount of state contribution that the applicant, including
13 any cosponsoring local governments, can earn each year that local
14 infrastructure financing is used. The total of all project awards
15 shall not exceed the annual state contribution limit. The
16 determination of a project award shall be made based on information
17 contained in the application and the remaining amount of annual state
18 contribution limit to be awarded. Determination of a project award by
19 the board is final.

20 (4)(a) Sponsoring local governments, and any cosponsoring local
21 governments, applying in calendar year 2007 for a competitive project
22 award, must submit completed applications to the board no later than
23 July 1, 2007. By September 15, 2007, in consultation with the
24 department of revenue and the department of community, trade, and
25 economic development, the board shall approve competitive project
26 awards from competitive applications submitted by the 2007 deadline.
27 No more than two million five hundred thousand dollars in competitive
28 project awards shall be approved in 2007. For projects not approved by
29 the board in 2007, sponsoring and cosponsoring local governments may
30 apply again to the board in 2008 for approval of a project.

31 (b) Sponsoring local governments, and any cosponsoring local
32 governments, applying in calendar year 2008 for a competitive project
33 award, must submit completed applications to the board no later than
34 July 1, 2008. By September 18, 2008, in consultation with the
35 department of revenue and the department of community, trade, and
36 economic development, the board shall approve competitive project
37 awards from competitive applications submitted by the 2008 deadline.

1 (c) Except as provided in RCW 39.102.050(2), a total of no more
2 than five million dollars in competitive project awards shall be
3 approved for local infrastructure financing.

4 (d) The project selection criteria and weighting developed prior to
5 July 22, 2007, for the application evaluation and approval process
6 shall apply to applications received prior to November 1, 2007. In
7 evaluating applications for a competitive project award after November
8 1, 2007, the board shall, in consultation with the Washington state
9 economic development commission, develop the relative weight to be
10 assigned to the following criteria:

11 (i) The project's potential to enhance the sponsoring local
12 government's regional and/or international competitiveness;

13 (ii) The project's ability to encourage mixed use and transit-
14 oriented development and the redevelopment of a geographic area;

15 (iii) Achieving an overall distribution of projects statewide that
16 reflect geographic diversity;

17 (iv) The estimated wages and benefits for the project is greater
18 than the average labor market area;

19 (v) The estimated state and local net employment change over the
20 life of the project;

21 (vi) The current economic health and vitality of the proposed
22 revenue development area and the contiguous community and the estimated
23 impact of the proposed project on the proposed revenue development area
24 and contiguous community;

25 (vii) The estimated state and local net property tax change over
26 the life of the project;

27 (viii) The estimated state and local sales and use tax increase
28 over the life of the project;

29 (ix) An analysis that shows that, over the life of the project,
30 neither the local excise tax allocation revenues nor the local property
31 tax allocation revenues will constitute more than eighty percent of the
32 total local funds as described in RCW 39.102.020(29)(c); and

33 (x) If a project is located within an urban growth area, evidence
34 that the project utilizes existing urban infrastructure and that the
35 transportation needs of the project will be adequately met through the
36 use of local infrastructure financing or other sources.

37 (e)(i) Except as provided in this subsection (4)(e), the board may

1 not approve the use of local infrastructure financing within more than
2 one revenue development area per county.

3 (ii) In a county in which the board has approved the use of local
4 infrastructure financing, the use of such financing in additional
5 revenue development areas may be approved, subject to the following
6 conditions:

7 (A) The sponsoring local government is located in more than one
8 county; and

9 (B) The sponsoring local government designates a revenue
10 development area that comprises portions of a county within which the
11 use of local infrastructure financing has not yet been approved.

12 (iii) In a county where the local infrastructure financing tool is
13 authorized under RCW 39.102.050, the board may approve additional use
14 of the local infrastructure financing tool.

15 (5) Beginning in 2010, as part of the approval process, the board
16 must consider whether the sponsoring local government has adopted
17 policies to reduce greenhouse gas emissions that, at least, include
18 policies consistent with (a) through (c) of this subsection.

19 (a) The state's limits on the emissions of greenhouse gases
20 established in RCW 70.235.020;

21 (b) Statewide goals to reduce annual per capita vehicle miles
22 traveled by 2050, in accordance with RCW 47.01.440; and

23 (c) Applicable federal emissions reduction requirements.

24 (6) Once the board has approved the sponsoring local government,
25 and any cosponsoring local governments, to use local infrastructure
26 financing, notification must be sent by the board to the sponsoring
27 local government, and any cosponsoring local governments, authorizing
28 the sponsoring local government, and any cosponsoring local
29 governments, to impose the local sales and use tax authorized under RCW
30 82.14.475, subject to the conditions in RCW 82.14.475.

31 **Sec. 6.** RCW 47.26.282 and 2002 c 189 s 5 are each amended to read
32 as follows:

33 In any project funded by the transportation improvement board,
34 except for projects in cities having a population of less than five
35 thousand persons, and in addition to any other items required to be
36 considered by statute, the board also shall consider the land use
37 implications of the project, such as whether the programs and projects:

- 1 (1) Support development in and revitalization of existing
2 downtowns;
- 3 (2) Implement local comprehensive plans for rural and urban
4 residential and nonresidential densities;
- 5 (3) Have land use planning and regulations encouraging compact
6 development for rural and urban residential and nonresidential
7 densities; (~~and~~)
- 8 (4) Promote the use of multimodal transportation; and
- 9 (5) Beginning in 2010, are located in jurisdictions that have
10 adopted policies to reduce greenhouse gas emissions that, at least,
11 include policies consistent with (a) the state's limits on the
12 emissions of greenhouse gases established in RCW 70.235.020; (b)
13 statewide goals to reduce annual per capita vehicle miles traveled by
14 2050, in accordance with RCW 47.01.440; and (c) applicable federal
15 emissions reduction requirements.

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