
HOUSE BILL 2010

State of Washington 61st Legislature 2009 Regular Session

By Representatives Dunshee and Nelson

Read first time 02/06/09. Referred to Committee on Capital Budget.

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

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

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

30 (c) Applicable federal emissions reduction requirements.

31 (5) The board shall develop a priority process for public works
32 projects as provided in this section. The intent of the priority
33 process is to maximize the value of public works projects accomplished
34 with assistance under this chapter. The board shall attempt to assure
35 a geographical balance in assigning priorities to projects. The board
36 shall consider at least the following factors in assigning a priority
37 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) In awarding loans and grants the board must consider whether
35 the applicant has adopted policies to reduce greenhouse gas emissions
36 that, at least, include policies consistent with the requirements of
37 (a) through (c) of this subsection. If the applicant has not adopted

1 policies to reduce greenhouse gas emissions, the board must consider
2 whether the project is consistent with (a) through (c) of this
3 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; and

8 (c) Applicable federal emissions reduction requirements.

9 (5) An application must demonstrate local match and local
10 participation, in accordance with guidelines developed by the board.

11 ((+5)) (6) An application must be approved by the political
12 subdivision and supported by the local associate development
13 organization or local workforce development council or approved by the
14 governing body of the federally recognized Indian tribe.

15 ((+6)) (7) The board may allow de minimis general system
16 improvements to be funded if they are critically linked to the
17 viability of the project.

18 ((+7)) (8) An application must demonstrate convincing evidence
19 that the median hourly wage of the private sector jobs created after
20 the project is completed will exceed the countywide median hourly wage.

21 ((+8)) (9) The board shall prioritize each proposed project
22 according to:

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

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

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

33 (d) Whether the public facility investment will increase existing
34 capacity necessary to accommodate projected population and employment
35 growth in a manner that supports infill and redevelopment of existing
36 urban or industrial areas that are served by adequate public
37 facilities. Projects should maximize the use of existing

1 infrastructure and provide for adequate funding of necessary
2 transportation improvements; and

3 (e) 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 ~~((+9))~~ (10) A responsible official of the political subdivision or
7 the federally recognized Indian tribe shall be present during board
8 deliberations and provide information that the board requests.

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

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

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

34 (2)(a) By September 1st of each even-numbered year, the board shall
35 forward its draft evaluation to the Washington state economic
36 development commission for review and comment(~~(, as required in section~~

1 ~~10 of this act~~)). The board shall provide any additional information
2 as may be requested by the commission for the purpose of its review.

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

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

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

13 (a) Designate a revenue development area within the limitations in
14 RCW 39.102.060;

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

16 (c) Complete the process in RCW 39.102.080;

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

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

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

28 (3) As a condition to imposing a sales and use tax under RCW
29 82.14.475, a sponsoring local government, including any cosponsoring
30 local government seeking authority to impose a sales and use tax under
31 RCW 82.14.475, must apply to the board and be approved for a project
32 award amount. The application shall be in a form and manner prescribed
33 by the board and include but not be limited to information establishing
34 that the applicant is an eligible candidate to impose the local sales
35 and use tax under RCW 82.14.475, the anticipated effective date for
36 imposing the tax, the estimated number of years that the tax will be
37 imposed, and the estimated amount of tax revenue to be received in each

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

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

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

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

36 (d) The project selection criteria and weighting developed prior to
37 July 22, 2007, for the application evaluation and approval process
38 shall apply to applications received prior to November 1, 2007. In

1 evaluating applications for a competitive project award after November
2 1, 2007, the board shall, in consultation with the Washington state
3 economic development commission, develop the relative weight to be
4 assigned to the following criteria:

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

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

9 (iii) Achieving an overall distribution of projects statewide that
10 reflect geographic diversity;

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

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

15 (vi) The current economic health and vitality of the proposed
16 revenue development area and the contiguous community and the estimated
17 impact of the proposed project on the proposed revenue development area
18 and contiguous community;

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

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

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

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

31 (e)(i) Except as provided in this subsection (4)(e), the board may
32 not approve the use of local infrastructure financing within more than
33 one revenue development area per county.

34 (ii) In a county in which the board has approved the use of local
35 infrastructure financing, the use of such financing in additional
36 revenue development areas may be approved, subject to the following
37 conditions:

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

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

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

9 (5) As part of the approval process, the board must consider
10 whether the sponsoring local government has adopted policies to reduce
11 greenhouse gas emissions that, at least, include policies consistent
12 with (a) through (c) of this subsection.

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

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

17 (c) Applicable federal emissions reduction requirements.

18 (6) Once the board has approved the sponsoring local government,
19 and any cosponsoring local governments, to use local infrastructure
20 financing, notification must be sent by the board to the sponsoring
21 local government, and any cosponsoring local governments, authorizing
22 the sponsoring local government, and any cosponsoring local
23 governments, to impose the local sales and use tax authorized under RCW
24 82.14.475, subject to the conditions in RCW 82.14.475.

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

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

32 (1) Support development in and revitalization of existing
33 downtowns;

34 (2) Implement local comprehensive plans for rural and urban
35 residential and nonresidential densities;

36 (3) Have land use planning and regulations encouraging compact

1 development for rural and urban residential and nonresidential
2 densities; (~~and~~)
3 (4) Promote the use of multimodal transportation; and
4 (5) Are located in jurisdictions that have adopted policies to
5 reduce greenhouse gas emissions that, at least, include policies
6 consistent with (a) the state's limits on the emissions of greenhouse
7 gases established in RCW 70.235.020; (b) statewide goals to reduce
8 annual per capita vehicle miles traveled by 2050, in accordance with
9 RCW 47.01.440; and (c) applicable federal emissions reduction
10 requirements.

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