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**SUBSTITUTE HOUSE BILL 2326**

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**State of Washington**

**56th Legislature**

**2000 Regular Session**

**By** House Committee on Capital Budget (originally sponsored by Representatives Murray and Mitchell; by request of Public Works Board)

Read first time 02/08/2000. Referred to Committee on .

1 AN ACT Relating to the budget authority of the public works board,  
2 expenditures from the public works assistance account, and clarifying  
3 capital facility planning requirements; amending RCW 43.155.020,  
4 43.155.065, 43.155.068, and 43.155.070; and reenacting and amending RCW  
5 43.155.050.

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

7 **Sec. 1.** RCW 43.155.020 and 1996 c 168 s 2 are each amended to read  
8 as follows:

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

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

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

16 (3) "Department" means the department of community, trade, and  
17 economic development.

18 ((+3)) (4) "Financing guarantees" means the pledge of money in the  
19 public works assistance account, or money to be received by the public

1 works assistance account, to the repayment of all or a portion of the  
2 principal of or interest on obligations issued by local governments to  
3 finance public works projects.

4 ((+4)) (5) "Local governments" means cities, towns, counties,  
5 special purpose districts, and any other municipal corporations or  
6 quasi-municipal corporations in the state excluding school districts  
7 and port districts.

8 ((+5)) (6) "Public works project" means a project of a local  
9 government for the planning, acquisition, construction, repair,  
10 reconstruction, replacement, rehabilitation, or improvement of streets  
11 and roads, bridges, water systems, or storm and sanitary sewage systems  
12 and solid waste facilities, including recycling facilities. A planning  
13 project may include the compilation of biological, hydrological, or  
14 other data on a county, drainage basin, or region necessary to develop  
15 a base of information for a capital facility plan.

16 ((+6)) (7) "Solid waste or recycling project" means remedial  
17 actions necessary to bring abandoned or closed landfills into  
18 compliance with regulatory requirements and the repair, restoration,  
19 and replacement of existing solid waste transfer, recycling facilities,  
20 and landfill projects limited to the opening of landfill cells that are  
21 in existing and permitted landfills.

22 ((+7)) (8) "Technical assistance" means training and other  
23 services provided to local governments to: (a) Help such local  
24 governments plan, apply, and qualify for loans and financing guarantees  
25 from the board, and (b) help local governments improve their ability to  
26 plan for, finance, acquire, construct, repair, replace, rehabilitate,  
27 and maintain public facilities.

28 **Sec. 2.** RCW 43.155.050 and 1995 2nd sp.s. c 18 s 918 and 1995 c  
29 376 s 11 are each reenacted and amended to read as follows:

30 The public works assistance account is hereby established in the  
31 state treasury. Money may be placed in the public works assistance  
32 account from the proceeds of bonds when authorized by the legislature  
33 or from any other lawful source. Money in the public works assistance  
34 account shall be used to make loans and to give financial guarantees to  
35 local governments for public works projects. Moneys in the account may  
36 also be appropriated to provide for state match requirements under  
37 federal law for projects and activities conducted and financed by the  
38 board under the drinking water assistance account. ~~((During the 1995-~~

1 97 fiscal biennium, moneys in the public works assistance account may  
2 be appropriated for transfer to the flood control assistance account to  
3 be used for flood control assistance, including grants under chapter  
4 86.26 RCW. To the extent that moneys in the public works assistance  
5 account are not appropriated during the 1995-97 fiscal biennium for  
6 public works or flood control assistance, the legislature may direct  
7 their transfer to the state general fund. In awarding grants under  
8 chapter 86.26 RCW, the department of ecology shall give strong  
9 preference to local governments that have: (1) Implemented, or are in  
10 the process of implementing, an ordinance that establishes a flood  
11 plain policy that is substantially more stringent than minimum federal  
12 requirements; (2) completed a comprehensive flood control plan meeting  
13 the requirements of RCW 86.12.200; or (3) constructed, or are in the  
14 process of constructing, a system of overtopping dikes or levees that  
15 allow public access.) Not more than fifteen percent of the biennial  
16 capital budget appropriation to the public works board from this  
17 account may be expended or obligated for preconstruction loans,  
18 emergency loans, or loans for capital facility planning under this  
19 chapter. Of this amount, not more than ten percent may be expended for  
20 emergency loans and not more than one percent may be expended for  
21 capital facility planning loans.

22 **Sec. 3.** RCW 43.155.065 and 1990 c 133 s 7 are each amended to read  
23 as follows:

24 The board may make low-interest or interest-free loans to local  
25 governments for emergency public works projects. Emergency public  
26 works projects shall include the construction, repair, reconstruction,  
27 replacement, rehabilitation, or improvement of a public water system  
28 that is in violation of health and safety standards and is being  
29 operated by a local government on a temporary basis. The loans may be  
30 used to help fund all or part of an emergency public works project less  
31 any reimbursement from any of the following sources: (1) Federal  
32 disaster or emergency funds, including funds from the federal emergency  
33 management agency; (2) state disaster or emergency funds; (3) insurance  
34 settlements; or (4) litigation. ~~((Emergency loans may be made only~~  
35 ~~from those funds specifically appropriated from the public works~~  
36 ~~assistance account for such purpose by the legislature. The amount~~  
37 ~~appropriated from the public works assistance account for emergency~~

1 ~~loan purposes shall not exceed five percent of the total amount~~  
2 ~~appropriated from this account in any biennium.))~~

3 **Sec. 4.** RCW 43.155.068 and 1995 c 363 s 2 are each amended to read  
4 as follows:

5 (1) The board may make low-interest or interest-free loans to local  
6 governments for preconstruction activities on public works projects  
7 before the legislature approves the construction phase of the project.  
8 Preconstruction activities include design, engineering, bid-document  
9 preparation, environmental studies, right of way acquisition, and other  
10 preliminary phases of public works projects as determined by the board.  
11 The purpose of the loans authorized in this section is to accelerate  
12 the completion of public works projects by allowing preconstruction  
13 activities to be performed before the approval of the construction  
14 phase of the project by the legislature.

15 (2) Projects receiving loans for preconstruction activities under  
16 this section must be evaluated using the priority process and factors  
17 in RCW 43.155.070(2). The receipt of a loan for preconstruction  
18 activities does not ensure the receipt of a construction loan for the  
19 project under this chapter. Construction loans for projects receiving  
20 a loan for preconstruction activities under this section are subject to  
21 legislative approval under RCW 43.155.070 (4) and (5). The board shall  
22 adopt a single application process for local governments seeking both  
23 a loan for preconstruction activities under this section and a  
24 construction loan for the project.

25 ~~((3) Preconstruction activity loans under this section may be made~~  
26 ~~only from those funds specifically appropriated from the public works~~  
27 ~~assistance account for such a purpose by the legislature.))~~

28 **Sec. 5.** RCW 43.155.070 and 1999 c 164 s 602 are each amended to  
29 read as follows:

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

33 (a) The city or county must be imposing a tax under chapter 82.46  
34 RCW at a rate of at least one-quarter of one percent;

35 (b) The local government must have developed a ~~((long-term))~~  
36 capital facility plan ~~((for financing public works needs))~~; and

1 (c) The local government must be using all local revenue sources  
2 which are reasonably available for funding public works, taking into  
3 consideration local employment and economic factors.

4 (2) Except where necessary to address a public health need or  
5 substantial environmental degradation, a county, city, or town planning  
6 under RCW 36.70A.040 must have adopted a comprehensive plan, including  
7 a capital facilities plan element, and development regulations as  
8 required by RCW 36.70A.040. This subsection does not require any  
9 county, city, or town planning under RCW 36.70A.040 to adopt a  
10 comprehensive plan or development regulations before requesting or  
11 receiving a loan or loan guarantee under this chapter if such request  
12 is made before the expiration of the time periods specified in RCW  
13 36.70A.040. A county, city, or town planning under RCW 36.70A.040  
14 which has not adopted a comprehensive plan and development regulations  
15 within the time periods specified in RCW 36.70A.040 is not prohibited  
16 from receiving a loan or loan guarantee under this chapter if the  
17 comprehensive plan and development regulations are adopted as required  
18 by RCW 36.70A.040 before submitting a request for a loan or loan  
19 guarantee.

20 (3) In considering awarding loans for public facilities to special  
21 districts requesting funding for a proposed facility located in a  
22 county, city, or town planning under RCW 36.70A.040, the board shall  
23 consider whether the county, city, or town planning under RCW  
24 36.70A.040 in whose planning jurisdiction the proposed facility is  
25 located has adopted a comprehensive plan and development regulations as  
26 required by RCW 36.70A.040.

27 (4) The board shall develop a priority process for public works  
28 projects as provided in this section. The intent of the priority  
29 process is to maximize the value of public works projects accomplished  
30 with assistance under this chapter. The board shall attempt to assure  
31 a geographical balance in assigning priorities to projects. The board  
32 shall consider at least the following factors in assigning a priority  
33 to a project:

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

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

1 (c) The cost of the project compared to the size of the local  
2 government and amount of loan money available;

3 (d) The number of communities served by or funding the project;

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

6 (f) Whether the project is the acquisition, expansion, improvement,  
7 or renovation by a local government of a public water system that is in  
8 violation of health and safety standards, including the cost of  
9 extending existing service to such a system;

10 (g) The relative benefit of the project to the community,  
11 considering the present level of economic activity in the community and  
12 the existing local capacity to increase local economic activity in  
13 communities that have low economic growth; and

14 (h) Other criteria that the board considers advisable.

15 (5) Existing debt or financial obligations of local governments  
16 shall not be refinanced under this chapter. Each local government  
17 applicant shall provide documentation of attempts to secure additional  
18 local or other sources of funding for each public works project for  
19 which financial assistance is sought under this chapter.

20 (6) Before November 1 of each year, the board shall develop and  
21 submit to the appropriate fiscal committees of the senate and house of  
22 representatives a description of the loans made under RCW 43.155.065,  
23 43.155.068, and subsection (9) of this section during the preceding  
24 fiscal year and a prioritized list of projects which are recommended  
25 for funding by the legislature, including one copy to the staff of each  
26 of the committees. The list shall include, but not be limited to, a  
27 description of each project and recommended financing, the terms and  
28 conditions of the loan or financial guarantee, the local government  
29 jurisdiction and unemployment rate, demonstration of the jurisdiction's  
30 critical need for the project and documentation of local funds being  
31 used to finance the public works project. The list shall also include  
32 measures of fiscal capacity for each jurisdiction recommended for  
33 financial assistance, compared to authorized limits and state averages,  
34 including local government sales taxes; real estate excise taxes;  
35 property taxes; and charges for or taxes on sewerage, water, garbage,  
36 and other utilities.

37 (7) The board shall not sign contracts or otherwise financially  
38 obligate funds from the public works assistance account before the  
39 legislature has appropriated funds for a specific list of public works

1 projects. The legislature may remove projects from the list  
2 recommended by the board. The legislature shall not change the order  
3 of the priorities recommended for funding by the board.

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

6 (9)~~((a))~~ Loans made for the purpose of capital facilities plans  
7 shall be exempted from subsection (7) of this section. ~~((In no case  
8 shall the total amount of funds utilized for capital facilities plans  
9 and emergency loans exceed the limitation in RCW 43.155.065.~~

10 ~~(b) For the purposes of this section "capital facilities plans"~~  
11 ~~means those plans required by the growth management act, chapter 36.70A~~  
12 ~~RCW, and plans required by the public works board for local governments~~  
13 ~~not subject to the growth management act.)~~

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

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