

---

SENATE BILL 5745

---

State of Washington

62nd Legislature

2011 Regular Session

By Senators Kilmer, Parlette, Conway, Hobbs, and Keiser; by request of State Treasurer

Read first time 02/09/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to state assistance for financing local government  
2 infrastructure; amending RCW 43.155.010, 43.155.020, 43.155.030,  
3 43.155.055, 43.155.060, 43.155.065, 43.155.068, 43.155.070, 43.155.075,  
4 43.155.090, 43.155.100, 43.160.030, 43.160.035, 43.160.060, 36.135.010,  
5 36.135.020, 36.135.030, 36.135.040, 82.18.040, 82.16.020, and  
6 82.16.020; reenacting and amending RCW 43.155.050; adding a new section  
7 to chapter 36.135 RCW; creating a new section; providing an effective  
8 date; and providing an expiration date.

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

10 **Sec. 1.** RCW 43.155.010 and 1996 c 168 s 1 are each amended to read  
11 as follows:

12 (1) The legislature finds that ((there exists in the state of  
13 Washington over four billion dollars)) a 1998 local government  
14 infrastructure study documented that local governments in the state of  
15 Washington had a total funding need of over eight billion dollars worth  
16 of critical projects for the planning, acquisition, construction,  
17 repair, replacement, rehabilitation, or improvement of streets and  
18 roads, bridges, water systems, and storm and sanitary sewage systems.  
19 ((The December, 1983 Washington state public works report prepared by

1 the planning and community affairs agency documented that local  
2 governments expect to be capable of financing over two billion dollars  
3 worth of the costs of those critical projects but will not be able to  
4 fund nearly half of the documented needs.))

5 (2) The legislature further finds that Washington's local  
6 governments have unmet financial needs for solid waste disposal,  
7 including recycling, and encourages the board to make an equitable  
8 geographic distribution of the funds.

9 (3) The legislature further finds that local governments face  
10 financial challenges as they try to make needed infrastructure  
11 improvements, and that depositing certain utility and solid waste tax  
12 revenue into county-level local infrastructure assistance accounts will  
13 expand financing to be secured with those taxes.

14 (4) Therefore, the legislature intends to provide financing  
15 assistance to local governments to help them respond to the demands for  
16 infrastructure improvement, repair, and expansion related to health,  
17 safety, and the environment by creating an "infrastructure bank." The  
18 infrastructure bank will provide local government with credit support  
19 through contingent loan agreements between the state and local  
20 governments that will lower the borrowing cost for local governments  
21 that have the ability to borrow but do not have access to the highest  
22 credit ratings. In addition, a grant and loan program will benefit  
23 small or distressed local governments by reducing burdens on taxpayers'  
24 and ratepayers' while improving the health and safety of the residents  
25 and the environment.

26 (5) It is the policy of the state of Washington to encourage self-  
27 reliance by local governments in meeting their ((~~public works~~))  
28 infrastructure needs and to assist in the financing of critical  
29 ((~~public works~~)) infrastructure projects by making loans, ((~~financing~~  
30 ~~guarantees~~)) grants, credit support, and technical assistance available  
31 to local governments for these projects.

32 **Sec. 2.** RCW 43.155.020 and 2009 c 565 s 33 are each amended to  
33 read as follows:

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

36 (1) "Board" means the ((~~public works~~)) infrastructure financing  
37 board created in RCW 43.155.030.

1 (2) "Capital facility plan" means a capital facility plan required  
2 by the growth management act under chapter 36.70A RCW or, for local  
3 governments not fully planning under the growth management act, a plan  
4 required by the (~~(public works)~~) infrastructure financing board.

5 (3) "Contingent loan agreement" means an agreement between the  
6 state and a local government in which the state provides an absolute  
7 and unconditional commitment to make a loan to a local government from  
8 the infrastructure financing account in order to enhance the credit of  
9 local government borrowing.

10 (4) "Department" means the department of commerce.

11 (~~((4) "Financing guarantees" means the pledge of money in the~~  
12 ~~public works assistance account, or money to be received by the public~~  
13 ~~works assistance account, to the repayment of all or a portion of the~~  
14 ~~principal of or interest on obligations issued by local governments to~~  
15 ~~finance public works projects.))~~)

16 (5) "Infrastructure project" means a project of a local government  
17 for the planning, acquisition, construction, repair, reconstruction,  
18 replacement, rehabilitation, or improvement of streets and roads,  
19 bridges, water systems, storm and sanitary sewage systems, solid waste  
20 facilities, including recycling facilities, and flood control levees.  
21 A planning project may include the compilation of biological,  
22 hydrological, or other data on a county, drainage basin, or region  
23 necessary to develop a base of information for a capital facility plan.

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

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

36 (7) "Solid waste or recycling project" means remedial actions  
37 necessary to bring abandoned or closed landfills into compliance with  
38 regulatory requirements and the repair, restoration, and replacement of

1 existing solid waste transfer, recycling facilities, and landfill  
2 projects limited to the opening of landfill cells that are in existing  
3 and permitted landfills.

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

11 **Sec. 3.** RCW 43.155.030 and 1999 c 153 s 58 are each amended to  
12 read as follows:

13 (1) The ~~((public works))~~ infrastructure financing board is hereby  
14 created.

15 (2) The board shall be composed of thirteen members appointed by  
16 the governor for terms of four years, except that five members  
17 initially shall be appointed for terms of two years. The board shall  
18 include: (a) ~~((Three))~~ One member from the house of representatives to  
19 be appointed by the speaker of the house; (b) one member from the  
20 senate to be appointed by the president of the senate; (c) two members,  
21 ~~((two))~~ one of whom shall be an elected official~~((s))~~ and one shall be  
22 a public works manager, appointed from a list of at least six persons  
23 nominated by the association of Washington cities or its successor;  
24 ~~((b) three))~~ (d) two members, ~~((two))~~ one of whom shall be an elected  
25 official~~((s))~~ and one shall be a public works manager, appointed from  
26 a list of at least six persons nominated by the Washington state  
27 association of counties or its successor; ~~((c) three))~~ (e) two members  
28 appointed from a list of at least six persons nominated jointly by the  
29 Washington public utility districts association and a state association  
30 of water-sewer districts, or their successors; (f) the chair of the  
31 community economic revitalization board, pursuant to RCW 43.160.030;  
32 (g) one community economic revitalization board member chosen by the  
33 community economic revitalization board members; and ~~((d) four))~~ (h)  
34 three members appointed from the general public. In appointing the  
35 ~~((four))~~ general public members, the governor shall endeavor to balance  
36 the geographical composition of the board and to include members with  
37 special expertise in relevant fields such as public finance,

1 architecture and civil engineering, and public works or infrastructure  
2 construction. The governor shall appoint one of the general public  
3 members of the board as chair. The term of the chair shall coincide  
4 with the term of the governor.

5 (3) Staff support to the board shall be provided by the department.

6 (4) Members of the board shall receive no compensation but shall be  
7 reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

8 (5) If a vacancy on the board occurs by death, resignation, or  
9 otherwise, the governor shall fill the vacant position for the  
10 unexpired term. Each vacancy in a position appointed from lists  
11 provided by the associations under subsection (2) of this section shall  
12 be filled from a list of at least three persons nominated by the  
13 relevant association or associations. Any members of the board,  
14 appointive or otherwise, may be removed by the governor for cause in  
15 accordance with RCW 43.06.070 and 43.06.080.

16 **Sec. 4.** RCW 43.155.050 and 2010 1st sp.s. c 37 s 932 are each  
17 reenacted and amended to read as follows:

18 (1) The ((public works assistance)) infrastructure financing  
19 account is hereby established in the state treasury. Money may be  
20 placed in the ((public works assistance)) infrastructure financing  
21 account from the proceeds of bonds when authorized by the legislature  
22 or from any other lawful source. Moneys from the account may be  
23 expended only after appropriation.

24 (2) Money in the ((public works assistance)) infrastructure  
25 financing account shall be used ((to make loans and to give financial  
26 guarantees to local governments for public works projects.)) for the  
27 following types of assistance:

28 (a) Loans and grants for preconstruction and emergency activities,  
29 capital facility planning, and infrastructure projects. The loans and  
30 grants must be based on costs to taxpayers and ratepayers in relation  
31 to median household income; and

32 (b) Payments required under contingent loan agreements for  
33 infrastructure projects.

34 (3) Moneys in the account may also be appropriated to provide for  
35 state match requirements under federal law for projects and activities  
36 conducted and financed by the board under the drinking water assistance

1 account and for state match requirements under federal law for the  
2 water pollution control revolving fund program administered by the  
3 department of ecology.

4 (4) Not more than fifteen percent of the biennial capital budget  
5 appropriation to the ((~~public works~~)) infrastructure financing board  
6 from this account may be expended or obligated for preconstruction  
7 loans, emergency loans, or loans for capital facility planning under  
8 this chapter; of this amount, not more than ten percent of the biennial  
9 capital budget appropriation may be expended for emergency loans and  
10 not more than one percent of the biennial capital budget appropriation  
11 may be expended for capital facility planning loans. For the 2007-2009  
12 biennium, moneys in the account may be used for grants for projects  
13 identified in section 138, chapter 488, Laws of 2005 and section 1033,  
14 chapter 520, Laws of 2007. During the 2009-2011 fiscal biennium, sums  
15 in the public works assistance account may be used for the water  
16 pollution control revolving fund program match in section 3013, chapter  
17 36, Laws of 2010 1st sp. sess. During the 2009-2011 fiscal biennium,  
18 the legislature may transfer from the job development fund to the  
19 general fund such amounts as reflect the excess fund balance of the  
20 fund.

21 (5) Moneys in the account may be appropriated to provide financial  
22 assistance through the water system acquisition and rehabilitation  
23 program created in chapter 70.119A RCW.

24 **Sec. 5.** RCW 43.155.055 and 2003 c 330 s 1 are each amended to read  
25 as follows:

26 (1) A subaccount is created in the ((~~public works assistance~~))  
27 infrastructure financing account to receive money to fund the following  
28 projects: (a) Water storage projects; and (b) water systems  
29 facilities.

30 (2) The projects listed in subsection (1) of this section must  
31 comply with the competitive bid requirements of RCW 43.155.060.

32 (3) The subaccount created in subsection (1) of this section shall  
33 receive amounts appropriated to it for purposes of distributing these  
34 moneys as grants for water storage projects and water systems  
35 facilities projects as provided in the appropriation and this section.  
36 This subaccount shall be administered by the board and shall be

1 separate from the other programs managed by the board under this  
2 chapter.

3 (4) The subaccount created in this section shall be known as the  
4 water storage projects and water systems facilities subaccount of the  
5 (~~public works assistance~~) infrastructure financing account.

6 **Sec. 6.** RCW 43.155.060 and 1988 c 93 s 2 are each amended to read  
7 as follows:

8 (1)(a) In order to aid the financing of (~~public works~~)  
9 infrastructure projects, the board may:

10 (~~(1)~~) (i) Make low-interest or interest-free loans and make  
11 grants to local governments from the (~~public works assistance~~)  
12 infrastructure financing account or other funds and accounts for the  
13 purpose of assisting local governments in financing (~~public works~~)  
14 infrastructure projects. The board may require such terms and  
15 conditions and may charge such rates of interest on its loans as it  
16 deems necessary or convenient to carry out the purposes of this  
17 chapter. Money received from local governments in repayment of loans  
18 made under this section shall be paid into the (~~public works~~  
19 ~~assistance~~) infrastructure financing account for uses consistent with  
20 this chapter.

21 (ii) Make loans to local governments to assist those local  
22 governments to pay all or a portion of the principal of or interest on  
23 obligations issued to finance infrastructure projects pursuant to  
24 contingent loan agreements; and

25 (iii) Coordinate with the Washington state treasurer, who, on  
26 behalf of the state of Washington, may prescribe the terms of and enter  
27 into a contingent loan agreement between the state and a local  
28 government if the state treasurer determines that such a contingent  
29 loan agreement is financially prudent and is consistent with the  
30 provisions of this chapter. Contingent loan agreements may be entered  
31 into by the state treasurer only with local governments whose limited  
32 tax general obligations or senior revenue obligations, as applicable to  
33 the obligations concerned, are rated not higher than A1 or A+ by at  
34 least one of the nationally recognized rating agencies. The state's  
35 obligation to make any loan to a local government pursuant to the terms  
36 of a contingent loan agreement shall be subject to appropriation from

1 the infrastructure financing account. The office of the state  
2 treasurer may charge a fee to local governments to recover the costs of  
3 creating the contingent loan agreements.

4 (b) In order to provide for the state of Washington's obligations  
5 under the terms of contingent loan agreements, the legislature shall  
6 make provision, from time to time in appropriations acts, for such  
7 amounts as may be required to make timely payments from the  
8 infrastructure financing account.

9 ~~(2) ((Pledge money in the public works assistance account, or money~~  
10 ~~to be received by the public works assistance account, to the repayment~~  
11 ~~of all or a portion of the principal of or interest on obligations~~  
12 ~~issued by local governments to finance public works projects. The~~  
13 ~~board shall not pledge any amount greater than the sum of money in the~~  
14 ~~public works assistance account plus money to be received from the~~  
15 ~~payment of the debt service on loans made from that account, nor shall~~  
16 ~~the board))~~ Neither the board nor the state treasurer may pledge the  
17 faith and credit or the taxing power of the state or any agency or  
18 subdivision thereof to the repayment of obligations issued by any local  
19 government.

20 (3) In order to aid the financing of infrastructure projects, the  
21 board may:

22 (a) Create such subaccounts in the ((~~public works assistance~~))  
23 infrastructure financing account as the board deems necessary to carry  
24 out the purposes of this chapter((-

25 +4-)); and

26 (b) Provide a method for the allocation of loans ((~~and financing~~  
27 guarantees)), grants, and contingent loan agreements and the provision  
28 of technical assistance under this chapter.

29 (4) The board shall consult with the community economic  
30 revitalization board established under chapter 43.160 RCW to explore  
31 opportunities for coordination and consistency.

32 (5) All local ((~~public works~~)) infrastructure projects aided in  
33 whole or in part under the provisions of this chapter shall be put out  
34 for competitive bids, except for emergency ((~~public works~~))  
35 infrastructure projects under RCW 43.155.065 for which the recipient  
36 jurisdiction shall comply with this requirement to the extent feasible  
37 and practicable. The competitive bids called for shall be administered



1 in the same manner as all other (~~public works~~) infrastructure  
2 projects put out for competitive bidding by the local governmental  
3 entity aided under this chapter.

4 **Sec. 7.** RCW 43.155.065 and 2001 c 131 s 3 are each amended to read  
5 as follows:

6 The board may make low-interest or interest-free loans and grants  
7 to local governments for emergency (~~public works~~) infrastructure  
8 projects. Emergency (~~public works~~) infrastructure projects shall  
9 include the construction, repair, reconstruction, replacement,  
10 rehabilitation, or improvement of a public water system that is in  
11 violation of health and safety standards and is being operated by a  
12 local government on a temporary basis. The loans and grants may be  
13 used to help fund all or part of an emergency (~~public works~~)  
14 infrastructure project less any reimbursement from any of the following  
15 sources: (1) Federal disaster or emergency funds, including funds from  
16 the federal emergency management agency; (2) state disaster or  
17 emergency funds; (3) insurance settlements; or (4) litigation.

18 **Sec. 8.** RCW 43.155.068 and 2001 c 131 s 4 are each amended to read  
19 as follows:

20 (1) The board may make low-interest or interest-free loans and  
21 grants to local governments for preconstruction activities on (~~public~~  
22 ~~works~~) infrastructure projects (~~before the legislature approves the~~  
23 ~~construction phase of the project~~). Preconstruction activities  
24 include design, engineering, bid-document preparation, environmental  
25 studies, right-of-way acquisition, and other preliminary phases of  
26 (~~public works~~) infrastructure projects as determined by the board.

27 (2) The purpose of the loans and grants authorized in this section  
28 is to accelerate the completion of (~~public works~~) infrastructure  
29 projects by allowing preconstruction activities to be performed before  
30 (~~the approval of the construction phase of the project by the~~  
31 ~~legislature~~) full financing is obtained.

32 (~~(+2)~~) (3) Projects receiving loans and grants for preconstruction  
33 activities under this section must be evaluated using the priority  
34 process and factors in RCW 43.155.070(~~(+2)~~) (4). The receipt of a  
35 loan or grant for preconstruction activities does not ensure the  
36 receipt of a construction loan or grant for the project under this

1 chapter. (~~Construction loans for projects receiving a loan for~~  
2 ~~preconstruction activities under this section are subject to~~  
3 ~~legislative approval under RCW 43.155.070 (4) and (5).~~) The board  
4 shall adopt a single application process for local governments seeking  
5 both a loan and grant for preconstruction activities under this section  
6 and a construction loan and grant for the project.

7 **Sec. 9.** RCW 43.155.070 and 2009 c 518 s 16 are each amended to  
8 read as follows:

9 (1) To qualify for (~~loans or pledges~~) a loan, grant, or  
10 contingent loan agreement under this chapter the board must determine  
11 that a local government meets all of the following conditions:

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

14 (b) The local government must have developed a capital facility  
15 plan; (~~and~~)

16 (c) The local government must be using all local revenue sources  
17 which are reasonably available for funding (~~public works~~)  
18 infrastructure, taking into consideration local employment and economic  
19 factors;

20 (d) The local government must have an equitable sewer user charge  
21 system for residential, commercial, and industrial users that the  
22 governing body of the local government determines will provide for the  
23 maintenance and operation of that system and for the timely payment of  
24 all financial obligations of the planned sewer utility;

25 (e) The connection fees for new connections to a sewer system must  
26 reflect a fair share cost of infrastructure from which new connections  
27 will benefit;

28 (f) The local government must have a capital wastewater facilities  
29 reserve fund dedicated to paying for wastewater infrastructure and  
30 equipment replacement; and

31 (g) A sewer use ordinance must restrict certain connections and  
32 wastes to protect a local government's investment and enhance the  
33 wastewater treatment's process stability and effluent quality. The  
34 ordinance must, at a minimum:

35 (i) Require new sewers and connections to be properly designed and  
36 constructed;

1 (ii) Require a provision with a timeline and proximity in which  
2 existing and future residences must connect to the sewer system;

3 (iii) Prohibit inflow sources into the sewer system; and

4 (iv) Prohibit introduction of toxic or hazardous wastes into the  
5 sewer system in an amount or concentration that endangers the public's  
6 safety or the physical integrity of the system which may cause  
7 violations of the national pollutant discharge elimination system  
8 permit or state waste discharge permit.

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

27 (3) In considering awarding loans ~~((for public facilities to))~~ or  
28 grants, or entering into contingent loan agreements with a special  
29 district((s)) requesting funding for a proposed facility located in a  
30 county, city, or town planning under RCW 36.70A.040, the board shall  
31 consider whether the county, city, or town planning under RCW  
32 36.70A.040 in whose planning jurisdiction the proposed facility is  
33 located has adopted a comprehensive plan and development regulations as  
34 required by RCW 36.70A.040.

35 (4) The board shall develop a priority process for ~~((public-works))~~  
36 infrastructure projects as provided in this section. The intent of the  
37 priority process is to maximize the value of ~~((public-works))~~  
38 infrastructure projects accomplished with assistance under this

1 chapter. The board shall attempt to assure a geographical balance in  
2 assigning priorities to projects. The board shall consider at least  
3 the following factors in assigning a priority to a project:

4 (a) Whether the local government receiving assistance has  
5 experienced severe fiscal distress resulting from natural disaster or  
6 emergency (~~(public works)~~) infrastructure needs;

7 (~~(b) (Except as otherwise conditioned by RCW 43.155.110, whether~~  
8 ~~the entity receiving assistance is a Puget Sound partner, as defined in~~  
9 ~~RCW 90.71.010;~~

10 ~~(c))~~ If the project is located in the Puget Sound region, whether  
11 the project is referenced in the action agenda developed by the Puget  
12 Sound partnership (~~(under RCW 90.71.310)~~) and any project designed to  
13 address the effects of storm water or wastewater on Puget Sound may  
14 receive assistance under this section only if the project is not in  
15 conflict with the action agenda developed by the Puget Sound  
16 partnership under RCW 90.71.310;

17 ~~((d))~~ (c) Whether the project is critical in nature and would  
18 affect the health and safety of a great number of citizens;

19 ~~((e))~~ (d) Whether the applicant has developed and adhered to  
20 guidelines regarding its permitting process for those applying for  
21 development permits consistent with section 1(2), chapter 231, Laws of  
22 2007;

23 ~~((f))~~ (e) The cost of the project compared to the size of the  
24 local government and amount of loan money available;

25 ~~((g))~~ (f) The number of communities served by or funding the  
26 project;

27 ~~((h))~~ (g) Whether the project is located in an area of high  
28 unemployment, compared to the average state unemployment;

29 ~~((i))~~ (h) Whether the project is the acquisition, expansion,  
30 improvement, or renovation by a local government of a public water  
31 system that is in violation of health and safety standards, including  
32 the cost of extending existing service to such a system;

33 ~~((j))~~ (i) Except as otherwise conditioned by RCW 43.155.120, and  
34 effective one calendar year following the development of model  
35 evergreen community management plans and ordinances under RCW  
36 35.105.050, whether the entity receiving assistance has been  
37 recognized, and what gradation of recognition was received, in the  
38 evergreen community recognition program created in RCW 35.105.030;

1       ~~((k))~~ (j) The relative benefit of the project to the community,  
2 considering the present level of economic activity in the community and  
3 the existing local capacity to increase local economic activity in  
4 communities that have low economic growth;

5       (k) Whether the project is energy efficient, is leadership in  
6 energy and environmental design certified, or is a green building  
7 defined under an established program; and

8       (1) Other criteria that the board considers advisable.

9       (5) Existing debt or financial obligations of local governments  
10 shall not be refinanced under this chapter. Each local government  
11 applicant shall provide documentation of attempts to secure additional  
12 local or other sources of funding for each ~~((public works))~~  
13 infrastructure project for which financial assistance is sought under  
14 this chapter.

15       (6) Before November 1st of each even-numbered year, the board shall  
16 develop and submit to the appropriate fiscal committees of the senate  
17 and house of representatives a description of the loans, grants, and  
18 contingent loan agreements, including those made under RCW  
19 43.155.065~~((7))~~ and 43.155.068~~((7 and subsection (9) of this section))~~  
20 during the preceding fiscal year ~~((and a prioritized list of projects~~  
21 ~~which are recommended for funding by the legislature))~~, including one  
22 copy to the staff of each of the committees. The list shall include,  
23 but not be limited to, a description of each project and recommended  
24 financing, the terms and conditions of the loan ~~((or financial~~  
25 ~~guarantee))~~, grant, or contingent loan agreement, the local government  
26 jurisdiction and unemployment rate, demonstration of the jurisdiction's  
27 critical need for the project and documentation of local funds being  
28 used to finance the ~~((public works))~~ infrastructure project. The list  
29 shall also include measures of fiscal capacity for each jurisdiction  
30 ~~((recommended for))~~ that received financial assistance, compared to  
31 authorized limits and state averages, including local government sales  
32 taxes; real estate excise taxes; property taxes; and charges for or  
33 taxes on sewerage, water, garbage, and other utilities.

34       ~~((The board shall not sign contracts or otherwise financially~~  
35 ~~obligate funds from the public works assistance account before the~~  
36 ~~legislature has appropriated funds for a specific list of public works~~  
37 ~~projects. The legislature may remove projects from the list~~

1 ~~recommended by the board. The legislature shall not change the order~~  
2 ~~of the priorities recommended for funding by the board.~~

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

5 ~~(9) Loans made for the purpose of capital facilities plans shall be~~  
6 ~~exempted from subsection (7) of this section.~~

7 ~~(10)) To qualify for ((loans or pledges))~~ a loan, grant, or  
8 contingent loan agreement for solid waste or recycling facilities under  
9 this chapter, a city or county must demonstrate that the solid waste or  
10 recycling facility is consistent with and necessary to implement the  
11 comprehensive solid waste management plan adopted by the city or county  
12 under chapter 70.95 RCW.

13 ~~((11) After January 1, 2010, any project designed to address the~~  
14 ~~effects of storm water or wastewater on Puget Sound may be funded under~~  
15 ~~this section only if the project is not in conflict with the action~~  
16 ~~agenda developed by the Puget Sound partnership under RCW 90.71.310.))~~

17 **Sec. 10.** RCW 43.155.075 and 2001 c 227 s 10 are each amended to  
18 read as follows:

19 In providing loans or grants for ~~((public works))~~ infrastructure  
20 projects, the board shall require recipients to incorporate the  
21 environmental benefits of the project into their applications, and the  
22 board shall utilize the statement of environmental benefits in its  
23 prioritization and selection process. The board shall also develop  
24 appropriate outcome-focused performance measures to be used both for  
25 management and performance assessment of the loan or grant program. To  
26 the extent possible, the department should coordinate its performance  
27 measure system with other natural resource-related agencies as defined  
28 in RCW 43.41.270. The board shall consult with affected interest  
29 groups in implementing this section.

30 **Sec. 11.** RCW 43.155.090 and 1987 c 19 s 6 are each amended to read  
31 as follows:

32 Loans from the ~~((public works assistance))~~ infrastructure financing  
33 account under this chapter shall be made by loan agreement under  
34 chapter 39.69 RCW.

1           **Sec. 12.** RCW 43.155.100 and 2002 c 329 s 11 are each amended to  
2 read as follows:

3           The water conservation account is created in the custody of the  
4 state treasurer. All receipts from federal funding dedicated to water  
5 conservation under 16 U.S.C. Sec. 3831 shall be deposited in the  
6 account. In addition, the legislature may appropriate money to the  
7 account. The account is subject to allotment procedures under chapter  
8 43.88 RCW, but an appropriation is not required for expenditures.  
9 Expenditures from the account shall be used for the development and  
10 support of water conservation as defined by 16 U.S.C. Sec. 3831. Only  
11 the (~~public works~~) infrastructure financing board or its designee may  
12 make expenditures from the account.

13           **Sec. 13.** RCW 43.160.030 and 2008 c 327 s 3 are each amended to  
14 read as follows:

15           (1) The community economic revitalization board is hereby created  
16 to exercise the powers granted under this chapter.

17           (2) The board shall consist of one member from (~~each of the two~~  
18 ~~major caucuses of~~) the house of representatives to be appointed by the  
19 speaker of the house and one member from (~~each of the two major~~  
20 ~~caucuses of~~) the senate to be appointed by the president of the  
21 senate. The board shall also consist of the following members  
22 appointed by the governor: A recognized private or public sector  
23 economist; one port district official; one county official; one city  
24 official; one representative of a federally recognized Indian tribe;  
25 one representative of the public; one representative of small  
26 businesses each from: (a) The area west of Puget Sound, (b) the area  
27 east of Puget Sound and west of the Cascade range, (c) the area east of  
28 the Cascade range and west of the Columbia river, and (d) the area east  
29 of the Columbia river; one executive from large businesses each from  
30 the area west of the Cascades and the area east of the Cascades. The  
31 appointive members shall initially be appointed to terms as follows:  
32 Three members for one-year terms, three members for two-year terms, and  
33 three members for three-year terms which shall include the chair.  
34 Thereafter each succeeding term shall be for three years. The chair of  
35 the board shall be selected by the governor. The members of the board  
36 shall elect one of their members to serve as vice chair. The director  
37 of (~~community, trade, and economic development~~) commerce, the

1 director of revenue, the commissioner of employment security, and the  
2 secretary of transportation shall serve as nonvoting advisory members  
3 of the board.

4 (3) Management services, including fiscal and contract services,  
5 shall be provided by the department to assist the board in implementing  
6 this chapter.

7 (4) Members of the board shall be reimbursed for travel expenses as  
8 provided in RCW 43.03.050 and 43.03.060.

9 (5) If a vacancy occurs by death, resignation, or otherwise of  
10 appointive members of the board, the governor shall fill the same for  
11 the unexpired term. Members of the board may be removed for  
12 malfeasance or misfeasance in office, upon specific written charges by  
13 the governor, under chapter 34.05 RCW.

14 (6) A member appointed by the governor may not be absent from more  
15 than fifty percent of the regularly scheduled meetings in any one  
16 calendar year. Any member who exceeds this absence limitation is  
17 deemed to have withdrawn from the office and may be replaced by the  
18 governor.

19 (7) A majority of members currently appointed constitutes a quorum.

20 **Sec. 14.** RCW 43.160.035 and 2003 c 151 s 2 are each amended to  
21 read as follows:

22 ((Each)) (1) The member of the house of representatives who is  
23 appointed to the community economic revitalization board under RCW  
24 43.160.030 may designate another member from the house of  
25 representatives to take his or her place on the board for meetings at  
26 which the member will be absent(~~(, as long as the designated member~~  
27 ~~belongs to the same caucus. The designee shall have all powers to vote~~  
28 ~~and participate in board deliberations as have the other board~~  
29 ~~members)). ((Each)) The member of the senate who is appointed to the  
30 community economic revitalization board under RCW 43.160.030 may  
31 designate another member from the senate to take his or her place on  
32 the board for meetings at which the member will be absent(~~(, as long as~~  
33 ~~the designated member belongs to the same caucus. The designee shall~~  
34 ~~have all powers to vote and participate in board deliberations as have~~  
35 ~~the other board members)). Each agency head of an executive agency who  
36 is appointed to serve as a nonvoting advisory member of the community~~~~



1 economic revitalization board under RCW 43.160.030 may designate an  
2 agency employee to take his or her place on the board for meetings at  
3 which the agency head will be absent.

4 ~~((The))~~ (2) Designees ~~((will))~~ under this section have all powers  
5 to participate in board deliberations as have the other board members  
6 but shall not have voting powers.

7 **Sec. 15.** RCW 43.160.060 and 2008 c 327 s 5 are each amended to  
8 read as follows:

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

27 (2) Application for funds shall be made in the form and manner as  
28 the board may prescribe. In making grants or loans the board shall  
29 conform to the following requirements:

30 ~~((+1+))~~ (a) The board shall not provide financial assistance:

31 ~~((+a+))~~ (i) For a project the primary purpose of which is to  
32 facilitate or promote a retail shopping development or expansion.

33 ~~((+b+))~~ (ii) For any project that evidence exists would result in  
34 a development or expansion that would displace existing jobs in any  
35 other community in the state.

36 ~~((+e+))~~ (iii) For a project the primary purpose of which is to  
37 facilitate or promote gambling.

1        ~~((d))~~ (iv) For a project located outside the jurisdiction of the  
2 applicant political subdivision or federally recognized Indian tribe.  
3        ~~((2))~~ (b) The board shall only provide financial assistance:  
4        ~~((a))~~ (i) For a project demonstrating convincing evidence that a  
5 specific private development or expansion is ready to occur and will  
6 occur only if the public facility improvement is made that:  
7        ~~((i))~~ (A) Results in the creation of significant private sector  
8 jobs or significant private sector capital investment as determined by  
9 the board and is consistent with the state comprehensive economic  
10 development plan developed by the Washington economic development  
11 commission pursuant to chapter 43.162 RCW, once the plan is adopted;  
12 and  
13        ~~((ii))~~ (B) Will improve the opportunities for the successful  
14 maintenance, establishment, or expansion of industrial or commercial  
15 plants or will otherwise assist in the creation or retention of long-  
16 term economic opportunities;  
17        ~~((b))~~ (ii) For a project that cannot meet the requirement of  
18 ~~((a))~~ (b)(i) of this subsection but is a project that:  
19        ~~((i))~~ (A) Results in the creation of significant private sector  
20 jobs or significant private sector capital investment as determined by  
21 the board and is consistent with the state comprehensive economic  
22 development plan developed by the Washington economic development  
23 commission pursuant to chapter 43.162 RCW, once the plan is adopted;  
24        ~~((ii))~~ (B) Is part of a local economic development plan  
25 consistent with applicable state planning requirements;  
26        ~~((iii))~~ (C) Can demonstrate project feasibility using standard  
27 economic principles; and  
28        ~~((iv))~~ (D) Is located in a rural community as defined by the  
29 board, or a rural county;  
30        ~~((e))~~ (iii) For site-specific plans, studies, and analyses that  
31 address environmental impacts, capital facilities, land use,  
32 permitting, feasibility, marketing, project engineering, design, site  
33 planning, and project debt and revenue impacts, as grants not to exceed  
34 fifty thousand dollars.  
35        ~~((3))~~ (c) The board shall consult with the infrastructure  
36 financing board established under chapter 43.155 RCW to explore  
37 opportunities for coordination and consistency.

1        (d) The board shall develop guidelines for local participation and  
2 allowable match and activities.

3        ~~((+4))~~ (e) An application must demonstrate local match and local  
4 participation, in accordance with guidelines developed by the board.

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

9        ~~((+6))~~ (g) The board may allow de minimis general system  
10 improvements to be funded if they are critically linked to the  
11 viability of the project.

12        ~~((+7))~~ (h) An application must demonstrate convincing evidence  
13 that the median hourly wage of the private sector jobs created after  
14 the project is completed will exceed the countywide median hourly wage.

15        ~~((+8))~~ (i) The board shall prioritize each proposed project  
16 according to:

17        ~~((+a))~~ (i) The relative benefits provided to the community by the  
18 jobs the project would create, not just the total number of jobs it  
19 would create after the project is completed, but also giving  
20 consideration to the unemployment rate in the area in which the jobs  
21 would be located;

22        ~~((+b))~~ (ii) The rate of return of the state's investment,  
23 including, but not limited to, the leveraging of private sector  
24 investment, anticipated job creation and retention, and expected  
25 increases in state and local tax revenues associated with the project;

26        ~~((+c))~~ (iii) Whether the proposed project offers a health  
27 insurance plan for employees that includes an option for dependents of  
28 employees;

29        ~~((+d))~~ (iv) Whether the public facility investment will increase  
30 existing capacity necessary to accommodate projected population and  
31 employment growth in a manner that supports infill and redevelopment of  
32 existing urban or industrial areas that are served by adequate public  
33 facilities. Projects should maximize the use of existing  
34 infrastructure and provide for adequate funding of necessary  
35 transportation improvements; and

36        ~~((+e))~~ (v) Whether the applicant has developed and adhered to  
37 guidelines regarding its permitting process for those applying for

1 development permits consistent with section 1(2), chapter 231, Laws of  
2 2007.

3 ((+9)) (j) A responsible official of the political subdivision or  
4 the federally recognized Indian tribe shall be present during board  
5 deliberations and provide information that the board requests.

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

12 **Sec. 16.** RCW 36.135.010 and 2009 c 45 s 1 are each amended to read  
13 as follows:

14 Unless the context clearly requires otherwise, the definitions in  
15 this section apply throughout this chapter.

16 (1) "Capital facilities plan" means a capital facilities plan  
17 required under chapter 36.70A RCW.

18 (2) "Local government" means cities, towns, counties, special  
19 purpose districts, and any other municipal corporations or quasi-  
20 municipal corporations in the state, excluding school districts and  
21 port districts.

22 (3) "~~(Public works project)~~ Infrastructure" means a project of a  
23 local government for the planning, acquisition, construction, repair,  
24 reconstruction, replacement, rehabilitation, or improvement of streets  
25 and roads, bridges, water systems, or storm and sanitary sewage  
26 systems, flood control levees, and solid waste facilities, including  
27 recycling facilities.

28 **Sec. 17.** RCW 36.135.020 and 2009 c 45 s 2 are each amended to read  
29 as follows:

30 (1) County legislative authorities may establish local ~~(public  
31 works)~~ infrastructure assistance funds and local infrastructure boards  
32 for the purpose of funding ~~(public works)~~ infrastructure projects  
33 located wholly or partially within the county. Counties may form  
34 multicounty local infrastructure funds for the purpose of funding  
35 infrastructure projects located in more than one county and are  
36 authorized to contract with the infrastructure financing board,

1 pursuant to chapter 39.34 RCW, to administer the fund. Moneys may be  
2 deposited in local ((public-works)) infrastructure assistance funds  
3 from existing revenue sources of the county and from the local  
4 infrastructure account created in section 23 of this act.

5 (2) The county legislative authorities must appoint members of the  
6 local infrastructure boards, which must be composed of a county  
7 official, two officials from the different cities or towns within the  
8 county, and one official from a utility district that operates within  
9 the county.

10 (3) Moneys deposited in local ((public-works)) infrastructure  
11 assistance funds, and interest earned on balances from the funds, may  
12 only be used:

13 (a) To make loans to the county and to other local governments for  
14 funding ((public-works)) infrastructure projects as provided in this  
15 chapter; ((and))

16 (b) To make grants to the county and to other local governments.

17 (i) When a project owner has entered into a contingent loan  
18 agreement with the state with respect to financing an infrastructure  
19 project, if the project owner is obligated to repay a loan from the  
20 state that has been made pursuant to a contingent loan agreement, then  
21 the first use of any grant award payments thereafter must be used to  
22 repay the state before being applied to any other purpose; or

23 (ii) When a project owner has entered into a contingent loan  
24 agreement with the state with respect to financing an infrastructure  
25 project, and if the project owner is not obligated to repay a loan from  
26 the state that has been made pursuant to a contingent loan agreement,  
27 the first use of any grant award payments thereafter must be used to  
28 repay the infrastructure loan before being applied to any other  
29 purpose; and

30 (c) For costs incurred in the administration of funds.

31 ((+3)) (4) No more than fifty percent of the moneys loaned or  
32 granted from a fund in a calendar year may be loaned or granted to the  
33 county providing local ((public-works)) infrastructure assistance  
34 funds. At least twenty-five percent of the moneys anticipated to be  
35 loaned or granted from a fund in a calendar year must be made available  
36 for funding ((public-works)) infrastructure projects in cities or  
37 towns.



1 prioritization process for funding (~~(public works)~~) infrastructure  
2 projects that gives priority to projects necessary to address public  
3 health needs, substantial environmental degradation, or increases  
4 existing capacity necessary to accommodate projected population and  
5 employment growth. This prioritization process must be:

6 (a) Completed collaboratively with public works directors of local  
7 governments within the county;

8 (b) Documented in the form of written findings produced by the  
9 county; and

10 (c) Revised periodically according to a schedule developed by the  
11 county and the public works directors.

12 (2) In addition to the requirements under subsection (1) of this  
13 section, (~~(legislative authorities)~~) local infrastructure boards  
14 providing funding to other local governments under this chapter must  
15 consider, through a competitive application process, the following  
16 factors in assigning a priority to and funding a project:

17 (a) Whether the local government applying for assistance has  
18 experienced severe fiscal distress resulting from natural disaster or  
19 emergency (~~(public works)~~) infrastructure needs;

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

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

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

25 (e) Whether the project is the acquisition, expansion, improvement,  
26 or renovation by a local government of a public water system that is in  
27 violation of health and safety standards;

28 (f) The number of additional housing units estimated to be achieved  
29 by funding the project;

30 (g) The additional jobs estimated to be achieved by funding the  
31 project; (~~and~~)

32 (h) Whether the project is subject to a contingent loan agreement  
33 with the state; and

34 (i) Other criteria the (~~county legislative authority~~) local  
35 infrastructure board deems appropriate.

36 **Sec. 20.** RCW 82.18.040 and 2000 c 103 s 11 are each amended to  
37 read as follows:

1       (1) Taxes collected under this chapter (~~shall~~) must be held in  
2 trust until paid to the state. Taxes received by the state (~~shall~~)  
3 must be deposited in the (~~public works~~) local infrastructure  
4 assistance account created in (~~RCW 43.155.050~~) section 23 of this  
5 act. Any person collecting the tax who appropriates or converts the  
6 tax collected (~~shall be~~) is guilty of a gross misdemeanor if the  
7 money required to be collected is not available for payment on the date  
8 payment is due. If a taxpayer fails to pay the tax imposed by this  
9 chapter to the person charged with collection of the tax and the person  
10 charged with collection fails to pay the tax to the department, the  
11 department may, in its discretion, proceed directly against the  
12 taxpayer for collection of the tax.

13       (2) The tax (~~shall be~~) is due from the taxpayer within twenty-  
14 five days from the date the taxpayer is billed by the person collecting  
15 the tax.

16       (3) The tax (~~shall be~~) is due from the person collecting the tax  
17 at the end of the tax period in which the tax is received from the  
18 taxpayer. If the taxpayer remits only a portion of the total amount  
19 billed for taxes, consideration, and related charges, the amount  
20 remitted (~~shall~~) must be applied first to payment of the solid waste  
21 collection tax and this tax (~~shall have~~) has priority over all other  
22 claims to the amount remitted.

23       **Sec. 21.** RCW 82.16.020 and 2009 c 469 s 702 are each amended to  
24 read as follows:

25       (1) There is levied and (~~there shall be~~) collected from every  
26 person a tax for the act or privilege of engaging within this state in  
27 any one or more of the businesses herein mentioned. The tax (~~shall~~  
28 ~~be~~) is equal to the gross income of the business, multiplied by the  
29 rate set out after the business, as follows:

30       (a) Express, sewerage collection, and telegraph businesses: Three  
31 and six-tenths percent;

32       (b) Light and power business: Three and sixty-two one-hundredths  
33 percent;

34       (c) Gas distribution business: Three and six-tenths percent;

35       (d) Urban transportation business: Six-tenths of one percent;

36       (e) Vessels under sixty-five feet in length, except tugboats,  
37 operating upon the waters within the state: Six-tenths of one percent;



1 (f) Motor transportation, railroad, railroad car, and tugboat  
2 businesses, and all public service businesses other than ones mentioned  
3 above: One and eight-tenths of one percent;

4 (g) Water distribution business: Four and seven-tenths percent;

5 (h) Log transportation business: One and twenty-eight one-  
6 hundredths percent.

7 (2) An additional tax is imposed equal to the rate specified in RCW  
8 82.02.030 multiplied by the tax payable under subsection (1) of this  
9 section.

10 (3) Twenty percent of the moneys collected under subsection (1) of  
11 this section on water distribution businesses and sixty percent of the  
12 moneys collected under subsection (1) of this section on sewerage  
13 collection businesses (~~shall~~) must be deposited in the (~~public~~  
14 ~~works~~) local infrastructure assistance account created in (~~RCW~~  
15 ~~43.155.050~~) section 23 of this act.

16 **Sec. 22.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to read  
17 as follows:

18 (1) There is levied and (~~there shall be~~) collected from every  
19 person a tax for the act or privilege of engaging within this state in  
20 any one or more of the businesses herein mentioned. The tax (~~shall~~  
21 ~~be~~) is equal to the gross income of the business, multiplied by the  
22 rate set out after the business, as follows:

23 (a) Express, sewerage collection, and telegraph businesses: Three  
24 and six-tenths percent;

25 (b) Light and power business: Three and sixty-two one-hundredths  
26 percent;

27 (c) Gas distribution business: Three and six-tenths percent;

28 (d) Urban transportation business: Six-tenths of one percent;

29 (e) Vessels under sixty-five feet in length, except tugboats,  
30 operating upon the waters within the state: Six-tenths of one percent;

31 (f) Motor transportation, railroad, railroad car, and tugboat  
32 businesses, and all public service businesses other than ones mentioned  
33 above: One and eight-tenths of one percent;

34 (g) Water distribution business: Four and seven-tenths percent.

35 (2) An additional tax is imposed equal to the rate specified in RCW  
36 82.02.030 multiplied by the tax payable under subsection (1) of this  
37 section.

1 (3) Twenty percent of the moneys collected under subsection (1) of  
2 this section on water distribution businesses and sixty percent of the  
3 moneys collected under subsection (1) of this section on sewerage  
4 collection businesses (~~(shall)~~) must be deposited in the (~~(public~~  
5 ~~works)~~) local infrastructure assistance account created in (~~(RCW~~  
6 ~~43.155.050)~~) section 23 of this act.

7 NEW SECTION. **Sec. 23.** A new section is added to chapter 36.135  
8 RCW to read as follows:

9 The local infrastructure assistance account is created in the state  
10 treasury. All receipts from taxes allocated to the account under RCW  
11 82.16.020(3) and 82.18.040 must be deposited in the account. Money  
12 placed in the account may be spent only after appropriation. At least  
13 twice a year, the state treasurer must distribute money in the account  
14 to all counties on the basis of population. Counties must place any  
15 funds received under this section into a local infrastructure fund and  
16 must use the money in accordance with this chapter.

17 NEW SECTION. **Sec. 24.** This act applies to tax collections  
18 received by the state on or after August 1, 2011.

19 NEW SECTION. **Sec. 25.** Section 21 of this act expires June 30,  
20 2013.

21 NEW SECTION. **Sec. 26.** Section 22 of this act takes effect June  
22 30, 2013.

--- END ---