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**SUBSTITUTE SENATE BILL 5033**

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**State of Washington**                      **65th Legislature**                      **2017 Regular Session**

**By Senate Ways & Means** (originally sponsored by Senators Keiser, Honeyford, Frockt, Warnick, Conway, and Palumbo)

READ FIRST TIME 02/24/17.

1            AN ACT Relating to financing essential public infrastructure;  
2 amending RCW 43.155.020, 43.155.040, 43.155.060, 43.155.065,  
3 43.155.068, 43.155.070, 43.155.075, 43.155.120, 82.45.060, 82.16.020,  
4 82.18.040, and 39.36.060; reenacting and amending RCW 43.155.050;  
5 adding new sections to chapter 43.155 RCW; adding new sections to  
6 chapter 43.180 RCW; creating a new section; providing an effective  
7 date; providing a contingent effective date; and declaring an  
8 emergency.

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

10

**PART 1**

11

**FINDINGS AND INTENT**

12            NEW SECTION.            **Sec. 101.**            The legislature finds that local  
13 governments that borrow small amounts or access capital markets  
14 infrequently can have difficulty accessing low-cost financing for  
15 their essential public infrastructure projects. Competition has  
16 increased between prior efforts to finance essential public  
17 infrastructure projects with state tax resources and other growing  
18 essential demands on those same state taxes. This competition has  
19 eroded the reliability of state tax funded public infrastructure  
20 financing programs that in turn has created uncertainty and delay in

1 improving local public infrastructure. The state's excellent credit  
2 standing and frequency of access to capital markets allows the state  
3 to issue bonds at a significantly lower total cost than can be  
4 obtained by many local governments. Therefore, the legislature  
5 intends to improve access and reliability to low-cost financing for  
6 local government infrastructure projects by authorizing public works  
7 bonds when local governments can demonstrate: (1) The importance of  
8 the project; (2) their difficulties accessing existing private credit  
9 markets for borrowings at reasonable interest rates; and (3) the  
10 ability to reliably repay their share of the state's total cost of  
11 retiring the public works bonds.

12 **PART 2**

13 **CHANGES TO THE EXISTING PUBLIC WORKS PROGRAM**

14 **Sec. 201.** RCW 43.155.020 and 2009 c 565 s 33 are each amended to  
15 read as follows:

16 ~~((Unless the context clearly requires otherwise,))~~ The  
17 definitions in this section ((shall)) apply throughout this chapter  
18 unless the context clearly requires otherwise.

19 (1) "Board" means the public works board created in RCW  
20 43.155.030.

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

25 (3) "Department" means the department of commerce.

26 (4) ~~((("Financing guarantees" means the pledge of money in the~~  
27 ~~public works assistance account, or money to be received by the~~  
28 ~~public works assistance account, to the repayment of all or a portion~~  
29 ~~of the principal of or interest on obligations issued by local~~  
30 ~~governments to finance public works projects.~~

31 ~~(+5))~~ "Local governments" means cities, towns, counties, special  
32 purpose districts, and any other municipal corporations or quasi-  
33 municipal corporations in the state excluding school districts and  
34 port districts.

35 ~~((+6))~~ (5) "Public works financing assistance program" is the  
36 program established in sections 301 through 305 of this act.

1        (6) "Public works financing loans" are loans made with bond  
2 proceeds of bonds issued by the state and repaid from loan repayments  
3 under provisions of the public works financing assistance program.

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

12        ~~((+7))~~ (8) "Solid waste or recycling project" means remedial  
13 actions necessary to bring abandoned or closed landfills into  
14 compliance with regulatory requirements and the repair, restoration,  
15 and replacement of existing solid waste transfer, recycling  
16 facilities, and landfill projects limited to the opening of landfill  
17 cells that are in existing and permitted landfills.

18        ~~((+8))~~ (9) "Technical assistance" means training and other  
19 services provided to local governments to: (a) Help such local  
20 governments plan, apply, and qualify for loans and financing  
21 guarantees from the board, and (b) help local governments improve  
22 their ability to plan for, finance, acquire, construct, repair,  
23 replace, rehabilitate, and maintain public facilities.

24        **Sec. 202.** RCW 43.155.040 and 1985 c 446 s 10 are each amended to  
25 read as follows:

26        The board may:

27        (1) Accept from any state or federal agency, loans or grants for  
28 the planning or financing of any public works project and enter into  
29 agreements with any such agency concerning the loans or grants;

30        (2) Provide technical assistance to local governments;

31        (3) Accept any gifts, grants, or loans of funds, property, or  
32 financial or other aid in any form from any other source on any terms  
33 and conditions which are not in conflict with this chapter;

34        (4) Adopt rules under chapter 34.05 RCW as necessary to carry out  
35 the purposes of this chapter;

36        (5) Do all acts and things necessary or convenient to carry out  
37 the powers expressly granted or implied under this chapter;

38        (6) Implement the public works financing assistance program.

1       **Sec. 203.** RCW 43.155.050 and 2015 3rd sp.s. c 4 s 959 and 2015  
2 3rd sp.s. c 3 s 7032 are each reenacted and amended to read as  
3 follows:

4       The public works assistance account is (~~hereby~~) established in  
5 the state treasury. (~~Money may be placed in the public works~~  
6 ~~assistance account from the proceeds of bonds when authorized by the~~  
7 ~~legislature or from any other lawful source.~~) Money in the public  
8 works assistance account shall be used to make loans (~~and to give~~  
9 ~~financial guarantees~~) to local governments for public works  
10 projects. Moneys in the account may also be appropriated or  
11 transferred to the water pollution control revolving account and the  
12 drinking water assistance account to provide for state match  
13 requirements under federal law (~~for projects and activities~~  
14 ~~conducted and financed by the board under the drinking water~~  
15 ~~assistance account. 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)). Money in the account may also  
18 be appropriated for the administration of the public works financing  
19 assistance program. Money in the account may also be appropriated for  
20 preconstruction loans(~~(,)~~) and emergency loans(~~(, or loans for~~  
21 ~~capital facility planning under this chapter; of this amount, not~~  
22 ~~more than ten percent of the biennial capital budget appropriation~~  
23 ~~may be expended for emergency loans and not more than one percent of~~  
24 ~~the biennial capital budget appropriation may be expended for capital~~  
25 ~~facility planning loans. During the 2015-2017 fiscal biennium, the~~  
26 ~~legislature may transfer from the public works assistance account to~~  
27 ~~the general fund, the water pollution control revolving account, and~~  
28 ~~the drinking water assistance account such amounts as reflect the~~  
29 ~~excess fund balance of the account. During the 2013-2015 fiscal~~  
30 ~~biennium, the legislature may transfer from the public works~~  
31 ~~assistance account to the education legacy trust account such amounts~~  
32 ~~as specified by the legislature)). During the 2015-2017 fiscal~~  
33 ~~biennium, the legislature may appropriate moneys from the account for~~  
34 ~~activities related to the growth management act and the voluntary~~  
35 ~~stewardship program. During the 2015-2017 fiscal biennium, the~~  
36 ~~legislature may transfer from the public works assistance account to~~  
37 ~~the state general fund such amounts as specified by the legislature.~~  
38 In the 2017-2019 fiscal biennium the legislature intends to allocate  
39 seventy-three million dollars of future loan repayments paid into the  
40 public works assistance account to support basic education.~~

1       **Sec. 204.** RCW 43.155.060 and 1988 c 93 s 2 are each amended to  
2 read as follows:

3       (1) In order to aid the financing of public works projects, the  
4 board may:

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

15       ~~((2) Pledge money in the public works assistance account, or~~  
16 ~~money to be received by the public works assistance account, to the~~  
17 ~~repayment of all or a portion of the principal of or interest on~~  
18 ~~obligations issued by local governments to finance public works~~  
19 ~~projects. The board shall not pledge any amount greater than the sum~~  
20 ~~of money in the public works assistance account plus money to be~~  
21 ~~received from the payment of the debt service on loans made from that~~  
22 ~~account, nor shall the board pledge the faith and credit or the~~  
23 ~~taxing power of the state or any agency or subdivision thereof to the~~  
24 ~~repayment of obligations issued by any local government.~~

25       ~~(3))~~ (b) Create such subaccounts in the public works assistance  
26 account as the board deems necessary to carry out the purposes of  
27 this chapter.

28       ~~((4))~~ (c) Provide a method for the allocation of loans ~~((and~~  
29 ~~financing guarantees))~~ and the provision of technical assistance  
30 under this chapter.

31       (2) All local public works projects aided in whole or in part  
32 under the provisions of this chapter shall be put out for competitive  
33 bids, except for emergency public works under RCW 43.155.065 for  
34 which the recipient jurisdiction shall comply with this requirement  
35 to the extent feasible and practicable. The competitive bids called  
36 for shall be administered in the same manner as all other public  
37 works projects put out for competitive bidding by the local  
38 governmental entity aided under this chapter.

1       **Sec. 205.** RCW 43.155.065 and 2001 c 131 s 3 are each amended to  
2 read as follows:

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

15       **Sec. 206.** RCW 43.155.068 and 2001 c 131 s 4 are each amended to  
16 read as follows:

17       (1) The board may make low-interest or interest-free loans to  
18 local governments from the public works assistance account for  
19 preconstruction activities on public works projects before the  
20 legislature approves the construction phase of the project.  
21 Preconstruction activities include design, engineering, bid-document  
22 preparation, environmental studies, right-of-way acquisition, and  
23 other preliminary phases of public works projects as determined by  
24 the board. The purpose of the loans authorized in this section is to  
25 accelerate the completion of public works projects by allowing  
26 preconstruction activities to be performed before the approval of the  
27 construction phase of the project by the legislature.

28       (2) Projects receiving loans for preconstruction activities under  
29 this section must be evaluated using the priority process and factors  
30 in RCW 43.155.070(~~((+2))~~) (4). The receipt of a loan for  
31 preconstruction activities does not ensure the receipt of a  
32 construction loan for the project under this chapter. Construction  
33 loans for projects receiving a loan for preconstruction activities  
34 under this section are subject to legislative approval under RCW  
35 43.155.070 (~~((4) and (5))~~) (7) and (8). The board shall adopt a  
36 single application process for local governments seeking both a loan  
37 for preconstruction activities under this section and a construction  
38 loan for the project from the public works assistance account.

1       **Sec. 207.** RCW 43.155.070 and 2015 3rd sp.s. c 3 s 7033 are each  
2 amended to read as follows:

3       (1) To qualify for financial assistance from the public works  
4 assistance account under this chapter the board must determine that a  
5 local government meets all of the following conditions:

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

8       (b) The local government must have developed a capital facility  
9 plan; and

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

13       (2) Except where necessary to address a public health need or  
14 substantial environmental degradation, a county, city, or town  
15 planning under RCW 36.70A.040 may not receive financial assistance  
16 from the public works assistance account under this chapter unless it  
17 has adopted a comprehensive plan, including a capital facilities plan  
18 element, and development regulations as required by RCW 36.70A.040.  
19 This subsection does not require any county, city, or town planning  
20 under RCW 36.70A.040 to adopt a comprehensive plan or development  
21 regulations before requesting or receiving financial assistance under  
22 this chapter if such request is made before the expiration of the  
23 time periods specified in RCW 36.70A.040. A county, city, or town  
24 planning under RCW 36.70A.040 that has not adopted a comprehensive  
25 plan and development regulations within the time periods specified in  
26 RCW 36.70A.040 may apply for and receive financial assistance under  
27 this chapter if the comprehensive plan and development regulations  
28 are adopted as required by RCW 36.70A.040 before executing a  
29 contractual agreement for financial assistance with the board.

30       (3) In considering awarding financial assistance from the public  
31 works assistance account for public facilities to special districts  
32 requesting funding for a proposed facility located in a county, city,  
33 or town planning under RCW 36.70A.040, the board must consider  
34 whether the county, city, or town planning under RCW 36.70A.040 in  
35 whose planning jurisdiction the proposed facility is located has  
36 adopted a comprehensive plan and development regulations as required  
37 by RCW 36.70A.040.

38       (4) The board must develop a priority process for public works  
39 projects financed from the public works assistance account as  
40 provided in this section. The intent of the priority process is to

1 maximize the value of public works projects accomplished with  
2 assistance under this chapter. The board must attempt to (~~assure~~)  
3 ensure a geographical balance in assigning priorities to projects.  
4 The board must consider at least the following factors in assigning a  
5 priority to a project:

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

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

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

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

16 (e) Whether the applicant's permitting process has been certified  
17 as streamlined by the office of regulatory assistance;

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

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

23 (h) The number of communities served by or funding the project;

24 (i) Whether the project is located in an area of high  
25 unemployment, compared to the average state unemployment;

26 (j) Whether the project is the acquisition, expansion,  
27 improvement, or renovation by a local government of a public water  
28 system that is in violation of health and safety standards, including  
29 the cost of extending existing service to such a system;

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

36 (l) The relative benefit of the project to the community,  
37 considering the present level of economic activity in the community  
38 and the existing local capacity to increase local economic activity  
39 in communities that have low economic growth; and

40 (m) Other criteria that the board considers advisable.



1 (5) For the 2015-2017 fiscal biennium, in place of the criteria,  
2 ranking, and submission processes for construction loan lists  
3 provided in subsections (4) and (7) of this section:

4 (a) The board must develop a process for numerically ranking  
5 applications for construction loans submitted by local governments.  
6 The board must consider, at a minimum and in any order, the following  
7 factors in assigning a numerical ranking to a project:

8 (i) Whether the project is critical in nature and would affect  
9 the health and safety of many people;

10 (ii) The extent to which the project leverages nonstate funds;

11 (iii) The extent to which the project is ready to proceed to  
12 construction;

13 (iv) Whether the project is located in an area of high  
14 unemployment, compared to the average state unemployment;

15 (v) Whether the project promotes the sustainable use of resources  
16 and environmental quality;

17 (vi) Whether the project consolidates or regionalizes systems;

18 (vii) Whether the project encourages economic development through  
19 mixed-use and mixed income development consistent with chapter 36.70A  
20 RCW;

21 (viii) Whether the system is being well-managed in the present  
22 and for long-term sustainability;

23 (ix) Achieving equitable distribution of funds by geography and  
24 population;

25 (x) The extent to which the project meets the following state  
26 policy objectives:

27 (A) Efficient use of state resources;

28 (B) Preservation and enhancement of health and safety;

29 (C) Abatement of pollution and protection of the environment;

30 (D) Creation of new, family-wage jobs, and avoidance of shifting  
31 existing jobs from one Washington state community to another;

32 (E) Fostering economic development consistent with chapter 36.70A  
33 RCW;

34 (F) Efficiency in delivery of goods and services, public transit,  
35 and transportation;

36 (G) Avoidance of additional costs to state and local governments  
37 that adversely impact local residents and small businesses; and

38 (H) Reduction of the overall cost of public infrastructure; and

39 (xi) Other criteria that the board considers necessary to achieve  
40 the purposes of this chapter.

1 (b) Before November 1, 2016, the board must develop and submit to  
2 the appropriate fiscal committees of the senate and house of  
3 representatives a ranked list of qualified public works projects  
4 which have been evaluated by the board and are recommended for  
5 funding by the legislature. The maximum amount of funding that the  
6 board may recommend for any jurisdiction is ten million dollars per  
7 biennium. For each project on the ranked list, as well as for  
8 eligible projects not recommended for funding, the board must  
9 document the numerical ranking that was assigned.

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

15 (7) Before November 1st of each even-numbered year, the board  
16 must develop and submit to the appropriate fiscal committees of the  
17 senate and house of representatives a description of the loans made  
18 under RCW 43.155.065, 43.155.068, and subsection (10) of this section  
19 during the preceding fiscal year and a prioritized list of projects  
20 which are recommended for funding by the legislature, including one  
21 copy to the staff of each of the committees. The list must include,  
22 but not be limited to, a description of each project and recommended  
23 financing, the terms and conditions of the loan or financial  
24 guarantee, the local government jurisdiction and unemployment rate,  
25 demonstration of the jurisdiction's critical need for the project and  
26 documentation of local funds being used to finance the public works  
27 project. The list must also include measures of fiscal capacity for  
28 each jurisdiction recommended for financial assistance, compared to  
29 authorized limits and state averages, including local government  
30 sales taxes; real estate excise taxes; property taxes; and charges  
31 for or taxes on sewerage, water, garbage, and other utilities.

32 (8) The board may not sign contracts or otherwise financially  
33 obligate funds from the public works assistance account before the  
34 legislature has appropriated funds for a specific list of public  
35 works projects. The legislature may remove projects from the list  
36 recommended by the board. The legislature may not change the order of  
37 the priorities recommended for funding by the board.

38 (9) Subsection (8) of this section does not apply to loans made  
39 under RCW 43.155.065, 43.155.068, and subsection (10) of this  
40 section.

1 (10) Loans made for the purpose of capital facilities plans are  
2 exempted from subsection (8) of this section.

3 (11) To qualify for loans (~~(or pledges)~~) from the public works  
4 assistance account for solid waste or recycling facilities under this  
5 chapter, a city or county must demonstrate that the solid waste or  
6 recycling facility is consistent with and necessary to implement the  
7 comprehensive solid waste management plan adopted by the city or  
8 county under chapter 70.95 RCW.

9 (12) After January 1, 2010, any project designed to address the  
10 effects of storm water or wastewater on Puget Sound may be funded  
11 from the public works assistance account under this section only if  
12 the project is not in conflict with the action agenda developed by  
13 the Puget Sound partnership under RCW 90.71.310.

14 (13) During the 2015-2017 fiscal biennium, for projects funded  
15 from the public works assistance account involving repair,  
16 replacement, or improvement of a wastewater treatment plant or other  
17 public works facility for which an investment grade efficiency audit  
18 is obtainable, the public works board must require as a contract  
19 condition that the project sponsor undertake an investment grade  
20 efficiency audit. The project sponsor may finance the costs of the  
21 audit as part of its public works assistance account program loan.

22 (14)(~~(a)~~) For public works assistance account application  
23 rounds conducted during the 2015-2017 fiscal biennium, the board must  
24 implement policies and procedures designed to maximize local  
25 government use of federal funds to finance local infrastructure  
26 including, but not limited to, drinking water and clean water state  
27 revolving funds operated by the state departments of health and  
28 ecology. Projects that are eligible for the drinking water and clean  
29 water state revolving funds may receive public works board  
30 preconstruction loans. Projects that are eligible for the drinking  
31 water and clean water state revolving funds are not eligible for  
32 public works board construction loans. For purposes of this  
33 subsection "eligible for drinking water and clean water state  
34 revolving funds" means:

35 (~~(i)~~) (a) Projects that have applied to the state revolving  
36 funds and are awaiting a funding decision;

37 (~~(ii)~~) (b) Projects that have been rejected for funding solely  
38 due to not meeting readiness requirements; and

1        ~~((iii))~~ (c) Projects that have not applied, but would likely be  
2 eligible if the project applied and met the project readiness  
3 requirements.

4        ~~((b) For all construction loan projects proposed to the  
5 legislature for funding during the 2015-2017 fiscal biennium, the  
6 board must base interest rates on the average daily market interest  
7 rate for tax-exempt municipal bonds as published in the bond buyer's  
8 index for the period from sixty to thirty days before the start of  
9 the application cycle. For projects with a repayment period between  
10 five and twenty years, the rate must be sixty percent of the market  
11 rate. For projects with a repayment period under five years, the rate  
12 must be thirty percent of the market rate. The board must also  
13 provide reduced interest rates, extended repayment periods, or  
14 forgivable principal loans for projects that meet financial hardship  
15 criteria as measured by the affordability index or similar standard  
16 measure of financial hardship.))~~

17        **Sec. 208.** RCW 43.155.075 and 2001 c 227 s 10 are each amended to  
18 read as follows:

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

31        **Sec. 209.** RCW 43.155.120 and 2008 c 299 s 30 are each amended to  
32 read as follows:

33        When administering funds from the public works assistance account  
34 under this chapter, the board shall give preference only to an  
35 evergreen community recognized under RCW 35.105.030 in comparison to  
36 other entities that are eligible to receive evergreen community  
37 designation. Entities not eligible for designation as an evergreen

1 community shall not be given less preferential treatment than an  
2 evergreen community.

3 **Sec. 210.** RCW 82.45.060 and 2013 2nd sp.s. c 9 s 6 are each  
4 amended to read as follows:

5 There is imposed an excise tax upon each sale of real property at  
6 the rate of one and twenty-eight one-hundredths percent of the  
7 selling price. Beginning July 1, 2013, and ending June 30, 2019, an  
8 amount equal to two percent of the proceeds of this tax must be  
9 deposited in the public works assistance account created in RCW  
10 43.155.050, and an amount equal to four and one-tenth percent must be  
11 deposited in the education legacy trust account created in RCW  
12 83.100.230. ~~((Thereafter, an amount equal to six and one-tenth  
13 percent of the proceeds of this tax to the state treasurer must be  
14 deposited in the public works assistance account created in RCW  
15 43.155.050.))~~ Beginning July 1, 2019, an amount equal to six and one-  
16 tenth percent of the proceeds of this tax must be deposited in the  
17 education legacy trust account created in RCW 83.100.230. Except as  
18 otherwise provided in this section, an amount equal to one and six-  
19 tenths percent of the proceeds of this tax to the state treasurer  
20 must be deposited in the city-county assistance account created in  
21 RCW 43.08.290.

22 **Sec. 211.** RCW 82.16.020 and 2015 3rd sp.s. c 6 s 703 are each  
23 amended to read as follows:

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

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

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

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

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

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

1 (f) Motor transportation, railroad, railroad car, and tugboat  
2 businesses, and all public service businesses other than ones  
3 mentioned 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. The reduced rate established in this subsection  
7 (1)(h) is not subject to the ten-year expiration provision in RCW  
8 82.32.805(1)(a).

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

12 (3) Twenty percent of the moneys collected under subsection (1)  
13 of this section on water distribution businesses and sixty percent of  
14 the moneys collected under subsection (1) of this section on sewerage  
15 collection businesses must be deposited in the education legacy trust  
16 account created in RCW 83.100.230 (~~from July 1, 2013, through June~~  
17 ~~30, 2019, and thereafter in the public works assistance account~~  
18 ~~created in RCW 43.155.050~~)).

19 **Sec. 212.** RCW 82.18.040 and 2013 2nd sp.s. c 9 s 8 are each  
20 amended to read as follows:

21 (1) Taxes collected under this chapter must be held in trust  
22 until paid to the state. Except as otherwise provided in this  
23 subsection (1), taxes received by the state must be deposited in the  
24 public works assistance account created in RCW 43.155.050. For the  
25 period beginning July 1, 2011, and ending June 30, 2015, taxes  
26 received by the state under this chapter must be deposited in the  
27 general fund for general purpose expenditures. For fiscal years 2016,  
28 2017, and 2018, one-half of the taxes received by the state under  
29 this chapter must be deposited in the general fund for general  
30 purpose expenditures and the remainder deposited in the education  
31 legacy trust account created in RCW 83.100.230. (~~For fiscal year~~  
32 ~~2019~~) Beginning in fiscal year 2019 and each fiscal year thereafter,  
33 taxes received by the state under this chapter must be deposited in  
34 the education legacy trust account created in RCW 83.100.230. Any  
35 person collecting the tax who appropriates or converts the tax  
36 collected is guilty of a gross misdemeanor if the money required to  
37 be collected is not available for payment on the date payment is due.  
38 If a taxpayer fails to pay the tax imposed by this chapter to the  
39 person charged with collection of the tax and the person charged with

1 collection fails to pay the tax to the department, the department  
2 may, in its discretion, proceed directly against the taxpayer for  
3 collection of the tax.

4 (2) The tax is due from the taxpayer within twenty-five days from  
5 the date the taxpayer is billed by the person collecting the tax.

6 (3) The tax is due from the person collecting the tax at the end  
7 of the tax period in which the tax is received from the taxpayer. If  
8 the taxpayer remits only a portion of the total amount billed for  
9 taxes, consideration, and related charges, the amount remitted must  
10 be applied first to payment of the solid waste collection tax and  
11 this tax has priority over all other claims to the amount remitted.

12 **PART 3**

13 **PUBLIC WORKS FINANCING ASSISTANCE PROGRAM**

14 NEW SECTION. **Sec. 301.** A new section is added to chapter 43.155  
15 RCW to read as follows:

16 (1) A public infrastructure project eligible for the public works  
17 financing assistance program is a capital project by an eligible  
18 local government, as identified in subsection (2) of this section,  
19 that is necessary to:

20 (a) Provide safe and adequate drinking water;

21 (b) Collect, manage, and treat wastewater and storm water;

22 (c) Provide safe and efficient transportation, including public  
23 parking facilities, public transit facilities, and nonmotorized  
24 transportation;

25 (d) Provide or renovate facilities for safe and readily  
26 accessible recreation;

27 (e) Provide flood control and floodplain management facilities  
28 and improvements;

29 (f) Provide water supply improvements and water basin management  
30 enhancements, including culvert replacement projects to improve fish  
31 passage;

32 (g) Provide or renovate county or city criminal justice  
33 facilities;

34 (h) Provide or renovate fire protection or emergency medical  
35 response services facilities; or

36 (i) Provide or renovate public library facilities.

37 (2) In order to be eligible for the public works financing  
38 assistance program a local government must:

1 (a) Demonstrate difficulties accessing existing private credit  
2 markets for borrowings at reasonable interest rates. The public works  
3 board must determine compliance with this requirement under guidance  
4 and advice by the state treasurer's office;

5 (b) Demonstrate the ability to reliably pay all periodic  
6 financing costs to retire the loan or loans provided under the public  
7 works financing assistance program. The public works board must  
8 determine compliance with this requirement under guidance and advice  
9 by the state treasurer's office; and

10 (c) Demonstrate that bond proceeds loaned to the local government  
11 would be expended for capital expenditures on a public works project  
12 eligible to be financed with the proceeds of tax-exempt bonds under  
13 the internal revenue code. The public works board must determine  
14 compliance with this requirement under guidance and advice by the  
15 state treasurer's office.

16 (3) The board must prioritize applications for assistance under  
17 the public works financing assistance program to achieve the greatest  
18 community benefit in jurisdictions that would most benefit from this  
19 assistance as measured by the difference in the total cost of  
20 financing under this program compared to financing cost from private  
21 capital markets. The board must adopt criteria for prioritizing  
22 applications and submit the scoring under those criteria in the  
23 annual report required in section 302 of this act.

24 NEW SECTION. **Sec. 302.** A new section is added to chapter 43.155  
25 RCW to read as follows:

26 (1) The board must not sign contracts or otherwise financially  
27 obligate funds from the public works financing assistance account  
28 created in section 303 of this act unless the legislature has  
29 authorized the necessary bonds and appropriated sufficient amounts  
30 from the account for the approved projects.

31 (2) The board must execute contracts for project loans with local  
32 governments under the public works financing program to ensure that:

33 (a) Disbursements against authorized loans are in predictable  
34 amounts as required to meet project expenditures without resulting in  
35 prolonged and excessive project fund balances;

36 (b) Repayments by local governments are sufficient and timely to  
37 cover the state's repayment obligations of public works financing  
38 bond issued on behalf of the project;



1 (c) All other requirements are met, including compliance with  
2 state laws regarding the issuance and limits on local government  
3 debt; and

4 (d) The board has sufficient recourse against the local  
5 government borrower in the event that the borrower defaults on its  
6 public works financing loan payment obligations.

7 (3) Every contract entered into by a local government for a  
8 public works financing loan must allow for the following:

9 (a) In the event of a default by a local government in the  
10 payment of any amounts due under the public works financing loan:

11 (i) The board must notify the local government's treasurer of the  
12 default. The local government's treasurer must transfer any legally  
13 available funds in satisfaction of the local government's obligations  
14 under the public works financing loan;

15 (ii) If the local government's treasurer is unable to transfer  
16 sufficient funds to meet the local government's obligations under the  
17 public works financing loan, the board must notify the state  
18 treasurer. The state treasurer must withdraw the local government's  
19 share of state revenues for distribution or any other funds held by  
20 the state treasurer on behalf of the local government in an amount  
21 sufficient to meet the shortfall;

22 (iii) The state treasurer must deposit any funds collected  
23 pursuant to this subsection into the public works financing  
24 assistance bond repayment account.

25 (b) If neither the local government treasurer nor the state  
26 treasurer has sufficient funds of the local government or due to be  
27 paid by the local government to meet its obligations under the public  
28 works financing loan, the board may take whatever actions are legally  
29 permissible against the local government including, but not limited  
30 to:

31 (i) Instituting litigation proceedings;

32 (ii) Seeking legislation to provide greater assurance that timely  
33 payments will be made by the defaulting local government; and

34 (iii) Refusing to enter into any other contracts to provide funds  
35 to the local government.

36 (4) By July 1st of each year, the board must submit a report to  
37 the state treasurer, the office of financial management, and the  
38 fiscal committees of the legislature. The report must include:

39 (a) The list of projects approved in the preceding fiscal year  
40 with the project scores against the board's prioritization criteria;

1 (b) The total amount of loan disbursements made from the public  
2 works financing assistance bond repayment account, created in section  
3 304 of this act, in the preceding fiscal year;

4 (c) The total amount of loan repayments in the preceding fiscal  
5 year for outstanding loans made from the public works financing  
6 assistance account;

7 (d) The total amount of loan repayments due from local  
8 governments for outstanding loans by fiscal year over the following  
9 ten-year period; and

10 (e) Any further information required by the state treasurer's  
11 office necessary to meet internal revenue service requirements for  
12 tax compliance, or for determining whether projected revenues are  
13 sufficient to meet projected debt service obligations.

14 NEW SECTION. **Sec. 303.** A new section is added to chapter 43.155  
15 RCW to read as follows:

16 The public works financing assistance account is created in the  
17 state treasury. All bond proceeds issued to support public works  
18 financing assistance projects must be deposited in the account.  
19 Moneys in the account may be spent only after appropriation.  
20 Expenditures from the account may be used only for the public works  
21 financing assistance program.

22 NEW SECTION. **Sec. 304.** A new section is added to chapter 43.155  
23 RCW to read as follows:

24 The public works financing assistance bond repayment account is  
25 created in the custody of the state treasury. All repayments for  
26 public works financing loans from local governments must be deposited  
27 in the account. Expenditures from the account must only be made for  
28 payment of principal and interest to retire bonds issued pursuant to  
29 this section. The account is subject to the allotment procedures  
30 under chapter 43.88 RCW, but an appropriation is not required for  
31 expenditures.

32 NEW SECTION. **Sec. 305.** A new section is added to chapter 43.155  
33 RCW to read as follows:

34 (1) To ensure that sufficient revenues are collected to meet debt  
35 service requirements on bonds issued in accordance with this chapter:

36 (a) The board:

1 (i) May charge an additional amount on public works financing  
2 loans to local governments to create a reserve to meet potential  
3 shortfalls; or

4 (ii) Must take other actions as are necessary to ensure that  
5 sufficient revenues are collected to meet debt service obligations on  
6 bonds issued to support a public works financing loan.

7 (2) If the board is unable to collect sufficient revenues to meet  
8 debt service obligations on bonds issued to support public works  
9 financing loans, the legislature must take any action legally  
10 authorized to raise such revenue from loan repayments to meet this  
11 obligation, including, but not limited to, collect loan repayments  
12 directly from distributions to local governments in the event of  
13 nonpayment, or any other method deemed appropriate to ensure that  
14 adequate revenues are received to meet debt service obligations.

15 (3) If there is insufficient revenue to meet projected debt  
16 service obligations, as determined by the office of the state  
17 treasurer, the state finance committee may not approve the issuance  
18 or sale of bonds for this purpose until such time as the projected  
19 amount of revenue is at least equal to the projected amount of debt  
20 service then owed on bonds issued to support public works financing  
21 loans.

#### 22 PART 4

#### 23 LOCAL INFRASTRUCTURE FINANCING

24 NEW SECTION. **Sec. 401.** The legislature finds that there exists  
25 in the state of Washington need for critical projects for the  
26 planning, acquisition, construction, repair, replacement,  
27 rehabilitation, or improvement of local infrastructure including  
28 streets and roads, bridges, water systems, solid waste disposal  
29 including recycling, storm and sanitary sewage systems and other  
30 municipal projects, facilities, and utilities. It is the policy of  
31 the state of Washington to encourage self-reliance by local  
32 governments in meeting their local infrastructure needs and to assist  
33 in the financing of critical infrastructure projects by making loans  
34 available to local governments for these projects.

35 NEW SECTION. **Sec. 402.** (1) The commission may develop and  
36 implement a program to provide financing to local governments for  
37 infrastructure projects. In developing the program, the commission

1 shall establish eligibility criteria for financing that will enable  
2 it to choose applicants who are likely to repay loans made or  
3 acquired by the commission and funded from the proceeds of commission  
4 bonds.

5 (2) The commission may, if economically feasible:

6 (a) Issue revenue bonds as defined in RCW 43.180.020(1) for the  
7 purpose of financing all or part of the costs of infrastructure  
8 projects in accordance with RCW 43.180.150;

9 (b) Make or purchase loans to local governments for financing all  
10 or part of the costs of infrastructure projects;

11 (c) Enter into financing agreements relating to the repayment of  
12 those loans or the provision of, or security for, debt service on the  
13 bonds;

14 (d) Do all things necessary to provide for the exemption of  
15 interest on its bonds from federal income taxation if the bonds are  
16 issued on a tax-exempt basis; and

17 (e) Participate fully in federal and other governmental programs  
18 and take such actions as are necessary and consistent with this  
19 chapter to secure to itself and the people of the state the benefits  
20 of those programs for financing infrastructure projects.

21 (3) In connection with the financing of costs of local  
22 infrastructure, the commission may exercise the other powers granted  
23 the commission under this chapter, including the requirements under  
24 RCW 43.180.170 and 43.180.180. No commission general fund resources  
25 may be expended to implement this section except that commission  
26 general fund resources may be expended to administer this section.

27 (4) For the purposes of this chapter:

28 (a) "Financing agreement" means a lease, sublease, installment  
29 sale agreement, conditional sale agreement, loan agreement, or other  
30 agreement for the purpose of providing funds to pay or secure debt  
31 service on bonds.

32 (b) "Infrastructure project" means a project of a local  
33 government for the planning, acquisition, construction, repair,  
34 reconstruction, replacement, rehabilitation, or improvement of  
35 infrastructure including streets and roads, bridges, water systems,  
36 storm and sanitary sewage systems, solid waste facilities, including  
37 recycling facilities, and other municipal projects, facilities, and  
38 utilities.

1 (c) "Local governments" means cities, towns, counties, special  
2 purpose districts, port districts, school districts, and any other  
3 municipal corporations or quasi-municipal corporations in the state.

4 NEW SECTION. **Sec. 403.** Any local government may enter into a  
5 financing agreement containing the terms and conditions of a loan  
6 from the commission and evidencing the obligation of the municipal  
7 corporation to repay that loan under the terms and conditions set  
8 forth in the financing agreement. A financing agreement may provide  
9 that the local government will repay the loan solely from revenues  
10 set aside into a special fund for repayment of that loan. In the case  
11 of a local government authorized to borrow money payable from taxes,  
12 and authorized to levy such taxes, the financing agreement may  
13 provide that repayment of the loan is a general obligation of the  
14 local government, or both a general obligation and an obligation  
15 payable from revenues set aside into a special fund. The commission  
16 shall have such rights of recovery in the event of default in payment  
17 or other breach of financing loan agreement as may be provided in the  
18 loan agreement or otherwise by law.

19 NEW SECTION. **Sec. 404.** Nothing in this chapter authorizes local  
20 governments to incur indebtedness beyond constitutional indebtedness  
21 limitations. Revenue bonds issued by the commission pursuant to this  
22 chapter are excluded from the indebtedness limit in RCW  
23 43.180.160(1).

24 NEW SECTION. **Sec. 405.** The authority under this chapter is  
25 supplemental and in addition to the authority to issue obligations  
26 under any other provision of law.

27 **Sec. 406.** RCW 39.36.060 and 1987 c 19 s 5 are each amended to  
28 read as follows:

29 This chapter does not apply to a loan made pursuant to a loan  
30 agreement under chapter 39.69 RCW or sections 401 through 405 of this  
31 act, and any computation of indebtedness under this chapter shall  
32 exclude the amount of any loan under such a loan agreement.

33 NEW SECTION. **Sec. 407.** Sections 401 through 405 of this act are  
34 each added to chapter 43.180 RCW.

1 **PART 5**

2 **MISCELLANEOUS PROVISIONS**

3 NEW SECTION. **Sec. 501.** (1) Sections 101 through 209 and 301  
4 through 305 of this act take effect January 1, 2018, if the proposed  
5 amendment to Article VIII, section 1 of the state Constitution,  
6 contained in Senate Joint Resolution No. . . . (S-0298/17), is  
7 validly submitted to and is approved and ratified by voters at the  
8 next general election. If the proposed amendment is not approved and  
9 ratified, sections 101 through 209 and 301 through 305 of this act  
10 are void in their entirety.

11 (2) Sections 401 through 407 of this act take effect January 1,  
12 2018, if the proposed amendment referenced in subsection (1) of this  
13 section is not approved and ratified. If the proposed amendment is  
14 approved and ratified, sections 401 through 407 of this act are void  
15 in their entirety.

16 NEW SECTION. **Sec. 502.** Sections 210 through 212 of this act are  
17 necessary for the immediate preservation of the public peace, health,  
18 or safety, or support of the state government and its existing public  
19 institutions, and take effect July 1, 2017.

--- END ---