

# HOUSE BILL REPORT

## HB 1691

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**As Reported by House Committee On:**  
Capital Budget

**Title:** An act relating to funding and administering local government infrastructure by the public works board.

**Brief Description:** Concerning funding and administering local government infrastructure by the public works board.

**Sponsors:** Representatives Peterson, Fey, Chapman, Doglio, Appleton, Kirby, Pollet and Gregerson.

**Brief History:**

**Committee Activity:**

Capital Budget: 2/19/19, 2/26/19 [DPS].

**Brief Summary of Substitute Bill**

- Defines "natural or green infrastructure" and specifies that public works projects may include natural or green infrastructure.
- Allows for up to 1 percent of the biennial capital budget appropriation for the public works board to be used for value planning grants.
- Ends the deposit of the Refuse Tax into the Education Legacy Trust Account on June 30, 2019, rather than June 30, 2023.
- Prioritizes the Refuse Tax that is deposited into the Public Works Assistance Account for grants to address fish barriers, from fiscal year 2020 through fiscal year 2030.

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### HOUSE COMMITTEE ON CAPITAL BUDGET

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass.  
Signed by 23 members: Representatives Tharinger, Chair; Doglio, Vice Chair; Peterson, Vice Chair; DeBolt, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Steele, Assistant Ranking Minority Member; Callan, Corry, Davis, Dye, Eslick, Gildon, Irwin, Jenkin, Leavitt, Lekanoff, Maycumber, Morgan, Riccelli, Santos, Sells, Stonier and Walsh.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Melissa Palmer (786-7388).

**Background:**

Public Work Board.

The Public Works Board (Board) may make low-interest loans or grants from the Public Works Assistance Account (PWAA) to finance the acquisition, construction, repair, replacement, or improvement of the following local public works: bridges, streets, and roads; water systems; storm and sanitary sewage systems; and solid waste facilities, including recycling, and lead pipes in drinking water systems. For up to a maximum of 20 percent of the biennial PWAA capital budget appropriation, the Board may make loans or grants for preconstruction, emergency, and capital facilities planning. Up to 10 percent of the PWAA capital budget appropriation may be provided for grants. Local governments and special purpose districts, except port and school districts, are eligible to apply for loans from the PWAA. The Board may provide technical assistance. The Board may require a local government to provide a long-term financial plan for maintenance and loan repayments, and undergo value planning at the predesign stage. Existing debt or financial obligations may not be refinanced.

Public Works Board Membership.

The Board is staffed by the Department of Commerce and includes 13 voting members appointed by the Governor: two elected officials and one public works manager representing cities; two elected officials and one public works manager representing counties; three members representing public utility and water-sewer districts; and four members representing the general public.

Public Works Assistance Account.

The PWAA was established in 1985 to encourage local government self-reliance in meeting public works needs and to assist in financing critical infrastructure projects. Moneys in the PWAA must be used to make loans and give financial guarantees and may also be appropriated to provide state match for federal dollars. Loan repayments and revenues from three tax sources have historically been deposited into the PWAA. However, in recent years, there have not been projects funded with the PWAA. Repayments and tax revenues that were deposited into the PWAA have been transferred to the State General Fund or the Education Legacy Trust Account in prior biennia. The Refuse (Solid Waste) Tax, 4.1 percent of the Real Estate Excise Tax (REET), and the portion of the Public Utilities Tax, which were historically deposited into the PWAA, are deposited into the Education Legacy Trust Account through fiscal year 2023. In the 2017-19 biennium, the projects were funded with general obligation bonds.

Fish Passage Barrier Removal Board.

The Legislature established the grant program of the Brian Abbott Fish Passage Barrier Removal Board (FBRB) in 2014 to identify and remove impediments to salmon and steelhead migration. The FBRB consists of nine voting members and one nonvoting member. The FBRB must adopt governing policies, set project evaluation criteria, review project scoring and recommendations from the FBRB technical review team, and provide a project priority list to the Governor and the Legislature for funding consideration. The grant program is administered jointly by the Washington Department of Fish and Wildlife

(WDFW) and the Recreation and Conservation Office (RCO). The 2017-19 Capital Budget included a general obligation bond appropriation of \$19.7 million in the RCO for 13 fish passage projects.

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### **Summary of Substitute Bill:**

Public works projects may include natural or green infrastructure measures that complement the project and demonstrate enhanced life-cycle cost or performance gains. Natural or green infrastructure are projects that utilize systems and practices that use or mimic natural processes to infiltrate, evapotranspire, or reuse stormwater or runoff on the site where it is generated including, but not limited to, water retention ponds, rain gardens, and vegetated swales. Value planning, which occurs at the predesign stage, must address innovation, affordability, environmental performance, and local economic development.

In addition to the 10 percent maximum that may be provided for grants, up to 1 percent of the Board's biennial capital budget appropriation may be used for grants for the purpose of value planning. The grant may be up to \$60,000 per project.

During fiscal years 2020 through 2030, the Refuse (Solid Waste) Tax that collected and deposited into the PWAA must be prioritized for grants to address fish barriers, consistent with the strategy to maximize habitat value of culvert corrections, as recommended by the FBRB. The Board must provide the grant and contract management for the grants that are issued. The Department of Fish and Wildlife may coordinate with the Board to administer grants identified by the FBRB.

The deposit of the Refuse (Solid Waste) Tax into the Education Legacy Trust Account is ended on June 30, 2019, instead of June 30, 2023. From fiscal year 2020 through fiscal year 2030, the Refuse (Solid Waste) Tax that is deposited into the PWAA must be prioritized for grants to address fish barriers, consistent with recommendations by the FBRB.

### **Substitute Bill Compared to Original Bill:**

The substitute bill defines "natural or green infrastructure" as projects that utilize systems and practices that use or mimic natural processes to infiltrate, evapotranspire, or reuse stormwater or runoff on the site where it is generated including, but not limited to, water retention ponds, rain gardens, and vegetated swales.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect on July 1, 2019.

### **Staff Summary of Public Testimony:**

(In support) This is an opportunity to address our approach towards fish barriers and culverts. The state also has a crisis around culverts. The only thing worse than governing by crisis is governing by lawsuit. The goal is to make a solid plan to address culverts. This is an opportunity to take a broader approach to fish barriers. The state has to address the barriers and should do so in a coordinated manner. There is an example where the state addressed its barrier in Skagit county, which cost \$9.7 million, however just 50 feet away there was a culvert that blocked the stream. This is an example of a project that could be addressed through the Fish Barrier Removal Board. If we do not coordinate, we will not achieve the goal of opening up the habitat. In the 14 counties that are covered by the state injunction, there are about \$5 billion worth of barriers in this area. The county road funds cannot pay to address the culverts. The road funds have less money now than they did 10 years ago.

(Opposed) There is a recognized need to focus on fish passage. However, the costs to address the problem far exceed any revenues in the Public Works Assistance Account. There are \$881 million in immediate needs for infrastructure projects. This proposal sends the funding for fish passage projects out as grants. The funding will not cycle back into the program. There will be no regeneration of funds. This is not the right mechanism to address the fish passage issue.

(Other) In general, fish barrier removal is an infrastructure project type that the Board covers. The idea of using the funds for infrastructure is good, however the fish barrier issue is large. We want to work with the sponsor but we do have a dilemma about not revolving the funds. We understand this is an important infrastructure need.

**Persons Testifying:** (In support) Carl Schroeder, Association of Washington Cities; and Jane Wall, Washington State Association of Counties.

(Opposed) Scott Hazlegrove, Washington Association of Sewer & Water Districts.

(Other) Scott Hutsell, Public Works Board.

**Persons Signed In To Testify But Not Testifying:** None.