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**SUBSTITUTE HOUSE BILL 1691**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Capital Budget (originally sponsored by Representatives Peterson, Fey, Chapman, Doglio, Appleton, Kirby, Pollet, and Gregerson)

READ FIRST TIME 02/27/19.

1 AN ACT Relating to funding and administering local government  
2 infrastructure by the public works board; amending RCW 43.155.020,  
3 77.95.170, and 82.18.040; reenacting and amending RCW 43.155.050;  
4 adding a new section to chapter 43.155 RCW; providing an effective  
5 date; and declaring an emergency.

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

7 **Sec. 1.** RCW 43.155.020 and 2017 3rd sp.s. c 10 s 2 are each  
8 amended to read as follows:

9 The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

11 (1) "Board" means the public works board created in RCW  
12 43.155.030.

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

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

18 (4) "Financing guarantees" means the pledge of money in the  
19 public works assistance account, or money to be received by the  
20 public works assistance account, to the repayment of all or a portion

1 of the principal of or interest on obligations issued by local  
2 governments to finance public works projects.

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

7 (6) "Natural or green infrastructure" means projects that utilize  
8 systems and practices that use or mimic natural processes to  
9 infiltrate, evapotranspire, or reuse stormwater or runoff on the  
10 site where it is generated including, but not limited to, water  
11 retention ponds, rain gardens, and vegetated swales.

12 (7) "Public works project" means a project of a local government  
13 for the planning, acquisition, construction, repair, reconstruction,  
14 replacement, rehabilitation, or improvement of streets and roads,  
15 bridges, water systems, or storm and sanitary sewage systems, lead  
16 remediation of drinking water systems, and solid waste facilities,  
17 including recycling facilities. A planning project may include the  
18 compilation of biological, hydrological, or other data on a county,  
19 drainage basin, or region necessary to develop a base of information  
20 for a capital facility plan. Public works projects may include  
21 natural or green infrastructure measures that complement the project  
22 and demonstrate enhanced life-cycle cost or performance gains.

23 (~~(7)~~) (8) "Solid waste or recycling project" means remedial  
24 actions necessary to bring abandoned or closed landfills into  
25 compliance with regulatory requirements and the repair, restoration,  
26 and replacement of existing solid waste transfer, recycling  
27 facilities, and landfill projects limited to the opening of landfill  
28 cells that are in existing and permitted landfills.

29 (~~(8)~~) (9) "Technical assistance" means training and other  
30 services provided to local governments to: (a) Help such local  
31 governments plan, apply, and qualify for loans, grants, and financing  
32 guarantees from the board, and (b) help local governments improve  
33 their ability to plan for, finance, acquire, construct, repair,  
34 replace, rehabilitate, and maintain public facilities.

35 (~~(9)~~) (10) "Value planning" means a uniform approach to assist  
36 (~~(10)~~) decision making at the predesign stage through systematic  
37 evaluation of potential alternatives to solving an identified problem  
38 and addressing innovation, affordability, environmental performance,  
39 and local economic development.

1       **Sec. 2.** RCW 43.155.050 and 2017 3rd sp.s. c 10 s 5 and 2017 3rd  
2 sp.s. c 1 s 974 are each reenacted and amended to read as follows:

3       (1)(a) The public works assistance account is hereby established  
4 in the state treasury. Money may be placed in the public works  
5 assistance account from the proceeds of bonds when authorized by the  
6 legislature or from any other lawful source. Money in the public  
7 works assistance account shall be used to make loans and grants and  
8 to give financial guarantees to local governments for public works  
9 projects. Moneys in the account may also be appropriated or  
10 transferred to the water pollution control revolving (~~account~~  
11 ~~[fund]~~) fund and the drinking water assistance account to provide  
12 for state match requirements under federal law.

13       (b) Not more than twenty percent of the biennial capital budget  
14 appropriation to the public works board from this account may be  
15 expended or obligated for preconstruction loans and grants, emergency  
16 loans and grants, or loans and grants for capital facility planning  
17 under this chapter.

18       (c) Except as provided for in (d) and (e) of this subsection, not  
19 more than ten percent of the biennial capital budget appropriation to  
20 the public works board from this account may be expended or obligated  
21 as grants for preconstruction, emergency, capital facility planning,  
22 and construction projects. (~~During the 2015-2017 fiscal biennium,~~  
23 the legislature may transfer from the public works assistance account  
24 to the general fund, the water pollution control revolving account  
25 [fund], and the drinking water assistance account such amounts as  
26 reflect the excess fund balance of the account.))

27       (d) Up to one percent of the biennial capital budget  
28 appropriation to the public works board may be provided as grants to  
29 entities for the purpose of value planning. The value planning grant  
30 may be up to sixty thousand dollars per capital project.

31       (e) During fiscal years 2020 through 2030, taxes collected under  
32 RCW 82.18.040 and deposited into the public works assistance account  
33 must be prioritized for grants to address fish barriers consistent  
34 with the comprehensive strategy to maximize habitat value of culvert  
35 correction investments, as recommended by the fish passage barrier  
36 removal board established in RCW 77.95.160.

37       (2) During the (~~2015-2017 and~~) 2017-2019 fiscal (~~biennia~~)  
38 biennium, the legislature may appropriate moneys from the account for  
39 activities related to rural economic development, the growth  
40 management act, and the voluntary stewardship program. (~~During the~~

1 ~~2015-2017 fiscal biennium, the legislature may transfer from the~~  
2 ~~public works assistance account to the state general fund such~~  
3 ~~amounts as specified by the legislature.)~~

4 (3) During the 2017-2019 fiscal biennium, the legislature may  
5 direct the state treasurer to make transfers of moneys in the public  
6 works assistance account to the education legacy trust account. It is  
7 the intent of the legislature that this policy will be continued in  
8 subsequent fiscal biennia.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.155  
10 RCW to read as follows:

11 The public works board shall perform grant and contract  
12 management for the grants issued to address fish barriers pursuant to  
13 RCW 43.155.050(1)(e).

14 **Sec. 4.** RCW 77.95.170 and 2014 c 120 s 3 are each amended to  
15 read as follows:

16 (1) The department may coordinate with the recreation and  
17 conservation office or public works board in the administration of  
18 all state grant programs specifically designed to assist state  
19 agencies, private landowners, tribes, organizations, and volunteer  
20 groups in identifying and removing impediments to salmonid fish  
21 passage. The transportation improvement board or public works board  
22 may administer all grant programs specifically designed to assist  
23 cities, counties, and other units of local governments with fish  
24 passage barrier corrections associated with transportation projects.  
25 All grant programs must be administered and be consistent with the  
26 following:

27 (a) Salmonid-related corrective projects, inventory, assessment,  
28 and prioritization efforts;

29 (b) Salmonid projects subject to a competitive application  
30 process; and

31 (c) A minimum dollar match rate that is consistent with the  
32 funding authority's criteria. If no funding match is specified, a  
33 match amount of at least twenty-five percent per project is required.  
34 For local, private, and volunteer projects, in-kind contributions may  
35 be counted toward the match requirement.

36 (2) Priority shall be given to projects that match the principles  
37 provided in RCW 77.95.180.

1 (3) All projects subject to this section shall be reviewed and  
2 approved by the fish passage barrier removal board created in RCW  
3 77.95.160 or an alternative oversight committee designated by the  
4 state legislature.

5 (4) Other agencies that administer natural resource-based grant  
6 programs shall use fish passage selection criteria that are  
7 consistent with this section when those programs are addressing fish  
8 passage barrier removal projects.

9 (5)(a) The department shall establish a centralized database  
10 directory of all fish passage barrier information. The database  
11 directory must include, but is not limited to, existing fish passage  
12 inventories, fish passage projects, grant program applications, and  
13 other databases. These data must be used to coordinate and assist in  
14 habitat recovery and project mitigation projects.

15 (b) The department must develop a barrier inventory training  
16 program that qualifies participants to perform barrier inventories  
17 and develop data that enhance the centralized database. The  
18 department may decide the qualifications for participation. However,  
19 employees and volunteers of conservation districts and regional  
20 salmon recovery groups must be given priority consideration.

21 **Sec. 5.** RCW 82.18.040 and 2017 3rd sp.s. c 10 s 15 are each  
22 amended to read as follows:

23 (1) Taxes collected under this chapter must be held in trust  
24 until paid to the state. Except as otherwise provided in this  
25 subsection (1), taxes received by the state must be deposited in the  
26 public works assistance account created in RCW 43.155.050. (~~For the~~  
27 ~~period beginning July 1, 2011, and ending June 30, 2015, taxes~~  
28 ~~received by the state under this chapter must be deposited in the~~  
29 ~~general fund for general purpose expenditures. For fiscal years 2016,~~  
30 ~~2017, and 2018, one-half of the taxes received by the state under~~  
31 ~~this chapter must be deposited in the general fund for general~~  
32 ~~purpose expenditures and the remainder deposited in the education~~  
33 ~~legacy trust account created in RCW 83.100.230.)) For fiscal  
34 year((s)) 2019 ((~~through 2023~~)), taxes received by the state under  
35 this chapter must be deposited in the education legacy trust account  
36 created in RCW 83.100.230. For fiscal years 2020 through 2030, taxes  
37 received by the state under this chapter must be deposited in the  
38 public works assistance account created in RCW 43.155.050 and  
39 prioritized for grants to address fish barriers, consistent with~~

1 recommendations by the fish passage barrier removal board established  
2 in RCW 77.95.160. Any person collecting the tax who appropriates or  
3 converts the tax collected is guilty of a gross misdemeanor if the  
4 money required to be collected is not available for payment on the  
5 date payment is due. If a taxpayer fails to pay the tax imposed by  
6 this chapter to the person charged with collection of the tax and the  
7 person charged with collection fails to pay the tax to the  
8 department, the department may, in its discretion, proceed directly  
9 against the taxpayer for collection of the tax.

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

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

18 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of  
20 the state government and its existing public institutions, and takes  
21 effect July 1, 2019.

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