

SB 5508 - S AMD
By Senator Kilmer

ADOPTED 03/01/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that permit
4 programs have been legislatively established to protect the health,
5 welfare, economy, and environment of Washington's citizens and to
6 provide a fair, competitive opportunity for business innovation and
7 consumer confidence. The legislature also finds that uncertainty in
8 government processes to permit an activity by a citizen of Washington
9 state is undesirable and erodes confidence in government. The
10 legislature further finds that in the case of projects that would
11 further economic development in the state, information about the
12 permitting process is critical for an applicant's planning and
13 financial assessment of the proposed project. The legislature also
14 finds that applicants have a responsibility to provide complete and
15 accurate information.

16 (2) The legislature recommends that applicants be provided with the
17 following information when applying for a development permit from a
18 city, county, or state agency:

19 (a) The minimum and maximum time an agency will need to make a
20 decision on a permit, including public comment requirements;

21 (b) The minimum amount of information required for an agency to
22 make a decision on a permit;

23 (c) When an agency considers an application complete for
24 processing;

25 (d) The minimum and maximum costs in agency fees that will be
26 incurred by the permit applicant; and

27 (e) The reasons for a denial of a permit in writing.

28 (3) In providing this information to applicants, an agency should
29 base estimates on the best information available about the permitting
30 program and prior applications for similar permits, as well as on the

1 information provided by the applicant. New information provided by the
2 applicant subsequent to the agency estimates may change the information
3 provided by an agency per subsection (2) of this section. Project
4 modifications by an applicant may result in more time, more
5 information, or higher fees being required for permit processing.

6 (4) This section does not create an independent cause of action,
7 affect any existing cause of action, or establish time limits for
8 purposes of RCW 64.40.020.

9 (5) City, county, and state agencies issuing development permits
10 are encouraged to track the progress in providing the information to
11 applicants per subsection (2) of this section by preparing an annual
12 report of its performance for the preceding fiscal year. The report
13 should be posted on its web site made available and provided to the
14 appropriate standing committees of the senate and house of
15 representatives.

16 **Sec. 2.** RCW 43.155.070 and 2001 c 131 s 5 are each amended to read
17 as follows:

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

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

23 (b) The local government must have developed a capital facility
24 plan; and

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

28 (2) Except where necessary to address a public health need or
29 substantial environmental degradation, a county, city, or town planning
30 under RCW 36.70A.040 must have adopted a comprehensive plan, including
31 a capital facilities plan element, and development regulations as
32 required by RCW 36.70A.040. This subsection does not require any
33 county, city, or town planning under RCW 36.70A.040 to adopt a
34 comprehensive plan or development regulations before requesting or
35 receiving a loan or loan guarantee under this chapter if such request
36 is made before the expiration of the time periods specified in RCW
37 36.70A.040. A county, city, or town planning under RCW 36.70A.040

1 which has not adopted a comprehensive plan and development regulations
2 within the time periods specified in RCW 36.70A.040 is not prohibited
3 from receiving a loan or loan guarantee under this chapter if the
4 comprehensive plan and development regulations are adopted as required
5 by RCW 36.70A.040 before submitting a request for a loan or loan
6 guarantee.

7 (3) In considering awarding loans for public facilities to special
8 districts requesting funding for a proposed facility located in a
9 county, city, or town planning under RCW 36.70A.040, the board shall
10 consider whether the county, city, or town planning under RCW
11 36.70A.040 in whose planning jurisdiction the proposed facility is
12 located has adopted a comprehensive plan and development regulations as
13 required by RCW 36.70A.040.

14 (4) The board shall develop a priority process for public works
15 projects as provided in this section. The intent of the priority
16 process is to maximize the value of public works projects accomplished
17 with assistance under this chapter. The board shall attempt to assure
18 a geographical balance in assigning priorities to projects. The board
19 shall consider at least the following factors in assigning a priority
20 to a project:

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

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

26 (c) Whether the applicant has a good record of providing
27 information to those applying for development permits consistent with
28 section 1(2) of this act;

29 (d) The cost of the project compared to the size of the local
30 government and amount of loan money available;

31 (~~(d)~~) (e) The number of communities served by or funding the
32 project;

33 (~~(e)~~) (f) Whether the project is located in an area of high
34 unemployment, compared to the average state unemployment;

35 (~~(f)~~) (g) Whether the project is the acquisition, expansion,
36 improvement, or renovation by a local government of a public water
37 system that is in violation of health and safety standards, including
38 the cost of extending existing service to such a system;

1 ~~((g))~~ (h) 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; and

5 ~~((h))~~ (i) Other criteria that the board considers advisable.

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

11 (6) Before November 1 of each year, the board shall develop and
12 submit to the appropriate fiscal committees of the senate and house of
13 representatives a description of the loans made under RCW 43.155.065,
14 43.155.068, and subsection (9) of this section during the preceding
15 fiscal year and a prioritized list of projects which are recommended
16 for funding by the legislature, including one copy to the staff of each
17 of the committees. The list shall include, but not be limited to, a
18 description of each project and recommended financing, the terms and
19 conditions of the loan or financial guarantee, the local government
20 jurisdiction and unemployment rate, demonstration of the jurisdiction's
21 critical need for the project and documentation of local funds being
22 used to finance the public works project. The list shall also include
23 measures of fiscal capacity for each jurisdiction recommended for
24 financial assistance, compared to authorized limits and state averages,
25 including local government sales taxes; real estate excise taxes;
26 property taxes; and charges for or taxes on sewerage, water, garbage,
27 and other utilities.

28 (7) The board shall not sign contracts or otherwise financially
29 obligate funds from the public works assistance account before the
30 legislature has appropriated funds for a specific list of public works
31 projects. The legislature may remove projects from the list
32 recommended by the board. The legislature shall not change the order
33 of the priorities recommended for funding by the board.

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

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

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

6 **Sec. 3.** RCW 43.160.060 and 2004 c 252 s 3 are each amended to read
7 as follows:

8 The board is authorized to make direct loans to political
9 subdivisions of the state and to federally recognized Indian tribes for
10 the purposes of assisting the political subdivisions and federally
11 recognized Indian tribes in financing the cost of public facilities,
12 including development of land and improvements for public facilities,
13 project-specific environmental, capital facilities, land use,
14 permitting, feasibility, and marketing studies and plans; project
15 design, site planning, and analysis; project debt and revenue impact
16 analysis; as well as the construction, rehabilitation, alteration,
17 expansion, or improvement of the facilities. A grant may also be
18 authorized for purposes designated in this chapter, but only when, and
19 to the extent that, a loan is not reasonably possible, given the
20 limited resources of the political subdivision or the federally
21 recognized Indian tribe and the finding by the board that financial
22 circumstances require grant assistance to enable the project to move
23 forward. However, at least ten percent of all financial assistance
24 provided by the board in any biennium shall consist of grants to
25 political subdivisions and federally recognized Indian tribes.

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

- 29 (1) The board shall not provide financial assistance:
 - 30 (a) For a project the primary purpose of which is to facilitate or
31 promote a retail shopping development or expansion.
 - 32 (b) For any project that evidence exists would result in a
33 development or expansion that would displace existing jobs in any other
34 community in the state.
 - 35 (c) For the acquisition of real property, including buildings and
36 other fixtures which are a part of real property.

1 (d) For a project the primary purpose of which is to facilitate or
2 promote gambling.

3 (2) The board shall only provide financial assistance:

4 (a) For those projects which would result in specific private
5 developments or expansions (i) in manufacturing, production, food
6 processing, assembly, warehousing, advanced technology, research and
7 development, and industrial distribution; (ii) for processing
8 recyclable materials or for facilities that support recycling,
9 including processes not currently provided in the state, including but
10 not limited to, de-inking facilities, mixed waste paper, plastics, yard
11 waste, and problem-waste processing; (iii) for manufacturing facilities
12 that rely significantly on recyclable materials, including but not
13 limited to waste tires and mixed waste paper; (iv) which support the
14 relocation of businesses from nondistressed urban areas to rural
15 counties or rural natural resources impact areas; or (v) which
16 substantially support the trading of goods or services outside of the
17 state's borders.

18 (b) For projects which it finds will improve the opportunities for
19 the successful maintenance, establishment, or expansion of industrial
20 or commercial plants or will otherwise assist in the creation or
21 retention of long-term economic opportunities.

22 (c) When the application includes convincing evidence that a
23 specific private development or expansion is ready to occur and will
24 occur only if the public facility improvement is made.

25 (3) The board shall prioritize each proposed project according to:

26 (a) The relative benefits provided to the community by the jobs the
27 project would create, not just the total number of jobs it would create
28 after the project is completed and according to the unemployment rate
29 in the area in which the jobs would be located; (~~and~~)

30 (b) The rate of return of the state's investment, that includes the
31 expected increase in state and local tax revenues associated with the
32 project; and

33 (c) Whether the applicant has a good record of providing
34 information to those applying for development permits consistent with
35 section 1(2) of this act.

36 (4) A responsible official of the political subdivision or the
37 federally recognized Indian tribe shall be present during board
38 deliberations and provide information that the board requests.

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

7 **Sec. 4.** RCW 39.102.040 and 2006 c 181 s 202 are each amended to
8 read as follows:

9 (1) Prior to applying to the board to use local infrastructure
10 financing, a sponsoring local government shall:

11 (a) Designate a revenue development area within the limitations in
12 RCW 39.102.060;

13 (b) Certify that the conditions in RCW 39.102.070 are met;

14 (c) Complete the process in RCW 39.102.080;

15 (d) Provide public notice as required in RCW 39.102.100; and

16 (e) Pass an ordinance adopting the revenue development area as
17 required in RCW 39.102.090.

18 (2) Any local government that has created an increment area under
19 chapter 39.89 RCW that has not issued bonds to finance any public
20 improvement shall be considered a revenue development area under this
21 chapter without creating a new increment area under RCW 39.102.090 and
22 39.102.100 if it amends its ordinance to comply with RCW 39.102.090(1)
23 and otherwise meets the conditions and limitations under this chapter.

24 (3) As a condition to imposing a sales and use tax under RCW
25 82.14.475, a sponsoring local government, including any cosponsoring
26 local government seeking authority to impose a sales and use tax under
27 RCW 82.14.475, must apply to the board and be approved for a project
28 award amount. The application shall be in a form and manner prescribed
29 by the board and include but not be limited to information establishing
30 that the applicant is an eligible candidate to impose the local sales
31 and use tax under RCW 82.14.475, the anticipated effective date for
32 imposing the tax, the estimated number of years that the tax will be
33 imposed, and the estimated amount of tax revenue to be received in each
34 fiscal year that the tax will be imposed. The board shall make
35 available forms to be used for this purpose. As part of the
36 application, each applicant must provide to the board a copy of the
37 ordinance or ordinances creating the revenue development area as

1 required in RCW 39.102.090. A notice of approval to use local
2 infrastructure financing shall contain a project award that represents
3 the maximum amount of state contribution that the applicant, including
4 any cosponsoring local governments, can earn each year that local
5 infrastructure financing is used. The total of all project awards
6 shall not exceed the annual state contribution limit. The
7 determination of a project award shall be made based on information
8 contained in the application and the remaining amount of annual state
9 contribution limit to be awarded. Determination of a project award by
10 the board is final.

11 (4) Sponsoring local governments, and any cosponsoring local
12 governments, must submit completed applications to the board no later
13 than July 1, 2007. By September 15, 2007, in consultation with the
14 department of revenue and the department of community, trade, and
15 economic development, the board shall approve qualified projects, up to
16 the annual state contribution limit. Except as provided in RCW
17 39.102.050, approvals shall be based on the following criteria:

18 (a) The project potential to enhance the sponsoring local
19 government's regional and/or international competitiveness;

20 (b) The project's ability to encourage mixed use development and
21 the redevelopment of a geographic area;

22 (c) Whether the applicant has a good record of providing
23 information to those applying for development permits consistent with
24 section 1(2) of this act;

25 (d) Achieving an overall distribution of projects statewide that
26 reflect geographic diversity;

27 ~~((d))~~ (e) The estimated wages and benefits for the project is
28 greater than the average labor market area;

29 ~~((e))~~ (f) The estimated state and local net employment change
30 over the life of the project;

31 ~~((f))~~ (g) The estimated state and local net property tax change
32 over the life of the project; and

33 ~~((g))~~ (h) The estimated state and local sales and use tax
34 increase over the life of the project.

35 (5) A revenue development area is considered created when the
36 sponsoring local government, including any cosponsoring local
37 government, has adopted an ordinance creating the revenue development
38 area and the board has approved the sponsoring local government to use

1 local infrastructure financing. If a sponsoring local government
2 receives approval from the board after the fifteenth day of October to
3 use local infrastructure financing, the revenue development area is
4 considered created in the calendar year following the approval. Once
5 the board has approved the sponsoring local government, and any
6 cosponsoring local governments, to use local infrastructure financing,
7 notification shall be sent to the sponsoring local government, and any
8 cosponsoring local governments, authorizing the sponsoring local
9 government, and any cosponsoring local governments, to impose the local
10 sales and use tax authorized under RCW 82.14.475, subject to the
11 conditions in RCW 82.14.475.

12 **Sec. 5.** RCW 43.160.230 and 2005 c 425 s 2 are each amended to read
13 as follows:

14 (1) The job development fund program is created to provide grants
15 for public infrastructure projects that will stimulate job creation or
16 assist in job retention. The program is to be administered by the
17 board. The board shall establish a competitive process to request and
18 prioritize proposals and make grant awards.

19 (2) For the purposes of chapter 425, Laws of 2005, "public
20 infrastructure projects" has the same meaning as "public facilities" as
21 defined in RCW 43.160.020(11).

22 (3) The board shall conduct a statewide request for project
23 applications. The board shall apply the following criteria for
24 evaluation and ranking of applications:

25 (a) The relative benefits provided to the community by the jobs the
26 project would create, including, but not limited to: (i) The total
27 number of jobs; (ii) the total number of full-time, family wage jobs;
28 (iii) the unemployment rate in the area; and (iv) the increase in
29 employment in comparison to total community population;

30 (b) The present level of economic activity in the community and the
31 existing local financial capacity to increase economic activity in the
32 community;

33 (c) Whether the applicant has a good record of providing
34 information to those applying for development permits consistent with
35 section 1(2) of this act;

36 (d) The rate of return of the state's investment, that includes the

1 expected increase in state and local tax revenues associated with the
2 project;

3 ~~((d))~~ (e) The lack of another timely source of funding available
4 to finance the project which would likely prevent the proposed
5 community or economic development, absent the financing available under
6 chapter 425, Laws of 2005;

7 ~~((e))~~ (f) The ability of the project to improve the viability of
8 existing business entities in the project area;

9 ~~((f))~~ (g) Whether or not the project is a partnership of multiple
10 jurisdictions;

11 ~~((g))~~ (h) Demonstration that the requested assistance will
12 directly stimulate community and economic development by facilitating
13 the creation of new jobs or the retention of existing jobs; and

14 ~~((h))~~ (i) The availability of existing assets that applicants may
15 apply to projects.

16 (4) Job development fund program grants may only be awarded to
17 those applicants that have entered into or expect to enter into a
18 contract with a private developer relating to private investment that
19 will result in the creation or retention of jobs upon completion of the
20 project. Job development fund program grants shall not be provided for
21 any project where:

22 (a) The funds will not be used within the jurisdiction or
23 jurisdictions of the applicants; or

24 (b) Evidence exists that the project would result in a development
25 or expansion that would displace existing jobs in any other community
26 in the state.

27 (5) The board shall, with the joint legislative audit and review
28 committee, develop performance criteria for each grant and evaluation
29 criteria to be used to evaluate both how well successful applicants met
30 the community and economic development objectives stated in their
31 applications, and how well the job development fund program performed
32 in creating and retaining jobs.

33 **Sec. 6.** RCW 43.42.010 and 2003 c 71 s 2 are each amended to read
34 as follows:

35 (1) The office of regulatory assistance is created in the office of
36 financial management and shall be administered by the office of the
37 governor to assist citizens, businesses, and project applicants.

- 1 (2) The office shall:
- 2 (a) Maintain and furnish information as provided in RCW 43.42.040;
- 3 (b) Furnish facilitation as provided in RCW 43.42.050;
- 4 (c) Furnish coordination as provided in RCW 43.42.060;
- 5 (d) Coordinate cost reimbursement as provided in RCW 43.42.070;
- 6 (e) Work with state agencies and local governments to continue to
- 7 develop a range of permit assistance options for project applicants;
- 8 (f) ~~((Review initiatives developed by the transportation permit~~
- 9 ~~efficiency and accountability committee established in chapter 47.06C~~
- 10 ~~RCW and determine if any would be beneficial if implemented for other~~
- 11 ~~types of projects)) Help local jurisdictions comply with the~~
- 12 requirements of RCW 36.70B.080 by:
- 13 (i) Providing information about best practices and compliance with
- 14 the requirements of RCW 36.70B.080; and
- 15 (ii) Providing technical assistance in reducing the turnaround time
- 16 between submittal of an application for a development permit and the
- 17 issuance of the permit;
- 18 (g) Work to develop informal processes for dispute resolution
- 19 between agencies and permit applicants;
- 20 (h) Conduct customer surveys to evaluate its effectiveness; and
- 21 (i) Provide the following biennial reports to the governor and the
- 22 appropriate committees of the legislature:
- 23 (i) A performance report, based on the customer surveys required in
- 24 (h) of this subsection;
- 25 (ii) A report on any statutory or regulatory conflicts identified
- 26 by the office in the course of its duties that arise from differing
- 27 legal authorities and roles of agencies and how these were resolved.
- 28 The report may include recommendations to the legislature and to
- 29 agencies; and
- 30 (iii) A report regarding use of outside independent consultants
- 31 under RCW 43.42.070, including the nature and amount of work performed
- 32 and implementation of requirements relating to costs.
- 33 (3) A director of the office shall be hired no later than June 1,
- 34 2003.
- 35 (4) The office shall give priority to furnishing assistance to
- 36 small projects when expending general fund moneys allocated to it.

1 **Sec. 7.** RCW 43.131.401 and 2003 c 71 s 5 are each amended to read
2 as follows:

3 The office of regulatory assistance established in RCW 43.42.010
4 and its powers and duties shall be terminated June 30, (~~(2007)~~) 2011,
5 as provided in RCW 43.131.402.

6 **Sec. 8.** RCW 43.131.402 and 2003 c 71 s 6 are each amended to read
7 as follows:

8 The following acts or parts of acts, as now existing or hereafter
9 amended, are each repealed, effective June 30, (~~(2008)~~) 2012:

- 10 (1) RCW 43.42.005 and 2003 c 71 s 1 & 2002 c 153 s 1;
- 11 (2) RCW 43.42.010 and section 6 of this act, 2003 c 71 s 2, & 2002
12 c 153 s 2;
- 13 (3) RCW 43.42.020 and 2002 c 153 s 3;
- 14 (4) RCW 43.42.030 and 2003 c 71 s 3 & 2002 c 153 s 4;
- 15 (5) RCW 43.42.040 and 2003 c 71 s 4 & 2002 c 153 s 5;
- 16 (6) RCW 43.42.050 and 2002 c 153 s 6;
- 17 (7) RCW 43.42.060 and 2002 c 153 s 7;
- 18 (8) RCW 43.42.070 and 2002 c 153 s 8;
- 19 (9) RCW 43.42.905 and 2002 c 153 s 10;
- 20 (10) RCW 43.42.900 and 2002 c 153 s 11; and
- 21 (11) RCW 43.42.901 and 2002 c 153 s 12.

22 NEW SECTION. **Sec. 9.** The sum of forty-five thousand dollars, or
23 as much thereof as may be necessary, is appropriated for the fiscal
24 year ending June 30, 2008, from the general fund to the office of
25 regulatory assistance, created within the office of financial
26 management under RCW 43.42.010, for the purposes of section 6 of this
27 act.

28 NEW SECTION. **Sec. 10.** Section 4 of this act expires June 30,
29 2039.

30 NEW SECTION. **Sec. 11.** Section 5 of this act expires June 30,
31 2011."

ADOPTED 03/01/2007

1 On page 1, line 1 of the title, after "permitting;" strike the
2 remainder of the title and insert "amending RCW 43.155.070, 43.160.060,
3 39.102.040, 43.160.230, 43.42.010, 43.131.401, and 43.131.402; creating
4 a new section; making an appropriation; and providing expiration
5 dates."

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