

HOUSE BILL REPORT

2SSB 6855

As Passed House - Amended:

March 13, 2008

Title: An act relating to dedicated funding for jobs, economic development, and local capital projects.

Brief Description: Concerning funding for jobs, economic development, and local capital projects.

Sponsors: By Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Brandland, Hatfield and McAuliffe).

Brief History:

Committee Activity:

Community & Economic Development & Trade: 2/20/08, 2/27/08 [DPA];

Capital Budget: 3/3/08 [DPA(CB w/o CEDT)].

Floor Activity:

Passed House - Amended: 3/6/08, 65-28.

Senate Refused to Concur.

Passed House - Amended: 3/12/08, 64-33.

Brief Summary of Second Substitute Bill (As Amended by House)

- Modifies the Community Economic Revitalization Board (CERB) project eligibility, CERB quorum standards, application requirements, prioritization factors, financial parameters, geographic targeting, and accountability requirements.
- Repeals the Job Development Fund program and obsolete statutory provisions effective June 30, 2009.
- Creates the Building Communities Fund Program in the Department of Community, Trade and Economic Development (DCTED) to make grants to certain nonprofit organizations for acquiring, constructing, or rehabilitating nonresidential community services facilities.

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.

- Requires facilities to be located in a distressed community or serve a substantial number of low-income or disadvantaged persons.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

Majority Report: Do pass as amended. Signed by 6 members: Representatives Kenney, Chair; Pettigrew, Vice Chair; Chase, Darneille, Rolfes and Sullivan.

Minority Report: Do not pass. Signed by 3 members: Representatives Bailey, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Haler.

Staff: Meg Van Schoorl (786-7105).

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: Do pass as amended by Committee on Capital Budget and without amendment by Committee on Community & Economic Development & Trade. Signed by 12 members: Representatives Fromhold, Chair; Ormsby, Vice Chair; Schual-Berke, Vice Chair; Appleton, Blake, Chase, Dunshee, Flannigan, Kelley, Pedersen, Sells and Upthegrove.

Minority Report: Do not pass. Signed by 6 members: Representatives McDonald, Ranking Minority Member; Hankins, Orcutt, Pearson, Skinner and Smith.

Staff: Nona Snell (786-7153).

Background:

Community Economic Revitalization Board Program

The Community Economic Revitalization Board (CERB) is a statutorily authorized state board charged with financing publicly-owned economic development infrastructure improvements that encourage new business development and expansion in areas where growth is desired. Staffing for the CERB is provided by the Department of Community, Trade and Economic Development (DCTED). The CERB program provides local governments low-interest loans and, from time to time, grants, to help finance public facility projects. Assistance in the traditional CERB program is primarily targeted to rural communities. Counties, cities, towns, port districts, federally-recognized Indian tribes, special purpose districts, municipal corporations and quasi-municipal corporations with economic development purposes are eligible to apply. The CERB financing can be used for public facilities including, but not limited to, bridges, roads, domestic and industrial water, sanitary and storm sewers, and railroad spurs. In recent years, the Legislature has given the CERB responsibility for implementing the Job Development Fund (JDF) and Local Infrastructure Financing Tool (LIFT) programs.

Public Infrastructure Study Committee

A proviso in the 2007-09 Capital Budget established the Study Committee on Public Infrastructure Programs and Funding Structures (Committee). The joint House-Senate bipartisan committee was charged with making "recommendations for a comprehensive funding structure and a systematic approach to support the integration, consolidation and standardization of processes and procedures for community and economic development infrastructure programs."

The Committee's Final Report, dated January 1, 2008, determined that economic development resources should promote family wage jobs, job growth and retention, and should be based on regional plans that are consistent with the workforce development goals, the state economic development plan (when developed), and other state policy goals. The Committee proposed that: the JDF statute and the planned 2009-11 \$50 million Public Works Assistance Account Fund transfer be eliminated; the Legislature identify a permanent funding source for the CERB; re-evaluated the rural/urban mix of projects and maximum dollar amount allowed for each project in an expanded CERB program; the CERB funding criteria should prioritize projects compatible with statewide policy goals; and, performance measures should be required to indicate whether the projects are meeting the policy goals. If the CERB Program were to be expanded, adequate funding would be necessary for diligent application review and monitoring.

The Committee also proposed that the existing Community Services Facilities Program (Program) within the DCTED be expanded beyond nonresidential social services to also cover nonresidential community services including multipurpose community and cultural centers and that the Program prioritize projects in distressed communities. The Committee recommended that "distressed communities" be defined on the basis of school district free and reduced meals; county unemployment 20 percent above the state average for the previous three years; and/or the Small Business Administration's HUB Zones Criteria. While the focus would continue to be on capital projects, the Committee recommended that if "cash" funds were appropriated, up to \$5 million may be used for technical assistance and planning.

Community Services Facilities Program

The DCTED administers the Community Services Facilities Program under Chapter 43.63A.125 RCW. The Community Services Facilities Program offers grants on a competitive basis to non-profit organizations and other entities as determined by the DCTED for the acquisition, construction, or rehabilitation of facilities used for the delivery of nonresidential social services. The DCTED evaluates and ranks applications in consultation with a citizen advisory committee using objective criteria. Applicants must demonstrate that the assistance will increase the efficiency or quality of social services. Grant assistance cannot exceed 25 percent of the total project cost. The non-state portion of the total project cost may include cash, the value of real property when acquired solely for the project purpose, and in-kind contributions. The DCTED must submit a prioritized list of recommended projects to the Governor and Legislature in its biennial capital budget submission. The total state cost cannot exceed \$10 million. The DCTED cannot financially obligate funds until the Legislature has approved a specific list of projects.

Summary of Amended Bill:

CERB Findings and Definitions (Sections 1 and 2)

Procedural language related to transportation improvements on state highways is removed from the intent section. A "rural county" is a county with a population density of less than 100 persons per square mile or smaller than 225 square miles. References to the special tools and targeted funding needed by natural resources impact areas and rural counties are eliminated from the findings section. The definition of "rural natural resources impact area" is eliminated. Obsolete references to industrial revenue bonds, industrial development bonds, and financial institutions, among others, are removed.

Community Economic Revitalization Board (Sections 3 and 4)

A majority of members currently appointed constitutes a quorum. Obsolete references to industrial development revenue bonds and industrial development facilities are removed.

CERB Loans and Grants (Section 5)

The current requirement that the CERB provide at least 10 percent of all financial assistance in any biennium in the form of grants to political subdivisions and federally-recognized tribes is replaced by a limitation on the CERB to approve no more than 25 percent in grants.

The current prohibition on providing financial assistance for the acquisition of real property, including buildings and other fixtures which are a part of real property, is eliminated.

The CERB is prohibited from providing financial assistance for a project located outside the jurisdiction of the applicant political subdivision or federally-recognized Indian tribe.

Existing language that describes eligible projects in terms of specific industrial sectors is replaced. The CERB must only provide financial assistance for:

- a project that demonstrates convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made, that will result in the creation of significant private sector jobs or capital investment, as determined by the CERB, and is consistent with the Washington Economic Development Commission's (Commission) comprehensive economic development plan, once the plan is adopted;
- a project that cannot demonstrate that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made, but will result in significant private sector jobs or capital investment, is consistent with the Commission's comprehensive economic development plan once the plan is adopted, is part of a local economic development plan consistent with applicable state planning requirements, can demonstrate project feasibility, and is located in a rural community, as defined by the CERB, or a rural county; or
- site-specific plans, studies and analyses that address certain impacts, engineering, marketing, design and planning elements, up to \$50,000 in grant funding.

An application must: demonstrate local match and participation; be approved by the political subdivision; be supported by the associate development organization or local workforce development council or approved by the governing body of the federally-recognized Indian tribe; and demonstrate convincing evidence that the median hourly wage of the private sector jobs will exceed the countywide median hourly wage.

"De minimis" general system improvements may be funded if they are critically linked to the project's viability.

The CERB must prioritize each project according to: the rate of return on the state's investment, including the leveraging of private sector investment and anticipated job creation and retention; whether the project offers a health insurance plan for employees that includes an option for dependents of employees; and, whether the investment will increase capacity to accommodate projected population and employment growth in a manner that supports infill and urban or industrial area redevelopment served by adequate public facilities. Projects should maximize the use of existing infrastructure and provide for adequate funding of necessary transportation improvements.

Conditions of Public Facilities Financial Assistance (Sections 6 and 8)

Outstanding financial assistance to Pierce, King and Snohomish counties may exceed 60 percent of the total disbursed funds. The CERB may partially forgive loan payments on projects in rural communities as defined by the CERB. Several references to the distressed county public facilities construction loan account and to rural natural resources impact areas are eliminated.

The current requirement for the CERB to spend at least 75 percent of all funds available for projects in rural counties or rural natural resources impact areas is replaced. Instead, the CERB must approve at least 75 percent of the first \$20 million available and at least 50 percent of any additional funds for projects in rural counties. However, if there are insufficient applications received or anticipated from rural counties in the final six months of a biennium, the CERB may use the unused funds in non-rural counties.

Outcome-Based Evaluation by the CERB (Sections 9 and 10)

Each even-numbered year, the CERB must conduct an outcome-based evaluation according to specified criteria. By September 1, the CERB must forward the draft evaluation to the Commission for review and comment, and respond to the Commission's requests for additional information. The CERB must include the Commission's written comments or recommendations in the evaluation and present it to the Governor and appropriate legislative committees by December 31.

Miscellaneous, Repealers and Effective Date (Sections 7, 11, 17, 18 and 19)

Obsolete references to the State Transportation Commission are replaced by references to the Washington State Department of Transportation. The JDF Program is repealed as of June 30, 2009 and the JDF Account is left in place. Reports by the Joint Legislative Audit and Review Committee on State Public Infrastructure Programs and Funds (completed) and on the JDF (due 2010) expire June 30, 2009. A number of the CERB statutory sections are repealed,

effective July 1, 2009. Language clarifying the meaning of a CERB quorum is effective immediately.

Building Communities Fund Program Findings and Intent (Section 12)

There are distressed rural and urban communities in our state where investments in community services initiatives could create vibrant local business districts and prosperous neighborhoods. Nonprofit organizations provide a variety of community services to Washington citizens, and in some cases, it is appropriate for the state to assist in development of community service facilities. Providing these capital investments is critical for the economic health of local distressed communities, helps build strong relationships with the state, and expands life opportunities for under-served low-income populations. Creating the Building Communities Fund could enhance services by nonprofit organizations, local governments, and federally recognized tribes.

Building Communities Fund Program and Program Account Established (Sections 13 and 14)

Expanding upon the existing Community Services Facilities program, the DCTED must establish the Building Communities Fund Program (BCF Program) through which capital and technical assistance grants may be provided to section 501 (c) (3) nonprofit organizations.

Distressed communities are defined as:

- a county that has an unemployment rate that is 20 percent above the statewide average for the immediately previous three years;
- an area within a county that the DCTED determines to be a low-income community, using as guidance designations under the Community Development Financial Institutions Fund's New Markets Tax Credit Program; or
- a school district in which at least 50 percent of local elementary students receive free and reduced-price meals.

The BCF Program grants may be used for acquiring, constructing, or rehabilitating facilities used to deliver nonresidential community services, including social service centers or multipurpose community centers, including those that serve a distinct or ethnic population. These facilities must be located in a distressed community or serve a substantial number of low-income or disadvantaged persons.

The Building Communities Fund Account (Account) is created in the State Treasury. Moneys may be spent only after appropriation. Account expenditures may be used only for specified capital and technical assistance grants.

Competitive Process (Section 15)

The DCTED must establish a competitive process to solicit and evaluate applications. The DCTED must evaluate applications in consultation with a citizen advisory committee using objective criteria.

Applicants must demonstrate that the proposed project:

- will offer a diverse set of activities that meet multiple community service objectives, including but not limited to: (1) providing social services; (2) expanding employment opportunities for community residents or increasing the employability of community

residents; or (3) offering educational and recreational opportunities separate from the public education system or private schools, as long as recreation is not the sole purpose of the facility;

- will increase range, efficiency, or quality of services;
- will be located in a distressed community or serve a substantial number of low-income or disadvantaged persons;
- reflects a long-term shared vision for the community's development;
- requires state funding to accomplish a discrete project phase;
- is ready to proceed and will make timely use of funds;
- is sponsored by entities with organizational and financial capacity to fulfill the terms of the grant agreement and maintain the project in the future;
- fills an unmet need;
- will achieve its stated objectives; and
- is a community priority as shown through tangible commitments of existing or future assets to the project by residents, leaders, businesses, and government partners.

The DCTED may not set monetary limits to funding requests. Applicants are required to provide a nonstate match that can include cash, real property, and in-kind donations. Grant assistance may not exceed 25 percent of total project cost, except under exceptional circumstances, the DCTED may reduce the amount of nonstate match required.

The DCTED must submit an annual unranked list of qualified eligible projects to the Governor and Legislature in its capital budget requests beginning with the 2009-11 biennium and thereafter. The appropriate fiscal committees must use the list to determine Building Communities Fund projects that may receive funding in the capital budget. The total amount of state capital funding for projects will be determined by the capital budget beginning with the 2009-11 biennium. If cash funds are appropriated, up to \$3 million may be used for technical assistance grants to nonprofit organizations. In addition, the DCTED must submit to the Legislature a summary report that describes the solicitation and evaluation process and any recommendations for process improvements.

Contracts and Accountability (Section 16)

After the Legislature has approved a specific list of projects in law, the DCTED must develop and manage contracts with grantees, monitor expenditures and performance, and exercise other due diligence. The DCTED must develop accountability and reporting standards for grant recipients. At a minimum, the DCTED must use the statutory criteria to evaluate grantee progress. The DCTED must submit annual reports, beginning January 1, 2011, to the Legislature containing specified information and data.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except for sections 1, 2, 4-11, and 17, relating to intent, definitions, CERB

authorities, funds, transportation projects, evaluations, and repealers, which take effect July 1, 2009, and section 3, relating to the CERB quorum, which takes effect immediately.

Staff Summary of Public Testimony: (Community & Economic Development & Trade)

(In support) The CERB is the state's only economic development infrastructure program. This bill builds on the best that the CERB has done in the past and contains forward-thinking policy priorities that bring the CERB statute into the 21st Century. State infrastructure dollars should be invested on local projects that are consistent with overall state economic development policy and plans. Potential CERB projects should be prioritized according to their consistency with urban development growth management goals such as in-fill and use of existing infrastructure. State investment should focus on good paying jobs in terms of wage levels and benefits. If the Job Development Fund is eliminated, rural and urban economic development projects can be brought within one silo. We like defining a rural county in direct words rather than referencing a single, unrelated tax statute that may change in the near future. We would like the CERB quorum change to be effective immediately.

(With concerns) We would like to preserve the CERB's flexibility regarding consistency with the statewide economic development plan. The existing statewide plan is four years old, the new draft plan is due out this summer, and it would be better to see an actual plan before judging the CERB projects against it. In addition, economic development should begin at the local level, and should respond to local needs and priorities. Comparing a project's hourly average wage to the county's hourly wage is problematic. The evaluation factors that include relative benefits and return on investments should both be reinstated. Ten jobs in Ferry County may be more important there than 10 jobs in Seattle, and even an initially small number of jobs might stimulate additional job creation. Having the Economic Development Commission evaluate the CERB financing for projects is highly unusual and redundant. The Commission already can do evaluations within its existing authority. The CERB is agreeable to adding new evaluation criteria or reporting requirements. Unfortunately this bill does not propose a permanent funding source for the CERB – we are working on it, but agreement has not been reached.

(Opposed) None.

Staff Summary of Public Testimony: (Capital Budget)

(In support) The bill supports the recommendations of the Infrastructure Study Committee (Committee). The Committee recommended re-evaluating the rural/urban mix of projects if additional funds are appropriated for the Community Economic Revitalization Board (CERB) program. The bill holds the rural counties harmless, but allows additional funding for urban counties. This is important because the bill eliminates the Job Development Fund (JDF) that primarily funds projects in urban areas.

Another key element of the Committee recommendations was that infrastructure programs should be consistent with state policy goals. The Economic Development Commission is developing policy; it makes sense that the primary economic infrastructure program should be

consistent with that policy. The Committee recommends supporting projects that promote good wages and benefits and should promote in-fill, not sprawl.

The partnership between CERB and the Economic Development Commission to evaluate the CERB projects will allow good stewardship of public funds.

Infrastructure may mean the difference between jobs or no jobs, and the CERB is a terrific program that supports economic development that creates jobs. The purpose of the CERB program is to promote private development that would not occur without the public funded infrastructure. A dedicated funding source for the program does not exist, and the program is underfunded. Use a portion of the Real Estate Excise Tax as an adequate and permanent funding source for CERB, but do not use the Public Works Assistance Account to fund it.

The top priorities for the Washington Economic Development Association (WEDA) are all infrastructure. The bill has been well-worked, and WEDA is fine with it, but additional funds would be appreciated as well.

The Washington Realtors support the bill because it aligns projects with the economic development goals of the state and local governments, and it supports in-fill and redevelopment and the use of existing infrastructure.

The bill expires the JDF, but repealing the program is fine.

(Opposed) None.

Persons Testifying: (Community & Economic Development & Trade) (In support) Senator Kilmer, prime sponsor; Terri Jeffreys, Washington Realtors; James McMahan, Washington Economic Development Association; and Ashley Probart, Association of Washington Cities.

(With concerns) Ginger Eagle, Washington Public Ports Association; and Marie Sullivan, Department of Community, Trade and Economic Development.

Persons Testifying: (Capital Budget) Senator Kilmer, prime sponsor; Len McComb, Port of Everett; James McMahan, Washington Economic Development Association; Ashley Probart, Association of Washington Cities; Terri Jeffreys, Washington Realtors; and Marie Sullivan, Department of Community, Trade and Economic Development.

Persons Signed In To Testify But Not Testifying: (Community & Economic Development & Trade) None.

Persons Signed In To Testify But Not Testifying: (Capital Budget) None.