CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1260

63rd Legislature 2014 Regular Session

Passed by the House March 13, 2014 Yeas 53 Nays 44 Speaker of the House of Representatives	CERTIFICATE I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is SUBSTITUTE HOUSE BILL 1260 as passed by the House of Representatives and the Senate or		
		Passed by the Senate March 13, 2014 Yeas 39 Nays 10	the dates hereon set forth.
			Chief Clerk
President of the Senate			
Approved	FILED		
Governor of the State of Washington	Secretary of State State of Washington		

SUBSTITUTE HOUSE BILL 1260

AS AMENDED BY THE SENATE

Passed Legislature - 2014 Regular Session

State of Washington

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63rd Legislature

2014 Regular Session

House Capital Budget (originally sponsored by Representatives Warnick and Stanford; by request of Washington State Department of Commerce)

READ FIRST TIME 03/01/13.

- 1 AN ACT Relating to public facilities' grants and loans; amending
- 2. RCW 43.160.010, 43.160.020, 43.160.030, 43.160.050, 43.160.076,
- 43.160.080, and 43.160.900; adding new sections to chapter 43.160 RCW; 3
- and repealing RCW 43.160.060, 43.160.070, and 43.160.078. 4
- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- RCW 43.160.010 and 2012 c 225 s 2 are each amended to read 6 Sec. 1. 7 as follows:
- (1) The legislature finds that it is the ((public)) policy of the 8
- 9 state of Washington to ((direct financial resources toward the
- 10 fostering of economic development through the stimulation of investment
- 11 and job opportunities and the retention of sustainable existing
- 12 employment)) employ state and federal resources to foster economic
- 13 development to promote private investment and to create or retain job opportunities for the general welfare of the inhabitants of the state.
- 15 Reducing unemployment and reducing the time citizens remain jobless
- 16 ((is)) are important for the economic welfare of the state.
- (2) The legislature finds that a valuable means of fostering 17
- 18 economic development is the construction of public facilities which
- contribute to the stability and growth of the state's economic base. 19

Expenditures made for these purposes as authorized in this chapter are declared to be in the public interest, and constitute a proper use of public funds. ((A community economic revitalization board is needed which shall aid the development of economic opportunities. The general objectives of the board should include:

- (a) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies;
- (b) Encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment;
- (c) Encouraging wider access to financial resources for both large and small industrial development projects;
- (d) Encouraging new economic development or expansions to maximize employment;
- (e) Encouraging the retention of viable existing firms and employment;
 - (f) Providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment; and
 - (g) Enhancing job and business growth through facility development and other improvements in innovation partnership zones designated under RCW 43.330.270.
 - (2))) (3) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to improve state highways, county roads, or city streets for industries considering locating or expanding in this state.
 - ((+3))) (4) The legislature finds it desirable to provide a process whereby the need for diverse public works improvements necessitated by planned economic development can be addressed in a timely fashion and with coordination among all responsible governmental entities.
 - ((4))) <u>(5)</u> The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to assist development of telecommunications infrastructure that supports business development, retention, and expansion in the state.
 - (((5))) (6) The legislature also finds that the state's economic development efforts can be enhanced by providing funds to improve markets for those recyclable materials representing a large fraction of

the waste stream. The legislature finds that the construction or rehabilitation of public facilities ((which)) that result in private construction of processing or remanufacturing facilities for recyclable materials ((are)) is eligible for consideration from the board.

- ((\(\frac{(+(+))}{(-7)}\) The legislature finds that sharing economic growth statewide is important to the welfare of the state. The ability of communities to pursue business and job retention, expansion, and development opportunities depends on their capacity to ready necessary economic development project plans, sites, permits, and infrastructure for private investments. Project-specific planning, predevelopment, and infrastructure are critical ingredients for economic development. ((It is, therefore, the intent of the legislature to increase the amount of funding available through the community economic revitalization board and to authorize flexibility for available resources in these areas to help fund planning, predevelopment, and construction costs of infrastructure and facilities and sites that foster economic vitality and diversification.))
- 18 (8) It is, therefore, the intent of the legislature to create a
 19 community economic revitalization board to aid the development of
 20 economic opportunities. The general objectives of the board should
 21 include:
 - (a) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies;
 - (b) Encouraging the diversification of the economies of the state and regions within the state in order to provide greater stability of income and employment;
- 28 <u>(c) Encouraging greater access to financial resources for both</u>
 29 large and small industrial development projects;
 - (d) Encouraging new economic development or expansions to maximize employment;
 - (e) Encouraging the retention of viable existing firms and promoting employment within these firms;
- (f) Providing incentives for expansion of employment opportunities
 for groups of state residents that have been less successful relative
 to other groups in efforts to gain permanent employment; and
 - (g) Enhancing job and business growth through facility development

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- 1 <u>and other improvements in innovation partnership zones designated under</u>
- 2 RCW 43.330.270.

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3 <u>NEW SECTION.</u> **Sec. 2.** A new section is added to chapter 43.160 RCW 4 to read as follows:

5 The legislature finds that the community economic revitalization 6 board has successfully acted as an economic development infrastructure 7 financier for local governments. It is, therefore, the intent of the 8 legislature to authorize flexibility for the community economic 9 revitalization board to help fund planning, predevelopment, and 10 construction costs of infrastructure and facilities and sites that 11 foster economic vitality and diversification.

- 12 **Sec. 3.** RCW 43.160.020 and 2012 c 225 s 3 are each amended to read 13 as follows:
- 14 Unless the context clearly requires otherwise, the definitions in 15 this section apply throughout this chapter.
- 16 (1) "Board" means the community economic revitalization board.
 - (2) "Department" means the department of commerce.
- 18 (3) "Director" means the director of the department.
- 19 <u>(4)</u> "Local government" or "political subdivision" means any port 20 district, county, city, town, special purpose district, and any other 21 municipal corporations or quasi-municipal corporations in the state 22 providing for public facilities under this chapter.
 - (((4))) (5) "Planning project" means project-specific environmental, capital facilities, land use, permitting, feasibility, and marketing studies and plans; project design, site planning, and analysis; project debt and revenue impact analysis; and economic development industry cluster analysis.
- 28 (6) "Project" means a project of a local government or a federally
 29 recognized Indian tribe for the planning, acquisition, construction,
 30 repair, reconstruction, replacement, rehabilitation, or improvement of
 31 a public facility.
- 32 (7) "Public facilities" means ((a project of a local government or a federally recognized Indian tribe for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of:)) bridges; roads; research, testing, training, and incubation facilities in areas designated as innovation partnership

zones under RCW 43.330.270; buildings or structures; domestic and industrial water, earth stabilization, sanitary sewer, storm ((sewer)) water, railroad, electricity, broadband, telecommunications, transportation, natural gas, and port facilities((; all for the purpose of job creation, job retention, or job expansion)).

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- $((\frac{5}{}))$ (8) "Rural county" means a county with a population density of fewer than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles, as determined by the office of financial management and published each year by the department for the period July 1st to June 30th.
- 11 **Sec. 4.** RCW 43.160.030 and 2011 1st sp.s. c 21 s 25 are each 12 amended to read as follows:
 - (1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.
 - (2) The board ((shall)) must consist of one member from each of the two major caucuses of the house of representatives to be appointed by the speaker of the house and one member from each of the two major caucuses of the senate to be appointed by the president of the senate. The board ((shall)) must also consist of the following members appointed by the director of commerce: A recognized private or public sector economist; one port district official; one county official; one city official; one representative of a federally recognized Indian tribe; one representative of the public; ((one)) four representatives of small businesses ((each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades)); and two executives from large businesses. appointive members ((shall)) <u>must</u> initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms ((which shall)) that must include the chair. Thereafter each succeeding term ((shall)) must be for three years. The chair of the board ((shall)) <u>must</u> be selected by the director of commerce. When appointing members, the director must endeavor to ensure equitable geographic representation. The members of the board ((shall)) <u>must</u> elect one of their members to serve as

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- ((vice-chair)) vice chair. The director of commerce, the director of 1 2 revenue, the commissioner of employment security, and the secretary of 3 transportation ((shall)) must serve as nonvoting advisory members of 4 the board.
 - (3) ((Management services, including fiscal and contract services, shall be provided by the department to assist the board in implementing this chapter.
- 8 (4))) Members of the board ((shall)) must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. 9
 - (((5))) (4) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the director of commerce ((shall)) must fill the same for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the director of commerce, under chapter 34.05 RCW.
- (((6))) (5) A member appointed by the director of commerce may not 15 be absent from more than fifty percent of the regularly scheduled 16 17 meetings in any one calendar year. Any member who exceeds this absence 18 limitation is deemed to have withdrawn from the office and may be 19 replaced by the director of commerce.
- $((\frac{7}{1}))$ (6) A majority of members currently appointed constitutes 20 21 a quorum.
- 22 Sec. 5. RCW 43.160.050 and 2008 c 327 s 4 are each amended to read 23 as follows:
- 24 The board may:

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- 25 (1) Adopt bylaws for the regulation of its affairs and the conduct 26 of its business.
 - (2) Adopt an official seal and alter the seal at its pleasure.
- (3) Utilize the services of other governmental agencies. 28
- 29 (4) Accept from any federal agency loans or grants for the planning or financing of any project and enter into an agreement with the agency 30 31 respecting the loans or grants.
- (5) Conduct examinations and investigations and take testimony at public hearings of any matter material for its information that will 33 34 assist in determinations related to the exercise of the board's lawful 35 powers.
- 36 (6) Accept any gifts, grants, or loans of funds, property, or

- financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter.
 - (7) Enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of this chapter.
 - (8) Consistent with the guidelines issued by the office of financial management and in consultation with the department, prepare biennial operating and capital budgets and, as needed, update these budgets during the biennium.
- 10 <u>(9)</u> Adopt rules under chapter 34.05 RCW as necessary to carry out 11 the purposes of this chapter.
- 12 (((+9))) (10) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter.
- NEW SECTION. Sec. 6. A new section is added to chapter 43.160 RCW to read as follows:
- Management services, including fiscal and contract services, must be provided by the department to assist the board in implementing this chapter.
- NEW SECTION. Sec. 7. A new section is added to chapter 43.160 RCW to read as follows:
- 21 (1) In order to assist political subdivisions of the state and 22 federally recognized Indian tribes in financing the cost of public 23 facilities, the board:
- 24 (a) Must manage the public facilities construction loan revolving 25 account in such a way as to ensure its sustainability.
 - (b) Must execute contracts or otherwise financially obligate funds from the public facilities construction loan revolving account for projects approved for funding by the board under the following programs:
 - (i) Committed private sector partner construction;
- 31 (ii) Prospective development construction;
- 32 (iii) Planning; and

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- 33 (iv) Any other program authorized by the legislature.
- 34 (c) Must provide loans to political subdivisions and federally 35 recognized Indian tribes for the purposes of financing the cost of 36 public facilities.

- 1 (i) The board must determine the interest rate that loans bear. 2 The interest rate may not exceed ten percent per annum.
 - (ii) The board may provide reasonable terms and conditions for repayment for loans, including partial forgiveness of loan principal and interest payments on projects located in rural communities as defined by the board, or rural counties. The loans may not exceed twenty years in duration.
 - (iii) In general, the board must require borrowers to begin repaying loans within one year of final contract execution. The board may authorize borrowers to defer initiating loan repayments for up to five years. A borrower must submit a deferral request to the board in writing and must include justification as to the need.
 - (d) May provide grants for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or the federally recognized Indian tribe and the finding by the board that financial circumstances require grant assistance to enable the project to move forward.
 - (2) No more than twenty-five percent of all financial assistance approved by the board in any biennium may consist of grants to political subdivisions and federally recognized Indian tribes.
 - (3) Except as authorized to the contrary under subsection (4) of this section, from all funds available to the board for financial assistance in a biennium under this chapter, the board must approve at least seventy-five percent of the first twenty million dollars of funds available and at least fifty percent of any additional funds for financial assistance for projects in rural counties or board defined rural communities.
 - (4) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in rural counties or board defined rural communities are clearly insufficient to use up the allocations under subsection (3) of this section, the board must estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance to projects not located in rural counties or board defined rural communities.
 - (5) The board may elect to reserve up to one million dollars of its biennial appropriation to use as state match for federal grant awards.

- 1 The purpose and use of the federal funds must be consistent with the
- 2 board's purpose of financing economic development infrastructure.
- 3 Reserved board funds must be matched, at a minimum, dollar for dollar
- 4 by federal funds. If the set aside funds are not fully utilized for
- 5 federal grant match by the 18th month of the biennium, the board may
- 6 use those funds for other eligible projects as stated in this chapter.
- NEW SECTION. Sec. 8. A new section is added to chapter 43.160 RCW to read as follows:
- 9 The board must:

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- 10 (1) Establish and maintain collaborative relations with 11 governmental, private, and other financing organizations, advocate 12 groups, and other stakeholders associated with state economic 13 development activities and policies;
- 14 (2) Provide information and advice to the governor and legislature 15 on matters related to economic development; and
- 16 (3) At the direction of the governor, provide information and 17 advocacy at the national level on matters related to economic 18 development financing.
- NEW SECTION. Sec. 9. A new section is added to chapter 43.160 RCW to read as follows:
 - (1) Under the committed private sector partner construction program, the board may only provide financial assistance to a project that demonstrates convincing evidence that a specific private sector development or expansion is ready to occur or will occur only if the public facility improvement is made.
 - (2) Under the prospective development construction program, the board may only provide financial assistance to a project that can demonstrate project feasibility using standard economic principles.
 - (3)(a) Projects applying under either the committed private sector partner construction program or the prospective development construction program must submit evidence comparing the median hourly wage of the private sector jobs to be created after the project is completed with the countywide median hourly wage for private sector jobs.
- 35 (b) The board must award a minimum of fifty percent of the moneys 36 appropriated to it in the omnibus capital appropriations act to

- projects that are able to demonstrate convincing evidence that the median hourly wage of the private sector jobs created after the project is completed will exceed the countywide median hourly wage for private sector jobs.
 - (4) The board must give funding priority to eligible projects applying under the committed private sector partner construction program.
- 8 <u>NEW SECTION.</u> **Sec. 10.** A new section is added to chapter 43.160 9 RCW to read as follows:
 - (1) The board must prioritize awards for committed private sector partner construction and prospective development construction projects by considering at a minimum the following criteria:
 - (a) The number of jobs created by the expected business creation or expansion and the average wage of those expected jobs. In evaluating proposals for their job creation potential, the board may adjust the job estimates in applications based on the board's judgment of the credibility of the job estimates;
 - (b) The need for job creation based on the unemployment rate of the county or counties in which the project is located. When evaluating the jobs created by the project, the board may consider the area labor supply and readily available skill sets of the labor pool in the county or counties surrounding the project location;
 - (c) How the expected business creation or expansion fits within the region's preferred economic growth strategy as indicated by the efforts of nearby innovation partnership zones, industry clusters, future export prospects, or local government equivalent if available;
 - (d) The speed with which the project can begin construction;
 - (e) Whether the proposed project offers a health insurance plan for employees that includes an option for dependents of employees;
 - (f) Whether the public facility investment will increase existing capacity necessary to accommodate projected population and employment growth in a manner that supports infill and redevelopment of existing urban or industrial areas served by adequate public facilities; and
 - (g) The extent that the project leverages nonstate funds, and achieves overall the greatest benefit in job creation at good wages for the amount of money provided.
 - (2) The board may not provide financial assistance:

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1 (a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion;

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- (b) For any project for which evidence exists that would result in a development or expansion that would displace jobs in any other community in the state;
- (c) For a project the primary purpose of which is to facilitate or promote gambling; or
- (d) For a project located outside the jurisdiction of the applicant political subdivision or federally recognized Indian tribe.
- 10 **Sec. 11.** RCW 43.160.076 and 2011 c 180 s 301 are each amended to 11 read as follows:
 - (((1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance in a biennium under this chapter, the board shall approve at least seventy five percent of the first twenty million dollars of funds available and at least fifty percent of any additional funds for financial assistance for projects in rural counties.
 - (2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in rural counties are clearly insufficient to use up the allocations under subsection (1) of this section, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance to projects not located in rural counties.
 - (3))) The board ((shall)) must solicit qualifying projects to plan, and construct public facilities needed to attract new industrial and commercial activities in areas impacted by the closure potential of large coal-fired electric closure facilities, which for the purposes of this section means a facility that emitted more than one million tons of greenhouse gases in any calendar year prior to 2008. The projects should be consistent with any applicable plans for major industrial activity on lands formerly used or designated for surface coal mining and supporting uses under RCW 36.70A.368. When the board receives timely and eligible project applications from a political subdivision of the state for financial assistance for such projects, the board from available funds ((shall)) must give priority consideration to such projects.

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- **Sec. 12.** RCW 43.160.080 and 2010 1st sp.s. c 36 s 6011 are each 2 amended to read as follows:
 - (1) There ((shall)) must be a fund in the state treasury known as the public facilities construction loan revolving account, which ((shall)) consists of all moneys collected under this chapter and any moneys appropriated to it by law. Disbursements from the revolving account ((shall)) must be on authorization of the board. In order to maintain an effective expenditure and revenue control, the public facilities construction loan revolving account ((shall be)) is subject in all respects to chapter 43.88 RCW. During the 2009-2011 biennium, sums in the public facilities construction loan revolving account may be used for community economic revitalization board export assistance grants and loans in section 1018, chapter 36, Laws of 2010 1st sp. sess. and for matching funds for the federal energy regional innovation cluster in section 1017, chapter 36, Laws of 2010 1st sp. sess.
 - (2) The moneys in the public facilities construction loan revolving account must be used solely to fulfill commitments arising from financial assistance authorized in this chapter. The total outstanding amount, which the board must dispense at any time pursuant to this section, may not exceed the moneys available from the account.
 - (3) Repayments of loans made from the public facilities construction loan revolving account under the contracts for public facilities construction loans must be paid into the public facilities construction loan revolving account.
 - Sec. 13. RCW 43.160.900 and 2008 c 327 s 9 are each amended to read as follows:
 - (1) The community economic revitalization board ((shall)) must conduct biennial outcome-based evaluations of the financial assistance provided under this chapter. The evaluations ((shall)) must include information on the number of applications for community economic revitalization board assistance; the number and types of projects approved; the grant or loan amount awarded each project; the projected number of jobs created or retained by each project; the actual number and cost of jobs created or retained by each project; the wages and health benefits associated with the jobs; the amount of state funds and total capital invested in projects; the number and types of businesses assisted by funded projects; the location of funded projects; the

transportation infrastructure available for completed projects; the local match and local participation obtained; the number of delinquent loans; and the number of project terminations. The evaluations may also include additional performance measures and recommendations for programmatic changes.

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- (2)(a) By September 1st of each even-numbered year, the board $((\frac{\text{shall}}{\text{shall}}))$ must forward its draft evaluation to the Washington state economic development commission for review and comment($(\frac{\text{shall}}{\text{shall}})$). The board $((\frac{\text{shall}}{\text{shall}}))$ must provide any additional information as may be requested by the commission for the purpose of its review.
- (b) Any written comments or recommendations provided by the commission as a result of its review ((shall)) must be included in the board's completed evaluation. The evaluation must be presented to the governor and appropriate committees of the legislature by December 31st of each even-numbered year. ((The initial evaluation must be submitted by December 31, 2010.))
- NEW SECTION. Sec. 14. The following acts or parts of acts are each repealed:
- (1) RCW 43.160.060 (Loans and grants to political subdivisions and federally recognized Indian tribes for public facilities authorized-Application--Requirements for financial assistance) and 2012 c 196 s
 10, 2008 c 327 s 5, 2007 c 231 s 3, & 2004 c 252 s 3;
- 24 (2) RCW 43.160.070 (Conditions) and 2008 c 327 s 6, 1999 c 164 s 25 104, 1998 c 321 s 27, 1997 c 235 s 721, 1996 c 51 s 6, 1990 1st ex.s. 26 c 16 s 802, 1983 1st ex.s. c 60 s 4, & 1982 1st ex.s. c 40 s 7; and
- 27 (3) RCW 43.160.078 (Board to familiarize government officials and public with chapter provisions) and 1985 c 446 s 5.

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