
SUBSTITUTE SENATE BILL 5334

State of Washington

63rd Legislature

2014 Regular Session

By Senate Ways & Means (originally sponsored by Senator Hewitt; by request of Washington State Department of Commerce)

READ FIRST TIME 02/07/14.

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,
3 43.160.080, and 43.160.900; adding new sections to chapter 43.160 RCW;
4 and repealing RCW 43.160.060, 43.160.070, and 43.160.078.

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

6 **Sec. 1.** RCW 43.160.010 and 2012 c 225 s 2 are each amended to read
7 as follows:

8 (1) The legislature finds that it is the ((public)) policy of the
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
14 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.

17 (2) The legislature finds that a valuable means of fostering
18 economic development is the construction of public facilities which
19 contribute to the stability and growth of the state's economic base.

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

6 ~~(a) Strengthening the economies of areas of the state which have
7 experienced or are expected to experience chronically high unemployment
8 rates or below average growth in their economies;~~

9 ~~(b) Encouraging the diversification of the economies of the state
10 and regions within the state in order to provide greater seasonal and
11 cyclical stability of income and employment;~~

12 ~~(c) Encouraging wider access to financial resources for both large
13 and small industrial development projects;~~

14 ~~(d) Encouraging new economic development or expansions to maximize
15 employment;~~

16 ~~(e) Encouraging the retention of viable existing firms and
17 employment;~~

18 ~~(f) Providing incentives for expansion of employment opportunities
19 for groups of state residents that have been less successful relative
20 to other groups in efforts to gain permanent employment; and~~

21 ~~(g) Enhancing job and business growth through facility development
22 and other improvements in innovation partnership zones designated under
23 RCW 43.330.270.~~

24 ~~(+2))~~ (3) The legislature also finds that the state's economic
25 development efforts can be enhanced by, in certain instances, providing
26 funds to improve state highways, county roads, or city streets for
27 industries considering locating or expanding in this state.

28 ~~((+3))~~ (4) The legislature finds it desirable to provide a process
29 whereby the need for diverse public works improvements necessitated by
30 planned economic development can be addressed in a timely fashion and
31 with coordination among all responsible governmental entities.

32 ~~((+4))~~ (5) The legislature also finds that the state's economic
33 development efforts can be enhanced by, in certain instances, providing
34 funds to assist development of telecommunications infrastructure that
35 supports business development, retention, and expansion in the state.

36 ~~((+5))~~ (6) The legislature also finds that the state's economic
37 development efforts can be enhanced by providing funds to improve
38 markets for those recyclable materials representing a large fraction of

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

5 ~~((+6))~~ (7) The legislature finds that sharing economic growth
6 statewide is important to the welfare of the state. The ability of
7 communities to pursue business and job retention, expansion, and
8 development opportunities depends on their capacity to ready necessary
9 economic development project plans, sites, permits, and infrastructure
10 for private investments. Project-specific planning, predevelopment,
11 and infrastructure are critical ingredients for economic development.
12 ~~((It is, therefore, the intent of the legislature to increase the~~
13 ~~amount of funding available through the community economic~~
14 ~~revitalization board and to authorize flexibility for available~~
15 ~~resources in these areas to help fund planning, predevelopment, and~~
16 ~~construction costs of infrastructure and facilities and sites that~~
17 ~~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:

22 (a) Strengthening the economies of areas of the state which have
23 experienced or are expected to experience chronically high unemployment
24 rates or below average growth in their economies;

25 (b) Encouraging the diversification of the economies of the state
26 and regions within the state in order to provide greater stability of
27 income and employment;

28 (c) Encouraging greater access to financial resources for both
29 large and small industrial development projects;

30 (d) Encouraging new economic development or expansions to maximize
31 employment;

32 (e) Encouraging the retention of viable existing firms and
33 promoting employment within these firms;

34 (f) Providing incentives for expansion of employment opportunities
35 for groups of state residents that have been less successful relative
36 to other groups in efforts to gain permanent employment; and

37 (g) Enhancing job and business growth through facility development

1 and other improvements in innovation partnership zones designated under
2 RCW 43.330.270.

3 NEW SECTION. **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.

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

18 (3) "Director" means the director of the department.

19 (4) "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.

23 ~~((+4))~~ (5) "Planning project" means project-specific
24 environmental, capital facilities, land use, permitting, feasibility,
25 and marketing studies and plans; project design, site planning, and
26 analysis; project debt and revenue impact analysis; and economic
27 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~~
33 ~~a federally recognized Indian tribe for the planning, acquisition,~~
34 ~~construction, repair, reconstruction, replacement, rehabilitation, or~~
35 ~~improvement of+))~~ bridges; roads; research, testing, training, and
36 incubation facilities in areas designated as innovation partnership

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

6 ((+5)) (8) "Rural county" means a county with a population density
7 of fewer than one hundred persons per square mile or a county smaller
8 than two hundred twenty-five square miles, as determined by the office
9 of financial management and published each year by the department for
10 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:

13 (1) The community economic revitalization board is hereby created
14 to exercise the powers granted under this chapter.

15 (2) The board (~~shall~~) must consist of one member from each of the
16 two major caucuses of the house of representatives to be appointed by
17 the speaker of the house and one member from each of the two major
18 caucuses of the senate to be appointed by the president of the senate.
19 The board (~~shall~~) must also consist of the following members
20 appointed by the director of commerce: A recognized private or public
21 sector economist; one port district official; one county official; one
22 city official; one representative of a federally recognized Indian
23 tribe; one representative of the public; (~~one~~) four representatives
24 of small businesses (~~(each from: (a) The area west of Puget Sound, (b)~~
25 ~~the area east of Puget Sound and west of the Cascade range, (c) the~~
26 ~~area east of the Cascade range and west of the Columbia river, and (d)~~
27 ~~the area east of the Columbia river; one executive from large~~
28 ~~businesses each from the area west of the Cascades and the area east of~~
29 ~~the Cascades)), two from the area east of the Cascade range and two
30 from the area west of the Cascade range; and two executives from large
31 businesses, one from the area east of the Cascade range and one from
32 the area west of the Cascade range. The appointive members (~~shall~~)
33 must initially be appointed to terms as follows: Three members for
34 one-year terms, three members for two-year terms, and three members for
35 three-year terms (~~which shall~~) that must include the chair.
36 Thereafter each succeeding term (~~shall~~) must be for three years. The
37 chair of the board (~~shall~~) must be selected by the director of~~

1 commerce. The members of the board (~~shall~~) must elect one of their
2 members to serve as vice(-)chair. The director of commerce, the
3 director of revenue, the commissioner of employment security, and the
4 secretary of transportation (~~shall~~) must serve as nonvoting advisory
5 members of the board.

6 ~~(3) (Management services, including fiscal and contract services,~~
7 ~~shall be provided by the department to assist the board in implementing~~
8 ~~this chapter.~~

9 ~~(4))~~ Members of the board (~~shall~~) must be reimbursed for travel
10 expenses as provided in RCW 43.03.050 and 43.03.060.

11 ~~((+5))~~ (4) If a vacancy occurs by death, resignation, or otherwise
12 of appointive members of the board, the director of commerce (~~shall~~)
13 must fill the same for the unexpired term. Members of the board may be
14 removed for malfeasance or misfeasance in office, upon specific written
15 charges by the director of commerce, under chapter 34.05 RCW.

16 ~~((+6))~~ (5) A member appointed by the director of commerce may not
17 be absent from more than fifty percent of the regularly scheduled
18 meetings in any one calendar year. Any member who exceeds this absence
19 limitation is deemed to have withdrawn from the office and may be
20 replaced by the director of commerce.

21 ~~((+7))~~ (6) A majority of members currently appointed constitutes
22 a quorum.

23 **Sec. 5.** RCW 43.160.050 and 2008 c 327 s 4 are each amended to read
24 as follows:

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

1 (6) Accept any gifts, grants, or loans of funds, property, or
2 financial or other aid in any form from any other source on any terms
3 and conditions which are not in conflict with this chapter.

4 (7) Enter into agreements or other transactions with and accept
5 grants and the cooperation of any governmental agency in furtherance of
6 this chapter.

7 (8) Consistent with the guidelines issued by the office of
8 financial management and in consultation with the department, prepare
9 biennial operating and capital budgets and, as needed, update these
10 budgets during the biennium.

11 (9) Adopt rules under chapter 34.05 RCW as necessary to carry out
12 the purposes of this chapter.

13 ((+9)) (10) Do all acts and things necessary or convenient to
14 carry out the powers expressly granted or implied under this chapter.

15 NEW SECTION. Sec. 6. A new section is added to chapter 43.160 RCW
16 to read as follows:

17 Management services, including fiscal and contract services, must
18 be provided by the department to assist the board in implementing this
19 chapter.

20 NEW SECTION. Sec. 7. A new section is added to chapter 43.160 RCW
21 to read as follows:

22 (1) In order to assist political subdivisions of the state and
23 federally recognized Indian tribes in financing the cost of public
24 facilities, the board:

25 (a) Must execute contracts or otherwise financially obligate funds
26 from the public facilities construction loan revolving account for
27 projects approved for funding by the board under the following
28 programs:

29 (i) Committed private sector partner construction;

30 (ii) Prospective development construction;

31 (iii) Planning; and

32 (iv) Any other program authorized by the legislature.

33 (b) Must provide loans to political subdivisions and federally
34 recognized Indian tribes for the purposes of financing the cost of
35 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.

3 (ii) The board may provide reasonable terms and conditions for
4 repayment for loans, including partial forgiveness of loan principal
5 and interest payments on projects located in rural communities as
6 defined by the board, or rural counties. The loans may not exceed
7 twenty years in duration.

8 (c) May provide grants for purposes designated in this chapter, but
9 only when, and to the extent that, a loan is not reasonably possible,
10 given the limited resources of the political subdivision or the
11 federally recognized Indian tribe and the finding by the board that
12 financial circumstances require grant assistance to enable the project
13 to move forward. The board must balance the need for grants with the
14 need to sustain the public facilities construction loan revolving
15 account.

16 (2) No more than twenty-five percent of all financial assistance
17 approved by the board in any biennium may consist of grants to
18 political subdivisions and federally recognized Indian tribes.

19 (3) Except as authorized to the contrary under subsection (4) of
20 this section, from all funds available to the board for financial
21 assistance in a biennium under this chapter, the board must approve at
22 least seventy-five percent of the first twenty million dollars of funds
23 available and at least fifty percent of any additional funds for
24 financial assistance for projects in rural counties or board defined
25 rural communities.

26 (4) If at any time during the last six months of a biennium the
27 board finds that the actual and anticipated applications for qualified
28 projects in rural counties or board defined rural communities are
29 clearly insufficient to use up the allocations under subsection (3) of
30 this section, the board must estimate the amount of the insufficiency
31 and during the remainder of the biennium may use that amount of the
32 allocation for financial assistance to projects not located in rural
33 counties or board defined rural communities.

34 (5) The board may elect to reserve up to one million dollars of its
35 biennial appropriation to use as state match for federal grant awards.
36 The purpose and use of the federal funds must be consistent with the
37 board's purpose of financing economic development infrastructure.
38 Reserved board funds must be matched, at a minimum, dollar for dollar

1 by federal funds. If the set aside funds are not fully utilized for
2 federal grant match by the 18th month of the biennium, the board may
3 use those funds for other eligible projects as stated in this chapter.

4 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.160 RCW
5 to read as follows:

6 The board must:

7 (1) Establish and maintain collaborative relations with
8 governmental, private, and other financing organizations, advocate
9 groups, and other stakeholders associated with state economic
10 development activities and policies;

11 (2) Provide information and advice to the governor and legislature
12 on matters related to economic development; and

13 (3) At the direction of the governor, provide information and
14 advocacy at the national level on matters related to economic
15 development financing.

16 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.160 RCW
17 to read as follows:

18 (1) The board must prioritize awards for committed private sector
19 partner construction and prospective development construction projects
20 by considering at a minimum the following criteria:

21 (a) The number of jobs created by the expected business creation or
22 expansion and the average wage of those expected jobs. In evaluating
23 proposals for their job creation potential, the board may adjust the
24 job estimates in applications based on the board's judgment of the
25 credibility of the job estimates;

26 (b) The need for job creation based on the unemployment rate of the
27 county or counties in which the project is located. In evaluating the
28 average wages of the jobs created, the board must compare those wages
29 to median wages of private sector jobs in the county or counties
30 surrounding the project location. When evaluating the jobs created by
31 the project, the board may consider the area labor supply and readily
32 available skill sets of the labor pool in the county or counties
33 surrounding the project location;

34 (c) How the expected business creation or expansion fits within the
35 region's preferred economic growth strategy as indicated by the efforts

1 of nearby innovation partnership zones, industry clusters, future
2 export prospects, or local government equivalent if available;

3 (d) The speed with which the project can begin construction; and

4 (e) The extent that the project leverages nonstate funds, and
5 achieves overall the greatest benefit in job creation at good wages for
6 the amount of money provided.

7 (2) The board may not provide financial assistance:

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

10 (b) For any project for which evidence exists that would result in
11 a development or expansion that would displace jobs in any other
12 community in the state;

13 (c) For a project the primary purpose of which is to facilitate or
14 promote gambling; or

15 (d) For a project located outside the jurisdiction of the applicant
16 political subdivision or federally recognized Indian tribe.

17 **Sec. 10.** RCW 43.160.076 and 2011 c 180 s 301 are each amended to
18 read as follows:

19 ~~((1) Except as authorized to the contrary under subsection (2) of
20 this section, from all funds available to the board for financial
21 assistance in a biennium under this chapter, the board shall approve at
22 least seventy five percent of the first twenty million dollars of funds
23 available and at least fifty percent of any additional funds for
24 financial assistance for projects in rural counties.~~

25 ~~(2) If at any time during the last six months of a biennium the
26 board finds that the actual and anticipated applications for qualified
27 projects in rural counties are clearly insufficient to use up the
28 allocations under subsection (1) of this section, then the board shall
29 estimate the amount of the insufficiency and during the remainder of
30 the biennium may use that amount of the allocation for financial
31 assistance to projects not located in rural counties.~~

32 ~~(3))~~ The board ~~((shall))~~ must solicit qualifying projects to plan,
33 design, and construct public facilities needed to attract new
34 industrial and commercial activities in areas impacted by the closure
35 or potential closure of large coal-fired electric generation
36 facilities, which for the purposes of this section means a facility
37 that emitted more than one million tons of greenhouse gases in any

1 calendar year prior to 2008. The projects should be consistent with
2 any applicable plans for major industrial activity on lands formerly
3 used or designated for surface coal mining and supporting uses under
4 RCW 36.70A.368. When the board receives timely and eligible project
5 applications from a political subdivision of the state for financial
6 assistance for such projects, the board from available funds (~~shall~~)
7 must give priority consideration to such projects.

8 **Sec. 11.** RCW 43.160.080 and 2010 1st sp.s. c 36 s 6011 are each
9 amended to read as follows:

10 (1) There (~~shall~~) must be a fund in the state treasury known as
11 the public facilities construction loan revolving account, which
12 (~~shall~~) consists of all moneys collected under this chapter and any
13 moneys appropriated to it by law. Disbursements from the revolving
14 account (~~shall~~) must be on authorization of the board. In order to
15 maintain an effective expenditure and revenue control, the public
16 facilities construction loan revolving account (~~shall be~~) is subject
17 in all respects to chapter 43.88 RCW. During the 2009-2011 biennium,
18 sums in the public facilities construction loan revolving account may
19 be used for community economic revitalization board export assistance
20 grants and loans in section 1018, chapter 36, Laws of 2010 1st sp.
21 sess. and for matching funds for the federal energy regional innovation
22 cluster in section 1017, chapter 36, Laws of 2010 1st sp. sess.

23 (2) The moneys in the public facilities construction loan revolving
24 account must be used solely to fulfill commitments arising from
25 financial assistance authorized in this chapter. The total outstanding
26 amount, which the board must dispense at any time pursuant to this
27 section, may not exceed the moneys available from the account.

28 (3) Repayments of loans made from the public facilities
29 construction loan revolving account under the contracts for public
30 facilities construction loans must be paid into the public facilities
31 construction loan revolving account.

32 **Sec. 12.** RCW 43.160.900 and 2008 c 327 s 9 are each amended to
33 read as follows:

34 (1) The community economic revitalization board (~~shall~~) must
35 conduct biennial outcome-based evaluations of the financial assistance
36 provided under this chapter. The evaluations (~~shall~~) must include

1 information on the number of applications for community economic
2 revitalization board assistance; the number and types of projects
3 approved; the grant or loan amount awarded each project; the projected
4 number of jobs created or retained by each project; the actual number
5 and cost of jobs created or retained by each project; the wages and
6 health benefits associated with the jobs; the amount of state funds and
7 total capital invested in projects; the number and types of businesses
8 assisted by funded projects; the location of funded projects; the
9 transportation infrastructure available for completed projects; the
10 local match and local participation obtained; the number of delinquent
11 loans; and the number of project terminations. The evaluations may
12 also include additional performance measures and recommendations for
13 programmatic changes.

14 (2)(a) By September 1st of each even-numbered year, the board
15 (~~shall~~) must forward its draft evaluation to the Washington state
16 economic development commission for review and comment(~~(, as required~~
17 ~~in section 10 of this act)~~). The board (~~shall~~) must provide any
18 additional information as may be requested by the commission for the
19 purpose of its review.

20 (b) Any written comments or recommendations provided by the
21 commission as a result of its review (~~shall~~) must be included in the
22 board's completed evaluation. The evaluation must be presented to the
23 governor and appropriate committees of the legislature by December 31st
24 of each even-numbered year. (~~The initial evaluation must be submitted~~
25 ~~by December 31, 2010.~~)

26 NEW SECTION. **Sec. 13.** The following acts or parts of acts are
27 each repealed:

28 (1) RCW 43.160.060 (Loans and grants to political subdivisions and
29 federally recognized Indian tribes for public facilities authorized--
30 Application--Requirements for financial assistance) and 2012 c 196 s
31 10, 2008 c 327 s 5, 2007 c 231 s 3, & 2004 c 252 s 3;

32 (2) RCW 43.160.070 (Conditions) and 2008 c 327 s 6, 1999 c 164 s
33 104, 1998 c 321 s 27, 1997 c 235 s 721, 1996 c 51 s 6, 1990 1st ex.s.
34 c 16 s 802, 1983 1st ex.s. c 60 s 4, & 1982 1st ex.s. c 40 s 7; and

35 (3) RCW 43.160.078 (Board to familiarize government officials and

1 public with chapter provisions) and 1985 c 446 s 5.

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