
ENGROSSED SENATE BILL 5624

State of Washington

64th Legislature

2015 Regular Session

By Senators Keiser, Honeyford, and Conway

Read first time 01/26/15. Referred to Committee on Ways & Means.

1 AN ACT Relating to financing essential public infrastructure;
2 amending RCW 43.155.020, 43.155.040, and 43.155.050; adding a new
3 section to chapter 43.155 RCW; adding a new chapter to Title 39 RCW;
4 creating a new section; and providing a contingent effective date.

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

6 **PART I**
7 **FINDINGS AND INTENT**

8 NEW SECTION. **Sec. 101.** The legislature finds that access to
9 low-cost financing from the municipal bond market for essential
10 public infrastructure is impaired for local governments that need to
11 borrow small amounts or that access the capital market infrequently.
12 Prior efforts to finance essential public infrastructure projects
13 with state tax resources result in competition between those projects
14 and other essential demands on those state taxes. That competition
15 has eroded the reliability of the state tax funded public
16 infrastructure financing programs, creating uncertainty and delay in
17 improving public infrastructure. The legislature intends to improve
18 access and reliability to low-cost financing for essential public
19 infrastructure projects by providing credit enhancements and pooling
20 access to private market capital.

1 **PART II**

2 **STATE FINANCE COMMITTEE PROVISIONS**

3 NEW SECTION. **Sec. 201.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

6 (1) "Bond" means any agreement which may or may not be
7 represented by a physical instrument, including notes, warrants, or
8 certificates of indebtedness, that evidences an indebtedness of a
9 local government entity or a fund thereof, where the local government
10 entity agrees to pay a specified amount of money, with or without
11 interest, at a designated time or times to either registered owners
12 or bearers.

13 (2) "Credit enhancement program" means the essential public works
14 bond guarantee established by this chapter.

15 (3) "Essential public infrastructure project" or "project" is a
16 project of a local government approved by the public works board
17 under the provisions of section 304 of this act.

18 (4) "Guaranteed bond" means a bond that has been approved for
19 credit enhancement pursuant to section 202 of this act by the state
20 treasurer in accordance with policies established by the state
21 finance committee.

22 (5) "Local government" means any county, city, town, port, water-
23 sewer district, public utility district, metro-park district, park
24 and recreation district, fire district, emergency medical services
25 district, flood zone district, irrigation district, or library
26 district in Washington state.

27 (6) "Paying agent" means the paying agent selected, from time to
28 time, for a bond pursuant to state law.

29 (7) "Public works board" or "board" means the public works board
30 or its successor organizations established in RCW 43.155.030.

31 NEW SECTION. **Sec. 202.** (1)(a) The full faith, credit, and
32 taxing power of the state may be pledged to guarantee full and timely
33 payment of the principal of and interest on bonds issued for
34 essential public infrastructure projects as such payments become due.
35 However, in the event of any acceleration of the due date of the
36 principal by reason of mandatory redemption or acceleration resulting
37 from default, the payments guaranteed shall be made in the amounts

1 and at the times as payments of principal would have been due had
2 there not been any acceleration.

3 (b) A guarantee pledged under (a) of this subsection does not
4 extend to the payment of any redemption premium.

5 (c) Reference to this chapter by its title on the face of any
6 bond conclusively establishes the guarantee provided to that bond
7 under the provisions of this chapter.

8 (2)(a) The state pledges to and agrees with the owners of any
9 guaranteed bonds that the state will not alter, impair, or limit the
10 rights vested by the credit enhancement program with respect to a
11 guaranteed bond until that guaranteed bond, together with applicable
12 interest, is fully paid and discharged. However, this chapter does
13 not preclude an alteration, impairment, or limitation if full
14 provision is made by law for the payment in full of an outstanding
15 guaranteed bond.

16 (b) Each local government may refer to this pledge and
17 undertaking by the state in its guaranteed bonds in accordance with
18 rules adopted by the state finance committee.

19 (3) Only validly issued bonds issued after the effective date of
20 this section may be guaranteed under this chapter.

21 NEW SECTION. **Sec. 203.** The state finance committee must adopt
22 rules that establish the financial criteria to be met before any
23 credit enhancement can be provided under this chapter. The state
24 finance committee may also establish a program, by rule, that allows
25 the state treasurer to issue bonds to support multiple local
26 government projects that have been approved by the public works board
27 in accordance with this chapter.

28 NEW SECTION. **Sec. 204.** (1)(a) Any local government, by
29 resolution of its governing body, may request that the state
30 treasurer issue a certificate evidencing the state's guarantee, under
31 this chapter, of its bonds for essential public infrastructure.

32 (b) After reviewing the request, if the state treasurer
33 determines that the local government is eligible under rules adopted
34 by the state finance committee, and the project has been approved by
35 the public works board under provisions of section 304 of this act,
36 the state treasurer must promptly issue the certificate as to
37 specific bonds of the local government and provide that certificate
38 to the requesting local government.

1 (c) The local government receiving the certificate and all other
2 persons may rely on the certificate as evidencing the guarantee for
3 bonds issued within one hundred twenty days, without making further
4 inquiry during that time.

5 (2) Any local government that has issued guaranteed bonds, the
6 principal of or interest on which has been paid, in whole or in part,
7 by the state under this chapter, may not, unless approved by the
8 state treasurer under rules adopted by the state finance committee,
9 issue any additional bonds, other than refunding bonds.

10 (3) The state finance committee may establish by rule fees
11 sufficient to cover the costs of administering this chapter.

12 NEW SECTION. **Sec. 205.** (1)(a) The treasurer for each local
13 government with outstanding, unpaid guaranteed bonds shall transfer
14 money sufficient for each scheduled debt service payment to its
15 paying agent, a trustee, a custodian, or to the state treasurer no
16 fewer than ten days before any principal or interest payment date for
17 the guaranteed bonds.

18 (b) A treasurer for a local government who is unable to transfer
19 a scheduled debt service payment on the transfer date must
20 immediately notify the state treasurer of that inability by any
21 method designated by the state treasurer for that notice.

22 (2) If sufficient funds are not transferred to the paying agent
23 or the trustee as required by subsection (1) of this section, the
24 paying agent or trustee shall immediately notify the state treasurer
25 of that failure by any method designated by the state treasurer for
26 such notification.

27 (3)(a) If sufficient money to pay the scheduled debt service
28 payment has not been so transferred to the paying agent, trustee,
29 custodian, or state treasurer, the state treasurer must make
30 provision for its payment prior to the scheduled debt service payment
31 date.

32 (b) The payment by the state treasurer:

33 (i) Discharges the obligation of the issuing local government to
34 its bond owners for the payment, but does not retire any bond that
35 has matured; and

36 (ii) Transfers the rights represented by the local government
37 from the bond owners to the state.

38 (c) The local government must repay to the state the money so
39 transferred by the state treasurer as provided in this chapter, by

1 rules adopted by the state finance committee, and any terms and
2 conditions set forth by the state treasurer upon the issuance of the
3 guarantee.

4 NEW SECTION. **Sec. 206.** (1) Any local government that has issued
5 guaranteed bonds for which the state has made all or part of a debt
6 service payment must:

7 (a) Reimburse all money drawn by the state treasurer on its
8 behalf in accordance with this chapter, rules set forth by the state
9 finance committee, and any terms and conditions set forth by the
10 state treasurer;

11 (b) Pay interest to the state on all money paid by the state from
12 the date that money was drawn to the date the state is repaid, at a
13 rate to be determined in accordance with a rule adopted by the state
14 finance committee, and any terms and conditions set forth by the
15 state treasurer; and

16 (c) Pay all fees and charges required by this chapter.

17 (2)(a)(i) If the state treasurer determines that reimbursement
18 amounts paid by a local government under subsection (1) of this
19 section will not reimburse the state in full within one year from the
20 state's payment of a local government's scheduled debt service
21 payment, the state treasurer may pursue any legal action, including
22 mandamus, against the local government to compel it to meet its
23 repayment obligations to the state.

24 (ii) In pursuing its rights under (a)(i) of this subsection, the
25 state shall have the same substantive and procedural rights as would
26 an owner of a guaranteed bond. If and to the extent that the state
27 has made payments to the owners of guaranteed bonds under section 204
28 of this act and has not been reimbursed by the local government, the
29 state is subrogated to the rights of those guaranteed bond holders.

30 (b) The local government shall pay the fees, expenses, and costs
31 incurred by the state in recovering amounts paid under the guarantee
32 authorized by this chapter.

33 NEW SECTION. **Sec. 207.** If the state treasurer determines that a
34 local government will be unable to meet its debt service obligations
35 on guaranteed bonds on an ongoing basis, the legislature must make
36 specific appropriations sufficient to meet the debt service
37 obligations required to be paid pursuant to the guarantee provided
38 for in this chapter or an amount sufficient to defease the bonds.

1 (~~(6)~~) (7) "Public works project" means a project of a local
2 government for the planning, acquisition, construction, repair,
3 reconstruction, replacement, rehabilitation, or improvement of
4 streets and roads, bridges, water systems, or storm and sanitary
5 sewage systems and solid waste facilities, including recycling
6 facilities. A planning project may include the compilation of
7 biological, hydrological, or other data on a county, drainage basin,
8 or region necessary to develop a base of information for a capital
9 facility plan.

10 (~~(7)~~) (8) "Solid waste or recycling project" means remedial
11 actions necessary to bring abandoned or closed landfills into
12 compliance with regulatory requirements and the repair, restoration,
13 and replacement of existing solid waste transfer, recycling
14 facilities, and landfill projects limited to the opening of landfill
15 cells that are in existing and permitted landfills.

16 (~~(8)~~) (9) "Technical assistance" means training and other
17 services provided to local governments to: (a) Help such local
18 governments plan, apply, and qualify for loans and financing
19 guarantees from the board, and (b) help local governments improve
20 their ability to plan for, finance, acquire, construct, repair,
21 replace, rehabilitate, and maintain public facilities.

22 **Sec. 302.** RCW 43.155.040 and 1985 c 446 s 10 are each amended to
23 read as follows:

24 The board may:

25 (1) Accept from any state or federal agency, loans or grants for
26 the planning or financing of any public works project and enter into
27 agreements with any such agency concerning the loans or grants;

28 (2) Provide technical assistance to local governments;

29 (3) Accept any gifts, grants, or loans of funds, property, or
30 financial or other aid in any form from any other source on any terms
31 and conditions which are not in conflict with this chapter;

32 (4) Adopt rules under chapter 34.05 RCW as necessary to carry out
33 the purposes of this chapter;

34 (5) Do all acts and things necessary or convenient to carry out
35 the powers expressly granted or implied under this chapter;

36 (6) Review and approve essential public infrastructure projects
37 under the provisions of section 304 of this act.

1 **Sec. 303.** RCW 43.155.050 and 2013 2nd sp.s. c 4 s 983 are each
2 amended to read as follows:

3 The public works assistance account is hereby established in the
4 state treasury. ~~((Money may be placed in the public works assistance
5 account from the proceeds of bonds when authorized by the legislature
6 or from any other lawful source.))~~ Money in the public works
7 assistance account shall be used to make loans and to give financial
8 guarantees to local governments for public works projects. Moneys in
9 the account may also be appropriated or transferred to the water
10 pollution control revolving account and the drinking water assistance
11 account to provide for state match requirements under federal law
12 ~~((for projects and activities conducted and financed by the board
13 under the drinking water assistance account. Not more than fifteen
14 percent of the biennial capital budget appropriation to the public
15 works board from this account may be expended or obligated)).~~ Money
16 in the account may also be appropriated for the administration of the
17 essential public infrastructure project program established in
18 section 304 of this act and to offset or reduce fees charged by the
19 state treasurer to administer the program and issue bonds under the
20 program. Money in the account may also be appropriated for
21 preconstruction loans((~~τ~~)) and emergency loans(~~(, or loans for~~
22 ~~capital facility planning under this chapter; of this amount, not~~
23 ~~more than ten percent of the biennial capital budget appropriation~~
24 ~~may be expended for emergency loans and not more than one percent of~~
25 ~~the biennial capital budget appropriation may be expended for capital~~
26 ~~facility planning loans. During the 2011-2013 and 2013-2015 fiscal~~
27 ~~biennium, the legislature may transfer from the public works~~
28 ~~assistance account to the general fund, the water pollution control~~
29 ~~revolving account, and the drinking water assistance account such~~
30 ~~amounts as reflect the excess fund balance of the account. During the~~
31 ~~2011-2013 fiscal biennium, the legislature may appropriate moneys~~
32 ~~from the account for economic development, innovation, and export~~
33 ~~grants, including brownfields; main street improvement grants; and~~
34 ~~the loan program consolidation board. During the 2013-2015 fiscal~~
35 ~~biennium, the legislature may transfer from the public works~~
36 ~~assistance account to the education legacy trust account such amounts~~
37 ~~as specified by the legislature)).~~

38 NEW SECTION. **Sec. 304.** A new section is added to chapter 43.155
39 RCW to read as follows:

1 (1) An essential public infrastructure project, as defined in
2 section 201 of this act, is a capital project by an eligible local
3 government that is necessary to:

4 (a) Provide safe and adequate drinking water;

5 (b) Collect, manage, and treat wastewater and storm water;

6 (c) Provide safe and efficient transportation, including public
7 parking facilities, public transit facilities, and nonmotorized
8 transportation;

9 (d) Provide or renovate facilities for safe and readily
10 accessible recreation;

11 (e) Provide flood control and floodplain management facilities
12 and improvements;

13 (f) Provide water supply improvements and water basin management
14 enhancements, including culvert replacement projects to improve fish
15 passage;

16 (g) Provide or renovate county or city criminal justice
17 facilities;

18 (h) Provide or renovate fire protection or emergency medical
19 services facilities;

20 (i) Provide industrial development facilities;

21 (j) Provide or renovate public library facilities.

22 (2) A local government that is eligible for financing assistance
23 for essential public infrastructure projects, as defined in section
24 201 of this act, is one that can:

25 (a) Significantly benefit from the financing assistance under
26 this section and under sections 201 through 207 of this act as
27 determined by the public works board by considering the estimated net
28 savings in financing cost achieved by this program and the relative
29 ability of the local government and its taxpayers or ratepayers to
30 pay for the project without the assistance of this program; and

31 (b) Meet the financial criteria established by the state finance
32 committee.

33 (3) The board must adopt rules that establish the criteria for
34 determining which local governments are eligible and what projects
35 are necessary. The board must work with the state treasurer's office
36 to determine the estimated amount and timing of financing assistance
37 that can be provided annually to allow for a phase-in of this program
38 based on interest and acceptance by the capital markets. The board
39 must submit a prioritized and approved list of eligible essential
40 public works projects within the estimated amounts to the state

1 treasurer for a determination by the state treasurer as to whether
2 the local government meets the financial criteria established by the
3 state finance committee in order to assist those local governments
4 that can most benefit from the assistance with projects that achieve
5 the greatest community benefit.

6 **PART IV**

7 **MISCELLANEOUS PROVISIONS**

8 NEW SECTION. **Sec. 401.** This act takes effect January 1, 2016,
9 if the proposed amendment to Article VIII, section 1 of the state
10 Constitution, guaranteeing the obligation of debt for essential
11 public infrastructure, is validly submitted to and is approved and
12 ratified by voters at the next general election. If the proposed
13 amendment is not approved and ratified, this act is void in its
14 entirety.

15 NEW SECTION. **Sec. 402.** Sections 201 through 210 of this act
16 constitute a new chapter in Title 39 RCW.

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