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**ENGROSSED SUBSTITUTE SENATE BILL 5033**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Keiser, Honeyford, Frockt, Warnick, Conway, and Palumbo)

AN ACT Relating to financing essential public infrastructure; amending RCW 43.155.020, 43.155.040, 43.155.060, 43.155.065, 43.155.068, 43.155.070, 43.155.075, 43.155.120, 82.45.060, 82.16.020, 82.18.040, and 39.36.060; reenacting and amending RCW 43.155.050; adding new sections to chapter 43.155 RCW; adding new sections to chapter 43.180 RCW; creating a new section; providing an effective date; providing a contingent effective date; and declaring an emergency.

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

**PART 1**

**FINDINGS AND INTENT**

NEW SECTION. **Sec.**  The legislature finds that local governments that borrow small amounts or access capital markets infrequently can have difficulty accessing low-cost financing for their essential public infrastructure projects. Competition has increased between prior efforts to finance essential public infrastructure projects with state tax resources and other growing essential demands on those same state taxes. This competition has eroded the reliability of state tax funded public infrastructure financing programs that in turn has created uncertainty and delay in improving local public infrastructure. The state's excellent credit standing and frequency of access to capital markets allows the state to issue bonds at a significantly lower total cost than can be obtained by many local governments. Therefore, the legislature intends to improve access and reliability to low-cost financing for local government infrastructure projects by authorizing public works bonds when local governments can demonstrate: (1) The importance of the project; (2) their difficulties accessing existing private credit markets for borrowings at reasonable interest rates; and (3) the ability to reliably repay their share of the state's total cost of retiring the public works bonds.

**PART 2**

**CHANGES TO THE EXISTING PUBLIC WORKS PROGRAM**

**Sec.**  RCW 43.155.020 and 2009 c 565 s 33 are each amended to read as follows:

((~~Unless the context clearly requires otherwise,~~)) The definitions in this section ((~~shall~~)) apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the public works board created in RCW 43.155.030.

(2) "Capital facility plan" means a capital facility plan required by the growth management act under chapter 36.70A RCW or, for local governments not fully planning under the growth management act, a plan required by the public works board.

(3) "Department" means the department of commerce.

(4) ((~~"Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.~~

~~(5)~~)) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.

((~~(6)~~)) (5) "Public works financing assistance program" is the program established in sections 301 through 305 of this act.

(6) "Public works financing loans" are loans made with bond proceeds of bonds issued by the state and repaid from loan repayments under provisions of the public works financing assistance program.

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

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

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

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

The board may:

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

(2) Provide technical assistance to local governments;

(3) 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;

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

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

(6) Implement the public works financing assistance program.

**Sec.**  RCW 43.155.050 and 2015 3rd sp.s. c 4 s 959 and 2015 3rd sp.s. c 3 s 7032 are each reenacted and amended to read as follows:

The public works assistance account is ((~~hereby~~)) established in the state treasury. ((~~Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source.~~)) Money in the public works assistance account shall be used to make loans ((~~and to give financial guarantees~~)) to local governments for public works projects. Moneys in the account may also be appropriated or transferred to the water pollution control revolving account and the drinking water assistance account to provide for state match requirements under federal law ((~~for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated~~)). Money in the account may also be appropriated for the administration of the public works financing assistance program. Money in the account may also be appropriated for preconstruction loans((~~,~~)) and emergency loans((~~, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. During the 2015-2017 fiscal biennium, the legislature may transfer from the public works assistance account to the general fund, the water pollution control revolving account, and the drinking water assistance account such amounts as reflect the excess fund balance of the account. During the 2013-2015 fiscal biennium, the legislature may transfer from the public works assistance account to the education legacy trust account such amounts as specified by the legislature~~)). During the 2015-2017 fiscal biennium, the legislature may appropriate moneys from the account for activities related to the growth management act and the voluntary stewardship program. During the 2015-2017 fiscal biennium, the legislature may transfer from the public works assistance account to the state general fund such amounts as specified by the legislature. In the 2017-2019 fiscal biennium the legislature intends to allocate seventy-three million dollars of future loan repayments paid into the public works assistance account to support basic education.

**Sec.**  RCW 43.155.060 and 1988 c 93 s 2 are each amended to read as follows:

(1) In order to aid the financing of public works projects, the board may:

((~~(1)~~)) (a) Make low-interest or interest-free loans to local governments from the public works assistance account ((~~or other funds and accounts~~)) for the purpose of assisting local governments in financing public works projects. The board may require such terms and conditions and may charge such rates of interest on its loans as it deems necessary or convenient to carry out the purposes of this ((~~chapter~~)) section. Money received from local governments in repayment of loans made under this section shall be paid into the public works assistance account for uses consistent with this chapter.

((~~(2) Pledge money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects. The board shall not pledge any amount greater than the sum of money in the public works assistance account plus money to be received from the payment of the debt service on loans made from that account, nor shall the board pledge the faith and credit or the taxing power of the state or any agency or subdivision thereof to the repayment of obligations issued by any local government.~~

~~(3)~~)) (b) Create such subaccounts in the public works assistance account as the board deems necessary to carry out the purposes of this chapter.

((~~(4)~~)) (c) Provide a method for the allocation of loans ((~~and financing guarantees~~)) and the provision of technical assistance under this chapter.

(2) All local public works projects aided in whole or in part under the provisions of this chapter shall be put out for competitive bids, except for emergency public works under RCW 43.155.065 for which the recipient jurisdiction shall comply with this requirement to the extent feasible and practicable. The competitive bids called for shall be administered in the same manner as all other public works projects put out for competitive bidding by the local governmental entity aided under this chapter.

**Sec.**  RCW 43.155.065 and 2001 c 131 s 3 are each amended to read as follows:

The board may make low-interest or interest-free loans to local governments for emergency public works projects from the public works assistance account. Emergency public works projects shall include the construction, repair, reconstruction, replacement, rehabilitation, or improvement of a public water system that is in violation of health and safety standards and is being operated by a local government on a temporary basis. The loans may be used to help fund all or part of an emergency public works project less any reimbursement from any of the following sources: (1) Federal disaster or emergency funds, including funds from the federal emergency management agency; (2) state disaster or emergency funds; (3) insurance settlements; or (4) litigation.

**Sec.**  RCW 43.155.068 and 2001 c 131 s 4 are each amended to read as follows:

(1) The board may make low-interest or interest-free loans to local governments from the public works assistance account for preconstruction activities on public works projects before the legislature approves the construction phase of the project. Preconstruction activities include design, engineering, bid-document preparation, environmental studies, right-of-way acquisition, and other preliminary phases of public works projects as determined by the board. The purpose of the loans authorized in this section is to accelerate the completion of public works projects by allowing preconstruction activities to be performed before the approval of the construction phase of the project by the legislature.

(2) Projects receiving loans for preconstruction activities under this section must be evaluated using the priority process and factors in RCW 43.155.070((~~(2)~~)) (4). The receipt of a loan for preconstruction activities does not ensure the receipt of a construction loan for the project under this chapter. Construction loans for projects receiving a loan for preconstruction activities under this section are subject to legislative approval under RCW 43.155.070 ((~~(4) and (5)~~)) (7) and (8). The board shall adopt a single application process for local governments seeking both a loan for preconstruction activities under this section and a construction loan for the project from the public works assistance account.

**Sec.**  RCW 43.155.070 and 2015 3rd sp.s. c 3 s 7033 are each amended to read as follows:

(1) To qualify for financial assistance from the public works assistance account under this chapter the board must determine that a local government meets all of the following conditions:

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

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

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

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive financial assistance from the public works assistance account under this chapter unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving financial assistance under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 may apply for and receive financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before executing a contractual agreement for financial assistance with the board.

(3) In considering awarding financial assistance from the public works assistance account for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board must consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) The board must develop a priority process for public works projects financed from the public works assistance account as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board must attempt to ((~~assure~~)) ensure a geographical balance in assigning priorities to projects. The board must consider at least the following factors in assigning a priority to a project:

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

(b) Except as otherwise conditioned by RCW 43.155.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

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

(e) Whether the applicant's permitting process has been certified as streamlined by the office of regulatory assistance;

(f) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007;

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

(h) The number of communities served by or funding the project;

(i) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

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

(k) Except as otherwise conditioned by RCW 43.155.120, and effective one calendar year following the development of model evergreen community management plans and ordinances under RCW 35.105.050, whether the entity receiving assistance has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030;

(l) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and

(m) Other criteria that the board considers advisable.

(5) For the 2015-2017 fiscal biennium, in place of the criteria, ranking, and submission processes for construction loan lists provided in subsections (4) and (7) of this section:

(a) The board must develop a process for numerically ranking applications for construction loans submitted by local governments. The board must consider, at a minimum and in any order, the following factors in assigning a numerical ranking to a project:

(i) Whether the project is critical in nature and would affect the health and safety of many people;

(ii) The extent to which the project leverages nonstate funds;

(iii) The extent to which the project is ready to proceed to construction;

(iv) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(v) Whether the project promotes the sustainable use of resources and environmental quality;

(vi) Whether the project consolidates or regionalizes systems;

(vii) Whether the project encourages economic development through mixed‑use and mixed income development consistent with chapter 36.70A RCW;

(viii) Whether the system is being well‑managed in the present and for long‑term sustainability;

(ix) Achieving equitable distribution of funds by geography and population;

(x) The extent to which the project meets the following state policy objectives:

(A) Efficient use of state resources;

(B) Preservation and enhancement of health and safety;

(C) Abatement of pollution and protection of the environment;

(D) Creation of new, family-wage jobs, and avoidance of shifting existing jobs from one Washington state community to another;

(E) Fostering economic development consistent with chapter 36.70A RCW;

(F) Efficiency in delivery of goods and services, public transit, and transportation;

(G) Avoidance of additional costs to state and local governments that adversely impact local residents and small businesses; and

(H) Reduction of the overall cost of public infrastructure; and

(xi) Other criteria that the board considers necessary to achieve the purposes of this chapter.

(b) Before November 1, 2016, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a ranked list of qualified public works projects which have been evaluated by the board and are recommended for funding by the legislature. The maximum amount of funding that the board may recommend for any jurisdiction is ten million dollars per biennium. For each project on the ranked list, as well as for eligible projects not recommended for funding, the board must document the numerical ranking that was assigned.

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

(7) Before November 1st of each even-numbered year, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (10) of this section during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list must include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list must also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

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

(9) Subsection (8) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (10) of this section.

(10) Loans made for the purpose of capital facilities plans are exempted from subsection (8) of this section.

(11) To qualify for loans ((~~or pledges~~)) from the public works assistance account for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.

(12) After January 1, 2010, any project designed to address the effects of storm water or wastewater on Puget Sound may be funded from the public works assistance account under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(13) During the 2015-2017 fiscal biennium, for projects funded from the public works assistance account involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade efficiency audit is obtainable, the public works board must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its public works assistance account program loan.

(14)((~~(a)~~)) For public works assistance account application rounds conducted during the 2015-2017 fiscal biennium, the board must implement policies and procedures designed to maximize local government use of federal funds to finance local infrastructure including, but not limited to, drinking water and clean water state revolving funds operated by the state departments of health and ecology. Projects that are eligible for the drinking water and clean water state revolving funds may receive public works board preconstruction loans. Projects that are eligible for the drinking water and clean water state revolving funds are not eligible for public works board construction loans. For purposes of this subsection "eligible for drinking water and clean water state revolving funds" means:

((~~(i)~~)) (a) Projects that have applied to the state revolving funds and are awaiting a funding decision;

((~~(ii)~~)) (b) Projects that have been rejected for funding solely due to not meeting readiness requirements; and

((~~(iii)~~)) (c) Projects that have not applied, but would likely be eligible if the project applied and met the project readiness requirements.

((~~(b) For all construction loan projects proposed to the legislature for funding during the 2015-2017 fiscal biennium, the board must base interest rates on the average daily market interest rate for tax~~‑~~exempt municipal bonds as published in the bond buyer's index for the period from sixty to thirty days before the start of the application cycle. For projects with a repayment period between five and twenty years, the rate must be sixty percent of the market rate. For projects with a repayment period under five years, the rate must be thirty percent of the market rate. The board must also provide reduced interest rates, extended repayment periods, or forgivable principal loans for projects that meet financial hardship criteria as measured by the affordability index or similar standard measure of financial hardship.~~))

**Sec.**  RCW 43.155.075 and 2001 c 227 s 10 are each amended to read as follows:

In providing loans for public works projects from the public works assistance account, the board shall require recipients to incorporate the environmental benefits of the project into their applications, and the board shall utilize the statement of environmental benefits in its prioritization and selection process. The board shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the loan program. To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The board shall consult with affected interest groups in implementing this section.

**Sec.**  RCW 43.155.120 and 2008 c 299 s 30 are each amended to read as follows:

When administering funds from the public works assistance account under this chapter, the board shall give preference only to an evergreen community recognized under RCW 35.105.030 in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community.

**Sec.**  RCW 82.45.060 and 2013 2nd sp.s. c 9 s 6 are each amended to read as follows:

There is imposed an excise tax upon each sale of real property at the rate of one and twenty-eight one-hundredths percent of the selling price. Beginning July 1, 2013, and ending June 30, 2019, an amount equal to two percent of the proceeds of this tax must be deposited in the public works assistance account created in RCW 43.155.050, and an amount equal to four and one‑tenth percent must be deposited in the education legacy trust account created in RCW 83.100.230. ((~~Thereafter, an amount equal to six and one-tenth percent of the proceeds of this tax to the state treasurer must be deposited in the public works assistance account created in RCW 43.155.050.~~)) Beginning July 1, 2019, an amount equal to six and one-tenth percent of the proceeds of this tax must be deposited in the education legacy trust account created in RCW 83.100.230. Except as otherwise provided in this section, an amount equal to one and six-tenths percent of the proceeds of this tax to the state treasurer must be deposited in the city-county assistance account created in RCW 43.08.290.

**Sec.**  RCW 82.16.020 and 2015 3rd sp.s. c 6 s 703 are each amended to read as follows:

(1) There is levied and collected from every person a tax for the act or privilege of engaging within this state in any one or more of the businesses herein mentioned. The tax is equal to the gross income of the business, multiplied by the rate set out after the business, as follows:

(a) Express, sewerage collection, and telegraph businesses: Three and six-tenths percent;

(b) Light and power business: Three and sixty-two one-hundredths percent;

(c) Gas distribution business: Three and six-tenths percent;

(d) Urban transportation business: Six-tenths of one percent;

(e) Vessels under sixty-five feet in length, except tugboats, operating upon the waters within the state: Six-tenths of one percent;

(f) Motor transportation, railroad, railroad car, and tugboat businesses, and all public service businesses other than ones mentioned above: One and eight-tenths of one percent;

(g) Water distribution business: Four and seven-tenths percent;

(h) Log transportation business: One and twenty-eight one- hundredths percent. The reduced rate established in this subsection (1)(h) is not subject to the ten-year expiration provision in RCW 82.32.805(1)(a).

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section.

(3) Twenty percent of the moneys collected under subsection (1) of this section on water distribution businesses and sixty percent of the moneys collected under subsection (1) of this section on sewerage collection businesses must be deposited in the education legacy trust account created in RCW 83.100.230 ((~~from July 1, 2013, through June 30, 2019, and thereafter in the public works assistance account created in RCW 43.155.050~~)).

**Sec.**  RCW 82.18.040 and 2013 2nd sp.s. c 9 s 8 are each amended to read as follows:

(1) Taxes collected under this chapter must be held in trust until paid to the state. Except as otherwise provided in this subsection (1), taxes received by the state must be deposited in the public works assistance account created in RCW 43.155.050. For the period beginning July 1, 2011, and ending June 30, 2015, taxes received by the state under this chapter must be deposited in the general fund for general purpose expenditures. For fiscal years 2016, 2017, and 2018, one-half of the taxes received by the state under this chapter must be deposited in the general fund for general purpose expenditures and the remainder deposited in the education legacy trust account created in RCW 83.100.230. ((~~For fiscal year 2019~~)) Beginning in fiscal year 2019 and each fiscal year thereafter, taxes received by the state under this chapter must be deposited in the education legacy trust account created in RCW 83.100.230. Any person collecting the tax who appropriates or converts the tax collected is guilty of a gross misdemeanor if the money required to be collected is not available for payment on the date payment is due. If a taxpayer fails to pay the tax imposed by this chapter to the person charged with collection of the tax and the person charged with collection fails to pay the tax to the department, the department may, in its discretion, proceed directly against the taxpayer for collection of the tax.

(2) The tax is due from the taxpayer within twenty-five days from the date the taxpayer is billed by the person collecting the tax.

(3) The tax is due from the person collecting the tax at the end of the tax period in which the tax is received from the taxpayer. If the taxpayer remits only a portion of the total amount billed for taxes, consideration, and related charges, the amount remitted must be applied first to payment of the solid waste collection tax and this tax has priority over all other claims to the amount remitted.

**PART 3**

**PUBLIC WORKS FINANCING ASSISTANCE PROGRAM**

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

(1) A public infrastructure project eligible for the public works financing assistance program is a capital project by an eligible local government, as identified in subsection (2) of this section, that is necessary to:

(a) Provide safe and adequate drinking water;

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

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

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

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

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

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

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

(i) Provide or renovate public library facilities.

(2) In order to be eligible for the public works financing assistance program a local government must:

(a) Demonstrate difficulties accessing existing private credit markets for borrowings at reasonable interest rates. The public works board must determine compliance with this requirement under guidance and advice by the state treasurer's office;

(b) Demonstrate the ability to reliably pay all periodic financing costs to retire the loan or loans provided under the public works financing assistance program. The state treasurer's office must determine compliance with this requirement; and

(c) Demonstrate that bond proceeds loaned to the local government would be expended for capital expenditures on a public works project eligible to be financed with the proceeds of tax-exempt bonds under the internal revenue code. The state treasurer's office must determine compliance with this requirement.

(3) The board must prioritize applications for assistance under the public works financing assistance program to achieve the greatest community benefit in jurisdictions that would most benefit from this assistance as measured by the difference in the total cost of financing under this program compared to financing cost from private capital markets. The board must adopt criteria for prioritizing applications and submit the scoring under those criteria in the annual report required in section 302 of this act.

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

(1) The board must not sign contracts or otherwise financially obligate funds from the public works financing assistance account created in section 303 of this act unless the legislature has authorized the necessary bonds and appropriated sufficient amounts from the account for the approved projects.

(2) The board must execute contracts for project loans with local governments under the public works financing program to ensure that:

(a) Disbursements against authorized loans are in predictable amounts as required to meet project expenditures without resulting in prolonged and excessive project fund balances;

(b) Repayments by local governments are sufficient and timely to cover the state's repayment obligations of public works financing bond issued on behalf of the project;

(c) All other requirements are met, including compliance with state laws regarding the issuance and limits on local government debt; and

(d) The board has sufficient recourse against the local government borrower in the event that the borrower defaults on its public works financing loan payment obligations.

(3) Every contract entered into by a local government for a public works financing loan must allow for the following:

(a) In the event of a default by a local government in the payment of any amounts due under the public works financing loan:

(i) The board must notify the local government's treasurer of the default. The local government's treasurer must transfer any legally available funds in satisfaction of the local government's obligations under the public works financing loan;

(ii) If the local government's treasurer is unable to transfer sufficient funds to meet the local government's obligations under the public works financing loan, the board must notify the state treasurer. The state treasurer must withdraw the local government's share of state revenues for distribution or any other funds held by the state treasurer on behalf of the local government in an amount sufficient to meet the shortfall;

(iii) The state treasurer must deposit any funds collected pursuant to this subsection into the public works financing assistance bond repayment account.

(b) If neither the local government treasurer nor the state treasurer has sufficient funds of the local government or due to be paid by the local government to meet its obligations under the public works financing loan, the board may take whatever actions are legally permissible against the local government including, but not limited to:

(i) Instituting litigation proceedings;

(ii) Seeking legislation to provide greater assurance that timely payments will be made by the defaulting local government; and

(iii) Refusing to enter into any other contracts to provide funds to the local government.

(4) By July 1st of each year, the board must submit a report to the state treasurer, the office of financial management, and the fiscal committees of the legislature. The report must include:

(a) The list of projects approved in the preceding fiscal year with the project scores against the board's prioritization criteria;

(b) The total amount of loan disbursements made from the public works financing assistance bond repayment account, created in section 304 of this act, in the preceding fiscal year;

(c) The total amount of loan repayments in the preceding fiscal year for outstanding loans made from the public works financing assistance account;

(d) The total amount of loan repayments due from local governments for outstanding loans by fiscal year over the following ten-year period; and

(e) Any further information required by the state treasurer's office necessary to meet internal revenue service requirements for tax compliance, or for determining whether projected revenues are sufficient to meet projected debt service obligations.

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

The public works financing assistance account is created in the state treasury. All bond proceeds issued to support public works financing assistance projects must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the public works financing assistance program.

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

The public works financing assistance bond repayment account is created in the custody of the state treasury. All repayments for public works financing loans from local governments must be deposited in the account. Expenditures from the account must only be made for payment of principal and interest to retire bonds issued pursuant to this section. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

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

(1) To ensure that sufficient revenues are collected to meet debt service requirements on bonds issued in accordance with this chapter:

(a) The board:

(i) May charge an additional amount on public works financing loans to local governments to create a reserve to meet potential shortfalls; or

(ii) Must take other actions as are necessary to ensure that sufficient revenues are collected to meet debt service obligations on bonds issued to support a public works financing loan.

(2) If the board is unable to collect sufficient revenues to meet debt service obligations on bonds issued to support public works financing loans, the legislature must take any action legally authorized to raise such revenue from loan repayments to meet this obligation, including, but not limited to, collect loan repayments directly from distributions to local governments in the event of nonpayment, or any other method deemed appropriate to ensure that adequate revenues are received to meet debt service obligations.

(3) If there is insufficient revenue to meet projected debt service obligations, as determined by the office of the state treasurer, the state finance committee may not approve the issuance or sale of bonds for this purpose until such time as the projected amount of revenue is at least equal to the projected amount of debt service then owed on bonds issued to support public works financing loans.

**PART 4**

**LOCAL INFRASTRUCTURE FINANCING**

NEW SECTION. **Sec.**  The legislature finds that there exists in the state of Washington need for critical projects for the planning, acquisition, construction, repair, replacement, rehabilitation, or improvement of local infrastructure including streets and roads, bridges, water systems, solid waste disposal including recycling, storm and sanitary sewage systems and other municipal projects, facilities, and utilities. It is the policy of the state of Washington to encourage self-reliance by local governments in meeting their local infrastructure needs and to assist in the financing of critical infrastructure projects by making loans available to local governments for these projects.

NEW SECTION. **Sec.**  (1) The commission may develop and implement a program to provide financing to local governments for infrastructure projects. In developing the program, the commission shall establish eligibility criteria for financing that will enable it to choose applicants who are likely to repay loans made or acquired by the commission and funded from the proceeds of commission bonds.

(2) The commission may, if economically feasible:

(a) Issue revenue bonds as defined in RCW 43.180.020(1) for the purpose of financing all or part of the costs of infrastructure projects in accordance with RCW 43.180.150;

(b) Make or purchase loans to local governments for financing all or part of the costs of infrastructure projects;

(c) Enter into financing agreements relating to the repayment of those loans or the provision of, or security for, debt service on the bonds;

(d) Do all things necessary to provide for the exemption of interest on its bonds from federal income taxation if the bonds are issued on a tax-exempt basis; and

(e) Participate fully in federal and other governmental programs and take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs for financing infrastructure projects.

(3) In connection with the financing of costs of local infrastructure, the commission may exercise the other powers granted the commission under this chapter, including the requirements under RCW 43.180.170 and 43.180.180. No commission general fund resources may be expended to implement this section except that commission general fund resources may be expended to administer this section.

(4) For the purposes of this chapter:

(a) "Financing agreement" means a lease, sublease, installment sale agreement, conditional sale agreement, loan agreement, or other agreement for the purpose of providing funds to pay or secure debt service on bonds.

(b) "Infrastructure project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of infrastructure including streets and roads, bridges, water systems, storm and sanitary sewage systems, solid waste facilities, including recycling facilities, and other municipal projects, facilities, and utilities.

(c) "Local governments" means cities, towns, counties, special purpose districts, port districts, school districts, and any other municipal corporations or quasi-municipal corporations in the state.

NEW SECTION. **Sec.**  Any local government may enter into a financing agreement containing the terms and conditions of a loan from the commission and evidencing the obligation of the municipal corporation to repay that loan under the terms and conditions set forth in the financing agreement. A financing agreement may provide that the local government will repay the loan solely from revenues set aside into a special fund for repayment of that loan. In the case of a local government authorized to borrow money payable from taxes, and authorized to levy such taxes, the financing agreement may provide that repayment of the loan is a general obligation of the local government, or both a general obligation and an obligation payable from revenues set aside into a special fund. The commission shall have such rights of recovery in the event of default in payment or other breach of financing loan agreement as may be provided in the loan agreement or otherwise by law.

NEW SECTION. **Sec.**  Nothing in this chapter authorizes local governments to incur indebtedness beyond constitutional indebtedness limitations. Revenue bonds issued by the commission pursuant to this chapter are excluded from the indebtedness limit in RCW 43.180.160(1).

NEW SECTION. **Sec.**  The authority under this chapter is supplemental and in addition to the authority to issue obligations under any other provision of law.

**Sec.**  RCW 39.36.060 and 1987 c 19 s 5 are each amended to read as follows:

This chapter does not apply to a loan made pursuant to a loan agreement under chapter 39.69 RCW or sections 401 through 405 of this act, and any computation of indebtedness under this chapter shall exclude the amount of any loan under such a loan agreement.

NEW SECTION. **Sec.**  Sections 401 through 405 of this act are each added to chapter 43.180 RCW.

**PART 5**

**MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec.**  (1) Sections 101 through 209 and 301 through 305 of this act take effect January 1, 2018, if the proposed amendment to Article VIII, section 1 of the state Constitution, contained in Senate Joint Resolution No. . . . (S-0298/17), is validly submitted to and is approved and ratified by voters at the next general election. If the proposed amendment is not approved and ratified, sections 101 through 209 and 301 through 305 of this act are void in their entirety.

(2) Sections 401 through 407 of this act take effect January 1, 2018, if the proposed amendment referenced in subsection (1) of this section is not approved and ratified. If the proposed amendment is approved and ratified, sections 401 through 407 of this act are void in their entirety.

NEW SECTION. **Sec.**  Sections 210 through 212 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2017.

**--- END ---**