
Capital Budget Committee

HB 1051

Brief Description: Concerning financing essential public infrastructure.

Sponsors: Representative DeBolt.

Brief Summary of Bill

- Increases the Public Works Board membership, requires numeric ranking of project applications, revises consideration factors, and adds requirements related to determining loan interest rates.
- Appropriates \$50 million from the Public Works Assistance Account for public works projects in rural counties.
- Establishes a Public Works Financing Assistance program administered by the Public Works Board, contingent on a constitutional amendment.
- Authorizes the Public Works Board to make loans for certain local government capital projects from the proceeds of state-issued bonds, and makes the debt service payable by the local government borrowers.

Hearing Date: 2/14/17

Staff: Melissa Palmer (786-7388).

Background:

State Finance Committee.

The State Finance Committee (Committee) authorizes the issuance of all bonds and other state obligations, including financing leases for capital projects authorized in the capital and transportation budgets. The Committee also acts to refinance state debt when appropriate to reduce interest costs. The Committee is composed of the Governor, the Lieutenant Governor, and the State Treasurer.

Public Works Assistance Account.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Public Works Assistance Account (PWAA) was established in 1985 to encourage local government self-reliance in meeting public works needs, and to assist in financing critical infrastructure projects. Moneys in the PWAA must be used to make loans and give financial guarantees, and may also be appropriated to provide state match for federal dollars. Loan repayments and revenues from three tax sources have historically been deposited into the PWAA. However, in recent years, there have not been loans funded with the PWAA. Repayments and tax revenues have been redirected to the State General Fund or Education Legacy Trust Account.

Public Works Board Membership.

The Public Works Board (Board) is staffed by the Department of Commerce and includes 13 voting members: two elected officials and one public works manager representing cities; two elected officials and one public works manager representing counties; three members representing public utility and water-sewer districts; and four members representing the general public.

The Board Responsibilities.

The Board may make low-interest or interest-free loans from the PWAA to finance the acquisition, construction, repair, replacement, or improvement of the following local public works: bridges, streets, and roads; water systems; storm and sanitary sewage systems; and solid waste facilities, including recycling. For up to a maximum of 15 percent of the biennial capital budget appropriation, the Board may make loans for preconstruction, emergency, and capital facilities planning. Local governments and special purpose districts, except port and school districts, are eligible to apply for loans from the Account. The Board may provide technical assistance. Existing debt or financial obligations may not be refinanced.

The Board must consider a number of factors in prioritizing projects: health and safety; unemployment rate; the Puget Sound Partnership Action Agenda; fiscal distress; permitting processes; relative project costs; number of communities served or funding the project; water system health and safety violations; Evergreen community recognition; and relative project benefits.

By the first of November of each even-numbered year, the Board must develop and submit to legislative fiscal committees a prioritized recommended funding list of public works construction projects. The Legislature may remove projects from the list, but may not change the priority order of the Board's recommendations. Funds cannot be obligated by the Board until the Legislature has appropriated funds for a specific list of projects.

In both the 2013-15 Capital Budget and the 2015-2017 Capital Budget, the Legislature required the Board to develop a process for numerically ranking applications for construction loans, and to use an alternative list of consideration factors in order to assign that ranking. In addition, the Capital Budget required the Board to:

- base loan interest rates for construction projects on tax-exempt municipal bond interest rates as published in the Bond Buyer's Index and provide special rates and terms for projects that meet standardized hardship criteria;
- contractually require an investment grade efficiency audit for public facilities for which an audit is obtainable, and allow the audit costs to be financed as part of the loan; and

- implement policies and procedures to maximize local government use of federally funded drinking water and clean water state revolving funds, including those operated by the Department of Ecology (DOE) and the Department of Health (DOH).

The 2015-17 directive further specified that projects "eligible" for the DOE and DOH revolving funds are not eligible for Public Works Board construction loans and defined what "eligible" means.

Recent Use of Moneys in the Account.

Historically, loan repayments and revenues from three tax sources have been deposited into the Account. However, beginning with the 2009-11 biennium, the Legislature has transferred cash from loan repayments and redirected tax revenues from the Account to the State General Fund and the Education Legacy Trust Account. Revenues from the taxes are redirected statutorily from the Account through June 30, 2019.

Summary of Bill:

Findings and Intent.

The legislation finds that it can be hard for local governments that borrow from capital markets rarely or in small amounts to access low-cost financing for public infrastructure projects, and that state tax revenues historically used to finance local government infrastructure are being redirected to support other state needs. The Legislature further finds that the state accesses capital markets frequently and can issue bonds for significantly less cost than many local governments. The Legislature intends to improve access to low-cost private market financing for local government infrastructure projects by authorizing state issuance of public works bonds when local governments can meet certain requirements.

The Board Membership.

The Board membership is increased from 13 to 17 by adding one member from each of the two major caucuses of the House of Representatives (House), appointed by the Speaker of the House, and one member from each of the two major caucuses of the Senate (Senate), appointed by the President of the Senate. Each appointed member may designate an alternate member from the same caucus to attend meetings from which the appointed member will be absent, and the designee will have the same voting and participation powers as other Board members.

The Board Responsibilities.

For projects funded through the PWAA, the Board must assign a numeric ranking to the applications received for construction loans and must, at a minimum and in any order, consider the extent to which the project:

- is critical and affects the health and safety of many;
- leverages non-state funds;
- is ready to proceed;
- is in an area of high unemployment;
- promotes environmental quality;
- consolidates or regionalizes systems;
- encourages economic development through mixed-use and mixed-income development;
- is part of a well-managed system;

- results in equitable geographic and population distribution of funds; and
- meets eight specified state policy objectives.

The Board must submit to the Governor and Legislature a numerically ranked project list before the first of November each year.

The Board must adopt policies and procedures to maximize local government use of federal funds to finance local infrastructure projects. Projects eligible for the drinking water and clean water state revolving funds are not eligible for PWAA construction loans but may receive preconstruction loans.

For preconstruction and construction loans, the Board must contractually require an investment grade efficiency audit for public facilities for which an audit is obtainable, and may allow the audit costs to be financed as part of the loan.

The Board's general authority to make "low-interest or interest-free" loans to local governments for construction, emergency public works projects, and preconstruction activities is replaced by a requirement that the Board base interest rates on the average daily market interest rate for tax-exempt municipal bonds as published in the Bond Buyer's Index for 30 to 60 days prior to the start of the application cycle. Projects with a repayment period of five to 20 years must receive an interest rate that is 50 percent of the average daily market interest rate, and projects with a repayment period under five years must receive an interest rate that is 25 percent of the average daily market interest rate. When average daily market interest rates reach 9 percent or greater, the Board may cap interest rates on loans with five to 20-year repayment periods at 4 percent and loans with less than five-year repayment periods at 2 percent. In addition, for projects that meet financial hardship criteria as measured by the affordability index, the Board must allow for reduced interest rates, extended repayment periods or interest-free loans.

The Board is no longer authorized to pledge money in the PWAA to the repayment of principal and interest on obligations issued by local governments.

Public Works Assistance Account.

The PWAA may be used for state match for the water pollution control revolving account, in addition to match for the drinking water assistance account. The PWAA may also be used for administration of the new Public Works Financing Assistance program. Preconstruction and emergency loans are no longer limited to 15 percent of the PWAA appropriation. The language expressing an intent to transfer \$73 million from the PWAA to support basic education is removed.

Public Works Financing Assistance Program.

In addition to the Public Works Board's authority to make loans to local governments for construction, pre-construction, and emergency public works projects funded through the PWAA, the Board is authorized to implement the Public Works Financing Assistance Program (New Financing Program). Through the New Financing Program, public works loans are made with proceeds of bonds issued by the state and the debt service is repaid by local governments.

Under the New Financing Program, eligible capital projects are those necessary to:

- provide safe and adequate drinking water;

- collect, manage, and treat wastewater and storm water;
- provide safe and efficient transportation, including public parking facilities, public transit facilities, and non-motorized transportation;
- provide facilities for safe and readily accessible recreation;
- provide flood control and floodplain management facilities;
- provide water supply improvements and water basin management enhancements, including culvert replacement projects;
- provide county or city criminal justice facilities;
- provide fire protection or emergency medical services facilities; and
- provide public library facilities.

To be eligible, local governments must demonstrate to the Board, operating under guidance from the State Treasurer's Office:

- difficulty accessing borrowing at reasonable rates from existing private credit markets;
- ability to reliably pay financing costs to retire the loan; and
- planned use of the bond proceeds for capital expenditures in compliance with the Internal Revenue Service code.

The Board must adopt criteria for prioritizing applications. Community benefit from the assistance must be measured by the financing cost differential under the New Program compared to private capital markets.

New Accounts Established.

The Public Works Financing Assistance Account (Bond Account) is created in the State Treasury. Proceeds from bonds issued to support projects under the New Program are to be deposited in the Bond Account. Moneys are to be spent only after appropriation.

The Public Works Financing Assistance Bond Repayment Account (Repayment Account) is established in the custody of the State Treasury. All repayments of loans made under the New Program are to be deposited in the Repayment Account, and although appropriations are not required, expenditures may only be made from the Repayment Account for debt service to retire the issued bonds.

Due Diligence and Accountability.

The Board is restricted from obligating funds without legislative bond authorization and appropriation of the proceeds. Contracts issued by the Board must ensure that loan disbursement amounts are predictable to meet project expenditures and that local government repayments cover the state's bond repayment obligations adequately and on time. In the event of a default by a local government under the New Financing Program, the contracts must allow the local government's treasurer to transfer any legally available funds to meet the obligations. If there are still insufficient funds, the state treasurer must withdraw an amount to meet the shortfall from the state revenues for distribution to local government. In the event there are still obligations due to be paid by the local government, the Board may take whatever actions are legally permissible.

To ensure that repayments are sufficient to cover debt service obligations, the Board may charge an additional amount on loans to create a reserve. If still insufficient, the Legislature must take action to raise repayment revenues including, but not limited to, collecting loan repayments directly from distributions to local governments. If revenues are still insufficient to meet

projected debt service obligations, the State Finance Committee may not approve issuance of future bonds until revenues at least equal the debt service owed.

The Board must submit an annual report to legislative fiscal committees, the State Treasurer, and the Office of Financial Management.

The New Financing program is contingent on a ratification of a proposed constitutional amendment HJR 4200.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.