Washington State
Public Works Board
Post Office Box 42525
Olympia, Washington 98504-2525

AGENDA
PUBLIC WORKS BOARD MEETING
January 11, 2012 – 7:00 A.M.

Agenda Item	Action	Page	Time
LEGISLATIVE BREAKFAST			**7:00**
1) ADMINISTRATION		**3**	**8:30**
a) Call to Order			
b) Introduction: Board Members, Staff, and Guests			
c) Approve Agenda	**Action**	**1**	
d) December 11 meeting minutes: Janea Eddy	**Action**	**5**	
e) Set meetings for the first quarter: Janea Eddy	**Action**	**5**	
2) Legislative Update – Informational Only		**13**	**8:50**
a) Legislative Meeting Orientation: Cecilia Gardener	Verbal		
b) Update on 2013 Loan List: John LaRocque/Cecilia Gardener		15	
c) Update on 43.155 Rewrite: John LaRocque/Cecilia Gardener		23	
d) Update on Modernization: John LaRocque/Cecilia Gardener	Verbal		
3) Program Updates		**41**	**9:30**
a) New PWTF Request for Assistance Process Review and Approval: John LaRocque	**Action**	**43**	
b) PWTF Loan Terms for 2014 Construction Cycle: Ann Campbell	**Action**	**45**	
BREAK			**10:20**
4) Contracting		**47**	**10:35**
a) Consent Agenda: Laura Lowe	**Action**	**49**	
b) DWSRF 2011 Contract Update: Chris Gagnon	Written Report	53	
c) PWTF 2012 Update: Jeff Hinckle	Written Report	59	
d) Pre-contract Exception to Policy Request – Anacortes		61	
5) Financial		**63**	**11:10**
a) Update on DWSRF Fund: Myra Baldini/John LaRocque		65	
b) PWAA/ACLM Fact Sheet: John LaRocque		67	
LUNCH			**11:30**
6) INFORMATION AND OTHER ITEMS		**69**	**12:00**

Note: ***Anticipated time of Adjournment is 12:00 p.m.***

NEXT MEETING SCHEDULED: February 3, 2011, at 7:30 a.m.– Department of Commerce, 1011 Plum Street SE Olympia, WA 98504-8319. Contact the Public Works Board at (360) 725-3150 for further information.

This publication is available in alternative format upon request. Meetings sponsored by the Public Works Board shall be accessible to persons with disabilities. Accommodations may be arranged with 10 days notice to the Public Works Board at (360) 725-3150.

TAB 1

Administration

Washington State
Public Works Board
Post Office Box 42525
Olympia, Washington 98504-2525

PUBLIC WORKS BOARD MEETING NOTES
December 6, 2011
Washington Public Utilities District Association (Olympia, WA)

Board Members Present:	Board Members Absent:	Staff Members:
Stan Finkelstein – Chair Jerry Cummins Tom Fitzsimmons Kathryn Gardow Larry Guenther Ed Hildreth Don Montfort Darwin Smith Larry Waters	Doug Quinn Steve Stuart	John LaRocque – Executive Director Myra Baldini, Dawn Eychaner Ann Campbell, Christina Gagnon Cindy Chavez, Cecilia Gardener Terry Dale, Jeff Hinckle Steve Dunk, Isaac Huang Janea Eddy, Bruce Lund

Guests Present:

Kristin Bettridge, Dept of Health
Jim Dugal, Parametrix
John Kounts, Washington Public Utility District Association
Karen Larkin, Dept of Commerce
Laura Lowe, Dept of Commerce
Steve Misuriak, City of Gig Harbor
Rodney Orr, Dept of Commerce
Cathi Read, Dept of Commerce
Eric Tompkins, Dept of Commerce
Rogers Weed, Dept of Commerce

ADMINISTRATION

a) Call to Order: Stan Finkelstein called to order – 8:35 a.m.

b) Introductions: Board, Staff, Guests, and Visitors.

c) Approve the agenda
The following modifications to the agenda are suggested:
- Item 2, sub c, is presented by Christina (Chris) Gagnon
- Item 5, add subsection 'e' – Accelerating the Drinking Water State Revolving Fund (DWSRF)

Action taken. Darwin Smith moved to approve the December 6, 2011, Public Works Board (PWB) Meeting Agenda with the aforementioned modifications. Don Montfort seconded the motion. Motion approved. (Vote 7-0. Yes – Cummins, Fitzsimmons, Guenther, Hildreth, Montfort, Smith, and Waters. No- None.)

d) October 11, 2011, meeting minutes.
Action taken. Ed Hildreth moved to approve the October 11, 2011, PWB Meeting Minutes as presented. Darwin Smith seconded the motion. Motion approved. (Vote 7- 0. Yes – Cummins, Fitzsimmons, Guenther, Hildreth, Montfort, Smith, and Waters. No- None.)

e) 2012 PWB Meeting Calendar
- John LaRocque requested the PWB members (Board) provide direction on future meeting dates. It is necessary to consider moving meetings from the first Tuesday of the month due to multiple Board members' scheduling conflicts.
  Action taken. Jerry Cummins moved to select the first Friday of each month, beginning on February 3, 2012, for the PWB meeting day. Motion approved. (Vote 8-0. Yes – Cummins, Fitzsimmons, Gardow, Guenther, Hildreth, Montfort, Smith, and Waters. No- None.)

DRAFT

- John LaRocque described plans for the January 11, 2012, PWB meeting. The meeting is a facet of the Board's Legislative Day. Proposed schedule is as follows:

  7-8:30 Breakfast with PWB Stakeholders
  - Staff has received attendance confirmation from Jim Justin (Governor's Office), Rogers Weed (Dept of Commerce), Ashley Probart (Association of Washington Cities), John Kounts (Washington Public Utility District Association), Don Montfort (Washington Association of Sewer and Water Districts), Rick Slunaker (Association of General Contractors), Eric Johnson (Washington State Association of Counties), and members of the Community Economic Revitalization Board (CERB).
  - Staff has also invited Ginger Eagle (Washington Public Ports Association).

  8:30-Noon Public Works Board Meeting (time approximate)

  12-12:30 Lunch

  12:30 - - - Members divide into 2-person teams for brief meetings with individual legislators
  - Staff will gather information from members on legislators with whom members would like to meet.
  - Staff will schedule meeting times with legislators and coordinate handouts and other informational materials.
  - One staff member will support each member team – carry materials, take notes for further action (as necessary), other activities as needed.

f) Infrastructure Assistance Coordinating Council (IACC) Memorandum Of Understanding (MOU) Presentation
John LaRocque provided a historical summary explaining IACC's raison d'être. He presented the IACC MOU as outlined on pages 17 – 21 in the meeting packet.
Action taken. Kathryn Gardow moved that the PWB enter into the MOU as presented. Jerry Cummins seconded the motion. Motion approved. (Vote 8-0. Yes – Cummins, Fitzsimmons, Gardow, Guenther, Hildreth, Montfort, Smith, and Waters. No- None.)

CONTRACT ITEMS

a) Consent agenda
Laura Lowe presented the consent agenda as described on page 25 in the meeting packet.
Action taken. Kathryn Gardow moved to approve the actions as outlined on the consent agenda. Darwin Smith seconded the motion. Motion approved. (Vote 8-0. Yes – Cummins, Fitzsimmons, Gardow, Guenther, Hildreth, Montfort, Smith, and Waters. No- None.)

b) Spokane County PWTF Contract Extension – PW-05-691-057
Laura Lowe presented introductory information on Spokane County's request to extend loan PW-05-691-057 to a close date of December 1, 2015. Spokane County is experiencing project delays due to legal proceedings. Members directed staff to gather information for presentation at the February 2012 meeting about the project including its scope, timelines, locations, and major events.
Action taken. Don Montfort moved to postpone deciding upon the extension request for 60-days while staff gathers information as requested by the Board. Kathryn Gardow seconded the motion. Motion approved. (Vote 8-0. Yes – Cummins, Fitzsimmons, Gardow, Guenther, Hildreth, Montfort, Smith, and Waters. No- None.)

c) Small Community Jobs Grant Program Reallocation of Fund
Chris Gagnon presented staff proposal to distribute de-obligated funds to the City of Clarkston. The 2009-2011 Capitol Budget directed PWB to create two temporary grant programs and administer the direct appropriation of 23 capital projects. PWB is authorized to move up to 10%, or $4 million, of funds between the two grant programs and the direct appropriations. The City of Clarkston's project costs were greater than initially budgeted. PWB staff confirmed with the Office of Financial Management that grant funds are available for redistribution. Approval of the request leaves authority to move approximately $3.8 million should it become available.

DRAFT

Action taken. Don Montfort moved to approve the redistribution of $81,000, of deobligated funds from the Small Community Jobs Program (SCJP), to the City of Clarkston's SCJP contract #CJ09-951-118. Larry Guenther seconded the motion. Motion approved. (Vote 8-0. Yes – Cummins, Fitzsimmons, Gardow, Guenther, Hildreth, Montfort, Smith, and Waters. No- None.)

DIRECTOR'S UPDATE

a) Budget Update
Rogers Weed, Director of the Department of Commerce, presented an update on the state budget.

b) Indirect
Mr. Weed stated that the Department of Commerce would not pursue a change to the indirect rate paid by programs within Commerce during the remainder of this biennium. He cited the impact to staff by the extensive changes necessary as the reason for tabling the change. Commerce will be discussing indirect rate changes with legislators this session with an eye to proposing changes starting with the 2013-2015 biennium.

c) Prep for 43.155 Modernization
Mr. Weed addressed the PWB Modernization model. He shared that while it did not appear as though Governor Gregoire will pursue the model as presented; there is interest in pursuing items within the model. John LaRocque discussed staff work on PWB directed items: updating the project selection process and revisions to RCW 43.155 including expansion of the financial tools available for PWB use.

PROJECT UPDATE

Wastewater Treatment Plant Upgrade Project Presentation by the City of Gig Harbor
Steve Misuriak, City Engineer for the City of Gig Harbor, gave a presentation on the expansion and updating of the City's wastewater treatment plant.

DRINKING WATER STATE REVOLVING FUND ADMINISTRATION

a) Drinking Water State Revolving Fund (DWSRF) Public Hearing on Loan Fee for Program Year 2012 Loans
Stan Finkelstein, PWB Chair, opens public meeting on proposed 2012 DWSRF loan fee.
******10:35AM – Public Hearing for the Proposed 2012 Drinking Water State Revolving Fund Loan fee STARTS******
Chris Gagnon elucidated the administrative requirement to have an annual hearing to change, or confirm, the loan fee for the coming year's DWSRF loan cycle. Loan fees enable the program to continue in the event that federal funding ceases. Ms. Gagnon outlined staff proposal to continue the existing 1% loan fee with the modification that the 1% fee be waived for clients receiving 30% subsidy.
******10:52AM – Public Hearing for the Proposed 2012 Drinking Water State Revolving Fund Loan fee ENDS******
Action Taken. Kathryn Gardow moved to approve a 1% loan fee for 2012 DWSRF loans with the loan fee being waived for loan recipients receiving 30% subsidy. Larry Waters seconded the motion. Motion approved. (Vote 8-0. Yes – Cummins, Fitzsimmons, Gardow, Guenther, Hildreth, Montfort, Smith, and Waters. No- None.)

b) DWSRF: Extending the December 21st deadline for 2011 clients to submit consolidation/site control documentation.
Chris Gagnon presented the staff request to extend the deadline for 2011 DWSRF loan recipients to provide proof of site control and/or consolidation of systems. See memo on page 37 in the meeting packet. During the August 26, 2011, meeting, PWB, as a condition of loan receipt, required 2011 DWSRF borrowers to provide proof of site control and/or system consolidation on or before December 21, 2011. Borrowers waited for loan approval to start site control/consolidation process. There was too little time between the August approval and the December deadline for

borrowers to meet the deadline. Staff is keeping abreast of clients' status and addressing any arising issues. Members directed staff to provide a status update at the February 2012 meeting.
Action taken. Kathryn Gardow moved to extend the time by when 2011 DWSRF recipients must provide proof of site control and/or consolidation of water systems to June 30, 2012. Jerry Cummins seconded the motion. Motion approved. (Vote 8-0. Yes – Cummins, Fitzsimmons, Gardow, Guenther, Hildreth, Montfort, Smith, and Waters. No- None.)

c) DWSRF update on LEAN and MOU with Department of Health
John LaRocque apprised Members on the current inter-related duties of the Departments of Health (DOH), Commerce (COM), and the PWB. RCW 70.119A.170 (4) requires DOH, COM, and PWB to develop and maintain an MOU outlining duties and requirements. Governor Gregoire received grant money from the Boeing Corporation to use, in part, for facilitating a LEAN process as part of the MOU update development. A representative from Boeing will act as the facilitator, with a member of the Office of Financial Management training personnel from DOH, COM, and PWB on the LEAN process. Once this has been accomplished, the MOU will be developed by the same parties. A person from the Department of Ecology's State Revolving Fund program will attend the LEAN training for possible application of the outcomes to their program.

d) DOH Loan Fee for Disadvantage Communities
Chris Gagnon presented the staff request for the PWB to waive the 1% loan fee imposed on disadvantaged communities who received 2010 and 2011 DWSRF loans. Staff only recently became aware of a clause in the federal statute that disallows loan fees from being assessed on disadvantage communities receiving a loan subsidy (see CFR Title 40, Part 35, Subpart L, § 35.3530(3)(i) of the federal Safe Drinking Water Act as amended in 1996). The total cost of waiving the 1% fee will be $509,266. PWB asked for a report on the status of the DWSRF account at the February 2012 meeting.
Action taken. Kathryn Gardow moved to waive the 1% loan fee on the disadvantaged communities as outlined in the November 21, 2011, memo (pages 39-40 in the meeting packet). Larry Guenther seconded the motion. Motion approved. (Vote 8-0. Yes – Cummins, Fitzsimmons, Gardow, Guenther, Hildreth, Montfort, Smith, and Waters. No- None.)

INFORMATION SHARING ON LEGISLATIVE ITEMS

a) Budget
Cecilia Gardener provided a summary on the Legislature and Governor's budget activities dating from the November 2011 Board meeting. The Governor is currently reviewing the PWB's bill proposal containing the 2013 Construction loan list. John LaRocque declared breaking news: the $200 million bill, which included the $160 million 2013 Construction loan list, $15 million in funding for CERB, and approximately $24.6 million for preconstruction funding, is included in the Governor's proposed Capital Budget. Mr. LaRocque reiterated the belief that the Governor will not put the PWB's Modernization proposal forth for legislative consideration.

b) Special Session
Cecilia Gardener recapped Rogers Weed's take on the Legislative Special Session. No impact to the PWB, or its programs, is anticipated.

c) Board Initiatives
   i. Updating RCW 43.155
   John LaRocque related decisions made by PWB's Executive Committee to explore updating RCW 43.155, PWB's authorizing statute. The RCW, due to additions made over last 26 years, needs organizational updating and clarification of terms, abilities, and authorities. Mr. LaRocque outlined the possibilities inherent in opening the RCW for updating, namely that parties other than the PWB may wish to make changes. A draft is enclosed on page 40 in the meeting packet. Modifying RCW 43.155 has been proposed to the Governor. If proposal is accepted, the modifications may be Commerce requested legislation in cooperation with the PWB, due to the mechanics of the bill proposal process. The next step is to obtain a bill sponsor and as many supporters as possible. The bill sponsor will drop the bill. The bill will be assigned a number and begin the process of coming to a vote. The first objective is to

attest that the proposed bill is fully supported by the PWB and Commerce. See pages 45-48 in the meeting packet for specific section-by-section review of the PWB Executive Committee's recommendation of changes to RCW 43.155.

ii. Accelerated Loan Commitment Model

Mr. LaRocque broached the concept of the Accelerated Loan Commitment Model (ALCM).

Legislative Direction:

During the 2011 Legislative Session, The PWB's 2012 Construction Loan list was vetted by House and Senate staff. Projects with funding other than from the PWB were culled. The Legislature directed state providers of infrastructure funds to first maximize the use of federal funds then tap state funds. PWB staff explored methods to amplify the use of all funds, both state and federal. The ALCM would allow for the ultimate capitalization of all available funds.

Concept:

The ALCM is a financial model wherein the commitment of funds for projects is based on the expected availability of funds and the demand for those funds (e.g., cash disbursements) over time. PWB Member Don Montfort likened this to the business concept of borrowing against receivables. See pages 57 and 58 in the meeting packet.

Application:

Staff from the Office of Financial Management (OFM), the Senate, the House, Commerce, and the PWB met to discuss using the ALCM with the Public Works Assistance Account (PWAA). Using conservative figures agreed upon by the aforementioned parties, the anticipated amount of funds in the PWAA during the 2013-2015 biennium is $400 million. Using the ALCM, the amount of funds available is $650 million. If the State Revolving Funds administered by the Departments of Ecology and Health also use the ALCM, their funds, combined with the PWAA funds (also using the ALCM), make approximately $1 billion available to fund water and/or sewer system projects during the 2013-2015 biennium. See charts on page 59 in the meeting packet.

Continuity:

Multiple scenarios were evaluated during the aforementioned meetings with OFM, staff from the Senate and House, Commerce, and the PWB. The charts on page 59 illustrate those scenarios.

"PM-1" (*lines with a diamond marker*) in the charts demonstrates what will happen with the PWAA when calculating the 2013 Construction loan list, $26.4 million for preconstruction, and $15 million for CERB. These funds are included in Governor Gregoire's Supplemental Capital Budget proposal.

"PM-2" (*lines with a square marker*) in the charts demonstrates what will happen with the PWAA when calculating the 2013 Construction loan list, $26.4 million for preconstruction, $15 million for CERB, and $5 million funding for the Investment Grade Efficiency Audit (IGEA) program. These funds are included in Governor Gregoire's Supplemental Capital Budget proposal.

"PM-3" (*lines with a triangle marker*) in the charts demonstrates the outcomes if the ALCM is used. PWB action is necessary in order to realize this proposal.

If the PWB approves the ALCM for use, there is a fund drop to around $1 million in 2015, but the ALCM can continue to be used to a lesser extent than this first surge due to repayments received in response to the pre-ALCM loans and beginning repayment of the ALCM loans. The cash balance again begins to grow rapidly. As a result, the PWAA cash balance is anticipated to return to $100 million in the 2021-2023 biennium. If good investments are made, the PWAA will continue. In order to ensure wise investments, the PWB needs to adapt its methods for project funding.

Need: The ALCM, in conjunction with changes to RCW 43.155, enables the PWB to fund more projects and more diverse projects than in past. Adapting project selection processes is necessary to ensure the perpetuity of the PWAA through wise investments. Historically, the PWB project selection process was how to get to "no" in order to maximize the use of available funds. The ALCM enables the PWB to fund all

DRAFT

projects for applicants who are deemed "credit-worthy." This changes requires more fiscal analysis and expanded technical assistance. The selection process would include evaluation for possible federal funding through a partner agency (DOH, Ecology, etc.) and determination as to the fiscal/operational management. Applicants may have specific terms and conditions added to their contracts when a financial offer is made by the PWB. These could include the requirement to maintain specific reserves and/or have specific rates. State policy priorities, in light of Legislative directives, could be added too. Most traditional clients of the PWB will move from the project assessment for possible funding by a federal source straight to being financed.

Mr. LaRocque went on to discuss the possibility of needing additional administrative funds for partner agencies if there is a notable increase in demand of their programs based on the proposed ALCM. The proposed changes to RCW 43.155 and the ALCM have caveats and stopping points throughout the process to ensure that the PWAA is not overspent and that the PWB can meet its commitments to clients. Members have given tentative approval to the changes in the selection process as described earlier. However, Members must approve the use of the ALCM and the proposed changes to RCW 43.155 that broaden eligibility requirements in order implement the ALCM and RCW changes for use with the 2014 Public Works Trust Fund Construction Loan cycle. Stan Finkelstein, Chair of the PWB, asked for clarification on the timeframe during which the ALCM and the RCW changes would occur. Mr. LaRocque clarified the 2014 PWTF Construction Loan cycle timeframe as presented on page 81 in the meeting packet:

January – March 2012	Legislative session; RCW 43.155 changes passed.
January – May 2012	PWB staff seek applications for 2014 PWTF Construction Loan list
May 2012	2014 PWTF Construction Loan applications due
May – August 2012	PWB staff vet applications using aforementioned project selection process (federal funding available? Sound investment for the PWAA?)
July 2012	RCW 43.155 (revised) becomes law.
August 2012	PWB selects viable projects for inclusion on 2014 PWTF Construction Loan List.
November 2012	PWB submits recommended list of 2014 PWTF Construction Loan projects for legislative consideration.

The above timeline allows for the PWB staff to market the new process to clients for use with both traditional projects in traditional systems, but also for use by clients with non-traditional projects such as courthouse facilities, or by potential clients such as port districts. Member approval is needed in order to pursue the RCW changes necessary to enable the expansion of eligible projects and eligible clients. Member approval enables PWB staff to ask the legislature to consider these changes. Don Montfort shared with the Board his evaluation of the ALCM: Holy crap, that's a lot of money. Mr. Montfort went on to express the difficulty inherent when deciding whether to agree to such a grand proposal. There are a number of implications to the RCW's legalese, which are obfuscatory in nature. He expressed concern that there may changes to the RCW that, either intentionally or not, limit the PWB's authorities and powers. The RCW proposed changes need a close vetting to determine what these limitations may be. Mr. Montfort will have the Water and Sewer District Association staff attorneys review the proposed changes in order to gain another legal perspective. Members shared their concern with unanticipated consequences from changes to RCW 43.155.

Action taken. Don Montfort moved to approve the PWB staff to move forward with the plan using the ALCM and to initiate the 2014 PWTF Construction Loan application process. Larry Guenther seconded the motion. Motion approved. (Vote 8-0. Yes – Cummins, Fitzsimmons, Gardow, Guenther, Hildreth, Montfort, Smith, and Waters. No- None.)

DRAFT

iii. Expansion of Eligible Jurisdictions and Systems

John LaRocque spoke to the process needed to enact changes to RCW 43.155. The proposal must be endorsed by the PWB. Upon endorsement, the proposal is submitted to Governor Gregoire for approval. Should the Governor choose not to pursue updating the RCW, then the matter must rest. However, upon gubernatorial approval, the bill will be drafted and a bill sponsor sought. Member Tom Fitzsimmons asked for clarification with regards to fund impact should the demand by non-traditional clients and/or systems combined with tradition clients/systems exceed available funds. Mr. LaRocque clarified that current RCW draft language authorizes the PWB to prioritize clients receiving funding. As proposed in the RCW, the first entities with access to the PWAA are those who are traditionally served by the PWB. The remaining funds would be available for the non-traditional clients and/or systems. Member Fitzsimmons asked about the potential of offering funding to non-traditional clients/systems on a pilot basis. Mr. LaRocque clarified that such a limitation is a policy-level decision to be made by the PWB once changes to RCW 43.155 are made that expand the authority of the PWB to offer such funding. Mr. LaRocque went on to offer various methods by which the PWB staff would be able to mitigate concerns: establish differing rates and terms for traditional versus non-traditional clients/systems; identify to the PWB what applications were received from the traditional entities versus non-traditional; Mr. LaRocque recommended committing all available PWB funds in order to have the funds working for the Board as soon as possible. He further expressed the potential for the PWB to act as an intermediary to coordinate multiple funding sources in order to accomplish a large-scale project.

Action taken. Don Montfort motioned for the PWB staff to move forward with planning to broaden client and system eligibility for further consideration by Members at the January 2012 meeting. Larry Guenther seconded the motion. Motion approved. (Vote 8-0-1. Yes – Cummins, Fitzsimmons, Guenther, Hildreth, Montfort, Smith, and Waters. No – None. Abstain – Gardow.)

John Kounts, representative of the Washington Public Utility District Association, addressed the PWB. Mr. Kounts expressed the desire for Members to closely evaluate the proposed RCW and look for “holes.” He asked for a background paper that clarifies the multiple facets of the proposed changes to the RCW, the ALCM, and funding eligibilities. He stated that the PWB’s regular clients may be upset by the proposals if the meaning and intent is unclear. John LaRocque identified the need to create the most understandable proposal. He went on to outline the opportunities to reach out to various interest groups over the following months.

Chair Finkelstein and Member Fitzsimmons clarified that the PWB has not approved the inclusion of non-traditional clients and/or systems to funding consideration. The PWB has merely directed staff to pursue considering the inclusion of these non-traditional options.

Mr. LaRocque affirmed that later this week (December 5-9, 2011) the proposed revisions to RCW 43.155 (zbill) will be submitted to Jim Justin for review. The purpose being to determine whether or not Governor Gregoire would be interested in a policy change of this magnitude. Also, the proposed changes are assuming that the 2011 Modernization Proposal is not pursued. Member Fitzsimmons declared the need to identify the PWB’s core business. Mr. LaRocque identified that in order for changes in the eligibility and selection processes to work, existing PWB clients cannot be disadvantaged. One avenue that prevents anyone from being disadvantaged is to steer clients with greater sophistication to the federal programs with their myriad of requirements. This will allow the less sophisticated clients to use state funds. However, this is one of many policy decisions that must be made prior to legislative committee hearings. Member Montfort identified that the PWB will have a choice in what items it funds. Furthermore, the PWB needs to identify what it should be funding and have that vision in mind as the process of narrowing the selection process unfolds.

iv. Legislative Activity and Bill Tracking

Cecilia Gardener briefly touched on legislative activity during the 2011 Special Session. She

outlined the three items tracked during legislative session: PWB initiatives, impacts to the PWAA and/or SRF funds, and items of impact to the PWB's clients. She asked for Member direction on any other items they would like to see monitored. Janea Eddy will email Members with an availability questionnaire concerning the ability to attend meetings with legislators the afternoon of January 11, 2012. Ms. Gardener asked that Members respond to Ms. Eddy as soon as possible. She further outlined the proposed schedule for the January 11, 2012, PWB meeting:

7 -830AM – Stakeholder breakfast
830-10 - Public Works Board January Meeting
10-12 - Legislative briefing
12-1230 - Lunch
1230 - ? - Meetings with legislators

John LaRocque gave a brief overview of the PWB staff presentations to the House Capital Budget and the Senate Government Operations committees. The presentations were abbreviated descriptions of what the PWB does and for whom, with a brief touch on the PWB Modernization submission. Due to lack of time, the PWB staff may have to give another presentation to the Senate Government Operations committee on the 2011 Modernization Proposal.

2014 SELECTION DECISIONS.

Action taken. Darwin Smith moved to table discussions and decisions regarding the 2014 PWTF loan program terms and conditions until the January 2012 meeting. Ed Hildreth seconded the motion. Motion approved. Motion approved. (Vote 8-0. Yes – Cummins, Fitzsimmons, Gardow, Guenther, Hildreth, Montfort, Smith, and Waters. No- None.)

Action taken. Ed Hildreth moved to adjourn the December 6, 2011, Public Works Board meeting. Larry Waters seconded the motion. Motion approved. Motion approved. (Vote 8-0. Yes – Cummins, Fitzsimmons, Gardow, Guenther, Hildreth, Montfort, Smith, and Waters. No- None.)

Meeting adjourned at 2 pm, December 6, 2011.

DRAFT

TAB 2

Legislative Update

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0757.2/12 2nd draft

ATTY/TYPIST: AL:crs

BRIEF DESCRIPTION: Authorizing projects and appropriating funds recommended by the public works board.

AN ACT Relating to authorization for projects and appropriating funds recommended by the public works board; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** Pursuant to chapter 43.155 RCW, the following project loans recommended by the public works board are authorized to be made with funds appropriated from the public works assistance account:

(1) Asotin county - solid waste/recycle project - maintain compliance with state and federal regulations $2,950,000

(2) City of Auburn - domestic water project - rehabilitate water supply to comply with state and federal regulations $3,325,000

(3) City of Bainbridge Island - sanitary sewer project - replace and rehabilitate sewer lines to maintain compliance with state and federal regulations $4,167,610

(4) Belfair water district 1 - domestic water project - replace water lines to conform with state guidelines $1,900,000

(5) Birch Bay water and sewer district - domestic water project -

replace water lines to maintain compliance with state drinking water regulations $1,190,000

(6) City of Blaine - sanitary sewer project - construct wastewater system to eliminate health and safety issues contributed by faulty on-site septic systems $536,000

(7) City of Blaine - storm water project - establish storm water facilities enabling development in the established industrial area $1,505,000

(8) City of Bothell - storm water project - replace storm water facility to enhance fish migration and habitat $800,000

(9) City of Buckley - domestic water project - rehabilitate water supply to enhance water security and maintain compliance with state and federal regulations $1,805,000

(10) City of Camas - sanitary sewer project - repair and replace failing sewer lines $3,740,000

(11) City of Camas - domestic water project - rehabilitate water supply to enhance water security and maintain compliance with state and federal regulations $2,040,000

(12) City of Castle Rock - domestic water project - repair and replace failing sewer lines $460,750

(13) Clark regional wastewater district - sanitary sewer project - rehabilitate the sanitary sewer system to ensure public health and safety $10,000,000

(14) Dallesport water district - domestic water project - rehabilitate water supply to enhance water security and maintain compliance with state and federal regulations $183,184

(15) East Wenatchee water district - domestic water project - replace failing water lines to ensure public health and safety $1,254,600

(16) East Wenatchee water district - domestic water project - replace failing potable water reservoirs to ensure public health and safety $3,949,100

(17) City of Everett - sanitary sewer project - regional project to ensure capacity at water pollution control facility for continued compliance with state and federal regulations $10,000,000

(18) City of Ferndale - storm water project - establish storm water treatment for runoff ending in Schell Creek $1,710,000

(19) City of Fife - domestic water project - rehabilitate water supply to enhance water security and maintain compliance with state and federal regulations $594,000

(20) City of Fife - domestic water project - rehabilitate water supply to enhance water security and maintain compliance with state and federal regulations $4,074,840

(21) City of Gig Harbor - sanitary sewer project - rehabilitate the wastewater treatment facility to comply with state and federal regulations $5,950,000

(22) City of Goldendale - sanitary sewer project - repair and replace failing sewer lines to ensure public health and safety $2,608,740

(23) City of Granite Falls - sanitary sewer project - rehabilitate wastewater treatment facility to ensure public health and safety $893,636

(24) Highline water district - domestic water project - replace failing water lines to ensure public health and safety . . . $2,210,000

(25) City of Hoquiam - domestic water project - replace water mains to ensure continued public health and safety $10,000,000

(26) City of Ilwaco - domestic water project - rehabilitate the water treatment facilities in order to meet state drinking water requirements $889,865

(27) City of Ilwaco - sanitary sewer project - replace failing sewer lines to ensure public health and safety $794,000

(28) City of Ilwaco - sanitary sewer project - replace failing sewer main to ensure public health and safety $336,000

(29) City of Kennewick - domestic water project - construct water reservoir to enhance water security and maintain compliance with state and federal regulations $4,250,000

(30) City of Kent - domestic water project - construct a filtration treatment facility to provide drinking water in compliance with federal regulations $2,000,000

(31) King county water district No. 90 - domestic water project - replace failing water line to ensure public health and safety $195,000

(32) City of Kirkland - sanitary sewer project - replace failing sewer lines to ensure public health and safety $4,037,600

(33) Klickitat county public utility district No. 1 - domestic water project - replace failing water system to ensure water security and compliance with state and federal regulations $500,500

(34) Klickitat county public utility district No. 1 - domestic water project - replace failing water well and transmission system to ensure water security and compliance with state and federal regulations $300,000

(35) Lake Forest Park water district - domestic water project - replace noncompliant water treatment system to ensure water safety and compliance with state and federal regulations $464,304

(36) Lakewood water district - domestic water project - replace failing water mains to ensure adequate utility services $776,900

(37) City of Leavenworth - domestic water project - replace failing water mains to ensure adequate utility services $1,178,461

(38) City of Leavenworth - storm water project - establish storm water treatment for runoff ending in the Wenatchee river $1,189,925

(39) City of Mabton - sanitary sewer project - rehabilitate the wastewater treatment facility in order to bring production into compliance with state and federal regulations $5,057,000

(40) Mukilteo water and wastewater district - sanitary sewer project - replace failed sewer outfall to bring system into compliance with state and federal regulations $888,250

(41) Mukilteo water and wastewater district - sanitary sewer project - regional project to ensure capacity at water pollution control facility for continued compliance with state and federal regulations $1,950,000

(42) City of North Bend - domestic water project - replace failing water mains to ensure continued public health and safety $1,226,000

(43) City of Orting - storm water project - construct a setback levee and storm water drainage system in order to ensure continued public health and safety $4,000,000

(44) City of Pacific - domestic water project - replace failing water mains and construct an intertie with the city of Sumner to ensure continued water security and compliance with state and federal regulations $2,814,117

(45) City of Port Townsend - domestic water project - construct water treatment facility to bring system into compliance with public health and safety regulations $5,000,000

(46) City of Port Townsend - domestic water project - replace water storage reservoir to ensure water security and compliance with public health and safety regulations $2,104,000

(47) Silver Lake water and sewer district - sanitary sewer project - regional project to ensure capacity at water pollution control facility for continued compliance with state and federal regulations $7,810,000

(48) Skyway water and sewer district - sanitary sewer project - rehabilitate sewer pump station and construct sewer mains to increase system reliability and compliance with state and federal regulations $1,916,495

(49) Skyway water and sewer district - domestic water project - rehabilitate water treatment facilities to comply with state and federal requirements $2,125,000

(50) City of Snohomish - sanitary sewer project - regional project to ensure capacity at water pollution control facility for continued compliance with state and federal regulations $10,000,000

(51) City of Soap Lake - sanitary sewer project - rehabilitate wastewater treatment facility to comply with state and federal regulations $1,478,200

(52) SunLand water district - sanitary sewer project - rehabilitate wastewater treatment facility to comply with state and federal regulations $2,173,600

(53) Trentwood irrigation district No. 3 - domestic water project - replace failing potable water reservoir to ensure public health and safety $2,410,000

(54) City of Tukwila - sanitary sewer project - replace failing sewer mains to bring system into compliance with state and federal regulations $750,000

(55) City of Waitsburg - sanitary sewer project - replace failing sewer mains to ensure public health and safety $120,000

(56) City of Woodland - domestic water project - construct new potable water well and transmissions mains to maintain water security and compliance with state and federal regulations $1,995,000

(57) City of Woodland - sanitary sewer project - replace failing sewer lines in order to maintain public health and safety $4,750,000

(58) City of Yakima - domestic water project - rehabilitate water metering system to ensure public health and safety $5,000,000

(59) City of Yakima - sanitary sewer project - isolate industrial wastewater flows to ensure adequate treatment and capacity for continued compliance with state and federal regulations . . $2,000,000

NEW SECTION. **Sec. 2.** The public works board recommends the appropriation of fifteen million dollars with funds appropriated from the public works assistance account for use by the community economic revitalization board to fund public infrastructure improvements that encourage business development and expansion.

NEW SECTION. **Sec. 3.** Pursuant to chapter 43.155 RCW, the public works board recommends the authorization of twenty-four million six hundred thousand dollars with funds appropriated from the public works assistance account for use by the public works board for preconstruction activities on public works projects.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

--- END ---

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0837.4/12 4th draft

ATTY/TYPIST: SCG:crs

BRIEF DESCRIPTION: Regarding the public works board.

DRAFT

1/5/12
12:00 p.m.

AN ACT Relating to the public works board; amending RCW 43.155.020, 43.155.030, 43.155.050, and 43.155.070; adding new sections to chapter 43.155 RCW; and repealing RCW 43.155.010, 43.155.040, 43.155.055, 43.155.060, 43.155.065, 43.155.068, 43.155.075, 43.155.100, 43.155.110, and 43.155.120.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.155 RCW to read as follows:

(1) The legislature finds that while local governments are responsible for creating, developing, managing, financing, operating, and maintaining local infrastructure systems, state priority policy objectives are served by investing financial and technical resources in these local systems. A significant backlog of projects to repair and improve local public infrastructure systems exists. The state intends to strategically invest resources to address this backlog and to promote the following priority policy objectives:

(a) Preserving, enhancing, or achieving public health and safety;

(b) Protecting the state's environment;

(c) Promoting economic development;

(d) Encouraging well-managed local infrastructure systems; and

(e) Sustaining the state's infrastructure assistance capacity.

(2) It is the policy of the state of Washington to encourage self-reliance by local governments in meeting their public works needs, to finance critical local public works projects, and to provide infrastructure-related technical assistance to local governments.

Sec. 2. 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.

(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) "Contingent loan agreement" means an agreement between the state and a ~~local government~~ traditional eligible jurisdiction or a nontraditional eligible jurisdiction in which the state provides an absolute and unconditional commitment to make a loan to a ~~local government~~ traditional eligible jurisdiction or a nontraditional eligible jurisdiction from the public works assistance account. ~~in order to enhance the credit of local government borrowing~~.

(4) "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) "Director" means the director of the department.

(6) "Emergency" means a public works project made necessary by a natural disaster or an immediate and emergent threat to the public

health and safety due to unforeseen or unavoidable circumstances as evidenced by a local government declaration.

(7) "Financial assistance" means loans, contingent loan agreements, and forgivable loans.

(8) "Forgivable loan" means a loan for which a portion of the principal and interest may be forgiven upon meeting certain criteria and contract loan provisions.

(9) "Local government((~~s~~))" ((~~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~~)) means every city, county, town, port district, district, or other public agency authorized by law to require the execution of public work. ~~and includes diking and drainage districts~~.

((~~(6) "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) "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) "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.~~))

(10) "Nontraditional jurisdiction" means port districts.

(11) "Nontraditional project" means any local government

infrastructure project included in its adopted capital facilities plan or equivalent that does not meet the definition of traditional project, and excludes rolling stock.

(12) "Nontraditional system" means telecommunications, energy, flood levees, public buildings and facilities, rail, criminal justice facilities, and parks and recreation facilities.

(13) "Planning project" means the process through which a jurisdiction creates and adopts a capital facilities plan, a system plan, or equivalent.

(14) "Policy objectives" means state priorities that guide the investment of public works assistance account funds and are composed of the following:

(a) Preservation, enhancement, or achievement of public health and safety;

(b) Protection of the state's environment;

(c) Promotion of economic development;

(d) Encouraging well-managed local infrastructure systems; and

(e) Sustaining the state infrastructure assistance network.

(15) "Preconstruction" means activities including but not limited to project planning, design, engineering, bid document preparation, environmental studies, right-of-way acquisition, and other nonconstruction preliminary phases of public works projects as determined by the board.

(16) "Public works project" means a nontraditional or traditional project.

(17) "Technical assistance" means training and other services provided to local governments to:

(a) Plan, apply, and qualify for financial assistance;

(b) Improve their ability to plan for, finance, acquire, construct, reconstruct, and maintain infrastructure systems; and

(c) Improve their capacity to manage and operate their infrastructure systems in a manner consistent with long-term sustainability.

(18) "Traditional eligible jurisdictions" means counties, cities, towns, special purpose districts, and any other municipal or quasi-

municipal corporations excluding school districts and port districts.

(19) "Traditional eligible systems" means drinking water systems, sanitary sewer systems, storm water systems, solid waste/recycling systems, bridges and roadways.

(20) "Traditional project" means a project listed in a local government's capital facilities plan or equivalent that results in the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of a traditional eligible system and excludes rolling stock.

Sec. 3. RCW 43.155.030 and 1999 c 153 s 58 are each amended to read as follows:

(1) The public works board is hereby created.

(2) The board shall be composed of thirteen members appointed by the governor for terms of four years((~~, except that five members initially shall be appointed for terms of two years~~)). The board shall include: (a) Three members, two of whom shall be elected officials and one shall be ((~~a public works manager~~)) an appointed official, appointed from a list of ((~~at least six~~)) persons nominated by the association of Washington cities or its successor; (b) three members, two of whom shall be elected officials and one shall be ((~~a public works manager~~)) an appointed official, appointed from a list of ((~~at least six~~)) persons nominated by the Washington state association of counties or its successor; (c) ((~~three members appointed from a list of at least six persons nominated jointly by the Washington public utility districts association and a state association of water-sewer districts, or their successors; and (d)~~)) one member appointed from a list of persons nominated by the Washington public utility districts association or its successor; (d) two members appointed from a list of persons nominated by the state association of water-sewer districts or its successor; and (e) four members appointed from the general public. In appointing the four general public members, the governor shall endeavor to balance the geographical composition of the board and to include members with special expertise in relevant fields such as public finance, architecture and civil engineering, and public

works construction. The governor shall appoint one of the general public members of the board as chair. The term of the chair shall coincide with the term of the governor.

(3) ((~~Staff support to the board shall be provided by the department.~~

~~(4)~~)) Members of the board shall receive no compensation but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

((~~(5)~~)) (4) If a vacancy on the board occurs by death, resignation, or otherwise, the governor shall fill the vacant position for the unexpired term. Each vacancy in a position appointed from lists provided by the associations under subsection (2) of this section shall be filled from a list of ((~~at least three~~)) persons nominated by the relevant association or associations. Any members of the board, ~~appointive or otherwise,~~ may be removed by the governor for cause in accordance with RCW 43.06.070 and 43.06.080.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.155 RCW to read as follows:

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

(a) Shall, before November 1st of each year, develop and submit to the governor and legislature a list of traditional projects in traditional eligible systems for traditional eligible jurisdictions recommended for funding in accordance with RCW 43.155.070 and section 11 of this act;

(b) May, before November 1st of each year, develop and submit to the governor and legislature a list of projects recommended for funding that do not meet the conditions of subsection ~~(1)~~ (a) of this section and are in accordance with RCW 43.155.070 and section 11 of this act;

(c) May not execute contracts or otherwise financially obligate funds from the public works assistance account for projects on the recommended lists before the legislature has appropriated funds for those projects. The legislature may remove projects from the lists

but may not change or add to the order of the projects recommended for funding by the board;

(d) Shall manage the public works assistance account in such a way as to ensure its sustainability;

(e) May make low-interest, interest-free, or forgivable loans to local governments for:

(i) Traditional and nontraditional projects;

(ii) Traditional and nontraditional preconstruction projects;

(iii) Capital facilities planning or equivalent;

(iv) Assisting local governments to pay all or a portion of the principal of or interest on obligations issued to finance infrastructure projects pursuant to contingent loan agreements; ~~and~~

(v) Emergency projects for traditional eligible jurisdictions in traditional eligible systems; and

(vi) Investment grade efficiency audits.

(f) 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. Money received from local governments in repayment of loans made under this section must be paid into the public works assistance account for uses consistent with this chapter;

(g) May not refinance existing debt or financial obligations of local governments;

(h) May coordinate with the Washington state treasurer, who, on behalf of the state of Washington, may prescribe the terms of and enter into a contingent loan agreement between the state and a local government if the state treasurer determines that such a contingent loan agreement is financially prudent and is consistent with the provisions of this chapter. Contingent loan agreements may be entered into by the state treasurer only with local governments whose limited tax general obligations or senior revenue obligations, as applicable to the obligations concerned, are rated not higher than A1 or A+ by at least one of the nationally recognized rating agencies. The state's obligation to make any loan to a local government pursuant to the terms of a contingent loan agreement is subject to appropriation from

the ~~infrastructure financing account~~ public works assistance account. The office of the state treasurer may charge a fee to local governments to recover the costs of creating the contingent loan agreements; and

(i) May create such subaccounts in the public works assistance account as the board deems necessary to carry out the purposes of this chapter.

(2) In order to provide for the state of Washington's obligations under the terms of contingent loan agreements, the legislature must make provision, from time to time in appropriations acts, for such amounts as may be required to make timely payments from the ~~infrastructure financing account~~ public works assistance account.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.155 RCW to read as follows:

The board shall provide technical assistance to local governments in accordance with board policy.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.155 RCW to read as follows:

The board shall:

(1) Beginning in June 2014 and every four years thereafter, provide the governor and legislature with a comprehensive assessment of local infrastructure needs and potential resources within the state to meet those needs;

(2) In consultation with the office of the state treasurer, recommend to the governor and the legislature the amount of resources from the public works assistance account to be appropriated for contingent loan agreements;

(3) Establish and maintain collaborative relations with governmental, private, and other financing organizations, advocate groups, and other stakeholders associated with infrastructure financing;

(4) Provide information and advice to the governor and legislature on matters related to local government infrastructure financing; and

(5) At the direction of the governor, provide information and advocacy at the national level on matters related to local government infrastructure financing.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.155 RCW to read as follows:

The board shall:

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

(2) Accept or reject, 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;

(3) Accept or reject 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 that 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; and

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

NEW SECTION. **Sec. 8.** A new section is added to chapter 43.155 RCW to read as follows:

(1) The department shall:

(a) In accordance with the board's operating budget, provide staff to the board necessary to efficiently and effectively carry out the duties of this chapter; and

(b) Submit the board's operating and capital budgets in accordance with guidelines set by the office of financial management.

(2) The director shall:

(a) Be accountable to the board for operating and capital expenditures from the account;

(b) Report to the board not less than quarterly and consult with the board on any organizational changes in staffing for board programs before implementation; and

(c) Represent the interests and concerns of the board as a member of the governor's executive cabinet. ~~and consistent with the governor's policies.~~

Sec. 9. RCW 43.155.050 and 2011 1st sp.s. c 50 s 951 are each amended to read as follows:

(1) 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~~)), forgivable loans, and payments required under contingent loan agreements to local governments for public works projects. Moneys in the account may also be appropriated 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~~)) for federal programs.

(2) Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be ((~~expended or~~)) obligated for preconstruction loans, 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. ((~~For the 2007-2009 biennium, moneys in the account may be used for grants for projects identified in section 138, chapter 488, Laws of 2005 and section 1033, chapter 520, Laws of 2007. During the 2009-2011 fiscal biennium, sums in the public works assistance account may be used for the water pollution control revolving fund program match in section 3013, chapter 36, Laws of 2010 1st sp. sess. During the 2009-2011 fiscal biennium, the legislature may transfer from the job development~~

~~fund to the general fund such amounts as reflect the excess fund balance of the fund.~~)) During the 2011-2013 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.

(3) Not more than ten percent of the biennial capital budget appropriation to the board from the public works assistance account may be obligated by the board as forgivable loans for traditional projects. Based on conditions set in rule by the board, the board may obligate not more than fifty percent forgivable loan to any traditional project.

Sec. 10. RCW 43.155.070 and 2009 c 518 s 16 are each amended to read as follows:

(1) To qualify for loans or pledges 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 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 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for financial assistance.

(~~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 must have 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 a loan or loan guarantee)) executing a loan, forgivable loan, or contingent loan agreement from the board 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 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving ((a loan or loan guarantee)) financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before ((submitting a request for a loan or loan guarantee)) executing a loan, forgivable loan, or contingent loan agreement from the board under this chapter.~~

(3) In considering awarding ((~~loans~~)) financial assistance 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 shall 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 shall develop a priority process for public works projects 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 shall attempt to assure a geographical balance in assigning priorities to projects. The board shall 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 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;~~

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

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

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

~~(i) 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;~~

~~(j) 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;~~

~~(k) 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~~

~~(l) Other criteria that the board considers advisable.~~

~~(5) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall 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.~~

~~(6) Before November 1st of each even-numbered year, the board shall 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 (9) 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 shall 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 shall 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.~~

~~(7) The board shall 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 shall not change the order of the priorities recommended for funding by the board.~~

~~(8) Subsection (7) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section.~~

~~(9) Loans made for the purpose of capital facilities plans shall be exempted from subsection (7) of this section.~~

~~(10) To qualify for loans or pledges 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.~~

~~(11) After January 1, 2010, any project designed to address the effects of storm water or wastewater on Puget Sound may be funded 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~~)) In considering awarding financial assistance, the board must consider:

(a) Whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the action agenda developed by the Puget Sound partnership under RCW 90.71.310, or for any other reason, may not be given less preferential treatment than Puget Sound partners; and

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

NEW SECTION. **Sec. 11.** A new section is added to chapter 43.155 RCW to read as follows:

The intent of the project selection process is to promote state policy objectives and to maximize the value of projects financed under this chapter. When demand for local financing exceeds available resources from the public works assistance account, some or all of the following criteria may be used by the board to prioritize projects for financing:

(1) Achieving balanced distribution of funds by geography, system type, and jurisdiction type;

(2) Whether the project would affect the health and safety of a large percentage of the affected community's population;

(3) Whether the project consolidates or regionalizes systems;

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

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

(6) Other criteria that the board considers advisable.

NEW SECTION. **Sec. 12.** The following acts or parts of acts are each repealed:

(1) RCW 43.155.010 (Legislative findings and policy) and 1996 c 168 s 1 & 1985 c 446 s 7;

(2) RCW 43.155.040 (General powers of the board) and 1985 c 446 s 10;

(3) RCW 43.155.055 (Water storage projects and water systems facilities subaccount) and 2003 c 330 s 1;

(4) RCW 43.155.060 (Public works financing powers--Competitive bids on projects) and 1988 c 93 s 2 & 1985 c 446 s 11;

(5) RCW 43.155.065 (Emergency public works projects) and 2001 c 131 s 3, 1990 c 133 s 7, & 1988 c 93 s 1;

(6) RCW 43.155.068 (Loans for preconstruction activities) and 2001 c 131 s 4 & 1995 c 363 s 2;

(7) RCW 43.155.075 (Loans for public works projects--Statement of environmental benefits--Development of outcome-focused performance measures) and 2001 c 227 s 10;

(8) RCW 43.155.100 (Water conservation account) and 2002 c 329 s 11;

(9) RCW 43.155.110 (Puget Sound partners) and 2007 c 341 s 25; and

(10) RCW 43.155.120 (Administering funds--Preference to an evergreen community) and 2008 c 299 s 30.

TAB 3

Program Updates

New PWTF Request for Assistance Process Review and Approval

This will be a handout at the meeting.

Date: January 4, 2012

To: Public Works Board

From: Ann Campbell, Project, Policy, & Project Development Coordinator

Subject: 2014 Loan Terms

BACKGROUND:
Loan terms are reviewed annually for relevance and effectiveness. Loan terms are approved by the Public Works Board (Board) prior to the commencement of the construction project review cycle.

ACTION ITEMS:
Staff recommends that interest rates for loans be determined exclusively by the loan recipient's repayment term. Local match would no longer be the interest rate buy-down tool.

Staff recommends two methods by which loan recipients could buy-down the loan interest rate:
1. Disadvantaged community
2. Performance incentive

LOAN TERMS AND RATES AT CONTRACT EXECUTION (PROPOSED)

Terms & interest rates -
The following table represents the proposed relationship between the repayment period and the interest rate:

Term	Interest rate
10 years -	0.50%
15 years -	0.75%
20 years -	1.00%
25 years -	1.50%
30 years -	2.00%

Loan recipients may "buy-down" the above interest rates under the following conditions:
(Note: Per Board policy, no loan may have an interest rate of less then 0.25%)

Rate Based Systems		**Non-Rate Based Systems**
Affordability Index[1] is between	Interest rate reduction option	Debt Service Capacity Ratio[2] (DSCR) is between
2% or less	Not Applicable	1.51% or higher
2.01% to 2.5%	0.25%	1.01% to 1.5%
2.6% or higher	0.50%	1% or less

1. AI is calculated as: ["New Average Utility Rate" x 12 months] / Median Household Income

   Note: The Board adopted the AI ranges during the 2013 Construction Loan cycle. The Environmental Protection Agency considers utility rates affordable if they are less than 2% of median household income.

2. DSCR is specific to the financed project's system type. It is calculated as:
   Net operating income / [principal repayments + interest payments]
   Principal & interest includes existing loans and anticipated loan from the Board.

LOAN TERMS AND RATES AT PROJECT COMPLETION (PROPOSED)

Loan recipients have 60-months (5 years) from the time of contract execution to complete the project described in the loan documents under "Scope of Work."

Staff propose that the Board maintain its current performance incentive policy:

Project completion within 36-months (3 years) of the contract execution date qualifies the loan recipient for **one** of the following two options:

- Add 5-years to the term of the loan*
  or
- Decrease the loan interest rate by 0.50%** effect as of the close out date through loan payoff (e.g., the interest rate change is not retroactive).

Project completes within 48-months (4 years) of the contract execution date qualifies the loan recipient for **one** of the following two options:

- Add 2-years to the term of the loan*
  or
- Decrease the loan interest rate by 0.25%** as of the close out date through loan payoff (e.g., the interest rate change is not retroactive).

* The term of the loan, length of repayment period, cannot exceed the life of the asset being financed.

** Per Board policy, the minimum interest rate for any loan is 0.25%.

TAB 4

Contracting

DATE: December 21, 2011

TO: Public Works Board

FROM: Laura Lowe, CAU Managing Director

SUBJECT: Project Completion Extension Requests

STAFF RECOMMENDATION

Staff recommends extending the contract project completion dates as follows:

Program	Client	Contract No.	Project	Loan/Grant Amount	Available to Draw	Original Closeout Date	Current Closeout Date	Proposed Closeout Date
DWSRF	**Sunnyside**	04-65104-035	Sunnyside Water Source Development	4,040,000	1,503,286.33	9/2/08	**1/1/12**	**1/1/13**
Reason for Extension Request: Completing engineering plans and specifications for submittal to DOH took longer than anticipated. Additional time needed to clarify water rights. Project is 75% complete.								
DWSRF	**Tacoma**	DM07-952-015	McMillin Reservoir Reconstruction	4,040,000	400,000.00	12/23/11	**12/23/11**	**6/23/12**
Reason for Extension Request: Delay due to weather. The client needs additional time to complete the electrical installation, testing and hyrdoseeding. Project is 95% complete.								
PWTF Urban Vitality Grant	**Bothell**	UV09-951-093	SR 522 Stage 1 Improvements	1,000,000	605,787.02	2/11/12	**2/11/12**	**2/11/13**
Reason for Extension Request: Additional time needed for subcontractors to finish due to weather delays and added work that impacted the critical path of the schedule. Project is 90% complete.								

Program	Client	Contract No.	Project	Loan/Grant Amount	Available to Draw	Original Closeout Date	Current Closeout Date	Proposed Closeout Date
PWTF Urban Vitality Grant	**Federal Way**	UV09-951-095	South 348th St at 1st Ave South Intersection	1,996,335	872,548.51	1/26/12	**1/26/12**	**7/26/12**
Reason for Extension Request: Original contractor was declared in default, which led to project delays. Additional time needed to complete punch list items. Project is 90% complete.								
PWTF Community Jobs Grant	**Kittitas**	CJ09-951-114	Fire, Police, and Admin. Finance Renovation	325,000	64,041.84	1/25/12	**1/25/12**	**7/25/12**
Reason for Extension Request: Delay due to funding and weather issues. Additional time needed to finish site work. Project is 90% complete.								
PWTF Construction	**Omak**	PC08-951-033	Biosolids Treatment Improvements	450,000	135,000	3/10/12	**3/10/12**	**12/31/12**
Reason for Extension Request: The project start was delayed almost 2 years due to the need for a scope change, which required Legislative action. Project is 60% complete.								
PWTF Community Jobs Grant	**Pondoray Shores Water & Sewer District**	CJ09-951-107	Water & Sewer Upgrade	424,106.87	154,865.46	1/22/12	**1/22/12**	**1/22/13**
Reason for Extension Request: The project was delayed due to a bankruptcy filing by the prime contractor and the need to obtain a new contractor to complete construction. Project is 95% complete.								

Program	Client	Contract No.	Project	Loan/Grant Amount	Available to Draw	Original Closeout Date	Current Closeout Date	Proposed Closeout Date
PWTF Direct Approp. Grant	**Renton**	LG09-951-121	Renton Hawk's Landing	1,700,000	10,000	2/2/12	**2/2/12**	**2/2/13**
Reason for Extension Request: The trail has taken longer than expected due to the complexity of the environmental process and challenges with land acquisition. Project is 75% complete.								
PWTF Pre Construction	**Skyway Water & Sewer District**	PR09-951-002	Sewer Pump Station Consolidation	450,500	112,625	2/12/11	**2/12/11**	**8/12/12**
Reason for Extension Request: The project has taken longer than expected due to the complexity and involvement with multiple jurisdictions and authorities. Project is 85% complete.								
PWTF Urban Vitality Grant	**Vancouver**	UV09-951-102	Downtown Vancouver Waterfront Redevelopment Access	1,300,000	353,912.05	2/22/12	**2/22/12**	**12/22/13**
Reason for Extension Request: The project start was delayed due to project redesign, Burlington Northern Santa Fe Railroad (BNSF) concerns with compliance requirements and the environmental permitting process. Project is 20% complete.								

BACKGROUND

The client has requested an extension to their project completion date. Staff evaluated the requests through a staff peer review process. DOH has been consulted and agrees with extending the DWSRF projects.

DATE: January 4, 2012

TO: Public Works Board

FROM: Chris Gagnon, Client Services Representative

SUBJECT: 2011 DWSRF Contract Status Update

BACKGROUND

At the December 6, 2011,Public Works Board meeting, the Board requested staff to report regularly on the status of the 2011 DWSRF contracts.

During the underwriting process, staff identified medium and high risk applicants. These applicants were further reviewed for managerial and financial capacity and project readiness to proceed. Measures to resolve any issues and concerns were presented to the Board at the August 26, 2011, meeting. Pre-contract conditions were imposed on 16 of the projects, 12 of which have been satisfied. Staff is working with four applicants who have outstanding conditions that are highlighted in Table 1 on the following page.

Staff will monitor the financial performance of medium and high risk contracts. Special contract conditions will be added as shown on Table 1.

CONTRACT STATUS UPDATE

As of January 3, 2012:

Number of Contracts	Status
38	Approved by the Board (August 26, 2011)
3	Declined loan offers
1	Determined ineligible by DOH
8	Determined ready for contracting
4	Pending (outstanding pre-contract conditions)
20	Contracts mailed to clients
2	Contracts executed

Table1. 2011 DWSRF Contract Status

DOH App #	Applicant Name	Loan Request	% of Subsidy	Pre-Contract Condition	Contract Special Condition	Loan Status
2011-002	Bullman Beach Water Assoc	$386,838	30%	Resolution adopting debt surcharge Amend bylaws to incur debt	Annual financials	Approved
2011-005	City of Everett	$1,055,819	0%			Mailed
2011-006	City of Ilwaco	$1,130,000	30%	Resolution adopting debt surcharge		Mailed
2011-007	City of Ilwaco	$585,000	30%	Resolution adopting debt surcharge		Mailed
2011-008	City of Ilwaco	$99,000	30%	Resolution adopting debt surcharge		Mailed
2011-009	City of Kent	$2,000,000	0%			Mailed
2011-010	City of Lynden	$6,000,000	0%			Mailed
2011-011	City of Omak	2,396,000	0%			Mailed
2011-012	City of Moxee	$1,954,600	0%	Resolution adopting debt surcharge Easement		Approved
2011-013	City of Prosser	$1,980,000	0%			Mailed
2011-014	City of Ritzville	$3,662,000	30%	Resolution adopting debt surcharge Project schedule	Annual financials	Approved
2011-015	City of Ritzville	$2,231,000	30%	Resolution adopting debt surcharge Project schedule	Annual financials	Approved
2011-017	City of Union Gap	$741,700	0%			Mailed
2011-018	City of Yakima	$3,480,000	0%			Mailed
2011-019	Clark Public Utilities	$2,012,000	0%			Mailed
2011-020	Country Club Estates Water Assoc	$132,000	0%	Resolution adopting debt surcharge		Approved
2011-022	Covington Water District	$2,000,000	0%			Mailed
2011-023	Deming Water Assoc	$461,000	30%		Annual financials	Mailed
2011-024	Fruitland Mutual Water Co	3,279,000	0%			Mailed
2011-025	Greater Bar Water District	$2,722,800	50%	Signed contract or MOU Resolution adopting debt surcharge Project schedule	Dedicated repayment acct Annual financials	Approved
2011-027	Johnson Creek Water Assoc	$157,781	30%	Resolution adopting debt surcharge	Annual financials	Approved
2011-028	Lakehaven Utility District	$2,000,000	0%			Approved
2011-029	Lake Wenatchee Water District	$2,327,135	50%	Signed contract or MOU Approved ULID Project schedule	Dedicated repayment acct Annual financials	Approved
2011-030	Lenora Water & Sewer District	$961,400	50%	Signed contract or MOU Resolution adopting debt surcharge Project schedule	Dedicated repayment acct Annual financials	Approved
2011-033	Meadowmeer Water Assoc	$723,500	0%			Approved
2011-035	Peoples Creek Water Group	$118,812	0%		Annual financials	Approved
2011-037	Ponderosa Community Club, Inc.	$3,467,000	0%	Resolution adopting debt surcharge Site Control/Acquisition		Executed
2011-038	Clallam Co PUD No. 1	2,673,267	30%			Approved
2011-041	Silverdale Water District #16	2,500,000	50%	Closing sale documents		Approved
2011-042	City of Spokane	$365,000	50%	Signed contract or MOU		Approved
2011-043	Tacoma	$6,000,000	0%			Approved
2011-044	Tacoma	$6,000,000	0%			Approved
2011-046	Town of Carbonado	$110,000	0%		Annual financials	Approved
2011-048	Prairie Estates WA	$123,000	0%	Resolution adopting debt surcharge		Approved

Wednesday, January 04, 2012

Contract Summary

Total Contracts on File:	**33**	Contracts Returned Signed:	**2**	Total Requested Amount:	**$65,968,003**
Contracts Mailed Out:	**20**	Contracts Fully Executed:	**2**	Total Obligated Amount:	**$7,735,630**

Contract Detail

Client Name	*Loan Number*	*Original Amount*	*Contract Created*	*Mailed to Client*	*Returned Signed*	*Contract Fully*	*Executed Amount*
Lakehaven Utility District	DM11-952-021	$2,020,000.00	12/28/2011	12/28/2011			$0
Ponderosa Community Club	DP11-952-028	$3,501,670.00	12/15/2011	12/15/2011	12/22/2011	12/22/2011	$3,501,670
City of Kent	DM11-952-019	$2,000,000.00	12/15/2011	12/15/2011			$0
Greater Bar Water District	DM11-952-013	$2,722,800.00	1/3/2012	1/3/2012			$0
MeadowmeerWater Service Assoc	DP11-952-024	$716,243.00	1/3/2012	1/4/2012			$0
Lake Wenatchee Water District	DM11-952-020	$2,327,135.00					$0
Lenora Water and Sewer District	DM11-952-022	$961,400.00					$0
City of Moxee	DM11-952-025	$1,954,600.00					$0
City of Ritzville	DM11-952-031	$2,231,000.00					$0
City of Ritzville	DM11-952-032	$3,662,000.00					$0
Silverdale Water District #16	DM11-952-033	$2,500,000.00					$0
City of Spokane	DM11-952-034	$365,000.00					$0
Tacoma	DM11-952-035	$6,000,000.00					$0

Contract Detail

Client Name	Loan Number	Original Amount	Contract Created	Mailed to Client	Returned Signed	Contract Fully	Executed Amount
Tacoma	DM11-952-036	$6,000,000.00					$0
Bullman Beach Water Association	DP11-952-004	$386,838.00					$0
Country Club Estates Water Association	DP11-952-008	$132,000.00					$0
Johnson Creek Water Users Association	DP11-952-018	$157,781.00					$0
Prairie Estates WA	DP11-952-029	$123,000.00					$0
City of Omak	DM11-952-026	$2,419,960.00	12/15/2011	12/15/2011	12/27/2011	1/3/2012	$2,419,960
City of Prosser	DM11-952-030	$1,980,000.00	12/15/2011	12/15/2011			$0
City of Union Gap	DM11-952-037	$749,117.00	12/15/2011	12/15/2011			$0
City of Yakima	DM11-952-038	$3,514,800.00	12/15/2011	12/15/2011			$0
City of Everett	DM11-952-011	$1,066,377.19	12/15/2011	12/15/2011			$0
City of Lynden	DM11-952-023	$6,060,000.00	12/14/2011	12/14/2011			
City of Ilwaco	DM11-952-017	$99,000.00	12/13/2011	12/14/2011			$99,000
City of Ilwaco	DM11-952-016	$585,000.00	12/13/2011	12/14/2011			$585,000
City of Ilwaco	DM11-952-015	$1,130,000.00	12/13/2011	12/14/2011			$1,130,000
Covington Water District	DM11-952-009	$2,000,000.00	12/15/2011	12/15/2011			$0
Clark Public Utilities	DM11-952-007	$2,032,120.00	12/15/2011	12/15/2011			$0

Contract Detail

Client Name	Loan Number	Original Amount	Contract Created	Mailed to Client	Returned Signed	Contract Fully	Executed Amount
Deming Water Association	DP11-952-010	$465,105.00	12/15/2011	12/15/2011			$0
Fruitland Mutual Water Company	DP11-952-012	$3,311,790.00	12/15/2011	12/15/2011			$0
Peoples Creek Water Group	DP11-952-027	$120,000.00	12/28/2011	1/4/2012			$0
Clallam County PUD #1	DM11-952-006	$2,673,267.00	12/28/2011	1/4/2012			$0

Date: January 5, 2012

To: Public Works Board

From: Jeff Hinckle, Contracts Specialist

Subject: 2012 Construction Loan Contracting Status Report

As of January 5, 2012:

Number of Contracts	Status
77	Approved by the Legislature (June 15, 2011)
1	Declined by a local government
75 (99%)	Contracts sent to local governments
69	Contracts fully executed

Date: January 11, 2012

To: Public Works Board

From: Bruce Lund, Client Service Manager

Subject: City of Anacortes Request to Increase Loan Term of Preconstruction Loan PR09-951-009, Water Treatment Plant Improvements

RECOMMENDATION:
Staff recommends extending the repayment term from 5 to 20 years for the City of Anacortes Public Works Trust Fund Pre-Construction Loan PR-09-651-009 for the $812,500 principal balance remaining on its loan.

BACKGROUND

PWB Policy on extending a PWTF Pre-Construction repayment term
In February 1998, the Board adopted a policy that allowed clients to extend their pre-construction loans from 5 to 20 years if construction funding was secured by the date of their first principal loan payment.

The Board adopted this policy to help make pre-construction loans more affordable for clients by lengthening the repayment period. This policy has been in place since that time and has been used by many clients.

In 2009, the Board responded to the changing financial condition of local governments by temporarily amending this policy. The amended policy allowed a jurisdiction to extend the repayment term to 20 years or the life of the project (whichever is less) when the jurisdiction can demonstrate it has secured a minimum of 30% of total construction financing. The time element for qualifying for this action was also removed, and local governments could extend the term at anytime during the repayment period upon meeting the 30% construction financing requirement.

This temporary amendment expired on June 30, 2011, and the original policy is now in effect.

The City of Anacortes Pre-Construction Loan

The City's $1,000,000.00 Pre-Construction Loan (PR09-951-009 contract was executed in April 2009, and completed in October 2011.

The City of Anacortes was approved for a 2012 PWTF construction contract for the project in April 2011 and has secured 100% financing for the construction element of the project. The first principal payment for the City of Anacortes's $1,000,000 Pre-Construction loan was made June 9, 2011.

The City understood, at the time they received the preconstruction loan, that they could convert it to a 20-year term at anytime a PWTF construction loan was obtained. The City did not receive confirmation that they had received legislative approval for the construction loan until after they had made their first principal payment.

The city requests that the Board grant an exception to its existing pre-construction policy and extend the repayment term from five to twenty years.

TAB 5

Financial

DATE: January 3, 2012

TO: Public Works Board

FROM: Myra Baldini, Fund Manager and Underwriter
Cindy Chavez, Budget Analyst

SUBJECT: DWSRF Administrative Loan Fee Update

BACKGROUND:

At the December 6, 201,1Public Works Board meeting, the Board requested staff report on the Drinking Water State Revolving Fund (DWSRF) administrative loan fee account to use for analysis of loan fee adjustment.

LOAN FEE STATISTICS:

DWSRF Administrative Loan Fee (Fund 05R)					
	Beginning Balance	**Revenues**	**Expenses**	**Ending Balance**	**Notes**
FY 06	**$2,200,000**	**$ 651,233**	**$335,500**	**$2,515,733**	Actual
FY 07	**$2,515,733**	**$ 272,411**	**$335,500**	**$2,452,644**	Actual
FY 08	**$2,452,644**	**$ 503,390**	**$370,500**	**$2,585,534**	Actual
FY 09	**$2,585,534**	**$ 407,777**	**$370,500**	**$2,622,811**	Actual
FY 10	**$2,622,811**	**$ 711,542**	**$379,500**	**$2,954,853**	Actual
FY 11	**$2,954,853**	**$ 565,098**	**$379,500**	**$3,140,451**	Actual
FY 12	$3,140,451	$ 582,429	$381,500	$3,341,380	A
FY 13	$3,341,380	$1,050,000	$381,500	$4,009,880	B, C
FY 14	$4,009,880	$ 450,000	$383,685	$4,076,195	C, D
FY 15	$4,076,195	$ 450,000	$383,685	$4,142,510	C, D
FY 16	$4,142,510	$ 450,000	$385,892	$4,206,618	C, D
FY 17	$4,206,618	$ 450,000	$385,892	$4,270,726	C, D
FY 18	$4,270,726	$ 450,000	$388,121	$4,332,606	C, D
FY 19	$4,332,606	$ 450,000	$388,121	$4,394,485	C, D
FY 20	$4,394,485	$ 450,000	$390,372	$4,454,113	C, D
FY 21	$4,454,113	$ 450,000	$390,372	$4,513,741	C, D
FY 22	$4,513,741	$ 450,000	$392,646	$4,571,095	C, D
FY 23	$4,571,095	$ 450,000	$392,646	$4,628,449	C, D

Legend:

Bold numbers are actual.

A - Includes older loans plus the 2011 DWSRF loan cycle loan fees assessed at contract execution.

B – Revenues include loan fees of $600,000 from the accelerated loans of $60 million.

C- Revenues are based on $70 million projected annual average loan resources before acceleration, net of subsidy. Loan fees are assessed at contract execution.

D – Biennial expenses divided by two (2) fiscal years (FY). FY 12 and FY 13 data are based on 2011-13 enacted budget, while FY 2014 and through FY 23 are projected data based on FY 13 with 1% compounded annual increase.

PUBLIC WORKS ASSISTANCE ACCOUNT

Fund Management Strategy - Using the Accelerated Loan Commitment Model

Q: What is the Public Works Assistance Account (PWAA)?

A: The PWAA, more commonly known as the Public Works Trust Fund, was established in 1985 by RCW 43.155 to be used by the Public Works Board (Board) to finance local government infrastructure loans. The Board has made more than 2,000 loans to over 780 jurisdictions totaling $2.6 billion. Annually, the PWAA receives more than $125 million in loan repayments and another $125 million from dedicated tax revenue.

Q: How has the PWAA been used in the past?

A: Historically, the Board has approached its lending responsibilities in a very conservative manner by basing loan awards solely on cash received during the biennium in which those loans are approved. On four occasions, the Board broadened its lending practices by recommending "surging" the available funds in the PWAA to the Governor and Legislature. This surge is created by using the Accelerated Loan Commitment Model (ALCM).

Q: What is the Accelerated Loan Commitment Model (ALCM)?

A: Accelerated lending is the commitment of funds to projects based on the expected availability of funds and the demand for those funds (i.e. cash disbursements) over time.*

Accelerated lending is authorized by the U.S. Environmental Protection Agency for the Drinking Water State Revolving Fund and Clean Water State Revolving Fund. The states of Oregon and Nebraska have effectively used this method for several years to finance infrastructure projects.

The Board has utilized accelerated lending several times. As demonstrated in **Figure 1**, during the construction loan cycles for state fiscal years 1997, 2001, 2003, and 2005, the Board recommended projects for funding based on the use of the ALCM. The Board recommends using the ALCM for the 2013 construction loan cycle as well.

Figure 1: Historic Use of the ALCM

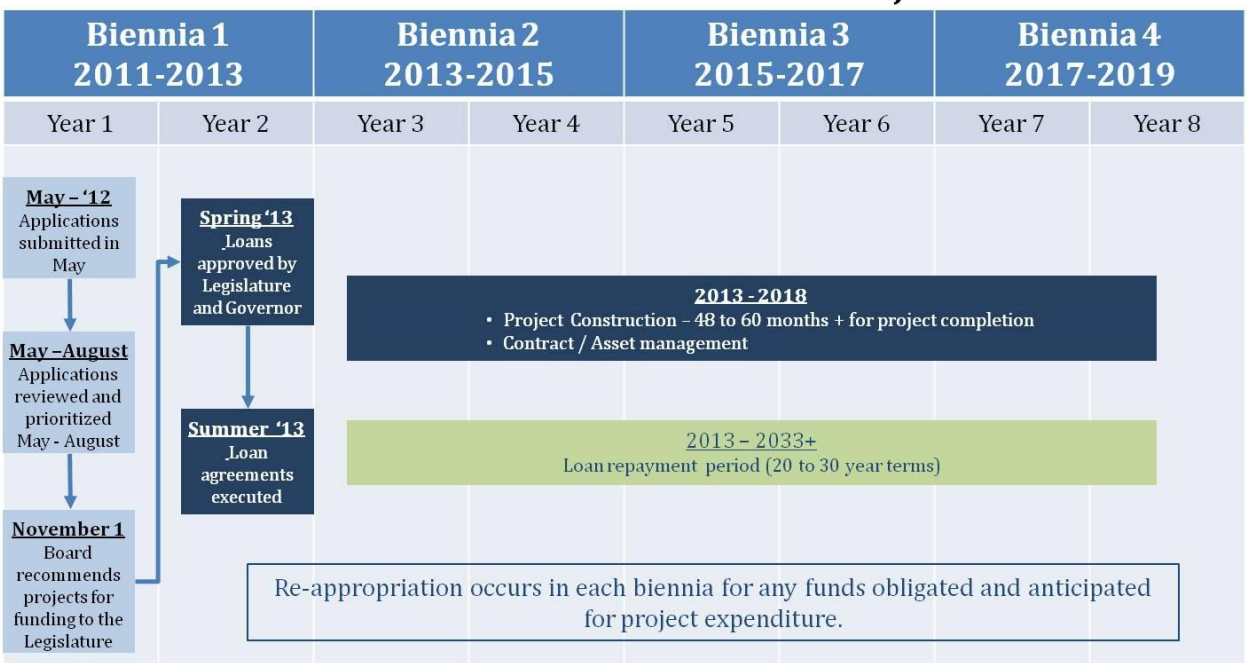
State Fiscal Year	PWAA Cash Resources (in millions)	+	Accelerated Resources (in millions)	=	**Total (in millions)**	Number of Projects Financed
1997	$34.6		$25.0		**$59.6**	72
2001	$73.1		$93.6		**$166.7**	113
2003	$13.6		$58.1		**$71.7**	28
2005	$80.0		$75.0		**$155**	64
2013	$0		$160.3		**$160.3**	59

Q: How does the ALCM work?

A: The interval between when a project is recommended for funding and when the project begins to draw loan funds is approximately 10 months. Contributing to this interval is the delay between the Board's recommendation and the Legislature's approval for funding, and seasonal construction considerations. Local governments may then take as long as five years to complete projects and make corresponding loan withdrawals. **Figure 2** illustrates an example timeline of fund withdrawal for a typical project.

* Source: U.S. Environmental Protection Agency Office of Water, Document 4101

Figure 2:
Life of a Public Works Trust Fund Construction Project



During this timeframe, interest earnings and loan repayments from previously issued loans continue to be deposited in the account, creating a healthy cash balance in the PWAA.

The ALCM resources are estimated by a Predictive Model, which uses more than 20 years of historical data to determine the level of funds available for the ALCM. The Predictive Model forecasts funds available based on three factors: expected loan repayments, interest earnings and the deposit of portions of the Real Estate Excise Tax and utility taxes into the PWAA. This Predictive Model was developed in 1994 by Board staff. Since 2007, the Predictive Model has been used by the Office of Financial Management, the Senate Ways & Means Committee, and the House of Representatives Capital Budget Committee. The Predictive Model is also reviewed by the Office of the State Treasurer.

Q: What are the ALCM "safety nets"?

A: The Board incorporates several "safety nets" in using the ALCM:

- Contractual limit in all borrowing agreements to the disbursement of funds contingent on availability
- Conservative design of the predictive model
- Limited disbursement of loan funds (based on reimbursement rather than advance payments)
- Careful monitoring of cash balances in the PWAA
- Enhanced underwriting of borrowers

TAB 6

Information and Other Items