



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

**PUBLIC WORKS BOARD MEETING**  
**March 1, 2013**  
Department of Commerce (Olympia, WA)

Board Members		Guests Present:	Staff Present:
Present:	Absent:		
Stan Finkelstein, Chair		Mark Barkley, Dept. of Commerce	John LaRocque, Executive Director
Kathryn Gardow, Vice Chair		Leonard Bauer, Dept. of Commerce	Bruce Lund, Manager, Regional Services
Frank Abart		Denise Clifford, Dept. of Health	Ann Campbell
JC Baldwin (by phone)		Mike Doherty, Clallam County Commissioner	Cindy Chavez
Jerry Cummins		Chris Gagnon, Dept. of Commerce	Terry Dale
Tom Fitzsimmons		Paul Haynes, City of Sequim	Dawn Eychaner
Ed Hildreth		Perry Huston, Okanogan County	Isaac Huang
Scott Hutsell		Jim Jones, Clallam County Administrator	Lynn Kohn
Don Montfort		Mike Kits, Clallam County	
Mark "Bubba" Scott		John Kounts, Washington PUD Association	
Darwin Smith		Karen Larkin, Dept. of Commerce	Jennifer Motteler
Steve Stuart		Shelia Lee-Johnston, Dept. of Commerce	Matt Ojennus
Larry Waters		Cathi Read, Small Communities Initiative	Jacki Skaught
		Jeff Nejedly, Dept. of Ecology	
		Bob Martin, Clallam County	
		Tom Martin, Clallam PUD	
		Chris McCord, Dept. of Health	
		Jim McEntire, Clallam County Commissioner	
		Steve Misiurak, City of Gig Harbor	
		Rodney Orr, Dept. of Commerce	

**Administration**

- a) Call to order: Chair Finkelstein called the meeting to order at 9:02 a.m.
- b) Welcome and Introductions: Board members, staff, and guests introduced themselves.
- c) Approve Agenda
  - John LaRocque requested to move Okanogan County and Clallam County to earlier on the agenda. **ACTION: Ed Hildreth moved to move Okanogan County and Clallam County to earlier on the Agenda. Frank Abart seconded. Motion Passed (12-0)**  
(Abart, Baldwin, Cummins, Fitzsimmons, Gardow, Hildreth, Hutsell, Montfort, Scott, Smith, Stuart, and Waters)



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- d) December 4, 2012, meeting minutes
- **ACTION: Ed Hildreth moved to approve the December 4, 2012, meeting minutes, Kathryn Gardow seconded. Frank Abart recused himself due to absence. Motion Passed (11-0-1)** (Baldwin, Cummins, Fitzsimmons, Gardow, Hildreth, Hutsell, Montfort, Scott, Smith, Stuart, and Waters; Abart - recusal)
- e) January 16 Meeting Minutes
- **ACTION: Kathryn Gardow motioned to approve the January 16, 2013, meeting minutes, Jerry Cummins seconded. Motion Passed (12-0)** (Abart, Baldwin, Cummins, Fitzsimmons, Gardow, Hildreth, Hutsell, Montfort, Scott, Smith, Stuart, and Waters)
- f) Legislative Updates
- Dawn Eychaner reviewed a handout detailing legislation of interest to the Board (attachments, page 1). Dawn noted that Substitute House Bill (SHB) 1969 and SHB 1484 are aligned; but SHB 1969 is not as comprehensive. Dawn explained that Senate Bill 5313, which would slightly modify the Board's project selection criteria, has not been moving and is likely dead. Dawn noted the other bills listed are of interest to stakeholders, but do not impact the Board directly.
  - Kathryn Gardow asked if House Bill (HB) 1819 requires money; if so, how will it be paid for? John LaRocque responded that Will Saunders, with the Department of Commerce's Broadband Office, is doing a fiscal note, and a local government fiscal note is also being created. John shared that there are some security concerns with having digital maps of infrastructure systems available digitally.
  - Kathryn Gardow reported that she visited Senator Frockt and Representative Pollette; the legislators are very interested in promoting the 2014 Construction loan list as it is a job creator. Kathryn added that the Executive Committee met with the new Commerce Director, Brian Bonlender.
  - Chair Finkelstein elaborated on the Executive Committee's meeting with Director Bonlender, explaining that they discussed recruitment process for John LaRocque's replacement, and that Director Bonlender suggested an outside recruiting firm be enlisted in that process to solicit applicants and do the initial screening.
  - Dawn Eychaner reported that SHB 1484 was heard by the House Capital Budget committee on the 15<sup>th</sup> of February and that Stan Finkelstein and Kathryn Gardow testified. Dawn reported that the substitute bill was heard and passed out of the Capital Budget Committee on Thursday, February 28 and staff saw it for the first time yesterday at 10:00 a.m. Dawn explained that at the February 15 Capital Budget Committee meeting Representative Dunshee asked the Board to rework Section 10 of the bill, and the Executive Committee's rewrite does appear in the substitute bill with some wording changes.



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- Dawn Eychaner reviewed the handout detailing changes between the original HB 1484 and the substitute (attachments, page 4), noting that one of the changes is a new \$10 million per project limit.
- John LaRocque explained that the Board has put close to \$120 million into the Tacoma pipeline project by giving awards to 4 jurisdictions and that under the Bill's wording, that project would have been capped at \$10 million without regard to the number of jurisdictions participating in the project. Kathryn Gardow asked if the House wants the Board's input. John LaRocque explained that the opportunity for public comment will be when it is with the Senate. Kathryn requested that further discussion of the bill take place later in the meeting.
- John LaRocque reviewed the staff memo (attachments, page 19) requesting to delay the opening of the 2015 Construction loan cycle.
- Stan Finkelstein asked if the application cycle could be delayed until June 1<sup>st</sup>. John LaRocque explained that would be too late in the year to do effective vetting. John advised the Board that draft capital budgets should be out by the week of March 26<sup>th</sup>, noting that these will be good indicators of future fund availability. John reported that the Director of Commerce has been asked to revisit the Board's request for the \$700 million budget with Governor Inslee.
- **Action: Don Montfort moved that the application opening date be extended to April 15<sup>th</sup>, Larry Waters seconded. Motion Passed. (12-0)** (Abart, Baldwin, Cummins, Fitzsimmons, Gardow, Hildreth, Hutsell, Montfort, Scott, Smith, Stuart, and Waters)

## **Contracting**

### a) Okanogan County

- Isaac Huang presented Okanogan County's request (attachments page 21) for a two-year deferral for two loans, a 2004 pre-construction loan and 2006 construction loan for the same sewer project. Isaac introduced Perry Huston, Director Okanogan County Office of Planning and Development.
- Jerry Cummins asked why Okanogan (the County) owns a sewer system operated by the City of Oroville. Mr. Huston clarified that the County does not own the system. The County agreed to pay to extend the sewer system to the unincorporated growth management area while Oroville assumed the improvements to the sewer system treatment. The County used building permit fees to meet the debt service for the sewer system loans ; the demand for building permits has declined sharply due to the economic downturn; thus, the fees received are insufficient to meet the debt service needs.
- Mr. Huston provided an overview of the project, noting that the County is working on overall financial health, just received an A+ bond rating, and is looking at restructuring other debt as well.



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- Kathryn Gardow asked Mr. Huston which of the three options listed in the memo is preferred. Mr. Huston responded that a two-year deferral would be the County's preference. Don Montfort expressed that the Board's technical assistance program needs to address issues like this.
- **ACTION: Don Montfort moved to adopt Option 2 in the memo. Larry Waters seconded.**
- Steve Stuart asked if the County was confident that in two years they would have the resources to meet the obligations. Mr. Huston replied yes. Steve asked if they charge sewer hookup fees. Mr. Huston replied yes. Steve noted that most pro-active planning jurisdictions lay down the infrastructure before the growth comes rather than trying to catch up with it. Steve noted that as technical assistance develops guidelines he would like to see more pro-active approach to infrastructure planning aligned with expected growth.
- Scott Hutsell asked if County .09 funds are growing or decreasing. Mr. Huston noted that these funds are stable at the moment because the County didn't have the tremendous growth and retraction in the economy that many other counties experienced. Scott asked if initial repayments were planned to come from .09 funds, Mr. Huston replied no, they were to be based on building permit revenue.
- Scott Hutsell explained what .09 funds are for the benefit of the Board.
- Tom Fitzsimmons asked the current connection fee rate. Mr. Huston explained \$3,950 per permit at the upper limit (there are 3 tiers) and shared that the County is in the process of increasing it to \$5,000. Tom noted that a lot of hookups would be required in order to meet the financial obligation. Tom suggested the Board may want to require the County to restructure the revenue stream for repayment, not just the amortization schedule.
- John LaRocque noted that through this action the County is sending a message to potential users of .09 funds that they are being dedicated to the purpose of repaying Public Works Board debt.
- Jerry Cummins asked additional questions regarding hookup fees and zoning. Stan Finkelstein asked if Oroville is in agreement with the County's proposal. Mr. Huston replied that Oroville is fine with the County's proposal.
- Darwin Smith noted that he thinks this is a variable revenue source and is not secure. Darwin asked about outstanding debt, and if the land assessed/used has been evaluated to create an assessment against it.
- Perry Huston answered that there is a disconnect between current and future development potential, giving the example that an orchard pays now for infrastructure needed when sold to a developer.
- Steve Stuart noted that a partnership with the City of Oroville is needed in order to assure that the County doesn't get stuck with the hookup fees.



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- Ed Hildreth asked Tom Fitzsimmons if he would like to add an amendment to the motion. Tom Fitzsimmons noted that he would like to add clarification that the County has stated their plan is 1) the County is responsible for the debt entirely, 2) that the County will repay the debt from .09 and not accept any other obligations to the .09 funds, and 3) they will raise the hookup fees.
- **ACTION: Don Montfort called for the previous question. Jerry Cummins seconded. Approved. Stan Finkelstein reiterated that the motion before the board was Option 2. Motion Passed (11-1)** Voting Yes: Abart, Baldwin, Cummins, Fitzsimmons, Gardow, Hildreth, Hutsell, Montfort, Scott, Stuart, and Waters. Voting No: Smith.

*Break 10:05 a.m. to 10:15 a.m.*

b) Clallam County PUD

- John LaRocque noted that he had a conversation with Representative Tharinger who encouraged the Board to continue working with this project and that it is valuable and would like it to move forward if possible.
- The guests from Clallam County (the County), Clallam County PUD (the PUD), and the City of Sequim introduced themselves.
- Bob Martin presented a PowerPoint to the Board (attachments page 31)
- Tom Fitzsimmons noted that contract is between the Board and PUD, but that he would only be comfortable if the contract was with the Board and the County. Clallam County responded that the contract would be assigned to them. Jim Jones, the County Administrator noted that they anticipate that the contract would remain with PUD because the County was not the original applicant, but that the County would then sign an agreement with the PUD to take responsibility for the loan.
- Don Montfort noted his feeling that it is important for the contract to be with the County, not the PUD. Don asked if it is correct that the start date is April 2014, County affirmed that this is correct. Don expressed concerns that using the Sequim option could create significant delays due to right of way, permits, etc. Don pointed out that the staff recommendation notes that the proposed changes to the project would have put the project score below the cutoff line for funding recommendation.
- Matt Ojennus noted that with the Sequim option significant archaeological review will be needed, along with tribal consultation.
- Steve Stuart asked if project design components can change after we sign a contract. John LaRocque responded that they can change significantly.
- Frank Abart noted that staff's recommendation is that the offer be withdrawn and the County apply again. Tom Fitzsimmons asked why the County could not reapply during the next cycle and free up the \$10 million that has been tied up with this approval. Mr. Martin stated that the County is concerned with potential uncertainty of the outcome of a new application.



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- Tom Fitzsimmons proposed that the Board fund the design portion only and that the County reapply for the construction funding. Larry Waters asked for clarification on staff's recommendation. Matt Ojennus reiterated the recommendation in the Board packet that the loan offer be withdrawn. Larry Waters noted that he is uncomfortable with staff's recommendation and asked for more explanation. John LaRocque responded that the project has come under legislative and Office of Financial Management scrutiny due to the lack of contract execution for the last 2 years. Mr. LaRocque noted that 90 days is the requirement for contract execution and that 2 years is the outside of the window of opportunity. He urged the Board to set a date by which a contract be executed if the request for extension is granted.
- Stan Finkelstein noted that the issues including location, ownership/operation should have been worked out before they applied two years ago and the uncertainties could further delay the project are of significant concern. Stan expressed concern about having \$10 million languishing.
- Darwin Smith noted that the County is not qualified to receive loans from the Board due to no greenhouse gas policy being adopted, adding that although that is a local choice to transfer the loan, and he has concern about that. Darwin suggested the project is not truly put together and that, at a minimum, a drop dead date for having the contract signed would be necessary.
- Steve Stuart advocated for the project extension.
- Larry Waters asked Clallam County to lay out next steps if the Board approves an extension of the loan offer.
- Mr. Murphy noted that they have already drafted an inter-local agreement between the County and the PUD and could have it executed in a few weeks. Mr. Murphy noted that the county is in process of preparing a Request for Proposals for design and construction of the collection system, which could be done in two months, excluding the Sequim option.
- **ACTION: Kathryn Gardow moved to approve staff's recommendation. Don Montfort seconded the motion.**
- Tom Fitzsimmons noted he cannot support the motion and that he believes there's a way to keep the project moving. Tom requested that staff come back with recommendation for a new offer just for the amount of design, not construction. Stan Finkelstein stated that because the legislature approved the project as submitted the Board would not have option of modifying project beyond what the legislature approved. John LaRocque affirmed this is correct.
- Ed Hildreth stated he will vote in favor of the motion.
- Don Montfort asked for clarification on how much match the County has. The County responded they have \$5 million cash in hand. Don asked if this was enough for design. The County affirmed yes.



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- Larry Waters noted he will vote against the motion, stating that the Board should not stand in the way of local progress that has been made.
- Don Montfort stated that he is not convinced that asking the County to reapply will delay the project significantly.
- Stan Finkelstein asked John LaRocque if the \$10 million is rescinded, what the soonest date is the County could receive funding if they reapplied. John responded that they could receive the funding for 2015 in 2014. Kathryn Gardow pointed out that the limit for the 2015 loan list is \$5 million as adopted by the Board last month.
- Darwin Smith asked for clarification on the project cost. The County responded that entire project, based on preliminary estimate, would be slightly more than \$15 million and the preliminary estimate for the Sequim project is \$13.8 million.
- **ACTION: Motion failed. (5-7)**
  - Voting yes: Kathryn Gardow, JC Baldwin, Ed Hildreth, Darwin Smith, Don Montfort (5)
  - Voting no: Jerry Cummins, Tom Fitzsimmons, Bubba Scott, Scott Hutsell, Larry Waters, Frank Abart, Steve Stuart (7)
- **ACTION: Tom Fitzsimmons moved that staff be authorized to move into contract within the next 30 days and that assignment responsibilities be clarified, along with an inter-local agreement entered into. Steve Stuart seconded.**
  - John LaRocque noted that if this motion passes, he suggests that staff be directed to return to the next board meeting on April 5 with the material the Board is asking for. Tom Fitzsimmons clarified his motion to state that if the contract isn't signed by then, the Board will consider the issue again.
  - **MOTION PASSED (9-2)**
    - Voting yes: JC Baldwin, Ed Hildreth, Darwin Smith, Tom Fitzsimmons, Bubba Scott, Scott Hutsell, Larry Waters, Frank Abart, Steve Stuart (9)
    - Voting no: Don Montfort and Kathryn Gardow (2)

Stan Finkelstein suggested the Board hear the four committee reports, break for lunch, and then finish the remainder of the agenda.

### **Committee Reports**

- a) Executive Committee: Stan Finkelstein gave the Executive Committee Report.
  - Stan reported the Executive Committee met with Brian Bonlender, the new Dept. of Commerce Director and discussed plans to hire a new Executive Director upon John LaRocque's retirement. Stan added that the discussion included preserving and enhancing the Board's loan list request and the administrative budget for the program, which was reduced by Governor Gregoire from \$4.6 million to \$3 million. Stan noted



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that Brian Bonlender expressed sincere interest in meeting with the Board and they discussed his participation in the Board's June retreat.

- Kathryn noted the Executive Committee also met to discuss Representative Dunshee's request for criteria redesign in the Board's policy bill. Stan noted that will be discussed during the legislative discussion that will be re-addressed this afternoon.
- b) Communication Committee: Kathryn Gardow gave the Communications Committee report.
- Kathryn Gardow reported on the committee discussion about moving into social media and some suggested changes to the draft social media policy which will be brought to the full Board in April. Kathryn explained that the committee discussed the new web site. Kathryn also noted the committee wishes to develop a better process to ensure that the board doesn't inadvertently have unexpected public meetings by replying to everyone's email and that a staff person be designated to forward comments from members.
- c) Policy Committee: Don Montfort stated there is no policy committee report.
- d) Technical Assistance Committee: Steve Stuart gave the Technical Assistance Committee report.
- Steve Stuart reported that the Technical Assistance (TA) Committee discussed the outcomes of the Northwest Academy and plans for a May academy in Walla Walla. Steve reported that Cathi Read with the Small Communities Initiative (SCI) gave a presentation to the committee and stated that SCI needs additional funding, as does enhanced TA work, both of which are included in the additional administrative funding request the Board has put forward.
  - Steve reported that the TA Committee recommends that Stan meet with the Office of Financial Management director about the need for enhanced TA and to get information from John about the need for enhanced TA. Steve noted that enhanced TA needs to be supported by constituent groups in order to support additional administrative funding.

Break for lunch: 11:45 a.m.-12:20 p.m.

John LaRocque proposed that staff conduct the website review during lunch. The Board agreed.

- Rodney Orr reviewed the new Public Works Board website, which is due to be published on March 15, 2013. Stan Finkelstein asked if staff will be able to track web site user data. Rodney advised yes, using Google Analytics. Stan Finkelstein requested that staff report periodically to the Board on use statistics for the web site.
- Kathryn Gardow noted that the Board will have social media icons linked to the web site. Rodney Orr responded that once a social media policy is approved, these will appear on web.

Steve Stuart and JC Baldwin left the meeting.



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### **Contracting**

- a) Whatcom County
  - Denise Clifford with the Dept. of Health updated the Board on the two water systems in Whatcom County on the Drinking Water State Revolving Fund (DWSRF) loan list and noted that the Department seems to be making real progress with these communities dealing with the nitrate issues in the area.

### **Legislative Update (returned to topic)**

- a) Substitute House Bill 1484
  - Kathryn Gardow asked if the \$10 million cap in Substitute House Bill 1484 could be a problem in the future. John LaRocque noted that it could be cumbersome because it is so prescriptive and suggested that Stan Finkelstein test the waters with Representative Dunshee to see if a proposed change would be well received before the Board testifies on this issue before a committee.
- b) Executive Director Recruitment
  - Stan Finkelstein gave more detail on the Executive Director recruitment discussion with Dept. of Commerce Director Brian Bonlender. Stan noted that the Director would like to use the same head hunting firm being used by the Governor's office. Stan also noted the job description clearly notes the position would report to the Dept. of Commerce and be responsible for both the Community Economic Revitalization Board (CERB) and the Public Works Board.
  - John LaRocque noted the recruitment timeline that Cecilia Gardener had forwarded to the Board is aggressive and we're already in danger of falling behind. Kathryn Gardow expressed that she sent back comments on the job description and asked what is happening with those. John LaRocque responded that he provided those to Karen Larkin and that a revised job description would be sent out.
  - Jerry Cummins suggested that Stan Finkelstein have a one-on-one conversation with Brian Bonlender to discuss the history of the Board and the position. Stan Finkelstein agreed that he will do that. Don Montfort expressed concerns over the difficult relationship the Board has had with the Department of Commerce over the past six years.

### **Contracting**

- a) Notice to Proceed Memo: Bruce Lund
  - Bruce Lund reviewed the four Notice to Proceed Extension Requests, as articulated on page 81 of the Board packet (attachments, page 39).



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- **ACTION: Kathryn Gardow moved to approve the extension requests, Darwin Smith seconded. Motion Passed.** (10-0) (Abart, Cummins, Fitzsimmons, Gardow, Hildreth, Hutsell, Montfort, Scott, Smith, and Waters)
- b) Extension Request Memo: Bruce Lund
- Bruce Lund reviewed the extension request from Clark County on p. 82 (attachments, page 40) of the packet, explaining that the Board funded portion of the project is complete but the County is requesting it be kept open an additional two years. Bruce reported that \$500,000 has not been drawn down yet, and the County wishes to hold the \$500,000 and draw it later so it can be used as match for a federal grant. Kathryn Gardow asked when it is expected to be drawn. John LaRocque noted it might be best to bring this project back to the next meeting with clarification.
  - **ACTION: Scott Hutsell moved to defer this item to the next meeting with more detail. Frank Abart seconded. Motion Passed.** (10-0) (Abart, Cummins, Fitzsimmons, Gardow, Hildreth, Hutsell, Montfort, Scott, Smith, and Waters)
- c) Drinking Water State Revolving Fund
- Hideaway Mobile Home Park Update
    - John LaRocque reviewed the handout memo (attachments, page 41) from Kathryn Wyatt to the Board. John described the project and situation, explaining that the Board had requested Kathryn Wyatt to look into legal recourse to get the money back. John reported that Kathryn replied that it is not likely. John explained that it's likely the money will be either turned into a grant or go into default.
    - Kathryn Gardow asked if the loan was in default. John LaRocque explained that they are trying to restructure the loan or to ask Spokane to repay it. John stated that the State Revolving Fund does have the ability to award grants, and staff is looking at all options to work programmatically to make it better.
    - Ed Hildreth requested clarification of the last sentence of the last paragraph on the memo from Kathryn. John LaRocque agreed to get clarification and bring more information back to the Board.
    - Scott Hutsell asked if there were any liens; John LaRocque answered no.

### **Program Development/Implementation Updates**

- a) 2015 Public Works Trust Fund Cycle
- John LaRocque advised the Board that they took action earlier in the meeting to postpone the 2015 loan cycle application to April 15, 2013. John asked that an ad-hoc committee be formed for board members to participate in the selection process development over the next month or so.



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- Scott Hutsell, Kathryn Gardow, Ed Hildreth, Don Montfort, Darwin Smith, and Stan Finkelstein volunteered to participate on the committee. Stan Finkelstein designated Don Montfort to lead the ad-hoc committee.
- b) Small Communities Initiative (SCI) Budget: John LaRocque
- John LaRocque explained that the SCI budget is completely dependent on what the Board can get from the Office of Financial Management (OFM) in terms of the administrative budget. Stan Finkelstein requested that an appointment be made for him with the Director of OFM to discuss the matter.
- c) Academy Update
- Lynn Kohn reported on the Northwest academy and lessons learned for carrying forward. Lynn noted that it is important to have a room where people can hear, and to make it more interactive. Lynn advised the Board that the next Academy is set for May 22<sup>nd</sup> in Walla Walla. Kathryn Gardow requested more natural lighting. Lynn agreed, and noted that the highlight of the day was the demonstration of an actual project that needed assistance, which allowed funders to discuss how the project could get funding. John LaRocque added that the key has been the sponsors who have graciously covered nearly all the cost of the academies.

### **Information and Other Items**

- a) Public Works Assistance Account (PWAA) Predictive Model Update
- John LaRocque reviewed the predictive model on page 123 of the packet (attachments, page 43). John reviewed the dashboard handout that Myra Baldini produced for the Board
- b) Announcement
- Larry Waters announced that he was retiring at the end of May and wanted to say goodbye at the meeting Larry thanked the Board and staff for a wonderful experience, and expressed his appreciation for the good work of the Board.

**ACTION: Jerry Cummins moved to adjourn the meeting. Ed Hildreth seconded the motion. Motion passed.** (10-0) (Abart, Cummins, Fitzsimmons, Gardow, Hildreth, Hutsell, Montfort, Scott, Smith, and Waters)

**Meeting adjourned at 1:22 p.m.**

2013 Legislation of Interest

Program	Sen/ House	Bill #	Bill Title	Sponsor(s)	Status	Notes
BOTH	H	1026	Requiring use of resident workers on public works	Moeller, Appleton, Stanford, Ormsby, Riccicelli	Prefiled; referred to Labor & Workforce Development, heard 1/23	Requires specifications for PW contracts to contain a provision requiring a min. of 75% of the labor hours to be done by WA residents. Allows waivers in certain instances. Companion to SB 5394.
PWB	H	1057	Relating to fiscal matters	Hunter	Prefiled, heard in Appropriations 1/15.	At request of Governor Gregoire. Allows transfers from the PWAA during 2013-15 for GMA planning grants and general fund use. SB 5034 companion.
PWB	H	1088	Concerning state general obligation bonds and related accounts	Dunshoe, Warnick	Introduced 1/16, referred to Capital Budget, heard 1/28	At request of Governor Gregoire. SB 5036 Companion.
PWB	H	1089	Adopting the 2013-2015 Capital Budget	Dunshoe, Warnick	Introduced 1/16, referred to capital budget. Heard 1/28	At request of Governor Gregoire. SB 5035 Companion.
PWB	H	1167	Repealing growth management planning requirements in Chapter 36.70A RCW	Taylor, Overstreet, Shea, Short and Rodne	Introduced 1/17, referred to Local Govt.	Repeals the Growth Management Act.
BOTH	H	1249	Exempting from prevailing wage requirements public works projects undertaken to repair fire damage	Warnick	1/21 Introduced, heard in Labor & Workforce Dev 1/30.	Prevailing wage exemption for fire repair work in counties impacted by the Taylor Bridge fires of 2012. Companion to SB 5619
PWB	H	1401	Addressing the timing of penalties under the growth management act	Fitzgibbon, Dahlquist, Takko, Fey, Wilcox, Kochmar, Magendanz, O'Ban, Morrell, Jinks	Introduced 1/25, heard in Local Government 2/7, Substitute bill passed 2/21, 2/22 passed to Rules for 2nd reading.	If a comprehensive plan, development regulation, or associated amendment, has been appealed to the Board and has not yet taken effect, the local jurisdiction may not be deemed ineligible, or otherwise penalized, in the award of a state agency grant or loan during the pendency of the appeal before the board or during any subsequent judicial appeals. During these appeals, state agencies must accept an otherwise eligible application for a state grant or loan. Planning jurisdictions are not required to adopt a comprehensive plan or development regulations before requesting a loan or loan guarantee from the Public Works Assistance Account (PWAA). Additionally, a planning jurisdiction that has not adopted a comprehensive plan and development regulations within specified time periods is not prohibited from receiving a loan or loan guarantee from the PWAA if the comprehensive plan and development regulations are adopted before the Public Works Board disburses the funds or guarantees the loan.
PWB	H	1484	Concerning the public works board	Stanford, Warnick	Introduced 1/29, referred to Capital Budget. Heard 2/15. Scheduled for executive action 2/28. Substitute HB passed out of committee 2/28.	PWB's policy bill, agency request legislation. Substitute adjusts state policy objectives, adds \$10 m per project loan cap, changes project selection criteria. Removes needs assessment, adds outcome based report to legislature. Modifies language around legislative submittal of the list to require the list be ranked, with numerical ratings documented for each evaluation factor for projects recommended and not recommended for funding.

Program	Sen/ House	Bill #	Bill Title	Sponsor(s)	Status	Notes
PWB	H	1685	Utilizing a portion of public utility tax collected for water distribution to fund the health programs of Dept. of Ecology and Health	Wilcox, Blake, and Chandler	2/5 Introduced, referred to Appropriations.	Mandates 10% of the utility tax collected from water distribution business be allocated to the "Water Rights Processing account" at Dept. of Ecology and 10% be deposited to the safe drinking water account at Dept. of Health to "provide matching funds for EPA agency grants to DOH for drinking water regulatory development and implementation" and TA. Does not affect the allocation to PWAA.
BOTH	H	1733	Transparency in state capital and transportation budget appropriations	Riccelli, Hawkins, Bergquist, Alexander, Fitzgibbon, Buys, Tarleton, Manweiler, Vick, Reykdal, and Sawyer	2/6 Introduced, referred to Gov Ops, heard and passed 2/21. Passed to Rules for second reading 2/22.	Requires OFM to establish and report on performance measures and objectives for all capital budget and transportation budget investments.
BOTH	H	1819	Creating and using digital infrastructure maps to inform economic development decisions	Tarleton, Habib, Maxwell, Orwall, Morris, Farrell, Sells, Fitzgibbon and Tharlinger	Introduced 2/11, heard in Tech & ED Committee 1/19, Executive action taken on substitute bill 2/20. Referred to appropriations subcommittee on general govt., heard 2/25 in appropriations subcommittee, executive action taken by committee, passed to Rules 3/1	Requires CERB and PWB to participate with other agencies in creating digital layered maps displaying energy, water, sewer, and transportation infrastructure in order to identify infrastructure gaps and priority areas for future investment.
PWB	H	1959	Requiring the PWB to submit ranked project lists	Dunshiee, Appleton, Stanford, Takko, Warrick, Magendanz, Fey, Tarleton, Smith	Introduced 2/26, referred to Capital Budget. Substitute bill passed out of committee 2/28.	Removes existing selection criteria in 43.155.070 and replaced with new Section aligned with SHB 1484. Modifies language around legislative submittal of the list to require the list be ranked, with numerical ratings documented for each evaluation factor for projects recommended and not recommended for funding.
BOTH	H	4210	Providing for community redevelopment financing in apportionment districts	Springer, Haier, Sullivan, Crouse	Introduced 2/26, scheduled for hearing in House Finance Committee 2/28	Proposes constitutional amendment be sent to the voters: allows counties, cities and towns to designate jurisdictions for which a special portion of sales and/or property tax levied within those boundaries be used to finance public improvements or "specified community benefit activities that contribute to social equity and environmental goals." Pledges of tax revenues within those boundaries do not constitute "debt" of the municipality
BOTH	S	5029	Creating the Washington Investment Trust	Hasegawa, Chase, Shin, Conroy, Rofes, Darneille, Hargrove, Keiser, Kohl-Welles, Kline, Frock	Introduced 1/15, referred to Financial Institutions and Insurance. Heard in committee 2/14.	Establishes the Washington Investment Trust, with the purpose of financing infrastructure systems. By 11/13 a newly established commission must present an implementation plan, including recommendations for existing state infrastructure programs the Trust recommends transferring to its authority.

Program	Sen/ House	Bill #	Bill Title	Sponsor(s)	Status	Notes
PWB	S	5287	Eliminating accounts and funds	Hill and Hargrave	1/24, first reading, referred to Ways and Means, heard 2/4. Substitute bill passed to Rules for second reading 2/8.	Requested by OFM. Does not impact PWAA, but needs watching.
PWB	S	5313	Modifying the criteria for public works assistance	Carrell	1/25 first reading, referred to Gov Ops. Heard 2/4	Adds consideration of low-cost alternatives to traditional construction techniques, such as pipe bursting technology as criteria. Requires PWB to report to leg. on plans to implement the act by 12/31/13.
BOTH	S	5399	Timing of penalties under GMA	Dammeyer, Becker, Conway, Fraser, Rivers, and Nelson Chase, Roach, Hobbs, Conway, Harper, Keiser, Hasegawa, Kohl-Weiles, Kline and Murray	1/29 Introduced, referred to Gov Ops, substitute passed out of committee 2/19, referred to Rules for 2nd reading 2/20. Placed on 2nd reading by rules 2/27.	Companion to HB 1401. "state agencies, commissions, or governing boards shall not penalize jurisdictions during pendency of an appeal." A jurisdiction is not prohibited from receiving a loan from PWB if the comp plan and development regulations are adopted before PWB disburses the funds.
BOTH	S	5621	Relating to certified payroll records on public works projects	Smith, Hatfield, Braun, King, Holmquist	2/6 Introduced, referred to Commerce & Labor, heard 2/13	Adds requirement to receive state funds for public works projects, municipality must provide certified payroll records in addition to signing a certification of intent to pay prevailing wage.
BOTH	S	5636	Providing a process for county legislative authorities to withdraw from voluntary planning under GMA	Newbury, Brown, Honeyford, Schoesler	Introduced 2/6, Heard in Gov Ops 2/18, passed out of committee 2/19, Passed to Rules for 2nd reading 2/20.	Would allow 9 small counties to withdraw from GMA planning obligations (based on population of 20,000 or less).
BOTH	S	5639	Identification and review of new programs	Bailey, Dammeyer, and Padden Baumgartner, Honeyford, Benton, Erickson, DeWitt, Padden, Holmquist-Newbury, Branun, Smith	2/6 Introduced, referred to Ways & Means	Requires state auditor to conduct a review of any new program created by the legislature in the preceding two years, including reporting on performance data and suggested changes to the program.
BOTH	S	5716	Requiring a summary of capital appropriations by legislative district to accompany each capital appropriations bill		2/11 First reading, referred to Ways & Means, heard 2/20. Executive action taken 2/28.	Adds a new section to 43.88 RCW requiring that each capital appropriation bill considered by the Legislature or fiscal committees to either chamber must be accompanied by a summary of the capital appropriations by legislative district including: total level of all appropriations, of those, which are attributable to competitive programs, to state agency projects, to higher ed projects, as well as all other appropriations to an individual district. Must include percentage of total captl. approps. received by each district.

## PROPOSED SUBSTITUTE HOUSE BILL 1484

By Representatives Stanford and Warnick

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### Original bill:

- Sets out state priority policy objectives to be served by investment of resources from the Public Works Assistance Account (Account).
- Authorizes the Public Works Board (Board) to approve projects for non-traditional public works systems under certain conditions.
- Modifies project prioritization criteria and a requirement related to compliance with the Growth Management Act.

### Proposed substitute bill compared to original bill:

- Replaces the objectives in the original bill with the following state priority policy objectives:
  - Efficient use of state resources
  - Preservation and enhancement of health and safety
  - Abatement of pollution and protection of the environment
  - Creation of new, family wage jobs, and avoidance of shifting existing jobs from one community to another
  - Fostering economic development consistent with RCW 36.70A
  - Efficiency in delivery of goods and services, public transit, and transportation
  - Avoidance of additional costs to state and local governments that adversely impact local residents and small businesses
  - Reduction of the overall cost of public infrastructure
- Does not authorize the Board to approve non-traditional public works system projects.
- Requires the Board to develop a process for numerically ranking applications and considering at a minimum and in any order, the following factors in assigning the numerical ranking:
  - Whether the project is critical in nature and would affect the health and safety of many people
  - The extent to which the project leverages non-state funds
  - The extent to which the project is ready to proceed to construction
  - Whether the project is located in an area of high unemployment, compared to the average state unemployment
  - Whether the project promotes the sustainable use of resources and environmental quality
  - Whether the project consolidates or regionalizes systems
  - Whether the project encourages economic development through mixed-use and mixed income development consistent with chapter 36.70A RCW
  - Whether the system is being well-managed in the present and for long-term sustainability
  - Achieving equitable distribution of funds by geography and population
  - The extent to which the project meets state policy objectives identified in this chapter
  - Other criteria that the board considers necessary to achieve the purposes of this chapter.
- Requires the Board to submit a ranked list of qualified public works projects recommended for funding to the Legislature.
- Requires the Board to document the numerical ranking assigned to each project on the recommended list and to each eligible project not recommended for funding.

- Caps the maximum funding that the Board may recommend for any one project at \$10 million.
- Requires the Board to report to the Governor and legislative fiscal committees every two years beginning November 1, 2014, on:
  - How the Board is using the state's priority policy objectives to guide its investment of Account funds
  - The outcomes produced by these investments
- Removes language authorizing Board assessments of infrastructure needs and resources every four years.
- Sets as threshold criteria for financial assistance that a local government must demonstrate the financial capacity to repay a loan.
- Does not repeal RCW 43.155.075, requiring environmental benefit statements and outcome-focused performance measures.

*Prepared for: House Capital Budget Committee*  
*Prepared by: Meg VanSchoorl, Office of Program Research (360-786-7105)*  
*Draft: H-1837.1/13*

**PROPOSED SUBSTITUTE HOUSE BILL 1484**  
**By Representatives Stanford and Warnick**

1 AN ACT Relating to the public works board; amending RCW 43.155.010,  
2 43.155.020, 43.155.030, 43.155.050, and 43.155.070; adding new sections  
3 to chapter 43.155 RCW; and repealing RCW 43.155.040, 43.155.060,  
4 43.155.065, 43.155.068, 43.155.110, and 43.155.120.

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

6 **Sec. 1.** RCW 43.155.010 and 1996 c 168 s 1 are each amended to read  
7 as follows:

8 ~~(1) The legislature finds that ((there exists in the state of~~  
9 ~~Washington over four billion dollars worth of critical projects for the~~  
10 ~~planning, acquisition, construction, repair, replacement,~~  
11 ~~rehabilitation, or improvement of streets and roads, bridges, water~~  
12 ~~systems, and storm and sanitary sewage systems. The December, 1983~~  
13 ~~Washington state public works report prepared by the planning and~~  
14 ~~community affairs agency documented that local governments expect to be~~  
15 ~~capable of financing over two billion dollars worth of the costs of~~  
16 ~~those critical projects but will not be able to fund nearly half of the~~  
17 ~~documented needs.~~

18 ~~The legislature further finds that Washington's local governments~~  
19 ~~have unmet financial needs for solid waste disposal, including~~

1 ~~recycling, and encourages the board to make an equitable geographic~~  
2 ~~distribution of the funds)) while local governments are responsible for~~  
3 ~~creating, developing, managing, financing, operating, and maintaining~~  
4 ~~local infrastructure systems, state priority policy objectives are~~  
5 ~~served by investing financial and technical resources in these local~~  
6 ~~systems. A significant backlog of projects to build, repair, and~~  
7 ~~improve local public infrastructure systems exists. The state intends~~  
8 ~~to strategically invest resources to address this backlog and to~~  
9 ~~promote the following priority policy objectives:~~

10 (a) Efficient use of state resources;

11 (b) Preservation and enhancement of health and safety;

12 (c) Abatement of pollution and protection of the environment;

13 (d) Creation of new, family wage jobs, and avoidance of shifting  
14 existing jobs from one community to another;

15 (e) Fostering economic development consistent with chapter 36.70A  
16 RCW;

17 (f) Efficiency in delivery of goods and services, public transit,  
18 and transportation;

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

21 (h) Reduction of the overall cost of public infrastructure.

22 (2) It is the policy of the state of Washington to encourage self-  
23 reliance by local governments in meeting their public works needs and  
24 to assist in the financing of critical public works projects by  
25 ((making loans, financing guarantees,)) providing financial and  
26 technical assistance ((available)) to local governments for these  
27 projects.

28 **Sec. 2.** RCW 43.155.020 and 2009 c 565 s 33 are each amended to  
29 read as follows:

30 Unless the context clearly requires otherwise, the definitions in  
31 this section shall apply throughout this chapter.

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

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

1       (3) "Construction" means construction of public works projects as  
2 defined within this chapter.

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

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

9       (5) "Director" means the director of the department.

10       (6) "Emergency" means a construction project made necessary by a  
11 natural disaster or an immediate and emergent threat to the public  
12 health and safety due to unforeseen or unavoidable circumstances as  
13 evidenced by a local government declaration.

14       (7) "Financial assistance" means loans unless otherwise specified  
15 in this chapter or by the legislature.

16       (8) "Local government((s))" means ((cities)) a city, town((s)),  
17 ((counties)) county, special purpose district((s)), and any other  
18 municipal corporation((s)) or quasi-municipal corporation((s)) in the  
19 state, excluding school districts and port districts, authorized by law  
20 to fund public works.

21       ~~((6))~~ (9) "Planning project" means the process through which a  
22 jurisdiction creates and adopts a capital facilities plan, a  
23 comprehensive system plan, or equivalent.

24       (10) "Policy objectives" means state priorities that guide the  
25 investment of public works assistance account funds as enumerated in  
26 this chapter.

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

32       (12) "Public works project" means a project of a local government  
33 ((for)) listed in a capital facilities plan or equivalent that results  
34 in the planning, acquisition, construction, repair, reconstruction,  
35 replacement, rehabilitation, or improvement of streets and roads,  
36 bridges, water systems, or storm and sanitary sewage systems and solid  
37 waste facilities, including recycling facilities. A planning project

1 may include the compilation of biological, hydrological, or other data  
2 on a county, drainage basin, or region necessary to develop a base of  
3 information for a capital facility plan.

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

10 ~~(8))~~ (13) "Technical assistance" means training and other services  
11 provided to local governments to:

12 (a) ~~((Help such local governments plan, apply, and qualify for~~  
13 ~~loans and financing guarantees from the board, and (b) help local~~  
14 ~~governments improve their ability to plan for, finance, acquire,~~  
15 ~~construct, repair, replace, rehabilitate, and maintain public~~  
16 ~~facilities)) Improve their ability to plan for, finance, acquire,~~  
17 ~~construct, reconstruct, and maintain infrastructure systems; and/or~~

18 ~~(b) Improve their technical, financial, and/or managerial capacity~~  
19 ~~to operate their infrastructure systems in a manner consistent with~~  
20 ~~federal and state requirements and ensure long-term sustainability of~~  
21 ~~the systems.~~

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

24 (1) The public works board is hereby created.

25 (2) The board shall be composed of thirteen members appointed by  
26 the governor for terms of four years ~~((, except that five members~~  
27 ~~initially shall be appointed for terms of two years)).~~ The board shall  
28 include: (a) Three members, including two ~~((of whom shall be))~~ elected  
29 officials and one ~~((shall be a public works manager))~~ official working  
30 in public works or a related field, appointed from a list of ~~((at least~~  
31 ~~six))~~ persons nominated by the association of Washington cities or its  
32 successor; (b) three members, including two ~~((of whom shall be))~~  
33 elected officials and one ~~((shall be a public works manager))~~ official  
34 working in public works or a related field, appointed from a list of  
35 ~~((at least six))~~ persons nominated by the Washington state association  
36 of counties or its successor; (c) ~~((three members appointed from a list~~  
37 ~~of at least six persons nominated jointly by the Washington public~~

1 utility districts association and a state association of water sewer  
2 districts, or their successors)) one member appointed from a list of  
3 persons nominated by the Washington public utility districts  
4 association or its successor; (d) two members appointed from a list of  
5 persons nominated by the Washington association of sewer and water  
6 districts or its successor; and ((+d)) (e) four members appointed from  
7 the general public. In appointing the four general public members, the  
8 governor shall endeavor to balance the geographical composition of the  
9 board and to include members with special expertise in relevant fields  
10 ((such as public finance, architecture and civil engineering, and  
11 public works construction)). The governor shall appoint one of the  
12 general public members of the board as chair. The term of the chair  
13 shall coincide with the term of the governor.

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

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

18 ((+5)) (4) If a vacancy on the board occurs by death, resignation,  
19 or otherwise, the governor shall fill the vacant position for the  
20 unexpired term. Each vacancy in a position appointed from lists  
21 provided by the associations under subsection (2) of this section shall  
22 be filled from a list of ((at least three)) persons nominated by the  
23 relevant association or associations. Any members of the board((+  
24 appointive or otherwise,)) may be removed by the governor for cause in  
25 accordance with RCW 43.06.070 and 43.06.080.

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

28 (1) In order to assist local governments, the board:

29 (a) Must manage the public works assistance account in such a way  
30 as to ensure its sustainability;

31 (b) Must execute contracts or otherwise financially obligate funds  
32 from the public works assistance account for projects approved for  
33 funding by the board;

34 (c) May approve public works projects for financial assistance  
35 under the following programs:

36 (i) Construction;

37 (ii) Preconstruction;

- 1 (iii) Capital facilities planning;  
2 (iv) Emergency;  
3 (v) Energy or water efficiency;  
4 (vi) Water system acquisition and rehabilitation as created by RCW  
5 70.119A.190; and  
6 (vii) Any other program authorized by the legislature;  
7 (d) Must, before November 1st of each year, develop and submit to  
8 the appropriate fiscal committees of the senate and house of  
9 representatives a ranked list of qualified public works projects which  
10 have been evaluated by the board and are recommended for funding by the  
11 legislature. The board must establish the ranked list based, at a  
12 minimum, on the factors provided in section 10 of this act. The  
13 maximum amount of funding that the board may recommend for any one  
14 project is ten million dollars. For each project on the ranked list,  
15 as well as for eligible projects not recommended for funding, the board  
16 must document the numerical ranking that was assigned;  
17 (e) May not sign contracts or otherwise financially obligate funds  
18 from the public works assistance account before the legislature has  
19 appropriated funds for a specific list of public works projects. The  
20 legislature may remove projects from the ranked list recommended by the  
21 board. The legislature may not change the ranked order of the projects  
22 recommended for funding by the board;  
23 (f) May provide grants for water system acquisition and  
24 rehabilitation projects;  
25 (g) May require such terms and conditions and may charge such rates  
26 of interest on its loans as it deems necessary or convenient to carry  
27 out the purposes of this chapter. Money received from local  
28 governments in repayment of loans made under this section must be paid  
29 into the public works assistance account for uses consistent with this  
30 chapter;  
31 (h) May not refinance existing debt or financial obligations of  
32 local governments, except for short-term debt associated with  
33 construction projects approved by the board or other cases as defined  
34 in rule by the board;  
35 (i) Must provide technical assistance as defined in RCW 43.155.020.  
36 (2) Subsection (1)(d) and (e) of this section does not apply to  
37 financial assistance provided through the preconstruction, capital

1 facilities planning, emergency, energy or water efficiency programs,  
2 water system acquisition and rehabilitation, or any other programs  
3 authorized by the legislature.

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

6 (1) Beginning November 1, 2014, and November 1st every even-  
7 numbered year thereafter, the board must report to the governor and  
8 appropriate fiscal committees of the legislature on: (a) How the board  
9 is using the state's priority policy objectives identified in RCW  
10 43.155.010 to guide its investment of public works assistance account  
11 funds; and (b) the outcomes produced by these investment choices.

12 (2) The board must:

13 (a) Establish and maintain direct collaborative relations with  
14 governmental, private, and other financing organizations, advocate  
15 groups, and other stakeholders associated with infrastructure  
16 financing;

17 (b) Provide direct information and advice to the governor and  
18 appropriate committees of the legislature on matters related to local  
19 government infrastructure financing; and

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

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

25 The board must:

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

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

33 (3) Adopt rules under chapter 34.05 RCW as necessary to carry out  
34 the purposes of this chapter; and

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

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

3        (1) The department must:

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

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

9        (2) The director must:

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

12       (b) Represent the interests and concerns of the board as a member  
13 of the governor's executive cabinet.

14       **Sec. 8.** RCW 43.155.050 and 2012 2nd sp.s. c 2 s 6004 are each  
15 amended to read as follows:

16       (1) The public works assistance account is hereby established in  
17 the state treasury. Money may be placed in the public works assistance  
18 account from the proceeds of bonds when authorized by the legislature  
19 or from any other lawful source. Money in the public works assistance  
20 account shall be used (~~to make loans and to give financial guarantees~~  
21 to local governments for public works projects. Moneys in the account  
22 may also be appropriated to provide for state match requirements under  
23 federal law for projects and activities conducted and financed by the  
24 board under the drinking water assistance account)) for purposes as  
25 authorized by this chapter.

26       (2) A minimum of eighty-five percent of the biennial capital budget  
27 appropriation to the public works board from this account shall be  
28 obligated for construction loans. Not more than fifteen percent of the  
29 biennial capital budget appropriation to the public works board from  
30 this account may be (~~expended or~~) obligated for (~~preconstruction~~  
31 loans, emergency loans, or loans for capital facility planning under  
32 this chapter; of this amount, not more than ten percent of the biennial  
33 capital budget appropriation may be expended for emergency loans and  
34 not more than one percent of the biennial capital budget appropriation  
35 may be expended for capital facility planning loans)) programs other  
36 than construction loans. Within this fifteen percent, state match for  
37 federal programs or funds for other state programs may be obligated.

1 ((During the 2011-2013 fiscal biennium, the legislature may transfer  
2 from the public works assistance account to the general fund, the water  
3 pollution control revolving account, and the drinking water assistance  
4 account such amounts as reflect the excess fund balance of the account.  
5 During the 2011-2013 fiscal biennium, the legislature may appropriate  
6 moneys from the account for economic development, innovation, and  
7 export grants, including brownfields; main street improvement grants;  
8 and the loan program consolidation board.))

9       **Sec. 9.** RCW 43.155.070 and 2012 c 196 s 9 are each amended to read  
10 as follows:

11       (1) To qualify for ~~((loans or pledges))~~ financial assistance under  
12 this chapter the board must determine that a local government meets all  
13 of the following conditions:

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

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

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

21       (d) The local government can demonstrate the financial capacity to  
22 repay the loan.

23       (2) Except where necessary to address a public health need or  
24 substantial environmental degradation, a county, city, or town planning  
25 under RCW 36.70A.040 ~~((must have))~~ may not receive financial assistance  
26 under this chapter unless it has adopted a comprehensive plan,  
27 including a capital facilities plan element, and development  
28 regulations as required by RCW 36.70A.040. This subsection does not  
29 require any county, city, or town planning under RCW 36.70A.040 to  
30 adopt a comprehensive plan or development regulations before requesting  
31 or receiving ~~((a loan or loan guarantee))~~ financial assistance under  
32 this chapter if such request is made before the expiration of the time  
33 periods specified in RCW 36.70A.040. A county, city, or town planning  
34 under RCW 36.70A.040 which has not adopted a comprehensive plan and  
35 development regulations within the time periods specified in RCW  
36 36.70A.040 is not prohibited from receiving ~~((a loan or loan~~  
37 ~~guarantee))~~ financial assistance under this chapter if the

1 comprehensive plan and development regulations are adopted as required  
2 by RCW 36.70A.040 before (~~submitting a request for a loan or loan~~  
3 ~~guarantee~~) executing a contractual agreement for financial assistance  
4 with the board.

5 (3) In considering awarding (~~loans~~) financial assistance for  
6 public facilities to special districts requesting funding for a  
7 proposed facility located in a county, city, or town planning under RCW  
8 36.70A.040, the board must consider whether the county, city, or town  
9 planning under RCW 36.70A.040 in whose planning jurisdiction the  
10 proposed facility is located has adopted a comprehensive plan and  
11 development regulations as required by RCW 36.70A.040.

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

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

22 ~~(b) Except as otherwise conditioned by RCW 43.155.110, whether the~~  
23 ~~entity receiving assistance is a Puget Sound partner, as defined in RCW~~  
24 ~~90.71.010;~~

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

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

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

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

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

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

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

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

5 ~~(k) Except as otherwise conditioned by RCW 43.155.120, and~~  
6 ~~effective one calendar year following the development of model~~  
7 ~~evergreen community management plans and ordinances under RCW~~  
8 ~~35.105.050, whether the entity receiving assistance has been~~  
9 ~~recognized, and what gradation of recognition was received, in the~~  
10 ~~evergreen community recognition program created in RCW 35.105.030;~~

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

15 ~~(m) Other criteria that the board considers advisable.~~

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

21 ~~(6) Before November 1st of each even-numbered year, the board must~~  
22 ~~develop and submit to the appropriate fiscal committees of the senate~~  
23 ~~and house of representatives a description of the loans made under RCW~~  
24 ~~43.155.065, 43.155.068, and subsection (9) of this section during the~~  
25 ~~preceding fiscal year and a prioritized list of projects which are~~  
26 ~~recommended for funding by the legislature, including one copy to the~~  
27 ~~staff of each of the committees. The list must include, but not be~~  
28 ~~limited to, a description of each project and recommended financing,~~  
29 ~~the terms and conditions of the loan or financial guarantee, the local~~  
30 ~~government jurisdiction and unemployment rate, demonstration of the~~  
31 ~~jurisdiction's critical need for the project and documentation of local~~  
32 ~~funds being used to finance the public works project. The list must~~  
33 ~~also include measures of fiscal capacity for each jurisdiction~~  
34 ~~recommended for financial assistance, compared to authorized limits and~~  
35 ~~state averages, including local government sales taxes; real estate~~  
36 ~~excise taxes; property taxes; and charges for or taxes on sewerage,~~  
37 ~~water, garbage, and other utilities.~~

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

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

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

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

16 ~~(11) After January 1, 2010, any project designed to address the~~  
17 ~~effects of storm water or wastewater on Puget Sound may be funded under~~  
18 ~~this section only if the project is not in conflict with the action~~  
19 ~~agenda developed by the Puget Sound partnership under RCW 90.71.310.) )~~

20 When awarding financial assistance, the board must consider:

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

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

29 NEW SECTION. Sec. 10. A new section is added to chapter 43.155  
30 RCW to read as follows:

31 The intent of the project selection process is to promote state  
32 policy objectives as identified in this chapter and to maximize the  
33 value of projects financed under this chapter. The board must develop  
34 a process for numerically ranking the applications submitted by local  
35 governments. The board must consider, at a minimum and in any order,  
36 the following factors in assigning a numerical ranking to a project:

- 1 (1) Whether the project is critical in nature and would affect the
- 2 health and safety of many people;
- 3 (2) The extent to which the project leverages nonstate funds;
- 4 (3) The extent to which the project is ready to proceed to
- 5 construction;
- 6 (4) Whether the project is located in an area of high unemployment,
- 7 compared to the average state unemployment;
- 8 (5) Whether the project promotes the sustainable use of resources
- 9 and environmental quality;
- 10 (6) Whether the project consolidates or regionalizes systems;
- 11 (7) Whether the project encourages economic development through
- 12 mixed-use and mixed income development consistent with chapter 36.70A
- 13 RCW;
- 14 (8) Whether the system is being well-managed in the present and for
- 15 long-term sustainability;
- 16 (9) Achieving equitable distribution of funds by geography and
- 17 population;
- 18 (10) The extent to which the project meets state policy objectives
- 19 identified in this chapter; and
- 20 (11) Other criteria that the board considers necessary to achieve
- 21 the purposes of this chapter.

22 NEW SECTION. **Sec. 11.** The following acts or parts of acts are  
23 each repealed:

- 24 (1) RCW 43.155.040 (General powers of the board) and 1985 c 446 s
- 25 10;
- 26 (2) RCW 43.155.060 (Public works financing powers--Competitive bids
- 27 on projects) and 1988 c 93 s 2 & 1985 c 446 s 11;
- 28 (3) RCW 43.155.065 (Emergency public works projects) and 2001 c 131
- 29 s 3, 1990 c 133 s 7, & 1988 c 93 s 1;
- 30 (4) RCW 43.155.068 (Loans for preconstruction activities) and 2001
- 31 c 131 s 4 & 1995 c 363 s 2;
- 32 (5) RCW 43.155.110 (Puget Sound partners) and 2007 c 341 s 25; and
- 33 (6) RCW 43.155.120 (Administering funds--Preference to an evergreen
- 34 community) and 2008 c 299 s 30.

--- END ---



Date: February 28, 2013  
To: Public Works Board  
From: Ann Campbell, Project & Policy Development Specialist  
Subject: 2015 Public Works Trust Fund Construction Application Development

**RECOMMENDATION:**

Delay initiating the 2015 Construction Loan Application Cycle until April 15, 2013 to allow the Board to adopt a project selection and prioritization process that aligns with factors that may be required by the 2013 Legislature and approved by the Governor. This delay will also allow the Board time to assess the resources and processes it needs for the 2015 cycle.

**BACKGROUND:**

On Thursday, February 28, 2013, the House Capital Budget Committee passed Substitute House Bills (SHB) 1484 and 1969. House Bill 1484 was the Public Works Board's (Board) policy bill that codifies the Board's modernization efforts. House Bill 1969, prepared by House members, required the Board to prepare prioritized loan lists, and the bill identified and prioritized the factors to be used in the prioritization process.

In their original form, the two bills did not align. However, the substitute bills do align. SHBs 1484 and 1969 identify the same specific factors the Board must use in its selection process. The new process is to begin with the 2015 Construction Loan cycle.

The Board's 2015 Construction loan application window begins on March 18, 2013 and closes on May 8, 2013. The SHBs, should they become law, will dramatically affect the Board's 2015 Construction Loan selection and prioritization processes by requiring scores based on 10 or more factors. This will require significantly more information from and about local government applicants than we are currently requesting. The legislative process will not conclude before March 18<sup>th</sup>, and staff will not have enough time to develop, vet, and test the process prior to that date. As such, moving the opening date forward and extending the application timeline to June 1 should allow the legislative process to conclude and enough time to produce a process that is acceptable to the Board and its clients.

**PROPOSED REVISED PROCESS FOR 2015:**

Staff proposes that the Board create an ad-hoc committee to develop the 2015 Construction Loan selection process with input from the Board's stakeholder organizations. The committee would be chaired by a Board member and have several other Board members and other subject matter experts. This committee, in consultation with Board staff, would create a draft selection process, including new application criteria and a ranking process, submitted for Board approval at the April 5, 2013, Board meeting. In the event that the bills have not cleared the legislative process or have not been signed by the Governor by April 5<sup>th</sup>, staff and the ad hoc committee would stand ready to adjust the new process should any changes from the current substitute bills be approved. The Board might have to convene a special meeting to approve these adjustments.

The ad-hoc committee would direct staff to develop the new selection and prioritization process. The following identifies the 2014 selection process and the considerations needed for the 2015 selection process.

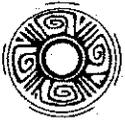
Currently, the Board's application process, is as follows:

- Applicants submit basic project information and a funding request.
- Submissions are vetted for threshold standards. Those that fail threshold review are notified, and no further action is taken.
- Applicants whose projects pass threshold review are asked a series of questions concerning the project in order to assess their financial capacity and managerial capacity. The project information is forwarded to the appropriate resource agency (Depts. of Health, Ecology, or Transportation) for review and input.
- The reviews result in the application being:
  1. Forwarded to the Board for funding consideration with no recommended special terms or conditions;
  2. Forwarded to the Board for funding consideration with recommended special terms or conditions;
  3. Discussed with the applicant for either modification to the funding request or possible withdrawal from funding consideration; or
  4. Forwarded to the Board with a staff recommendation that the project(s) not be funded

In light of the SHBs, the following additional criteria will need to be included in the application selection and review process:

- Whether the project is critical in nature and would affect the health and safety of many people
- The extent to which the project leverages non-state funds
- The extent to which the project is ready to proceed to construction
- Whether the project is located in an area of high unemployment, compared to the average state unemployment
- Whether the project promotes the sustainable use of resources and environmental quality
- Whether the project consolidates or regionalizes systems
- Whether the project encourages economic development through mixed-use and mixed income development consistent with chapter 36.70A RCW
- Whether the system is being well-managed in the present and for long-term sustainability
- Achieving equitable distribution of funds by geography and population
- The extent to which the project meets state policy objectives (identified in the SHB)
- Other criteria that the board considers necessary to achieve the purposes of this chapter (the SHB)

According to the bills, the Board will have to document the "numerical ranking assigned" for both the projects recommended for financing and those not recommended in the report it submits to the Legislature.



DATE: February 20, 2013  
TO: Public Works Board  
FROM: Isaac Huang, Client Services Representative  
Myra Baldini, Fund Manager and Underwriter  
SUBJECT: Public Works Trust Fund: Construction Loan Program  
Okanogan County – Loan Repayment Two (2)-Year Deferral Request  
PWTF Loan # PW-04-691-PRE-127  
PWTF Loan # PW-06-692 - 032

### RECOMMENDATION

Based on the request and analysis that follow, staff listed three (3) options for the Public Works Board (Board) to consider:

### OPTIONS AND IMPACTS

**Option (1) – No Changes.** See Attachment *OPTION 1: NO CHANGE. STATUS QUO: 30-YEAR LOAN EFFECTIVE JULY 1, 2012* for details.

**Option (2) – Allows a 2-year Deferral for PW-06-692-032 and PW-04-691-PRE-127**

Under this option, both loans will pay no principal and interest payments for two (2) years beginning 2013 through 2014. This option gives the County loan repayments relief for 2 years. See Attachment *OPTION 2: 2-YEAR DEFERRAL FOR PW-06-692-032 AND PW-04-691-PRE-127, EFFECTIVE JULY 1, 2013* for details.

**Option (3) – Allows a 2-year Deferral for PW-06-692-032, but No Deferral to pre-construction loan PWTF Loan # PW-04-691-PRE-127**

Under this option, loan PW-06-692-032 will pay no principal and interest payments for two (2) years beginning 2013 through 2014. This option gives the County loan repayments relief for 2 years. See Attachment *OPTION 3: 2-YEAR DEFERRAL FOR PW-06-692-032 EFFECTIVE JULY 1, 2013; NO DEFERRAL TO PRE-CON LOAN PWTF LOAN # PW-04-691-PRE-127* for details.

### OKANOGAN COUNTY CURRENT REQUEST

Okanogan Board of County Commissioners is asking the Public Works Board to revisit the two year deferral repayment request for their PWTF loans. The Commissioners believe that a deferral in addition to longer term and predictable payments is a beneficial to the County's current financial status. See Okanogan County Letter dated January 2, 2013 for details of the County's request.

### WHAT THIS CURRENT REQUEST MEANS

The County will incur a minimal interest cost by deferring or delaying their principal and interest payments for the loans for two years. There is no change on the term. The Public Works Assistance account repayment projection is reduced by 20<sup>th</sup> of one percent.

### PAST BOARD ACTION

Okanogan County loan number PW-06-962-032 was approved for a loan term extension from 20 to 30 years at the PWB June, 2012 meeting. No change to pre-construction loan PWTF Loan # PW-04-691-PRE-127, which the current term is 20 years.

The Board moved to approve the above with the condition that the County submits a plan to review that helps solidify future improvements to the land. The Memo from Okanogan County indicating the plan is attached, see Okanogan County Letter dated June 25, 2012.

## **ISSUE**

The Okanogan County would like to discuss financial opportunities that will become available as part of the PWTF loan repayment revenue. A number of County debt obligations currently being paid through the Distressed Counties Sale Tax Collections are nearing the point of being paid off. This opens up the opportunity for the County to meet the PWTF loan obligations regardless of the speed in which economy recovers.

This sewer system has a very unique situation, where the County owns the extended trunk line but the City of Oroville (City) operates and manages the entire sewer system, including all the rates and fees collected. The County does not have any control over or share of the rate revenue collected from the system. The only revenue source available to the County in the sewer system, is the connection fees collected from new developments in the area where the sewer line extends. The total PWTF repayment debt is split 30% from the City and 70% from County.

The County has dedicated all the connection charges generated from the developments along the sewer extension project to make loan payments. The County was expecting a certain number of new connections once the project is completed. However, the economic setbacks starting in 2008 have resulted in far fewer construction projects and hookups than the County projected at the time of receiving the loan. The County has been diverting other non-utility County resources to pay the PWTF debt service but those revenues will not be available in sufficient amount to continue to meet the loan obligations. However, the County is encouraged by the recent economic sign and a number of pending developments in the next 5 years. They expect this request will buy them needed time.

The County is seeking relief for its two PWTF loan repayments in the interim.

## **PROJECT BACKGROUND**

The Eastside Osoyoos Lake sewer utility project will serve the east side of Osoyoos Lake located on the northeast edge of City of Oroville in Okanogan County. This system will provide sanitary sewer service needed in the Eastside Osoyoos Lake area not only for the existing residences but allow for immediate and future development.

Lake Osoyoos straddles the international boundary between the US and Canada. Lake area has no existing central WWTF to service the collection area. This area relies entirely upon septic tank systems. During the 80's and 90's, the County Health Department found that soils through the area were generally unsuitable for septic tanks and drainfields. In addition, many of the drainfields are very close to the lake posing a threat of bacterial and nutrient pollution which directly affects the water quality of the lake.

The County is working under a MOU with the City of Oroville to use existing reserve capacity from the City's waste treatment facilities, when project completes, will serve between 750 and 1,800 ERU at full build-out. So far, 140 connections have been realized.

## **LOAN HISTORY**

In 2004, the County applied and received a \$ 656,474 Pre-construction loan at 0.5% interest rate with an extended loan term to 20 years. In June 2006, the County received a \$6,358,266 PWTF Construction loan at 2% interest rate for 20 years to construct the Osoyoos Lake sewer system.

The project was completed on August 2011, and the interest rate was reduced to 1%, when the County increased their local match to 10%.

The County has made all loan repayments on time. The Board staff have been in contact with and met County Planning and Development Directors and the staffs to look at different scenarios of repayment options.

## **ANALYSIS**

The lack of additional connections has constrained the County's ability to generate enough revenue from sewer system and force the use of its non-utility and reserve funds to make loan payments. As a

result, the County reserves funds have been reduced substantially. During the review on the County's financial status for the 2012 restructure request, FY 2012 does not show risk of loan default. However, Board staff was concerned of the County's fiscal capacity in future years

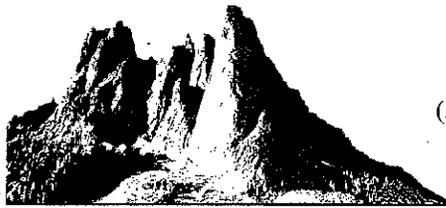
The majority of both the pre-construction loan PW-04-691-PRE-127 and construction loan PW-06-962-032 obligations are the responsibility of the County. Below are the repayment shares distributions:

**Table1: Loan Obligation Shares**

	PW-04-691-PRE-127	PW-06-962-032	Total
Okanogan County	91.54%	70.08%	80.81%
City of Oroville	8.46%	29.92%	19.19%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**Table2: Loan Obligations – Status Quo**

	PW-04-691-PRE-127	PW-06-962-032	Total
<b>Loan Amount</b>	\$ 656,474	\$6,358,266	<b>\$7,014,740</b>
<b>Outstanding Balance</b>	\$420,596	\$4,825,408	<b>\$5,246,004</b>
<b>2013 Payments by Loan</b>			
Interest	\$ 2,103	\$ 48,254	\$ 50,357
Principal	\$35,050	\$201,059	\$236,109
<b>Total</b>	<b>\$37,153</b>	<b>\$249,313</b>	<b>\$286,466</b>
<b>2013 Payments by Share</b>			
Okanogan	\$34,010	\$174,718	\$208,728
Oroville	\$3,143	\$ 74,594	\$77,737
	<b>\$37,153</b>	<b>\$249,313</b>	<b>\$286,466</b>



**OKANOGAN COUNTY  
OFFICE OF PLANNING AND DEVELOPMENT**

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---

**Date:** June 25, 2012

**To:** Isaac Huang  
Public Works Trust Fund

**From:** Perry D. Huston, Director

**Topic:** Public Works Trust Fund Loan  
Eastlake Sewer

This memorandum responds to the question posed by the PWTF Board regarding the revenue sources Okanogan County intends to dedicate to debt service for the re-amortized loan for the Eastlake Sewer. Attached to this memorandum is a table showing the ability of these revenue sources to make the payment based on historical levels for these revenues and a conservative estimate of connection fees.

It is the intent of the Commissioners to dedicate all connection fees received to debt service. If the amount of collection fees received are insufficient to make the payment the Commissioners intend to use revenues from the .09 sales tax conversion (infrastructure fund) to make the payment. Because the collection of real estate excise tax has diminished considerably with the downturn of the real estate market there is little discretionary revenue in this account however the Commissioners will use revenue from this source in the event connection fees and the infrastructure fund cannot make the payment.

The Commissioners appreciate the decision of the PWTF Board to re-amortize the loan and understand their reluctance to go beyond a 30 year term. The Commissioners also appreciate their consideration of our request for deferred payments. The Commissioners would request the PWTF Board revisit their decision denying this part of the County's request. We understanding the decision of the PWTF Board to re-amortize the loan effective for this year's payment already impacts the budget projections made by the Board. The Commissioners would like to ask the PWTF Board to consider accepting the re-amortized payment due in 2012 and deferring the payments for 2013 and 2014. This would allow the revenue from the identified sources to build and allow two more years for the economy to stabilize.

We appreciate all your and Ms. Baldini's efforts and the consideration given us by the PWTF Board. We recognize these are not easy decisions and are certainly decisions

with repercussion.

Respectfully Submitted,

Perry D. Huston, Director

ATTACHMENTS  
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OKANOGAN COUNTY  
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---

January 2, 2013

Isaac Huang  
Public Works Trust Fund  
PO Box 42525  
Olympia, WA 98504-2525

Re: Public Works Loan #PW-04-691-PRE-127 (L#1)  
Public Works Loan # PW-06-962-032 (L#1)

Dear Mr. Huang,

This letter responds to your earlier phone call and follows up the Public Works Trust Fund Board decision of June 2012 that restructures the payment schedule for the above referenced loans.

The Okanogan Board of County Commissioners has asked that the PWTF Board revisit our request for two years of deferred payments for the loans. This request was part of the documents prepared for the June 2012 discussion. As outlined in our request the objective was to create a scenario where Okanogan County was positioned to meet the obligations for debt service on the loans regardless of the speed in which the economy recovers. The PWTF Board decision to restructure the loan payments was an important part of that desired outcome and I want to again express the appreciation of the Okanogan Board of County Commissioners to the PWTF Board for their understanding and willingness to work with us on this matter.

The request for two years deferral was driven by two considerations.

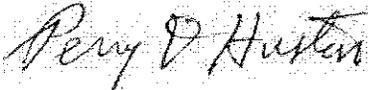
- 1) It would allow the County to bank money to subsidize future payments.
- 2) Other obligations coming from the distressed counties fund are nearing the point of being paid off.

ATTACHMENTS  
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Based on our analysis a two year deferral would essentially guarantee our ability to make the loan payments from the distressed counties sale tax collections. This in turn would put the matter of the Eastlake Sewer Loans behind both Okanogan County and the PWTF Board.

I want to thank you again for your personal effort on this matter. I also want to thank the PWTF Board for their time in considering our request.

Sincerely,



Perry D. Huston, Director

Cc: Okanogan Board of County Commissioners  
Lalena Johns, Clerk of the Board, Okanogan County  
Nan Kallunki, Administrative Services Director, Okanogan County  
File

ATTACHMENTS  
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**OPTION 1: NO CHANGE. STATUS QUO: 30-YEAR LOAN EFFECTIVE JULY 1, 2012**

PRE-CONSTRUCTION PROJECT (PW-04-691-PRE-127) Eastside Osoyoos Lake Sewer Utility											
Due	Principal	Interest (0.5%)	Payment Obligation Distribution			Interest (7%)	Payment Obligation Distribution			TOTAL	
			Oroville (8.46%)	Okanogan (91.54%)	TOTAL		Oroville (29.92%)	Okanogan (70.08%)	TOTAL		
7/1/2006	0	896	76	820	896						
7/1/2006	30,315	2,880	2,808	30,386	33,195						
7/1/2007	30,315	2,728	2,795	30,248	33,043						
7/1/2008	35,050	2,910	3,211	34,748	37,960						
7/1/2009	35,050	2,804	3,202	34,651	37,854						
7/1/2010	35,050	2,629	3,188	34,491	37,678						
7/1/2011	35,050	2,453	3,173	34,330	37,503						
7/1/2012	35,050	2,278	3,158	34,170	37,328						
7/1/2013	35,050	2,103	3,143	34,010	37,153						
7/1/2014	35,050	1,928	3,128	33,849	36,977						
7/1/2015	35,050	1,752	3,113	33,689	36,802						
7/1/2016	35,050	1,577	3,099	33,528	36,627						
7/1/2017	35,050	1,402	3,084	33,368	36,452						
7/1/2018	35,050	1,227	3,069	33,207	36,276						
7/1/2019	35,050	1,051	3,054	33,047	36,101						
7/1/2020	35,050	876	3,039	32,887	35,926						
7/1/2021	35,050	701	3,025	32,726	35,751						
7/1/2022	35,050	526	3,010	32,566	35,575						
7/1/2023	35,050	350	2,995	32,405	35,400						
7/1/2024	35,050	175	2,980	32,245	35,225						
7/1/2025											
7/1/2026											
7/1/2027											
7/1/2028											
7/1/2029											
7/1/2030											
7/1/2031											
7/1/2032											
7/1/2033											
7/1/2034											
7/1/2035											
7/1/2036											
<b>TOTAL</b>	<b>656,474</b>	<b>33,248</b>	<b>58,351</b>	<b>631,372</b>	<b>689,722</b>	<b>6,358,266</b>	<b>1,176,050</b>	<b>2,254,267</b>	<b>5,280,049</b>	<b>7,534,316</b>	

CONSTRUCTION PROJECT (PW-06-982-032) Eastside Osoyoos Lake Sewer Utility										
Due	Principal	Interest (7%)	Payment Obligation Distribution			TOTAL				
			Oroville (29.92%)	Okanogan (70.08%)	TOTAL					
7/1/2006	0	896	76	820	896					
7/1/2006	30,315	2,880	2,808	30,386	33,195					
7/1/2007	30,315	2,728	2,795	30,248	33,043					
7/1/2008	35,050	2,910	3,211	34,748	37,960					
7/1/2009	35,050	2,804	3,202	34,651	37,854					
7/1/2010	35,050	2,629	3,188	34,491	37,678					
7/1/2011	35,050	2,453	3,173	34,330	37,503					
7/1/2012	35,050	2,278	3,158	34,170	37,328					
7/1/2013	35,050	2,103	3,143	34,010	37,153					
7/1/2014	35,050	1,928	3,128	33,849	36,977					
7/1/2015	35,050	1,752	3,113	33,689	36,802					
7/1/2016	35,050	1,577	3,099	33,528	36,627					
7/1/2017	35,050	1,402	3,084	33,368	36,452					
7/1/2018	35,050	1,227	3,069	33,207	36,276					
7/1/2019	35,050	1,051	3,054	33,047	36,101					
7/1/2020	35,050	876	3,039	32,887	35,926					
7/1/2021	35,050	701	3,025	32,726	35,751					
7/1/2022	35,050	526	3,010	32,566	35,575					
7/1/2023	35,050	350	2,995	32,405	35,400					
7/1/2024	35,050	175	2,980	32,245	35,225					
7/1/2025										
7/1/2026										
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7/1/2035										
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<b>TOTAL</b>	<b>656,474</b>	<b>33,248</b>	<b>58,351</b>	<b>631,372</b>	<b>689,722</b>	<b>6,358,266</b>	<b>1,176,050</b>	<b>2,254,267</b>	<b>5,280,049</b>	<b>7,534,316</b>

CONSTRUCTION PROJECT (PW-06-982-032) Eastside Osoyoos Lake Sewer Utility										
Due	Principal	Interest (7%)	Payment Obligation Distribution			TOTAL				
			Oroville (29.92%)	Okanogan (70.08%)	TOTAL					
7/1/2006	0	896	76	820	896					
7/1/2006	30,315	2,880	2,808	30,386	33,195					
7/1/2007	30,315	2,728	2,795	30,248	33,043					
7/1/2008	35,050	2,910	3,211	34,748	37,960					
7/1/2009	35,050	2,804	3,202	34,651	37,854					
7/1/2010	35,050	2,629	3,188	34,491	37,678					
7/1/2011	35,050	2,453	3,173	34,330	37,503					
7/1/2012	35,050	2,278	3,158	34,170	37,328					
7/1/2013	35,050	2,103	3,143	34,010	37,153					
7/1/2014	35,050	1,928	3,128	33,849	36,977					
7/1/2015	35,050	1,752	3,113	33,689	36,802					
7/1/2016	35,050	1,577	3,099	33,528	36,627					
7/1/2017	35,050	1,402	3,084	33,368	36,452					
7/1/2018	35,050	1,227	3,069	33,207	36,276					
7/1/2019	35,050	1,051	3,054	33,047	36,101					
7/1/2020	35,050	876	3,039	32,887	35,926					
7/1/2021	35,050	701	3,025	32,726	35,751					
7/1/2022	35,050	526	3,010	32,566	35,575					
7/1/2023	35,050	350	2,995	32,405	35,400					
7/1/2024	35,050	175	2,980	32,245	35,225					
7/1/2025										
7/1/2026										
7/1/2027										
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## Reasons for Proceeding With the PWTF Loan

- Fully ready to proceed with design and construction, and all three jurisdictions are in agreement on project work plan.
- County/PUD/City have made a very large commitment of time and funding to get to this point. \$638,000 spent so far on Facility Plan and associated studies (not including considerable staff time.)
- Widespread public involvement and strong support for the project in Carlsborg commercial and industrial community.
- Project is not as far behind schedule as staff report indicates:
  - ❖ Est. Completion in 2010 draft Facility Plan: Early 2015
  - ❖ Current Est. Completion: November 2015

# Public Participation 2011 - 2013

- At least 10 meeting/hearings with the County Commissioners.
- 9 meetings of the Carlsborg Community Advisory Council.
- Carlsborg Community Forum 8/7/12
- Joint public meeting City Council/County Commissioners/PUD 11/5/12
- Numerous presentations by staff to civic groups, home owners associations, EDC, etc.

## Project Delays

- Delays were largely beyond the control of local agencies, and **not** due to locally generated changes in project concept.
- Ecology's review of 2010 facility plan led to a complete change in location and design of the treatment plant.
- Plan resubmitted in June 2012, followed by five month Ecology review.
- Conditional approval November 15, 2012.

# Sequim Treatment and Reuse

- Appears financially attractive – Estimated capital and O&M savings over 20 years - \$2,800,000.
- Facility plan amendment must be approved by Ecology.
- Evaluating the alternative will not delay project. Evaluation will be concurrent with collection system design, essentially a value engineering task.
- Facility plan will not be changed unless:
  - ❖ Agreement reached with City of Sequim
  - ❖ Significant cost savings confirmed
  - ❖ Timely approval of facility plan amendment by Ecology
- Sequim treatment and reuse could shorten time to completion.

Carlsborg Sewer System Draft Timeline - Updated 2/19/13

Shared resp.  
County  
Consultant  
Cont-actor

ECY

Task#	2013												2014												2015											
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
1	PUD/CO LA																																			
2	Sequim/Co LA												Develop final city cost proposal																							
3	RFP												Ad/Award Design Carlsborg Collection System																							
4	Design RFP												Amend Facility Plan																							
	Select Conveyance Route												ECY Review																							
	Evaluate Reuse Options												ECY Review																							
5													Design conveyance of Carlsborg Rr, Incl. Sequim																							
6																																				
7	Connection Policy/Sewer Use Ordinance																																			
8													Use fee ordinance																							
9													Bid/ Award												Const. collection System											
													Bid/ Award												Const. Conveyance/Carlsborg Rr - finish Nov.											

**Dungeness Regional Wastewater Improvement Project**

*We enthusiastically embrace the challenge to improve and protect the Dungeness Valley, Sequim Bay, and surrounding area watersheds.*

**WHEREAS**, the undersigned partners recognize that increasing numbers of aquatic disposed items and aging septic systems are endangering the quality of the water in the aquifers and the health of the ecosystems;

**WHEREAS**, the undersigned partners recognize that decreasing levels of surface and ground water is negatively impacting streamflows, fish habitat, and other ground water recharge; and

**WHEREAS**, the undersigned partners desire to improve and protect the Dungeness Valley, Sequim Bay, the Dungeness River and other streams and aquifers which are part of our watershed;

**THEREFORE**, in consideration of the foregoing and of the mutual understanding set forth herein, the parties hereto agree as follows:

**We support:**

- > City of Sequim Class "A" wastewater treatment system in Curborg Urban Growth Area.
- > City of Sequim Class "A" wastewater treatment system in Sequim Bay State Park.
- > City of Sequim Class "A" wastewater treatment system to Jameson's Killam Tribal Center/BI in area.

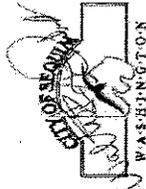
**We support achieving the following benefits:**

- > Protect our streams, rivers and aquifers
- > Protect steelhead
- > Increase salmon habitat
- > Improve dissolved oxygen content in Sequim Bay
- > Reduce methylmercury exposure
- > Reduce total coliform contamination
- > Reduce nitrate contamination
- > Increase water reuse for irrigation
- > Increase water reuse for streamflow augmentation that prioritizes the Dungeness River and the Hucos/Sealady Creek Watersheds
- > Increase water reuse for groundwater recharge that prioritizes the Dungeness River and the Jameson/Killam Creek Watersheds.

**We will ensure:**

- > Compliance with city and county comprehensive plans, the Washington State Growth Management Act, RCW 36.70, and local, state and federal regulations, in accomplishing the above objectives.

*We will strive to work together to pass this final onto our children greater and better than it was when our parents passed it onto us.*



WASHINGTON



Sequim State Parks



Jameson's Killam Tribe



Sequim County



Washington State Parks



Sequim Bay State Park



Sequim Bay State Park

Sequim City Council  
*[Signature]*

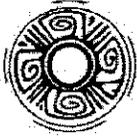
Sequim County Commissioners  
*[Signature]*

Sequim Bay State Park  
*[Signature]*

Jameson's Killam Tribe  
*[Signature]*

Sequim Bay State Park  
*[Signature]*

Sequim Bay State Park  
*[Signature]*



DATE: February 19, 2013  
 TO: Public Works Board  
 FROM: Bruce Lund, CAU Managing Director  
 SUBJECT: Notice to Proceed Extension Requests

**STAFF RECOMMENDATION**

Staff recommends extending the contract Notice to Proceed date as follows:

Program	Client	Contract No.	Project	Loan/Grant Amount	Available to Draw	Current NTP Date	Proposed NTP Date
DWSRF	Camano Hills Water Company	DP10-952-024	Water Treatment for Removal of Arsenic	\$206,881.33	\$193,998.51	8/17/12	4/30/13
Reason for Extension Request: Project needed additional time to determine best treatment system and pilot testing. The project is now ready to go to bid and scheduled to award contract by April 2013.							
DWSRF	Juniper Beach Water District	DM10-952-032	Land's Hill Water Rehabilitation and Consolidation	\$591,585.00	\$422,996.16	8/14/12	7/10/13
Reason for Extension Request: Project annexation and ULID creation took longer than anticipated. Bidding process scheduled for May 2013.							
DWSRF	Napavine	DM10-952-006	Small Water System Consolidation	\$2,832,000.00	\$2,723,932.42	12/9/12	9/3/13
Reason for Extension Request: Formation of the LID took longer than anticipated. DOH has approved the environmental review and the project is able to move forward.							
DWSRF	Springdale	DM10-952-027	Water Quality Improvement	\$4,520,396.00	\$4,299,273.13	12/13/12	8/31/13
Reason for Extension Request: Project costs came in higher than anticipated and therefore project had to be re-scoped. Client working through amendment process.							

**BACKGROUND**

The clients have requested an extension to their Notice to Proceed date. The requests have been reviewed with the clients and evaluated through a staff peer review. DOH has been consulted and agrees with extending the DWSRF projects.



DATE: February 19, 2013  
 TO: Public Works Board  
 FROM: Bruce Lund, CAU Managing Director  
 SUBJECT: Project Completion Extension Requests

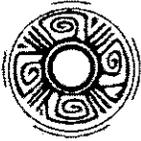
**STAFF RECOMMENDATION**

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
PWTF	Clark County	PC08-951-008	I-5/Salmon Creek Interchange & Other Improvements	\$10,000,000	\$500,000	4/1/12	4/1/13	7/1/15
Reason for Extension Request: PWB construction phases are complete, but the Scope of Work includes multi-funded activities that are still in progress and not scheduled to complete for two years. Project is 75% complete.								

**BACKGROUND**

The clients have requested extension to their project completion dates. Staff evaluated the requests through a staff peer review process.



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Date: February 28, 2013  
To: Public Works Board  
From: Kathryn Wyatt  
Subject: **Hideaway Mobile Home Park DWSRF Loan Default (approximately \$90,000)**

### **Background**

At the January 2013 Board meeting PWB staff (Steve Dunk) provided a written and verbal presentation to the Board regarding the DWSRF Hideaway Mobile Home Park loan default. The recommendation by the Board was to turn the documentation over to the Board's Attorney General (AG) for further action and to advocate for their position.

Staff met with the Attorney General to brief her on the documents and the information that had previously been retained.

### **Findings**

Please refer to the e-mail below written by Kathryn Wyatt (AG)

Steve,

I have carefully reviewed this entire file, and the bottom line is that I cannot find any solution that you have not already tried. It appears this loan was problematic from the start in terms of cooperation and responsiveness from MHP. You have been thorough in documenting your efforts to bring the loan into compliance and to achieve repayment in whole, or in even in part, by contacting every party involved before, during, and after the bankruptcy and the subsequent foreclosure of the property (which left MHP with no assets).

At our initial meeting, I suggested I might contact the City of Spokane in an additional attempt to request the City to cover, or at least contribute to, the loan repayment, since the City is the beneficiary of the loan in terms of increased customers resulting from the connection of MHP to the City water system. However, considering the City has no obligation to repay MHP's loan and had already once declined to adjust its rate to contribute to the repayment of the loan, I needed something new to say.

I turned to the Bankruptcy Code and researched whether there might be some basis specific to public works loans or specific to federally funded loans administered by states. I found a few interesting things, but nothing that would provide a basis for garnishing, or for tracing the loan through the bankruptcy proceedings and requiring another party to repay.

The loan contract says that the loan shall be secured by a lien on all of the borrower's accounts, including accounts receivable and including the dedicated account for repayment of the loan. See Section 4.08(A) Loan Security. This same provision in the contract requires, "The security shall be evidenced by a Promissory Note, Commercial Security Agreement, and UCC-1."

I was unable to locate any of these documents intended to evidence that the Board had filed a lien. Had a lien been placed, the lien would not have been subordinated to any other loan MHP subsequently entered. But that is not to say the lien would have secured repayment of the loan, as MHP's debt/asset ratio was about 2:1.

Had the Board considered filing a claim for repayment in the bankruptcy proceedings, its decision would have taken into account that a state agency filing a bankruptcy claim in federal court waives sovereign immunity from suit. Waiver of immunity occurs in this circumstance because claimants in bankruptcy proceedings are subject to cross claims filed by other claimants. Thus, even if the Board had discovered the bankruptcy in time to file a claim for repayment of the loan, filing a claim might not have been advisable because of the waiver of immunity.

In my opinion, this is the end of the road for this loan.

Kathryn Wyatt  
Assistant Attorney General

**Kathryn Wyatt**  
**Assistant Attorney General**  
**Government Operations Division**  
7141 Cleanwater Lane  
Olympia, WA 98501  
360-753-3458  
[kathrynw@atg.wa.gov](mailto:kathrynw@atg.wa.gov)

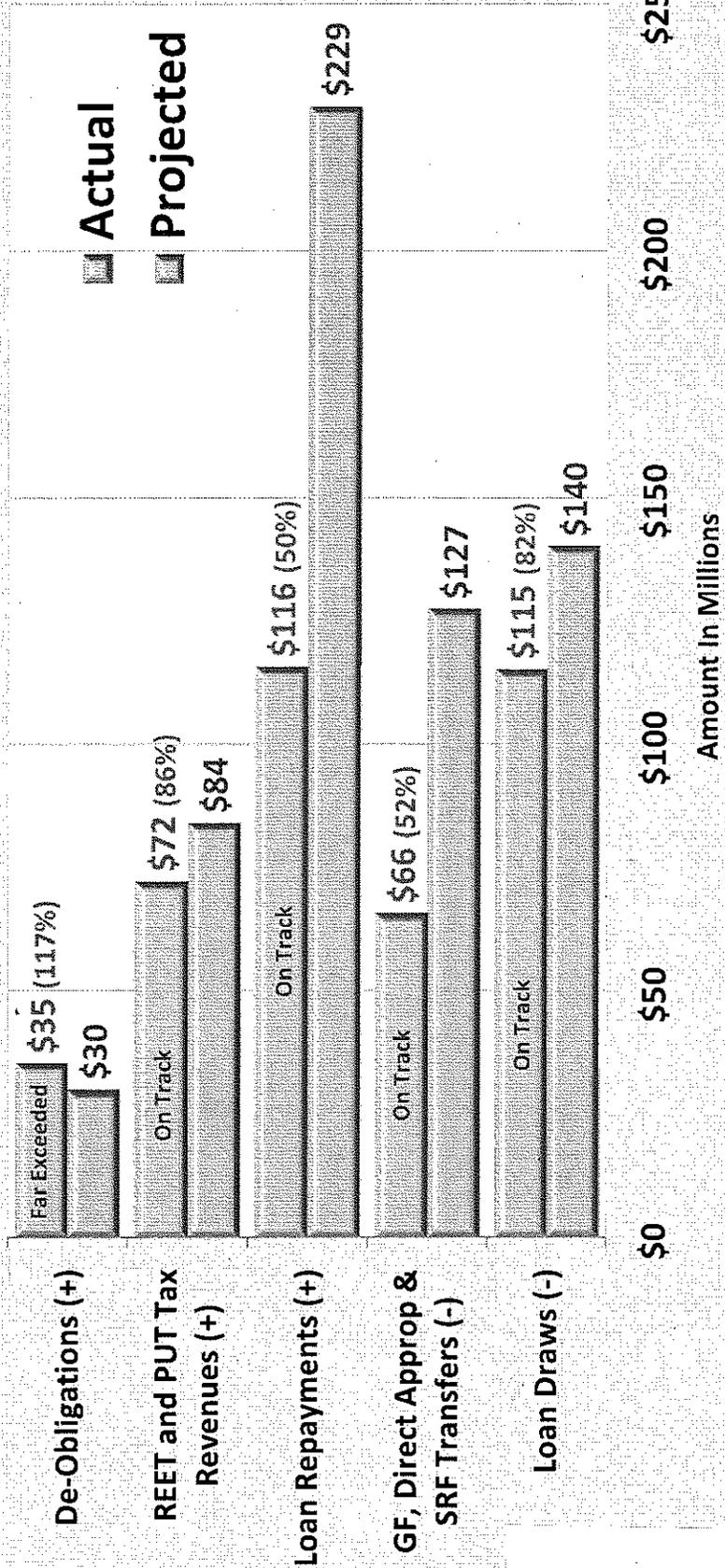
When you face the sun, the shadows always fall behind you. – Helen Keller

**March 1, 2013 Public Works Board Meeting Report**  
**Public Works Assistance Account Predictive Model Data for 2011-13 Biennium**

(Fiscal Years Beginning July 1, 2011 through June 30, 2013)  
 Model Updated on February 15, 2013

BIENNIAL KEY FACTOR	TYPICAL PROJECTION	OUR NUMBER	ACTUAL 12/31/2012	% (Actual VS Typical)
De-Obligations (+)	\$30,000,000	\$28,000,000	\$35,315,130	118%
Tax Revenues (+)	\$83,970,701	\$79,186,335	\$72,173,257	86%
Loan Repayments (+)	\$229,122,222	\$229,122,222	\$115,649,004	50%
GF, Direct Approp & SRF Transfers (-)	\$127,300,000	\$127,300,000	\$65,732,326	52%
Loan Draws (-)	\$140,000,000	\$151,201,994	\$115,203,829	82%

Tracking Predictive Model Key Factors: Projected VS. Actual with Four Months Left on the 2011-13 Biennium



**ESTIMATED CASH BALANCE AT THE END OF THE BIENNIUM: \$25,000,000**

Prepared by: Myra Baldini, Board Staff 360.725.3152.