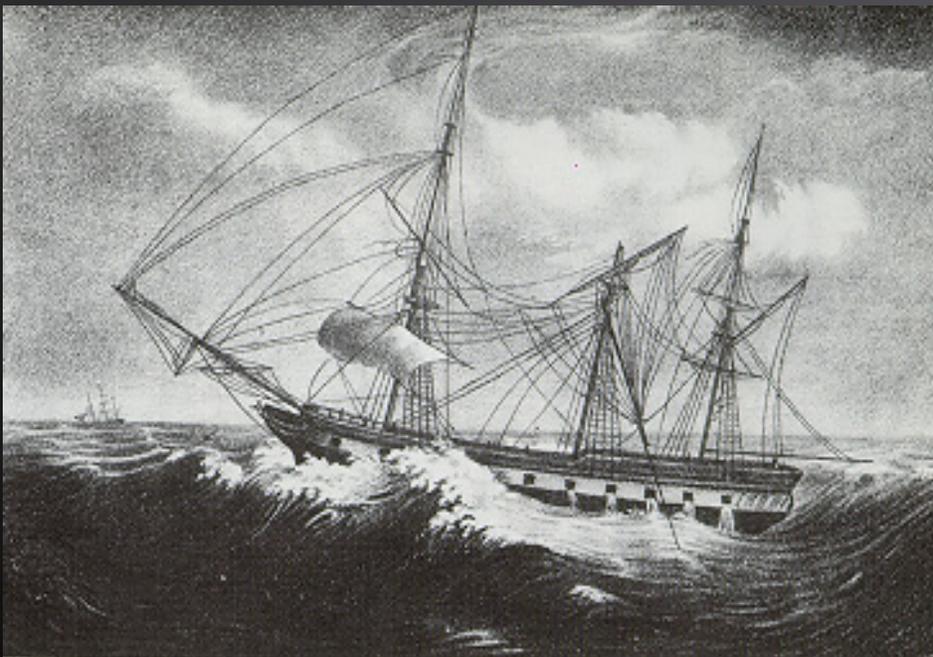




Public Works Board 2012 Policy Retreat

Navigating Uncertain Waters



THURSDAY 5/3/2012

7:00 – 8:00 BREAKFAST

8:00– 8:15	Welcome and Introductions Rogers Weed, Director Department of Commerce
8:15– 8:30	Navigating Uncertain Waters- Stan Finkelstein
8:30– 10:00	Step 1: Roundtable discussion Identifying Opportunities for the next 3 years Step 2: Identify Who, What, When, and How to achieve identified opportunities

10:00-10:30 BREAK

10:30- 12:00	Continue Step 2 Step 3: Prioritize Identified Opportunities by Group
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12:00-1:00 LUNCH

1:00– 2:00	Step 4: Prioritize Identified Opportunities by Board
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2:00-2:15 BREAK

2:15- 4:00	Step 5: Match—Comparing the past—present—future
4:00- 4:30	Recap the Day – Set up for Friday

4:30 ADJOURN FOR THE DAY

FRIDAY 5/4/2012

7:30 – 8:00 BREAKFAST

8:00- 8:15	Recap Goals
8:15– 10:30	Step 6: Update Strategic Plan

10:30-11:00 BREAK

11:00- 12:00	Step 7: Turning Policy into Dollars via the Budget
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12:00-12:30 LUNCH

12:30- 2:00	Recap—Stan Finkelstein Take-Away/Assignments
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2:00-2:15 BREAK

2:15- 3:30	Standard Public Works Board Business Meeting—Action Items
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3:30 ADJOURN

**00000000Public Works Board
2012 Policy Retreat Agenda**



WEDNESDAY 5/2/2012	
5:00 Dinner on your own Ramblin Jack's	
THURSDAY 5/3/2012	
7:00 – 8:00 BREAKFAST	
8:00–8:15	Welcome and Introductions Rogers Weed, Director, Department of Commerce
8:15–8:30	Navigating Uncertain Waters Stan Finkelstein
8:30–10:00	STEP 1: Roundtable - Identifying Opportunities for the next 3 years STEP 2: Identify Who, What, When, and How to achieve identified opportunities
10:00-10:30 BREAK	
10:30-12:00	STEP 2: Identify Who, What, When, and How (continued) STEP 3: Prioritize Identified Opportunities by the Group
12:00-1:00 LUNCH	
1:00–2:30	STEP 4: Prioritize Identified Opportunities by the Board
2:30-2:45 BREAK	
2:45-4:00	STEP 5: Match Game (Comparing past – present – future) <ul style="list-style-type: none"> · Strategic Plans (Compare/Prioritize Update) <ul style="list-style-type: none"> • Public Works Board • Department of Commerce · Policy Bill · Rumors <ul style="list-style-type: none"> • Governor's Office • Legislative • On the street
4:00-4:30	Recap the Day – Set up for Friday
4:30 ADJOURN FOR THE DAY	
DINNER ON YOUR OWN	

FRIDAY 5/4/2012

7:30 – 8:00 BREAKFAST

8:00-8:15 Recap Goals

8:15-10:30
STEP 6:
Update Strategic Plan

- Identify goals for the next three years
- Identify how to achieve those goals

Redesign Policy Bill (consensus)

10:00-11:00 BREAK

10:15-12:00
STEP 7: Turning Policy into Dollars via the Budget
Budgets

- Timeline
- Prep work – Data
- Review staff proposals

12:00-12:30 LUNCH

12:30-2:00
STEP 8: Board Budget Development

- Operating
- Capital

Wrap Up — Stan Finkelstein
Take-Away/Assignments

2:00-2:15 BREAK

2:15-3:30.
Standard Public Works Board Business Meeting—Action Items

- Contracting Items
 - o Consent Agenda – extensions
 - o Pre-Construction Contract loan term extension
 - o Loan Term Extension – City of Yakima
 - o Loan Deferral – Sacheen Lake WSD
- Draft DWSRF Prioritized Loan List
- Legislative Update
- CERB Main Street Direct Appropriation
- Action Items from Retreat

3:30 ADJOURN

Step 1:

Identify Opportunities

- As a Group - identify the three opportunities the Board should take on in the next three years

Step 2:

Identify Who, What, When, and How to achieve identified opportunities

Step 3:

Prioritize Identified Opportunities by the Group

Step 4:

Prioritize Identified Opportunities by the Board

Step 5:

Match Game

- Comparing the Past-Present-Future
- Strategic Plans
- Policy Bills

Step 6:

**Update Strategic Plan
Design Policy Bill**

Step 7:

Turning Policy into Dollars via the Budget

Step 8:

Board Budget Development

1. Guest Participants

a. Past Board Members/Guests

- i. Glenn Olson - Chair*
- ii. Dennis Hession – Chair*
- iii. Katy Isaksen – Vice Chair*
- iv. Lynne Danielson – W/S District Representative*
- v. Rebecca Francik – City Representative*
- vi. Pete Capell – County Representative*
- vii. Alice Ostdiek, Foster Pepper, PLLC*

b. Partners

- i. Rogers Weed – Department of Commerce*
- ii. Karen Larkin – Department of Commerce*
- iii. Kristin Bettridge – Department of Health*
- iv. Jeff Nejedly – Department of Ecology*
- v. Steve Gorcester – Transportation Improvement Board*

c. Stakeholders

- i. Ashley Probart – AWC*
- ii. John Kounts – PUD's*
- iii. Blair B. Burroughs - WASWD*

Panel Bio's

Peter Capell, PE

Mr. Capell was appointed Public Works Director/County Engineer for Clark County, Washington in 2000. Prior to this assignment, he served as County Engineer for three years, beginning in February 1997. The Public Works Department is responsible for planning, construction, operations and maintenance in transportation, wastewater treatment, parks and recreation, and the county fleet of vehicles and equipment. The department includes a staff of 240 people.

Prior to joining the county, he was vice president of Century West Engineering in Portland, Oregon. He brings 30+ years of project and program management experience in Public Works and Engineering projects.

He is a twenty-five year resident of Vancouver, Washington, and graduated from Oregon State University in 1980.

Mr. Capell is the 2012 Vice President for the Board of Directors for the Washington State Chapter of the American Public Works Association and is the secretary for the Columbia Spring Board of Directors. He is a past Board Chair for the Southwest Washington Chapter of the American Red Cross and still participates on their Board of Directors. Pete has also been a classroom Lunch Buddy at in the Vancouver School District for over ten years.

Education: BS Civil Engineering, Oregon State University, 1980

Certification: Professional Engineer, California 36220, Oregon 12448, and Washington 27929
Project Management Professional, Project Management Institute, Certification Number 2194, 1993

Lynne Danielson

Education:
BS Accounting
Masters Business Admin
Masters Public Admin

Work Experience:
21 years in utility – Finance.
Appointed General Manager of Olympic Water and Sewer District 2011.

Professional Organizations:
Served on the PWTF Board (don't remember the dates)
President of Washington Association of Sewer and Water District
PNWS – AWWA Utility Management Committee
Washington Finance Officers Association
Government Finance Officers Association

Dennis P. Hession

Born in Salt Lake City to an Irish Catholic family, I moved to Spokane to attend Gonzaga University. I graduated with a degree in Psychology, married Jane and returned to Salt Lake where I worked as the Director of Social Services for the Head Start Program. After a formative four year educational break, Jane and I returned to Spokane to pursue our graduate careers.

After graduating with honors from Gonzaga University School of Law, I took the bar exam and then moved our quickly expanding family to Gainesville. Nine months later I graduated from the University of Florida with an LL.M. in Taxation.

Returning home to Spokane, I went to work as a municipal bond and securities lawyer for the predecessor to K&L Gates where I was also the prosecutor on contract with the City of Deer Park. For the next 25 years I worked at Richter-Wimberley as a specialist in business, tax, and municipal law. I have now returned to the practice of law and also enjoy teaching contract drafting to first year law students at Gonzaga University School of Law.

My board experiences include my positions as the President of the Board of the March of Dimes, the President of the Park Board, the President of the Park and Recreation Foundation, the Chairman of the Board of Excelsior Youth Center, and most recently, appointed by the Governor, the Chair of the Public Works Board for the State of Washington. My elected experiences include my election to a position on the City Council and as City Council President.

Throughout my life I also have been dedicated to community and public service. Board work with nonprofits and foundations, national and state boards as well as my election to public office, are a significant part of my life. It turned into a full time commitment when I was appointed as the Mayor of Spokane. In my years with the City I spent many hours engaged with the public, made many difficult decisions and crafted solutions to challenging public problems. My public service has made me a better lawyer and a better person.

In my private time, I enjoy studying the life and writings of Abraham Lincoln, and I plan to be a runner for life.

Glenn Olson

Glenn Olson is a lifetime Washington resident with undergraduate and graduate degrees from Western Washington University. He spent 15 years in the Governor's Office of Financial Management overseeing budget forecasts. Mr. Olson chaired the Washington State Public Works Board for the Governor Locke, and is the current gubernatorial appointee representing local governments on the Select Committee for Pension Policy and on the Law Enforcement Officers and Fire Fighters Plan 2 (LEOFF2) Board. Mr. Olson came to Clark County in 1997 as Budget Director and now serves there as the Deputy County Administrator. Mr. Olson also is past president of the Washington County Administrator's Association.

**TAB 2
COMPARING
THE PAST – PRESENT- FUTURE**

The Past

- 1) *Executive Summary to the “Green Book” (2004)*
- 2) *Public Works Board Strategic Plan (2006)*
- 3) *Department of Commerce Strategic Plan (Infrastructure Component)*

The Present

- 4) *Modernization Plan Report – Executive Summary (2011)*
- 5) *Public Works Board Summary of Policy Bill (2012)*
- 6) *Public Works Board Policy Bill (2012)*

The Future

- 7) *Expanded Technical Assistance*
- 8) *Investment Grade Efficiency Audit (IGEA) Program*

Public Works Board Financing Washington's Future The Next 20 Years (2004) Executive Summary

In 1985, the Washington State Legislature responded to deadly failures of infrastructure systems in the eastern part of the country and a statewide study that found the same systems to be in desperate need of attention in Washington by creating the Public Works Assistance Account. It commissioned the Washington State Public Works Board to administer the account and to use it to finance critical local government public works projects. It capitalized the account with \$17 million and dedicated four tax resources to generate funds to finance projects.

For 20 years, the Board has diligently pursued its legislative directives. It has built the fund from the \$17 million to one that regularly finances more than \$200 million a year in local infrastructure projects. Past governors and legislatures responded to changing local conditions by adding a system, by authorizing financing for planning and pre-construction activities, by allowing the Board to respond on a limited basis to emergency situations, and by linking PWTF with the federally funded Drinking Water State Revolving Fund. While these events changed the PWTF, they were modest and very focused, leaving the program as one of the most stable and predictable in the state.

The Governor, the Legislature, and the Board are committed to having the PWTF keep pace with the needs of local governments and they saw the 20-year anniversary as an ideal time to consider options for modifying the program. Recent proposals by various interest groups indicated that this may be the optimal time to conduct a comprehensive assessment and to consider changes that would ensure that the PWTF remain responsive to local government needs for the next 20 years.

In May 2003, the Board began the assessment process. It directed staff to collect input from local governments, advocate associations, state and federal financing and regulatory agencies, other public officials, and interest groups. The Board emphasized that input from the Board's customers was essential. Public meetings were held, surveys were conducted, and meetings were held to collect information. In all, over 250 individuals and organizations provided direct input on how the Board and its programs could be improved.

It is important to note that many respondents stated that the Board and its programs were doing fine and no change was necessary. While this input was appreciated, the Board realizes that it would have to do everything in its power to identify possible areas of improvement. Hundreds of ideas were brought forward from local governments, interest groups, oversight agencies, and financing partners.

Staff compiled the material provided by stakeholders, analyzed it, and prepared options and recommendations for the Board to consider. In May 2004, the Board will hold a retreat and, along with representatives from various interest groups, will review the data, the options, and the recommendations. The Board will prepare an interim set of recommendations and present it to the stakeholders. With the feedback it receives on the interim recommendations, the Board will refine its package and submit it to the Governor for consideration. The Governor is

expected to assess the work and the recommendations and decide if modifications are warranted. If so, the Board will work with his office to prepare a final package for submittal to the Legislature.

The Board believes that it will be able to implement the approved changes in time to coincide with the start of the 05-07 biennium, exactly 20 years from the inauguration of the program.

Findings and Recommendations

Staff completed the data collection and analysis in April 2004. This document contains the raw data, the staff's assessment, and its recommendations. Staff consulted the statutes, the administrative codes, Board policies, and program procedures along with the constituent input. Staff determined that several key improvements could be made so that the program would remain responsive to local government needs and would be well positioned in the future to respond to changing circumstances at the local and state level. The following are highlights of the recommendations made by staff:

- Fundamentally change the roles that the Governor, the Legislature, and the Board have within the PWTF;
- Modify the size and composition of the Board;
- Add a jurisdiction to the list of those eligible for financing;
- Add new financing tools for the Board to use;
- Create a more positive link between the Growth Management Act and PWTF financing;
- Allow for the addition of new systems to the list of those eligible for financing;
- Increase the duties and responsibilities of the Board;
- Fundamentally change when and how construction projects are selected for financing; and
- Change the terms and conditions associated with PWTF financing.

In all, staff dealt with 116 distinct components of the program and developed a recommendation for each. Of the 116, 65 changes were considered medium or high importance. In most cases, staff considered at least two options and in many instances had four or more options from which to choose. Options were categorized as minor changes, major changes, or paradigm shifts depending on significance of their impact on the program.

Staff sought to produce a set of recommendations that best responded to the guiding principles it established at the beginning of the analysis, that were comprehensive, that were consistent, and that produced a more responsive and flexible program. Staff ensured that every comment and suggestion offered by the stakeholders was considered and could be linked to the deliberations.

To facilitate the analysis and to ensure that the process covered all critical aspects, staff broke the deliberations into six functional areas:

- The Board
- Authorities
- Definitions
- Project Selection
- Applications and Contracts
- Administration

As noted above, staff found that 116 components had to be considered in the process. Each of the components was assigned to one of the functional areas. Input about the component was then extracted from the comments made by stakeholders. In some cases the component was adequate in its original state and no modification was considered. However, in the vast majority of instances, at least one option for improving the component was developed by staff, based most frequently on suggestions made by a stakeholder.

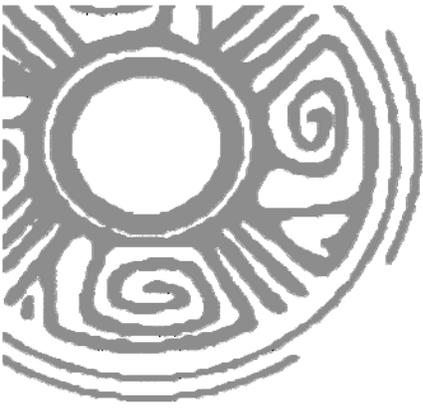
Once the options were identified, staff developed a conceptual model for how a new and improved process and Board could work. Staff then reviewed each component to determine which option would best suit the new model. In many cases, leaving the component as is was determined to be the best alternative. In others, only a minor change was needed. A number of components needed major changes, and, in a few cases, a paradigm shift was needed to make the model work.

The results of this effort are presented here to spark discussions and debate. In some instances, constituents offered diametrically opposed recommendations, such as “add tribes as an eligible jurisdiction” and “don’t add tribes as an eligible jurisdiction.” Staff intended to provide the reader with all of the information it had during its deliberations and to illustrate the depth and breathe of its considerations. Staff believes that the next steps will build on this work and result in a product that ensures 20 more years of responsive service by the Board and its programs.

Next Steps

The Board expects to develop five separate but related documents during the assessment and recommendation process. The work is expected to culminate during the 2005 legislative session when the Governor’s recommendations for updating the Public Works Trust Fund are deliberated. The products and timelines are as follows:

- Book 1: 2004 Assessment of Washington State’s Public Works Trust Fund: Staff Report and Recommendations – May 10, 2004
- Book 2: 2004 Assessment of Washington State’s Public Works Trust Fund: Interim Board Report and Recommendations – June 1, 2004
- Book 3: 2004 Assessment of Washington State’s Public Works Trust Fund: Final Board Report and Recommendations – August 15, 2004
- Book 4: 2004 Assessment of Washington State’s Public Works Trust Fund: Governor Locke’s Report and Recommendations – November 1, 2004
- Book 5: 2004 Assessment of Washington State’s Public Works Trust Fund: The Legislature’s Report



Washington State Public Works Board

Strategic Plan
FY 2007 - FY 2014
August 15, 2006

Provide financial and technical assistance to Washington communities for critical public health, safety, and environmental infrastructure that supports economic vitality.

MISSION

The mission of the Public Works Board is to provide financial and technical assistance to Washington communities for critical public health, safety, and environmental infrastructure that supports economic vitality.

VISION

The Washington State Public Works Board stewards a nationally recognized infrastructure funding program that is a model for progressive, sustainable, and affordable funding strategies meeting public health, safety, environmental, economic development, and essential needs of Washington communities.

CORE VALUES

Stewardship – We are stewards of the Public Works Board programs. We preserve, grow, and maximize the monies entrusted to us, providing financial and technical assistance to local communities for future generations. We efficiently and effectively administer the programs for critical infrastructure projects.

Advocacy – We advocate:

- Providing sustainable infrastructure funding at the local, state, and federal levels.
- Collaborating with our clients, stakeholders and other funding programs.
- Maintaining local infrastructure systems that are self-reliant and sustainable.
- Educating the public and policy makers about infrastructure and infrastructure financing.

Affordability – We are committed to providing affordable infrastructure financing.

Local governments and communities are able to construct, repair, replace, and rehabilitate their infrastructure systems through our low-cost programs.

Responsiveness – We are responsive to our clients, stakeholders, state officials, and public by providing fair and equitable access to a simple-to-use, flexible, and stable source of funds for local infrastructure projects. We value respectful communication and customer service with all of our partners.

Accountability – We are accountable to the people of Washington State, protecting public health, safety, and environment by addressing critical infrastructure needs of local communities.

The Public Works Board adopted the items on this page on June 27, 2006.

GUIDING PRINCIPLES

For the next 20 years, the Public Works Board programs will be:

1. Addressing the critical infrastructure needs of local governments.
2. Equitably available to all eligible jurisdictions and systems.
3. Encouraging local self-reliance.
4. Kept simple
5. Easy to access by local governments.
6. Easy to administer for local governments.
7. Predictable and stable.
8. Low-cost to local governments.
9. Flexible and responsive to the changing needs of local governments.
10. Providing comprehensive services to local governments.

11. Innovative and creative.
12. Exercising stewardship of the funds.
13. Self-supporting and sustainable.
14. Collaborative and encourages partnerships with other organizations.
15. Enhancing communication between the Board and its constituents
16. Seamless across the programs that it administers.
17. Rewarding good management practices at the local level.
18. Delivered in the most efficient and cost effective manner possible.
19. Helping to avoid the proliferation of small, "specialty" infrastructure financing programs.
20. Easy to administer at the state level.

SERVICE DESCRIPTIONS

Executive Director (4.0 FTEs)

The primary goal of our Executive Director team is to provide direct support to Board members and to interact with stakeholders, the Governor's office, and the Legislature. The team provides:

- Oversight of staff support to the Board;
- The creation of legislation, strategic plans, and performance measures;
- The implementation of the selection process and project list for Board approval and recommendation to the Legislature;
- Board documents and outreach; and
- Service to Board members through the coordination of

meetings, retreats, and special events, and the processing of travel vouchers.

We also work closely with the Board to outline policy for the implementation of the program.

Client Service Representatives (7.0 FTEs)

The Client Service Representative team works closely with local governments and private clients to carry out the Board's mission and policies by providing technical assistance, contract management and marketing of Board programs to ensure equitable access to all eligible jurisdictions. The team provides a wide range of services, including:

- The Board's representative pertaining to its loan and grant programs. Serves as the primary contact for local elected officials, mayors, city, county and special purpose district council members, city clerks, finance managers, and public works directors.
- Manage and monitor Board loan and grant contracts to ensure compliance with all state and federal requirements.
- Provide extensive technical assistance to local government on matters dealing with infrastructure financing.
- Work with other state agencies and the public on funding-related issues to help ensure agency compliance with state and federal laws.
- Market Board programs to all eligible jurisdictions.

Finance and Policy (5.9 FTEs)

Our Finance and Policy manager coordinates budget, finance and related policies with counter parts at CTED, OFM and DOH. The manager oversees contract modifications and other contracting issues. Additionally, our finance and policy manager is responsible for:

- Contract Development and Management
- Loan Payment Billing and Collection
- Managing the Predictive Model
- Developing and Monitoring the Operating and Capital Budgets
- Developing Policy Alternatives for Board Consideration

APPRAISAL OF EXTERNAL ENVIRONMENT

Program History

The Legislature instituted the Public Works Trust Fund (PWTF) Construction Loan Program in 1985. In 1988, the Legislature authorized the PWTF Emergency Loan Program and in 1989, the PWTF Planning Loan Program. The Timber and Natural Resource Loan Program began in 1991 and was terminated in 1998. The PWTF Pre-Construction Loan Program began in 1995. The Drinking Water State Revolving Fund was instituted in 1997. In 2003, the Legislature authorized the Water System Acquisition and Rehabilitation Program.

The 1985 Legislature authorized counties, cities, and special purpose districts to have access to the PWTF resources. (Port and school districts were excluded by citation). Private water systems may access the Drinking Water State Revolving Fund.

In 1985, the Legislature identified five (5) systems as being eligible for PWTF financing:

- Domestic Water Systems;
- Sanitary Sewer Systems;
- Storm Sewer Systems;
- Road/Street Systems; and
- Bridges.

In 1996, the Legislature made Solid Waste and Recycling Systems eligible for PWTF financing.

The 1985 Legislature authorized six sources of revenue for the PWTF programs. Five of the sources still remain dedicated to the PWTF programs. The original six sources were:

1. Real Estate Excise Tax;
2. Water Utility Tax;
3. Sewer Utility Tax;
4. Garbage Tax/Solid Waste Collection;
5. Loan Principle and Interest Repayments; and
6. Interest Earnings on PWAA Account.
- Redirected to the General Fund in 1992

In 1985, the Legislature created the 13-member; Governor appointed Public Works Board (Board) and assigned membership as follows:

- Three members, two of who shall be elected officials and one shall be a public works manager, appointed from cities.
- Three members, two of who shall be elected officials and one shall be a public

works manager, appointed from counties.

- Three members from the Public Utility Districts and the Water-Sewer Districts.

- Four members appointed from the general public, one of whom shall be appointed as chair.

Public Works Board Strategic Plan 2007-2014

In 1985, the Legislature emphasized financing for projects that protected the health and safety of people and the durability of the systems. In 1991, the Legislature earmarked a portion of the PWTF to promote economic development. In 2001, the Legislature declared the PWTF to be an "...environmental resource agency..." and gave prominence to projects that protected the environment.

In 1985, the Legislature required local governments to impose a one-quarter of one percent Real Estate Excise Tax, to have a capital facility plan, and to use all resources reasonably available for financing public works. In 1991, the Legislature required that local governments planning under the GMA need to be in conformance with the Act in order to be eligible for PWTF financing. In 2001, the Legislature required PWTF contractors to develop performance measures for their projects.

While not a true "revenue source," the Accelerated Loan Commitment Model is a tool that maximizes the revenue to be used by the program. Used in both the 1999-01 and the 2001-03 biennia, the ALCM has "generated" approximately \$150 million in resources for the program.

The Legislature initially limited the program to financing the rehabilitation of existing infrastructure. However, with the advent of the Growth Management Act (GMA) and a commitment to finance planned growth, the Legislature and the Board expanded the eligibility in 1996 to allow growth that meets the jurisdiction's 20-year projections.

The Board conducted a comprehensive review of its authorities, programs and past and current business practices from May 2003 to May 2004. The Board was determined to critically examine these aspects, and to the extent necessary, modify what it could and request the Governor and Legislature to complete the renewal under their authorities. Doing so allows the Board, its programs and services to remain responsive to the infrastructure needs of Washington's local governments.

From June 2003 through April 2004, the Board sought input from the communities it serves, from the associations representing those communities, other agencies that work with those communities, other interest groups, Legislators, and legislative staff. Over 200 individuals provided input into what the Board could do to help local governments meet their critical public works needs and to remain self-reliant.

The Board directed staff to compile the information gleaned from workshops, surveys, email input, past events, interviews, and presentations. In addition, staff was directed to analyze the data, prepare options and develop recommendations for consideration at the Board's May 2004 retreat.

The Board agreed to review material prepared by staff and develop its interim proposal at the May retreat and to resubmit the document for consideration by stakeholders and partners. As a result of the May retreat and deliberations, the Board directed staff to further study and develop several of the ideas that were presented, and to report back to the Board by the end of 2004.

Community, Trade, and Economic Development

Chapter 43.155.030(3) RCW states: “Staff support to the board shall be provided by the department”. [The “department” being

defined as the Department of Community, Trade and Economic Development (CTED).]

Since it’s inception, Board staff and programs have resided within the CTED; Public Works Board Strategic Plan 2007-2014

first as a division, then as a unit within a division, and now as a division again. Board staff works closely with other program staff within CTED on projects that have the need of funding from multiple programs. Board staff also works closely with the CTED budget and fiscal offices for all of the state processes and requirements for budget development, requests, and implementation, as well as the processing of payment requests and payment receipts. As the Executive Director for the Board, the position is also an Assistant Director within CTED, reporting directly to the CTED director and is a member of the Management Team.

The Board and CTED have a Memorandum of Understanding (MOU) between them that has been in place since 1997. The MOU was agreed on to better define the operational or day-to-day relations between the two entities, clarifying certain roles and responsibilities of each party.

Legislature

Chapter 43.155.070(7) RCW states: “The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects”.

This section of the RCW applies only to the Construction Loan program, and not to the Non-Construction programs. Since at least 85 percent of the funds appropriated to the Board are distributed through the Construction Loan program each biennium, the relationship with the Legislature is

important to the success of the all of the programs.

Stakeholders

The Board considers everybody they and staff work with to be a stakeholder, including the Legislature, the Governor’s office, the Office of Financial Management, other state agencies, federal agencies, and especially local governments and their respective associations.

Our local government clients include Counties, Cities and Towns, Water and Sewer Districts, Public Utility Districts, and a few other special purpose districts and quasi-municipal entities. All of their respective associations are also keenly aware of the Board’s proceedings. While not a direct recipient of loans, the Association of General Contractors is very supportive of the Board’s efforts and the awarding of construction loans.

The composition of the Board is broad, encompassing the majority of the types of users of the programs. Because of the breadth of membership, the support of the Board and its programs is very high throughout local government within the state. Whenever changes to the programs are considered, the Board and staff first discuss with the stakeholders the potential impacts to their clients.

Department of Health

With the creation of the Drinking Water State Revolving Fund in 1997, the Board entered into a MOU with the Department of Health (DOH) to jointly administer the program. The Board and staff have worked

closely with DOH staff with project selection and program managements for almost ten years. They also have worked closely together to manage the Water System Acquisition and Rehabilitation Program with

two grant-funding cycles to date. The relationship and coordination between the two entities is exceptional and a model for other agencies to consider.

PUBLIC WORKS BOARD STRATEGIC INITIATIVES

Top Priorities

1. Long-Term Funding For Water System Acquisition Rehabilitation Program (WSARP).

The WSARP program provides assistance through grant funding for the acquisition and improvement of failing water systems. The program protects public health in communities by financing the transfer of ownership of failing drinking water systems to municipal water systems and rehabilitating the water systems. The WSARP construction projects help priority systems achieve compliance with state and federal safe drinking water requirements. It is anticipated increased demand for this financial assistance with increased water system regulations and the limited ability for small system to respond to these regulations. The Public Works Board (Board) and DOH jointly administer the program. The Board should work with stakeholders, DOH, CTED and the Legislature to identify a long term funding source.

Goal – FY 2007

2. Modify our procedures to get the money out the door quicker.

There are several options to increase the rate at which funds are utilized.

1. The first would be to eliminate the Legislative approval of Construction Loans, and change it to a monthly loan cycle similar to the non-construction loans.

2. Second, would require all planning and design work to be done, and/or having all permits obtained prior to submitting a construction application.
3. Third, is to increase the percent of funds used for non-construction set-aside.
4. Fourth, alter the draw schedule; change from five to three draws.

Goal – FY 2007 and FY 2008

3. Look for other ways to increase the fund.

1. Add new tax revenues or increase the percentage of existing tax revenues (REET, Refuse Collection, Public Utility). If increased, are new types of (or specified) projects identified? For example, a toilet paper tax is implemented for repair or replacement of failing septic systems, or bottled water tax for domestic water projects.
2. If new types of jurisdictions or infrastructure systems are added, they should contribute new resources to the Account, but could be funded by growth of fund (see Program Initiative regarding growth of the fund). The Board should work with the Legislature to address the need of allocating funds from the PWAA to other state priorities, with the possibility of creating a new program for the Board to administer.
3. Adjust the interest rate to generate more revenue.
4. Amend the RCW to allow the fund to retain its interest earnings, which are now going to CERB.

Goal – FY 2009

4. Create a new Accelerated Loan Commitment Model/Predictive Model Spreadsheet.

Create a new model (or modify the existing model) to build credibility for forecasting the revenues, expenditures, and balance of the Public Works Assistance Account (PWAA) that will allow for the continued use of the Accelerated Loan Commitment Model and better assist the Board in managing the account. The new model should be based on sound, objective, financial principles, provide a low-maintenance solution, and include documentation to make it easy to understand and apply.

Goal – FY 2008

Secondary Priorities

1. Termination of projects without progress within 18 months of contract execution.

Require Construction loan recipients to show substantial progress of projects by demonstrating either a contract for design or completed project plans within 6 months. Also, the loan recipient would need to issue a "Notice to Proceed" to the contractor for beginning project construction within 18 months of contract execution. If these terms are not complied with, the loan is terminated and repayment of the original draws is required. In order to get other projects ready to proceed and to keep the money flowing, the money from terminated loans would be added to the Planning and Pre-Construction programs instead of waiting until the next Construction loan cycle. This may require a change to the RCW to go above the 15 percent limit for non-construction programs.

Goal – FY 2008

2. Require Loan Repayments to be made by Electronic Fund Transfer (EFT).

As a condition of receiving a Public Works Board loan, clients would be required to establish electronic payment mechanisms with the Office of the State Treasurer and submit all loan repayments electronically.

Goal – FY 2008

3. Increase biennial loan limit to \$10 or \$14 million.

Overall, projects have become much more expensive. Also, larger jurisdictions want a greater amount of money relative to what they contribute to the Public Works Assistance Account. Increasing the biennial limit from \$7 million to a higher loan limit will better accommodate larger projects and the increased project costs. Consider super loans for metropolitan or regional projects with multiple funding partners with limits on future loan cycles.

Goal – FY 2007

4. Retroactive reimbursement and project loan consolidation.

Retroactive reimbursement would benefit projects that are ready to proceed but are waiting for legislative and Governor approval (but caught in a construction timetable beyond their control). It would also facilitate getting funds out the door quicker. It would help solve the problems created by a long Legislative/Governor approval. Other infrastructure financing programs that offer varying forms of retroactive reimbursement - DWSRF; Ecology; United States Department of Agriculture Rural Development.

PWB could work to change RCW 43.155 to allow for retroactive reimbursement and retroactive financing under certain circumstances (example: King County Water District 54 – PWTF 2006 Construction loan)

Retroactive reimbursement is described as:

1. Paying for expenses incurred prior to PWTF loan execution date but following recommendation for funding by the Public Works Board.
2. Consolidating loans. If the applicant receives a construction loan, their pre-construction loan is “paid off” and the balance of the pre-construction loan is added to the construction loan.

Goal – FY 2008

5. Fund new systems – schools, jails, ports, parks, buildings and other public facilities as well as adding new funding to meet fiscal needs.

Explore the possibility of funding new types of infrastructure systems and jurisdictions. There have been several discussions over the past few years on funding new types of infrastructure systems and how to implement. Some members have in past insisted that any new system or jurisdiction come with a corresponding funding source(s).

Goal – FY 2008

6. Use a percent of fund growth for grants, new systems, and distressed communities (50% of the growth of the fund).

Since 1996, revenues into the PWAA have increased an average of \$44 million a biennium. By considering the increase in revenues as “new” resources, the Board could provide grants, add new elements, and continue growing the fund.

First, take an average of the increase in revenues over the past three biennia to negate any sharp increases or decreases. Then take 25 percent of the average increase and make it available for grants, and 25 percent of the average increase for loans to new systems and/or jurisdiction types. The remaining 50 percent of the increase stays with the current program funds.

Goal – FY 2009

7. Online Applications.

What we see for the future is a software application to turn the paper loan request into an electronic form. Applicants will have the ability to login to the Internet from any desktop and find an electronic menu system that will allow clients to build a request for each type of loan administered by the Board. The system will have all of the appropriate business rules, and allow the ability to review, edit and submit an application electronically.

Goal – FY 2007

Washington State Department of Commerce

Strategic Plan Status Update

Strategic Plan available at www.commerce.wa.gov

December 2011



Department of Commerce
Innovation is in our nature.

Infrastructure

Objective 1: Improve the state-level assistance system so local governments have greater resources and better access to those resources.

1.1 Restore funding in the Public Works Trust Fund.

- *Legislature approved \$386 million list for FY 2012.*
- *Total of \$205 million in Governor's supplemental FY 2013 budget. Includes \$165 million project list, \$25 million to re-establish Pre-Construction Program, \$15 million for supplemental CERB funding, and \$5 million for the creation of an Investment Grade Efficiency Audit loan program.*
- *The Public Works Board is pursuing a change to its enabling statute RCW 43.155 to streamline and expand its financing options to better serve local governments.*

1.2 Increase opportunities for local investments in infrastructure projects by increasing the number of and access to local revenue-generating mechanisms.

- *Legislature approved ESSB 5253 authorizing some cities in King, Pierce, and Snohomish Counties to create Local Infrastructure Project Areas to finance public improvements through property taxes imposed by the city and the county.*
- *Work was done with the Legislature regarding the "re-invention of infrastructure financing" via ESSB 5844. Although the bill didn't pass, the bill was again assigned to the Senate Ways and Means committee for further consideration in the 2011 special session.*



Department of Commerce
Innovation is in our nature.

Infrastructure

Objective 1: Improve the state-level assistance system so local governments have greater resources and better access to those resources.

- 1.3 Provide performance-based contracts, ensuring the completion of projects within their original budget, scope of work, and timeline.
- *Public Works Board approved incentives for its 2012 construction loan contracts.*
 - *All Growth Management Services contracts include performance-based best practices.*
 - *Contracts Administration Unit monitors performance and provides technical assistance.*
- 1.4 Provide comprehensive, customer-focused technical assistance, ensuring fair and equitable access to state resources and enabling local governments to address state and local priorities, with a strong focus on small jurisdictions.
- *The Public Work Board Technical Assistance (TA) services will be revamped in early 2012 to reflect changes relating to the modernization of Board programs.*
 - *Responding to 60% reductions in Growth Management Services (GMS), the unit has organized into Eastern Washington and Western Washington teams. Emphasis is on assisting cities and counties with infrastructure and capital facilities needs analyses when considering major land use and zoning changes. GMS has also identified three major local issues in each region for intensive TA.*



Infrastructure

1.5 Work with the Public Works Board and partners to improve the efficiency and predictability of state investments in local infrastructure by adopting statewide systems for project selection and contract management.

- *Growth Management Services teams will emphasize assisting cities and counties with prioritizing infrastructure needs before they commit to major land use decisions.*
- *The Public Works Board developed a plan for Modernizing the state Infrastructure Financing System by direction of ESHB 1497. The Plan has been forwarded to the Governor and Legislature for consideration in the 2012 Legislative Session.*
- *Work was done with the Legislature regarding the “re-invention of infrastructure financing” via ESSB 5844. Although the bill did not pass, there will likely be focus on this next session.*

1.6 Increase the impact of state resources on local infrastructure projects by developing and implementing a statewide investment strategy.

- *Work was done with the Legislature regarding the “re-invention of infrastructure financing” via ESSB 5844. Although the bill did not pass, there will likely be focus on this next session.*
- *The Public Works Board developed a plan for modernizing the state infrastructure financing System by direction of ESHB 1497. The Plan has been forwarded to the Governor and Legislature for consideration in the 2012 Legislative Session.*

Infrastructure

Objective 2: Enable local governments to attract development to selected areas within their communities through targeted planning and infrastructure development.

2.1 Establish a loan fund or other financing options for up-front State Environmental Policy Act analysis.

- *This strategy has been delayed due to budget constraints.*
- *GMS is collaborating with CERB to incorporate up-front State Environmental Policy Act (SEPA) activities into CERB's planning program. CERB will consider proposal in January.*
- *Proposed loan option be included in PERF account to the SEPA reform work group convened by Representative Fitzgibbon.*

2.2 Improve local governments' ability to update their capital facilities plans by providing an on-line data standard.

- *A model has been developed for a local government capital facilities needs assessment. Awaiting funding to initiate.*

2.3 Help local governments navigate complex permitting requirements by expanding the use of multi-agency permit (MAP) assistance teams, in partnership with the Office of Regulatory Assistance (ORA).

- *Coordinated with ORA for possible need for assistance from Commerce on MAP teams. ORA stated no need for assistance on current MAP projects.*

Infrastructure

Objective 2: Enable local governments to attract development to selected areas within their communities through targeted planning and infrastructure development.

2.4 Assist local governments in developing demand reduction strategies as part of their capital facilities fund and infrastructure planning.

- *GMS has organized into Eastern Washington and Western Washington teams. Emphasis is on assisting cities and counties with infrastructure and capital facilities needs analyses when considering major land use and zoning changes. GMS has also identified three major local issues in each region for intensive TA.*

2.5 Developing the concept of locally-designated priority investment areas for state infrastructure investment.

- *Work was done with the Legislature regarding the “re-invention of infrastructure financing” via ESSB 5844. Although the bill did not pass, there will likely be focus on this next session.*

A word cloud graphic featuring the following terms: Washington, Initiate, Invest, Modernizing, Infrastructure, Assistance, Jobs, Streamline, State, Network, Economic, and Sustainability. The words 'Modernizing', 'Infrastructure', and 'Assistance' are the largest and most prominent.

An Implementation Plan *Executive Summary*

Washington State Public Works Board
November 2011

Meeting Legislative Intent

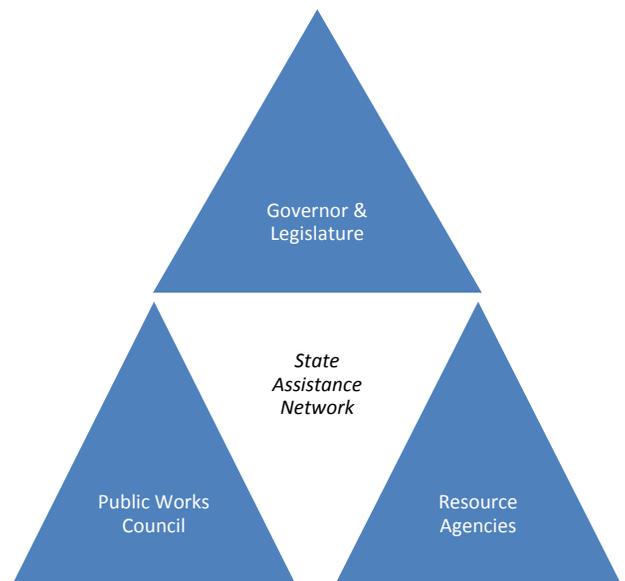
The approved 2011-2013 Capital Budget (ESHB 1497, Section 7028) directs the Public Works Board (Board), in concert with partner agencies, advocate organizations, and local governments, to prepare a plan to modernize the state's financial and technical infrastructure assistance network. The proviso calls for the plan to include a model for the new network, the method to implement the model, and the legislation necessary to adjust the state's budget and organizational structure to accommodate the new approach. These products are due to the Legislature by November 1, 2011.

The proviso's intent section is presented below:

"The legislature intends to modernize state programs that provide financial and technical assistance related to local infrastructure by:

- a) clarifying the policy objectives and priorities for state assistance for local infrastructure;*
- b) eliminating redundancy among the various state programs;*
- c) increasing the speed of delivering state assistance and the ability to respond to emerging needs;*
- d) maximizing the acquisition and use of federal funding sources;*
- e) ensuring transparency in state and federal assistance;*
- f) improving access to the lowest cost private market financing; and*
- g) ensuring accountability and the periodic review of progress."*

- Excerpt from ESHB 1497, Section 7028

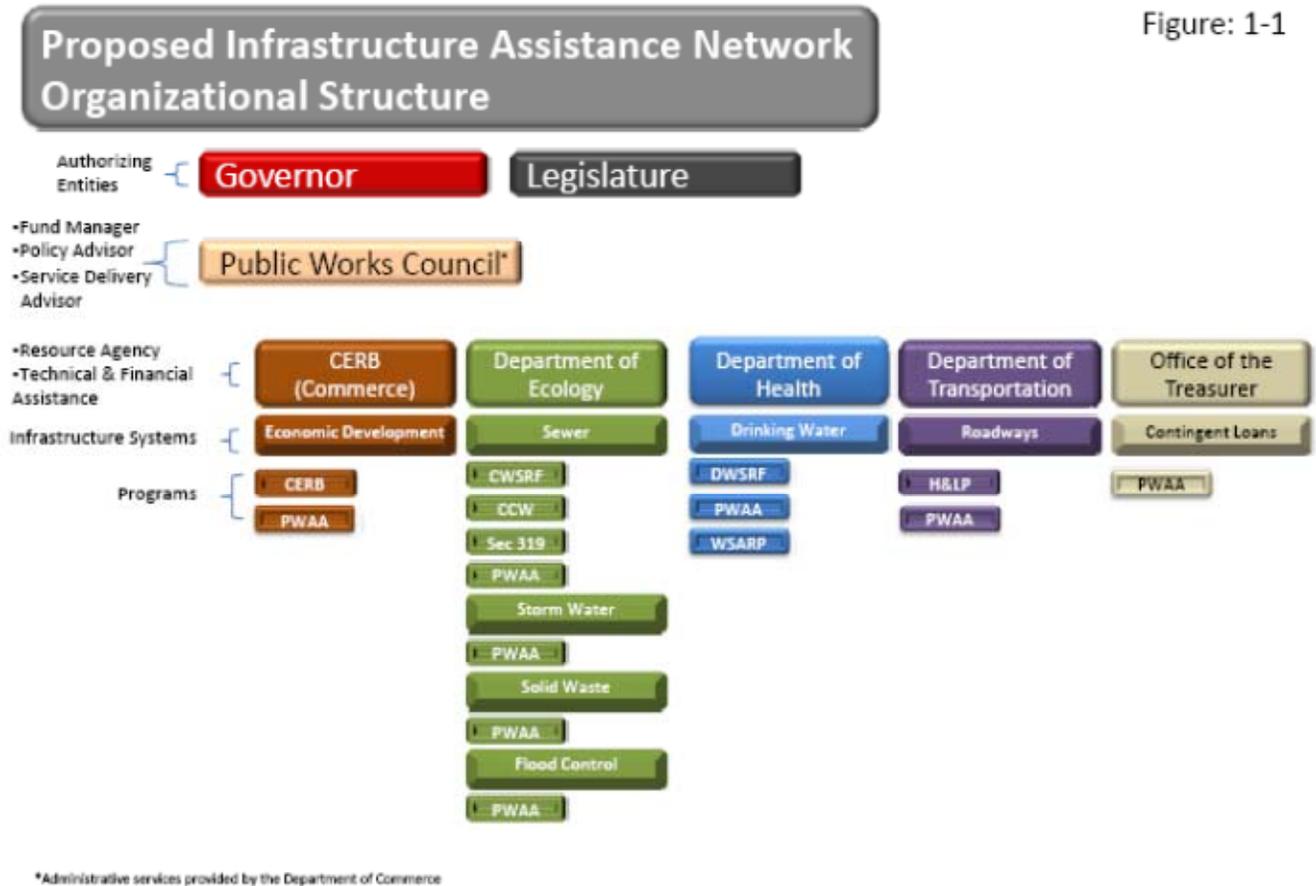


To initiate the process, the Board, in consultation with its partners, identified five policy objectives for the Governor and the Legislature to consider as the core of this proposal.

- Preserve, enhance, or achieve public health and safety of the people
- Protect the state’s environment
- Promote economic development
- Sustain local infrastructure systems
- Sustain the state infrastructure assistance capacity

This proposal creates a new service delivery paradigm where state resources are concentrated in Resource Agencies that already are responsible for assisting local organizations. Resource Agencies are granted authority to use Public Works Assistance Account (PWAA) funds to address technical and financial infrastructure needs. The resources in the PWAA are redirected to the five Resource Agencies to augment their infrastructure assistance programs or create new ones. Figure 1-1 illustrates the proposed organizational structure.

Figure: 1-1



This proposal creates efficiencies and reduces redundancy by eliminating the Public Works Board and its four infrastructure programs. The Board transitions from a financing authority to the Public Works Council, a policy body focused on coordinating and streamlining the state’s infrastructure assistance system.

To expedite the financing process, legislative approval of the Public Works Trust Fund Construction Loan List is eliminated in this proposal. The Council continuously assesses local needs, identifies emergent issues, and recommends modifications to the assistance network to ensure a timely response to those needs.

The Council, works with the state administrators of federal programs and their respective federal agencies, to identify and maximize federal resources available to finance local infrastructure projects.

Transparency and accountability are overarching principles guiding the delivery of Washington’s infrastructure assistance. Through regular and thorough reporting to the Governor and the Legislature, the Council reinforces this commitment to transparency and accountability.

The Contingent Loan Agreement program, administered by the Office of the State Treasurer, makes resources available to support local bond offerings in order to increase access to the private financing market.

Addressing Legislative Considerations

ESHB 1497, Section 7028 also outlines considerations the Legislature intended the new model to address. These are:

“The board, state agencies, and local partners must consider, among other things, consolidation of state appropriations to support policy-focused investments including water quality, safe drinking water, storm water, economic development, access to private financing, solid waste and recycling, and flood levees. In addition, they must consider consolidating assistance packages, streamlining application processes, and clarify the respective responsibilities of state and local agencies in planning for, developing and maintaining local public infrastructure.”

- Excerpt from ESHB 1497, Section 7028

The proviso directed the Board to:

- Develop this plan in consultation with a consortium of organizations;
- Align state investments with state policies;
- Include economic development, access to private financing, and flood control/levees;
- Streamline the process for local governments to acquire funding; and
- Ensure the respective responsibilities of the state and local organizations for sustaining local infrastructure are enumerated.

Recommending Significant Change

This proposal recommends changes to the existing state infrastructure assistance:

- A. Eliminate the Public Works Board and its four financial assistance programs. The Board is replaced with the Public Works Council that acts as the fund manager of the Public Works Assistance Account (PWAA) and a policy advisor to the Governor and Legislature on local infrastructure financing and service delivery.
- B. Designate the Community Economic Revitalization Board, Departments of Ecology, Health, Transportation, and the Office of the State Treasurer as Resource Agencies to deliver financial and technical assistance.
- C. Authorize the Council to recommend to the Governor and Legislature how PWAA funds are appropriated to Resource Agencies.
- D. Consolidate applications for assistance into one application per infrastructure system, which is administered by the appropriate Resource Agency.
- E. Standardize interest rates, terms, and conditions. To the extent possible, these terms are consistent across infrastructure systems and are adjusted biennially by the Council.
- F. Coordinate technical assistance with an emphasis on organizational capacity and system viability.

- G. Create a Contingent Loan Agreement Program administered by the Office of the State Treasurer.
- H. Eliminate legislative approval of the annual Public Works Construction Loan List.

Modifying Roles and Responsibilities

Chapter Two: The Modernized Financial Assistance Network and Chapter Three: The Modernized Technical Assistance Network articulate the design, coordination, and delivery of the state's financial and technical assistance. The cornerstone of this proposal is a comprehensive, interrelated network of state agencies committed to assisting local governments.

An array of financial and technical assistance services is included in this proposal. In the current network, some of the eligible infrastructure systems do not have access to both financial and technical assistance.

This proposal adds to the authorities of RCW 43.155 by including:

- Economic development and flood control /levees systems as eligible systems
- Ports as eligible jurisdictions

This proposal emphasizes the collaboration of Resource Agencies to ensure access to information, financing, and best practices for local organizations. The network encourages local organizations to be self-reliant and capable of planning for, developing, and operating infrastructure systems by providing coordinated technical and financial assistance.

Appropriating Funds

This proposal adjusts the manner in which the Public Works Assistance Account (PWAA) is appropriated. Federal and state funds currently appropriated for specific financing programs (e.g., the Drinking Water State Revolving Fund administered by the Department of Health or the Centennial Clean Water Program administered by the Department of Ecology) are not modified by this proposal.

PWAA funds are appropriated to:

- The Council to oversee and coordinate the infrastructure assistance network;
- Resource Agencies to finance projects and provide technical assistance; and

- The Office of the State Treasurer to develop and implement a Contingent Loan Program.

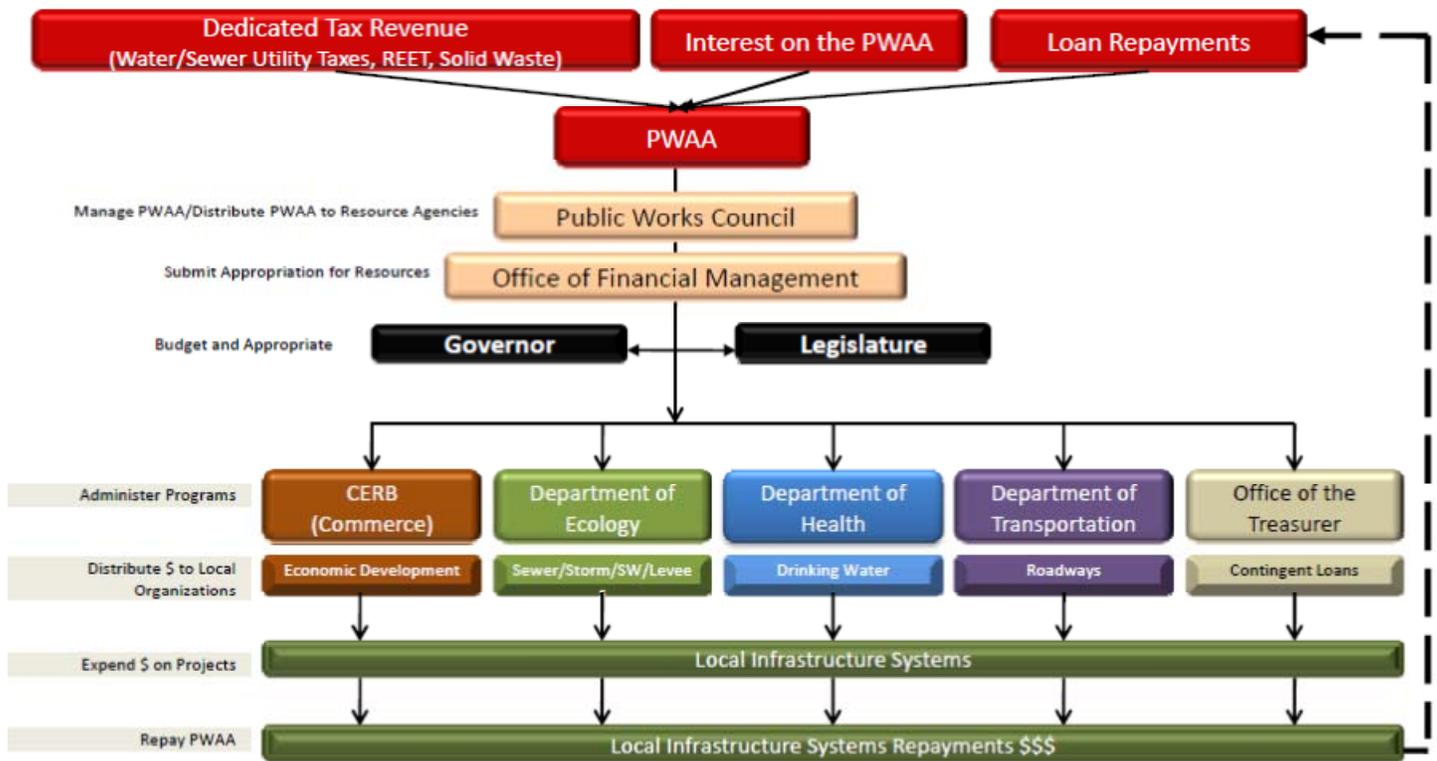
The proposed flow of the resources into, through, and out of the PWAA is depicted in Figure 1-2.

The proposal focuses on securing PWAA funds for local government use and streamlines the manner in which those funds are acquired by local governments.

Further, the model calls for the maximized acquisition and use of federal funds by the Resource Agencies in cooperation with the Council.

Proposed Flow of PWAA Resources

Figure: 1-2



*It is important to note, that current resources earmarked for specific systems (i.e. DWSRF=Drinking Water State Revolving Fund =DOH) will remain with those Resources Agencies for those purposes.

The proposed budget, described in detail in Chapter Four, adjusts only the manner in which the Public Works Assistance Account (PWAA) is appropriated. Federal and state funds currently appropriated for specific financing programs (e.g., the Drinking Water State Revolving Fund administered by the Department of Health or the Centennial Clean Water Program administered by the Department of Ecology) are not modified by this proposal.

PWAA funds are appropriated to:

- A. The Council, for overseeing the infrastructure assistance network;
- B. Resource Agencies, for financing projects and providing technical assistance; and
- C. The Office of the State Treasurer, for developing and implementing a Contingent Loan Program.

All agencies receiving funds from the PWAA will be required to prepare and submit a fiscal note that describes in detail their anticipated operating costs. These fiscal notes will identify administrative and technical assistance costs for the 2013-2015 Biennium. The estimates in Figure 4-1 are likely to change significantly as a result of the fiscal note process. An alternative budget proposal, with reduced administrative costs, can be found in [Appendix K](#).

Figure 4-1: Base-Level Model for Distributing PWAA Resources in 2013-2015**

Organization		Operating	Technical Assistance	Capital	Total Budget
Washington Public Works Council		\$1,000,000	\$900,000	\$0	\$1,900,000
Department of Commerce		\$600,000	\$0	\$0	\$600,000
Community Economic Revitalization Board	Economic Development	\$450,000	\$50,000	\$15,000,000	\$15,500,000
Department of Ecology	Sewer	\$4,260,000	\$2,130,000	\$213,000,000	\$219,390,000
Department of Ecology	Storm Water	\$450,000	\$50,000	\$15,000,000	\$15,500,000
Department of Ecology	Solid Waste/Recycling	\$450,000	\$50,000	\$15,000,000	\$15,500,000
Department of Ecology	Flood Control/Levee	\$450,000	\$50,000	\$15,000,000	\$15,500,000
Department of Health	Drinking Water	\$1,820,000	\$910,000	\$91,000,000	\$93,730,000
Department of Transportation	Roadways	\$920,000	\$460,000	\$46,000,000	\$47,380,000
Office of the State Treasurer	Contingent Loans	\$200,000	\$0	\$5,000,000	\$5,200,000
Total		\$10,600,000	\$4,600,000	\$415,000,000	\$430,200,000

**Rounding has occurred.

implementation phases

The development and implementation of the changes proposed here will evolve as initial steps are taken, and adjustments are made, to continue the modernization of Washington's infrastructure assistance network.

The next steps illustrated in Figure 1-3 capture milestones within the four phases of this implementation plan. The timeframes identified for each of the activities are approximations.

The four-phases include:

- A. *Design/Approval* – Identifies current and new concepts or proposals necessary to begin modernization efforts.
- B. *Initiation* - Prioritizes improvements needed and standardizes current practices.
- C. *Implementation* - The Council and Resource Agencies begin operating under the new design with an even greater emphasis on coordination and simplicity.
- D. *Adjustment* – Continues to assess and improve the modernized network

Figure: 1-3

Infrastructure Modernization: Next Steps

Design/Approval July 2011-June 2012	Initiation July 2012-June 2013	Implementation July 2013-June 2015	Adjustment* July 2015-June 2017
<p>Organizational Changes: New Council Proposed Resource Agencies Proposed</p> <p>Budget: PWAA Changes Planned</p> <p>Legislation & Policy: Statutory Changes Proposed State Policy Priorities Proposed Needs Assessment Planned Options to Maximize Federal Funds Proposed</p> <p>Technical Assistance (TA): Revised TA Plan Proposed</p> <p>Financial Programs: Single Application & Cycles Proposed Standard Rates & Terms Proposed Contingent Loan Program Proposed Accelerated Loan Models Proposed</p>	<p>Organizational Changes: New Council Appointed Resource Agencies Approved</p> <p>Budget: PWAA Fund Distribution Approved 2013-2015 Budget Approved Interagency Agreements with Resource Agencies Executed</p> <p>Legislation & Policy: Statutory Changes Approved State Policy Priorities Approved Needs Assessment Conducted Options to Maximize Federal Funds Approved</p> <p>Technical Assistance (TA): Revised TA Plan Developed</p> <p>Financial Programs: Single Application & Cycles Approved Standard Rates & Terms Approved Contingent Loan Program Designed Accelerated Loan Models Designed</p>	<p>Organizational Changes: New Council Operational Resource Agencies Adjusted</p> <p>Budget: PWAA Fund Distribution Used 2015-2017 Budget Approved Interagency Agreements with Resource Agencies Executed</p> <p>Legislation & Policy: Statutory Changes Made State Policy Priorities Used Needs Assessment Conducted Options to Maximize Federal Funds Used</p> <p>Technical Assistance (TA): Revised TA Plan Implemented</p> <p>Financial Programs: Single Application & Cycles Used Standard Rates & Terms Used Contingent Loans Made Accelerated Loan Models Used New Programs & Systems Used</p>	<p>Organizational Changes: Council Adjusted Resource Agencies Adjusted</p> <p>Budget: PWAA Fund Distribution Adjusted 2017-2019 Budget Approved Interagency Agreements with Resource Agencies Adjusted</p> <p>Legislation & Policy: Statutory Changes Made State Policy Priorities Adjusted Needs Assessment Conducted Options to Maximize Federal Funds Adjusted</p> <p>Technical Assistance (TA): Revised TA Plan Adjusted</p> <p>Financial Programs: Single Application & Cycles Adjusted Standard Rates & Terms Adjusted Contingent Loan Program Adjusted Accelerated Loan Models Adjusted New Programs & Systems Considered</p> <p>*Activities will be periodically adjusted according to the revised biennial plan</p>
<p>Results Reported to the Governor & Legislature</p>			

Public Works Board Policy Bill (2012)

Overview of HB 2768

- Agency request legislation from the Department of Commerce at the request of the Public Works Board
- Modernizes the Public Works Board's authorizing statute, 43.155 RCW
 - Expands eligible jurisdictions for low-cost infrastructure financing to include port districts
 - Expands eligible systems for financing to include rail, telecommunications, energy, public buildings, and other capital facilities owned and operated by local governments
 - Adds contingent loan agreements and forgivable loans as financing tools available to the Board
 - Clarifies state policy priorities for infrastructure financing
 - Authorizes the Board to conduct a statewide infrastructure needs and resources assessment, reporting to the Legislature and Governor on these needs every four years
 - Streamlines the Board's project selection process for construction projects and removes the Legislature from the approval of projects
- No fiscal impact

Contact

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BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0837.5/12 5th draft

ATTY/TYPIST: SCG:eab

BRIEF DESCRIPTION: Regarding the public works board.

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

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

NEW SECTION. **Sec. 1.1.1.** A new section is added to chapter 43.155 RCW to read as follows:

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

- (a) Preserving, enhancing, or achieving public health and safety;
- (b) Protecting the state's environment;
- (c) Promoting economic development;
- (d) Encouraging well-managed local infrastructure systems; and
- (e) Sustaining the state's infrastructure assistance capacity.

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

Sec. 1.1.2. RCW 43.155.020 and 2009 c 565 s 33 are each amended to read as follows:

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

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

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

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

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

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

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

(6) "Emergency" means a public works project made necessary by a

natural disaster or an immediate and emergent threat to the public health and safety due to unforeseen or unavoidable circumstances as evidenced by a local government declaration.

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

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

(9) "Local government((s))" ((means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts)) means every city, county, town, port district, district, or other public agency authorized by law to require the execution of public work.

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

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

~~(8) "Technical assistance" means training and other services provided to local governments to: (a) Help such local governments plan, apply, and qualify for loans and financing guarantees from the board, and (b) help local governments improve their ability to plan for,~~

~~finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities.))~~

(10) "Nontraditional jurisdiction" means port districts.

(11) "Nontraditional project" means any local government infrastructure project included in its adopted capital facilities plan or equivalent that does not meet the definition of traditional project, and excludes rolling stock.

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

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

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

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

(b) Protection of the state's environment;

(c) Promotion of economic development;

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

(e) Sustaining the state infrastructure assistance network.

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

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

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

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

(b) Improve their ability to plan for, finance, acquire, construct,

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

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

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

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

Sec. 1.1.3. RCW 43.155.030 and 1999 c 153 s 58 are each amended to read as follows:

(1) The public works board is hereby created.

(2) The board shall be composed of thirteen members appointed by the governor for terms of four years(~~(, except that five members initially shall be appointed for terms of two years)~~). The board shall include:
(a) Three members, two of whom shall be elected officials and one shall be ~~((a public works manager))~~ an appointed official, appointed from a list of ~~((at least six))~~ persons nominated by the association of Washington cities or its successor; (b) three members, two of whom shall be elected officials and one shall be ~~((a public works manager))~~ an appointed official, appointed from a list of ~~((at least six))~~ persons nominated by the Washington state association of counties or its successor; (c) ~~((three members appointed from a list of at least six persons nominated jointly by the Washington public utility districts association and a state association of water-sewer districts, or their successors; and (d))~~ one member appointed from a list of persons

nominated by the Washington public utility districts association or its successor; (d) two members appointed from a list of persons nominated by the state association of water-sewer districts or its successor; and (e) four members appointed from the general public. In appointing the four general public members, the governor shall endeavor to balance the geographical composition of the board and to include members with special expertise in relevant fields such as public finance, architecture and civil engineering, and public works construction. The governor shall appoint one of the general public members of the board as chair. The term of the chair shall coincide with the term of the governor.

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

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

~~((+5))~~ (4) If a vacancy on the board occurs by death, resignation, or otherwise, the governor shall fill the vacant position for the unexpired term. Each vacancy in a position appointed from lists provided by the associations under subsection (2) of this section shall be filled from a list of ~~((at least three))~~ persons nominated by the relevant association or associations. Any members of the board ~~((7 appointive or otherwise,))~~ may be removed by the governor for cause in accordance with RCW 43.06.070 and 43.06.080.

NEW SECTION. Sec. 1.1.4. A new section is added to chapter 43.155 RCW to read as follows:

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

(a) May execute contracts or otherwise financially obligate funds from the public works assistance account for projects approved for funding by the board;

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

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

(i) Traditional and nontraditional projects;

(ii) Traditional and nontraditional preconstruction projects;

(iii) Capital facilities planning or equivalent;

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

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

(vi) Investment grade efficiency audits;

(d) May require such terms and conditions and may charge such rates of interest on its loans as it deems necessary or convenient to carry out the purposes of this chapter. Money received from local governments in repayment of loans made under this section must be paid into the public works assistance account for uses consistent with this chapter;

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

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

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

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

NEW SECTION. **Sec. 1.1.5.** A new section is added to chapter 43.155 RCW to read as follows:

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

NEW SECTION. **Sec. 1.1.6.** A new section is added to chapter 43.155 RCW to read as follows:

The board shall:

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

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

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

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

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

NEW SECTION. **Sec. 1.1.7.** A new section is added to chapter 43.155 RCW to read as follows:

The board shall:

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

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

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

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

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

NEW SECTION. **Sec. 1.1.8.** A new section is added to chapter 43.155 RCW to read as follows:

(1) The department shall:

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

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

(2) The director shall:

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

(b) Report to the board not less than quarterly; and

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

Sec. 1.1.9. RCW 43.155.050 and 2011 1st sp.s. c 50 s 951 are each amended to read as follows:

(1) The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans ~~((and to give financial guarantees))~~, forgivable loans, and payments required under contingent loan agreements to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements ~~((under federal law for projects and activities conducted and financed by the board under the drinking water assistance account))~~ for federal programs.

(2) Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be ~~((expended or))~~ obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. ~~((For the 2007-2009 biennium, moneys in the account may be used for grants for projects identified in section 138, chapter 488, Laws of 2005 and section 1033, chapter 520, Laws of 2007. During the 2009-2011 fiscal biennium, sums in the public works assistance account may be used for the water pollution control revolving fund program match in section 3013, chapter 36, Laws of 2010 1st sp. sess. During the 2009-2011 fiscal biennium, the legislature may transfer from the job development fund to the general fund such amounts as reflect the excess fund balance of the fund.))~~ During the 2011-2013 fiscal biennium, the legislature may transfer from the public works assistance account to the general fund, the water pollution control revolving account, and the drinking water assistance account such amounts as reflect the excess fund balance of the account.

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

Sec. 1.1.10. RCW 43.155.070 and 2009 c 518 s 16 are each amended to read as follows:

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

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

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

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

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 (~~must have adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a loan or loan guarantee under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a loan or loan guarantee under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a loan or loan~~

guarantee)) may not receive financial assistance under this chapter unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving financial assistance under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for financial assistance.

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

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

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

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

90.71.010;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(11) After January 1, 2010, any project designed to address the~~

~~effects of storm water or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310))~~ In considering awarding financial assistance, the board must consider:

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

NEW SECTION. Sec. 1.1.11. A new section is added to chapter 43.155 RCW to read as follows:

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

- (1) Achieving balanced distribution of funds by geography, system type, and jurisdiction type;
- (2) Whether the project would affect the health and safety of a large percentage of the affected community's population;
- (3) Whether the project consolidates or regionalizes systems;
- (4) Whether the project is located in an area of high unemployment, compared to the average state unemployment;
- (5) Whether the system is being well-managed in the present and for long-term sustainability; and
- (6) Other criteria that the board considers advisable.

NEW SECTION. **Sec. 1.1.12.** The following acts or parts of acts are each repealed:

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

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

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

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

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

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

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

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

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

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



DATE: April 25, 2012
 TO: Public Works Board
 FROM: Bruce Lund, Client Services Manager
 SUBJECT: Proposed 2013-2015 Biennium Technical Assistance Strategy

BACKGROUND

The Board's enabling legislation allows for a comprehensive set of technical assistance services. The enabling Legislation, RCW 43.155.040 (2), says that the board may *"provide technical assistance to local governments."* The Statute further defines technical assistance as *"...training and other services provided to local governments to: (a) help such local governments plan, apply, and qualify for loans and financing guarantees from the board, and (b) help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities."*

The Board has sponsored a variety of technical assistance services over the years. The majority of TA services provided have addressed part (a) of the statute, helping local governments plan, apply, and qualify for (PWB) loans. Over the past few years, Board staff have moderately increased their efforts to provide TA efforts to part (b) of the statute, helping local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities.

Over the past year, the Board has periodically requested that staff develop and implement a more comprehensive approach to its Technical Assistance services. The timing for enhancing these services coincides with potential decreases in direct staff support of the Drinking Water State Revolving Fund (DWSRF) program. This will open up additional staff resources, which the Board can redirect to an enhanced technical assistance effort.

Need for technical assistance

Board members have previously indicated that it would support an enhanced TA effort that increases the capacity of it's local governments to successfully manage existing systems and finance needed improvements in that system. Additionally, medium and small local governments are searching for ways to finance expensive improvements to existing systems, or to create new systems that will remove moratoriums and allow for community and economic development. While the Board's financing programs are critical to these improvements and enhancements, communities can tap other sources to achieve their infrastructure priorities. All too often, however, communities do not use available resources, resulting in critical infrastructure needs not addressed at the local level. It is at this level that the Board, its staff, and resources are uniquely positioned can assist communities to meet their infrastructure development challenges.

Board Options for Providing Technical Assistance

Three options for technical assistance.

1. Significantly enhance Training and Education

Currently, the Board's offering in Training and Education focusses primarily on marketing the Public Works Trust Fund. Two Webinars were held earlier this year, and in prior years, application workshops were held to inform PWB clients of resource offerings. Board staff have periodically, and infrequently, partnered with the Infrastructure Assistance Coordinating Council to conduct workshops on selected topics. An example of this is a 2010 workshop that was held on Asset Management.

A robust training and education effort would include monthly offerings on subjects relevant to sustaining a system such as capacity building, system planning, management and finance topics. Course offerings would be provided in a number of ways, including developing a course offering sponsored by the Board, partnering with associations, state and federal agencies, and other organizations that provide existing courses, and linking Board clients to other types of needed training through the establishment of a scholarship fund.

A key component of this program would be the establishment of a revenue fund associated with registration fees. This fund would be used to offset costs associated with training

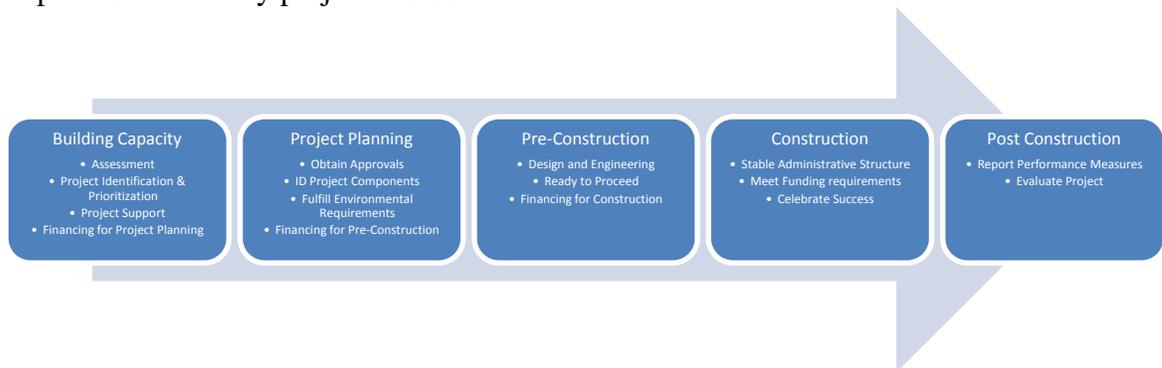
2. Establish an enhanced project development focus

In 2009 through early 2011, the Board initiated the Technical Assistance Investment Strategy (TAIS), Staff assisted several small communities to develop and implement high priority infrastructure projects. The program achieved modest success, with the most successful project being in the Town of Lind. The community, with assistance from Board staff, initiated a wastewater system project that had seen several previous failed attempts.

Staff proposes re-energizing and improving the TAIS format of technical assistance. As dollars for infrastructure financing keep getting more and more scarce at the local level, communities would greatly benefit with a focus on project development. The Board and it's staff would:

- Consult on project concept, the development of a project, and throughout construction as needed.
- Develop fact sheets and "how to" guidebooks on a wide variety of project related issues.
- Address managerial and financial capacity issues within the system
- Facilitate and convene local working groups as needed
- Contract for specialized consulting for special project needs
- Coordinate "tech teams" to develop finance strategies and resolve sticky project issues that need a multi-discipline approach.
- Assist the community to develop Project Action Plans
- Problem Solve and assist in overcoming and meeting obstacles to project success
- Help communities meet financing compliance issues
- Work collaboratively with consultants and other project resource specialists

The Board’s Continuum of Development follows a project’s natural progression through five steps. The following graphic provides a condensed version of each step, with the premise that every project lies somewhere within the continuum.



The success of each project, and the evaluation of the effectiveness of staff efforts, are made by assessing how far a community has progressed within each of the five steps, and then ultimately how far a community has advanced with its project.

3. Continue Client Outreach Through PWB Program Focused Technical Assistance

As long as there are financial programs offered by the Board, there will be a need for the Board to provide “front line” staff that directly interfaces with clients. Clients regularly recognize PWB customer service as among the top in State government. Board staff will continue to develop these relationships with PWB clients so they can easily access Board resources.

Assistance will include:

- Marketing Board programs to its clients
- Resolving project and contract issues relating to Board programs
- Meeting contract conditions such as Executive Order 05-05 (cultural resource requirements) and Investment Grade Energy Audits)
- Addressing any other needs that customers may have in accessing and using Board programs

Growing the Technical Assistance Effort

The Board’s Client Service Representatives plus one additional staff person would be hired to make up the technical assistance team. These six people will target their time primarily in one of the TA focus areas, and provide support to each of the other areas as needed. The Board’s regional approach is very popular with Board clients, as it encourages relationships to be developed between the regional staff and communities. Because of this, staff recommends continuing a regional approach.

The Board has always maintained a lean staffing arrangement to allow maximum resources to go out to clients. As the Board has been successful over the past half dozen years in taking on new programs and growing the Trust Fund, staff that normally are oriented to technical assistance are consistently reassigned to develop and enhance the Board’s new and existing programs. This new TA focus would minimize this approach, and free up additional staff time that would be spent exclusively on providing Technical Assistance.

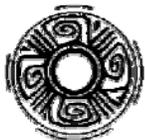
In the short term, staff's attentions are on the review and selection process for the 2014 PWTF loan program, and in developing the new programs authorized by the Legislature. As these efforts play out, however, the time to fully develop an enhanced Technical Assistance program will be available for implementation starting the next biennium (July 1st 2013).

Developing a TA Service Delivery Approach

Establish a robust Training and Education --	
Budget Considerations	Staffing, Goods and Services for speaker agreements and honorariums, sponsorships, travel, workshop registration, venues, and logistics
Staffing	1 FTE in 2013; 1.5 FTE thereafter
Development Effort	Hire a training coordinator who will: Develop an annual course offering, build a network of training partners and presenters, develop criteria for establishing a scholarship fund, design a registration and marketing approach, submit biennial budget request to receive authorization to establish a private/local fund that will allow registration fees to offset training costs.
Performance Expectations	At least one course offering a month @ 20 systems per session. Minimum number of systems assisted: 240

Provide project assistance	
Budget Considerations	Staffing, Goods and Services for travel, professional development, facilitation supplies, consultation services
Staffing	1 FTE in 2013; 2.0 FTE thereafter
Development Effort	Refine the Board's continuum of development, develop outreach strategy, tools, project and community assessment tool, and tracking mechanism to assess community performance.
Performance Expectations	A minimum of 25 communities will progress 100 steps

Provide Program Assistance	
Budget Considerations	Staffing, Goods and Services for travel, marketing materials, professional development
Staffing	1.5 FTE, allocated among Client Service Representatives
Development Effort	Assist in program design and improvement efforts, develop program specific training courses and tools,
Performance Expectations	Successfully negotiate a minimum of 150 contracts per year



Date: April 23, 2012
To: Public Works Board
From: Steve Dunk, IGEA Program Manager
Subject: **Investment Grade Efficiency Audit (IGEA)**

Background

In the 2011 legislative session, the Public Works Board was mandated per ESHB 1497 Section 1021, to complete an Investment Grade Efficiency Audit for all projects for which energy savings is “obtainable”. The primary purpose of the IGEA is to confirm that infrastructure projects using electricity, motors or pumps evaluate the efficiency of the equipment being considered. Through this analysis, a project such as a wastewater system, can determine if more energy efficient equipment could create long-term savings for the system as a whole.

The Department of Ecology and the Department of Health were also required to implement the same language for their infrastructure loans. Together, the Department of Ecology (DOE), the Dept. of Health (DOH), the Public Works Board and the Dept. of Enterprise Services (DES) developed the initial criteria in order to guide loan recipients to meet the legislative intent.

Due to the timing of the IGEA requirement, many of the 2012 PWTF loans had already started or completed engineering design and/or were under construction with their infrastructure project. To require the loan recipients to comply with the IGEA, additional costs would be incurred by the jurisdiction above what was originally budgeted.

In November of 2011, the Public Works Board submitted a \$5,000,000 decision package to the Governor to cover any requests for IGEA expenses. The funding was submitted with the understanding that DOE, DOH or PWTF loan recipients would be eligible to request additional loan money for unaccounted project costs.

Results

The 2012 legislature approved the \$5,000,000 energy efficiency request submitted by the PWB however, the language written in the bill “Financing Energy/Water Efficiency” allows the Board wide discretion on how this funding can be administered.

As a result, Board staff has been consulting with the energy experts i.e. Dept. of Enterprise Services, Dept. of Commerce Energy Office, WSU Extension, Bonneville Power Administration as well as the

PWB stakeholders including AWC, WPUDA, Treasurer's Office, Washington State Association of Counties and more.

Draft eligibility criteria is being developed in order to provide an energy efficiency loan funded by the Public Works Board. Eligible jurisdictions and projects will be able to apply for this low interest loan from August through September 2012. Projects will be selected and funding will be approved by December 2012.

An ad hoc committee made up of Doug Quinn, Larry Waters, Darwin Smith, DES, PWB staff and the Commerce Energy Office will meet to determine final draft recommendations for the energy loan program.

Next Steps

The full Board will provide their thoughts and comments to the final draft criteria and approve the criteria at the June Board meeting. Once the Board approves, the PWB staff will market the program for the August/September application cycle.

Board will need to determine if they wish to budget for this program in the coming years.

Sample of Public Works Board Energy Loan Criteria:

Jurisdiction Eligibility

- Local Governments
- Special Purpose Dist.'s
- Ports
- Flooding/Diking Dist.'s
- PUD's
- Counties
- Cities
- Towns

Eligible Projects (Existing facilities only)

- **Traditional systems**
 - Water
 - Sewer
 - Solid Waste
 - Stormwater
 - Roads w/ lighting?
- **Non-traditional systems**
 - Courthouses
 - Transit Facilities – shops that maintain buses, airplanes...
 - Swimming Pools
 - Community Centers
 - Airports
 - Town Halls
 - Lighting for Parks
 - Building rehabilitation/retro-fits

Who & What is NOT Eligible?

- School Dist.'s
- Moveable Stock (cars, generators, etc.)
- Private Water Systems
- Private Enterprises
- State Agencies
- Indian Tribes
- No New Buildings

Application

- Apply on line w/ new “portal system”
- A completed “**Final**” Investment Grade Audit would be required at the time of loan request.
- Loan requests will be accepted on an on-going basis
- First come-first serve for loan requests (no rating & ranking)
- Audits would be a reimbursable expense if the program received funding.
- Application will ask for information on all other funds that will be used for project (including: utility incentives, other grants, owner provided funds, and etc.).
- Date, Stamp, Time of application submittal – go down the list if project(s) discontinue.
- Readiness to Proceed is critical if there is no rating and ranking!

Loan Terms

- \$1,000,000 upper end loan limit
- Term of loans from 5 to 20 years
- Interest rate 1% (5 to 10 yr. term) 2% (10 to 20 yr. term)
- 1 year deferral to get energy savings up and running
- Loan term will not be more than the life cycle of the project
- Interest in first yr. only
- Annual loan repayment
- 1% loan set-up fee

Assumptions

- Primary purpose of the energy loan is to save/reduce energy. The energy savings is not meant to be a bi-product of a larger infrastructure project.
- First come, first serve basis as long as threshold requirements are met i.e. GMA, Audit...
- Standardized energy audit (per DES for industrial vs. commercial?) due at time of application
- Readiness to proceed is critical
- Loan request will go through new “portal system” i.e. financial & managerial review
- Loan only
- Set up fee 1% of loan
- Begin December 2012
- On-going revolving loan
- Capitalize energy program next year with \$5,000,000 or \$10,000,000 additional dollars to revolve through program

Program Measurable

Tab 2 – Comparing the Past-Present-Future

- Energy Audit
- Achieving state priorities
- Making energy efficiency affordable and convenient (loan will allow recipients not to raise operational costs/rates, debt would be covered through energy savings).
- Environmentally proactive
- Performance Based Contracting? (meeting or exceeding audit?)

Balancing Factors

- The Public Works Board Reserves the right to use a predetermined set of balancing factors to ensure the objectives of the energy program, meet state priorities, and provide equity to applicant’s state wide.
- Energy Savings per project using the audit (obtainable savings?)
- *Bundling* energy saving projects i.e. using low hanging fruit (lighting) w/ HVAC system to reach “*deeper*” overall energy saving projects, not just lighting.
- Readiness to proceed rating 1-5 based on design, approval of board/councils, 05-05 needed, when the project can be started/completed, etc.
- Leveraging ratio w/ power providers...
- Non-energy secondary benefits
- Creative/innovative ideas get extra points
- Geographic location
- Size of Community/system

Work plan:

IGEA Work plan / Timeline			
	Date	Task	Status
1.	January – March	Stakeholder Input	Done
2.	January – March	Gathering EE Criteria	Done
3.	Mid March	Hold Stakeholder Meeting	Done
4.	April	Create Draft Eligibility criteria and loan terms	Done
5.	Beginning May	Board Ad hoc committee to review/advise on draft criteria	Members Chosen: Doug, Larry & Darwin
6.	3 rd Week in May	Send out final draft criteria for stakeholder comments	
7.	June	Finalize Loan Criteria at June Board Mtg.	
8.	June - July	Officially Market Energy Loan Program	
9.	June - July	Re-design Portal for Energy Loan Applications	
10.	August – Sept.	Begin accepting applications through portal	
11.	Oct. - Nov.	Create contract template	
12.	Oct. - Nov.	Select projects	
13.	December	Board review/approval of projects	

TAB 3 THE BUDGET

1. *Resources*
2. *Operating Budget*
3. *Capital Budget*
4. *Budget Process Timeline*

Public Works Trust Fund: Estimated Capital Resources and Commitments based on Staff Recommendation

Biennium	11-13		13-15		15-17		17-19	
Revenue Resources								
Repayments	\$232,217,350	71.3%	\$243,441,155	68.1%	\$268,070,224	60.8%	\$333,262,340	62.1%
Real Estate Excise Tax	\$47,917,358	14.7%	\$62,577,844	17.5%	\$69,284,729	15.7%	\$73,504,169	13.7%
Public Utility Tax	\$31,951,052	9.8%	\$32,067,479	9.0%	\$33,683,830	7.6%	\$35,735,176	6.7%
Solid Waste Collection Tax	\$0	0.0%	\$0	0.0%	\$41,827,000	9.5%	\$66,423,715	12.4%
Estimated Future Deobligations	\$13,414,946	4.1%	\$19,133,540	5.4%	\$27,844,031	6.3%	\$27,844,031	5.2%
Total Resources Available	\$325,500,706	100%	\$357,220,018	100%	\$440,709,814	100%	\$536,769,430	100%
LESS Commitments								
<i>Existing Commitments</i>								
DWSRF Match Transfer	(\$15,000,000)	4.6%	(\$10,000,000)	2.8%	(\$10,000,000)	2.3%	(\$10,000,000)	1.9%
Water Pollution Control RFP Match (Section 3013)	(\$15,500,000)	4.8%	(\$15,500,000)	4.3%	(\$15,500,000)	3.5%	(\$15,500,000)	2.9%
Sub-total Existing Commitments	(\$30,500,000)	9.4%	(\$25,500,000)	7.1%	(\$25,500,000)	5.8%	(\$25,500,000)	4.8%
<i>Other Commitments</i>								
Transfer to State Operating Budget, Section 805	(\$80,000,000)	24.6%	\$0	0.0%	\$0	0.0%	\$0	0.0%
Sub-total Other Commitments	(\$80,000,000)	24.6%	\$0	0.0%	\$0	0.0%	\$0	0.0%
Total Commitments	(\$110,500,000)	33.9%	(\$25,500,000)	7.1%	(\$25,500,000)	5.8%	(\$25,500,000)	4.8%
Resources Available for Capital BEFORE ALCM	\$215,000,706	66.1%	\$331,720,018	92.9%	\$415,209,814	94.2%	\$511,269,430	95.2%
<i>Amount of ALCM</i>	290,321,264	135.0%	129,896,375	39.2%	3,954,549	1.0%	152,325,289	29.8%
Resources Available for Capital AFTER ALCM	\$505,321,971	235.0%	\$461,616,393	139.2%	\$419,164,364	101.0%	\$663,594,719	129.8%
<i>LESS PWB Operating Budget</i>	(\$2,740,971)	0.54%	(\$4,616,393)	1.00%	(\$4,754,885)	1.13%	(\$4,897,531)	0.74%
Resources Available for CAPITAL, net of Oper.	\$502,581,000	99.5%	\$457,000,000	99.0%	\$414,409,479	98.9%	\$658,697,188	99.3%

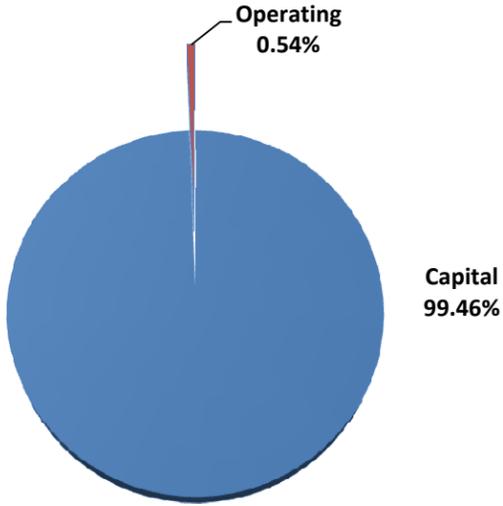
Public Works Board

Operating Budget: 2011-13 and 2013-2015 projected

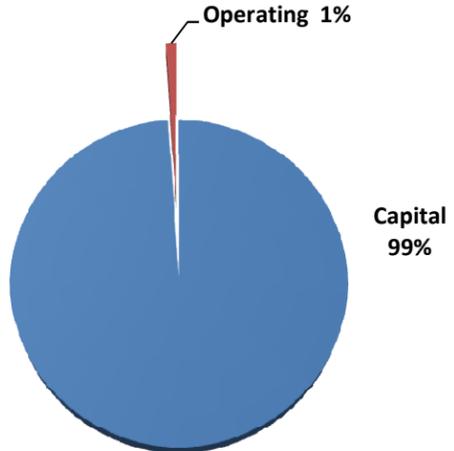
Biennium	PWB/Board	FTE	LGID	FTE	CAU	FTE	SCI	FTE	IT	FTE	PWB Ind.	Total FTEs	Total Oper.
2011-13 ¹	\$ 1,809,647	7.80	\$ 119,665	0.55	\$ 336,589	1.50	\$ 259,669	1.10	\$ -	0.00	\$ 215,401.00	10.95	\$ 2,740,970.50
2013-15 Staff ²	\$ 2,609,939	12.45	\$ 123,226	0.55	\$ 355,003	1.50	\$ -	0.00	\$ 800,000.00	0.60	\$ 728,225.00	15.10	\$ 4,616,393.00
2013-15 Board	\$ -	0.00	\$ -	0.00	\$ -	0.00	\$ -	0.00		0.00		0.00	\$ -

Capital Budget: 2011-13 and 2013-2015 projected

Biennium	Construction ⁴	Pre-Con/Planning	Emergency	IGEA	Main Street ⁵	CERB ⁶	Needs Assessment	Total Capital	PWB Operating	Total Capital & Operating
2011-13	\$ 477,781,000	\$ 3,000,000	\$ -	\$ 5,000,000	\$ 800,000	\$ 16,000,000	\$ -	\$502,581,000.00	\$ 2,740,970.50	\$505,321,970.50
2013-15 Staff	\$ 400,000,000	\$ 20,000,000	\$ 5,000,000	\$ 15,000,000	\$ -	\$ 15,000,000	\$ 2,000,000	\$457,000,000.00	\$ 4,616,393.00	\$461,616,393.00
2013-15 Board	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$0.00	\$ -	\$0.00



2011-13 Biennium Capital & Operating Percentages



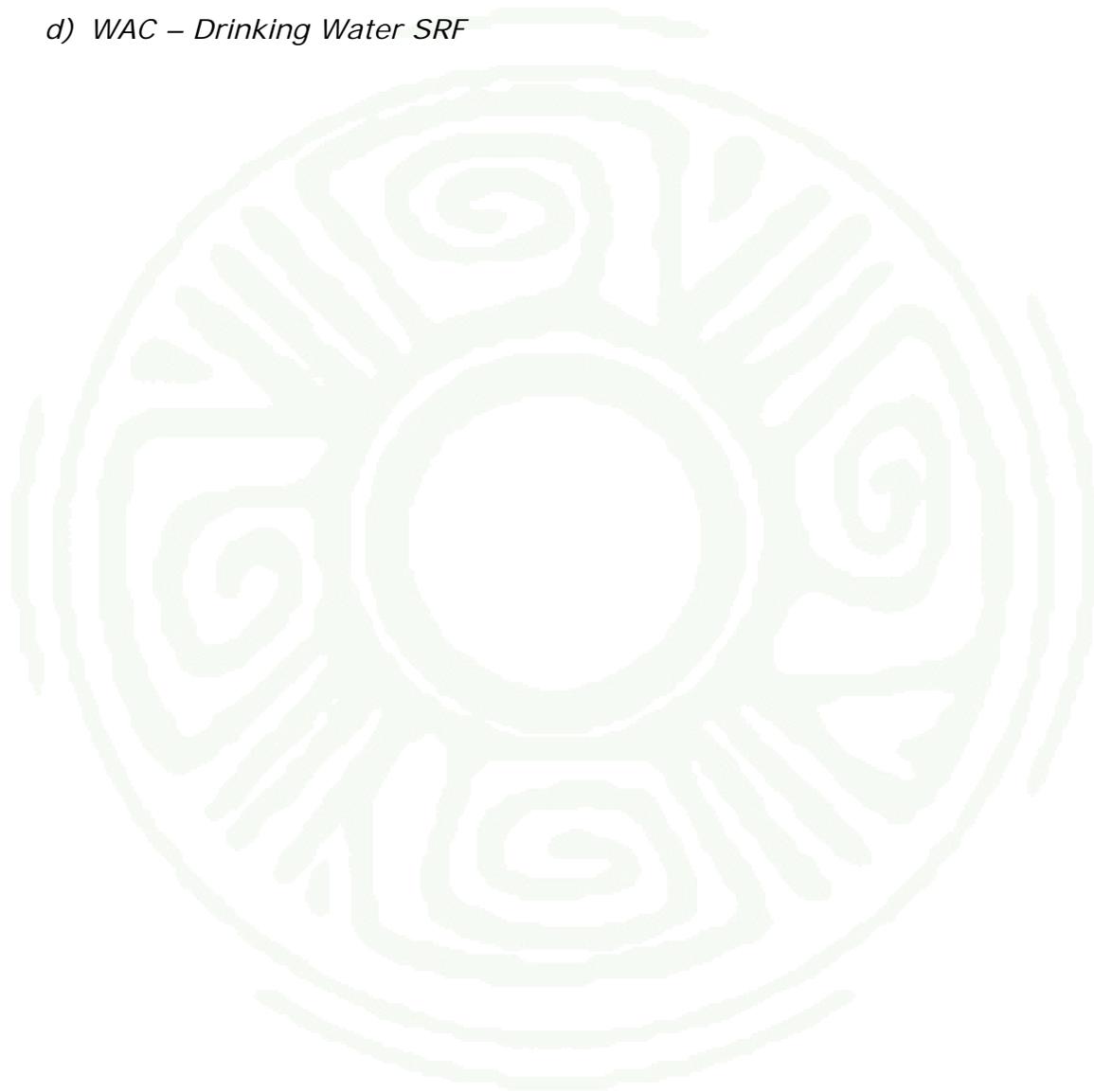
2013-15 Biennium Capital & Operating Percentages Board Staff Proposal

¹ Includes 3% reduction in salaries, benefits, and indirect related to temporary salary cuts.
² Includes 3% increase in salaries, benefits, and indirect related to end of temporary salary cuts.
³ Additional FTEs and funds recommended for Technical Assistance, increased Board costs for committees and Board member travel.
⁴ Accelerated Loan Commitment Model (ALCM) – Accelerated lending is the commitment of funds to projects based on the expected availability of funds and the demand for those funds (i.e. cash disbursements) over time.
⁵ Main Street Grant: ESB 6074, Section 1007 appropriated \$800,000 for the Scriber Creek Pedestrian Bridge project funded by PWAA.
⁶ Based on the benefits identified during the development of Modernizing Washington's Infrastructure Assistance Network (ESHB 1497, Section 7028) additional funding for CERB's loan/grant program was widely supported by the Board. This intent is continuing that support through 2013-15 biennium by funding CERB for \$15 million.

Commerce Internal Timeline for 2013-15 Budget Development (key deadline dates)		
March 2012		
	March 21	Tentative timeline
	March 29	Approved timeline
April 2012		
	April 12 (approx)	Revenue Projection workbooks released to coordinators (old R1s again)
	April 12 (approx)	Federal estimate worksheet released to coordinators
	April 12 (approx)	Distribute concept paper template and schedule
	April 12 (approx)	Identify agency Program Structure Change requests
May 2012		
	May 15 (approx)	Program Structure Change requests due to OFM
	May 15 (approx)	Update agency compensation data for collective bargaining and budget development (OFM)
	May 15 (approx)	OFM 2013-15 Operating Budget Instructions published
	May 15 (approx)	OFM 2013-15 Capital Budget Instructions published
June 2012		
	June 08 (approx)	Activity Inventory updates for 2012 supplemental budget due
X	June 14	Concept Papers due to CBO, Legislative Office (Nick)
	June 25	Management Team selects projects to go forward
	June 28	Performance Measure Incremental Estimate Report due to Cyndee Baugh and CBO
	June 28	Performance Measure to Activity Crosswalk due to Cyndee Baugh and CBO
July 2012		
	July 13	Complete revenue projection workbooks due to CBO
	July 20	2013-15 Federal Estimate due to CBO (CBO write a DP if necessary)
X	July 26	Decision packages due to CBO, Legislative Office
	July 27 (approx)	Carry Forward Level VRS released by OFM
	July 27	BDS input shown to coordinators for discussion
August 2012		
	August 09	Division breakdown of CFL by Object and FTE due to CBO
	August 13	Director/Management Team final decisions on decision packages
	August 16	BDS input shown to coordinators for discussion
X	August 23	Second due date for agency 2013-15 operating budget and capital 10-year plan (possible submittal for Commerce)
September 2012		
X	September 6 (approx)	Last due date for agency 2013-15 operating budget and capital 10-year plan (probable submittal for Commerce)

1) Authorizing Environment

- a) *RCW 43.155 – Public Works Board*
- b) *WAC 399 – Public Works Board*
- c) *RCW 70.119A-Drinking Water SRF*
- d) *WAC – Drinking Water SRF*





CHAPTER 43.155 RCW - PUBLIC WORKS PROJECTS

- 43.155.010 - Legislative findings and policy.
43.155.020 - Definitions.
43.155.030 - Public works board created.
43.155.040 - General powers of the board.
43.155.050 - Public works assistance account.
43.155.055 - Water storage projects and water systems facilities subaccount.
43.155.060 - Public works financing powers – Competitive bids on projects.
43.155.065 - Emergency public works projects.
43.155.068 - Loans for preconstruction activities.
43.155.070 - Eligibility, priority, limitations, and exceptions.
43.155.075 - Loans for public works projects -- Statement of environmental benefits -- Development of outcome-focused performance measures.
43.155.080 - Records and audits.
43.155.090 - Loan agreements.
43.155.100 - Water conservation account.
43.155.110 - Puget Sound partners.
43.155.120 - Administering funds -- Preference to an evergreen community.
43.155.130 - Intent -- Local infrastructure assistance-Plan.
43.155.140 - Projects in areas impacted by the closure or potential closure of large coal-fired electric generation facilities.

43.155.010 - Legislative findings and policy.

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

The legislature further finds that Washington's local governments have unmet financial needs for solid waste disposal, including recycling, and encourages the board to make an equitable geographic distribution of the funds.

It is the policy of the state of Washington to encourage self-reliance by local governments in meeting their public works needs and to assist in the financing of critical public works projects by making

loans, financing guarantees, and technical assistance available to local governments for these projects. [1996 c 168 § 1; 1985 c 446 § 7.]

43.155.020 - Definitions.

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

- (1) "Board" means the public works board created in RCW 43.155.030.
- (2) "Capital facility plan" means a capital facility plan required by the growth management act under chapter 36.70A RCW or, for local governments not fully planning under the growth management act, a plan required by the public works board.
- (3) "Department" means the department of commerce.
- (4) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.
- (5) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.
- (6) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems and solid waste facilities, including recycling facilities. A planning project may include the compilation of biological, hydrological, or other data on a county, drainage basin, or region necessary to develop a base of information for a capital facility plan.
- (7) "Solid waste or recycling project" means remedial actions necessary to bring abandoned or closed landfills into compliance with regulatory requirements and the repair, restoration, and replacement of existing solid waste transfer, recycling facilities, and landfill

projects limited to the opening of landfill cells that are in existing and permitted landfills.

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

(a) Help such local governments plan, apply, and qualify for loans and financing guarantees from the board, and (b) help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities.

[2009 c 565 § 33; 2001 c 131 § 1; 1996 c 168 § 2; 1995 c 399 § 85; 1985 c 446 § 8.]

43.155.030 - Public works board created.

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

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

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

[1999 c 153 § 58; 1985 c 446 § 9.]

Notes:

Part headings not law -- 1999 c 153: See note following RCW 57.04.050.

43.155.040 - General powers of the board.

The board may:

- (1) Accept from any state or federal agency, loans or grants for the planning or financing of any public works project and enter into agreements with any such agency concerning the loans or grants;
- (2) Provide technical assistance to local governments;
- (3) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter;
- (4) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter;
- (5) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter.

[1985 c 446 § 10.]

43.155.050 - Public works assistance account.
*** CHANGE IN 2012 *** (SEE 6074.SL) ***

The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from

the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. For the 2007-2009 biennium, moneys in the account may be used for grants for projects identified in section 138, chapter 488, Laws of 2005 and section 1033, chapter 520, Laws of 2007. During the 2009-2011 fiscal biennium, sums in the public works assistance account may be used for the water pollution control revolving fund program match in section 3013, chapter 36, Laws of 2010 1st sp. sess. During the 2009-2011 fiscal biennium, the legislature may transfer from the job development fund to the general fund such amounts as reflect the excess fund balance of the fund. During the 2011-2013 fiscal biennium, the legislature may transfer from the public works assistance account to the general fund, the water pollution control revolving account, and the drinking water assistance account such amounts as reflect the excess fund balance of the account.

[2011 1st sp.s. c 50 § 951. Prior: 2010 1st sp.s. c 37 § 932; 2010 1st sp.s. c 36 § 6007; (2009 c 564 § 940 expired June 30, 2011); (2008 c 328 § 6002 expired June 30, 2011); 2007 c 520 § 6037; (2007 c 520 § 6036 expired June 30, 2011); prior: 2005 c 488 § 925; (2005 c 425 § 4 expired June 30, 2011); 2001 c 131 § 2; prior: 1995 2nd sp.s. c 18 § 918; 1995 c 376 § 11; 1993 sp.s. c 24 § 921; 1985 c 471 § 8.]

Notes:

Effective date -- 2011 1st sp.s. c 50 § 951: "Section 951 of this act takes effect June 30, 2011." [2011 1st sp.s. c 50 § 952.]
Effective date -- 2010 1st sp.s. c 37: See note following RCW [13.06.050](#).
Effective date -- 2010 1st sp.s. c 36: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 4, 2010]." [2010 1st sp.s. c 36 § 6018.]
Expiration date -- 2009 c 564 § 940: "Section 940 of this act expires June 30, 2011." [2009 c 564 § 962.]
Effective date -- 2009 c 564: See note following RCW [2.68.020](#).
Expiration date -- 2008 c 328 § 6002: "Section 6002 of this act expires June 30, 2011." [2008 c 328 § 6018.]

Part headings not law -- 2008 c 328: "Part headings in this act are not any part of the law." [2008 c 328 § 6020.]
Severability -- 2008 c 328: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2008 c 328 § 6021.]
Effective date -- 2008 c 328: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 1, 2008]." [2008 c 328 § 6022.]
Expiration date -- 2007 c 520 § 6036: "Section 6036 of this act expires June 30, 2011." [2007 c 520 § 6039.]
Part headings not law -- Severability -- Effective dates -- 2007 c 520: See notes following RCW [43.19.125](#).
Part headings not law -- Severability--Effective dates--2005 c 488: See notes following RCW [28B.50.360](#).
Finding -- 2005 c 425: "The legislature has and continues to recognize the vital importance of economic development to the health and prosperity of Washington state as indicated in RCW [43.160.010](#), [43.155.070\(4\)\(g\)](#), [43.163.005](#), and [43.168.010](#). The legislature finds that current economic development programs and funding, which are primarily low-interest loan programs, can be enhanced by creating a grant program to assist with public infrastructure projects that directly stimulate community and economic development by supporting the creation of new jobs or the retention of existing jobs." [2005 c 425 § 1.]
Expiration date -- 2005 c 425: "This act expires June 30, 2011." [2005 c 425 § 6.]
Severability -- 2005 c 425: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2005 c 425 § 7.]
Severability -- Effective date -- 1995 2nd sp.s. c 18: See notes following RCW [19.118.110](#).
Findings -- 1995 c 376: See note following RCW [70.116.060](#).
Severability -- Effective dates -- 1993 sp.s. c 24: See notes following RCW [28A.310.020](#).
Severability -- Effective date -- 1985 c 471: See notes following RCW [82.04.260](#).

43.155.055 - Water storage projects and water systems facilities subaccount.

***** CHANGE IN 2012 *** (SEE [6581-S.SL](#)) *****

- (1) A subaccount is created in the public works assistance account to receive money to fund the following projects: (a) Water storage projects; and (b) water systems facilities.
- (2) The projects listed in subsection (1) of this section must comply with the competitive bid requirements of RCW 43.155.060.
- (3) The subaccount created in subsection (1) of this section shall receive amounts appropriated to it for purposes of distributing these moneys as grants for water storage projects and water systems facilities projects as provided in the appropriation and this section. This subaccount shall be administered by the board and shall be separate from the other programs managed

by the board under this chapter.

- (4) The subaccount created in this section shall be known as the water storage projects and water systems facilities subaccount of the public works assistance account.

[2003 c 330 § 1.]

**43.155.060 - Public works financing powers —
Competitive bids on projects.**

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

- (1) Make low-interest or interest-free loans to local governments from the public works assistance account or other funds and accounts for the purpose of assisting local governments in financing public works projects. The board may require such terms and conditions and may charge such rates of interest on its loans as it deems necessary or convenient to carry out the purposes of this chapter. Money received from local governments in repayment of loans made under this section shall be paid into the public works assistance account for uses consistent with this chapter.
- (2) Pledge money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal or interest on obligations issued by local governments to finance public works projects. The board shall not pledge any amount greater than the sum of money in the public works assistance account plus money to be received from the payment of the debt service on loans made from that account, nor shall the board pledge the faith and credit or the taxing power of the state or any agency or subdivision thereof to the repayment of obligations issued by any local government.
- (3) Create such subaccounts in the public works assistance account as the board deems necessary to carry out the purposes of this chapter.
- (4) Provide a method for the allocation of loans and financing guarantees and the provision of technical assistance under this chapter.

All local public works projects aided in whole or in part under the provisions of this chapter shall be put out for competitive bids, except for emergency public works under RCW 43.155.065 for which the recipient

jurisdiction shall comply with this requirement to the extent feasible and practicable. The competitive bids called for shall be administered in the same manner as all other public works projects put out for competitive bidding by the local governmental entity aided under this chapter.

[1988 c 93 § 2; 1985 c 446 § 11.]

43.155.065 - Emergency public works projects.

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

[2001 c 131 § 3; 1990 c 133 § 7; 1988 c 93 § 1.]

Notes:

Findings -- Severability -- 1990 c 133: See notes following RCW 36.94.140.

43.155.068 - Loans for preconstruction activities.

- (1) The board may make low-interest or interest-free loans to local governments for preconstruction activities on public works projects before the legislature approves the construction phase of the project. Preconstruction activities include design, engineering, bid-document preparation, environmental studies, right-of-way acquisition, and other preliminary phases of public works projects as determined by the board. The purpose of the loans authorized in this section is to accelerate the completion of public works projects by allowing preconstruction activities to be performed before the approval of the construction phase of the project by the legislature.
- (2) Projects receiving loans for preconstruction activities under this section must be evaluated using the priority process and factors in *RCW 43.155.070(2). The receipt of a loan for preconstruction activities does not ensure the receipt of a construction loan for the project under this chapter. Construction loans for projects receiving a loan for preconstruction

activities under this section are subject to legislative approval under *RCW 43.155.070 (4) and (5). The board shall adopt a single application process for local governments seeking both a loan for preconstruction activities under this section and a construction loan for the project.

[2001 c 131 § 4; 1995 c 363 § 2.]

Notes:

***Reviser's note:** RCW 43.155.070 was amended by 1999 c 164 § 602, changing subsections (2), (4), and (5) to subsections (4), (6), and (7), respectively.

Finding -- Purpose -- 1995 c 363: "The legislature finds that there continues to exist a great need for capital projects to plan, acquire, design, construct, and repair local government streets, roads, bridges, water systems, and storm and sanitary sewage systems. It is the purpose of this act to accelerate the construction of these projects under the public works assistance program." [1995 c 363 § 1.]

43.155.070 - Eligibility, priority, limitations, and exceptions.

***** CHANGE IN 2012 *** (SEE 6359-S.SL)**

- (1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:
 - (a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;
 - (b) The local government must have developed a capital facility plan; and
 - (c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.
- (2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 must have adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a loan or loan guarantee under this chapter if

such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a loan or loan guarantee under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a loan or loan guarantee.

- (3) In considering awarding loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.
- (4) The board shall develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:
 - (a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;
 - (b) Except as otherwise conditioned by RCW 43.155.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;
 - (c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;
 - (d) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;
 - (e) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for

development permits consistent with section 1(2), chapter 231, Laws of 2007;

- (f) The cost of the project compared to the size of the local government and amount of loan money available;
 - (g) The number of communities served by or funding the project;
 - (h) Whether the project is located in an area of high unemployment, compared to the average state unemployment;
 - (i) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;
 - (j) Except as otherwise conditioned by RCW 43.155.120, and effective one calendar year following the development of model evergreen community management plans and ordinances under RCW 35.105.050, whether the entity receiving assistance has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030;
 - (k) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and
 - (l) Other criteria that the board considers advisable.
- (5) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.
- (6) Before November 1st of each even-numbered year, the board shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section during the preceding fiscal year

and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

- (7) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board. The legislature shall not change the order of the priorities recommended for funding by the board.
- (8) Subsection (7) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section.
- (9) Loans made for the purpose of capital facilities plans shall be exempted from subsection (7) of this section.
- (10) To qualify for loans or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.
- (11) After January 1, 2010, any project designed to address the effects of storm water or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

[2009 c 518 § 16; 2008 c 299 § 25. Prior: 2007 c 341 § 24; 2007 c 231 § 2; 2001 c 131 § 5; 1999 c 164 § 602; 1997 c 429 § 29; 1996

c 168 § 3; 1995 c 363 § 3; 1993 c 39 § 1; 1991 sp.s. c 32 § 23; 1990 1st ex.s. c 17 § 82; 1990 c 133 § 6; 1988 c 93 § 3; 1987 c 505 § 40; 1985 c 446 § 12.]

Notes:

Short title -- 2008 c 299: See note following RCW 35.105.010.

Severability -- Effective date -- 2007 c 341: See RCW 90.71.906 and 90.71.907.

Findings -- Recommendations -- Reports encouraged -
- 2007 c 231: "(1) The legislature finds that permit programs have been legislatively established to protect the health, welfare, economy, and environment of Washington's citizens and to provide a fair, competitive opportunity for business innovation and consumer confidence. The legislature also finds that uncertainty in government processes to permit an activity by a citizen of Washington state is undesirable and erodes confidence in government. The legislature further finds that in the case of projects that would further economic development in the state, information about the permitting process is critical for an applicant's planning and financial assessment of the proposed project. The legislature also finds that applicants have a responsibility to provide complete and accurate information.

(2) The legislature recommends that applicants be provided with the following information when applying for a development permit from a city, county, or state agency:

(a) The minimum and maximum time an agency will need to make a decision on a permit, including public comment requirements;

(b) The minimum amount of information required for an agency to make a decision on a permit;

(c) When an agency considers an application complete for processing;

(d) The minimum and maximum costs in agency fees that will be incurred by the permit applicant; and

(e) The reasons for a denial of a permit in writing.

(3) In providing this information to applicants, an agency should base estimates on the best information available about the permitting program and prior applications for similar permits, as well as on the information provided by the applicant. New information provided by the applicant subsequent to the agency estimates may change the information provided by an agency per subsection (2) of this section. Project modifications by an applicant may result in more time, more information, or higher fees being required for permit processing.

(4) This section does not create an independent cause of action, affect any existing cause of action, or establish time limits for purposes of RCW 64.40.020.

(5) City, county, and state agencies issuing development permits are encouraged to track the progress in providing the information to applicants per subsection (2) of this section by preparing an annual report of its performance for the preceding fiscal year. The report should be posted on its web site [and] made available and provided to the appropriate standing committees of the senate and house of representatives." [2007 c 231 § 1.]

Findings -- Intent -- Part headings and subheadings not

law -- Effective date -- Severability -- 1999 c 164: See notes following RCW 43.160.010.

Savings -- 1999 c 164 §§ 301-303, 305, 306, and 601-603: See note following RCW 82.60.020.

Effective date -- 1997 c 429 §§ 29, 30: "Sections 29 and 30 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [May 19, 1997]." [1997 c 429 § 55.]

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

Finding -- Purpose -- 1995 c 363: See note following RCW 43.155.068.

Effective date -- 1993 c 39: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 39 § 2.]

Section headings not law -- 1991 sp.s. c 32: See RCW 36.70A.902.

Intent -- 1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability -- Part, section headings not law -- 1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Findings -- Severability -- 1990 c 133: See notes following RCW 36.94.140.

**43.155.075 - Loans for public works projects —
Statement of environmental benefits
— Development of outcome-focused
performance measures.**

In providing loans for public works projects, the board shall require recipients to incorporate the environmental benefits of the project into their applications, and the board shall utilize the statement of environmental benefits in its prioritization and selection process. The board shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the loan program. To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The board shall consult with affected interest groups in implementing this section. [2001 c 227 § 10.]

Notes:

Findings -- Intent -- 2001 c 227: See note following RCW 43.41.270.

43.155.080 - Records and audits.

The board shall keep proper records of accounts and shall be subject to audit by the state auditor. [1987 c 505 § 41; 1985 c 446 § 13.]

43.155.090 - Loan agreements.

Loans from the public works assistance account under this chapter shall be made by loan agreement under chapter 39.69 RCW.

[1987 c 19 § 6.]

43.155.100 - Water conservation account.

***** CHANGE IN 2012 *** (SEE 6581-S.SL) *****

The water conservation account is created in the custody of the state treasurer. All receipts from federal funding dedicated to water conservation under 16 U.S.C. Sec. 3831 shall be deposited in the account. In addition, the legislature may appropriate money to the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account shall be used for the development and support of water conservation as defined by 16 U.S.C. Sec. 3831. Only the public works board or its designee may make expenditures from the account.

[2002 c 329 § 11.]

Notes:

Effective date -- 2002 c 329 § 11: "Section 11 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 3, 2002]." [2002 c 329 § 12.]

43.155.110 - Puget Sound partners.

In developing a priority process for public works projects under RCW 43.155.070, the board shall give preferences only to Puget Sound partners, as defined in RCW 90.71.010, over other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the action agenda developed by the Puget Sound partnership under RCW 90.71.310, or for any other reason, shall not be given less preferential treatment than Puget

Sound partners.
[2007 c 341 § 25.]

Notes:

Severability -- Effective date -- 2007 c 341: See RCW 90.71.906 and 90.71.907.

43.155.120 - Administering funds — Preference to an evergreen community.

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

[2008 c 299 § 30.]

Notes:

Short title -- 2008 c 299: See note following RCW 35.105.010.

43.155.130 - Intent — Local infrastructure assistance — Plan.

- (1) The legislature intends to modernize state programs that provide financial and technical assistance related to local infrastructure by:
 - (a) Clarifying the policy objectives and priorities for state assistance for local infrastructure;
 - (b) eliminating redundancy among the various state programs;
 - (c) increasing the speed of delivering state assistance and the ability to respond to emerging needs;
 - (d) maximizing the acquisition and use of federal funding sources;
 - (e) ensuring transparency in state and federal assistance;
 - (f) improving access to the lowest cost private market financing;
 - (g) ensuring accountability and the periodic review of progress.
- (2) By November 1, 2011, the public works board must prepare and submit to the appropriate committees of the legislature an implementation plan for creating a reformed state system for providing local infrastructure assistance. In developing the plan, the board must consult with state agencies that provide infrastructure funding and technical assistance including, but not limited to, the departments of commerce, health, and ecology. The board must also work in cooperation with local governments or entities that benefit from infrastructure funding and technical assistance.
- (3) The board, state agencies, and local partners must consider, among other things, consolidation of state appropriations to support policy-focused investments including water quality, safe drinking water, storm water, economic development, access to private financing, solid waste and recycling, and flood levees. In addition, they must consider consolidating assistance packages,

streamlining application processes, and clarify the respective responsibilities of state and local agencies in planning[,], developing[,], and maintaining local public infrastructure.

- (4) The implementation plan must include draft legislation and the organizational and budgetary changes necessary to implement the new system in time for the 2013-2015 budget cycle.

[2011 1st sp.s. c 48 § 7028.]

Notes:

Effective date -- 2011 1st sp.s. c 48: See note following RCW [39.35B.050](#).

43.155.140 - Projects in areas impacted by the closure or potential closure of large coal-fired electric generation facilities.

The board shall solicit qualifying projects to plan, design, and construct public works projects needed to attract new industrial and commercial activities in areas impacted by the closure or potential closure of large coal-fired electric generation facilities, which for the purposes of this section means a facility that emitted more than one million tons of greenhouse gases in any calendar year prior to 2008. The projects should be consistent with any applicable plans for major industrial activity on lands formerly used or designated for surface coal mining and supporting uses under RCW [36.70A.368](#). When the board receives timely and eligible project applications from a political subdivision of the state for financial assistance for such projects, the board from available funds shall give priority consideration to such projects.

[2011 c 180 § 302.]

Notes:

Findings -- Purpose -- 2011 c 180: See note following RCW [80.80.010](#).

CHAPTER 399 WAC- PUBLIC WORKS PROJECTS**WAC Sections 399**

- 399-10 General Provisions
- 399-20 Public Records
- 399-30 Public Works loans and pledges
- 399-40 Compliance with State Environmental Policy Act
- 399-50 Ethics in public service

399-10 General Provisions**399-10-010 - Organization and operation of the public works board.**

- (1) The public works board is a thirteen-member board appointed by the governor under RCW 43.155.030.
- (2) The governor appoints one of the general public members as chair. The board may elect other officers for terms deemed necessary.
- (3) The department of community, trade, and economic development provides staff support and office space to the board.

[Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-10-010, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(5). 01-09-014, § 399-10-010, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-10-010, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). 95-11-093, § 399-10-010, filed 5/19/95, effective 6/19/95; 93-22-014, § 399-10-010, filed 10/26/93, effective 11/26/93. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-10-010, filed 12/4/85.]

399-10-020 - Board meetings.

- (1) The board holds regular meetings on the first Tuesday of each month, except in July. In the month of August meetings are held on the first and third Tuesdays. The board may chose to cancel or move regular meetings and notice of any changes will be as provided by law.
- (2) Notice of the times and places of the regular meetings will be published annually in a January edition of the Washington State Register. A copy of the schedule of regular meetings may also be obtained upon request from the board.
- (3) Special meetings of the board may be called at any time by the chair of the board or by a

majority of the board members. Notice of such meetings will be as provided by law.

[Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-10-020, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-10-020, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). 93-22-014, § 399-10-020, filed 10/26/93, effective 11/26/93. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-10-020, filed 12/4/85.]

399-10-030 - Communications with the board.

Any and all written communications with the board, including but not limited to requests for information or copies of agency records, or submittals of any nature, must be addressed to the public works board, in care of:

Executive Director
Public Works Board
P.O. Box 48319
Olympia, WA 98504-8319

[Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-10-030, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-10-030, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). 93-22-014, § 399-10-030, filed 10/26/93, effective 11/26/93. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-10-030, filed 12/4/85.]

Chapter 399-20 WAC – Public Records

- 399-20-010 - Purpose.
- 399-20-020 - Definitions.
- 399-20-030 - Public records available.
- 399-20-040 - Public records officer.
- 399-20-060 - Office hours.
- 399-20-070 - Requests for public records.
- 399-20-080 - Copying.
- 399-20-090 - Exemptions.
- 399-20-100 - Review of denials of public records requests.
- 399-20-110 - Protection of public records.

DISPOSITIONS OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 399-20-050 Records index. [Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-050, filed 12/4/85.] Repealed by 07-05-029, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(4).
- 399-20-120 Adoption of form. [Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-20-120, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-120, filed 12/4/85.] Repealed by 07-05-029, filed 2/13/07, effective 3/16/07. Statutory

399-20-010 - Purpose.

This chapter is intended to ensure that the board complies with chapter 42.56 RCW, the Public Records Act, especially RCW 42.56.030 through 42.56.230 and RCW 42.56.510 through 42.56.580, which address disclosure of public records.

[Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-20-010, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-20-010, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-010, filed 12/4/85.]

399-20-020 - Definitions.

The following definitions shall apply to this chapter:

- (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.
- (2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combinations thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.
- (3) "Board" means the public works board, created in chapter 43.155 RCW, and also refers to the

board's officers and staff, where appropriate.

- (4) "Department" means the department of community, trade, and economic development, and shall refer to the department's staff, where appropriate.

[Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-20-020, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-20-020, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). 95-11-093, § 399-20-020, filed 5/19/95, effective 6/19/95. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-020, filed 12/4/85.]

399-20-030 - Public records available.

All public records of the board are deemed to be available for public inspection and copying, except as otherwise provided by RCW 42.56.070 and 42.56.210 as now or hereafter amended, and by WAC 399-20-090.

[Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-20-030, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-20-030, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-030, filed 12/4/85.]

399-20-040 - Public records officer.

The board shall designate a staff member to be the public records officer. The public records officer shall be responsible for implementation of the board's rules and regulations regarding inspection and copying of public records, and for ensuring compliance by the staff with the public records disclosure requirements of chapter 42.56 RCW.

[Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-20-040, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-20-040, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-040, filed 12/4/85.]

399-20-060 - Office hours.

Public records are available for inspection and copying from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Thursday, excluding legal holidays, or closure due to natural disaster, inclement weather, or local emergency.

[Statutory Authority: RCW 43.155.040(4). 09-04-100, § 399-20-060, filed 2/4/09, effective 3/7/09. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-20-060, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-060, filed 12/4/85.]

399-20-070 - Requests for public records.

The Public Records Act, chapter 42.56 RCW, requires agencies to prevent unreasonable invasions of privacy, to protect public records from damage or disorganization, and to prevent excessive interference with essential functions of the board. Therefore, members of the public may inspect, copy, or obtain copies of public records in compliance with chapter 42.56 RCW. The public records officer will assist the member of the public in appropriately identifying the public record requested.

[Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-20-070, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-20-070, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-070, filed 12/4/85.]

399-20-080 – Copying

No fee is charged for the inspection of public records. The board may charge a fee of fifteen cents per page for providing copies of public records, when copies of more than ten pages are provided, and for use of the department's copy equipment.

[Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-20-080, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-080, filed 12/4/85.]

399-20-090 - Exemptions.

- (1) The public records officer will determine whether a requested record is exempt from disclosure under chapter 42.56 RCW.
- (2) If a requested record is determined to be exempt in part, the public records officer will delete the exempt portions of the record before making it available for inspection or copying. The public records officer will fully justify any deletion in writing.
- (3) Whenever the public records officer denies a public records request, a written statement specifying the reason for the denial shall be provided.
- (4) The Public Disclosure Act requires agencies to respond promptly to requests for public records. Within five business days after receiving a public records request, the public records officer must respond by either:

- (a) Providing the record;

- b) Acknowledging the request and stating a reasonable estimate of the time the board will need to respond; or
- (c) Denying the request.

Agencies are required to establish a mechanism for the prompt. The board may require additional time to respond for reasons consistent with RCW 42.56.520.

[Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-20-090, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-20-090, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-090, filed 12/4/85.]

399-20-100 - Review of denials of public records requests.

Agencies are required to establish a mechanism for the prompt review of decisions denying the inspection or copying of public records. In any case where a public record is denied in whole or in part the chair, or designee, shall immediately review the matter and either affirm or reverse the denial. The review is deemed complete at the end of the second business day following the denial of inspection or copying and constitutes final agency action for purposes of judicial review.

[Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-20-100, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-100, filed 12/4/85.]

399-20-110 - Protection of public records

To protect the board's public records any person inspecting or copying the records must comply with the following requirements:

- (1) Public records may not be removed from the board's offices;
- (2) Persons inspecting public records must do so in the presence of a designated board or department employee;
- (3) Persons inspecting or copying public records must not mark or deface them in any manner;
- (4) Public records maintained in a file jacket, or in chronological order must not be dismantled except for the purposes of copying and then only by a designated board or department employee;
- (5) Only board or department employees will have access to file cabinets, shelves, vaults, or other storage areas.

[Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-20-110, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-20-110, filed 12/4/85.]

Chapter 399-30 WAC - Public works loans and Pledges

WAC Sections

- 399-30-010 - Purpose.
- 399-30-020 - Definitions.
- 399-30-030 - Applications for construction and preconstruction financial assistance.
- 399-30-031 - Applications for drinking water state revolving funds and water system acquisition and rehabilitation program financial assistance.
- 399-30-032 - What are the requirements for meeting the Growth Management Act under RCW 43.155.070?
- 399-30-033 - How will the board address a "public health need" under RCW 43.155.070?
- 399-30-034 - How will the board address "substantial environmental degradation" as found in RCW 43.155.070?
- 399-30-040- Application evaluation procedure and board deliberations -- Construction and preconstruction loan programs.
- 399-30-042 - Application evaluation procedure and board deliberations -- Capital planning support.
- 399-30-045 - Application evaluation procedure and board deliberations -- Emergency loan program.
- 399-30-050 - Recommendations to the legislature for construction loans.
- 399-30-060 - Loan and financing guarantee loan agreements for the construction loan program.
- 399-30-065 - Emergency loan and financing guarantee loan agreements.

399-30-010 - Purpose.

- (1) The public works board provides financial assistance to local governments from the public works assistance account or other sources to assist local governments in financing public works projects. The board may also pledge money to the repayment of all or a portion of the principal or interest on obligations issued by local governments to finance public works projects.
- (2) The purpose of this chapter is to describe how local governments may apply to the board for financial assistance, and to provide for the review of the applications.
- (3) The public works board provides technical assistance, including training and other services provided to local governments to help such local governments plan, apply, and

qualify for loans and financing guarantees from the board, and help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities.

[Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-30-010, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-30-010, filed 11/19/98, effective 12/20/98. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-30-010, filed 12/4/85.]

399-30-020 - Definitions.

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

- (1) "Board" means the public works board.
- (2) "Department" means the department of community, trade, and economic development.
- (3) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.
- (4) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.
- (5) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of bridges, roads, domestic water systems, sanitary sewer systems, storm sewer systems, and solid waste/recycling systems.
- (6) "Emergency public works project" means a public works project made necessary by a natural disaster, or an immediate and emergent threat to the public health and safety due to unforeseen or unavoidable circumstances.

[Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-30-020, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040. 89-10-041 (Order 89-01), § 399-30-020, filed 4/28/89. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-30-020, filed 12/4/85.]

399-30-030 - Applications for construction and

preconstruction financial assistance.

- (1) Any local government in the state of Washington may apply for financial assistance to assist in financing critical public works projects.
- (2) All applicants must meet the following conditions:
 - (a) Applicant cities and counties must be imposing a real estate excise tax under RCW 82.46.010(2) at a rate of at least one-quarter of one percent;
 - (b) Applicant local governments must have developed a long-term plan for financing public works needs as further described in the loan application package under "capital facilities planning."
- (3) Direct costs eligible for public works financial assistance are those costs directly attributable to a specific project and include:
 - (a) Work done by employees of the applicant, or by other government employees under an interlocal agreement or contract limited to: Engineering, environmental review, design activities, acquisition of rights of way or property, construction inspection activities, roadway seal coating (if bids from private sector contractors have been solicited and compared with the interlocal agreement proposal), and the cleaning, sterilization, or bacteriological testing of water system components prior to public use.
 - (i) Salaries and wages (at actual or average rates) covering productive labor hours of the local government employees (excluding the administrative organization of the operating unit involved). The cost of services rendered by employees generally classified as administrative are considered a direct cost only when such employees are assigned for short periods of time to perform on a full-time basis the types of services described above and when similar procedures are followed;
 - (ii) Employee benefits relating to direct labor are considered a direct cost of construction projects. The following items may be included as employee benefits:
 - (A) F.I.C.A. (Social Security) - employer's share;
 - (B) Retirement benefits;

- (C) Hospital, health, dental, and other welfare insurance;
- (D) Life insurance;
- (E) Industrial and medical insurance;
- (F) Vacation;
- (G) Holiday;\
- (H) Sick leave; and
- (I) Military leave and jury duty.

Employee benefits must be calculated as a percentage of direct labor dollars. The computation of predetermined percentage rates to be applied to current labor costs must be based on the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

- (b) Contract engineering, planning, legal, and financial planning services. The board reserves the right to declare ineligible legal costs that are unreasonable and disproportionate to the project.
- (c) Right of way acquisition costs including:
 - (i) Purchase of land and easements acquired for and devoted to the project;
 - (ii) Purchase of improvements;
 - (iii) Adjustment or reestablishment of improvements;
 - (iv) Salaries, expenses or fees of appraisers, negotiators or attorneys
 - (v) Removal or demolition of improvement;
 - (vi) Other direct costs in connection with the acquisition. Amounts received from the sale of excess real property or improvements and from any rentals will be reduced from the direct cost.
- (d) Contract construction work.
- (e) Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county-owned equipment, at the rental rates established by the local government's "equipment rental and revolving fund" following the methods prescribed by the division of municipal corporations. However, such costs must be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities with a population of eight thousand or less not using type of fund are allowed the same rates as used by the department of transportation.
- (f) Direct materials and supplies.

- (i) An overhead rate or "loading factor" is not considered an appropriate additive to the actual cost of materials and supplies used on construction projects unless the factor is readily and properly supportable by the governmental unit's accounting records.
- (ii) The cost, or reasonable estimate thereof, of materials paid for as contract estimate items, but not used, will be considered a reduction of direct costs. Any material that is salvaged in connection with a project will be assigned a reasonable value and considered a reduction of direct costs.
- (iii) Wetland plants and other materials used for wetland planting, wildlife habitat, or fish habitat may be provided to a public or nonprofit organization without a reduction of direct costs.
- (g) Interdepartmental charges for work performed by the local government for the benefit of specific construction projects is limited to direct costs plus an allocation of indirect costs based on ten percent of direct labor dollars, excluding employee benefits.
- (h) Other direct costs incurred for materials or services acquired for a specific project are eligible for participation by public works loan funds and may include, but are not limited to such items as:
 - i) Public communication plans and activities;
 - (ii) Telephone charges;
 - (iii) Reproduction and photogrammetry costs;
 - (iv) Video and photography for project documentation;
 - (v) Computer usage;
 - (vi) Printing and advertising; and
 - (vii) Value engineering and performance audits.
- (4) Other than work identified in subsection (3)(a) of this section, no government employee labor related costs, including force account work, are eligible for financing assistance or to be considered as local match under this chapter.
- (5) Applications must be submitted on forms provided by the board for the current funding cycle.
- (6) A responsible official of the applicant jurisdiction must certify each application for

financial assistance. The official must also provide the board with additional materials or information in support of the application when requested by the board or its staff.

[Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-30-030, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(5). 01-09-014, § 399-30-030, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-30-030, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). 92-03-052, § 399-30-030, filed 1/13/92, effective 2/13/92. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-30-030, filed 12/4/85.]

399-30-031 - Applications for drinking water state revolving funds and water system acquisition and rehabilitation program financial assistance.

The board, the department of health, and the department of community, trade, and economic development jointly administer the drinking water state revolving fund and the water system acquisition and rehabilitation program, and follow the process described in chapter 246-296 WAC.

[Statutory Authority: RCW 43.155.040(4). 09-04-100, § 399-30-031, filed 2/4/09, effective 3/7/09; 07-05-029, § 399-30-031, filed 2/13/07, effective 3/16/07.]

399-30-032 - What are the requirements for meeting the Growth Management Act under RCW 43.155.070?

- (1) "Compliance with the Growth Management Act" means that at the time of application for financial assistance:
 - (a) A local government that is required to or chooses to plan under RCW 36.70A.040 has adopted a comprehensive plan and development regulations in conformance with the requirements of chapter 36.70A RCW, after it is required that the comprehensive plan and development regulations be adopted; and
 - (b) The local government has not been found out of compliance by a growth management hearings board; or
 - (c) A growth management hearings board has found a local government in compliance with the requirements of chapter 36.70A RCW, after previously finding the local government was not in compliance.
- (2) Exceptions based on "public health need" or "substantial environmental degradation" shall not be used as a method to provide

unrestricted access to financial assistance for local governments not in compliance with the law.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-30-032, filed 2/13/07, effective 3/16/07; 99-09-020, § 399-30-032, filed 4/14/99, effective 5/15/99.]

399-30-033 - How will the board address a "public health need" under RCW 43.155.070?

"Public health need" means that a situation exists that causes or is about to cause a real, documented, acute public health need related to the state's air, water, or soil that contributes to injuries or deaths on public highways, or risk of a public health emergency due to contaminated domestic water, the failure of a sanitary sewer system, storm sewer system, or solid waste or recycling system; and the problem generally involves a discrete area including, but not limited to, a county, city, subdivision, or an area serviced by on-site wastewater disposal systems.

In determining whether a project is necessary to address a public health need, the board shall consider the following factors:

- (1) For bridge or road projects - Whether injury or fatal injury motor or nonmotorized vehicle traffic collisions at a specific site, roadway control section, or area have occurred at a rate to be in the top five percent of all such collisions within the applicant jurisdiction for the most recent three-year period; and whether the proposed public works project will eliminate or reduce the likelihood of such vehicle collisions. Applicants applying under this subsection may utilize jurisdiction-wide accident data, or break the data down into arterial or nonarterial roads, intersection or nonintersection, and for intersections, whether they are signalized or nonsignalized.
- (2) For domestic water projects - Whether a drinking water system regulated by the department of health has been contaminated or is in imminent danger of being contaminated to the extent of creating a public health risk and; whether the proposed public works project will eliminate or reduce the chance of contamination.
- (3) For sanitary sewer projects - Whether failure of existing wastewater system or systems, including on-site systems, has resulted in contamination being present on the surface of the ground in such quantities and locations so

as to create a potential for public contact; or whether contamination of a commercial or recreational shellfish bed so as to create a public health risk associated with the consumption of the shellfish, or contamination of surface water so as to create a public health risk associated with recreational use; and whether the proposed public works project will eliminate or reduce the danger of such public health risk.

- (4) For storm sewer projects - Whether failure of an existing storm sewer system has caused or is in imminent danger of causing localized flooding which disrupts critical public services; causes disease, illness, or attraction of rodents so as to create a public health risk; or contamination of a commercial or recreational shellfish bed so as to create a public health risk associated with the consumption of the shellfish, or contamination of surface water so as to create a public health risk associated with recreational use and; whether the proposed public works project will eliminate or reduce the danger of localized flooding which disrupts critical public services or causes a public health risk.
- (5) For solid waste or recycling projects - Whether failure of an existing solid waste or recycling system has caused or is in danger of causing groundwater contamination; causes disease, illness, or attraction of rodents so as to create a public health risk and; whether the proposed public works project will eliminate or reduce the danger of such public health risk.
- (6) For all projects - Whether more efficient operation of an existing system, changing public access, or modifying other regulatory standards (e.g., reduced speed limits, water conservation measures, rodent control, restricted shellfish harvesting) is likely to provide the same or similar level of resolution.
- (7) For all projects - Whether the public health problem is caused by failure to maintain or periodically replace, reconstruct, or rehabilitate a public works system.
- (8) For all projects - Other factors the board finds on the record are significant in light of facts and circumstances unique to the project.
- 9) The factors enumerated in subsection (1) of this section must be addressed in a letter of request, with supporting documentation,

addressed to the chair of the board and signed by the public official who signed the application for financial assistance.

- (10) The factors enumerated in subsections (2) through (5) of this section must be addressed in a letter of request, with supporting documentation, addressed to the secretary of the Washington state department of health and signed by the public official who signed the application for financial assistance. A determination of a public health need may be made by the secretary, or designee, and addressed to the same public official. The board will consider the determination of the secretary. The board will also consider information presented on factors enumerated in subsections (6) through (8) of this section, which must be documented in a manner acceptable to the board.

[Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-30-033, filed 2/13/07, effective 3/16/07; 99-09-020, § 399-30-033, filed 4/14/99, effective 5/15/99.]

399-30-034 - How will the board address "substantial environmental degradation" as found in RCW 43.155.070?

"Substantial environmental degradation" means a situation causes or is about to cause real, documented, substantial environmental degradation that contributes to violations of the state's air quality, water quality, or soil contaminate standards, interferes with beneficial uses of the air, water, or land, and the problem generally involves a discrete area including, but not limited to, a county, city, subdivision, or an area serviced by on-site wastewater disposal systems.

In determining whether a project is necessary to address substantial environmental degradation, the board shall consider the following factors:

- (1) For bridge and road projects - Whether motorized or nonmotorized vehicle traffic has caused substantial environmental degradation of the air, water, or soils of the state at the site for which a proposed public works project is the subject of a financial assistance application, and; whether the proposed public works project will eliminate or reduce the chance of such vehicle-caused critical substantial environmental degradation.

- (2) For domestic water projects - Whether a drinking water system regulated by the department of health has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce the chance of substantial environmental degradation.
- (3) For sanitary sewer projects - Whether failure of an existing wastewater system, including individual on-site systems, has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.
- (4) For storm sewer systems - Whether failure of an existing storm sewer system has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.
- (5) For solid waste or recycling projects - Whether failure of an existing solid waste system or recycling system has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.
- (6) For all projects - Whether more efficient operation of an existing system, changing public access, or modifying other regulatory standards (e.g., reduced speed limits, water conservation measures, rodent control, restricted shellfish harvesting) is likely to provide the same or similar level of resolution.
- (7) For all projects - Whether the substantial environmental degradation is caused by failure

to maintain or periodically replace, reconstruct, or rehabilitate a public works system.

- (8) For all projects - Other factors the board finds on the record are significant in light of facts and circumstances unique to the project. Fish passage, water quality, or water quantity issues directly impacting salmonid fish survival in a watershed which is designated as a candidate for listing, proposed for listing, threatened listing, or endangered listing under the federal Endangered Species Act may be considered significant and unique to a project.
- (9) The factors enumerated in subsections (1) through (5) of this section must be addressed in a letter of request, with supporting documentation, to the director of the Washington state department of ecology and signed by the public official who signed the application for financial assistance. A determination of substantial environmental degradation may be made by the director or designee and addressed to the same public official. The board will consider the determination of the director. The board will also consider information presented on factors enumerated in subsections (6) through (8) of this section, which must be documented in a manner acceptable to the board.

[Statutory Authority: RCW 43.155.040(4), 07-05-029, § 399-30-034, filed 2/13/07, effective 3/16/07; 99-09-020, § 399-30-034, filed 4/14/99, effective 5/15/99.]

399-30-040 - Application evaluation procedure and board deliberations — Construction and preconstruction loan programs.

- (1) The board will consider and prioritize, or disapprove, all applications for financial assistance at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.
- (2) Applications will be evaluated and prioritized in accordance with the following procedures:
- (a) Staff will log in all applications as received.
 - (b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum qualification

requirements will be notified in writing of the disqualification.

- (c) Staff will perform an evaluation of all applications which meet the requirements of WAC 399-30-030(2). Applications will be scored according to responses in the application developed and approved by the board.
 - (d) Staff will provide the board with evaluation and scoring of the applications. All application materials will be available to the board for their deliberations. The board will approve a ranked list of projects based on the information provided to them by the staff and the applications.
 - (e) The board may adjust the ranked list in consideration of the following factors:
 - (i) Geographical balance;
 - (ii) Economic distress;
 - (iii) Type of projects;
 - (iv) Type of jurisdiction;
 - (v) Past management practices of the applicant, including, but not limited to, late loan payments, loan defaults, audit findings, or inability to complete projects within the time allowed by loan agreement;
 - (vi) Other criteria that the board considers advisable.
 - (f) Staff will verify critical information on each project as required by the board.
 - (g) In order to ensure fairness to all jurisdictions with applications pending before the board, the board will not accept oral or written testimony from any applicant while deliberating loan priorities, other than specific responses to information requests initiated by the board as provided in (h) of this subsection.
 - (h) The board may consult with officials of jurisdictions having projects submitted for funding on any issue it wishes to address.
- (3) Applicants will be notified in writing of board decisions.

[Statutory Authority: RCW 43.155.040(4), 09-04-100, § 399-30-040, filed 2/4/09, effective 3/7/09; 07-05-029, § 399-30-040, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(5), 01-09-014, § 399-30-040, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040 (4) and (5), 98-24-010, § 399-30-040, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4), 95-11-093, § 399-30-040, filed 5/19/95, effective 6/19/95; 93-22-015, § 399-30-040, filed 10/26/93, effective 11/26/93; 92-03-052, § 399-30-040, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW

43.155.040. 88-10-009 (Order 88-02), § 399-30-040, filed 4/22/88; 87-17-013 (Order 87-16), § 399-30-040, filed 8/10/87; 86-18-009 (Resolution No. 86-12), § 399-30-040, filed 8/21/86. Statutory Authority: 1985 c 446 § 10. 86-03-051 (Resolution No. 85-17), § 399-30-040, filed 1/15/86.]

399-30-042 - Application evaluation procedure and board deliberations — Capital planning support.

- (1) The board will consider and approve, or disapprove, all applications for capital planning support loans at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.
- (2) Direct costs eligible for capital planning support are those costs directly attributable to: A systemic related plan, including capital facilities plans and capital improvement plans; comprehensive plans, environmental studies, including biological assessments or environmental assessments; or archaeological and historic preservation activities.
- (3) All applications will be evaluated in accordance with the following procedures:
 - (a) Staff will log in all applications as received.
 - (b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum requirements will be notified in writing of the disqualification.
 - (c) Staff will perform an evaluation of applications which meet the requirements of WAC 399-30-030(2) to determine if the application is consistent with the policies contained in the loan application.
 - (d) Those applications found to be consistent with board policies may be recommended to the board for funding. All application materials will be available to the board for its deliberations. The board will approve a list of projects based on the information provided to it by the staff and the applications.
 - (e) The board may then adjust the list in consideration of the following factors:
 - (i) Geographical balance;
 - (ii) Economic distress;
 - (iii) Past management practices of the applicant, including, but not limited to, late loan payments, loan defaults, audit findings, or inability to complete

- projects within the time allowed by loan agreement;
- (iv) Other criteria that the board considers advisable.
- (f) Staff will verify critical information on each project as required by the board.
- (g) The board may consult on any issue it wishes to address, with officials of jurisdictions having projects submitted for funding.

- (4) Applicants will be notified in writing of board decisions.

[Statutory Authority: RCW 43.155.040(4). 09-04-100, § 399-30-042, filed 2/4/09, effective 3/7/09; 07-05-029, § 399-30-042, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(5). 01-09-014, § 399-30-042, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-30-042, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). 92-03-052, § 399-30-042, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040. 88-17-080 (Order 88-03), § 399-30-042, filed 8/22/88.]

399-30-045 - Application evaluation procedure And board deliberations — Emergency loan program.

This section implements RCW 43.155.060 and 43.155.065. The board may make low-interest or interest free loans to local governments for emergency public works projects. The emergency loan program is to financially assist eligible communities experiencing the loss of critical public works services or facilities due to an emergency, and that can demonstrate a substantial fiscal need.

- (1) Eligible local governments. Applicants must meet the conditions as identified under WAC 399-30-030(2).
- (2) Eligible uses of funds. Financial assistance received shall be used for the purpose of restoring the services and/or repair of the public works facilities involved in the emergency. Assistance provided may be used to help fund all or part of an emergency public works project less any reimbursement from any of the following:
 - (a) Federal disaster or emergency funds, including funds from the Federal Emergency Management Agency;
 - (b) State disaster or emergency funds;
 - (c) Insurance settlements; or
 - (d) Litigation.

Assisted local governments must reimburse the department any moneys received from the sources listed above. The local government is obligated to make reimbursement for four years after formal project closeout. Local governments eligible to receive moneys must use their best efforts to seek reimbursement in a timely manner.

- (3) Availability of funds. Funding will be made available on a first-come first-served basis. Only those funds specifically appropriated by the legislature from the public works assistance account shall be used to make emergency loans. That amount shall not exceed five percent of the total amount appropriated from this account in any biennium.
- (4) Application process. Local governments must apply on the form provided by the board. Applications will be processed in the order received.
- (5) Board deliberations -- Emergency loan applications.
 - (a) The board will consider and approve or disapprove all eligible applications for emergency financial assistance at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.
 - (b) All applications will be accepted and evaluated in accordance with the following procedures:
 - (i) Applications will be accepted only when emergency funding is available.
 - (ii) Staff will review applications and verify that the applicant is eligible for assistance as set forth in RCW 43.155.070(1).
 - (iii) Staff will provide the board an evaluation of whether an emergency loan is needed based upon the information documented by the applicant and staff.
 - (iv) Site visits to the location of the emergency public works project will be carried out at the discretion of the board or staff.
- (6) Loan terms. The board shall determine the term and interest rate(s) of emergency loans annually.

- (7) Exceptions to public works trust fund policies and procedures. Except as provided in this chapter or specified in annual program guidelines, the emergency program shall follow all general administrative program policies as set for the public works trust fund.

[Statutory Authority: RCW 43.155.040(4). 09-04-100, § 399-30-045, filed 2/4/09, effective 3/7/09. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-30-045, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). 92-03-052, § 399-30-045, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040. 89-10-041 (Order 89-01), § 399-30-045, filed 4/28/89.]

399-30-050 - Recommendations to the legislature for construction loans.

- (1) Prior to November 1, 1986, and in each subsequent year, the board will develop and submit to the appropriate fiscal committees of the senate and house of representatives a prioritized list of projects which the board recommends for funding by the legislature.
- (2) In addition to the requirements of RCW 43.155.070(4), the list will include such supporting material as the board considers necessary to meet the purposes of this chapter.
- (3) Before November 1 of each year, the board will develop and submit to the chairs of the appropriate fiscal committees of the senate and house of representatives a description of the emergency loans made under this program.

[Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-30-050, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-30-050, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). 92-03-052, § 399-30-050, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040. 89-10-041 (Order 89-01), § 399-30-050, filed 4/28/89. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-30-050, filed 12/4/85.]

399-30-060 - Loan and financing guarantee loan agreements for the construction loan program.

- (1) The board will only execute loan agreements or otherwise financially obligate funds from the public works assistance account after the legislature approves the list and accompanying appropriation, except for preconstruction, planning, and emergency loans.

(2) After the legislature has appropriated funds from the public works assistance account for a specific list of public works projects, the construction loan funds will be disbursed to the applicant local government through a loan agreement. The loan agreement will offer terms and conditions as the board determines are reasonable, based on the following standards:

(a) The local government's financial participation funds must be from locally generated funding or federal or state shared revenues that can be allocated at the discretion of the local government.

(b) The interest rates, local share requirements and loan limits will be determined annually by the board.

(c) Loans must not exceed thirty years, or the useful life of the improvements, whichever is shorter.

(3) The local government and the department must execute a final loan agreement before any funds are disbursed.

(4) The local government must submit for approval a scope of work, including such things as a budget and performance measures consistent with the application for financial assistance to the department within ninety days after the department offers a loan or financing guarantee.

(5) The local government must execute any loan or financing guarantee loan agreements offered within ninety days after the department offers the loan agreement.

(6) The local government must begin work on a public works project prior to October 1 of the year in which the loan or financing guarantee is offered.

(7) The local government must complete work on the public works project within the time specified in the loan agreement, unless a written request for extension is approved by the board.

(8) The board or department will not reimburse local governments for any funds spent on public works projects financed through the public works assistance account before a

planning, emergency or preconstruction loan agreement has been formally executed. The board or department may reimburse local governments for those construction loan costs incurred after September 1st of the year in which a construction loan was recommended for financing by the board, providing that the project is approved by law, the costs are eligible for reimbursement at the time of loan agreement execution, and there are funds available in the public works assistance account. These reimbursable costs, incurred before loan agreement execution, must be spent on eligible activities as defined by WAC 399-30-030, comply with executive order 05-05, and be consistent with the loan agreement as later executed. Any costs incurred before the execution of a construction loan agreement will not be reimbursed unless a loan agreement is executed.

[Statutory Authority: RCW 43.155.040(4). 09-04-100, § 399-30-060, filed 2/4/09, effective 3/7/09; 07-05-029, § 399-30-060, filed 2/13/07, effective 3/16/07; 04-09-085, § 399-30-060, filed 4/20/04, effective 5/21/04. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-30-060, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). 92-03-052, § 399-30-060, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040. 88-23-095 (Order 88-08, Resolution No. 86-12), § 399-30-060, filed 11/22/88; 86-18-009 (Resolution No. 86-12), § 399-30-060, filed 8/21/86. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-30-060, filed 12/4/85.]

399-30-065 - Emergency loan and financing guarantee loan agreements.

Chapter 399-40 WAC – Compliance with state environmental policy act

WAC Sections

399-40-010 - Purpose.

399-40-020 - Statement.

399-40-010 - Purpose.

The purpose of this chapter is to comply with RCW 43.21C.120, which requires all agencies of government in the state of Washington, consistent with the rules and guidelines adopted under RCW 43.21C.110, to adopt rules pertaining to the integration of policies and procedures of the State Environmental Policy Act of 1971, into the various programs under their jurisdiction for implementation.

[Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-40-010, filed 12/4/85.]

399-40-020 - Statement.

Pursuant to WAC 197-11-800(14), the public works board has reviewed its authorized activities and has found them all to be exempt under the provisions of chapter 197-11 WAC.

Statutory Authority: RCW 43.155.040(4). 07-05-029, § 399-40-020, filed 2/13/07, effective 3/16/07; 92-03-051, § 399-40-020, filed 1/13/92, effective 2/13/92. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-40-020, filed 12/4/85.]

399-50-010 - Definitions.

- (1) Unless another definition is given, words used in this chapter have the same meaning as in chapter 42.52 RCW, Ethics in public service.
- (2) "Annual construction roster" means the prioritized list of projects recommended for funding, which is developed and submitted to the legislature before November 1 of each year under RCW 43.155.070(4).
- (3) "Beneficial interest" means the right to enjoy profit, benefit, or advantage from a contract or loan agreement or other property and also has the meaning given to it in Washington case law. Ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.
- (4) "Project" means public works project as defined in RCW 43.155.020(6).

[Statutory Authority: RCW 43.155.040(4). 09-04-100, § 399-50-010, filed 2/4/09, effective 3/7/09; 07-05-029, § 399-50-010, filed 2/13/07, effective 3/16/07. Statutory Authority: Chapter 42.52 RCW and RCW 43.155.040(4). 00-11-021, § 399-50-010, filed 5/9/00, effective 6/9/00.]

399-50-020 - Interest in contracts or loan agreements, projects, or loans.

- (1) When a member of the public works board is beneficially interested, directly or indirectly, in a loan agreement, project, or loan that may be made by, through, or under the supervision of the board, in whole or in part, or when the member accepts, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially

interested in such loan agreement, project, or loan, the member shall:

- (a) Recuse him or herself from board discussion regarding the specific loan agreement, project, or loan;
 - (b) Recuse him or herself from the board vote on the specific loan agreement, project, or loan; and
 - (c) Refrain from attempting to influence the remaining board members in their discussion and vote regarding the specific loan agreement, project, or loan.
- (2) The prohibition against discussion set forth in subsection (1)(a) and (c) of this section shall not prohibit the member of the board from using his or her general expertise to educate and provide general information on the subject area to the other members.
 - (3) Under subsection (1) of this section, "any other person" has a beneficial interest in a loan agreement, project, or loan when the other person bids, applies for, or otherwise seeks to be awarded the loan agreement, project, or loan.

Example 1

Board member Sam Jones is an engineering consultant. Jones performs consulting work on a regular basis for the Evergreen County public works department. The board is asked to approve an emergency public works loan for Evergreen County. Jones should recuse himself from voting on or discussing this action because he receives compensation from a "person" (Evergreen County) beneficially interested in the proposed loan.

Example 2

Board member Ima Kozy is the President and CEO of a firm that constructs roads and utilities. The board is asked to approve a list of loans for construction projects in various locations around the state. One of the projects is in the City of Destiny, where Ima's firm frequently responds to solicitation for bids. If Ima wants her firm to be able to bid on the Destiny project, she should recuse herself from voting on this list or discussing this action.

If Ima does vote to approve the list or

participates in discussing it, she will be prohibited by RCW 42.52.030 from receiving a direct or indirect beneficial interest in the loan agreement to Destiny, or from accepting compensation from another person beneficially interested in the loan agreement. Thus, neither she nor her firm may bid on the project.

[Statutory Authority: RCW 43.155.040(4). 09-04-100, § 399-50-020, filed 2/4/09, effective 3/7/09. Statutory Authority: Chapter 42.52 RCW and RCW 43.155.040(4). 00-11-021, § 399-50-020, filed 5/9/00, effective 6/9/00.]

399-50-030 - Interest in transactions.

- (1) When a member of the public works board either owns a beneficial interest in or is an officer, agent, employee or member of an entity or individual engaged in a transaction involving the board, the member shall:
 - (a) Recuse him or herself from board discussion regarding the specific transaction;
 - (b) Recuse him or herself from the board vote on the specific transaction; and
 - (c) Refrain from attempting to influence the remaining board members in their discussion and vote regarding the specific transaction.
- (2) The prohibition against discussion and voting set forth in subsection (1)(a) and (c) of this section shall not prohibit the member of the board from using his or her general expertise to educate and provide general information on the subject area to the other members.
- (3) (a) "Transaction involving the board" means a proceeding, application, submission, request for a ruling or other determination, loan agreement, project or proposed project, loan, claim, case, or other similar matter that the member in question believes, or has reason to believe:
 - (i) Is, or will be, the subject of board action; or
 - (ii) Is one to which the board is or will be a party; or
 - (iii) Is one in which the board has a direct and substantial proprietary interest.(b) "Transaction involving the board" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative

duties by a member; or a claim, case, lawsuit, or similar matter if the member did not participate in the underlying transaction involving the board that is the basis for the claim, case, or lawsuit. Rule making is not a "transaction involving the board."

- (4) "Board action" means any action on the part of the board, including, but not limited to:
 - (a) A decision, determination, finding, ruling, or order; and
 - (b) A grant, payment, award, license, loan agreement, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

Example 3

Board member Alice Lester is a director of the Starburst Sewer District. During presentation of the annual construction roster, the board is asked to consider adding projects to the roster based on various criteria developed by staff. The board's choice of criteria will determine which additional projects will be funded. A sewer improvement project for the Starburst Sewer District is among those that may be added to the roster, depending on which criteria are selected. Lester should disclose her affiliation with Starburst and recuse herself from discussing on or voting on the criteria for funding additional projects, because she is an officer of an entity interested in a transaction before the board, specifically determination of funding criteria that will affect Starburst Sewer District.

[Statutory Authority: RCW 43.155.040(4). 09-04-100, § 399-50-030, filed 2/4/09, effective 3/7/09. Statutory Authority: Chapter 42.52 RCW and RCW 43.155.040(4). 00-11-021, § 399-50-030, filed 5/9/00, effective 6/9/00.]

Chapter 70.119A.170 RCW - Drinking water assistance account — Drinking water assistance administrative account — Drinking water assistance repayment account — Program to provide financial assistance to public water systems — Responsibilities.

(1) A drinking water assistance account is created in the state treasury. Such subaccounts as are necessary to carry out the purposes of this chapter are permitted to be established within the account. Therefore, the drinking water assistance administrative account and the drinking water assistance repayment account are created in the state treasury. The purpose of the account is to allow the state to use any federal funds that become available to states from congress to fund a state revolving loan fund program as part of the reauthorization of the federal safe drinking water act. Expenditures from the account may only be made by the secretary, the public works board, or the *department of community, trade, and economic development, after appropriation. Moneys in the account may only be used, consistent with federal law, to assist water systems to provide safe drinking water through a program administered through the department of health, the public works board, and the *department of community, trade, and economic development and for other activities authorized under federal law. Money may be placed in the account from the proceeds of bonds when authorized by the legislature, transfers from other state funds or accounts, federal capitalization grants or other financial assistance, all repayments of moneys borrowed from the account, all interest payments made by borrowers from the account or otherwise earned on the account, or any other lawful source. All interest earned on moneys deposited in the account, including repayments, shall remain in the account and may be used for any eligible purpose. Moneys in the account may only be used to assist local governments and water systems to provide safe and reliable drinking water, for other services and assistance authorized by federal law to be funded from these federal funds, and to administer the program.

(2) The department and the public works board shall establish and maintain a program to use the moneys in the drinking water assistance account as provided by the federal government under the safe drinking water act. The department and the public works board, in consultation with purveyors, local governments, local health jurisdictions, financial institutions, commercial construction interests, other state agencies, and other affected and interested parties, shall by January 1, 1999, adopt final joint rules and requirements for the provision of financial assistance to public water systems as authorized under federal law. Prior to the effective date of the final rules, the department and the public works board may establish and utilize guidelines for the sole purpose of ensuring the timely procurement of financial assistance from the federal government under the safe drinking water act, but such guidelines shall be converted to rules by January 1, 1999. The department and the public works board shall make every reasonable effort

to ensure the state's receipt and disbursement of federal funds to eligible public water systems as quickly as possible after the federal government has made them available. By December 15, 1997, the department and the public works board shall provide a report to the appropriate committees of the legislature reflecting the input from the affected interests and parties on the status of the program. The report shall include significant issues and concerns, the status of rule making and guidelines, and a plan for the adoption of final rules.

(3) If the department, public works board, or any other department, agency, board, or commission of state government participates in providing service under this section, the administering entity shall endeavor to provide cost-effective and timely services. Mechanisms to provide cost-effective and timely services include: (a) Adopting federal guidelines by reference into administrative rules; (b) using existing management mechanisms rather than creating new administrative structures; (c) investigating the use of service contracts, either with other governmental entities or with nongovernmental service providers; (d) the use of joint or combined financial assistance applications; and (e) any other method or practice designed to streamline and expedite the delivery of services and financial assistance.

(4) The department shall have the authority to establish assistance priorities and carry out oversight and related activities, other than financial administration, with respect to assistance provided with federal funds. The department, the public works board, and the *department of community, trade, and economic development shall jointly develop, with the assistance of water purveyors and other affected and interested parties, a memorandum of understanding setting forth responsibilities and duties for each of the parties. The memorandum of understanding at a minimum, shall include:

(a) Responsibility for developing guidelines for providing assistance to public water systems and related oversight prioritization and oversight responsibilities including requirements for prioritization of loans or other financial assistance to public water systems;

(b) Department submittal of pre-application information to the public works board for review and comment;

(c) Department submittal of a prioritized list of projects to the public works board for determination of:

(i) Financial capability of the applicant; and

(ii) Readiness to proceed, or the ability of the applicant to promptly commence the project;

(d) A process for determining consistency with existing water resource planning and management, including coordinated water supply plans, regional water resource plans, and comprehensive plans under the growth management act, chapter [36.70A](#) RCW;

(e) A determination of:

- (i) Least-cost solutions, including consolidation and restructuring of small systems, where appropriate, into more economical units;
- (ii) The provision of regional facilities;
- (iii) Projects and activities that facilitate compliance with the federal safe drinking water act; and
- (iv) Projects and activities that are intended to achieve the public health objectives of federal and state drinking water laws;
- (f) Implementation of water conservation and other demand management measures consistent with state guidelines for water utilities;
- (g) Assistance for the necessary planning and engineering to assure that consistency, coordination, and proper professional review are incorporated into projects or activities proposed for funding;
- (h) Minimum standards for water system capacity, financial viability, and water system planning;
- (i) Testing and evaluation of the water quality of the state's public water system to assure that priority for financial assistance is provided to systems and areas with threats to public health from contaminated supplies and reduce in appropriate cases the substantial increases in costs and rates that customers of small systems would otherwise incur under the monitoring and testing requirements of the federal safe drinking water act;
- (j) Coordination, to the maximum extent possible, with other state programs that provide financial assistance to public water systems and state programs that address existing or potential water quality or drinking contamination problems;
- (k) Definitions of "affordability" and "disadvantaged community" that are consistent with these and similar terms in use by other state or federal assistance programs;
- (l) Criteria for the financial assistance program for public water systems, which shall include, but are not limited to:
 - (i) Determining projects addressing the most serious risk to human health;
 - (ii) Determining the capacity of the system to effectively manage its resources, including meeting state financial viability criteria; and
 - (iii) Determining the relative benefit to the community served; and
- (m) Ensure that each agency fulfills the audit, accounting, and reporting requirements under federal law for its portion of the administration of this program.
- (5) The department and the public works board shall begin the process to disburse funds no later than October 1, 1997, and shall adopt such rules as are necessary under

chapter [34.05](#) RCW to administer the program by January 1, 1999.

[2001 c 141 § 4; 1997 c 218 § 4; 1995 c 376 § 10.]

Notes:

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Purpose -- 2001 c 141: See note following RCW [43.84.092](#).

Findings -- Effective date -- 1997 c 218: See notes following RCW [70.119.030](#).

Findings -- 1995 c 376: See note following RCW [70.116.060](#).

CHAPTER 246-296 RCW – DRINKING WATER STATE REVOLVING FUND LOAN PROGRAM

WAC Sections

- [246-296-010](#) - Purpose and scope.
- [246-296-020](#) - Definitions, abbreviations, and acronyms.
- [246-296-030](#) - Administration.
- [246-296-040](#) - Use of funds by the state.
- [246-296-050](#) - DWSRF loan terms
- [246-296-060](#) - Establishing a DWSRF loan fee, loan fee account, and loan fee uses.
- [246-296-070](#) - Eligible projects and project-related costs.
- [246-296-080](#) - Ineligible projects and project-related costs.
- [246-296-090](#) - Public water system eligibility requirements.
- [246-296-100](#) - DWSRF loan eligibility and application requirements.
- [246-296-110](#) - Requirements for using DWSRF to create a new Group A public water system.
- [246-296-120](#) - Annual DWSRF loan application responsibilities.
- [246-296-130](#) - Project priority rating and ranking criteria.
- [246-296-140](#) - Final project selection criteria.
- [246-296-150](#) - DWSRF loan conditions.
- [246-296-160](#) - Administrative review and dispute resolution.
- [246-296-170](#) - State environmental review process.
- [246-296-180](#) - Obligation for a public water system to comply if a DWSRF loan is not obtained.
- [246-296-190](#) Severability.

246-296-010 – Purpose and scope.

The purpose of this chapter is to:

- (1) Establish a funding program for public water system infrastructure improvements that increase a public water system's ability to provide safe and reliable drinking water and improve public health protection;
- (2) Establish eligibility criteria for public water systems to receive funding including, but not limited to, proper operation, management, and maintenance consistent with federal DWSRF capacity requirements;
- (3) Provide additional financial assistance to eligible

disadvantaged communities;

- (4) Use a portion of the EPA capitalization grant for set-aside activities according to federal law;
- (5) Establish that sound financial practices and ongoing oversight are in place to manage the DWSRF in perpetuity;
- (6) Establish requirements for public water systems to receive a DWSRF loan including, but not limited to, planning requirements; being resource efficient, sustainable, and environmentally sound; and
- (7) Establish the responsibilities of the department, the board, and commerce, for administering the DWSRF loan program.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-010, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-010, filed 10/24/01, effective 11/24/01.]

246-296-020 - Definitions, abbreviations, and acronyms.

The definitions, abbreviations, and acronyms in this section apply throughout this chapter unless the context clearly indicates otherwise.

- (1) "**Affordability**" means a community's ability, on a per household basis, to pay for rate increases that result from a DWSRF loan project.
- (2) "**Application**" means the DWSRF loan request form provided by the department.
- (3) "**Application package**" means the DWSRF loan application form(s), requirements, terms of assistance, and related information created by the department, the board, and commerce.
- (4) "**Board**" means the Washington state public works board.
- (5) "**Borrower**" means the person that has legal and financial responsibility for the DWSRF loan.
- (6) "**Capitalization grant**" means an award by EPA of funds to a state for the DWSRF and other purposes as authorized in Section 1452 of the SDWA.
- (7) "**Commerce**" means the Washington state department of commerce.
- (8) "**Construction completion report**" means a

form provided by the department and completed for each specific construction project to document:

(a) Project construction in accordance with chapter [246-290 WAC](#) and general standards of engineering practice;

(b) Physical capacity changes;

(c) Satisfactory test results; and

(d) The completed form is stamped with an engineer's seal, and signed and dated by a professional engineer.

(9) "**Default**" means failure to meet a financial obligation such as a DWSRF loan payment.

(10) "**Department**" means the Washington state department of health.

(11) "**Disadvantaged community**" means the service area of a proposed project within a public water system where the project will result in:

(a) Water rates that are more than one and one-half percent of the MHI of the service area; or

(b) Restructuring, when one or more public water systems are having financial difficulties.

(12) "**DWSRF (drinking water state revolving fund)**" means the program that meets the requirements of RCW [70.119A.170](#) to administer federal funds and other funds deposited in a dedicated account used to finance public water system infrastructure improvements and drinking water program activities.

(13) "**DWSRF loan**" means an agreement between the board and the borrower in which the DWSRF provides funds for eligible assistance and the borrower agrees to repay the principal sum, applicable interest, and DWSRF loan fee to the DWSRF.

(14) "**DWSRF loan fee**" means a nonrefundable fee that is charged on all DWSRF loans, including DWSRF loans for which all or part of the principal is forgiven.

(15) "**Ecology**" means the Washington state department of ecology.

(16) "**Eligible public water system**" means a Group A community public water system, either privately or publicly owned, or a nonprofit Group A

noncommunity public water system.

(17) "**EPA**" means the United States Environmental Protection Agency.

(18) "**Green project**" means a public water system infrastructure improvement project that includes water efficiency, energy efficiency, or environmental innovations as follows:

(a) Water efficiency projects use improved technologies and practices to deliver equal or better service with less water, including preventing water loss and reducing customer demand to protect water resources;

(b) Energy efficiency projects use improved technologies and practices to reduce energy consumption or produce cleaner energy for use in water treatment;

(c) Environmentally innovative projects use new or innovative approaches to manage water resources in a more environmentally sustainable way. Projects that are considered environmentally innovative include those that:

(i) Prevent or remove pollution;

(ii) Help a community adapt to climate change through water resource protection programs; or

(iii) Result in other proven, sustainable environmental benefits.

(19) "**Group A public water system**" means a public water system providing service such that it meets the definition of a public water system provided in the 1996 amendments to the federal Safe Drinking Water Act, P.L. 104-182, Section 101(b).

A Group A public water system is further defined as a community or noncommunity public water system.

(a) "Community public water system" means any Group A public water system providing service to fifteen or more service connections used by year-round residents for one hundred eighty or more days within a calendar year, regardless of the number of people, or regularly serving at least twenty-five people year-round more than one hundred eighty days per year, as defined in chapter [246-290 WAC](#).

(b) "Noncommunity public water system" means a Group A public water system that is not a community public water system. Noncommunity public water systems are further defined as:

(i) "Nontransient noncommunity public water system" means a public water system that serves twenty-five or more of the same nonresidential people for one hundred eighty or more days within a calendar year.

(ii) "Transient noncommunity public water system" means a public water system that serves:

(A) Twenty-five or more different people each day for sixty or more days within a calendar year;

(B) Twenty-five or more of the same people each day for sixty or more days, but less than one hundred eighty days within a calendar year; or

(C) One thousand or more people for two or more consecutive days within a calendar year.

(20) "**Group B public water system**" means a public water system that is not a Group A public water system. A public water system is classified as a Group B public water system if it serves fewer than fifteen service connections, and:

(a) Fewer than twenty-five people; or

(b) Twenty-five or more people per day for less than sixty days per year provided the public water system does not serve one thousand or more people for two or more consecutive days.

(21) "**Individual water supply system**" means any water system that is not subject to chapter [246-290](#) or [246-291](#) WAC; and provides water to either one single-family residence, or to a system with four or fewer connections, all of which serve residences on the same farm.

(22) "**IUP (intended use plan)**" means the federally required document prepared each year by the department identifying the intended uses of the DWSRF funds and describing how those uses support the DWSRF goals.

(23) "**Loan closeout**" means a loan agreement is complete when the loan is repaid in full.

(24) "**MHI (median household income)**" means the midpoint or the average of two midpoints in the range of household incomes in the project's service area. The median divides the list of households in a service area into two parts; half of the households exceed the median, and half of the households are below the median.

(25) "**Multiple benefit**" means projects that address more than one type of health risk.

(26) "**Municipality**" means a city, town, special purpose district, or municipal corporation established according to the applicable laws of this state.

(27) "**NEPA**" means the National Environmental Policy Act of 1969, 42 United States Code 4321 et seq., PL-91-190.

(28) "**Nonprofit organization**" means an entity that has a federal tax exempt status identification number.

(29) "**Owner**" means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, person, or any other entity that holds as property a public water system.

(30) "**Person**" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

(31) "**Principal forgiveness**" means that a reduction of up to fifty percent of the total loan amount is not required to be paid back by the borrower. Principal forgiveness is applied when the project is complete.

(32) "**Project report**" means a department-approved document the borrower or borrower's agency develops under WAC [246-290-110](#).

(33) "**Public water system**" means any public water system providing water for human consumption through pipes or other constructed conveyances, excluding water systems serving only one single-family residence and water systems with four or fewer connections, all of which serve residences on the same farm. This includes:

(a) Collection, treatment, storage, and distribution facilities under control of the owner, or owner's authorized agent, primarily used in connection with the public water system; and

(b) Collection or pretreatment storage facilities not under the control of the owner, or owner's authorized agent, but primarily used in connection with the public water system.

(34) "**Receivership**" means the voluntary or involuntary transfer of ownership and operation of a public water system according to chapter [7.60](#) RCW and RCW [43.70.195](#).

(35) "**Regional benefit**" means project improvements that affect more than one public water

system.

(36) **"Restructuring"** means changing public water system ownership, including, but not limited to:

- (a) Consolidation of two or more existing public water systems into a single public water system;
- (b) Transfer of ownership; or
- (c) Receivership.

(37) **"SDWA (Safe Drinking Water Act)"** means Public Law 93-523, including all amendments.

(38) **"SEPA"** means the State Environmental Policy Act under chapter [43.21C](#) RCW.

(39) **"Set-aside"** means the use of a portion of DWSRF funds allotted to the state for a range of specific SDWA-related activities under Section 1452 of the SDWA, to fund new programs, and for other drinking water program activities.

(40) **"SERP (state environmental review process)"** means the NEPA-like environmental review process adopted by Washington state to comply with the requirements of 40 CFR 35.3140. SERP combines the SEPA review with additional elements to comply with federal requirements.

(41) **"Surface water"** means a body of water open to the atmosphere and subject to surface runoff.

(42) **"Sustainable"** means able to continue a benefit into the future as a result of appropriate public water system design, processes, operations, governance, and maintenance.

(43) **"SWSMP (small water system management program)"** means a document for a small nonexpanding Group A public water system developed and approved under WAC [246-290-105](#).

(44) **"System capacity"** means a public water system's operational, technical, managerial, and financial capability to achieve and maintain ongoing compliance with all relevant local, state, and federal plans and regulations.

(45) **"Transfer of ownership"** means to change legal ownership of a public water system from one person to another.

(46) **"Water right"** means a legal authorization, such as a permit, claim, or other authorization, on record with or accepted by the department of ecology,

authorizing the beneficial use of water in accordance with all applicable state laws.

(47) **"WFI (water facilities inventory)"** means a department form summarizing a public water system's characteristics.

(48) **"WSP (water system plan)"** means a document that a Group A community public water system submits to the department as required under WAC [246-290-100](#). The plan addresses a public water system's capacity to comply with relevant local, state, and federal plans and regulations, describes the public water system's present and future needs, and establishes eligibility for funding under this chapter.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-020, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-020, filed 10/24/01, effective 11/24/01.]

246-296-030 - Administration.

(1) The department, the board, and commerce shall jointly administer the DWSRF program.

(2) The department shall:

(a) Apply for and receive the DWSRF grant from EPA;

(b) Manage the use of DWSRF set-aside funds for regulatory purposes and technical assistance to public water systems as authorized under the SDWA;

(c) Annually develop ranking values for the criteria under WAC [246-296-130](#) by assigning the highest value to proposed projects that resolve the most significant public health problems;

(d) Provide guidance to public water systems before the yearly application cycle begins;

(e) Publish the ranking values in the funding application package;

(f) Determine public water system and project eligibility for DWSRF loans;

(g) Develop lists of proposed projects for DWSRF loans in priority order;

(h) Present lists of proposed projects to the board; and

- (i) Submit the IUP to EPA.
- (3) The department shall include the following information in the IUP:
 - (a) The DWSRF loan fee account;
 - (b) The current fee; and
 - (c) The account balance.
- (4) The board shall select projects to receive DWSRF funding based on the criteria under WAC [246-296-140](#).
- (5) Commerce shall:
 - (a) Act as the board's administrative agent;
 - (b) Require borrowers to comply with the terms of their DWSRF loan agreements;
 - (c) Manage DWSRF loan finances, including fiscal tracking and billing; and
 - (d) Verify that accounting, audit, and fiscal procedures conform to applicable federal government regulations.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-030, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-030, filed 10/24/01, effective 11/24/01.]

246-296-040 - Use of funds by the state.

- (1) The department may use the following funds to carry out the purposes of the DWSRF:
 - (a) Capitalization grants provided by the federal government;
 - (b) State matching funds appropriated under RCW [70.119A.170](#);
 - (c) Principal and interest payments;
 - (d) DWSRF loan fees; and
 - (e) Any other funds earned and deposited.
- (2) The department may use these funds to:
 - (a) Finance DWSRF loans for planning, design, and construction of public water system infrastructure projects that will address or prevent violations of applicable federal, state, and local drinking water

- requirements;
- (b) Finance reasonable costs for the department, the board, and commerce to administer the DWSRF program; and
- (c) Fund set-aside activities authorized in categories (b) through (e) of Section 35.3535 of the SDWA, including:
 - (i) DWSRF program administration;
 - (ii) Technical assistance specific to small public water systems;
 - (iii) State drinking water program management; and
 - (iv) Local assistance and other state programs.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-040, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-040, filed 10/24/01, effective 11/24/01.]

246-296-050 - DWSRF loan terms.

- (1) The board may approve a DWSRF loan for a project that will not serve a disadvantaged community at or below market interest rates for a maximum of twenty years from project completion.
- (2) The board may approve a DWSRF loan for projects that will serve disadvantaged communities:
 - (a) At an interest rate set at or below market interest rates for up to thirty years, as long as the DWSRF loan does not exceed the useful life of the project; or
 - (b) That qualifies for principal forgiveness for up to fifty percent of the principal DWSRF loan amount.
- (3) A project is considered complete when the department approves the construction completion report.
- (4) The borrower shall begin repaying the principal and interest no later than one year after the project is complete.
- (5) The department and the board shall:
 - (a) Set terms that secure repayment of the debt and maintain a financially sound DWSRF program in perpetuity; and
 - (b) Publish specific rates and contract terms in the

annual application package.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-050, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-050, filed 10/24/01, effective 11/24/01.]

246-296-060 - Establishing a DWSRF loan fee, Loan fee account, and loan fee uses.

- (1) The department and board shall:
 - (a) Establish the terms of a DWSRF loan fee; and
 - (b) Annually set the DWSRF loan fee amount.
- (2) The board shall set the DWSRF loan fee for each project.
- (3) The DWSRF loan amount may include the DWSRF loan fee.
 - (4) The department and board shall determine the amount of DWSRF loan fee account funds to be used for program administration.
- (5) The department, commerce, and the board shall use DWSRF loan fees only for program administration activities.
- (6) Commerce shall deposit and retain DWSRF fees in a dedicated DWSRF loan fee account.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-060, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-060, filed 10/24/01, effective 11/24/01.]

246-296-070 - Eligible projects and project-related costs.

- (1) Projects eligible for a DWSRF loan include those that:
 - (a) Address or prevent violations of applicable federal, state, and local drinking water requirements;
 - (b) Replace aging infrastructure to help a public water system comply with applicable federal, state, and local drinking water requirements to improve public health protection;
 - (c) Improve system capacity of a public water system to help assure sustainable drinking water; or
 - (d) Promote increased water or energy efficiency,

green projects, or innovation that will improve environmental sustainability and protect public health.

(2) Specific project-related costs eligible for a DWSRF loan include those that:

- (a) Improve a public water system's treatment, transmission, distribution, source, or storage;
- (b) Restructure water supplies or public water systems that have system capacity difficulties;
- (c) Retroactively finance municipal projects that:
 - (i) Are for surface water treatment;
 - (ii) Address groundwater under the direct influence of surface water;
 - (iii) Address volatile organic or inorganic chemicals; or
 - (iv) Are required by department or EPA order;
- (d) Acquire real property if needed to meet or maintain compliance with regulations or increase public health protection;
- (e) Pay for planning or design that is directly related to a DWSRF eligible project;
- (f) Finance the costs of restructuring for a publicly owned public water system;
- (g) Acquire, build, or repair reservoirs, including clear wells, that are part of the treatment process and located on the same property as the treatment facility;
- (h) Acquire, build, or repair distribution reservoirs; or
- (i) Are associated with a department-approved green project.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-070, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-070, filed 10/24/01, effective 11/24/01.]

246-296-080 - Ineligible projects and project-Related costs.

Projects and project-related costs that are not eligible for assistance from the DWSRF program include:

- (1) Acquiring, building, or repairing dams or raw water reservoirs;

(2) Acquiring water rights, except if the water rights are owned by a public water system that is being acquired by restructuring;

(3) Laboratory costs for monitoring;

(4) Operation and maintenance costs;

(5) Projects needed primarily for fire protection;

(6) Projects needed primarily to serve future population growth;

(7) Projects that have received assistance from the national set-aside for Indian tribes and Alaska native villages under Section 1452(i) of the SDWA;

(8) Projects for an individual water supply system or a Group B public water system unless the public water system is being restructured into a Group A public water system under WAC [246-296-110](#); and

(9) Projects that are solely for the purpose of installing service meters.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-080, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-080, filed 10/24/01, effective 11/24/01.]

246-296-090 - Public water system eligibility requirements.

(1) Public water systems eligible for a DWSRF loan include:

(a) Publicly and privately owned community public water systems, except those public water systems not eligible for a DWSRF loan under WAC [246-296-100](#); and

(b) Noncommunity public water systems owned by a nonprofit organization.

(2) Public water systems not eligible for a DWSRF loan include:

(a) Noncommunity public water systems owned by a for-profit organization;

(b) State-owned public water systems;

(c) Federally owned or regulated public water systems;

(d) Group B public water systems, unless restructuring; and

(e) Public water systems lacking the system capacity to comply with all applicable federal, state, and local drinking water requirements, unless:

(i) The project will bring the public water system into compliance; and

(ii) The owner of the public water system agrees to reasonable and appropriate changes in operation and management to stay in compliance.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-090, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-090, filed 10/24/01, effective 11/24/01.]

246-296-100 - DWSRF loan eligibility and application requirements.

To be eligible for a DWSRF loan, an applicant shall:

(1) Document that the public water system has the system capacity to stay in compliance with applicable federal, state, and local drinking water requirements, unless:

(a) The funding will bring the public water system into compliance; and

(b) The owner of the public water system agrees to reasonable and appropriate changes to stay in compliance.

(2) Before applying for a DWSRF loan, have a current department-approved WSP or SWSMP that:

(a) Includes the proposed project; and

(b) Addresses any difficulties with system capacity;

(3) Comply with federal, state, and local drinking water requirements or a variance under WAC [246-290-060](#), unless the DWSRF loan will fund projects that result in public water system compliance;

(4) Comply with any department or EPA orders;

(5) Install a source meter on each source if meters are not already installed;

(6) Install service meters on all service connections if meters are not already installed within the project area, unless:

(a) The project is for a transient noncommunity public water system;

(b) The project is for a mobile home park with a source or master meter;

(c) The project is for an apartment building or complex with a source or master meter; or

(d) The department determines that installing meters is:

(i) Prohibitive for the DWSRF project as a whole; and

(ii) Waiving the meter requirement is necessary to award a DWSRF loan for a project to resolve high priority public health problems.

(7) Have no outstanding fees or penalties owed to the department.

(8) Provide documentation that the project has sufficient water rights as determined by ecology.

(9) Comply with the requirements of WAC [246-296-120\(1\)](#).

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-100, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-100, filed 10/24/01, effective 11/24/01.]

246-296-110 - Requirements for using DWSRF to create a new Group A public water system.

(1) The department may award a DWSRF loan to create a new Group A public water system that will meet the requirements under chapter [246-290](#) WAC when the project is complete if:

(a) The project resolves high priority public health problems caused by unsafe drinking water provided by an individual well or surface water source. The project is limited in scope to the geographic area directly affected by contamination; or

(b) The project creates a new regional community public water system by restructuring existing systems that have system capacity difficulties. The project is limited in scope to the service area of the public water systems being restructured.

(2) The applicant shall submit documentation with the application required in WAC [246-296-120\(1\)](#) to show that:

(a) The applicant gave the public and potentially affected parties at least sixty days notice prior to submitting the DWSRF loan application to the department. At a minimum, the applicant shall post a legal notice of the intent to create a new public water system in the local newspaper;

(b) The applicant considered alternative solutions to address the problems;

(c) The project is a cost-effective solution to the public health problems being addressed; and

(d) The project is intended to protect public health, and not primarily to accommodate future population growth.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-110, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-110, filed 10/24/01, effective 11/24/01.]

246-296-120 - Annual DWSRF loan application responsibilities.

Annual DWSRF loan application responsibilities are established as follows:

(1) Applicants shall submit a completed application package to the department on or before the due date in the application package.

(2) The department shall:

(a) Determine the eligibility of the project;

(b) Rank the project using the ranking criteria established under WAC [246-296-130](#);

(c) Create a prioritized list of eligible projects in order of public health significance;

(d) Develop an IUP by:

(i) Publishing a draft IUP for public review and comment; and

(ii) Amending the IUP, if necessary, after considering public comments.

(e) Submit a capitalization grant application, including the final IUP, to EPA for review and approval;

(f) Revise the IUP if EPA requires changes; and

(g) Provide for administrative review and dispute resolution under WAC [246-296-160](#).

(3) The board shall:

(a) Determine if each applicant with a project on the prioritized IUP is financially capable and ready to proceed, using the criteria under WAC [246-296-140](#);

(b) Select projects on the IUP to receive assistance from the fund using the criteria under WAC [246-296-140](#); and

(c) Provide for administrative review and dispute resolution of departmental or board decisions under WAC [246-296-160](#).

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-120, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-120, filed 10/24/01, effective 11/24/01.]

246-296-130 - Project priority rating and ranking criteria.

The department shall, at a minimum, consider the following to assign points, and rate and rank proposed projects:

(1) Criteria for risk categories and points based on:

(a) Type and significance of public health problems the project will resolve;

(b) If the project is needed to bring the public water system into compliance with federal, state, and local drinking water requirements;

(c) Current compliance status; and

(d) Affordability on a per household basis, determined by comparing the community's average water rate to the MHI in the community's service area, for a community public water system.

(2) Additional points based on the type of project being proposed, if the project:

(a) Is to restructure a public water system;

(b) Creates a sustainable regional public health benefit;

(c) Has multiple benefits that are sustainable;

(d) Is consistent with the Growth Management Act as determined by commerce;

(e) Is financially sustainable;

(f) Qualifies as a green project;

(g) Serves a disadvantaged community; or

(h) Results in service meters on existing services not currently metered.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-130, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-130, filed 10/24/01, effective 11/24/01.]

246-296-140 - Final project selection criteria.

When awarding a DWSRF loan to a public water system, the board shall consider, at a minimum, the applicant's ability to:

(1) Repay the DWSRF loan based on a risk assessment;

(2) Provide adequate security in case of DWSRF loan default; and

(3) Promptly begin the project based on past contract performance, if applicable.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-140, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-140, filed 10/24/01, effective 11/24/01.]

246-296-150 - DWSRF loan conditions.

(1) A borrower shall comply with all applicable laws, regulations, and requirements.

(2) A DWSRF loan agreement must address applicable federal, state, and local laws, orders, regulations, and permits; including, but not limited to:

(a) Procurement;

(b) Nondiscrimination;

(c) Labor;

(d) Job safety;

(e) National Historic Preservation Act;

(f) Drug-free environments; and

(g) State and federal disadvantaged business regulations, such as those designed to help minority and women-owned businesses.

(3) A borrower shall maintain accounting records that conform to generally accepted government accounting standards issued by the Comptroller General of the United States, available at <http://www.gao.gov/yellowbook>;

(4) A borrower shall document its legal ability to:

(a) Provide a dedicated source of revenue; and

(b) Guarantee the repayment of the DWSRF loan from that dedicated source. Dedicated sources of revenue may include:

(i) Special assessments;

(ii) General taxes;

(iii) General obligation bonds;

(iv) Revenue bonds;

(v) User charges;

(vi) Rates;

(vii) Fees; and

(viii) Other sources.

(5) A borrower shall submit a construction completion report for all project components and other documentation as required under chapter [246-290](#) WAC.

(6) A borrower shall comply with any EPA or department orders and compliance schedules during the term of the DWSRF loan agreement.

(7) The department, the board, and the borrower shall approve amendments to the DWSRF loan agreement as needed.

(a) The DWSRF loan agreement must be amended:

(i) For significant changes to the project's original ranked application and project scope of work; or

(ii) If additional time is needed to complete project activities.

(b) Amendments to the DWSRF loan agreement are not required when adjustments are made at loan

closeout to reconcile minor differences between the contract and the completed project.

(8) Commerce, or its authorized auditor shall audit the borrower's records.

(9) The board may terminate the DWSRF loan agreement in whole or in part at any time if the borrower:

(a) Fails to comply with the terms of the DWSRF loan agreement under this chapter; or

(b) Uses the DWSRF loan proceeds for activities other than those identified in the DWSRF loan agreement.

(10) The board shall, upon termination of a DWSRF loan agreement:

(a) Promptly notify the borrower in writing of its:

(i) Decision to terminate the loan agreement;

(ii) Reason for terminating the loan agreement;

(iii) Effective date of termination; and

(b) Require immediate payment of the entire remaining balance of the DWSRF loan and any interest accrued.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452, 12-01-077, § 246-296-150, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#), 01-21-137, § 246-296-150, filed 10/24/01, effective 11/24/01.]

246-296-160 - Administrative review and dispute resolution.

(1) An applicant may request that the department reconsider a decision of ineligibility under WAC [246-296-070](#), [246-296-080](#), and [246-296-090](#). The request must be:

(a) Sent in writing to the department at: P.O. Box 47822, Olympia, Washington, 98504-7822; and

(b) Received within ten working days of the date the department notifies the applicant of the decision.

(2) An applicant that disagrees with the department's decision about rating and ranking its application under WAC [246-296-130](#) may submit comments to the department during public review of the draft IUP.

(3) An applicant may request a review of the decision by the board about its DWSRF loan application. A

request for review must be received by the board in writing at least fourteen calendar days before a scheduled board meeting.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-160, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-160, filed 10/24/01, effective 11/24/01.]

246-296-170 - State environmental review process.

(1) Federal law requires that Washington state follow a SERP for projects receiving DWSRF loans. The purpose of the SERP is to identify any significant impact to the environment that may be caused by a DWSRF project. This review must be done in compliance with NEPA or SEPA and any other applicable environmental laws and regulations.

(2) The department is designated as the lead agency for SERP. The department shall provide basic guidance to the borrower to meet the requirements of SERP. Details about SERP shall be included in the application package.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-170, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-170, filed 10/24/01, effective 11/24/01.]

246-296-180 - Obligation for a public water system to comply if a DWSRF loan is not obtained.

The inability or failure of any public water system to receive a DWSRF loan, or any delay in obtaining a DWSRF loan, does not change the public water system's duty to comply in a timely manner with all applicable federal, state, and local drinking water regulations.

[Statutory Authority: RCW [70.119A.170](#) and Federal Safe Drinking Water Act, H.R. 1452. 12-01-077, § 246-296-180, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-290-180 (codified as WAC [246-296-180](#)), filed 10/24/01, effective 11/24/01.]

246-296-190 - Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

[Statutory Authority: RCW [70.119A.170](#). 01-21-137, § 246-296-190, filed 10/24/01, effective 11/24/01.]

1) *Board Member Handbook*

2) *Ethics*

Boards and Commissions Membership Handbook

ROLE OF A BOARD MEMBER AND RESOURCES AVAILABLE

LAWS AFFECTING BOARD ACTIVITIES

BOARD TRANSACTIONS

OFFICE OF THE GOVERNOR

OCTOBER 2010



To accommodate persons with disabilities, this document is available in alternative formats and can be obtained by contacting the Office of the Governor at (360) 902-4111.

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Message from the Governor

Congratulations on your appointment! Thank you for your willingness to serve the people of Washington state. As Governor, I am committed to increasing our citizens' faith in government. Our state needs public servants who share my vision of open and accountable government. Your service on a board or commission is a tremendous opportunity to influence the decisions and actions taken by our government.

Your gubernatorial appointment carries a great deal of responsibility. You will be expected to maintain the highest level of ethical standards and avoid the appearance of conflicts of interest. Your preparation for and regular attendance of meetings are vital to the success of your term. Your level of participation will directly correlate to the satisfaction you derive from your experience.

As you put your time and considerable talents to work, it is critical that you keep the public interest in mind. You are not only a representative; you are an ambassador to your community.

Again, I deeply appreciate your commitment to public service and improving the quality of life in Washington. I know you will do a great job!

Sincerely,

Christine O. Gregoire

THE ROLE OF A BOARD MEMBER AND RESOURCES AVAILABLE

Citizen Participation through Boards and Commissions

Washington's system of boards and commissions is fundamental to encouraging the use of citizen talent and interest in affairs of the state, keeping government innovative and responsive, and improving the performance of state agencies and institutions.

Our citizens have enjoyed a long tradition of participation in state government. Through representation on boards and commissions, Washington residents are offered an important avenue to help create effective and equitable policies. Citizen involvement contributes to the success of government and the quality of life enjoyed by our families and communities.

Citizen participation works at all levels of state government. It encompasses a broad range of issues, such as education, the environment and natural resources, general government, social services, economic development and transportation. Some boards appointed by the Governor shape policy for major state agencies and departments, others prepare regulations governing program areas, and some serve solely in an advisory capacity.

In selecting members, the Governor strives to create geographic, gender and ethnic diversity. This helps ensure that decisions reached and services rendered more adequately reflect the populations being served.

Types of Boards and Commissions

Boards and commissions are created by state laws and rules, executive orders, and federal laws and regulations.

Each board is unique in its purpose, mission and role. It is especially important that members be familiar with their board's governing statutes or other authorizing directives so they understand the framework within which the board must operate. Copies of your board's governing statutes or authority may be obtained from your staff employees. The three main types of boards are:

Advisory Boards. These may be created by the Governor, Legislature, individual agencies or existing boards. The members serve as advisers on policy matters to the appointing authority responsible for administering policy. Advisory boards may study policy and make recommendations for changes or implementation. Advisory boards do not have authority to enforce policy or create rules, but their analysis and recommendations can play an important role in furthering the effective operation of state government.

Policy-Making Boards. These boards generally receive their authority by statute. Policies are created through careful analysis and interpretation of legislative intent, as set forth in law. Policy-making boards often serve as governing boards for an agency. The boards may be responsible for directing the agency, approving budgets, creating and implementing agency policy, or appointing the agency director. Members of these boards have final decision-making authority.

Regulatory Boards. These boards may have some of the responsibilities of the advisory and policy boards, depending on the statute or order under which they were created. Usually, these boards are created by the Legislature, and perform rule-making or quasi-judicial functions. In fulfilling these functions, the board may operate as a legislative body or as a review and appeals body. As an appeals body, regulatory boards hear individual cases and issue rulings; board decisions, however, are subject to judicial appeal.

Some regulatory boards have the responsibility to determine the competence of members of a professional or occupational group. Such boards examine and license members of occupations to practice in the state, and take disciplinary or corrective actions, such as revoking or suspending licenses.

The Advisory Role

Members of advisory bodies provide an important link among the public and agencies, the Legislature and the Governor. The information that members provide about community needs and opinions can have a profound effect on state policies and lead to better service. Advisory board members play a very special role in creating recommendations on important societal and governmental issues.

If you are appointed as a member of an advisory board, you will be expected to:

- » Interpret community opinions, attitudes and needs to agencies, the Legislature and the Governor.
- » Study programs and services, and analyze issues and needs.
- » Offer proposals and recommend changes in programs, policies and standards.
- » Provide the public with information and interpretation of department and state policies, programs and budgets.

Advisory boards support and counsel departmental and gubernatorial staff. They make important recommendations about policy. Most advisory boards, however, do not create or administer policy, programs or services, unless this power is granted to them by their governing statute.

When presenting recommendations to an agency, the Legislature or the Governor, it is essential that board members keep the following in mind:

- » Recommendations should be in written form.
- » Ideas should be expressed in clear and concise language.
- » Proposed solutions should be viable and cost-effective.
- » Recommendations should identify reasons for the changes suggested.
- » Advice should reflect the views of a consensus or a majority of board members.

About Policy Making

As a board member, you are responsible for being knowledgeable about board policies and changes. Understanding the fundamental meaning and characteristics of policy is essential.

Policy is a written statement intended to be a guiding principle that defines an organization's intent and direction. It is most useful when set forth in broad terms so that it remains applicable and usable for a long period of time. It should not be so detailed that it dictates how, when or where things must be done. Policy should be stated clearly and concisely.

Policy may be amended, rewritten or abolished. Thus, policy should be reviewed periodically to ensure that it remains appropriate.

Board interpretative policy statements should be made available to the public in compliance with the Administrative Procedure Act, RCW 34.05.230. This requirement is most applicable to regulatory boards.

Rule Making

Most boards are granted authority by the Legislature to establish the rules and regulations necessary to implement their own statutory powers; however, a board may not pass rules which go beyond the scope of its statute.

A rule is any agency order, directive or regulation of general applicability, as defined in RCW 34.05.010 (15). It may set forth standards and expectations in general terms or may deal specifically with day-to-day objectives. A rule, rather than a policy, is adopted when the subject matter affects the public or another agency of government, or when the statute directs that a rule be adopted. Once adopted, a rule has the force of law, and all people or entities to whom the rule applies must adhere to it. Failure to adhere to the rule may subject a person to a penalty or administrative sanction.

Legal Guidelines. Because rules often affect the public, they must be adopted in compliance with the Administrative Procedure Act (Chapter 34.05 RCW). In developing rules, board members should keep the following guidelines in mind:

- » The board must have statutory authority to adopt the rules, and may adopt only those rules supported by statute.
- » The board may not adopt a rule which conflicts with law or the state Constitution.
- » The board must comply with the Administrative Procedure Act on rule-making procedures.
- » The board's legal counsel from the Attorney General's Office should approve all proposed rules.
- » The board must give notice to the public on the intent to adopt the proposed rule, and hold a public hearing.
- » Rules must reflect a consensus or a majority of members of the board.
- » The board must take into account the economic impact of the proposed rule on consumers, businesses, industries and others who may be affected.

Being an Effective Board Member

Despite the different sizes and types of Washington boards and commissions, it is imperative that board members recognize they are in a critical position to shape and influence board decisions and actions. It is important that each member keeps informed and up-to-date on issues, legislative activity and statutes affecting their board.

Attendance. Regular attendance is essential so that decisions will represent the opinions of the board as a whole. In addition, regular attendance enables board members to keep abreast of board concerns and helps ensure that issues are examined from a variety of perspectives. The bylaws of your board should define attendance requirements. A person may forfeit his or her position on the board as a result of poor attendance.

Preparation. Adequate preparation is another requisite for effective board membership. Your board's staff members will provide reports, proposals and other information to help you make informed decisions. Do not hesitate to request additional information you need to make thoughtful and appropriate decisions.

In a nutshell, effective board members:

- » Attend all board meetings.
- » Are well prepared for meetings.
- » Recognize that serving the public interest is the top priority.
- » Recognize that the board must operate in an open and public manner.
- » Are knowledgeable about the legislative process and issues affecting the board.
- » Examine all available evidence before making a judgment.
- » Communicate well and participate in group discussions.
- » Are aware that authority to act is granted to the board as a whole, not to individual members.
- » Exhibit a willingness to work with the group in making decisions.
- » Recognize that compromise may be necessary to reach consensus.

- » Do not let personal feelings toward other board members or staff interfere with their judgment.

Resignations. If you are unable to complete your term, it is important to inform the Governor's Office and the appropriate staff from your board. A letter of resignation should be sent to the Governor indicating the date your resignation is effective and whether you are able to serve until a replacement is named.

Board Staff Members

Some boards have employees dedicated to perform daily administrative tasks. However, there are a number of boards that work within a state agency or have access to advice from the agency, with no exclusively dedicated staff. In such cases, the agency usually provides support services. Board members must keep in mind that staff have other job responsibilities outside of their board duties.

Staff Functions. The primary function of the board staff is to carry out the rules, policies and programs developed by the board. In addition, staff members notify board members of pertinent issues and legislative activity. They may also arrange meetings, prepare meeting materials, compile background information and conduct research.

Board staff members also serve as a liaison to other boards and agencies, the Attorney General, the Legislature and the public. Staff members are a valuable resource to boards. A good staff member can enhance the productivity and effectiveness of a board. Board members should not hesitate to ask staff for reasonable help in carrying out their responsibilities.

Office of the Attorney General

The state Attorney General is the state's chief legal officer and is elected for a term of four years. The Attorney General is responsible for providing a broad range of legal services to public officials and others.

Legal Counsel. The Attorney General serves as legal counsel to the Governor, members of the Legislature, state officials, and boards and commissions. The Attorney General advises and represents state agencies as they fulfill their official duties, issues legal opinions, and defends state officials and employees for actions performed in their official capacities and in good faith.

When to Involve Your Assigned Counsel. Each board and commission is assigned an Assistant Attorney General to provide valuable information and advice about statutes and legal issues. A board that follows the advice of its Assistant Attorney General is immune from liability and is far less likely to find itself involved in legal problems.

Board members may request the following services from their Assistant Attorney General:

- » Assurance that board decisions and actions fall within statutory authority.
- » Questions about conflict of interest.
- » Review of proposed regulations and revisions, and the drafting of such documents in legally correct language.
- » Evidence in support of complaints, and the cross-examination of witnesses in disciplinary hearings.
- » General legal advice about board actions and activities.

Legal Fees. The board should be aware that its budget will be charged for all advice and service rendered by the Office of the Attorney General. Agencies generally have budgeted funds for this purpose, but they are limited.

The Office of Financial Management

The Office of Financial Management (OFM) was established to coordinate and integrate the biennial budget proposals of state agencies with the long-range, unified planning goals of the state. In addition, OFM advises the Governor and Legislature on matters of planning, management and policy. It also provides policy direction, and reviews business and management practices of state agencies and institutions. The director of OFM is appointed by and serves at the pleasure of the Governor.

Policy Support. The Governor's Executive Policy Office is one of several divisions within OFM. This unit works most closely with boards and commissions. It is composed of executive policy advisors who are responsible for advising the Governor on areas of state government such as education, transportation, social services, general government, the environment and natural resources, and economic development.

The Governor's Executive Policy Office reviews all legislation proposed by state agencies. The policy advisors then track the legislation and provide analyses. Policy advisors are very knowledgeable in their areas and an excellent resource if you require information on issues, legislation or statutes. They also can direct you to other resources both within and outside OFM.

The Department of Personnel

The Department of Personnel (DOP) is a valuable resource that appointees should consult for guidance and training when dealing with hiring or other human resource issues. If your board has the responsibility of hiring the agency head, it is critical that all board members have a clear understanding of the state's hiring process and follow appropriate procedures.

Recruitment/Hiring. Because agency heads are exempt from state civil service laws, there is considerable latitude in the hiring process. DOP can assist the board in developing an appropriate recruitment strategy. Remember to communicate with the Governor's Office and keep the Governor's staff updated on the progress of recruitment and hiring efforts.

Evaluation of Agency Head. Once the decision to hire has been made, the board must make it clear to the agency head what is expected and how the board intends on measuring that person's success. Regular, periodic performance reviews of the agency head are crucial to determine how well the expectations of the board and the Governor are being met. The board should develop and agree upon the best method for conducting performance reviews of the agency head. This is another area where the board should use the expertise of DOP staff.

Supervisory Responsibilities. For the board and agency head to work successfully together, the role of the board versus that of the agency head must be clear. Who supervises the agency head? Who supervises other staff members? Clear understanding of these issues will help ensure a successful working relationship.

LAWS AFFECTING BOARD ACTIVITIES

Restrictions and Requirements

As a Governor's appointee, you must be aware of certain restrictions and requirements that may affect you during your tenure:

- » Board members must be familiar with and operate at all times within their board's governing statutes and bylaws, and state and federal laws.

- » To ensure accountability, all applicable policies and procedures adopted by the board should be in written form.
- » No board member may make unilateral decisions or take action without the consent of the board as a whole.
- » At professional or industry gatherings, or in other settings where appearance may be construed as representing the board, individual board members must use discretion to avoid the appearance of speaking for the board, unless specifically authorized to do so.
- » Board members must keep in mind that their mission is to serve the public, and that it is inappropriate to use board membership to create a personal platform.
- » Members are restricted by RCW 42.52.130, 140, 150 and 42.18.230 from accepting or soliciting anything of economic value as a gift, gratuity or favor if it is given only because the member holds a responsible position with the state.
- » Questions about board issues should be directed to the board's administrative or executive officer, who will see that all board members receive full information by the next regular meeting.
- » Details of board investigations, personnel files or business discussed at closed executive sessions should not be disclosed unless they are part of the public record.

Open Public Meetings Act

The Open Public Meetings Act applies to nearly all boards and commissions. To determine whether the Act applies to your board, consult the Assistant Attorney General assigned to your board. Regardless of whether the Act applies, all boards should comply with open meeting requirements to the extent they can do so.

Notification of Meetings. The Open Public Meetings Act requires that all meetings of the governing body of a public agency, as well as some other meetings on policies affecting the public, be open to the public. In addition, the public must be notified of such meetings in a timely manner.

Confidential Transactions. Exceptions to the Open Public Meetings Act include confidential subjects such as personnel matters and real-estate transactions, which may be dealt with in executive sessions.

Public Disclosure. The minutes of all regular meetings must be recorded and made available for public inspection.

Accessibility Requirements. To afford members of the public who have disabilities an equal opportunity to participate, meetings subject to the Open Public Meetings Act are to be held in facilities which are wheelchair accessible. Public notices about such meetings must include a statement that sign language interpreters, materials in Braille, large print or tape, and other necessary auxiliary aids will be provided with advance notice. Notices should include the name and phone number of the individual responsible for coordinating such requests. Refer to RCW 42.30.010 and 42.30.900 for more information.

Reasonable Accommodation of Persons with Disabilities

In addition to the Open Public Meetings Act, the Americans with Disabilities Act (ADA) sets criteria for accessibility and accommodation. Under the ADA, people who have disabilities have a right to an equal opportunity for effective participation in the activities of boards and commissions, whether as appointed members or as members of the public.

Accessible Locations and Communications. Meetings and other board-sponsored activities should be held in wheelchair-accessible locations. Qualified sign language interpreters, materials in accessible formats such as Braille, large print and tape, and other forms of auxiliary aids for effective communications should be provided upon request.

Reasonable modifications should be made to policies or procedures, including travel reimbursement policies for members of boards, whenever such a policy or procedure creates a barrier to the full and equal participation of a person who has a disability.

As is true for all entities of Washington state government, boards and commissions are required to carry out five steps necessary to bring a public entity into compliance with the ADA. These steps are:

- » Designate a responsible employee or ADA coordinator to plan and coordinate the entity's compliance efforts.
- » Provide notice on a regular basis to employees, members, participants, other interested individuals and the public of the protections against discrimination on the basis of disability provided under the ADA.
- » Establish and publish grievance procedures for the prompt and equitable resolution of complaints alleging discrimination on the basis of disability.
- » Conduct a self evaluation to identify policies or practices that do not comply with the requirements of the ADA, and modify those policies and practices to bring them into compliance.
- » Develop a transition plan that identifies any physical barriers that limit the accessibility of board programs, services or activities to people with disabilities; describes the methods and timetables for the elimination of those barriers; and designates the public official responsible for the implementing the plan.

A board that is administratively linked to a larger state entity may choose to incorporate its own ADA compliance activities into those of the host agency or institution.

Administrative Procedure Act

The Administrative Procedure Act applies primarily to those boards involved in rule making and adjudicative actions. The Act provides that any orders, directives or agency policies or procedures that have general applicability to the public must be adopted as rules in accordance with Chapter 34.05 RCW. You should always consult with your Assistant Attorney General when preparing and adopting rules.

Executive Branch Ethics in Public Service

The Ethics in Public Service Act places restrictions on the activities of those working with state agencies, boards, commissions or any other entity of state government. Additionally, the Act provides that former state officers and employees may not benefit from or assist others regarding certain contracts or other decisions or transactions that they were involved in while in state service. State employees are prohibited from disclosing any confidential information acquired while in state service.

The Executive Ethics Board has jurisdiction to enforce the ethics laws and rules, and to order payment of penalties and costs.

All board members should familiarize themselves with the Ethics in Public Service Act, Chapter 42.52 RCW. The Assistant Attorney General assigned to your board can offer additional information.

Ethics and the Appearance of Fairness

As a board member, you are expected to uphold a high ethical standard. It is extremely important that board members avoid conflicts of interest or even the appearance of conflicts of interest.

Using a public position for private gain is improper and illegal. Similarly, actions benefiting close relatives are prohibited. There are penalties for violations of state ethics statutes.

The following are examples of conflicts of interest:

- » Directing state contracts to a business in which you have a financial interest.
- » Using confidential information for private investments.
- » Accepting gifts or favors in exchange for certain regulatory rulings.
- » Accepting gifts or favors in exchange for making certain purchases.
- » Obtaining personal favors from employees.
- » Accepting favors for disclosure of confidential information.
- » Engaging in outside employment which assists non-governmental entities in their quests for state business.

Board members can avoid conflict of interest issues by being aware of and adhering to statutory restrictions, using good judgment, and being fair and equitable in decision-making. For additional information on provisions of the state ethics law, visit the Washington State Executive Ethics Board website at www.ethics.wa.gov/.

BOARD TRANSACTIONS

Each board should have a set of bylaws to direct and clarify its actions, procedures and organization. Board members are expected to adhere to bylaws and all relevant statutes.

Bylaws are the guidelines by which a board functions. According to Robert's Rules of Order, bylaws define the primary characteristics of an organization, prescribe how it should function, and include rules that are so important that they may not be changed without prior notice to members and formal vote and agreement by a majority of members.

An organization's bylaws include a number of articles, such as the following:

- » Name of board
- » Mission statement
- » Membership
- » Officers
- » Meetings
- » Executive board (if needed)
- » Committees and subcommittees
- » Parliamentary procedure, often including the name of the manual of parliamentary procedure the board will follow
- » Amendment procedures for making changes in the bylaws

Bylaws should include expectations as well as guidelines for members. Issues such as attendance, responsibilities and discipline should be addressed in the bylaws.

Quorum

A quorum is the number of members who must be present to conduct official business. If a quorum is not present, any business transaction is null and void. The quorum protects against unrepresentative actions by a small number of individuals.

The bylaws should specify the number of individuals who constitute a quorum and whether a majority of this quorum may take action. In some cases, the governing statutes will establish what the quorum will be.

The minimum number of officers who must be present to conduct business includes a presiding officer and a secretary or clerk. If these officers are members of the board (as they usually are), they are counted in determining whether there is a quorum.

At meetings where a quorum is not present, the only actions that may be legally taken are to fix a time for adjournment, adjourn, recess or take measures to obtain a quorum (such as contacting absent members).

Order of Business

After the presiding officer has called the meeting to order, a board generally follows the order of business specified in its bylaws. If a board has not adopted an order of business, the procedure below is generally followed:

1. Reading and approving of minutes of previous meeting(s).
2. Reports of officers and standing (permanent) committees.
3. Reports of special (select or ad hoc) committees.
4. Special orders (matters previously assigned a special priority).
5. Unfinished business and general orders (matters introduced in previous meetings).
6. New business (matters initiated in present meeting).

The Chair and Voting

If the chair is a member of the board, he or she may vote just as any other member. When not a member of the board, the chair may vote whenever his or her vote will affect the outcome; to break or cause a tie; or to block or cause attainment of a two-thirds majority when it is necessary.

A chair has only one vote, and may not vote as a member of the board and as a presiding officer.

Voting by secret ballot is prohibited by the open meetings law.

Public Disclosure

State agencies and boards are required to have available for public inspection and copying their public records, such as procedural rules and statements of general policy, and other records, written or electronic, pertaining to the board's business. Exemptions to disclosure are limited and identified in statute.

Records relating to the conduct of official business are subject to disclosure even if they are on a personal computer.

For additional information on disclosure requirements and exemptions from disclosure, refer to Chapter 42.56 RCW or consult with your Assistant Attorney General.

Lobbying

There exists a very fine line between advising and lobbying. It is important that board members be aware of this distinction. Board members are in a unique position that allows them to provide information and recommendations on issues.

However, a board member becomes a lobbyist when he or she attempts to influence the passage or defeat of any legislation by the Legislature, or the adoption or rejection of any rule, standard, rate or other legislative enactment or any state agency action under the Administrative Procedure Act, RCW 18.185.200, Chapter 34.05 RCW.

Lobbying also includes trying to influence the Governor's actions on legislation that has passed both houses.

Quarterly Reporting. Any public entity that undertakes lobbying must submit quarterly reports that consolidate all lobbying expenditures made or incurred by the entity's departments or divisions during the calendar quarter. Lobbying includes in-person contacts by agency lobbyists or liaisons with legislators to influence action or inaction on legislation, as well as in-person contacts with legislative staff. Boards must report all gifts, travel, contributions and entertainment expenditures for legislators and staffers alike, whether using public or nonpublic funds.

What, When and Where. All lobbying must be accomplished within the established channels of the Legislature, such as testifying at hearings, contacting legislators and staff, etc.

According to the Public Disclosure Commission (PDC), lobbying does not include any of the following activities for public agencies:

- » Agency requests for appropriations to OFM or requests by OFM to the Legislature for appropriations other than its own agency budget. (Once a budget request is before the Legislature, attempts to influence any portion of it does constitute reportable lobbying.)
- » Recommendations or reports to the Legislature in response to a legislative request, whether oral or written, expressly requesting or directing a specific study, recommendation or report on a particular subject.
- » Official reports, including recommendations submitted annually or biennially by a state agency as required by law.
- » Requests, recommendations or other communications between or within local or state agencies. However, attempts to influence the Governor with respect to signing or vetoing legislation are considered reportable lobbying. Other communications or negotiations with the Governor's Office would not be reportable.
- » Telephone conversations or preparation of written correspondence. Thus, only in-person contact, including testifying at hearings, is considered lobbying.
- » Preparation or adoption of policy positions within an agency or groups of agencies. However, once a position is adopted, further action to advocate it may constitute lobbying.
- » Attempts to influence federal or local legislation.

For details or additional information about lobbying, contact the PDC or your Assistant Attorney General.

Prohibition on Elections or Ballot Measures Using Public Resources. RCW 42.17.130 strictly forbids the use of public or agency facilities for the purpose of assisting a campaign for election of any person to any office or for the promotion or opposition to any ballot proposition unless they are activities which are a part of the normal and regular conduct of the office or agency.

Testifying at Hearings

Board members often have an opportunity to testify at hearings conducted by legislative, local government or community committees. When providing testimony on behalf of the board, members should refrain from expressing personal opinions.

Effective Testimony. To provide effective testimony, members should keep the following guidelines in mind:

- » Testimony should be brief, concise and truthful.
- » Avoid reading lengthy written testimony; instead, orally highlight important points in the written report.
- » If others are offering similar testimony, try to coordinate information to avoid repetition.
- » Avoid being technical.

- » Be prepared to answer questions and comments by committee members. If you are unable to answer a question, offer to provide a written response later and always follow through.
- » If you must give a personal opinion, make sure that the committee understands that you are not speaking for the board, but for yourself.
- » Legislative staff members find it helpful to receive copies of written testimony prior to the hearing.

When Testifying Becomes Lobbying. Providing testimony is not a form of lobbying if it is done on behalf of the board and at the request of the committee. Testimony provided by individuals outside of board activities and for personal interest may be considered lobbying; therefore, the individual may have to register with the PDC. For applicability, contact the PDC or refer to Chapter 42.17 RCW.

Providing testimony may be deemed lobbying if a board member is visibly advocating an issue. Any contact with committee members or legislative employees after a hearing about testimony may be considered lobbying, and consequently must be reported under Chapter 42.17 RCW.

The News Media

The news media has the important function of informing the public about state government operations. In doing so, it provides a valuable communications link with the community. It is important to maintain a truthful, cooperative and open relationship with the media without violating privacy or other citizen rights.

The following are suggested guidelines for working with the media:

- » Establish policies for media relations and designate staff people as media contacts.
- » Be as open as possible and keep your focus on the business of the board. Personal opinions, especially those of other people, are inappropriate. The news media is not the avenue to air dissatisfactions or carry on conflicts among board members or agency employees.
- » If you do not know the answer to a question or are unsure about an issue, refer the matter to a knowledgeable person in your agency or to the Governor's Office.
- » If you believe it is important that the public have specific information, please notify the Governor's communications director.
- » A "wise" board anticipates when an event in the community will stir the interest of the media. It provides materials that are responsive and informative, but which do not violate individual privacy or undermine the dignity and authority of the board. In such a case, inform the Governor's communications director prior to the release of any such information.
- » Be aware that the comments you make in public may also have to be repeated in a court of law. Do not risk your personal integrity or that of another by thoughtless or unwarranted remarks.

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

AGENDA
PUBLIC WORKS BOARD MEETING
 May 4, 2012 – 2:15 P.M.

Meeting Location: Department of Commerce, 1101 Plum ST SE, Olympia, WA 98504

Agenda Item	Action	Page	Time
1) ADMINISTRATION		141	2:15
a) Approve Agenda	Action	139	
b) March 5 Meeting Minutes: Ann Campbell	Action	143	
2) CONTRACTING		149	2:20
a) Consent Agenda: Bruce Lund	Action	151	
b) City of Yakima Loan Extension: Bruce Lund	Action	153	
c) 5-Year Deferral Policy Revision: Cecilia Gardener	Action	155	
d) Sacheen Lake 5-year Deferral Request: Bruce Lund	Action	157	
3) LEGISLATIVE OUTCOMES SUMMARY		159	2:35
a) 2012 Legislative Outcomes Summary: Dawn Eychaner		161	
4) Program Updates		165	
a) 2014 Public Works Trust Fund Construction update: Ann Campbell			
5) RETREAT DECISIONS		167	2:45
b) Proposed Strategic Plan: John LaRocque	Action		
c) Proposed Policy Bill: John LaRocque	Action		
d) Proposed Budget: John LaRocque	Action		
6) INFORMATION AND OTHER ITEMS		169	3:00

Note: *Anticipated time of Adjournment is 3:00 p.m.*

NEXT MEETING SCHEDULED: June 1, 2012, at 8:30 a.m.– Department of Commerce, 1011 Plum Street SE Olympia, WA 98504-2525. Contact the Public Works Board at (360) 725-3151 for further information.

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

TAB 1

Board Administration



PUBLIC WORKS BOARD MEETING NOTES
March 5, 2012
Department of Commerce (Olympia, WA)

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

Guests Present:

- Chad Coles,
Spokane County
- Rodney Orr,
Dept. of Commerce
- Jacki Skaugt,
Dept. of Commerce
- Karen Larkin,
Dept. of Commerce
- Cathi Read,
Dept. of Commerce
- Eric Tompkins,
Dept. of Commerce
- Laura Lowe,
Dept. of Commerce
- Kaaren Roe,
Dept. of Commerce

1. ADMINISTRATION

- a) Call to Order: Stan Finkelstein called the meeting to order at 8:38 a.m.
- b) Introductions of Board, Staff, Guests, and Visitors.
- c) Approve the Agenda: Board Member Ed Hildreth moved to approve the agenda as presented. Board Member Doug Quinn seconded the motion. Board Member Jerry Cummins moved to amend the agenda to add a discussion regarding the calendar to Item 6: Information and Other Items. Board Member Larry Waters seconded the motion. **ACTION: Motion Approved 7-0.** (Voting Yes: Abart, Cummins, Hildreth, Montfort, Quinn, Smith, and Waters. Voting No: none.)
- d) Membership Update: Janea Eddy asked Member Quinn to update the Board on his Board membership status. Member Quinn informed the Board that Clark County Public Utility District will not maintain its membership with the Public Utility District of Washington (PUD). Therefore, Member Quinn is no longer eligible to serve as the PUD representative. He will be resigning his position. The PUD Association is soliciting applications to fill the position. Member Quinn is unsure when a new PUD representative will be appointed. He will serve until the Governor appoints a new representative. Chair Finkelstein complimented Member Quinn on his incredible service. Executive Director (ED) John LaRocque clarified that the Governor’s Office has stated that no Board appointments will be made until after the Legislative Session has ended.
- e) February 6, 2012, Meeting Minutes: Member Cummins moved to approve the February 6, 2012, meeting minutes. Member Hildreth seconded the motion. **ACTION: Motion Approved 7-0.** (Voting Yes: Abart, Cummins, Hildreth, Montfort, Quinn, Smith, and Waters. Voting No: none.)

2. CONTRACTING

- a) Consent Agenda: Laura Lowe, Managing Director (MD) of the Contracts Administration Unit, presented the Consent agenda on page 13 in the meeting packet. MD Lowe identified to the Board that Cecilia Gardener distributed a revised list of projects that corrects the close out date for the City of Camas' loan PC08-951-007 to March 7, 2012. Thank you to Board Member Waters for identifying the discrepancy in the initial meeting packet. Board Member Don Montfort asked that the Camas' project be removed from the Consent Agenda for further discussion. Member Quinn moved that the Consent Agenda, sans Camas' loan PC08-951-007, be approved. Board Member Darwin Smith recused himself from the vote due to being the General Manager for the Lake Stevens Sewer District, which is on the list asking for an extension. Member Montfort seconded the motion. **ACTION: Motion Approved 6-0-1.** (Voting Yes: Abart, Cummins, Hildreth, Montfort, Quinn, and Waters. Voting No: none. Recused: Darwin Smith)

Member Montfort asked for clarification surrounding the reasons for the City of Camas' (City) extension request. MD Lowe explained that the City's project is phased. A portion of the loan is being used to fund a portion of the second phase. The City is going to bid this spring. Extending the project completion date allows for sufficient time to complete the portion of the second phase that is being paid for by a portion of the PC08-951-007 loan. Member Waters moved to extend the closeout date for loan PC08-951-007 to April 1, 2014. Member Cummins seconded the motion. **ACTION: Motion Approved 8-0.** (Voting Yes: Abart, Cummins, Gardow, Hildreth, Montfort, Quinn, Smith, and Waters. Voting No: none.)

- b) Spokane County Loan Extension: Stephen Dunk, Client Services Representative, introduced Chad Coles, Assistant County Engineer for Spokane County, who presented an update on the Bigelow Gulch/Forker Road Corridor Project. See the meeting packet for the PowerPoint slide presentation. Chair Finkelstein asked Mr. Coles for the original timeline prior to construction commencing and the currently revised total project cost. Mr. Coles stated that at the start of the project, 1998, it was anticipated to be five years prior to construction. The total project cost went from \$35 million to \$65 million. Chair Finkelstein asked after the 80% increase. Mr. Cole spoke of the dramatic increase in construction materials cost that occurred in the 2000s and engineering changes, including the addition of a half interchange, that caused the uptick in costs. Member Montfort outlined the Board's request of the Legislature to access preconstruction funds. He asked Mr. Coles if preconstruction money would have been of benefit to Spokane County (County) during the permitting phase of this project. Mr. Coles answered in the affirmative. Vice Chair Gardow asked if the County's current project timeframe is realistic in light of pending court proceedings. Mr. Coles acknowledged that the timeframe is aggressive; it does not incorporate a court-related delay. Mr. Coles noted that if the County loses its legal fight on appeal, then the project, as it stands, is finished. He explained that the County would need to start from the beginning in order to make the project happen, noting that there are no current injunctions on construction. Vice Chair Gardow then asked if the County would seek additional funds from the Public Works Board. Mr. Coles replied that, once the Right of Way for the project is secured, then yes, the County would seek additional funds to fill in the existing funding gaps. Mr. Coles noted that the County would limit the scope on any new funding requests. Chair Finkelstein asked the potential source of other project funds. Mr. Coles stated that the County would seek funding from the federal government, Freight Mobility Strategic Investment Board (FMSIB), the Transportation Improvement Board (TIB), and its own capital funds. Member Cummins inquired after any other litigation. Mr. Coles responded that there is no pending litigation to his knowledge. Mr. Coles acknowledged that the County may have to condemn some properties in the project area in order to obtain the right of way necessary. Member Cummins sought the end date to existing litigation. Mr. Coles replied that he is unsure when the litigation will end. Member Quinn sought information as to whether or not the proposed change would have adversely impacted the County's score, which gained them the loan. Executive Director (ED) John LaRocque clarified that the County's project met the application parameters and that the change would not have influenced the score. Vice Chair Gardow asked ED LaRocque about the legislative process necessary to implement the proposed change. ED LaRocque provided historical perspective on the administrative change from having broad scopes of work in

the funding bill to having explicit scopes of work and back again, explaining that the scope change will be part of the budget as a technical fix that will be brought forward in the 2013 Legislative Session. ED LaRocque went on to say that the \$5 million not being used is considered a deobligation of funds and would be rolled back into the Public Works Assistance Account (PWAA) for use during the next round of funding. Member Hildreth asked if there is anything else that may hinder the project's progression. Mr. Coles responded that, to his knowledge, there are no items remaining that would slow the project. Member Montfort moved to approve the scope of work of loan PW-05-691-057. Vice Chair Gardow seconded the motion. **ACTION: Motion Approved 8-0.** (Voting Yes: Abart, Cummins, Gardow, Hildreth, Montfort, Quinn, Smith, and Waters. Voting No: none.)

- c) PWTF Pre-Construction Term Conversion Policy: Ann Campbell identified the recent increase in requests of the Board to waive portions of its 5 to 20 Year PreConstruction Term change policy as the reason for staff reviewing the efficacy of the current policy. Ms. Campbell framed this review noting the lack of Pre-Construction funds during the last two biennia, the Board's eighteen-month temporary change to the policy wherein borrowers had the opportunity to request a term change prior to obtaining full construction funds, and updated technology. Ms. Campbell outlined the policy proposal on page 35 in the meeting packet. Ms. Campbell explained that the current policy requires Board clients to request conversion of their pre-construction loans from a five-year repayment term to a 20-year repayment term before the loan's first principal payment is made, and after 100% of the project funding has been secured. Ms. Campbell noted that the requirement for the request to be made prior to the first principal payment existed solely because the Board's prior database could not make the necessary changes to the accounts after the first principal payment on the loan was received and that this is no longer an issue. Ms. Campbell explained that the requirement for 100% funding being secured was originally set as the mechanism by which the Board could be certain that the project would be built, explaining this percentage dropped to 30% from July 2009 through June 2011, due to a downturn in the economy.

Ms. Campbell outlined that the Board has 40 existing pre-construction loans with 5-year terms; with 14 of these having one repayment remaining. Ms. Campbell advised the Board that staff has analyzed the fiscal impact of the Board adopting this policy change and determined that there would be no material change to the PWAA should the Board adopt the policy change. Vice Chair Gardow expressed concern with lowering the secured funding percentage to 30%, suggesting increasing the percentage to 50. Vice Chair Gardow asked if eligible clients would be contacted if the policy change is adopted. Ms. Campbell affirmed that Board staff intended to contact all eligible clients. Member Montfort asked how staff arrived at the 30% amount. ED LaRocque harkened to the Board's temporary policy amendment in 2009 when the Board chose 30% as a reasonable amount to indicate eventual project construction. Member Smith spoke to the difficulty of putting together local financing packages and how significant the pre-construction term is to impacting local rates. He expressed his support for the policy change. Member Waters asked if staff knew of any projects that have reached the 30% mark and the project has failed anyway. ED LaRocque explained that none of the 26 eligible clients have contacted staff stating that the projects would not move forward. Member Quinn echoed Member Smith's comments and asked if, after receiving a term conversion to 20-years, a client failed to secure full funding, would the client be required to repay the pre-construction loan in five years. ED LaRocque replied in the negative. Member Hildreth asked about moving the percentage to 50 as suggested by Vice Chair Gardow. ED LaRocque clarified that none of the current pool is like to have 50% of their funding in place. Member Smith explained the significant cost impact, in the form of cash flow restrictions, to local constituencies as the percentage requirement increases. Vice Chair Gardow asked if the Board would have problems if a project is not constructed, but the repayment term is 20 years. ED LaRocque reassured the Board that there would be no audit issues arising from adoption and implementation of this policy change. Member Smith pointed out that, in the worst case scenario, pre-construction money would at least accomplish engineering, which the locals could revisit and reuse if the project was shelved, so the loan would not be a total loss. He further noted that the mere act of seeking pre-construction funds indicates that the project is a high-priority for the jurisdiction. Member Smith moved to

approve the policy change outlined on page 35 of the meeting packet. Member Cummins seconded the motion. **ACTION: Motion Approved 8-0.** (Voting Yes: Abart, Cummins, Gardow, Hildreth, Montfort, Quinn, Smith, and Waters. Voting No: none.)

- d) Ms. Campbell explained to the Board that item 2d Port Ludlow Term Conversion is no longer necessary as the newly adopted policy change makes the District eligible to convert their pre-construction loan term to a 20-year period. Member Quinn moved to remove item 2d Port Ludlow Drainage District Loan Term Change Request from the meeting agenda. Member Waters seconded the motion. **ACTION: Motion Approved 8-0.** (Voting Yes: Abart, Cummins, Gardow, Hildreth, Montfort, Quinn, Smith, and Waters. Voting No: none.)
- e) PWTF 2014 Interest Rate Reduction Criteria: Myra Baldini presented the staff recommendation on page 41 of the meeting packet. Member Waters moved to approve the 2014 PWTF Interest Rate Reduction Criteria as outlined on page 37 in the meeting packet. Member Waters moved to approve the PWTF 2014 Interest Rate Reduction Criteria as presented. Member Smith seconded the motion. **ACTION: Motion Approved 8-0.** (Voting Yes: Abart, Cummins, Gardow, Hildreth, Montfort, Quinn, Smith, and Waters. Voting No: none.)
- f) DWSRF 2011 Contract Status Update (written report). ED LaRocque advised the Board that the DWSRF cycle closed on March 1 with approximately \$150 million in requests, which is three to four times the amount of funding that has typically been requested in the past.

3. LEGISLATIVE UPDATES

- a) Legislative Update: ED LaRocque briefed the Board on the status of various legislative proposals:
- House Capital Budget proposal takes \$17 million from the PWAA for debt service
 - 2013 Loan list has been reduced to \$152 million due to projects being included on the Department of Ecology's funding list.
 - \$15 million from the PWAA for the Community Economic Revitalization Board (CERB)
 - \$5 million for the Investment Grade Efficiency Audit (IGEA) program.
ED LaRocque took a moment to extol the hard work and dedication of Stephen Dunk in creating the IGEA program. Mr. Dunk has worked diligently with the energy professionals at the Department of Enterprise Services and with various private sector energy companies. These companies are willing to commit a fair amount of money if the state comes forward with funds.
 - The budget, in general, contains a number of energy efficiency programs, including IGEA.
 - Senate Operating Budget proposal does not allow any money for bond bills.
 - Senate Capital Budget proposal moves \$35 million, revenue from the solid waste/recycling tax, to the General Fund to pay \$17 million annually for bond debt service. The proposed Senate Capital Budget also contains:
 - \$152 million for 2013 Loan list
 - \$10 million for a competitive grant program: "Main Street"
 - \$18 million for direct appropriations
 - An additional Special Session seems likely to start on or around March 12, and could last 30 days.
 - The Board's policy bill was introduced late in the session and has not been heard in committee by either the House or the Senate. Staff has asked the capital committees to allow the Board to produce a list of non-traditional projects using the term "may."

ED LaRocque noted that the large number of applicants for the 2012 Drinking Water State Revolving Fund (DWSRF) application cycle could impact the Board's 2014 PWTF Construction applicant pool. He went on to say that the budgets have a lot of moving parts and nothing is certain until the Legislature adjourns. He restated the Board's role of working within the Governor's proposal framework and its aspects.

Karen Larkin, Assistant Director, provided the Board with the Department of Commerce's perspective on the proposed budgets.

Chair Finkelstein shared his perspective on the recent legislative activity.

Member Montfort commented on the introduction of SB6616, which proposes permanent re-direction of the solid waste tax from the PWAA. Member Montfort said that it is a tribute to the program that the \$35 million per year (anticipated revenue from the tax stream) does not significantly impact the Board's ability to deliver services. Member Montfort asked for clarification as to why the Board should pursue the Accelerated Loan Commitment Model (ALCM) if the Departments of Ecology and Health are accelerating their funds as well. ED LaRocque replied that the Board could decrease the ALCM as needed. He noted that operating using only the cash available is still an option available to the Board.

4. PROGRAM UPDATES

ED LaRocque recommended that the Board re-arrange the agenda to have item 4a presented after items 4b and 4c. The Board agreed to this re-arrangement.

- b) 2014 PWTF Contract Boilerplate: Jeff Hinckle presented the revised 2014 PWTF Contract boilerplate to the Board. Mr. Hinckle noted that he approached the boilerplate with the goal of presenting a more streamlined, accessible version of the existing contractual language. Mr. Hinckle outlined how he replaced variables from the contract with identifying names and housed those extracted variables on a new cover sheet, the Declarations Page, which will be the front page of each contract. Mr. Hinckle explained that in light of the Board's adopted policy removing a minimum local match, all references to local match have been eliminated from the boilerplate. Mr. Hinckle advised the Board that the proposed boilerplate has been reviewed by staff, Department of Commerce's Contract Manager, John Toohey, and is currently under review by the Attorney General's Office. ED LaRocque pointed out that this is another example of the Board's Modernization efforts over the last year, which has led staff to begin reviewing every level of the Board's business for areas of improvement. Vice Chair Gardow asked that the type of project be added to the page. Mr. Hinckle replied in the affirmative. Member Montfort praised Mr. Hinckle for his work. He then asked if, in light of the mandate to have consistency across agencies, it would be possible for other agencies to adopt this model. ED LaRocque shared that staff will apply this framework to the DWSRF contracts to standardize contract look and feel. Member Smith stated that the new format will make his life as a manager easier. Member Smith moved to adopt the 2014 PWTF Boilerplate as presented. Member Abart seconded the motion. **ACTION: Motion Approved 8-0.** (Voting Yes: Abart, Cummins, Gardow, Hildreth, Montfort, Quinn, Smith, and Waters. Voting No: none.)
- c) 2014 PWTF Construction Loan Amount Parameters. Ms. Campbell outlined the memo on page 91 in the meeting packet, which does not include a staff recommendation. ED LaRocque pointed out that there are many unknowns including the possibility of large amounts of grant funding being added to water and sewer projects through jobs bills. Chair Finkelstein asked if it was tenable to table this decision until the Board's policy retreat in May. ED LaRocque stated that leaving this unanswered is a bit problematic because applicants want to know when formulating their application and the application closes in May. Chair Finkelstein proposed a cap of \$10 million per applicant per year. Chair Finkelstein expressed concern that changing the cap to apply to the system rather than the applicant may limit fund access by smaller jurisdictions if larger entities are receiving a great deal of assistance for a number of systems. He added to the considerations the fact that the PWAA imposes fewer restrictions on borrowers than does the bond market. Member Montfort proposed leaving the loan cap open ended due to the amount of money available. He suggested that the Board might then look at the applicant pool to decide how to fund. He offered up another possibility: the Board could fund all small jurisdictions then go on to larger jurisdictions. Member Montfort noted that DWSRF's loan cap increased to \$12 million and that the Board could adopt the same cap. He identified his preference is to solicit applications requesting however much the applicant needs to do their project with full disclosure that they may only get a portion. Member

Abart pointed out that the \$10 million cap has been in place for 10 years; construction costs have increased during that time and suggested a \$15 million cap as an option. Member Cummins shared that he and Member Hildreth spoke with the Association of Washington Cities and that there is concern that there are challenges for smaller jurisdictions to compete for funding. Member Smith spoke to the importance for locals to have a predictable cap when assembling financing packages. He expressed concern with the uncertainty that comes with no cap, promoting irresponsible risk at local level due to an anticipated big payoff. Member Smith advocated for raising the cap because projects are bigger and more expensive, particularly for smaller towns building new treatment plants. Furthermore, Member Smith noted his support for a larger cap limited by applicant rather than by system. Chair Finkelstein expressed his discomfort with having no cap, explaining that doing so, when the state is near its bond cap may send the wrong message that the Board has too much so it would be okay to redirect funds away from the Board. Member Waters shared concerns with Member Smith that no loan cap makes it difficult to structure an application. Member Montfort identified that this funding cycle is unique in that the Board has changed its funding policy to try to fund all viable projects. ED LaRocque elaborated that the Board is engaging in a new model of business. He stated that under this new model, the Board can look at the initial request from a jurisdiction and either meet the request, or counter with a different loan amount, different terms, or a combination of both. Vice Chair Gardow moved to set the loan cap at \$15 million per year, per system, reserving the right to revisit the cap dependent upon loan demand. Ed Hildreth seconded the motion. **ACTION: Motion Approved 8-0.** (Voting Yes: Abart, Cummins, Gardow, Hildreth, Montfort, Quinn, Smith, and Waters. Voting No: none.)

LUNCH BREAK

- a) PWTF Proposed New Application Process: Ann Campbell and Dawn Eychaner presented the new application process powerpoint. Member Cummins moved to approve the package of the new process, including the creation of an adhoc Board subcommittee consisting of Don Montfort, Ed Hildreth, Larry Guenther, and Tom Fitzsimmons. Member Hildreth seconded the motion. **ACTION: Motion Approved 8-0.** (Voting Yes: Abart, Cummins, Gardow, Hildreth, Montfort, Quinn, Smith, and Waters. Voting No: none.)

5. FINANCIAL

- a) Update PWAA Fund: Myra Baldini provided the Board with a handout outlining impacts to the PWAA based on the proposed House and Senate budgets.

6. INFORMATION AND OTHER ITEMS

Calendar discussion: ED LaRocque proposed the Board hold a two-day policy retreat in conjunction with the May Board meeting: May 3rd and 4th. Board members indicated their agreement to the proposal.

Member Water moved to adjourn. Vice Chair Gardow seconded the motion. **ACTION: Motion Approved 8-0.** (Voting Yes: Abart, Cummins, Gardow, Hildreth, Montfort, Quinn, Smith, and Waters. Voting No: none.)

Meeting adjourned at 1:43 p.m.

TAB 2

Contracting



DATE: April 16, 2012
 TO: Public Works Board
 FROM: Bruce Lund, CAU Interim Managing Director
 SUBJECT: Project Completion Extension Requests

STAFF RECOMMENDATION

Staff recommends extending the contract project completion dates as follows:

Program	Client	Contract No.	Project	Loan/Grant Amount	Available to Draw	Original Closeout Date	Current Closeout Date	Proposed Closeout Date
DWSRF	Knights of Columbus Inter-Council Association	DP07-952-012	Source Supply and Distribution System Replacement	499,950	140,475.95	7/2/11	6/18/12	11/30/12
Reason for Extension Request: Delay due to acquisition of permits and the extension will also align the project completion date with the end date of another funding source (CDBG). Project is 50% complete.								
DWSRF	Knights of Columbus Inter-Council Association	DP09-952-023	Source Supply and Distribution System Replacement	499,950	499,950.00	6/18/12	6/18/12	11/30/12
Reason for Extension Request: Delay due to acquisition of permits and the extension will also align the project completion date with the end date of another funding source (CDBG). Project is 50% complete.								
DWSRF	Vistaire Water System	DP09-952-042	Arsenic Treatment Facilities	505,000	113,123.04	6/1/12	6/1/12	6/1/13
Reason for Extension Request: Delays due to cost overruns and redesign of treatment system. Project is 60% complete.								

Program	Client	Contract No.	Project	Loan/Grant Amount	Available to Draw	Original Closeout Date	Current Closeout Date	Proposed Closeout Date
PWTF Construction	Grays Harbor County Water District #1	PW-07-962-012	Water System Rehabilitation Project	6,717,575	2,015,272.50	5/29/11	5/31/12	5/31/13
Reason for Extension Request: Permitting and Dept. of Health approval of the project report took longer than anticipated and additional time is needed to complete construction. Project is 75% complete.								
PWTF Construction	Lake Forest Park Water District	PC08-951-022	Intermediate Zone Improvements Phase IV & V	917,935	45,896.75	5/27/12	5/27/12	5/27/13
Reason for Extension Request: Delay due to negotiation of placement of water lines in the Right-of-Way with the City of Lake Forest Park. Additional time needed to construct final element of scope. Project is 95% complete.								
PWTF Construction	Longview	PC08-951-012	Water Supply and Treatment	3,213,000	160,650	3/25/12	3/25/12	4/28/13
Reason for Extension Request: An extension is needed to synchronize the project completion with two DWSRF loans. Project is 75% complete.								

BACKGROUND

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



Date: May 4, 2012
To: Public Works Board
From: Bruce Lund, CAU Interim Managing Director
Subject: City of Yakima, PWTF Extension Request

**STAFF RECOMMENDATION: Recommend 24-Month Extension Request Approval
(6/2/12 to 6/2/14)**

Project Description: Railroad Grade Separation: Lincoln Ave & Martin Luther King Jr. Blvd
Contract Number PC08-951-052

Project Status:

The loan amount is for \$3,000,000 and is part of a \$35,000,000.00 project. The city experienced a setback when constructing the underpass on Lincoln Ave. The original plan to address ground water intrusion did not achieve the desired results. The alternative method developed was more expensive than the original design and resulted in an additional \$5,000,000 in cost overrun for construction, redesign, and project delay.

The city has applied for a Transportation Investments Generating Economic Recovery (TIGER IV) Grant. TIGER IV awards will be announced June 2012. The city will also be applying for PWTF and Washington State TIB funding.

Timeline:

Construction of Lincoln Ave, is scheduled for completion May 2012. The design of MLK Jr. Blvd is at 95% completion, with construction to be completed by Fall 2013.

Request:

The city is requesting a 24-month extension to allow for leveraging additional funds and completion of construction.



DATE: May 3, 2012
TO: Public Works Board
FROM: Cecilia Gardener, Policy and Program Development Manager
SUBJECT: 5-Year Deferral Policy - Revision

BACKGROUND:

In October 2008, the Board approved a 5-Year deferral policy as stated below:

CURRENT POLICY:

The intent of the five year deferment language is to provide local jurisdictions an opportunity to undertake completely new infrastructure systems such as water and wastewater treatment plants. Deferred loan repayment is to assist systems that otherwise would not be fiscally feasible if loan repayments were to start before the system could begin generating revenue.

The vast majority of jurisdictions cannot afford the repayment of loans and the enormous upfront expense of a brand new system without the revenues that are generated from hook-ups, connection charges and/or utility rates. A *“new system”* can be defined as ***any system that delivers previously unavailable services to a new customer base that repays debt incurred with the revenues generated by the new system.*** It would not include the replacement, expansion, or rehabilitation of an existing system or a system that already has existing revenues for that service.

Eligibility Requirements:

1. Any system that delivers previously unavailable services to a new customer base that repays debt incurred with the revenues generated by the new system. It would not include the replacement, expansion, or rehabilitation of an existing system or a system that already has existing revenues for that service.
2. Only jurisdictions with Public Works Trust Fund loans awards are eligible
3. Jurisdiction must meet all the standard PWTF threshold requirements such as REET, GMA compliance, etc.
4. The final decision rests solely with the Board

Loan Terms:

1. No loan payment for first five years
2. Interest would accrue the first 5 years of the loan, in the 6th year; the client payment would consist of the accrued interest. Beginning the 7th year the client would begin both interest and principal payments.
3. Jurisdiction will have 20 years to repay the interest and 14 years to repay the principal after the five year loan deferment

PROPOSED POLICY:

Any "*new system*" is eligible for a five year loan payment deferral as defined below:

Eligibility Requirements:

1. "*New system*" - Any system that delivers previously unavailable services to a new customer base that repays debt incurred with the revenues generated by the new system. It would not include the replacement, expansion, or rehabilitation of an existing system or a system that already has existing revenues for that service.
2. Only Public Works Trust Fund (PWTF) Construction loans
3. Jurisdiction must meet all the standard PWTF threshold requirements such as REET, GMA compliance, etc.

Loan Terms:

1. Five years will be added to the term of the loan (example: 20 year loan will increase to 25 years, 30 year loan will increase to a 35 years)
2. No loan (principle or interest) payment for first five years
3. Interest on amount drawn would accrue the first 5 years of the loan
4. In the 6th year, the first payment would consist of the accrued interest
5. Beginning the 7th year the client would begin both interest and principal payments.
6. Jurisdiction will have up to a maximum of 30 years to repay the interest and up to a maximum of 29 years to repay the principal after the five year loan deferment

STAFF RECOMMENDATION:

Staff recommends removing the fourth eligibility requirement of current policy (The final decision rests solely on the Board) and allowing the deferment based on the eligibility and loan terms described above upon client request.



Date: March 8, 2012
To: Public Works Board
From: Chris Gagnon
Subject: **Sacheen Lake Water & Sewer District P WTF PC12-951-015
Request for Five Year Deferral**

Background

Sacheen Lake Water and Sewer District is requesting a five year deferral on their 2012 Public Works Trust Fund Loan to construct a sewer collection and treatment system.

The five-year deferral policy provides local jurisdictions an opportunity to undertake completely new infrastructure systems such as water and wastewater treatment plants. The deferred loan repayment is to assist systems that otherwise would not be fiscally feasible if loan repayments were to begin before hook-ups, connection charges and/or utility rates could generate revenue.

Section 1.5 of the contract requires the borrower to request the Board's consideration for the deferral:

5- year deferral for start-up systems

If the project financed by this contract is to develop a system to deliver previously unavailable services, and revenue from those services is to repay the loan, the new system is eligible for a deferral of loan payments for sixty (60) months after the Contract execution date. The Contractor may provide a written request to the Board requesting a 5-year deferral for an eligible system. The Board may approve the deferral request.

Interest accrues for the aforementioned sixty (60) months. The accrued interest only payment is due July 1 of the 6th year of the loan term. Interest and principal payments are due on July 1 of the 7th year of the loan term.

Staff Recommendation

Staff recommends approval of the requested deferral for the above construction project. If the Board elects to approve the deferral, the District's loan repayment will be 25 years, with a 2% interest rate.

TAB 3

Legislative Outcome Summary



DATE: April 23, 2012
 TO: Public Works Board
 FROM: Dawn Eychaner, Program and Policy Development Coordinator
 SUBJECT: 2012 Legislative Action – Capital Budget and Related Items

BACKGROUND

The 2012 Legislature passed a supplemental capital budget (ESB 6074) and the “2012 Jobs Now Act” (ESB 5127) containing capital appropriations for the Public Works Board and its partners. The two bills were signed into law by Governor Gregoire on April 23, 2012.

In addition to capital appropriations, legislation was passed which diverts Public Works Assistance Account (PWAA) funds. ESHB 2823 diverts a portion of the Solid Waste Tax from the PWAA to the state general fund through 2018. Specific impacts of ESHB 2823 are discussed below.

ANALYSIS

The following tables show the capital appropriations which impact the:

- Public Works Assistance Account (PWAA)
- Public Works Board (PWB)

ESB 6074 – Supplemental Capital Budget

Section	Appropriation	Fund	Description	Administrator
1016	\$152,781,000	PWAA	Public Works Assistance Account Program 2013 Loan List <i>Projects detailed in LEAP capital document No. 2012-1B</i>	PWB
1017	\$ 3,000,000	PWAA	Public Works Pre-Construction Loan Program	PWB
1018	\$ 5,000,000	PWAA	Financing Energy/Water Efficiency <i>IGEA Program</i>	PWB
1007	\$ 800,000	PWAA	Main Street Improvement Grants <i>\$800,000 direct appropriation for the Scriber Creek pedestrian bridge project.</i> <i>This program will receive any additional funds not used by direct appropriations identified in ESB 5127, Section 305 (Main Street Improvement Grants).</i> <i>Staff will develop a competitive process for future use of funds not used by direct appropriation projects.</i>	PWB
1008	\$108,000,000	Drinking Water Assistance Account	Drinking Water State Revolving Loan Fund Program (\$60 million of the \$108 million is for additional authority to implement Accelerated Loan Commitment Model (ALCM))	PWB/DOH

Direct Appropriation Projects:

CERB Administered Grants:

<u>Jurisdiction</u>	<u>Project</u>	<u>Amount</u>
ESB 5127, Section 304:		
Clark County	Chelatchee Prairie RR Project	\$500,000
East Lewis County PDA	Trans Alta Industrial Park Infrastructure	\$998,000
Lakehaven Utility District	Lakehaven Utility Dist/Federal Way Sewer Project	\$1,000,000
City of Renton	Renton Aerospace Center	\$2,500,000
City of Burien	NE Redevelopment Area - Storm Water Facilities	\$3,500,000
Edmonds Community College	WA Aerospace Training & Research Center Expansion	\$1,500,000
City of Camas	Infrastructure for NW Friberg Development in Camas	\$3,000,000
Port of Quincy	Port of Quincy Industrial Park No. 6 Infrastructure	\$1,100,000
City of Federal Way	Federal Way Sewer Line	\$1,500,000
City of Vancouver	Vancouver Waterfront Park Development	\$1,000,000
ESB 6074, Section 1005:		
Grays Harbor PDA	Satsop Wastewater Improvements	<u>\$4,000,000</u>
		\$20,598,000

Leads: Myra Baldini, Chris Gagnon

Main Street Improvement Grants:

<u>Jurisdiction</u>	<u>Project</u>	<u>Amount</u>
ESB 5127, Section 305:		
City of Port Orchard	Bay Street Pedestrian Path	\$500,000
City of Longview	Downtown Longview Corridor Project	\$500,000
City of Edmonds	Edmonds Main Street Project	\$500,000
City of La Conner	La Conner Boardwalk	\$750,000
City of Gig Harbor	Cushman Phase 4	\$1,200,000
City of Spokane	Kendall Yards Public Infrastructure	\$2,000,000
City of Tacoma	Pacific Ave Streetscape Improvements	\$3,000,000
City of Spokane	University District Pedestrian/Bike	\$3,200,000
City of Kirkland	Bridge Design & Acquis. Cross Kirkland Corridor	\$2,000,000
City of Everett	Everett Parks Roofs	\$400,000
ESB 6074, Section 1007:		
City of Brier	Scriber Creek Pedestrian Bridge	<u>\$800,000</u>
		\$14,850,000

Leads: Myra Baldini, Chris Gagnon

Connell Klindworth Water Line Distribution, ESB 5127, Section 303:

<u>Jurisdiction</u>	<u>Project</u>	<u>Amount</u>
City of Connell	Connell Klindworth Water Line Distribution	\$540,000

Leads: Myra Baldini, Chris Gagnon

Port and Export Related Infrastructure:

<u>Jurisdiction</u>	<u>Project</u>	<u>Amount</u>
ESB 5127, Section 306:		
Port of Benton	Benton - Railroad Bridge Replacement	\$2,200,000
Port of Camas/Washougal	Camas Washougal - Steigerwald Commerce Development Center	\$1,500,000
Port of Columbia	Columbia - Blue Mountain Station Site	\$750,000
Port of Pasco	Pasco - Heritage Industrial Rail Extension	\$1,800,000
Port of Pasco	Pasco - Rail Hub Development-Phase 5	\$1,400,000
Port of Skamania	Skamania - Access Road	\$650,000
Port of Skamania	Skamania - Water and Wastewater System	\$350,000
City of Tacoma	Tacoma - Puyallup River Bridge Replacement	\$7,000,000
Port of Vancouver	Vancouver - Centennial Industrial Park Infrastructure	\$5,750,000
Port of Walla Walla	Walla Walla - Infrastructure for Warehouse Project	\$2,750,000
Port of Tacoma	Tacoma - South Lead Rail	\$5,000,000
WSDOT	Speed Improvements for Short Line Rail for Agricultural Exports	\$4,000,000
		\$33,150,000

Lead: Matt Ojennus

Innovation Partnership Zones - Facilities and Infrastructure:

<u>Jurisdiction</u>	<u>Project</u>	<u>Amount</u>
ESB 5127, Section 309:		
City of Richland	Tri-Cities Research District - Wine Science Center	\$5,000,000
Walla Walla Community College	Alternative Energy - Training and Innovation - Walla Walla	\$3,670,000
Port of Grays Harbor	Reuse of Industrial By-Products and Waste - Grays Harbor	\$750,000
Snohomish County EDC	Biomedical Technology Innovation - Bothell	\$500,000
University of Washington	Clean Water Innovations - UW Tacoma & WSU - Pierce	\$3,600,000
		\$13,520,000

Lead: Jerri Smith

TOTAL	\$82,658,000
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Section	Appropriation	Fund	Description	Administrator
1005	\$ 16,000,000 <i>(Includes a \$4 million direct appropriation)</i>	PWAA	CERB Administered Economic Development, Innovation & Export Grants <i>Competitive grant program(s) for local governments, including ports, and innovation partnership zones, for public infrastructure, facilities, and related improvements that enable and encourage private sector business creation or expansion, the redevelopment of brownfields, and enhance the vitality and livability of the community.</i> <i>This program will receive any additional funds not used by direct appropriations identified in ESB 5127, Section 304 (CERB Administered Economic Development, Innovation, and Export Grants).</i>	CERB

ESB 5127 – 2012 Jobs Now Act

Section	Appropriation	Fund	Description	Administrator
305	\$ 14,050,000	State Building Construction Account	Main Street Improvement Grants <i>Direct appropriations for 10 specified local projects.</i> <i>The Board may allocate up to 25% of the amounts for specified projects to other specified projects or to competitive grants if the cost of the projects is less than originally assumed or other non-state funds become available.</i> <i>If specified projects have not met requirements for executing a contract by April 2013, the board may allocate that amount to competitive grants.</i>	PWB

ESHB 2823 – Redirecting Existing State Revenues into the State General Fund

From 7/1/11-6/30/15, the Solid Waste Tax previously deposited into the PWAA will instead be deposited into the general fund. The Solid Waste Tax represents approximately 18% of the revenue coming into the PWAA.

For fiscal years (FY) 2016-2018, half of the Solid Waste Tax will be deposited into the PWAA and half will be deposited into the general fund.

The diversion of the Solid Waste Tax will have the secondary impact of reducing future loan repayments to the PWAA due to a lower level of loans from the account. Using the PWAA Predictive Model, staff estimates the following reductions for fiscal years 2012-2017 in loans from the PWAA:

FY 2012: (\$34,424,000)	FY 2015: (\$41,239,172)
FY 2013: (\$35,724,000)	FY 2016: (\$24,197,052)
FY 2014: (\$37,894,995)	FY 2017: (\$27,195,233)

Staff estimates the following additional reductions in cash receipts from future loan repayments:

FY2014: (\$537,995)	FY2020: (\$10,788,256)
FY2015: (\$2,049,172)	FY2021: (\$11,457,375)
FY2016: (\$3,736,052)	FY2022: (\$12,021,130)
FY2017: (\$5,829,233)	FY2023: (\$12,351,016)
FY2018: (\$8,171,095)	FY2024: (\$12,966,025)
FY2019: (\$9,654,422)	FY2025: (\$13,143,320)

TAB 4

**Program and Financing
Updates**

TAB 5

Retreat Decisions

TAB 6

**Information and
Other Items**

