

**Study Committee
on Public Infrastructure Programs
and Funding Structures**

Final Report

January 1, 2008

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INTRODUCTION AND OVERVIEW OF THE INFRASTRUCTURE STUDY COMMITTEE

Proviso

A proviso in the 2007-09 Capital Budget (Chapter 520, Laws of 2007, Section 6026) established the study committee on public infrastructure programs and funding structures (Committee). The proviso (Appendix A) directs the committee to make recommendations for a comprehensive funding structure and a systematic approach to support the integration, consolidation, and standardization of processes and procedures for community and economic development infrastructure programs.

The proviso called for a committee made up of two members of each of the largest caucuses of the House of Representatives, two members of each of the largest caucuses of the Senate, one member from the Office of Financial Management (OFM), and one member for the Department of Community, Trade and Economic Development (CTED). The members of the Committee include the following:

Senator Brandland
Senator Karen Fraser, Co-chair
Senator Kilmer
Representative Jim McCune
Scott Merriman, Director of Legislative Affairs, Office of Financial Management
Representative Timm Ormsby, Co-chair
Representative Chris Strow
Representative Dean Takko
Juli Wilkerson, Director, Department of Community Trade and Economic Development

Work of the Committee

The full Committee met twice in October and twice in December 2007. Additionally, the Committee developed three “disappearing task force” groups that included Committee members, other Legislators, and stakeholder from agencies, cities, counties, ports, economic development councils, utility districts, and the private sector.

The Joint Legislative Audit and Review Committee inventory of state infrastructure programs in 2006 documented more than 80 programs in 12 state agencies. The Committee narrowed the scope of the study to 36 programs in four agencies with a total biennial budget of approximately \$1 billion. The Committee focused on three categories of infrastructure: basic infrastructure, community development infrastructure, and infrastructure for economic development.

All three of the disappearing task force work groups discussed the appropriate state role in providing infrastructure assistance and the consistency of programs with state policy related to growth management, Puget Sound clean up, renewable energy, public transportation, and other state policy interests.

Notes from the disappearing task forces work sessions are in Appendix B.

The **basic infrastructure disappearing task force** focused on storm water, waste water, drinking water, other water quality projects, and other basic systems that are mainly included in

the Public Works Assistance Account program, the Department of Ecology's water quality programs, and the Department of Health's drinking water program.

The **community development disappearing task force** reviewed community projects that are mainly included in the CTED grant programs, the Washington State Historical Society's grant program, and community project-related grant programs in other agencies, i.e., the Recreation and Conservation Office. Examples of some of these grant programs are the Community Services Facilities program, the Youth Recreational Facilities program, the Building for the Arts program, the Heritage Grant program, and the Washington Wildlife and Recreation program.

The **economic development disappearing task force** reviewed programs directly related to development meant to stimulate economic progress that includes family wage jobs. The primary programs considered were the Community Economic Revitalization Board (CERB) program and the Job Development Fund (JDF) program. Both of these programs are administered by CERB within CTED.

RECOMMENDATIONS

The Committee's recommendations are outlined in the table below. They include changes to the three focus areas: basic infrastructure, community development, and economic development, as well as common recommendations that pertain to policy related to all infrastructure programs included in the scope of the study. The recommendations also include three draft bills in Appendix C, D, and E: 1) Revisions to the Public Works Assistance Account statute; 2) Revisions to the Community Services Facilities program statute; and 3) Revisions to the Community Economic Revitalization Board (CERB) statute.

The Committee recommendations are based on the following:

- Previous information, including but not limited to the *Inventory and Evaluation of the State's Public Infrastructure Programs and Funds*, Berk and Associates, 2005; and the *Inventory of State Infrastructure Programs*, Joint Legislative Audit and Review Committee, 2006; various reports from agencies on specific programs.
- Stakeholder input at full Committee meetings and disappearing task force work sessions.
- Committee member representation and collaboration.

The recommendations include a clarification of state policy goals, specific program and budget changes, administrative improvements, and further study that would benefit all three focus areas as well as specific to each type of infrastructure programs.

There was considerable discussion about the need for additional revenue for local infrastructure. There was also discussion about the difficulty in raising revenues for local infrastructure. New state or local taxes are controversial. New diversions of state taxes from the state general fund will result in future operating budget cuts. Competition for debt-limit bonds in the state capital budget is increasing as the state increases funding for K-12 education, higher education, corrections, housing and environmental protection. Raising rates to utility ratepayers is also difficult. The recommendations included in this report seek to improve how existing state resources are allocated for local infrastructure. The Committee recognizes that new revenues are needed for local infrastructure, that the sources for those new revenues are not yet defined, but that there are improvements in how existing resources are allocated for local infrastructure. The Committee recommends that the Legislature continue to review revenue options for local infrastructure and consider how funding for local infrastructure competes with other state and local priorities.

The Committee report contains several items that need further clarification:

- Define of local basic infrastructure in the Public Works Board bill;
- Specify the amount for the expanded community services facilities grant program in the community development bill;
- Define multipurpose community and cultural centers in the community services facilities bill;
- Explore how community services facility grants work with affordable housing projects;
- Refine the distressed communities definition in the community services facilities bill; and
- Work with agencies to refine the dates and timing in the draft bills.

Infrastructure Study Committee Recommendations
January 1, 2008

	Basic Infrastructure	Community Development	Economic Development
Clarification of State Policy Goals	State assistance for water quality projects (i.e. drinking water, wastewater, storm water and other water quality projects) should achieve the greatest improvement in water quality for communities least able to fund those improvements. The state should promulgate and enforce regulations to prevent future water quality problems due to inadequate funding and management of local drinking water and wastewater systems. State infrastructure assistance should support projects that are consistent with other state policy goals (e.g. GMA, energy policy, transportation, sustainable communities).	Provide assistance to disadvantaged communities to improve economic growth and community services for residents.	Focus economic development resources on family wage jobs, job growth and retention and based on regional plans that are consistent with workforce development goals, the state economic development plan, once developed, and with other state policy goals (e.g. GMA, energy policy, transportation, sustainable communities, climate).
Specific Program and Budget Changes	<ol style="list-style-type: none"> 1. Appropriate PWAA for 2009-11 to address major policy areas; for example, water quality, drinking water, transportation, and criminal justice basic infrastructure. The Legislature would appropriate funds for legislative priorities, but not identify specific projects, and the PWB would work with the appropriate agencies (e.g. DOH, DOE, DOC, DOT) to evaluate projects within those priorities. 2. Clarify funding criteria within the major policy areas and require consistent criteria across various agencies and programs that address the same policy area. The criteria should consider need, and health, safety and environmental quality more heavily. 3. If an area with a system funded by a PWAA loan is annexed into a city, require the debt to be transferred to the annexing city. 4. Adjust PWB policy that limits the amount of assistance per jurisdiction to accommodate jurisdictions that provide all types of infrastructure. 	<ol style="list-style-type: none"> 1. Define distressed community based on free and reduced meals for local elementary school(s); county unemployment 120% above the state average for the previous three years; and/or Small Business Administration's HUB Zones criteria. 2. Include multipurpose community and cultural centers within the Community Services Facilities (CSF) program, and prioritize projects in distressed area. 3. If cash is appropriated for the CSF program, allow up to \$5M of that for technical assistance and planning. 	<ol style="list-style-type: none"> 1. Eliminate JDF statute, including the authority for \$50 million transfer from the PWAA in 2009-11. 2. The Legislature should identify permanent funding source for an expanded CERB program that includes urban areas and potentially bigger projects. 3. Re-evaluate the rural/urban mix of projects and the maximum dollar amount allowed for an expanded CERB program and other economic development programs. 4. Clarify CERB funding criteria to prioritize projects compatible with policies above and include measures of how the projects are meeting the policy goals.

	Basic Infrastructure	Community Development	Economic Development
Administrative Improvements			<ol style="list-style-type: none"> 1. If CERB is expanded, provide adequate funding for diligent review of applications and monitoring of fiscal and workforce results.
	<ol style="list-style-type: none"> 1. Provide policy and budget decision makers with easily accessible data system that identifies all assistance (grants, loans and tax benefits) for funded and proposed projects across multiple biennia and multiple programs and agencies. Use this data to eliminate unintended duplicate funding. 2. Monitor actual outcomes against estimates used in applications. 3. Eliminate legislative approval of project lists to speed up the funding process (Legislature should establish funding priorities at the time of appropriation and then hold executive branch accountable for achieving them). 		
Further Study	<ol style="list-style-type: none"> 1. Direct the state Treasurer’s Office to estimate potential savings (if any) if local governments were able to achieve state bond ratings for all debt for infrastructure projects. 2. Direct DOE and DOH to develop a set of case studies of drinking and wastewater systems that now require significant state resources to resolve urgent threats to public health, safety and environmental quality. Based on the case studies, recommend early interventions to prevent such problems in the future. The DOH task would include a recommendation of how to ensure the long term quality of small drinking systems/wells system. 3. Direct DOE to identify significant regional wastewater opportunities and barriers. 		
	<ol style="list-style-type: none"> 1. Direct OFM to develop a plan for reorganizing infrastructure assistance program into a consolidated “Infrastructure Bank” that uses the most appropriate state agencies to provide technical assistance and outreach, to evaluate and prioritize projects according to need, and to provide due diligence and administration of contracts and loans. 2. Direct WSU, UW or other appropriate entity to study the infrastructure cost of growth paid by taxpayers and rate payers under different rates and patterns of growth, and to examine whether state assistance for local infrastructure affects the cost of housing. Include in a review of local and state funding options that may improve the adequacy and condition of local infrastructure that protects public health and safety, prevents environmental degradation, supports preferred economic growth, and improves community quality of life. 3. The Legislature should continue to review revenue options for local infrastructure and consider the state’s priorities for funding. 		

Recommendations Common to all Infrastructure Programs

The common recommendations relevant to all of the infrastructure programs include in the Committee's scope of study are related to administrative improvements and further study. The Committee recommends the following:

Administrative improvements:

1. Require agencies to provide policy and budget decision makers with a data system that identifies all assistance in the form of grants, loans and tax benefits for funded and proposed projects across multiple biennia, programs, and agencies. Decision makers would then be in a position to eliminate unintended duplicate funding or identify gaps in funding.
2. Require the monitoring of actual project outcomes against the estimates that were used in applications for funding.
3. Eliminate legislative approval of project lists to speed up the funding process, and proviso legislative priorities at the time of appropriation.

Further study needed:

1. The Committee recommends that OFM develop a plan for reorganizing infrastructure assistance programs into a consolidated "infrastructure bank" that uses the appropriate state agency to provide technical assistance and outreach, to evaluate and prioritize projects according to need, and to provide due diligence and administration of contracts and loans. This will allow jurisdictions easier access to state programs as well as shedding light on gaps and overlaps in programs.
2. Washington State University, the University of Washington, or another appropriate entity should study the infrastructure cost of growth paid by taxpayers and rate payers under different rates and patterns of growth, and they should examine whether state assistance for local infrastructure affects the cost of housing. The study should also include a review of local funding options available that may improve the adequacy and condition of local infrastructure that protects public health and safety, prevents environmental degradation, supports preferred economic growth, and improves community quality of life.

Recommendations for Basic Infrastructure

The Committee based recommendations on the following key findings regarding basic infrastructure:

1. State assistance for local basic infrastructure is budgeted at \$630 million for the 2007-09 biennium. Funding for basic infrastructure is about two-thirds of the total state infrastructure assistance budget.
2. Just over half of the state assistance for basic infrastructure is funded by the Public Works Board (PWB). This includes projects for wastewater, storm water, drinking water, roads and bridges, and solid waste facilities. Half of the PWB assistance has supported water quality projects. The water quality share of PWB funding has increased to two-thirds over the past several biennia.
3. Approximately one-third of state assistance for basic infrastructure is for water quality projects through the Department of Ecology (DOE).
4. The PWB and the DOE are both providing about \$200 million a biennium for water quality projects, but under significantly different funding priorities.

The following are the Committee's recommendations for basic infrastructure:

1. State assistance for local basic infrastructure should be provided to achieve state policy goals. State assistance for water quality projects (i.e., drinking water, wastewater, storm water and other water quality projects) should achieve the greatest improvement in water quality for communities least able to fund those improvements. The state should promulgate and enforce regulations to prevent future water quality problems due to inadequate funding and management of local drinking water and wastewater systems. State infrastructure assistance should support projects that are consistent with other state policy goals (e.g. GMA, energy policy, transportation, sustainable communities).
2. Funding priorities for water quality projects should consistently address state policy goals regardless of which agency or program administers the funding. The legislature should appropriate the Public Works Assistance Account (PWAA) starting in 2009-11 to address major policy areas; for example, water quality, drinking water, transportation, and criminal justice basic infrastructure. The Legislature should appropriate funds for these legislative priorities, but not identify specific projects, and the PWB should work with the appropriate agencies (e.g. Department of Health, DOE, Department of Corrections, Department of Transportation) to evaluate projects within those priorities.
3. The Legislature should clarify funding criteria within the major policy areas in the PWAA appropriation and require consistent criteria across various agencies and programs that address the same policy area. The criteria should consider need, and health, safety and environmental quality more heavily than current PWB criteria.
4. The Legislature should clarify that if an area with a system funded by a PWAA loan is annexed into a city, the PWB debt should be transferred to the annexing city. The PWB should modify policy that limits the amount of assistance per jurisdiction to accommodate jurisdictions that provide multiple types of infrastructure. Current policy allows more assistance for communities with separate jurisdictions providing wastewater, drinking water and roads compared to cities providing all kinds of public infrastructure.

Further studies concerning basic infrastructure are needed.

1. The state Treasurer's Office should be directed to estimate potential savings (if any) if local governments were able to achieve state bond ratings for all debt for infrastructure projects.
2. The Department of Ecology and DOH should develop a set of case studies of drinking and wastewater systems that now require significant state resources to resolve urgent threats to public health, safety and environmental quality. Based on the case studies, the recommendation is for early interventions to prevent such problems in the future. The DOH study would include a recommendation of how to ensure the long term quality of small drinking systems/wells system.
3. Direct DOE to identify significant regional wastewater opportunities and barriers.

Recommendations for Community Development

The Committee clarified state policy goals relating to community development by stating the need to prioritize assistance for disadvantaged communities. Assistance for disadvantaged communities improves community services and economic growth for residents and leads to economic vitality.

The Community Services Facilities program established in RCW 43.63A.125 should be expanded to include multipurpose community and cultural centers, and projects in disadvantaged communities should be prioritized in the determination of funding awards.

For the purposes of the Committee, disadvantaged communities are defined as a community that meets one or more of the following criteria:

1. Free and reduced priced meals for students in local elementary school(s):
A threshold would have to be identified for the percentage of students receiving free or reduced lunches.
2. County unemployment 120% above the state average for the previous three years:
This is used for other programs/tax relief, and is updated every year by the state. In 2007, it included 16 counties.
3. Small Business Administration Historically Underutilized Business Zones criteria:
This designation includes non-metropolitan counties and sub-county urban areas, plus census tracts within counties. According to the website, there are 24 whole counties that qualify at least until the 2010 census, plus pockets of census tracts in these and other counties. All of the distressed counties under number 2 above are also on this list as whole counties except for Yakima, which does have several census tracts identified.

Additional research is needed to determine if one or more of the criteria should be met for a community to be defined as disadvantaged, and a threshold level for the percentage of students receiving free or reduced meals must be set if that criteria is used.

If cash funds are appropriated for the Community Services Facilities program, up to \$5 million should be allowed for technical assistance and planning.

Recommendations for Economic Development

The economic development-related work of the Committee was driven by the need to review the Job Development Fund (JDF). The Committee determined that economic development resources should promote family wage jobs, job growth and retention and are based on regional plans that are consistent with the workforce development goals and the state economic development plan, once developed, and consistent with other state policy goals (e.g., GMA, energy policy, transportation, sustainable communities).

The Committee recommends eliminating the JDF statute and the 2009-11 \$50 million PWAA fund transfer. The Committee also recommends that the Legislature identify a permanent funding source for CERB and, re-evaluate the rural/urban mix of projects and the maximum dollar amount allowed for each project in an expanded CERB program and other economic development programs. CERB funding criteria should prioritize projects compatible with statewide policy goals, and performance measures that indicate whether the projects are meeting the policy goals should be required.

If CERB is expanded, adequate funding is necessary for diligent review of applications and monitoring of fiscal and workforce results.

Appendix A

Proviso from the Capital Budget, HB 1092, Section 6026

(1) A study committee on public infrastructure programs and funding structures is established. The study committee shall consist of ten members, as follows:

(a) Two members from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(b) Two members from each of the two largest caucuses of the senate, appointed by the president of the senate;

(c) One member from the office of financial management, appointed by the governor; and

(d) One member from the department of community, trade, and economic development, appointed by the director of the department of community, trade, and economic development.

(2) The study committee members shall, by an affirmative vote of at least five members, select a chair from among its membership.

(3) The study committee may seek assistance from members of the senate and the house of representatives and other interested parties to provide advice and technical assistance, and may request the participation of such persons in subcommittees, advisory committees, or work groups that report to the study committee.

(4) The study committee shall make recommendations regarding a comprehensive funding structure and systematic approach to support the integration, consolidation, and standardization of processes and procedures, for community and economic development-related infrastructure programs. In order to make recommendations, the study committee shall:

(a) Review state public community and economic development-related infrastructure programs, funds, and the purposes each serve using the November 29, 2006, inventory of state infrastructure programs compiled by the joint legislative audit and review committee.

(b) Review community and economic development infrastructure-related program, fund implementation, or subscription rates; and

(c) Identify overlaps or gaps in types of public community and economic development-related infrastructure projects supported through state programs or funds.

(5) The study committee shall use staff from the house of representatives office of program research and senate committee services, in consultation with the department of community, trade, and economic development and the office of financial management.

(6) Legislative members of the study committee must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) The expenses of the study committee must be paid jointly by the senate and the house of representatives. Study committee expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(8) The study committee shall report its findings and recommendations to the appropriate committees of the house of representatives and the senate by January 1, 2008.

(9) The study committee expires January 1, 2008.

Appendix B

Notes from Disappearing Task Forces Work Sessions

Basic Infrastructure Notes:

November 5, 2007

Regionalization:

TMDL will focus more attention on regional opportunities.

Already intense pressure on efficiency

We should build upon existing mechanisms for regional planning

Tension between state control and central planning and local control and flexibility

Just make sure state assistance doesn't enable inefficient scale

Policy Goals:

Meet public health, safety and environmental quality needs.

Prevent the need for state assistance by:

- Ensuring that systems are built and operated well to begin with, and
- Rates are adequate to cover depreciation or repair-replacement reserves, and
- Ratepayer revenues are retained for system benefit.
- When problems are identified, intervene and order compliance earlier.

Prioritize assistance for communities least able to finance the projects themselves

Provide incentives for regional plans and system integration where there are significant efficiencies from larger scale.

Reward good management of systems – don't reward bad management

Other Discussions:

GMA—funding gaps, compliance, consider common definitions of compliance or should the focus be on consistency with GMA policies

Prevention:

- Require security in small systems
- Comply with GASB 34--Require rates for depreciation
- Community well plans
- Develop case studies on failed systems to find out how to prevent them

Financing:

- Stop diverting PWAA
- Increase interest rates
- Increase state taxes or fees
- Increase local taxes or fees
- Divert more money from GF to dedicated infrastructure accounts
- TIF for basic infrastructure
- Public-private partnerships
- Levy a tax per sewer hook up
- Tax on bottled water

Increase Value:

- Expand PWB model
- Eliminate serial dipping
- Define local match to exclude other state assistance
- Set interest rates based on need
- Address adequate system management not through funding programs, but through regulation and oversight
- Speed up assistance by eliminating legislative approval of lists
- Align funding decisions with clearer state policy goals

- Fix it First
- Consolidate a single package of assistance
- Encourage, maybe require, regional approaches
- Improve access to assistance by smaller jurisdictions
- Infrastructure bank—single point of assistance
- Increase preconstruction loans to 25%
- Use consistent criteria between programs
- Increase local sales or utility tax to cover compliance with federal and state requirements
- Streamline system

Group 1:

- Consistent application
 - GMA compliance at time of application
 - single portal/application
- Revenue—stop diverting money from Public Works Assistance Account
 - consider bumping solid waste tax
 - spikes in REET should be diverted to PWAA, possibly an infrastructure rainy day account.
- Level of effort
 - stewardship
 - consider compliance with GASB (general accounting standards)
- Level of need
 - Department of Health, Department of Ecology, CDBG, Public Works Board should define need consistently and plan to move in that direction.
- Prevention
 - Develop profile/case studies on failed systems.

Group 2:

- Eliminate legislative approval of project lists with a sunset; for 5 years do not require the legislature to approve the list of projects and evaluate this change at the end of 5 years.
- Increase to 25% pre-construction activities in PWTF.
- Criteria should be consistent between programs (DOH, ECY, CDBG, PWB).
- Local sales or utility tax authority to meet federal and state requirements.

Group 3

- Take dollars from what would be for inappropriate earmarks and create a new account (revolving) with more criteria and need based.. Meet gaps or for programs without a revenue stream.
- Get dollars to applicants faster—one-stop help desk; or put forward the right loan application—a clearing house.
- Create new funding mechanism:
 - utility tax on water/sewer district that goes to a revolving fund;
 - state utility tax earmarked for infrastructure;
 - more to utilities by exempting from B&O tax.

Group 4

- Look at streamlining existing system;
- Interest rates at sustainable level;
- Study and look at a mechanism for replacing infrastructure systems and emergencies; operations and maintenance.
- All projects must go through a competitive process;
- Education—share personnel resources throughout the state; partner with other groups to cover the need.

Community Development Notes:

November 6, 2007

Group 1 Recommendations:

- Reduce the match requirements for distressed communities and multi purpose facilities.
- Include community centers in grant programs.
- Reduce member earmarks in the capital budget.
- Reduce competitive grants by increasing and shifting funds to distressed communities.
- Include set-asides in grant programs for distressed communities.
- Award higher points to distressed communities in competitive programs.
- Allow flexibility to bundle multiple sources.
- Include incentive for using schools for community development programs.
- Provide regional help in navigating state assistance.
- Review Department of Archeology and Historic Preservation's requirements that may affect the timing of permitting (Ex. Order 05-05).
- Review information on other infrastructure programs; i.e., Housing Finance Commission.

Group 2 Recommendations:

- Introduce a Community Development Fund bill that will include the following:
 - Amended definition of Distressed Community – analyze the options (see below) recommended by the task force for free and reduced lunch, HUB Zones, and countywide unemployment rate.
 - Definition of Community Development using the group recommendations (see below).
 - Applicant eligibility the same as SHB 2325.
 - Objective/purpose the same as SHB 2325.
 - No requirement for match, project cap, or that the state funds be the last spend for the portion of the project for which it's intended.
 - Use weighted scoring criteria.
 - Add equitable geographic distribution as a balancing factor and prioritize projects that have never previously received funding from the state.
 - Consider the level of distress.
- Apply a consistent definition of distressed communities to state programs.
- Use regional "circuit riders" to provide information/technical assistance to distressed communities. Use Infrastructure Assistance Coordinating Council (IACC) and similar models.
- Use rolling application cycles to accommodate emerging projects where appropriate.

Possible Definitions of Distressed Community:

- Percentage of elementary school students eligible for free and reduced lunch
- County unemployment 120% above the state average for the previous three years
- Small Business Administration's HUB Zones criteria.

Possible Definitions of Community Development:

- To develop vibrant communities by promoting integrated approaches that provide decent housing, a suitable living environment, and expanded economic opportunities for residents of distressed communities.
- To strengthen the health, safety, self-reliance and economic vitality of individuals and families.
- To develop viable communities by promoting integrated and accessible services that provides a healthy and safe environment and expand economic opportunity for distressed communities. The primary means towards this end is the development of partnerships among all levels of government and the private sector.

Economic Development Notes:

November 7, 2007

Policy goals:

- Focus on Job Creation (permanent jobs, not temporary construction jobs)
- Administer programs to allow flexible, quick turn around
- Focus on Jobs that move the state to the economy of the future
 - Good wages, stable
 - Competitive with global economy
- Balance with other state policy goals – internal consistency (e.g. GMA)
- Measure success based on long term rate of return (based on state plan)

Ideas:

- Provide predictable level of resources
- Projects must be consistent with adopted GMA plans
- Use cluster analysis to define industries and jobs to promote
- Consider the Jobs-Housing imbalance and the impact on transportation system
- Consider the needs of disadvantaged communities is prioritizing economic development spending
- Projects must be consistent with local plans that are consistent with state plans
- Allow local government to take advantage of small local opportunities
- Support redevelopment projects with the appropriate tools
- State energy policy must be considered in state economic development plan

Appendix C

Public Works Assistance Account Statute -- Revised

1. **Sec.** RCW 43.155.010 and 1996 c 168 s 1 are each amended to read as follows:
~~((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 when those projects also achieve state policy goals ~~((by making loans, financing guarantees, and technical assistance available to local governments for these projects)).~~
[1996 c 168 § 1; 1985 c 446 § 7.]

2. **Sec.** RCW 43.155.020 and 2001 c 131 s 1 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) "Department" means the department of community, trade, and economic development.
 - (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, and other categories of local infrastructure projects as specified in the capital budget appropriations act. 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.

~~((§))~~ "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. [2001 c 131 § 1; 1996 c 168 § 2; 1995 c 399 § 85; 1985 c 446 § 8.]

3. **Sec.** RCW 43.155.050 and 2007 c 520 s 6037 are each amended to read as follows:

RCW Caption: Public works assistance account. (*Effective June 30, 2011.*). [this must be coordinated with the JDF repeal] 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, within categories and according to state policy priorities specified in the capital budget appropriations act. In specifying the infrastructure categories and state policy priorities, the legislature shall not specify funding for individual projects in individual jurisdictions. 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.

[2007 c 520 § 6037; 2005 c 488 § 925; 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.]

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

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 consistent with the categories and priorities specified in the capital budget appropriations act and 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 of or interest on obligations issued by local governments to finance public works projects. The board~~

~~shall not pledge any amount greater than the sum of money in the public works assistance account plus money to be received from the payment of the debt service on loans made from that account, nor shall the board pledge the faith and credit or the taxing power of the state or any agency or subdivision thereof to the repayment of obligations issued by any local government.~~

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

~~((4))~~(3) Provide a method for the allocation of loans consistent with the categories and priorities specified in the capital budget appropriations act~~((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.]

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

Consistent with the categories and priorities specified in the capital budget appropriations act 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.]

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

(1) Consistent with the categories and priorities specified in the capital budget appropriations act 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.]

7. **Sec.** RCW 43.155.070 and 2007 c 341 s 24 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)~~.

(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. [should this be tighter?]

(4) Consistent with the categories and priorities specified in the capital budget appropriations act 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 achievement of state policy goals ~~((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. In addition to the policy goals and priorities specified in the capital budget appropriations act, 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))~~ fiscal capacity of the local government, including whether there remains unused local taxing authority and how the applicant's utility rates compare to average rates for the state and comparable regions;

(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) 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

(k) 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 year, the board shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a report describing the financial assistance provided in the prior fiscal year, and a status report on all uncompleted projects. The report of projects receiving assistance in the prior fiscal year shall include a description of the scoring used to prioritize the applications for assistance within the categories and priorities specified in the capital budget appropriations act and other factors considered by the board. The report shall specify all state funding and the terms of that assistance provided for the project by the department and other state agencies in the current and prior biennia. The status report of all uncompleted projects shall describe the percentage of the project that is complete, the percentage of total state funding from all sources that has been disbursed to the project, a brief description of reasons for any significant delays in the project plan, and significant changes in the project budget and the level of state funding authorized.~~((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.

~~((H))~~8) 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.

[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.]

NEW SECTION. **Sec. 8** This act takes effect July 1, 2009.

NEW SECTION. **Sec. 9** Sections 2 through 7 of this act expire June 30, 2015.

Appendix D

Community Facilities Services Program -- Revised

Sec. 1 RCW 43.63A.125 and 2006 c 371 s 233 are each amended to read as follows:

(1) The department shall establish a competitive process to solicit proposals for and prioritize projects that assist nonprofit organizations in acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential ~~((social))~~ community services including:

(a) Social service centers;

(b) Multipurpose community and cultural centers.

(c) (2) The department shall establish a competitive process to prioritize applications for the assistance as follows:

(a) The department shall conduct a statewide solicitation of project applications from local governments, nonprofit organizations, and other entities, as determined by the department. The department shall evaluate and rank applications in consultation with a citizen advisory committee using objective criteria. At a minimum, applicants must demonstrate that the ~~((requested assistance))~~ proposed project will increase the range, efficiency, or quality of the ~~((social))~~ services it provides to citizens. The department and the citizen advisory committee shall prioritize projects located in distressed communities defined in (b) of this subsection. The evaluation and ranking process shall also include an examination of existing assets that applicants may apply to projects. Grant assistance under this section shall not exceed twenty-five percent of the total cost of the project. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

(b) For the purposes of this section, "distressed community" means a community that meets at least of the following criteria:

(i) At least percent of local elementary students receive free and reduced-price meals;

(ii) The county unemployment rate is one hundred twenty percent above the state average for the previous three years; or

(iii) The small business administration historically underutilized business zones criteria.

(c) The department shall submit a prioritized list of recommended projects to the governor and the legislature in the department's biennial capital budget request ~~((beginning with the 2001-2003 biennium and thereafter. For the 1999-2001 biennium, the department shall conduct a solicitation and ranking process, as described in (a) of this subsection, for projects to be funded by appropriations provided for this program in the 1999-2001 capital budget)).~~ The list shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a biennial project list shall not exceed ~~((ten))~~ million dollars. ~~((Except for the~~

~~1999-2001 biennium,))~~ The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

~~((e))~~ (d) In contracts for grants authorized under this section the department shall include provisions which require that capital improvements shall be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities shall be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

(e) If cash funds are appropriated, up to five million dollars may be used for technical assistance and planning.

Appendix E

Community Economic Revitalization Board (CERB) Statute -- Revised

Sec. 1) RCW 43.160.060 and 2007 c 231 s 3 are each amended to read as follows:

The board is authorized to make direct loans to political subdivisions of the state and to federally recognized Indian tribes for the purposes of assisting the political subdivisions and federally recognized Indian tribes in financing the cost of public facilities, including development of land and improvements for public facilities, project-specific environmental, capital facilities, land use, permitting, feasibility, and marketing studies and plans; project design, site planning, and analysis; project debt and revenue impact analysis; as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or the federally recognized Indian tribe and the finding by the board that financial circumstances require grant assistance to enable the project to move forward. However, at least ten percent of all financial assistance provided by the board in any biennium shall consist of grants to political subdivisions and federally recognized Indian tribes.

Application for funds shall be made in the form and manner as the board may prescribe. In making grants or loans the board shall conform to the following requirements:

(1) The board shall not provide financial assistance:

(a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(b) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.

(c) For the acquisition of real property, including buildings and other fixtures which are a part of real property.

(d) For a project the primary purpose of which is to facilitate or promote gambling.

(2) The board shall only provide financial assistance:

(a) For those projects which would result in specific private developments or expansions (i) in manufacturing, production, food processing, assembly, warehousing, advanced technology, research and development, and industrial distribution; (ii) for processing recyclable materials or for facilities that support recycling, including processes not currently provided in the state, including but not limited to, de-inking facilities, mixed waste paper, plastics, yard waste, and problem-waste processing; (iii) for manufacturing facilities that rely significantly on recyclable materials, including but not limited to waste tires and mixed waste paper; (iv) which support the relocation of businesses from nondistressed urban areas to rural counties or rural natural resources impact areas; or (v) which substantially support the trading of goods or services outside of the state's borders.

(b) For projects which it finds will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities.

(c) When the application includes convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made.

(d) For projects that are consistent with goals and objectives adopted under RCW 43.162.020 by the Washington state economic development commission, when they are adopted.

(e) For projects that are consistent with the Washington state workforce training and education coordinating board strategic plan for workforce development.

(3) The board shall prioritize each proposed project according to:

(a) Statewide priorities identified by the Washington state economic development commission under RCW 43.162.020, and countywide priorities identified in plans that are consistent with the elements required by the Washington state economic development commission;

(b) The relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed and according to the unemployment rate in the area in which the jobs would be located;

~~((b) The rate of return of the state's investment, that includes the expected increase in state and local tax revenues associated with the project;))~~ and

(c) 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.

(4) A responsible official of the political subdivision or the federally recognized Indian tribe shall be present during board deliberations and provide information that the board requests.

Before any financial assistance application is approved, the political subdivision or the federally recognized Indian tribe seeking the assistance must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board.

Appendix F

Elimination of the Job Development Fund Program and \$50 Million PWAA Transfer

AN ACT Relating to termination of the job development fund program; repealing RCW 43.160.230, 43.160.240, and 44.28.801; repealing 2005 c 425 s 4; and providing an effective date.

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

NEW SECTION. Sec. 1 The following acts or parts of acts are each repealed:

- (1) RCW 43.160.230 (Job development fund program) and 2005 c 425 s 2;
- (2) RCW 43.160.240 (Job development fund program--Maximum grants) and 2005 c 425 s 3;
- (3) RCW 44.28.801 (State public infrastructure programs and funds--Inventory -- Report) and 2006 c 371 s 229 & 2005 c 425 s 5; and
- (4) 2005 c 425 s 4.

NEW SECTION. Sec. 2 This act takes effect July 1, 2009.