

Chapter 47.87 RCW
INTERSTATE TOLL BRIDGES OWNED BY LOCAL GOVERNMENTS

Sections

47.87.010	Findings.
47.87.020	Definitions.
47.87.030	Commission formation agreement.
47.87.040	Commission, governed by board.
47.87.050	Commission powers.
47.87.060	Board appointment or retention—Privileges, immunities— Insurance—Furnishing of information—Budget.
47.87.070	Financing, refinancing, acquiring, assuming control— Eminent domain.
47.87.080	Tolls, other charges—Agreements—Photo toll systems— Enforcement—Proceeds.
47.87.090	Bridge design and construction.
47.87.100	Rules and regulations—Compensation to contractor— Revenue, other assistance.
47.87.110	Revenue bonds or other debt instruments.
47.87.120	Taxes or assessments.
47.87.130	Governance.
47.87.140	Grantees—Agreements—Funding of activities—Assignment, conveyance—Commission may be dissolved.
47.87.150	Deferral of state and local sales and use taxes—Repayment schedule—Interest.
47.87.160	Notice.
47.87.900	Construction.

RCW 47.87.010 Findings. The legislature finds and declares that:

(1) Interstate toll bridges owned by local governments provide critical links for the transport of workers, services, tourism, and emergency response between Washington and Oregon, and for Washington and Oregon businesses to transport local agricultural products, forest products, rock and gravel, and manufactured products within their bistate regions and to broader national markets.

(2) Existing local government-owned interstate toll bridges are becoming functionally obsolete, weight-restricted, seismically deficient, and a hazardous obstacle for marine freight; and need to be replaced.

(3) Replacement of aging interstate toll bridges by local governments is extremely challenging, and local governments that own or are served by the bridges require additional means to address the problem. For some bistate regions, the successful replacement and subsequent operations of interstate toll bridges can be best accomplished by an independent bistate governmental authority, chartered by local governments, with sufficient powers to efficiently and equitably develop, operate, maintain, toll, and finance the replacement bridge. [2022 c 89 § 1.]

RCW 47.87.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Applicable laws" means the laws applicable to the commission pursuant to RCW 47.87.130.
- (2) "Board" means the board of directors of a commission formed under this chapter.
- (3) "Bordering state" means a state that shares a boundary with the state of Washington, the majority of which is formed by a river, and that enacts legislation authorizing the formation by local governments of a commission with the substantive powers provided in this chapter.
- (4) "Bridge" means an interstate bridge, including any approaches, buildings, structures, facilities, equipment, improvements, tolling systems and software, and appurtenances necessary or incidental to the bridge, which replaces an existing bridge.
- (5) "Bridge finance plan" means a plan adopted by the board to finance the design, construction, operations, maintenance, administration, and governance of the bridge, as it may be revised from time to time.
- (6) "Commission" means a public corporation formed under this chapter.
- (7) "Commission formation agreement" means a bistate agreement among local governments to charter and form a commission under this chapter.
- (8) "Construction" or "construct" means all activities, materials, and services necessary or incidental to the design and construction of a bridge including, but not limited to, engineering, permitting, property acquisition, procurement, installation of equipment, site work, utility relocation, inspection, start-up, landscaping, hard construction, environmental mitigation, demolition and removal of an existing bridge, and all associated accounting, legal, administrative, project management, and governance activities.
- (9) "Debt instrument" means any contractual undertaking, financing agreement, or instrument entered into or issued by a commission to evidence an obligation to repay or guaranty repayment of borrowed moneys including, but not limited to, bonds, refunding bonds, notes, loans, interim financing, anticipation notes, certificates, credit enhancement devices, or other debt obligations.
- (10) "Departments of transportation" means the Washington state department of transportation and the department of transportation of a bordering state.
- (11) "Director" means a duly appointed member of the board or, when acting in the absence of a director, a duly appointed alternate member of the board.
- (12) "Existing bridge" means an interstate toll bridge owned by a local government, or which has been conveyed by a local government to a commission, which is to be replaced by a new bridge.
- (13) "Local government" means any county, city, or port district along the border of a bordering state that enters into a commission formation agreement.
- (14) "Operate" or "operations" means all activities necessary or incidental to the operations, tolling, maintenance, repair, rehabilitation, renewal, or replacement of the bridge, and all associated financial, legal, administrative, management, and governance activities.
- (15) "Other charges" means administrative and other fees, civil penalties, and other amounts established by the commission for use of the bridge.

(16) "Primary place of business" means the state and county within which the principal headquarters office of the commission is established in a commission formation agreement, notwithstanding any subsequent relocation of the principal headquarters office of the commission.

(17) "Public corporation" means a corporation created under this chapter to perform essential governmental functions for the public purposes described in this chapter, and, when issuing bonds or other debt instruments, acts on behalf of the local governments as a constituted authority, within the meaning of the United States department of the treasury regulations and the internal revenue service rulings adopted under section 103, internal revenue code.

(18) "States" means the state of Washington and a bordering state. [2022 c 89 § 2.]

RCW 47.87.030 Commission formation agreement. (1) Upon enactment of an act by a bordering state having the same material effect as chapter 89, Laws of 2022, as determined by the office of the attorney general, local governments may enter into a commission formation agreement to form and charter a commission under this chapter. The commission shall be a public corporation formed under the laws of both states, vested with the powers and duties granted by this chapter. The commission shall perform an essential governmental function and shall exercise its powers for the public purposes described in this chapter.

(2) Local governments may by resolution enter a commission formation agreement, consistent with the requirements of this chapter, to charter and form a commission. The commission formation agreement shall, at a minimum, be approved and executed by the owner of an existing bridge and the governing bodies of the counties within which an existing bridge is situated. A commission formation agreement may be enacted by local governments in phases. However, all required elements of a commission formation agreement must be enacted by the local governments prior to any board authorization to issue toll revenue bonds for the construction of the bridge. The commission formation agreement shall establish the following provisions:

(a) A name for the commission;

(b) The date on which the powers granted to the commission by this chapter become effective;

(c) The primary place of business for the purpose of establishing applicable laws under RCW 47.87.130;

(d) The composition and appointment process for members of the board, as described in RCW 47.87.040 (1) and (2);

(e) The term of office for, and rules, responsibilities, and requirements applicable to, the office of chair and cochair, as described in RCW 47.87.040(4);

(f) The requirements for formal actions of the board, as described in RCW 47.87.040(5); and

(g) Such other provisions as the local governments may elect, as long as the provisions comply with applicable laws, and do not impair or adversely affect the powers of the commission granted by this chapter.

(3) The commission formation agreement may allow the board to amend all or some of the provisions included in the commission formation agreement pursuant to subsection (2)(d), (e), (f), or (g) of

this section and RCW 47.87.040(5), and may establish conditions for such amendments.

(4) The purposes of the commission are to:

(a) Design, engineer, develop, finance and refinance, install, equip, and construct a bridge to replace and remove an existing toll bridge;

(b) Act as a cooperative bistate governance structure to develop, own or control, fix and adjust tolls, and regulate the use of a bridge;

(c) Oversee the efficient operation, maintenance, administration, rehabilitation, and renewal of the bridge; and

(d) Perform such additional duties and exercise such additional powers as may hereafter be conferred upon the commission pursuant to law. [2022 c 89 § 3.]

RCW 47.87.040 Commission, governed by board. (1) The commission shall be governed by a board. The commission formation agreement shall establish the number of voting and, if any, nonvoting or ex officio directors appointed by local governments of each state and, if any, appointed by governmental entities that are not local governments, and shall further establish the procedures for the nomination and appointment of such directors, which may differ by state.

(2) Each nominating authority shall nominate and each appointing authority shall appoint an alternate director for each director it nominates or appoints. The alternate director may only act in the absence of the director for whom the alternate is appointed. Unless the context requires otherwise, the term director under this chapter includes the alternate director when such alternate director is acting in the absence of the director.

(3) Directors and alternate directors shall serve without compensation, but may be reimbursed for reasonable expenses incurred as an incident to the performance of their duties. Directors and alternate directors shall serve at the pleasure of the appointing body, and with or without cause may be removed or suspended from office by the appointing body. The commission formation agreement shall establish the length of the initial term of each of director and alternate director so that subsequent appointments by appointing bodies from each state are reasonably and similarly staggered. Except for the initial appointments of directors and alternate directors, the term of directors and alternate directors shall be four years.

(4) The board shall elect two cochairs from among its directors, with one cochair residing in Washington state and the other cochair residing in the bordering state. The two cochairs shall serve as first cochair and second cochair, with the first cochair responsible for presiding at all commission meetings. The board shall indicate which cochair will serve in the respective two positions within the first year after the formation of the commission, after which time the two positions must alternate on an annual basis. The commission formation agreement shall establish the terms of the cochairs, and may establish such other requirements for the office of cochair as the local governments elect.

(5) Formal actions of the board shall be by ordinance or resolution duly approved at any regular or special meeting of the board. No action of the board shall be effective unless there is a quorum and a majority of the directors present assent. The commission formation agreement shall establish the requirements for a quorum, and

may establish such other requirements for formal actions of the board as the local governments may elect, provided such requirements are consistent with applicable laws.

(6) Unless otherwise provided in an ordinance or resolution enacted by the board, the board shall have the exclusive right to exercise the powers granted by this chapter, and the exercise of all powers granted to the board by this chapter shall not be subject to any prior or subsequent authorization, approval, or concurrence by any local government or other governmental entity of either state.

(7) The board shall adopt rules, consistent with applicable laws and the commission formation agreement, regarding the organization, activities, and procedures of the board and the commission, as the board may determine. [2022 c 89 § 4.]

RCW 47.87.050 Commission powers. (1) In addition to any other powers granted under this chapter, the commission shall have the power to:

(a) Construct, purchase, lease, acquire, own, operate, maintain, control, hold, sell, convey, dispose of, and finance and refinance real and personal property, facilities, materials, supplies, equipment, or any interest therein, within the state of Washington and the bordering state, as the board deems necessary or incidental to the purposes of the commission;

(b) Secure all necessary federal, state, and local authorizations, permits, and approvals for the construction, maintenance, repair, operation, renewal, and financing or refinancing of the bridge;

(c) Adopt, amend, and repeal bylaws, rules, and regulations, consistent with applicable laws and the commission formation agreement, which add specificity to the powers and duties of the commission, clarify or interpret provisions in the commission formation agreement, or clarify or interpret laws and regulations applicable to the commission;

(d) Receive and accept, with or without consideration, from any federal agency, state, local government, or any other public or private source grants, contributions, loans, advances, credit enhancements, or other contributions in money, property, labor, materials, services, or other things of value to accomplish the purposes of the commission;

(e) Invest its moneys in investments permitted for municipal corporations and disburse funds for its lawful purposes;

(f) Make and enter into any contract or agreement the board deems necessary or incidental to the purposes of the commission;

(g) Grant by franchise, lease, or otherwise, the use of any property or facility owned or controlled by the commission and to make charges therefor;

(h) Create and abolish offices, employments, and positions, and employ or contract for professional and other services;

(i) Make and enforce regulations governing the use of facilities owned or controlled by the commission, the services rendered by the commission, and the tolls, fees, and other charges to be made therefor;

(j) Adopt and use a corporate seal;

(k) Sue and be sued in the name of the commission;

(l) Establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;

(m) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(n) Perform all other functions necessary or incidental to the purposes of the commission, or to the execution of the powers granted under this chapter; and

(o) Exercise such additional powers as shall be conferred on it by law.

(2) The commission may not impose any taxes or assessments.

[2022 c 89 § 5.]

RCW 47.87.060 Board appointment or retention—Privileges, immunities—Insurance—Furnishing of information—Budget. (1) Before the start of bridge construction, the board shall appoint or retain:

(a) An executive director, who shall serve at the pleasure of the board, and be in administrative charge of the activities of the commission, and perform such additional duties as directed by the board. Subject to any rules enacted by the commission, the executive director may appoint staff or retain consultants to carry out the purposes and duties of the commission.

(b) Legal counsel, including without limitation bond counsel, who shall furnish or cause to be furnished to the commission such opinions, advice, and counsel as may be required, and represent or oversee the representation of the commission in legal matters or hearings, as directed by the commission.

(2) The commission may employ such engineering, technical, legal, administrative, operating, and other personnel, officers, or agents on a regular, part-time, or consulting basis as in its judgment is necessary or beneficial for the discharge of its duties. The commission may fix and provide for the qualification, appointment, removal, term, tenure, compensation, pension, and retirement rights of its officers and employees. Employees of the commission shall be afforded the labor rights and protections afforded public employees under the laws of the state within which the primary place of business is situated.

(3) All privileges and immunities from liability, laws, and benefits that apply to directors, officers, agents, or employees of a municipal corporation under applicable law shall apply to the directors, officers, agents, and employees of the commission.

(4) The commission may purchase insurance or self-insure to protect and hold personally harmless any of its directors, alternate directors, and the officers, employees, and agents of the commission from any action, claim, or proceeding arising out of their performance, purported performance, or failure of performance, in good faith of duties for, or employment with the commission, and to hold these individuals harmless from any expenses connected with the defense, settlement, or monetary judgments from such actions, claims, or proceedings.

(5) The commission may purchase insurance or self-insure against loss or damage to any of its properties or facilities, damage to persons or property, loss of revenues, or such other coverages as the board may elect to accomplish the purposes of the commission. Insurance coverage shall be in such form and amount as the board may

determine, provided that it satisfies any requirements of any agreement arising out of issuance of bonds or other obligations by the commission. The board may enter into intergovernmental agreements with any state, or local government, or combination thereof, to acquire or maintain the insurance.

(6) The commission shall furnish such information with respect to its affairs as may be requested by the state of Washington, bordering state, or any local government. The commission shall prepare an annual report which summarizes the major activities and expenditures of the commission during the year and anticipated for the following year. The commission shall furnish a copy of the annual report, together with any additional information deemed appropriate, to the local governments and other interested parties.

(7) Except as described in subsection (8) of this section, the commission shall prepare and adopt a single-year or biennial budget and make appropriations in accordance with this subsection. The commission shall: (a) Establish a budget committee; (b) publish public notice of each meeting of the budget committee; (c) publish public notice and hold a public hearing on the proposed budget before enacting a budget; (d) adopt the budget as it may be amended or revised by the commission, before the start of the budget period; (e) enact such amendments or supplementary budgets during a budget period as the commission may determine are appropriate; and (f) transmit to local area governments a copy of the final budget and any amended or supplementary budgets approved by the commission. In no case may the adopted budget expenditure allowances exceed total estimated revenues unless accompanied by proposed legislation to obtain an equivalent amount of additional revenue. The commission may adopt, and from time to time, amend a rule that further details the preparation of the budget and the process for its adoption.

(8) A commission is not required to enact a budget for any years in which the commission has no revenue and all revenues and expenditures for the bridge are authorized in a budget of one or more local governments. [2022 c 89 § 6.]

RCW 47.87.070 Financing, refinancing, acquiring, assuming control—Eminent domain. The commission may:

(1) Finance, refinance, and acquire or otherwise assume control by purchase, lease, donation, or by other means such real and personal property, structures, property rights, franchises, easements, and other property interests, whether situated within the state of Washington or the bordering state, as the board may deem necessary or incidental to the purposes of the commission; and

(2) Exercise the power of eminent domain to acquire by condemnation any property, structures, property rights, franchises, easements, and other property interests situated within the state of Washington or the bordering state as the board deems necessary or incidental to the purposes of the commission, subject to the applicable laws described in RCW 47.87.130(1)(b). No property owned or held by any state or local government shall be taken by the commission without the prior consent of such state or local government. [2022 c 89 § 7.]

RCW 47.87.080 Tolls, other charges—Agreements—Photo toll systems—Enforcement—Proceeds. (1) The board shall have the exclusive power to impose, fix, and periodically adjust the rate of tolls and other charges for use of any bridge owned by or operated by the commission without any approval, authorization, or concurrence by a legislature, state toll authority, local government, state agency or official, or other entity. The board may establish and implement such policies and criteria as the board deems advisable for the rate of tolls and other charges including, but not limited to, establishing discounts, exemptions, administrative fees, late fees, civil penalties, and toll rates for such classes of vehicles and users as the board may determine.

(2) In setting and periodically adjusting toll rates and other charges, the board shall ensure that toll rates and other charges will annually yield revenue sufficient to meet all costs, expenses, and obligations of the commission, including the satisfaction of all financial and other covenants made by the commission with regard to any bond or other debt instrument.

(3) The commission may enter agreements with the Washington state department of licensing and the applicable agency of the bordering state to enforce the payment of tolls and other charges for use of the bridge. Such agreements may provide that if the commission or its designee gives notice to the applicable department that a person has not paid a toll or other charge for use of the bridge, the applicable department shall refuse to renew the motor vehicle registration of the motor vehicle operated by the person at the time of the violation. The applicable department may renew such motor vehicle registration upon receipt of a notice from the commission or its designee indicating that all tolls and other charges owed by the person have been paid.

(4) Photo toll systems may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only. A photo toll image of a vehicle and the registration plate of the vehicle produced by a photo toll system at the time the driver of the vehicle did not pay a toll is prima facie evidence that the registered owner of the vehicle is the driver of the vehicle. However, if the registered owner of a vehicle is a person in the vehicle rental or leasing business, the registered owner may elect to identify the person who was operating the vehicle at the time the toll was not paid or to pay the toll, civil penalty, and administrative fee. A registered owner of a vehicle who pays the toll, civil penalty, and administrative fee is entitled to recover the same from the driver, renter, or lessee of the vehicle.

(5) The rights to enforce the payment of tolls and other charges of the commission granted under this chapter are supplemental; the commission may employ all other remedies available to it under the laws of the state of Washington and the bordering state.

(6) The proceeds from toll rates and other charges of the commission shall only be used to pay the necessary and incidental costs and expenses incurred by the commission in connection with owning, constructing, operating, maintaining, renewing, and governing the bridge, which shall include, but not be limited to, costs incurred for:

(a) The design, development, construction, equipping, installation, and financing and refinancing of the bridge, demolition and removal of the existing bridge, and mitigation of associated impacts;

(b) The operations of the bridge including, but not limited to, repair, maintenance, resurfacing, preservation, equipping, improvement, reconstruction, renewal, and replacement;

(c) The tolling of the bridge including, but not limited to, toll collection, administration, and enforcement, and the acquisition, leasing, maintenance, and replacement of tolling equipment and software;

(d) The financing or refinancing of any bonds or other debt instruments of the commission;

(e) A reasonable return on investment for any private financing of any costs, expenses, or obligations of the commission;

(f) The establishment and maintenance of any reserves or sinking funds approved by the board; and

(g) Any other obligations or expenses incurred by the commission in carrying out its purposes under this chapter.

(7) The commission may grant to any public or private entity by franchise, lease, or otherwise the use or control of any portion of the bridge or any property or facility owned or under the control of the commission, and may fix the terms, conditions, rents, and other payments for such use.

(8) All revenues, receipts, grants, bond proceeds, and other funds of the commission may be comingled and spent to carry out commission purposes within either state, unless and to the extent otherwise restricted by the terms of a grant agreement or debt instrument.

(9) For purposes of this section, "photo toll system" means the system defined in RCW 47.56.010 and 47.46.020. [2022 c 89 § 8.]

RCW 47.87.090 Bridge design and construction. (1) The commission shall design and construct the bridge to standards and specifications satisfactory to the departments of transportation, and in accordance with all applicable permits, clearances, and mitigation requirements. The commission shall arrange for timely review by the departments of transportation of all pertinent engineering plans, specifications, and related reports.

(2) The commission may undertake any construction activities that have necessary permits and for which funding is available, provided that prior to issuing a notice to proceed with the construction of any bridge foundation, the commission shall:

(a) Prepare and adopt an initial bridge finance plan to fund the design, construction, operations, maintenance, administration, and governance of the bridge. Prior to adopting the initial bridge finance plan, the board shall require a feasibility review of the initial bridge finance plan and shall submit the feasibility review to the departments of transportation and the local governments for their review as determined by the board. Following the review by the departments of transportation and local governments, the board may adopt the initial bridge finance plan, as it may be amended as a result of the reviews. Following the adoption of the initial bridge finance plan, the board may periodically adjust or amend the bridge finance plan as the board may determine; and

(b) Make and enter into a written agreement with the owner of the applicable existing bridge, under such terms and conditions as may be acceptable to the commission and the owner of the existing bridge, regarding the removal and disposition of the existing bridge. The agreement shall address: (i) The roles, responsibilities, and

obligations of the parties with respect to the removal and disposal of the existing bridge, including any liabilities or potential liabilities incidental thereto; (ii) the retirement of any outstanding debt for which toll revenue from the existing bridge is pledged; (iii) the distribution of proceeds from any salvage value of the existing bridge; (iv) the disposition of any property, equipment, or other assets incidental to the existing bridge; (v) mitigation of impacts to existing bridge operations; and (vi) such other matters as the commission and owner of the existing bridge may determine.

(3) For purposes of the acquisition, design, construction, installation, operation, or maintenance of the bridge, or any combination thereof, the commission, without any prior or subsequent authorization, approval, or concurrence by any state, local government, or any other governmental entity of either state, may enter into any combination of contracts, agreements, or other arrangements with any one or more private entities or units of government, or any combination thereof, as the commission may elect including, but not limited to, any alternative or supplemental public works contract such as design-build and construction manager-general contractor contracts, public-private partnership agreement, lease agreement, franchise agreement, or financing agreement, and may include such terms and conditions as permitted under the constitutions of both states and the parties may agree to.

(4) As part of the construction of a bridge, the commission shall demolish, remove, and dispose of the applicable existing bridge in accordance with all applicable environmental permits and the terms of an agreement between the commission and owner of the existing bridge. Unless otherwise agreed to by the owner of the existing bridge, the proceeds from the sale of any salvaged materials from the existing bridge shall be owing to such owner.

(5) A commission is deemed a municipal corporation for the purposes of RCW 82.04.050(10), and therefore the public road construction exemption under RCW 82.04.050(10) shall apply to taxes otherwise owing from construction of a bridge. Subject to RCW 47.87.150, the commission may apply for a deferral of all state and local sales and use taxes incurred from construction of a bridge that are not relieved by the public road construction exemption. [2022 c 89 § 9.]

RCW 47.87.100 Rules and regulations—Compensation to contractor—Revenue, other assistance. (1) The board shall have the exclusive power to enact and enforce such rules and regulations as the board may elect for the use, operations, maintenance, inspection, and preservation of any bridge owned or operated by the commission, including limiting loads permitted on the bridge and closing the bridge to any traffic deemed unsafe by the commission, provided the commission shall comply with all state and federal regulations generally applicable to bridge operations, maintenance, safety, and inspections.

(2) Any facility or property owned, leased, operated, or controlled by the commission may be operated by the commission directly, or by another public or a private entity pursuant to a contract, lease, or agreement that is subject to such terms and conditions as the board may determine.

(3) Compensation to a contractor under an operating contract may be in the form of a payment by the commission to the contractor for services rendered, a payment by the contractor to the commission for the rights to operate the facility or property, or such other arrangements as the board may elect.

(4) A state agency or local government may pledge or grant revenue or other assistance to support or guaranty, in whole or part, the repayment of debt, costs of operations, or capitalization of reserves of the commission under such terms as the commission and the state agency or local government may agree, and the commission may accept such assistance. [2022 c 89 § 10.]

RCW 47.87.110 Revenue bonds or other debt instruments. (1) The commission may, from time to time, without the necessity of any assent by electors, local governments, or any other governmental entity, issue or enter into revenue bonds or other debt instruments paid from or secured by all or any revenues available to the commission in one or more series, and such amounts, maturities, denominations, and forms, with such insurance, credit enhancements, or other guarantees, and with such other terms and provisions as the board may determine.

(2) If the applicable laws pursuant to RCW 47.87.130 are those of the state of Washington, the commission may from time to time issue and sell:

(a) Revenue bonds or other debt instruments on the same basis as a local government in accordance with chapter 39.46 RCW, provided, notwithstanding RCW 39.46.070(1), such bonds or other debt instruments issued by the commission for the construction of a bridge under chapter 89, Laws of 2022 may include capitalized interest for up to 72 months from the date of issuance;

(b) Debt instruments to refund outstanding debt instruments on the same basis as a public body under the refunding bond act, chapter 39.53 RCW; and

(c) Short-term obligations on the same basis as a municipal corporation in accordance with chapter 39.50 RCW.

(3) The commission may enter into one or more agreements with a federal agency for grants, loans, advances, credit enhancements, or other contributions subject to the applicable federal law, and need not comply with contrary state statutes that may otherwise apply.

(4) For the benefit of any holders of bonds or debt instruments that are outstanding or otherwise authorized by the commission:

(a) The board shall continue in effect toll rates and other charges that satisfy the provisions of chapter 89, Laws of 2022 and the covenants made by the commission, and shall not take any action or inaction to impair its ability to do so; and

(b) The state of Washington, or any political subdivision, district, or municipality thereof, shall not take any action that impairs, diminishes, or affects adversely the interest and rights of the holders of bonds or debt instruments of the commission. [2022 c 89 § 11.]

RCW 47.87.120 Taxes or assessments. Notwithstanding anything in the laws of either state to the contrary, the commission shall not be required to pay any tax or assessment, or any in lieu of tax or assessment, by either state, or by any political subdivision, municipality, or district thereof including, but not limited to, any

property tax, sales and use tax, or other tax or assessment upon real or personal property acquired or otherwise under the control of the commission, or upon any activity or expenditure of the commission, or upon the revenues of the commission, except to the extent that a municipal corporation would be subject to such a tax or assessment. [2022 c 89 § 12.]

RCW 47.87.130 Governance. (1) The commission shall be governed by applicable federal law, this chapter, rules adopted by the board under this chapter, and in the manner of a municipal corporation under the following state and local laws:

(a) Except as provided in (b) and (c) of this subsection, the commission and its board, officials, employees, and agents, shall be governed by the laws of the primary place of business. Such laws include, but are not limited to, laws pertaining to local government audits, financial administration, and accounting requirements; public records; prohibitions on using facilities for campaign purposes; open public meetings; the code of ethics for municipal officers; the rights of public employees; and local government whistleblower protection.

(b) The real estate transactions of, and exercise of eminent domain by, the commission, including relocation assistance; compliance with land use, environmental, and building codes; and such other actions of the commission pertaining to the ownership, control, or use of a particular property site or area as the board may determine by rule shall be governed by the laws of the state and local government within which the particular property site or area is situated.

(c) If there is a conflict between a provision of an otherwise applicable state or local law and a provision of this chapter, this chapter shall govern, and the conflicting provision in state or local law is inapplicable to the commission.

(2) The court of original jurisdiction for any action brought by or against the commission is the court designated pursuant to applicable law. [2022 c 89 § 13.]

RCW 47.87.140 Grantees—Agreements—Funding of activities—Assignment, conveyance—Commission may be dissolved. (1) The grantee for any federal, state, or local grant for a bridge owned or to be owned by the commission that was awarded before the formation date of the commission shall remain the grantee until such grant is closed under the terms of the grant agreement, unless otherwise agreed to by the grantee and the commission. The governing body of the grantee shall oversee the work under the grant, however, the grantee shall coordinate with the commission, and not take any actions inconsistent with the policy direction of the commission, unless required by the terms of the grant agreement. Following the formation date of the commission, the commission shall be the applicant and grantee for all federal, state, or local grants for the bridge, unless the commission otherwise agrees. The commission shall establish procedures for the timely coordination of its activities with the states and local governments.

(2) The departments of transportation and local governments are authorized to enter agreements with the commission to furnish it with surveys, engineering, plans, and specifications, construction management, project controls, operations, administration, and other

technical services, the cost of which shall be reimbursed by the commission.

(3) The commission may fund its activities before the receipt of tolls or other charges in any manner permitted by applicable law including, but not limited to:

(a) Borrowing funds from the federal government, either or both states, any local government, or any combination thereof, and repaying such borrowings following the opening of the bridge with the proceeds of tolls and other charges for use of the bridge, or in such other manner as the parties may agree;

(b) Being a direct grantee of any federal, state, or local government grant; and

(c) Receiving moneys as a subrecipient of a federal, state, or local government grant for which a department or local government is the grantee. To the extent permitted by the grant agreement, the departments of transportation and local governments may enter into agreements with the commission to make any portion of such grant funds available to the commission under such terms and conditions as the parties may agree to.

(4) The commission may from time to time assign or otherwise convey any of its properties, facilities, funds, accounts, obligations, or duties to any department, local government, or combination thereof, provided such assignment or conveyance does not in any manner impair or affect adversely the interests or rights of the holders of any bonds or other debt instruments of the commission, and the department or local government may, in its discretion, accept such assignment or conveyance.

(5) The commission may be dissolved as follows:

(a) Before the issuance of any bonds or other debt instrument of the commission, the board may enact a resolution to dissolve the commission at any time it determines the dissolution is in the public interest. The dissolution resolution shall address the methods by which all liabilities and obligations of the commission will be satisfied before the effective date of the dissolution, provided that all liabilities incurred by the commission shall be satisfied exclusively from the assets and properties of the commission and no creditor or other person shall have any right of action against any local government that formed the commission on account of any debts, obligations, or liabilities of the commission. The dissolution resolution shall also address the distribution and transference to local governments of any properties or other assets of the commission that may remain after the satisfaction of all commission liabilities, and such other matters as the board may elect. A resolution to dissolve the commission may not take effect until at least a majority of the local governments in each state agree in writing to the resolution; and

(b) Following the issuance of any bonds or other debt instruments of the commission, or in the event of the insolvency of the commission, the superior court or circuit court of the county of the primary place of business shall have jurisdiction and authority to appoint trustees or receivers of commission property and assets and supervise such trusteeship or receivership, provided that all liabilities incurred by the commission shall be satisfied exclusively from the assets and properties of the commission and no creditor or other person shall have any right of action against any local government that formed the commission on account of any debts, obligations, or liabilities of the commission. In the event the

commission is dissolved and properties or assets of the commission remain after the satisfaction of all of its outstanding debts, obligations, or liabilities, the remaining property and assets of the commission shall be transferred to local governments in accordance with an order issued by the superior court or circuit court of the county of the primary place of business. The allocation and transfer of the remaining properties and assets of the commission to local governments shall be in such manner as the court determines is equitable and serves the public interest. [2022 c 89 § 14.]

**RCW 47.87.150 Deferral of state and local sales and use taxes—
Repayment schedule—Interest.**

(1) (a) Any person involved in the construction of a bridge under this chapter may apply for deferral of state and local sales and use taxes on the site preparation for, the construction of, the acquisition of any related machinery and equipment that will become a part of, and the rental of equipment for use in, the bridge.

(b) Applications shall be made to the department of revenue in a form and manner prescribed by the department of revenue. The application must contain information regarding estimated or actual costs, time schedules for completion and operation, and other information required by the department of revenue. The department of revenue shall approve the application within 60 days if it meets the requirements of this section.

(2) The department of revenue shall issue a sales and use tax deferral certificate for state and local sales and use taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW and RCW 81.104.170 on the bridge.

(3) A person granted a tax deferral under this section shall begin paying the deferred taxes in the fifth year after the date certified by the department of revenue as the date on which the bridge is operationally complete. The project is operationally complete under this section upon notification in writing by the commission to the department of revenue that the bridge is constructed and opened to traffic. The first payment is due on December 31st of the fifth calendar year after the certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment shall equal 10 percent of the deferred tax.

(4) The department of revenue may authorize an accelerated repayment schedule upon request of a person granted a deferral under this section.

(5) Interest shall not be charged on any taxes deferred under this section for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this section. The debt for deferred taxes is not extinguished by insolvency or other failure of any private entity granted a deferral under this section.

(6) Applications and any other information received by the department of revenue under this section are not confidential and are subject to disclosure. Chapter 82.32 RCW applies to the administration of this section.

(7) A public road contractor who applies for a deferral may not invoice a commission for sales and use taxes until after the taxes have been paid to the department of revenue.

(8) The provisions of RCW 82.32.805 and 82.32.808 do not apply to this section.

(9) For purposes of this section, "person" has the same meaning as in RCW 82.04.030 and also includes a commission under this chapter. [2022 c 89 § 16.]

RCW 47.87.160 Notice. The office of the attorney general must give notice that the condition in RCW 47.87.030(1) has been met to the transportation committees of the house of representatives and senate and the office of the code reviser. [2022 c 89 § 17.]

Reviser's note: The office of the code reviser has received notice from the office of the attorney general that an act by a bordering state having the same material effect as chapter 89, Laws of 2022 has been enacted.

RCW 47.87.900 Construction. (1) This chapter is liberally construed to effectuate the purposes of the commission, and the powers and authority granted to the commission under this chapter are deemed supplemental to all other powers and authorities granted to municipal corporations under applicable law.

(2) If any provision of this chapter, or its application to any person or circumstance, is held to be invalid, all other provisions of this chapter, and the application of all of its provisions to all other persons and circumstances, shall remain valid, and to this end the provisions of this chapter are severable.

(3) No legal challenge to the formation of the commission intended to be authorized or created pursuant to this chapter may be commenced more than 30 days after the effective date of the commission formation agreement. [2022 c 89 § 15.]