

Chapter 468-105 WAC

PUBLIC ADVISORY ELECTIONS FOR SELECTED STATE TRANSPORTATION FACILITIES

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WAC

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WAC 468-105-010 General. These administrative rules were developed pursuant to RCW 47.46.030 (3) through (11) concerning public advisory elections conducted within an affected project area by the county auditors for the purpose of advising the department on the public support or opposition to the imposition of tolls to finance a proposed project pursuant to chapter 47.46 RCW, Public-Private Initiatives Transportation Act.

[Statutory Authority: RCW 47.46.030 (3)-(11). WSR 96-03-107, § 468-105-010, filed 1/23/96, effective 2/23/96.]

WAC 468-105-020 Definitions. For the purpose of implementing RCW 47.46.030 (3) through (11) relative to the process for conducting public advisory elections on selected transportation facilities, the following definitions apply:

(1) "Affected project area" means a geographic area of the state impacted by the imposition of tolls or user fees that is defined and established by the department following a public comment period and a recommendation by the public private local involvement committee. The affected project area is a geographic portion of the state which is depicted in a map.

(2) "City" means any jurisdiction formed under Titles 35 and 35A RCW including any first class city (RCW 35.01.010), second class city (RCW 35.01.020), town (RCW 35.01.040) or code city (RCW 35A.01.035).

(3) "County auditor" shall have the same meaning as provided in RCW 29.01.043.

(4) "Department" means the Washington state department of transportation.

(5) "Initial affected project area" means a geographic area of the state that is defined by the department as a result of a comprehensive analysis of traffic patterns and economic impacts created by the imposition of tolls or user fees to finance a proposed project.

(6) "Local involvement committee (LIC)" means an advisory committee officially named the "public private local involvement committee" which will be established for each proposed project. The LIC will serve in an advisory capacity on all functions and responsibilities of the department in the conduct of the public advisory election.

(7) "Project description" means a written description of the proposed project that is prepared by the department in consultation with the LIC. The project description is a statement of the essential elements of the proposed project.

(8) "Project developer" means a private entity submitting a proposed project to improve transportation capital facilities under chapter 47.46 RCW.

(9) "Proposed project" means a conceptual project proposed by one or more project developers which is intended to build or improve transportation capital facilities. The proposed projects are those selected pursuant to chapter 47.46 RCW which have organized opposition as demonstrated by the submission to the department of original petitions bearing at least five thousand signatures of individuals opposing the proposed project by the deadlines set forth in RCW 47.46.030 (10) and (11).

(10) "Public advisory election" means an election conducted within an affected project area by the county auditor for the purpose of advising the department on the public support or opposition to the imposition of tolls to finance a proposed project.

(11) "Preferred alternative" means a proposed action identified in the draft environmental impact statement developed in chapter 43.21C RCW.

[Statutory Authority: Chapter 47.46 RCW. WSR 97-14-037, § 468-105-020, filed 6/26/97, effective 7/27/97. Statutory Authority: RCW 47.46.030 (3)-(11). WSR 96-03-107, § 468-105-020, filed 1/23/96, effective 2/23/96.]

WAC 468-105-030 Determination of initial affected project area.

The department shall define an initial affected project area for proposed projects selected before September 1, 1994, or after June 30, 1997. In order to define the initial affected project area, and pursuant to the requirements of RCW 47.46.030(4), the department shall conduct a comprehensive analysis of traffic patterns and economic impacts to define the geographic area that is affected by the imposition of tolls or user fees.

(1) **Traffic and economic analysis.** Such analysis shall result in a map depicting the initial affected project area, and shall include, at a minimum:

(a) A comparison of the estimated percentage of residents of communities in the vicinity of the project and in other communities impacted by the project who could be subject to tolls or user fees and the estimated percentage of other users and transient traffic that could be subject to tolls or user fees;

(b) An analysis of the anticipated traffic diversion patterns on local streets, highways and to other transportation services or facilities;

(c) An analysis of the potential economic impact resulting from proposed toll rates or user fee rates imposed on residents, commercial traffic, and commercial entities in communities in the vicinity of and impacted by the project;

(d) An analysis of the economic impact of tolls or user fees on the price of goods and services generally; and

(e) An analysis of the relationship of the project to state transportation needs and benefits.

(2) **Public notification and consultation.** The department shall notify and consult with jurisdictions and interested persons and organizations regarding the studies to be conducted, including the methodology that is developed to collect data and the criteria that is established to recommend the initial affected project area boundary.

(3) **Studies available to public.** The department shall make the studies available to the public including the methodology and criteria

used to develop the study recommendations, published reports, raw data, analysis, maps and other information generated by the studies.

(4) **Precinct boundaries.** At the request of the department, the county auditor in any county which is within an initial affected project area shall provide current precinct maps or boundary descriptions to the department. The department shall use the most current precinct maps or boundary descriptions in defining each initial affected project area.

[Statutory Authority: RCW 47.46.030 (3)-(11). WSR 96-03-107, § 468-105-030, filed 1/23/96, effective 2/23/96.]

WAC 468-105-040 Local involvement committee. (1) **Creation of the local involvement committee.** A public private local involvement committee shall be established for each proposed project. The committee will be known as the local involvement committee or "LIC." Within sixty days after defining the initial affected project area, all appointments to the LIC shall be made and submitted to the department.

(2) **LIC membership.** The LIC membership shall consist of:

(a) One elected official of each county and one elected official from each city lying wholly or in part within the affected project area. Such members shall be appointed by a majority of the members of the county or city legislative authority.

(b) Two persons from each county lying wholly or in part within the affected project area each of whom represents an organization formed in support of the proposed project, if any such organizations exist; and two persons from each county lying wholly or in part within the affected project area each of whom represents an organization formed to oppose the proposed project, if any such organizations exist. Such members shall be appointed by the county legislative authority. Prior to such appointment, the county legislative authority shall identify and validate organizations officially formed in support of or in opposition to the proposed project. The method of validation shall be devised by the county. Appointments shall be made from list(s) submitted by the chairs of the validated organizations. The county legislative authority shall submit a list of the appointed members in writing to the department.

(c) Four public members active in a statewide transportation organization who shall be appointed by the governor.

(d) Vacancies in the membership of the LIC shall be filled by the appointing authority under (a) through (c) of this subsection.

(e) If the committee makeup results in an even number of committee members, there shall be an additional appointment of an elected official from the county in which all, or the greatest portion of the proposed project is located.

(3) **Compensation and expenses.** Members of the LIC shall serve without compensation and may not receive reimbursement for subsistence, lodging expenses, or travel expenses from the department.

(4) **LIC duties.** Each LIC will serve in an advisory capacity to the department on all matters related to the administration of the public advisory elections including:

(a) Reviewing the methodology, criteria and recommendations developed in the traffic and economic studies and used by the department to establish the initial affected project area boundary.

(b) Reviewing the initial affected project area boundary and recommending adjustments, if any are deemed desirable, to the geographic boundaries and the LIC membership.

(c) Reviewing the project description that is based upon the preferred alternative selected by the department and recommending changes, if any are deemed desirable, in order for the department to prepare the final project description.

(d) Recommending to the department the date for the public advisory elections that are within those dates established by RCW 29.13.020.

(e) Providing advice on any other matters identified by the department related to the administration of the public advisory election in the affected project areas.

(5) LIC meeting and procedures.

(a) LIC meetings shall be open to the public and shall be subject to the requirements of the Open Public Meetings Act, RCW 42.30.030. The public shall have advance notice of LIC meetings as described in LIC procedures established in (b) of this subsection. Meetings shall be held in locations within the affected project areas and be accessible for persons with disabilities.

(b) Within thirty days of the first LIC meeting, each LIC shall develop meeting procedures to include but not be limited to the frequency and location of meetings, alternate members, methods of public notification and public participation at the meetings. Each LIC shall also develop its own method of providing recommendations to the department, provided that all decisions of the LIC shall be made by a simple majority of the LIC members. A simple majority shall be defined as fifty percent of the members plus one member of the LIC committee.

(c) All LIC meeting summaries, reports, correspondence and other materials are subject to public disclosure pursuant to chapter 42.17 RCW.

(6) Administrative support to LIC's. The department shall provide administrative support to the LIC's. Such support shall include notifying members of meetings, providing public notification of meetings, facilitating meetings, arranging for meetings and materials, and other necessary administrative support.

[Statutory Authority: Chapter 47.46 RCW. WSR 97-14-037, § 468-105-040, filed 6/26/97, effective 7/27/97. Statutory Authority: RCW 47.46.030 (3)-(11). WSR 96-03-107, § 468-105-040, filed 1/23/96, effective 2/23/96.]

WAC 468-105-050 Establishing affected project area. (1) Public comment on initial affected project area. The department shall conduct a minimum thirty-day public comment period on the definition of each initial affected project area boundary.

(2) LIC recommendation on affected project area. The LIC shall review the public comments. The LIC shall recommend adjustments to the geographic boundary of the initial affected project area based upon the public comment. Adjustments to the geographic boundary shall be established by precinct. The LIC may also recommend adjustments to the membership of the LIC based upon any recommended boundary adjustments.

(3) Final boundaries of affected project area. Within fourteen calendar days after the close of the public comment period and a recommendation from the LIC, the department shall establish the final

boundaries of the affected project area in units no smaller than a precinct as defined in RCW 29.01.120.

[Statutory Authority: Chapter 47.46 RCW. WSR 97-14-037, § 468-105-050, filed 6/26/97, effective 7/27/97. Statutory Authority: RCW 47.46.030 (3)-(11). WSR 96-03-107, § 468-105-050, filed 1/23/96, effective 2/23/96.]

WAC 468-105-060 Project description. (1) **Proposed project description.** A draft project description shall be developed by the department based upon the preferred alternative.

(2) **LIC recommendation on project description.** The department shall provide the project description to the LIC. The LIC shall recommend changes to the content of the project description, if any, so that the department may prepare the final project description.

(3) **Publication of project description.** The department shall publish the project description in newspapers of general circulation in each county lying in whole or in part within the affected project area for a period of seven calendar days.

[Statutory Authority: Chapter 47.46 RCW. WSR 97-14-037, § 468-105-060, filed 6/26/97, effective 7/27/97. Statutory Authority: RCW 47.46.030 (3)-(11). WSR 96-03-107, § 468-105-060, filed 1/23/96, effective 2/23/96.]

WAC 468-105-070 Public advisory elections. (1) **Transmittal to county auditor.** Within fourteen calendar days after the last day of the publication of the project description, the department shall transmit a letter requesting a public advisory election and a copy of the map depicting the affected project area and the project description to the county auditor of each county in which any portion of the affected project area is located.

(2) **Precinct verification.** Upon receipt of the affected project area map, and the project description, the county auditor shall, within thirty days, verify the precincts that are located within the affected project area.

(3) **Ballot proposition.**

(a) The department shall request the office of the attorney general to prepare the ballot title and summary advising the department on the public support or opposition to the imposition of tolls or user fees to implement the preferred alternative within the affected project area in the same manner and type as those required under RCW 29.79.040 for the public advisory election.

(b) Any registered voter residing within the affected project area who is dissatisfied with the content of the ballot title or summary may appeal to the superior court of Thurston County in the same manner as provided for on state measures in RCW 29.79.060.

(c) Not later than sixty days before the election date, the department shall submit the complete text of the ballot title and summary to the county auditor for the purpose of preparing the voters pamphlet and conducting the public advisory election.

(4) **Election date.** Unless a special election is requested by the department, the public advisory election shall be held at the next succeeding general election to be held in the state. The special election date must be the next date for a special election provided under

RCW 29.13.020 that is at least sixty days, but not more than ninety days after the transmittal of the final map of the affected project area, project description, the ballot title and summary to the county auditor under subsection (1) of this section.

(5) **Voters pamphlet.**

(a) The county auditor shall prepare or contract with the secretary of state to prepare the voters pamphlet in the same manner required under chapter 29.81A RCW using the full text of the ballot title, summary, the project description and the geographic boundary of the affected project together with statements for and against the imposition of tolls or user fees to finance the proposed project. Committees to prepare the statements for and against the imposition of tolls to finance the proposed project for the voters pamphlet shall be appointed in the same manner as committees for state measures under RCW 29.81.050. The secretary of state shall transmit committee names and their statements to the county auditors.

(b) The county auditor may consolidate the voters pamphlet on the public advisory election with any other local voters pamphlet that is being produced by the county auditor for an election.

(6) **Reimbursement for election costs.** The department shall reimburse the costs of publication and distribution of information to the voters incurred by the county auditor in the same manner that local election costs are allocated under RCW 29.13.045. The department shall reimburse the county auditor for the cost of an election.

[Statutory Authority: Chapter 47.46 RCW. WSR 97-14-037, § 468-105-070, filed 6/26/97, effective 7/27/97. Statutory Authority: RCW 47.46.030 (3)-(11). WSR 96-03-107, § 468-105-070, filed 1/23/96, effective 2/23/96.]

WAC 468-105-080 Public advisory election results. (1) **Canvassing the votes cast on a public advisory election.** Immediately following the certification of the votes cast on the public advisory election by the county canvassing board, the county auditor shall transmit a certified copy of the returns of that special election to the secretary of state in the same manner as provided for state measures in RCW 29.62.090.

(2) **Certification of returns on a public advisory election to the department.** Within three days following the receipt of the certified returns from a special election on a public advisory election, the secretary of state shall accumulate the results from the respective counties and certify the results to the department.

[Statutory Authority: Chapter 47.46 RCW. WSR 97-14-037, § 468-105-080, filed 6/26/97, effective 7/27/97. Statutory Authority: RCW 47.46.030 (3)-(11). WSR 96-03-107, § 468-105-080, filed 1/23/96, effective 2/23/96.]