

ESSB 5768 - H AMD TO TR COMM AMD (H-3051.1/09) **784**

By Representative Ericksen

NOT ADOPTED 4/22/2009

1 On page 1, after line 12 of the striking amendment, strike the
2 remainder of the section and insert the following:

3 "Therefore, it is the conclusion of the legislature that time is
4 of the essence, and that Washington state cannot wait for a disaster
5 to make it fully appreciate the urgency of the need to replace this
6 vulnerable structure. The state must take the necessary steps to
7 expedite the environmental review and design processes to replace the
8 Alaskan Way viaduct with a deep bore tunnel under First Avenue from
9 the vicinity of the sports stadiums in Seattle to Aurora Avenue north
10 of the Battery Street tunnel. The tunnel must include four general
11 purpose lanes in a stacked formation.

12 (2) The state route number 99 Alaskan Way viaduct replacement
13 project finance plan shall be structured as a public private
14 partnership as specified in this subsection and in sections 2, 3, and
15 4 of this act. State and private funds that constitute the finance
16 plan must be used solely to build a replacement tunnel, as described
17 in subsection (1) of this section, and to remove the existing state
18 route number 99 Alaskan Way viaduct. All costs associated with city
19 utility relocations for state work as described in this section must
20 be borne by the city of Seattle and provided in a manner that meets
21 project construction schedule requirements as determined by the
22 department. State funding is not authorized for any utility
23 relocation costs, or for central seawall or waterfront promenade
24 improvements.

25
26 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.01 RCW
27 to read as follows:

1 (1) The state's contribution toward the Alaskan Way viaduct
2 replacement project must not exceed two billion four hundred million
3 dollars. The state's contribution shall be financed, in part, by a
4 public private partnership as described in subsection (2) of this
5 section.

6 (2) The secretary of transportation or the secretary's designee
7 shall, after consultation with King County and the city of Seattle,
8 solicit proposals and enter into an agreement with a private entity to
9 finance at least fifty percent of the state's contribution of two
10 billion four hundred million dollars through tolling, dedication of
11 future tax revenues generated by development in the area of the tunnel
12 and existing viaduct, tax incentives, tax increment financing, and
13 other financing tools for construction of the deep bore tunnel and
14 removal of the existing viaduct.

15 (a) The agreement must retain state ownership of the state route
16 number 99 Alaskan Way viaduct.

17 (b) The department shall negotiate the terms and compensation due
18 to the private entity under the agreement. The total amount of
19 compensation to be agreed upon must be comprised of a mix of funds
20 from tolling revenue and financing tools described in subsection (2)
21 of this section. The department shall make every effort to maximize
22 compensation from tax incentives and other financing tools, and
23 minimize direct payments from toll revenue. Payments to private
24 entities must be completed within twenty-five years of the date the
25 project is complete.

26 (c) Any bonds issued to support the finance plan must be issued by
27 the private entity.

28 (3) For the purpose of facilitating construction and to assist the
29 private entity in the development, construction, maintenance, and
30 operation of the deep bore tunnel, the agreement must, as required by
31 the private entity, include provisions for the department of
32 transportation to exercise its authority, including the following:
33 Leasing of facilities, rights-of-way, and airspace; exercising the
34 power of eminent domain; granting development rights and

1 opportunities; granting necessary easements and rights of access;
2 issuing permits and other authorizations; granting contractual and
3 real property rights; and negotiating acquisition of rights-of-way in
4 excess of appraised value and any other provision deemed necessary.

5 (4) Operation and maintenance services to be provided by the
6 private entity include, but are not limited to, roadway maintenance
7 and repair, drainage maintenance and repair, and tunnel maintenance.

8
9 NEW SECTION. Sec. 3. A new section is added to chapter 47.01 RCW
10 to read as follows:

11 After entering into an agreement under section 2 of this act, the
12 department shall retain at least one billion two hundred million
13 dollars of the state's contribution to the Alaskan Way viaduct
14 replacement project in the transportation partnership account for use
15 on state highway safety and congestion relief projects identified by
16 the legislature.

17
18 NEW SECTION. Sec. 4. A new section is added to chapter 82.32 RCW
19 to read as follows:

20 The tax imposed and collected under chapters 82.08 and 82.12 RCW,
21 less any credits allowed under chapter 82.14 RCW, on the initial
22 construction for a deep bored tunnel must be transferred to the
23 department of transportation to defray state costs of work on the
24 Alaskan Way viaduct replacement project as described in section 2 of
25 this act.

26
27 **Sec. 5.** RCW 47.56.820 and 2008 c 122 s 4 are each amended to read
28 as follows:

29 (1) Unless otherwise delegated or agreed to by the state and
30 private entity pursuant to section 2 of this act, only the legislature
31 may authorize the imposition of tolls on eligible toll facilities.

32 (2) All revenue from an eligible toll facility must be used only
33 to construct, improve, preserve, maintain, manage, or operate the
34 eligible toll facility on or in which the revenue is collected.

1 Expenditures of toll revenues are subject to appropriation and must be
2 made only:

3 (a) To cover the operating costs of the eligible toll facility,
4 including necessary maintenance, preservation, administration, and
5 toll enforcement by public law enforcement within the boundaries of
6 the facility;

7 (b) To meet obligations for the repayment of debt and interest on
8 the eligible toll facilities, and any other associated financing costs
9 including, but not limited to, required reserves and insurance;

10 (c) To meet any other obligations to provide funding contributions
11 for any projects or operations on the eligible toll facilities;

12 (d) To provide for the operations of conveyances of people or
13 goods; or

14 (e) For any other improvements to the eligible toll facilities."
15

16 On page 3, beginning on line 24, strike all of section 3
17

18 Renumber the remaining sections consecutively and correct any
19 internal references accordingly.
20
21

EFFECT:

- Strikes the following provisions establishing that: state funding for the project must include at least \$400 million in toll revenue; the Department of Transportation must provide updates cost estimates for the project; any contract entered into by the Department related to construction of the tunnel must include incentives and penalties to encourage on-time completion and to minimize potential cost overruns; the state, city, and county Department of Transportation must establish a single point of accountability for the project; the state, city, and county Departments of Transportation are responsible for costs, delivery, and risks related to their respective project components; and the state's contribution of \$50 million for the South Spokane Street viaduct project is contingent on the city of Seattle funding and providing certain city street improvements.
- Requires that the Alaskan Way Viaduct Replacement Project finance plan be structured to include a public private

partnership to finance at least 50 percent of the state's contribution of \$2.4 billion, and directs the Secretary of Transportation to enter into such an agreement after consultation with the city of Seattle and King County.

- Authorizes the public private partnership agreement to utilize various financing tools, including tolling, dedication of future tax revenues generated by development in the area of the tunnel, tax incentives, and tax increment financing.
- Authorizes tolling of the deep bore tunnel without further legislative authorization, if tolling of the tunnel is agreed to by the Department and private entity as part of the public private partnership agreement.
- Directs the Department to, after entering into the public private partnership, retain at least \$1.2 billion in the Transportation Partnership Account for use on state highway safety and congestion relief projects identified by the legislature.
- Requires that any sales and use taxes imposed and collected on the initial construction of the deep bore tunnel and removal of the existing viaduct be transferred to the Department to defray the state's costs.
- Directs the Department to negotiate the terms of, and compensation due to the private entity under, the public private partnership agreement, and to make every effort to minimize direct payments from tolling; and requires the private entity to provide operation and maintenance services for the tunnel.
- Requires that any bonds issued to support the public private partnership must be issued by the private entity.

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