

SENATE BILL REPORT

SB 5771

As of February 23, 2011

Title: An act relating to implementing public-private partnership best practices for nontoll transportation projects.

Brief Description: Implementing public-private partnership best practices for nontoll transportation projects.

Sponsors: Senators White, Kastama, King, Haugen and Shin.

Brief History:

Committee Activity: Transportation: 2/23/11.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Kelly Simpson (786-7403)

Background: In 2005 legislation was enacted establishing a statutory process for securing public-private partnership financing of certain transportation projects. The intent, as stated in the legislation, was to "provide a more desirable and effective approach to developing transportation projects in partnership with the private sector by applying lessons learned from other states and from this state's ten-year experience with chapter 47.46 RCW" (referring to the state's previously enacted public-private partnership program). The public-private partnership process, established in 2005, contains various requirements applicable to both toll and nontoll transportation projects, including detailed evaluation and selection criteria, state-issued debt requirements, and requirements for expert review panels and advisory committees.

The 2005 process generally required the Transportation Commission to (1) approve or review public-private partnership contracts, (2) adopt rules to govern the program, (3) adopt guidelines to address security and performance issues, and (4) select potential public-private partnership projects. The Washington State Department of Transportation (WSDOT) was generally required to evaluate potential projects under the Commission's direction.

Summary of Bill: Various provisions of the current public-private partnership program for certain transportation projects are made applicable only to toll projects. These provisions include detailed evaluation and selection criteria, state-issued debt requirements, and

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requirements for expert review panels and advisory committees. Nontoll projects would be exempt from these provisions.

The Transportation Commission has the authority to approve or oversee (1) financing necessary to develop, construct, or operate a nontoll public project that does not pledge the state's credit; (2) any project that proposes to sell or dispose of assets owned by WSDOT as part of a larger transaction involving a private entity; (3) any project that proposes to incur obligations that would significantly bind future state legislative appropriations as part of a larger transaction involving a private entity; and (4) a project review and approval process that allows WSDOT to enter into predevelopment agreements for possible public-private partnership transportation projects.

For public-private partnership transportation projects, WSDOT may use the design-build procurement process for public works projects costing under \$10 million meeting certain criteria. WSDOT may also, as part of a pilot program and under Transportation Commission guidelines, competitively procure a potential development partner solely on the basis of that partner's qualifications to successfully develop a nontoll road transportation project that does not exceed \$10 million.

Public-private partnership transportation projects are specifically allowed to be financed in whole or in part with equivalent value exchanges of property.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This legislation helps facilitate the process for obtaining public/private partnership funding for small scale, nontoll transportation projects. WSDOT and the Transportation Commission worked over the legislative interim developing recommendations to survey best practices for nontoll public/private partnership projects and to streamline the existing process. Some of the existing projects' review and approval processes are burdensome for nontoll public/private partnership transportation projects. The bill also provides a mechanism for WSDOT to enter into predevelopment agreements, which would facilitate nontoll projects and would allow the parties to withdraw from the arrangement in the event the project did not pencil out financially. The building trades are supportive of these kind of projects, but want to assure that they comply with prevailing wage requirements.

Persons Testifying: PRO: Philip Parker, Transportation Commission; Jeff Doyle, WSDOT; Terry Tilton, WA State Bldg & Construction Trades.