

# HOUSE BILL REPORT

## 3ESHB 1317

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### As Passed Legislature

**Title:** An act relating to transportation systems and facilities.

**Brief Description:** Revising the selection process for transportation systems and facilities demonstration projects.

**Sponsors:** By House Committee on Transportation (originally sponsored by Representatives Robertson, Cairnes, B. Thomas, Mitchell, Van Luven, Dyer, Lambert, Radcliff, D. Schmidt, Backlund, Cooke, Reams, Campbell, Stevens, L. Thomas and Koster).

#### **Brief History:**

##### **Committee Activity:**

Transportation: 1/30/95, 2/23/95 [DPS].

##### **Floor Activity:**

Passed House: 3/9/95, 86-11.

Senate Amended.

House Does Not Concur.

Senate Refused to Recede.

House Refused to Grant Conference.

##### **First Special Session**

##### **Floor Activity:**

Passed House: 5/17/95, 79-12.

Reconsideration: 5/18/95, 67-21.

Senate amended.

##### **Second Special Session**

##### **Floor Activity:**

Passed House: 71-22.

Passed Senate: 33-12

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### HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives K. Schmidt, Chairman; Mitchell, Vice Chairman; Skinner, Vice Chairman; R. Fisher, Ranking Minority Member; Hatfield, Assistant Ranking Minority Member; Backlund; Blanton; Brown; Buck; Cairnes; Chandler; Elliot; Hankins; Horn; Johnson; Koster; McMahan; Quall; Robertson; Romero; D. Schmidt and Scott.

**Minority Report:** Do not pass. Signed by 1 member: Representative Chopp.

**Staff:** Vicki Fabre (786-7313).

**Background:** New Partners: Public-Private Initiatives in Transportation (Chapter 47.46 RCW) is a program created by the 1993 Legislature to test the feasibility of privately financed transportation improvements in Washington State. The law provides a wide range of opportunities for private entities to undertake all or a portion of the study, planning, design, finance, construction, operation and maintenance of transportation systems and facilities.

The state Department of Transportation (DOT) is authorized to solicit proposals from the private sector and to select up to six demonstration projects identified by the private sector. Projects are owned by the private sector during construction, turned over to the state, and leased back for operation for up to 50 years.

The private developer is authorized to impose tolls or user fees to recover the private sector's investments and to allow them a reasonable rate of return on investment. Since early fall of 1994, the DOT and the six private consortia selected for the New Partners Program have been negotiating agreements to develop the transportation facilities described above. These agreements identify the responsibilities and commitments of each party and will drive project development activities.

Public opposition to the process employed to select the demonstration projects, concern about the degree and quality of public involvement in the project development stage, and opposition for the imposition by the private sector of tolls or user fees on these facilities lead the DOT to terminate further consideration of the proposal on the SR 18 corridor improvements. These same concerns, however, threatened the viability of the remaining projects.

#### **Summary of Bill:**

The legislative intent section of the public-private initiative in transportation act is amended to clarify the purpose and parameters of agreements between the Department of Transportation (DOT) and private entities. The program must be implemented with the support of affected communities and local jurisdictions.

The DOT is prohibited from implementing the Puget Sound Congestion Pricing Project until the Legislature reviews the social and economic impacts of the project and gives its approval.

A two-year moratorium (ending June 30, 1997) on the selection of additional projects, if any of the remaining four projects is terminated, is imposed. The DOT is required to conduct a program and fiscal audit within the two-year period.

The DOT must develop and submit to the 1997 Legislature, a public involvement plan for identifying new projects and must receive legislative approval of the plan before it can proceed with the identification and selection of new projects.

Prior to entering into agreements with private entities, the DOT must conduct an advisory vote, in a general or special election, on the imposition of tolls or user fees to implement a selected proposed project. Prior to the vote, the DOT is required to define the geographical area in which the vote occurs and establish local involvement committees comprised of city and county elected officials, users, and representatives of organizations formed to oppose or support the selected proposed project. Local Involvement Committees are required to review the affected project area as defined by the Department and assist the DOT in developing the project description for the ballot proposition. The DOT is required to provide the Legislative Transportation Committee with progress reports on the status of the definition of the affected project area and the description of the project proposal. An exemption is created for selected project proposals (both existing and future) that have no organized public opposition.

Agreements between the private sector and the DOT must include a public involvement process in the project development phase. Private entities must define the affected project area where public involvement will occur and seek public participation through a comprehensive process that allows users and residents in the affected project area to comment on key issues such as project alternative sizes and scopes, traffic impacts, tolling strategies and ranges, and environmental assessment. The private sector also is required to establish local involvement committees that will act in an advisory capacity on all issues related to the implementation of the public involvement process. Agreements may require an advisory vote by users of and residents in the affected project area.

The Agreements must also require the following: (1) that police services on public-private initiatives projects be with the Washington State Patrol; (2) that tolls and user fees only be used to pay the private entities capital outlay cost, including project development, design and construction costs; (3) no negotiation of excess toll revenues or user fees; (4) no extension of tolls or users fees by DOT after the expiration of the franchise agreement.

The bill contains an emergency clause and takes effect immediately.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Bill:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** Legislation is needed to guarantee meaningful public involvement in the study and development of projects selected in August 1994 under the Public-Private Initiatives Program, and in the identification and selection of replacement projects.

**Testimony Against:** Significant public opposition to the Department of Transportation's implementation of the Public-Private Initiatives Program and to the possibility of tolls or user fees on some of the selected projects necessitate the repeal of the program.

Projects selected and developed under the Public-Private Initiatives Program should be subject to approval by the full Legislature.

**Testified:** (Original Bill) Paul Demetriades, Tolls Represent Unfair State Taxes (TRUST) (pro); Susan Potts, Medina City Council (pro); Jan Brekke, Hunts Point Council (pro); Paul Wilcox, Hero Point (pro); Gerald Pfeffer, United Infrastructure Washington (con); Richard Carr, SR 522 Community Highway Association (con); Jared Smith, Washington Transportation Partners (con); Fred McConkey, Hunts Point SR 520 Ad Hoc Committee (pro, with amendment); Cornelius Peck, No Expansion of 520 (pro); Dan Foster, Citizens Against Unfair Gouging Highway Tolls (CAUGHT) (pro); Maggi Fimia, King County Council (con); Mayor Gretchen Swayze-Wilbert, city of Gig Harbor (con); Win Granlund, Kitsap County Commission (con); Maynard Arsove, Mountlake Community Club (pro); Chris Clifford, TRUST and CAUGHT (pro, with amendment); Bob Campbell, Lehman Brothers (con); Robert Dilger, Washington State Building and Construction Trades Council (con); Randy Pozdena, ECO Northwest (con); Duke Schaub, Associated General Contractors (neutral); Elizabeth Schrag, SR 18 Coalition (pro, with reservations); David Fields, citizen (pro); Gerald Dickson, CAUGHT (pro); Steve Preston, citizen (pro); Jeff Kuney, Max J. Kuney Construction Company (con); Dick Page, 520 Improvement Association (con); Andrew Laycock, MC Parcel Delivery (con); Janet Ray, AAA Washington (pro); Jorgen Bader, Ravenna-Bryant Community Association (pro); and Allan Fackenthall, citizen (neutral).