

HOUSE BILL REPORT

HB 1317

As Reported By House Committee On:

Transportation

Title: An act relating to transportation systems and facilities.

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

Sponsors: 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].

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. After maximum return on investment is reached, the state may continue to charge user fees or tolls for operation or maintenance that may be shared with affected local jurisdictions.

In May of 1994, 14 proposals from 11 private sector consortia were received by the DOT. These were evaluated by a team of technical experts assembled by the DOT. At the end of the evaluation process, the Secretary of Transportation, as required by law, recommended six projects to the Transportation Commission, which the commission adopted on August 18, 1994.

The following projects were selected: State Route (SR) 16-Tacoma Narrows; SR 18 corridor improvements; SR 520 corridor improvements; SR 522 corridor improvements; Puget Sound congestion pricing; and METRO/King County and DOT park and ride capacity enhancements.

Since early fall of 1994, the department 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 to the imposition by the private sector of tolls or user fees on these facilities lead the department to terminate further consideration of the proposal on SR 18 corridor improvements. These same concerns, however, continue with respect to the remaining projects.

Summary of Substitute Bill:

INTENT SECTION:

The legislative intent section of the public-private initiatives law is amended to clarify that the agreements negotiated under the program do not bestow on private entities an immediate or vested right to construct and operate facilities. Rather, they provide an opportunity for private entities to design, plan and demonstrate public support in order to obtain a future decision by state and local agencies to build transportation facilities selected under the public-private initiatives program.

REPLACEMENT PROJECT IDENTIFICATION AND SELECTION:

If any projects are terminated, no additional or replacement projects may be selected until the Department of Transportation (DOT) develops a public involvement process that identifies projects that: (a) have the potential of achieving overall public support among users, residents of communities impacted by selected projects, and residents of communities in the vicinity of such projects; (b) meet a state transportation need; and (c) provide a significant state benefit.

The DOT is required to develop the public involvement plan for identifying replacement projects by January 1, 1996. This plan must be submitted to the Legislative Transportation Committee (LTC) for review.

Projects that have gone through the public involvement process and that meet the selection criteria [(a) through (c) above] will be submitted to the Transportation Commission for review. The commission, in turn, will submit a list of eligible projects to the LTC for its consideration.

Within 45 days of receiving the commission's list of eligible projects, if the LTC does not adopt a resolution recommending that the Secretary of Transportation reject an eligible project, the secretary is authorized to solicit proposals for such a project.

PROJECT DEVELOPMENT:

Agreements for projects selected prior to September 1, 1994, must include a process that provides for public involvement in decision making with respect to project development.

The private sector must establish a public involvement process that is appropriate to the characteristics of a project or, in the case of a project developed in phases or segments, such phase or segment.

The public involvement process must assess overall public support among users and residents of communities in the vicinity of or impacted by a project, phase or segment by providing an opportunity for residents and users to comment on key issues, including, but not limited to: alternative sizes and scopes, design, traffic impacts, right of way and access plans, environmental assessment, tolling or user fee strategies and tolling or user fee ranges, and project cost.

The assessment of public support for these key issues is achieved through a comprehensive inventory of public positions, carried out by an independent accountant or other independent professional, jointly selected and supervised by the DOT and the private sector in consultation with the LTC.

The results of the inventory of public positions is subject to public review and comment.

The DOT is required to give progress reports to the LTC on the status of the public involvement process and the inventory of public positions, and the results of an inventory must be forwarded to the LTC.

Within 45 days after submission of the inventory results, the LTC must hold a public hearing and may adopt a resolution making a recommendation to the Secretary of Transportation regarding the disposition of the agreement for a project, phase or segment.

Any action by the secretary in response to an LTC recommendation must be taken within 30 calendar days after receipt of the recommendation and must be carried out in accordance with the terms and conditions established in the agreement for a project, phase or segment.

Substitute Bill Compared to Original Bill: Legislative intent is amplified to clarify that agreements negotiated between the Department of Transportation (DOT) and the private sector do not give the private sector an immediate or vested right to construct and operate selected projects.

The list of eligible replacement projects submitted by the Transportation Commission is transmitted to the Legislative Transportation Committee (LTC) for its consideration instead of for approval by the full Legislature. If the LTC does not recommend rejection of a project, the Secretary of Transportation is authorized to solicit proposals.

A more detailed public involvement process is required in the project development stage which requires a comprehensive inventory of public positions on key issues associated with the selected projects, or in the case of a project developed in phases or segments, such phase or segment.

The LTC is required, within a specified time period, to hold a public hearing on the results of the inventory of public positions and may make a recommendation to the DOT regarding the disposition of a project. Any action by the Secretary of Transportation in response to the LTC recommendation must be carried out in accordance with the terms and conditions established in the agreement for such project.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute 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).