

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2615

Chapter 175, Laws of 1998
(partial veto)

55th Legislature
1998 Regular Session

PARTNERSHIPS FOR STRATEGIC FREIGHT INVESTMENTS--FREIGHT MOBILITY
STRATEGIC INVESTMENT BOARD

EFFECTIVE DATE: 6/11/98

Passed by the House March 12, 1998
Yeas 97 Nays 1

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate March 12, 1998
Yeas 35 Nays 14

BRAD OWEN
President of the Senate

Approved March 27, 1998, with the
exception of sections 11, 13 and 14,
which are vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2615** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 27, 1998 - 3:17 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2615

Passed Legislature - 1998 Regular Session

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives K. Schmidt, Fisher, Robertson, Mitchell, Wensman, O'Brien, Wood, Ogden, Gardner, Thompson and Conway; by request of Governor Locke)

Read first time 02/09/98. Referred to Committee on .

1 AN ACT Relating to creating partnerships for strategic freight
2 investments; amending RCW 47.05.051; adding a new section to chapter
3 47.06 RCW; adding a new chapter to Title 47 RCW; and making an
4 appropriation.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) Washington state is uniquely positioned as a gateway to the
8 global economy. As the most trade-dependent state in the nation, per
9 capita, Washington's economy is highly dependent on an efficient
10 multimodal transportation network in order to remain competitive.

11 (2) The vitality of the state's economy is placed at risk by
12 growing traffic congestion that impedes the safe and efficient
13 movement of goods. The absence of a comprehensive and coordinated
14 state policy that facilitates freight movements to local, national, and
15 international markets limits trade opportunities.

16 (3) Freight corridors that serve international and domestic
17 interstate and intrastate trade, and those freight corridors that
18 enhance the state's competitive position through regional and global
19 gateways are strategically important. In many instances, movement of

1 freight on these corridors is diminished by: Barriers that block or
2 delay access to intermodal facilities where freight is transferred from
3 one mode of transport to another; conflicts between rail and road
4 traffic; constraints on rail capacity; highway capacity constraints,
5 congestion, and condition; waterway system depths that affect capacity;
6 and institutional, regulatory, and operational barriers.

7 (4) Rapidly escalating population growth is placing an added burden
8 on streets, roads, and highways that serve as freight corridors.
9 Community benefits from economic activity associated with freight
10 movement often conflict with community concerns over safety, mobility,
11 environmental quality. Efforts to minimize community impacts in areas
12 of high freight movements that encourage the active participation of
13 communities in the early stages of proposed public and private
14 infrastructure investments will facilitate needed freight mobility
15 improvements.

16 (5) Ownership of the freight mobility network is fragmented and
17 spread across various public jurisdictions, private companies, and
18 state and national borders. Transportation projects have grown in
19 complexity and size, requiring more resources and longer implementation
20 time frames. Currently, there is no comprehensive and integrated
21 framework for planning the freight mobility needs of public and private
22 stakeholders in the freight transportation system. A coordinated
23 planning process should identify new infrastructure investments that
24 are integrated by public and private planning bodies into a multimodal
25 and multijurisdictional network in all areas of the state, urban and
26 rural, east and west. The state should integrate freight mobility
27 goals with state policy on related issues such as economic development,
28 growth management, and environmental management.

29 (6) State investment in projects that enhance or mitigate freight
30 movements, should pay special attention to solutions that utilize a
31 corridor solution to address freight mobility issues with important
32 transportation and economic impacts beyond any local area. The
33 corridor approach builds partnerships and fosters coordinated planning
34 among jurisdictions and the public and private sectors.

35 (7) It is the policy of the state of Washington that limited public
36 transportation funding and competition between freight and general
37 mobility improvements for the same fund sources require strategic,
38 prioritized freight investments that reduce barriers to freight
39 movement, maximize cost-effectiveness, yield a return on the state's

1 investment, require complementary investments by public and private
2 interests, and solve regional freight mobility problems. State
3 financial assistance for freight mobility projects must leverage other
4 funds from all potential partners and sources, including federal,
5 county, city, port district, and private capital.

6 NEW SECTION. **Sec. 2.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 chapter.

9 (1) "Board" means the freight mobility strategic investment board
10 created in section 4 of this act.

11 (2) "Department" means the department of transportation.

12 (3) "Freight mobility" means the safe, reliable, and efficient
13 movement of goods within and through the state to ensure the state's
14 economic vitality.

15 (4) "Local governments" means cities, towns, counties, special
16 purpose districts, port districts, and any other municipal corporations
17 or quasi-municipal corporations in the state excluding school
18 districts.

19 (5) "Public entity" means a state agency, city, town, county, port
20 district, or municipal or regional planning organization.

21 (6) "Strategic freight corridor" means a transportation corridor of
22 great economic importance within an integrated freight system that:

23 (a) Serves international and domestic interstate and intrastate
24 trade;

25 (b) Enhances the state's competitive position through regional and
26 global gateways;

27 (c) Carries freight tonnages of at least:

28 (i) Four million gross tons annually on state highways, city
29 streets, and county roads;

30 (ii) Five million gross tons annually on railroads; or

31 (iii) Two and one-half million net tons on waterways; and

32 (d) Has been designated a strategic corridor by the board under
33 section 3(3) of this act. However, new alignments to, realignments of,
34 and new links to strategic corridors that enhance freight movement may
35 qualify, even though no tonnage data exists for facilities to be built
36 in the future.

37 NEW SECTION. **Sec. 3.** (1) The board shall:

1 (a) Adopt rules and procedures necessary to implement the freight
2 mobility strategic investment program;

3 (b) Solicit from public entities proposed projects that meet
4 eligibility criteria established in accordance with subsection (4) of
5 this section; and

6 (c) Review and evaluate project applications based on criteria
7 established under this section, and prioritize and select projects
8 comprising a portfolio to be funded in part with grants from state
9 funds appropriated for the freight mobility strategic investment
10 program. In determining the appropriate level of state funding for a
11 project, the board shall ensure that state funds are allocated to
12 leverage the greatest amount of partnership funding possible. After
13 selecting projects comprising the portfolio, the board shall submit
14 them as its budget request to the office of financial management and
15 the legislature. The board shall ensure that projects submitted as
16 part of the portfolio are not more appropriately funded with other
17 federal, state, or local government funding mechanisms or programs.
18 The board shall reject those projects that appear to improve overall
19 general mobility with limited enhancement for freight mobility.

20 The board shall provide periodic progress reports to the governor
21 and the legislative transportation committee.

22 (2) The board may:

23 (a) Accept from any state or federal agency, loans or grants for
24 the financing of any transportation project and enter into agreements
25 with any such agency concerning the loans or grants;

26 (b) Provide technical assistance to project applicants;

27 (c) Accept any gifts, grants, or loans of funds, property, or
28 financial, or other aid in any form from any other source on any terms
29 and conditions which are not in conflict with this chapter;

30 (d) Adopt rules under chapter 34.05 RCW as necessary to carry out
31 the purposes of this chapter; and

32 (e) Do all things necessary or convenient to carry out the powers
33 expressly granted or implied under this chapter.

34 (3) The board shall designate strategic freight corridors within
35 the state. The board shall update the list of designated strategic
36 corridors not less than every two years, and shall establish a method
37 of collecting and verifying data, including information on city and
38 county-owned roadways.

1 (4) From the effective date of this act through the biennium ending
2 June 30, 2001, the board shall utilize threshold project eligibility
3 criteria that, at a minimum, includes the following:

4 (a) The project must be on a strategic freight corridor;

5 (b) The project must meet one of the following conditions:

6 (i) It is primarily aimed at reducing identified barriers to
7 freight movement with only incidental benefits to general or personal
8 mobility; or

9 (ii) It is primarily aimed at increasing capacity for the movement
10 of freight with only incidental benefits to general or personal
11 mobility; or

12 (iii) It is primarily aimed at mitigating the impact on communities
13 of increasing freight movement, including roadway/railway conflicts;
14 and

15 (c) The project must have a total public benefit/total public cost
16 ratio of equal to or greater than one.

17 (5) From the effective date of this act through the biennium ending
18 June 30, 2001, the board shall use the multicriteria analysis and
19 scoring framework for evaluating and ranking eligible freight mobility
20 and freight mitigation projects developed by the freight mobility
21 project prioritization committee and contained in the January 16, 1998,
22 report entitled "Project Eligibility, Priority and Selection Process
23 for a Strategic Freight Investment Program." The prioritization
24 process shall measure the degree to which projects address important
25 program objectives and shall generate a project score that reflects a
26 project's priority compared to other projects. The board shall assign
27 scoring points to each criterion that indicate the relative importance
28 of the criterion in the overall determination of project priority.
29 After June 30, 2001, the board may supplement and refine the initial
30 project priority criteria and scoring framework developed by the
31 freight mobility project prioritization committee as expertise and
32 experience is gained in administering the freight mobility program.

33 (6) It is the intent of the legislature that each freight mobility
34 project contained in the project portfolio submitted by the board
35 utilize the greatest amount of nonstate funding possible. The board
36 shall adopt rules that give preference to projects that contain the
37 greatest levels of financial participation from nonprogram fund
38 sources. The board shall consider twenty percent as the minimum
39 partnership contribution, but shall also ensure that there are

1 provisions allowing exceptions for projects that are located in areas
2 where minimal local funding capacity exists or where the magnitude of
3 the project makes the adopted partnership contribution financially
4 unfeasible.

5 (7) The board shall develop and recommend policies that address
6 operational improvements that primarily benefit and enhance freight
7 movement, including, but not limited to, policies that reduce
8 congestion in truck lanes at border crossings and weigh stations and
9 provide for access to ports during nonpeak hours.

10 NEW SECTION. **Sec. 4.** (1) The freight mobility strategic
11 investment board is created. The board shall convene by July 1, 1998.

12 (2) The board is composed of twelve members. The following members
13 are appointed by the governor for terms of four years, except that five
14 members initially are appointed for terms of two years: (a) Two
15 members, one of whom is from a city located within or along a strategic
16 freight corridor, appointed from a list of at least four persons
17 nominated by the association of Washington cities or its successor; (b)
18 two members, one of whom is from a county having a strategic freight
19 corridor within its boundaries, appointed from a list of at least four
20 persons nominated by the Washington state association of counties or
21 its successor; (c) two members, one of whom is from a port district
22 located within or along a strategic freight corridor, appointed from a
23 list of at least four persons nominated by the Washington public ports
24 association or its successor; (d) one member representing the office of
25 financial management; (e) one member appointed as a representative of
26 the trucking industry; (f) one member appointed as a representative of
27 the railroads; (g) the secretary of the department of transportation;
28 (h) one member representing the steamship industry; and (i) one member
29 of the general public. In appointing the general public member, the
30 governor shall endeavor to appoint a member with special expertise in
31 relevant fields such as public finance, freight transportation, or
32 public works construction. The governor shall appoint the general
33 public member as chair of the board. In making appointments to the
34 board, the governor shall ensure that each geographic region of the
35 state is represented.

36 (3) Members of the board may not receive compensation.
37 Reimbursement for travel and other expenses shall be provided by each
38 respective organization that a member represents on the board.

1 (4) If a vacancy on the board occurs by death, resignation, or
2 otherwise, the governor shall fill the vacant position for the
3 unexpired term. Each vacancy in a position appointed from lists
4 provided by the associations and departments under subsection (2) of
5 this section must be filled from a list of at least four persons
6 nominated by the relevant association or associations.

7 (5) The appointments made in subsection (2) of this section are not
8 subject to confirmation.

9 NEW SECTION. **Sec. 5.** The board shall appoint an executive
10 director, who shall serve at its pleasure and whose salary shall be set
11 by the board. Staff support to the board shall initially be provided
12 by the department of transportation, the transportation improvement
13 board, and the county road administration board or their successor
14 agencies. The board shall develop a plan that provides for
15 administration and staffing of the program and present this plan to the
16 office of financial management and the legislative transportation
17 committee by December 31, 1998.

18 NEW SECTION. **Sec. 6.** (1) For the purpose of allocating funds for
19 the freight mobility strategic investment program, the board shall
20 allocate the first fifty-five percent of funds to the highest priority
21 projects, without regard to location.

22 (2) The remaining funds shall be allocated equally among three
23 regions of the state, defined as follows:

24 (a) The Puget Sound region includes King, Pierce, and Snohomish
25 counties;

26 (b) The western Washington region includes Clallum, Jefferson,
27 Island, Kitsap, San Juan, Skagit, Whatcom, Clark, Cowlitz, Grays
28 Harbor, Lewis, Mason, Pacific, Skamania, Thurston, and Wahkiakum
29 counties; and

30 (c) The eastern Washington region includes Adams, Chelan, Douglas,
31 Ferry, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens,
32 Whitman, Asotin, Benton, Columbia, Franklin, Garfield, Kittitas,
33 Klickitat, Walla Walla, and Yakima counties.

34 (3) If a region does not have enough qualifying projects to utilize
35 its allocation of funds, the funds will be made available to the next
36 highest priority project, without regard to location.

1 (4) In the event that a proposal contains projects in more than one
2 region, for purposes of assuring that equitable geographic
3 distributions are made under subsection (2) of this section, the board
4 shall evaluate the proposal and proportionally assign the benefits that
5 are attributable to each region.

6 (5) If the board identifies a project for funding, but later
7 determines that the project is not ready to proceed at the time the
8 legislature's funding decision is pending, the board shall recommend
9 removing the project from consideration and the next highest priority
10 project shall be substituted in the project portfolio. Any project
11 removed from funding consideration because it is not ready to proceed
12 shall retain its position on the priority project list and is eligible
13 to be recommended for funding in the next project portfolio submitted
14 by the board.

15 NEW SECTION. **Sec. 7.** In order to aid the financing of eligible
16 freight mobility projects, the board may:

17 (1) Make grants or loans from funds appropriated for the freight
18 mobility strategic investment program for the purpose of financing
19 freight mobility projects. The board may require terms and conditions
20 as it deems necessary or convenient to carry out the purposes of this
21 chapter.

22 (2) The state shall not bear the financial burden for project costs
23 unrelated to the movement of freight. Project amenities unrelated to
24 the movement of freight may not be submitted to the board as part of a
25 project proposal under the freight mobility strategic investment
26 program.

27 (3) All freight mobility projects aided in whole or in part under
28 this chapter must have a public entity designated as the lead project
29 proponent.

30 NEW SECTION. **Sec. 8.** The board shall keep proper records and
31 shall be subject to audit by the state auditor.

32 NEW SECTION. **Sec. 9.** Port districts in the state shall submit
33 their development plans to the relevant regional transportation
34 planning organization or metropolitan planning organization, the
35 department, and affected cities and counties to better coordinate the
36 development and funding of freight mobility projects.

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 47.06 RCW
2 to read as follows:

3 The state-interest component of the state-wide multimodal
4 transportation plan shall include a freight mobility plan which shall
5 assess the transportation needs to ensure the safe, reliable, and
6 efficient movement of goods within and through the state and to ensure
7 the state's economic vitality.

8 ****NEW SECTION.** Sec. 11.* *In order to encourage joint transportation*
9 *planning activities proximate to international borders, the department*
10 *shall make incentive grants to metropolitan and regional transportation*
11 *planning organizations that share a common border with Canada. As a*
12 *condition of receiving a grant under this section, the planning*
13 *organization shall assure the department that it commits to be engaged*
14 *in joint planning with its counterpart agency in Canada. Such grants*
15 *shall be used to develop project plans and implement coordinated and*
16 *comprehensive projects to improve the safe movement of people and goods*
17 *at or across the boarder. Grants shall be made on the basis of:*

18 *(1) Expected reduction in commercial and other travel time through*
19 *a major international gateway as a result of the project;*

20 *(2) Leveraging of federal funds provided, including use of*
21 *innovative financing, in combination with other sources of federal,*
22 *state, local, and private funding;*

23 *(3) Improvements in vehicle and highway safety and cargo security*
24 *in and through the gateway;*

25 *(4) Degree of binational involvement in the project, and*
26 *demonstrated coordination with other federal agencies responsible for*
27 *inspection of vehicles, cargo, and persons crossing international*
28 *borders, and their counterpart agencies in Canada;*

29 *(5) Demonstrated local commitment to implement and sustain*
30 *continuing comprehensive border planning processes; and*

31 *(6) Improved use of existing and underutilized border crossing*
32 *facilities and approaches.*

33 **Sec. 11 was vetoed. See message at end of chapter.*

34 **Sec. 12.** RCW 47.05.051 and 1993 c 490 s 5 are each amended to read
35 as follows:

36 The comprehensive six-year investment program shall be based upon
37 the needs identified in the state-owned highway component of the state-

1 wide multimodal transportation plan as defined in RCW 47.01.071(3) and
2 priority selection systems that incorporate the following criteria:

3 (1) Priority programming for the preservation program shall take
4 into account the following, not necessarily in order of importance:

5 (a) Extending the service life of the existing highway system;

6 (b) Ensuring the structural ability to carry loads imposed upon
7 highways and bridges; and

8 (c) Minimizing life cycle costs. The transportation commission in
9 carrying out the provisions of this section may delegate to the
10 department of transportation the authority to select preservation
11 projects to be included in the six-year program.

12 (2) Priority programming for the improvement program shall take
13 into account the following:

14 (a) Support for the state's economy, including job creation and job
15 preservation;

16 (b) The cost-effective movement of people and goods;

17 (c) Accident and accident risk reduction;

18 (d) Protection of the state's natural environment;

19 (e) Continuity and systematic development of the highway
20 transportation network;

21 (f) Consistency with local comprehensive plans developed under
22 chapter 36.70A RCW;

23 (g) Consistency with regional transportation plans developed under
24 chapter 47.80 RCW;

25 (h) Public views concerning proposed improvements;

26 (i) The conservation of energy resources;

27 (j) Feasibility of financing the full proposed improvement;

28 (k) Commitments established in previous legislative sessions;

29 (l) Relative costs and benefits of candidate programs;

30 (m) Major projects addressing capacity deficiencies which
31 prioritize allowing for preliminary engineering shall be reprioritized
32 during the succeeding biennium, based upon updated project data.
33 Reprioritized projects may be delayed or canceled by the transportation
34 commission if higher priority projects are awaiting funding; and

35 (n) Major project approvals which significantly increase a
36 project's scope or cost from original prioritization estimates shall
37 include a review of the project's estimated revised priority rank and
38 the level of funding provided. Projects may be delayed or canceled by

1 the transportation commission if higher priority projects are awaiting
2 funding.

3 (3) The commission may depart from the priority programming
4 established under subsections (1) and (2) of this section: (a) To the
5 extent that otherwise funds cannot be utilized feasibly within the
6 program; (b) as may be required by a court judgment, legally binding
7 agreement, or state and federal laws and regulations; (c) as may be
8 required to coordinate with federal, local, or other state agency
9 construction projects; (d) to take advantage of some substantial
10 financial benefit that may be available; (e) for continuity of route
11 development; or (f) because of changed financial or physical conditions
12 of an unforeseen or emergent nature. The commission or secretary of
13 transportation shall maintain in its files information sufficient to
14 show the extent to which the commission has departed from the
15 established priority.

16 (4) The commission shall identify those projects that yield freight
17 mobility benefits or that alleviate the impacts of freight mobility
18 upon affected communities.

19 ****NEW SECTION. Sec. 13. The governor shall take the steps***
20 ***necessary to ensure that this act is implemented on its effective date***
21 ***and that the freight mobility strategic investment board convenes by***
22 ***July 1, 1998.***

23 *Sec. 13 was vetoed. See message at end of chapter.

24 ****NEW SECTION. Sec. 14. In order to facilitate freight mobility,***
25 ***the sum of twenty-five million dollars is appropriated for the biennium***
26 ***ending June 30, 1999, from the motor vehicle fund--state to the***
27 ***department of transportation improvement program for highway***
28 ***construction projects as determined by the transportation commission.***
29 ***If section 43 of Engrossed House Bill No. 2894 is not enacted by June***
30 ***30, 1998, this section is null and void.***

31 *Sec. 14 was vetoed. See message at end of chapter.

32 ***NEW SECTION. Sec. 15. If any provision of this act or its***
33 ***application to any person or circumstance is held invalid, the***
34 ***remainder of the act or the application of the provision to other***
35 ***persons or circumstances is not affected.***

1 NEW SECTION. **Sec. 16.** Sections 1 through 9, 11, and 13 of this
2 act constitute a new chapter in Title 47 RCW.

 Passed the House March 12, 1998.

 Passed the Senate March 12, 1998.

 Approved by the Governor March 27, 1998, with the exception of
 certain items that were vetoed.

 Filed in Office of Secretary of State March 27, 1998.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 11, 13
3 and 14, Engrossed Substitute House Bill No. 2615 entitled:

4 "AN ACT Relating to creating partnerships for strategic freight
5 investments;"

6 ESHB 2615 creates a Freight Mobility Strategic Investment Board to
7 administer grants, targeted at improving freight mobility. This bill
8 is an important step toward solving our state's transportation
9 bottlenecks; however, some sections of the bill are problematic.

10 Section 11 of ESHB 2615 would require the Department of
11 Transportation (DOT) to make incentive grants to metropolitan planning
12 and regional transportation planning organizations that border Canada,
13 to encourage joint transportation planning activities. While I
14 appreciate the strategic importance of international freight corridors,
15 this section would give superior status to border crossing projects.
16 Section 3 of the bill establishes a level playing field which will
17 allow all freight projects, including those along the Canadian border,
18 to compete for funding on equal terms. Granting priority status for
19 border crossing projects in this instance is not warranted.

20 Section 13 of ESHB 2615 would require the Governor to personally
21 ensure that this act is "implemented" on its effective date and that
22 the Freight Mobility Strategic Investment Board convenes by July 1,
23 1998. Section 4 of the bill already requires that the Board convene by
24 that date. Also, I understand that it is unlikely that the Board will
25 be able to adopt all of its rules within 90 days of the Legislature's
26 adjournment. While I am certainly committed to the rapid, yet
27 thoughtful implementation of this act, the meaning of "implemented" as
28 it appears in this section is very ambiguous and could have
29 unanticipated consequences.

30 Section 14 of ESHB 2615 would provide that a \$25 million loan from
31 the state general fund to the motor vehicle fund, as provided in ESHB
32 2894, be used to facilitate freight mobility, but in a very limited
33 way. It would limit the loan's use to only highway construction
34 projects in DOT's highway improvement program. As distinguished from
35 DOT's current highway improvement program, ESHB 2615 is focused
36 legislation intended to create a targeted freight mobility program with
37 the aim of reducing barriers to freight movement with only incidental
38 benefits to general mobility. Linking this money to the highway
39 improvement program is inconsistent with the primary intent of this
40 bill.

41 For these reasons, I have vetoed sections 11, 13 and 14 of
42 Engrossed Substitute House Bill No. 2615.

1 With the exceptions of sections 11, 13 and 14, Engrossed Substitute
2 House Bill No. 2615 is approved."