

ESSB 5768 - H AMD TO TR COMM AMD (H-3051.1/09) **785**

By Representative Roach

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 shall 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 The legislature further finds that some funding currently
13 programmed for the Alaskan Way viaduct should be reallocated to
14 projects that are ready for construction or in need of additional
15 funding. Reallocating this funding will create jobs and provide
16 immediate and long-term economic benefits for Washington state
17 citizens.

18 (2) Subject to sections 2 through 10 of this act, the state route
19 number 99 Alaskan Way viaduct replacement project finance plan must
20 include state and transportation infrastructure improvement zone
21 funding not to exceed two billion four hundred million dollars. These
22 funds must be used solely to build a replacement tunnel, as described
23 in subsection (1) of this section, and to remove the existing state
24 route number 99 Alaskan Way viaduct. All costs associated with city
25 utility relocations for state work as described in this section must
26 be borne by the city of Seattle and provided in a manner that meets
27 project construction schedule requirements as determined by the

1 department. State funding is not authorized for any utility
2 relocation costs, or for central seawall improvements.

3
4 NEW SECTION. **Sec. 2.** The definitions in this section apply to
5 sections 3 through 10 of this act unless the context clearly requires
6 otherwise.

7 (1) "Transportation infrastructure improvement zone" or
8 "improvement zone" means the geographic zone from which taxes are to
9 be appropriated to finance public improvements authorized under this
10 chapter.

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

12 (3) "City" means a city with a population of more than five
13 hundred fifty thousand persons.

14 (4) "Ordinance" means any appropriate method of taking legislative
15 action by a city.

16 (5) "Public improvements" means infrastructure improvements that
17 relate to the removal of a viaduct damaged by an earthquake and the
18 construction of a deep bore tunnel as its replacement.

19 (6) "Public improvement costs" means the costs of: (a) Design,
20 planning, acquisition including land acquisition, site preparation
21 including land clearing, construction, reconstruction, rehabilitation,
22 improvement, and installation of public improvements; (b) demolishing,
23 relocating, maintaining, and operating property pending construction
24 of public improvements; (c) relocating utilities as a result of public
25 improvements; and (d) financing public improvements, including
26 interest during construction, legal and other professional services,
27 taxes, insurance, principal and interest costs on indebtedness issued
28 to finance public improvements, and any necessary reserves for
29 indebtedness.

30 (7) "State equivalency payments" means the equivalent amount of
31 state property taxes derived within the improvement zone.

32 (8) "Tax allocation revenues" means all tax revenues derived from
33 state and local sales taxes, state and local business and occupation
34 taxes, state and local public utility taxes, local regular property

1 taxes, state and local real estate excise taxes, and state and local
2 leasehold excise taxes within the improvement zone from all taxing
3 districts included within the improvement zone. "Tax allocation
4 revenues" also includes state equivalency payments and state and local
5 sales taxes from the initial construction of any new development in
6 the improvement zone.

7

8 NEW SECTION. **Sec. 3.** A city must finance public improvements
9 using transportation infrastructure improvement zone financing subject
10 to the following conditions:

11 (1) The city adopts an ordinance designating an improvement zone
12 within its boundaries and specifying the public improvements proposed
13 to be financed in whole or in part with the use of tax allocation
14 revenues.

15 (2) The boundaries of an improvement zone may not change once the
16 improvement zone is established by ordinance.

17 (3) The ordinance must specify the initial date tax allocation
18 revenues will be distributed to the city to fund public improvement
19 costs.

20 (4) Tax allocation revenues distributed to the city to fund public
21 improvement costs must cease twenty-five years from the date described
22 in subsection (3) of this section.

23 (5) The boundaries of the improvement zone may only include
24 territory around the location where a viaduct damaged by earthquake is
25 razed. As part of this determination, the city may include an
26 estimate of the increase in tax allocation revenues upon completion of
27 the construction of the public improvements and any associated private
28 development.

29

30 NEW SECTION. **Sec. 4.** (1) Before adopting an ordinance creating
31 the improvement zone, a city must hold a public hearing on the
32 proposed financing of the public improvement in whole or in part with
33 improvement zone financing.

34

1 (a) Notice of the public hearing must be published in a legal
2 newspaper of general circulation within the proposed improvement zone
3 at least ten days before the public hearing and posted in at least six
4 conspicuous public places located in the proposed improvement zone.

5 (b) Notices must describe the contemplated public improvements,
6 estimate the costs of the public improvements, describe the portion of
7 the costs of the public improvements to be borne by tax allocation
8 revenues, describe any other sources of revenue to finance the public
9 improvements, describe the boundaries of the proposed improvement
10 zone, and estimate the period during which the improvement zone
11 financing is contemplated to be used. The public hearing may be held
12 by either the governing body of the city, or a committee of the
13 governing body that includes at least a majority of the whole
14 governing body.

15 (2) In order to create an improvement zone, a city must adopt an
16 ordinance establishing the improvement zone that:

17 (a) Describes the public improvements;

18 (b) Describes the boundaries of the improvement zone;

19 (c) Estimates the cost of the public improvements and the portion
20 of these costs to be financed by transportation tax allocation
21 revenues;

22 (d) Estimates the time during which tax allocation revenues are to
23 be used to finance public improvement costs associated with the public
24 improvements financed in whole or in part by improvement zone
25 financing;

26 (e) Provides the date when the use of improvement zone tax
27 allocation revenues will commence; and

28 (f) Provides a schedule for when development rights above the
29 location where a viaduct damaged by earthquake is razed will be
30 available for purchase.

31
32 NEW SECTION. **Sec. 5.** (1) A city that adopts an ordinance
33 creating an improvement zone under this chapter must, within ninety
34 days of adopting the ordinance:

1 (a) Publish notice in a legal newspaper of general circulation
2 within the improvement zone that describes the public improvement,
3 describes the boundaries of the improvement zone, and identifies the
4 location and times where the ordinance and other public information
5 concerning the public improvement may be inspected; and

6 (b) Deliver a certified copy of the ordinance to the county
7 treasurer, the county assessor, the department of revenue, and the
8 governing body of each taxing authority within which the improvement
9 zone is located.

10 (2) Any challenge to the formation must be brought within sixty
11 days of the later of the date of its formation or August 1, 2009.

12
13 NEW SECTION. **Sec. 6.** A city that adopts an ordinance creating an
14 improvement zone under this chapter must sell development rights in
15 the area where a viaduct damaged by earthquake is razed. All proceeds
16 from the sale of development rights shall be deposited in the special
17 fund or funds described under section 8 of this act and must be used
18 to defease bonds for public improvements.

19
20 NEW SECTION. **Sec. 7.** The city must use all tax allocation
21 revenues for the razing of a viaduct damaged by an earthquake and the
22 construction of a deep bore tunnel as its replacement and related
23 public improvements. Tax allocation revenues shall be deposited in a
24 special fund or funds described under section 8 of this act or other
25 segregated account of the city to be used exclusively for the funding
26 of public improvements. By December 31st of each year, the state
27 treasurer must transfer from the state general fund to the city the
28 amount of the state equivalency payment for that year. By December
29 31st of each year, the county treasurer must transfer to the
30 appropriate fund or funds of the city the amount of any local property
31 taxes levied for collection in that year within the improvement zone.
32 On a quarterly basis, the state treasurer must transfer tax allocation
33 revenues derived from state and local sales taxes, state business and

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1 occupation taxes, state and local real estate excise taxes, and state
2 and local leasehold excise taxes to the city.

3

4 NEW SECTION. **Sec. 8.** (1) A city must issue revenue bonds to fund
5 public improvements, or portions of public improvements, that are
6 located within an improvement zone and that it is authorized to
7 provide or operate. Whenever revenue bonds are to be issued, the
8 legislative authority of the city must create or have created a
9 special fund or funds from which, along with any reserves created
10 pursuant to RCW 39.44.140, the principal and interest on these revenue
11 bonds must exclusively be payable. The legislative authority of the
12 city may obligate the city to set aside and pay into the special fund
13 or funds a fixed proportion or a fixed amount of the tax allocation
14 revenues obtained within the improvement zone. This amount or
15 proportion is a lien and charge against these revenues, subject only
16 to operating and maintenance expenses. The city must have due regard
17 for the cost of operation and maintenance of the public improvements
18 that are funded by the revenue bonds, and shall not set aside into the
19 special fund or funds a greater amount or proportion of the revenues
20 that in its judgment will be available over and above the cost of
21 maintenance and operation and the amount or proportion, if any, of the
22 revenue previously pledged. The city may also provide that revenue
23 bonds payable out of the same source or sources of revenue may later
24 be issued on a parity with any revenue bonds being issued and sold.

25 (2) Revenue bonds issued pursuant to this section are not an
26 indebtedness of the city issuing the bonds, and the interest and
27 principal on the bonds must only be payable from the revenues lawfully
28 pledged to meet the principal and interest requirements and any
29 reserves created pursuant to RCW 39.44.140. The owner or bearer of a
30 revenue bond or any interest coupon issued pursuant to this section
31 shall not have any claim against the city arising from the bond or
32 coupon except for payment from the revenues lawfully pledged to meet
33 the principal and interest requirements and any reserves created
34 pursuant to RCW 39.44.140. The substance of the limitations included

1 in this subsection must be plainly printed, written, or engraved on
2 each bond issued pursuant to this section.

3 (3) Revenue bonds with a maturity in excess of twenty-five years
4 may not be issued. The legislative authority of the city must by
5 resolution determine for each revenue bond issue the amount, date,
6 form, terms, conditions, denominations, maximum fixed or variable
7 interest rate or rates, maturity or maturities, redemption rights,
8 registration privileges, manner of execution, manner of sale, callable
9 provisions, if any, and covenants including the refunding of existing
10 revenue bonds. Facsimile signatures may be used on the bonds and any
11 coupons. Refunding revenue bonds may be issued in the same manner as
12 revenue bonds are issued.

13
14 NEW SECTION. **Sec. 9.** The tax allocation revenues and state
15 equivalency payments constitute one billion dollars of the state
16 contribution of two billion four hundred million dollars toward the
17 replacement of a viaduct damaged by earthquake and to construct a deep
18 bored tunnel. The department of transportation shall retain one
19 billion dollars of the state's contribution to the Alaskan Way viaduct
20 replacement project in the transportation partnership account for use
21 on state highway safety and congestion relief projects identified by
22 the legislature.

23
24 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.32
25 RCW to read as follows:

26 The tax imposed and collected under chapters 82.08 and 82.12 RCW
27 on the construction of a deep bore tunnel must be transferred to a
28 city that creates a transportation infrastructure improvement zone, as
29 defined in section 2 of this act. The city must deposit any revenues
30 received under this section into the special fund or funds described
31 in section 8 of this act and must be used to reduce project costs.

32
33 NEW SECTION. **Sec. 11.** Sections 2 through 10 of this act
34 constitute a new chapter in Title 39 RCW."

1 On page 3, beginning on line 6, strike all of sections 2 and 3

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3 Renummer the remaining sections consecutively and correct any
4 internal references accordingly.

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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 Department of Transportation must prepare a traffic and tolling study to determine the tunnel's potential to generate toll revenue; 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.
- Makes a legislative finding that some funding currently programmed for the Alaskan Way viaduct should be reallocated to projects that are ready for construction or are in need of additional funding, and that reallocating this funding will create jobs and provide immediate and long-term economic benefit to the citizens of the state.
- Creates a local financing tool (transportation infrastructure improvement zone financing) that must be used by cities to finance public improvements, and that allocates certain tax revenues from the improvement zone to finance the authorized improvements.
- Defines "public improvements" to mean infrastructure improvements that relate to the removal of a viaduct damaged by an earthquake and the construction of a deep bore tunnel as its replacement. Defines the boundaries of the improvement zone to include only territory around the location where an earthquake-damaged viaduct is razed.
- Authorizes the allocation of certain state and local taxes (tax allocation revenues) to finance an authorized improvement, including state and local sales taxes, business and occupation taxes, and real estate excise taxes, and state equivalency payments. Defines "state equivalency payments" to

mean the equivalent amount of state property taxes derived within the improvement zone.

- Establishes that the state's financing plan for the state's contribution to the Alaskan Way viaduct replacement project must include combined state and transportation infrastructure improvement zone funding.
- Establishes that tax allocation revenues and state equivalency payments must constitute \$1.2 billion of the state's maximum contribution of \$2.4 billion to the replacement project, and directs the Department of Transportation to retain \$1 billion in the Transportation Partnership Account for use on state highway safety and congestion relief projects identified by the Legislature.
- Makes financing of the improvements subject to several conditions, including that the city adopt an ordinance that designates the boundaries of the zone and specifies the improvements to be financed in part or in whole with the use of tax allocation revenues.
- Requires a city to issue revenue bonds, for a period not to exceed 25 years, to fund a portion or all of a public improvement. Establishes that revenue bonds issued by a city for public improvements are not an indebtedness of the city.
- Requires that any city that adopts an ordinance creating an improvement zone must sell development rights in the area where an earthquake-damaged viaduct is razed, and that all proceeds from this sale must be deposited in a special fund or funds to be used to pay city revenue bonds issued for the improvements. Requires that sales and use taxes collected on the construction of a deep bore tunnel must be transferred to the city that creates an improvement zone, and the city must deposit those funds in the special fund or funds and used for payment of revenue bonds issued to fund a public improvement.

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