

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5700

Chapter 377, Laws of 2011
(partial veto)

62nd Legislature
2011 Regular Session

TOLL FACILITIES

EFFECTIVE DATE: 05/16/11

Passed by the Senate April 20, 2011
YEAS 32 NAYS 10

BRAD OWEN

President of the Senate

Passed by the House March 5, 2011
YEAS 73 NAYS 25

FRANK CHOPP

Speaker of the House of Representatives

Approved May 16, 2011, 3:48 p.m., with
the exception of Section 1 which is
vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **SUBSTITUTE SENATE
BILL 5700** as passed by the Senate
and the House of Representatives
on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 17, 2011

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5700

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senate Transportation (originally sponsored by Senators Haugen and King)

READ FIRST TIME 02/10/11.

1 AN ACT Relating to certain toll facilities; amending RCW 47.10.882,
2 47.10.887, 47.10.888, and 47.56.810; reenacting RCW 47.10.886; adding
3 a new section to chapter 47.56 RCW; creating a new section; and
4 declaring an emergency.

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

6 ****NEW SECTION. Sec. 1. The legislature recognizes that Washington***
7 ***voters strongly supported Initiative Measure No. 1053 during the 2010***
8 ***general election, which indicates the clear desire on the part of the***
9 ***state's citizens that legislators approve any new fees or increases to***
10 ***existing fees. The legislature further recognizes that during the 2009***
11 ***legislative session tolling was authorized on the state route number***
12 ***520 corridor, bonds were authorized to finance construction of corridor***
13 ***projects, and the legislature committed to continue imposing tolls on***
14 ***the corridor in amounts sufficient to pay the principal and interest on***
15 ***those bonds. As tolling is scheduled to begin on the corridor in early***
16 ***April 2011, the legislature intends to honor the voters' clear***
17 ***direction as identified in Initiative Measure No. 1053 by reviewing the***
18 ***transportation commission's recommended schedule for tolling charges***
19 ***and explicitly approving those rates applicable to the state route***

1 *number 520 corridor. The legislature also intends to review the*
2 *transportation commission's recommended schedule for photo toll charges*
3 *and explicitly approve those rates applicable to the Tacoma Narrows*
4 *bridge.*

**Sec. 1 was vetoed. See message at end of chapter.*

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.56 RCW
6 to read as follows:

7 (1) Consistent with RCW 43.135.055 and 47.56.805 through 47.56.876,
8 the legislature approves the action taken by the transportation
9 commission on January 5, 2011, adopting amended rules to set the
10 schedule of toll rates applicable to the state route number 520
11 corridor. The legislature further authorizes the transportation
12 commission, as the tolling authority for the state, to set and adjust
13 toll rates on the state route number 520 corridor in accordance with
14 the authorization, requirements, and guidelines set forth in RCW
15 47.56.830, 47.56.850, and 47.56.870. The transportation commission may
16 adjust the toll rates, as identified in the adopted schedule of toll
17 rates, only in amounts not greater than those sufficient to meet (a)
18 the operating costs of the state route number 520 corridor, including
19 necessary maintenance, preservation, renewal, replacement,
20 administration, and toll enforcement by public law enforcement and (b)
21 obligations for the timely payment of debt service on bonds issued
22 under chapter 498, Laws of 2009 and this act, and any other associated
23 financing costs including, but not limited to, required reserves,
24 minimum debt coverage or other appropriate contingency funding,
25 insurance, and compliance with all other financial and other covenants
26 made by the state in the bond proceedings. Prior to the convening of
27 each regular session of the legislature, the transportation commission
28 must provide the transportation committees of the legislature with a
29 detailed report regarding any increase or decrease in any toll rate
30 approved by the commission that has not been described in a previous
31 report provided pursuant to this subsection (1), along with a detailed
32 justification for each such increase or decrease.

33 (2) Consistent with RCW 43.135.055 and 47.46.100, the legislature
34 approves the action taken by the transportation commission on January
35 25, 2011, adopting amended rules to set the schedule of photo toll, or
36 "pay by mail," charges applicable to the Tacoma Narrows bridge. Prior
37 to the convening of each regular session of the legislature, the

1 transportation commission must provide the transportation committees of
2 the legislature with a detailed report regarding any increase or
3 decrease in any toll rate approved by the commission that has not been
4 described in a previous report provided pursuant to this subsection
5 (2), along with a detailed justification for each such increase or
6 decrease.

7 (3) Consistent with RCW 43.135.055 and 47.56.795(6), the
8 legislature approves the action taken by the transportation commission
9 on January 5, 2011, adopting amended rules concerning the assessment of
10 administrative fees for toll collection processes. The administrative
11 fees must not exceed toll collection costs.

12 **Sec. 3.** RCW 47.10.882 and 2009 c 498 s 11 are each amended to read
13 as follows:

14 The toll facility bond retirement account is created in the state
15 treasury for the purpose of payment of the principal of and interest
16 and premium on bonds. Both principal of and interest on the bonds
17 issued for the purposes of chapter 498, Laws of 2009 and this act shall
18 be payable from the toll facility bond retirement account. The state
19 finance committee may provide that special subaccounts be created in
20 the account to facilitate payment of the principal of and interest on
21 the bonds. The state finance committee shall, on or before June 30th
22 of each year, certify to the state treasurer the amount required for
23 principal and interest on the bonds in accordance with the bond
24 proceedings.

25 **Sec. 4.** RCW 47.10.886 and 2009 c 498 s 16 are each reenacted to
26 read as follows:

27 If and to the extent that the state finance committee determines,
28 in consultation with the department of transportation and the tolling
29 authority, that it will be beneficial for the state to issue any bonds
30 authorized in RCW 47.10.879 and 47.10.883 through 47.10.885 as toll
31 revenue bonds rather than as general obligation bonds, the state
32 finance committee is authorized to issue and sell, upon the request of
33 the department of transportation, such bonds as toll revenue bonds and
34 not as general obligation bonds. Notwithstanding RCW 47.10.883, each
35 such bond shall contain a recital that payment or redemption of the
36 bond and payment of the interest and any premium thereon is payable

1 solely from and secured solely by a direct pledge, charge, and lien
2 upon toll revenue and is not a general obligation of the state to which
3 the full faith and credit of the state is pledged.

4 Toll revenue is hereby pledged to the payment of any bonds and the
5 interest thereon issued under the authority of this section, and the
6 legislature agrees to continue to impose these toll charges on the
7 state route number 520 corridor, and on any other eligible toll
8 facility designated by the legislature and on which the imposition of
9 tolls is authorized by the legislature in respect of the bonds, in
10 amounts sufficient to pay, when due, the principal and interest on all
11 bonds issued under the authority of this section.

12 **Sec. 5.** RCW 47.10.887 and 2009 c 498 s 17 are each amended to read
13 as follows:

14 The state finance committee may determine and include in any
15 resolution authorizing the issuance of any bonds under chapter 498,
16 Laws of 2009 and this act, such terms, provisions, covenants, and
17 conditions as it may deem appropriate in order to assist with the
18 marketing and sale of the bonds, confer rights upon the owners of
19 bonds, and safeguard rights of the owners of bonds including, among
20 other things:

21 (1) Provisions regarding the maintenance and operation of eligible
22 toll facilities;

23 (2) The pledges, uses, and priorities of application of toll
24 revenue;

25 (3) Provisions that bonds shall be payable from and secured solely
26 by toll revenue as provided by RCW 47.10.886, or shall be payable from
27 and secured by both toll revenue and by a pledge of excise taxes on
28 motor vehicle and special fuels and the full faith and credit of the
29 state as provided in RCW 47.10.879 and 47.10.883 through 47.10.885;

30 (4) In consultation with the department of transportation and the
31 tolling authority, financial covenants requiring that the eligible toll
32 facilities must produce specified coverage ratios of toll revenue to
33 debt service on bonds;

34 (5) The purposes and conditions that must be satisfied prior to the
35 issuance of any additional bonds that are to be payable from and
36 secured by any toll revenue on an equal basis with previously issued
37 and outstanding bonds payable from and secured by toll revenue;

1 (6) Provisions that bonds for which any toll revenue are pledged,
2 or for which a pledge of any toll revenue may be reserved, may be
3 structured on a senior, parity, subordinate, or special lien basis in
4 relation to any other bonds for which toll revenue is pledged, with
5 respect to toll revenue only; and

6 (7) Provisions regarding reserves, credit enhancement, liquidity
7 facilities, and payment agreements with respect to bonds.

8 Notwithstanding the foregoing, covenants and conditions detailing
9 the character of management, maintenance, and operation of eligible
10 toll facilities, insurance for eligible toll facilities, financial
11 management of toll revenue, and disposition of eligible toll facilities
12 must first be approved by the department of transportation.

13 The owner of any bond may by mandamus or other appropriate
14 proceeding require and compel performance of any duties imposed upon
15 the tolling authority and the department of transportation and their
16 respective officials, including any duties imposed upon or undertaken
17 by them or by their respective officers, agents, and employees, in
18 connection with the construction, maintenance, and operation of
19 eligible toll facilities and in connection with the collection,
20 deposit, investment, application, and disbursement of the proceeds of
21 the bonds and toll revenue.

22 **Sec. 6.** RCW 47.10.888 and 2009 c 498 s 18 are each amended to read
23 as follows:

24 (1) For the purposes of chapter 498, Laws of 2009 and this act,
25 "toll revenue" means all toll receipts, all interest income derived
26 from the investment of toll receipts, and any gifts, grants, or other
27 funds received for the benefit of transportation facilities in the
28 state, including eligible toll facilities. However, for the purpose of
29 any pledge of toll revenue to the payment of particular bonds issued
30 under chapter 498, Laws of 2009 and this act, "toll revenue" means and
31 includes only such toll revenue or portion thereof that is pledged to
32 the payment of those bonds in the resolution authorizing the issuance
33 of such bonds. Toll revenue constitutes "fees and revenues derived
34 from the ownership or operation of any undertaking, facility, or
35 project" as that phrase is used in Article VIII, section 1(c)(1) of the
36 state Constitution.

1 (2) For the purposes of chapter 498, Laws of 2009 and this act,
2 "tolling authority" has the same meaning as in RCW 47.56.810.

3 **Sec. 7.** RCW 47.56.810 and 2008 c 122 s 3 are each amended to read
4 as follows:

5 The definitions in this section apply throughout this subchapter
6 unless the context clearly requires otherwise:

7 (1) "Tolling authority" means the governing body that is legally
8 empowered to review and adjust toll rates. Unless otherwise delegated,
9 the transportation commission is the tolling authority for all state
10 highways.

11 (2) "Eligible toll facility" or "eligible toll facilities" means
12 portions of the state highway system specifically identified by the
13 legislature including, but not limited to, transportation corridors,
14 bridges, crossings, interchanges, on-ramps, off-ramps, approaches,
15 bistate facilities, and interconnections between highways.

16 (3) "Toll revenue" or "revenue from an eligible toll facility"
17 means toll receipts, all interest income derived from the investment of
18 toll receipts, and any gifts, grants, or other funds received for the
19 benefit of ~~((the))~~ transportation facilities in the state, including
20 eligible toll ~~((facility))~~ facilities.

21 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and takes effect
24 immediately.

Passed by the Senate April 20, 2011.

Passed by the House March 5, 2011.

Approved by the Governor May 16, 2011, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 17, 2011.

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

"I am returning herewith, without my approval as to Section 1,
Substitute Senate Bill 5700 entitled:

"AN ACT Relating to certain toll facilities."

I am vetoing Section 1, the intent section. As outlined in an
informal Attorney General Opinion, Initiative 1053 does not constrain
the manner in which the legislature approves imposition or increases
in fees. Section 1 could be misconstrued to constrain the form of
legislative approvals. Vetoing the intent section does not impede
implementation of the bill.

For these reasons, I have vetoed Section 1 of Substitute Senate Bill
5700.

With the exception of Section 1, Substitute Senate Bill 5700 is approved."