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**SUBSTITUTE SENATE BILL 5592**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** Senate Transportation (originally sponsored by Senators Schlicher, King, Rolfes, Hobbs, and Eide)

READ FIRST TIME 02/28/13.

1 AN ACT Relating to use of toll bridge revenue; and amending RCW  
2 47.56.165, 47.46.100, and 46.63.160.

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

4 **Sec. 1.** RCW 47.56.165 and 2009 c 567 s 1 are each amended to read  
5 as follows:

6 A special account to be known as the Tacoma Narrows toll bridge  
7 account is created in the motor vehicle fund in the state treasury.

8 (1) Deposits to the account must include:

9 (a) All proceeds of bonds issued for construction of the Tacoma  
10 Narrows public-private initiative project, including any capitalized  
11 interest;

12 (b) All of the toll charges and other revenues received from the  
13 operation of the Tacoma Narrows bridge as a toll facility, to be  
14 deposited at least monthly;

15 (c) Any interest that may be earned from the deposit or investment  
16 of those revenues;

17 (d) Notwithstanding RCW 47.12.063, proceeds from the sale of any  
18 surplus real property acquired for the purpose of building the second  
19 Tacoma Narrows bridge; and

1 (e) All liquidated damages collected under any contract involving  
2 the construction of the second Tacoma Narrows bridge.

3 (2) Proceeds of bonds shall be used consistent with RCW 47.46.130,  
4 including the reimbursement of expenses and fees incurred under  
5 agreements entered into under RCW 47.46.040 as required by those  
6 agreements.

7 (3) Toll charges, other revenues, and interest may only be used to:

8 (a) Pay required costs that contribute directly to the financing,  
9 operation, maintenance, management, and necessary repairs of the tolled  
10 facility, as determined by rule by the transportation commission.  
11 However, management costs must account for no more than two percent of  
12 all expenditures. For purposes of this subsection (3)(a), management  
13 costs do not include the costs of adjudication, toll operator  
14 contracts, or insurance; and

15 (b) Repay amounts to the motor vehicle fund as required under RCW  
16 47.46.140.

17 (4) Toll charges, other revenues, and interest may not be used to  
18 pay for costs that do not contribute directly to the financing,  
19 operation, maintenance, management, and necessary repairs of the tolled  
20 facility, as determined by rule by the transportation commission.

21 (5) The department shall make detailed quarterly expenditure  
22 reports available to the transportation commission and to the public on  
23 the department's web site using current department resources.

24 (6) When repaying the motor vehicle fund under RCW 47.46.140, the  
25 state treasurer shall transfer funds from the Tacoma Narrows toll  
26 bridge account to the motor vehicle fund on or before each debt service  
27 date for bonds issued for the Tacoma Narrows public-private initiative  
28 project in an amount sufficient to repay the motor vehicle fund for  
29 amounts transferred from that fund to the highway bond retirement fund  
30 to provide for any bond principal and interest due on that date. The  
31 state treasurer may establish subaccounts for the purpose of  
32 segregating toll charges, bond sale proceeds, and other revenues.

33 **Sec. 2.** RCW 47.46.100 and 2002 c 114 s 7 are each amended to read  
34 as follows:

35 (1) The commission shall fix the rates of toll and other charges  
36 for all toll bridges built under this chapter that are financed

1 primarily by bonds issued by the state. Subject to RCW 47.46.090, the  
2 commission may impose and modify toll charges from time to time as  
3 conditions warrant.

4 (2) In establishing toll charges, the commission shall give due  
5 consideration to any required costs for operating and maintaining the  
6 toll bridge or toll bridges, including the cost of insurance, and to  
7 any amount required by law to meet the redemption of bonds and interest  
8 payments on them.

9 (3) The toll charges must be imposed in amounts sufficient to:

10 (a) Provide annual revenue sufficient to provide for annual  
11 operating and maintenance expenses, except as provided in RCW 47.56.165  
12 and 47.56.245;

13 (b) Make payments required under RCW 47.56.165 and 47.46.140,  
14 including insurance costs and the payment of principal and interest on  
15 bonds issued for any particular toll bridge or toll bridges; and

16 (c) Repay the motor vehicle fund under RCW 47.46.110, 47.56.165,  
17 and 47.46.140.

18 (4) The bond principal and interest payments, including repayment  
19 of the motor vehicle fund for amounts transferred from that fund to  
20 provide for such principal and interest payments, constitute a first  
21 direct and exclusive charge and lien on all tolls and other revenues  
22 from the toll bridge concerned, subject to operating and maintenance  
23 expenses.

24 **Sec. 3.** RCW 46.63.160 and 2011 c 367 s 705 are each amended to  
25 read as follows:

26 (1) This section applies only to civil penalties for nonpayment of  
27 tolls detected through use of photo toll systems.

28 (2) Nothing in this section prohibits a law enforcement officer  
29 from issuing a notice of traffic infraction to a person in control of  
30 a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),  
31 (b), or (c).

32 (3) A notice of civil penalty may be issued by the department of  
33 transportation when a toll is assessed through use of a photo toll  
34 system and the toll is not paid by the toll payment due date, which is  
35 eighty days from the date the vehicle uses the toll facility and incurs  
36 the toll charge.

1 (4) Any registered owner or renter of a vehicle traveling upon a  
2 toll facility operated under chapter 47.56 or 47.46 RCW is subject to  
3 a civil penalty governed by the administrative procedures set forth in  
4 this section when the vehicle incurs a toll charge and the toll is not  
5 paid by the toll payment due date, which is eighty days from the date  
6 the vehicle uses the toll facility and incurs the toll charge.

7 (5) Consistent with chapter 34.05 RCW, the department of  
8 transportation shall develop an administrative adjudication process to  
9 review appeals of civil penalties issued by the department of  
10 transportation for toll nonpayment detected through the use of a photo  
11 toll system under this section.

12 (6) The use of a photo toll system is subject to the following  
13 requirements:

14 (a) Photo toll systems may take photographs, digital photographs,  
15 microphotographs, videotapes, or other recorded images of the vehicle  
16 and vehicle license plate only.

17 (b) A notice of civil penalty must include with it a certificate or  
18 facsimile thereof, based upon inspection of photographs,  
19 microphotographs, videotape, or other recorded images produced by a  
20 photo toll system, stating the facts supporting the notice of civil  
21 penalty. This certificate or facsimile is prima facie evidence of the  
22 facts contained in it and is admissible in a proceeding established  
23 under subsection (5) of this section. The photographs, digital  
24 photographs, microphotographs, videotape, or other recorded images  
25 evidencing the toll nonpayment civil penalty must be available for  
26 inspection and admission into evidence in a proceeding to adjudicate  
27 the liability for the civil penalty.

28 (c) Notwithstanding any other provision of law, all photographs,  
29 digital photographs, microphotographs, videotape, other recorded  
30 images, or other records identifying a specific instance of travel  
31 prepared under this chapter are for the exclusive use of the tolling  
32 agency for toll collection and enforcement purposes and are not open to  
33 the public and may not be used in a court in a pending action or  
34 proceeding unless the action or proceeding relates to a civil penalty  
35 under this chapter. No photograph, digital photograph,  
36 microphotograph, videotape, other recorded image, or other record  
37 identifying a specific instance of travel may be used for any purpose  
38 other than toll collection or enforcement of civil penalties under this

1 section. Records identifying a specific instance of travel by a  
2 specific person or vehicle must be retained only as required to ensure  
3 payment and enforcement of tolls and to comply with state records  
4 retention policies.

5 (d) All locations where a photo toll system is used must be clearly  
6 marked by placing signs in locations that clearly indicate to a driver  
7 that he or she is entering a zone where tolls are assessed and enforced  
8 by a photo toll system.

9 (e) Within existing resources, the department of transportation  
10 shall conduct education and outreach efforts at least six months prior  
11 to activating an all-electronic photo toll system. Methods of outreach  
12 shall include a department presence at community meetings in the  
13 vicinity of a toll facility, signage, and information published in  
14 local media. Information provided shall include notice of when all  
15 electronic photo tolling shall begin and methods of payment.  
16 Additionally, the department shall provide quarterly reporting on  
17 education and outreach efforts and other data related to the issuance  
18 of civil penalties.

19 (7) Civil penalties for toll nonpayment detected through the use of  
20 photo toll systems must be issued to the registered owner of the  
21 vehicle identified by the photo toll system, but are not part of the  
22 registered owner's driving record under RCW 46.52.101 and 46.52.120.

23 (8) The civil penalty for toll nonpayment detected through the use  
24 of a photo toll system is forty dollars plus the photo toll and  
25 associated fees.

26 (9) Except as provided otherwise in this subsection, all civil  
27 penalties, including the photo toll and associated fees, collected  
28 under this section must be deposited into the toll facility account of  
29 the facility on which the toll was assessed. However, (~~through June~~  
30 ~~30, 2013,~~) civil penalties deposited into the Tacoma Narrows toll  
31 bridge account created under RCW 47.56.165 that are in excess of  
32 amounts necessary to support the toll adjudication process applicable  
33 to toll collection on the Tacoma Narrows bridge must first be allocated  
34 toward repayment of operating loans and reserve payments provided to  
35 the account from the motor vehicle account under section 1005(15),  
36 chapter 518, Laws of 2007. Additionally, all civil penalties,  
37 resulting from nonpayment of tolls on the state route number 520

1 corridor, shall be deposited into the state route number 520 civil  
2 penalties account created under section 4, chapter 248, Laws of 2010  
3 but only if chapter 248, Laws of 2010 is enacted by June 30, 2010.

4 (10) If the registered owner of the vehicle is a rental car  
5 business, the department of transportation shall, before a toll bill is  
6 issued, provide a written notice to the rental car business that a toll  
7 bill may be issued to the rental car business if the rental car  
8 business does not, within thirty days of the mailing of the written  
9 notice, provide to the issuing agency by return mail:

10 (a) A statement under oath stating the name and known mailing  
11 address of the individual driving or renting the vehicle when the toll  
12 was assessed; or

13 (b) A statement under oath that the business is unable to determine  
14 who was driving or renting the vehicle at the time the toll was  
15 assessed because the vehicle was stolen at the time the toll was  
16 assessed. A statement provided under this subsection must be  
17 accompanied by a copy of a filed police report regarding the vehicle  
18 theft; or

19 (c) In lieu of identifying the vehicle operator, the rental car  
20 business may pay the applicable toll and fee.

21 Timely mailing of this statement to the issuing agency relieves a  
22 rental car business of any liability under this section for the payment  
23 of the toll.

24 (11) Consistent with chapter 34.05 RCW, the department of  
25 transportation shall develop rules to implement this section.

26 (12) For the purposes of this section, "photo toll system" means  
27 the system defined in RCW 47.56.010 and 47.46.020.

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