

HOUSE BILL REPORT

HB 2741

As Reported by House Committee On: Transportation

Title: An act relating to reimbursement of the financing of the Alaskan Way viaduct replacement project.

Brief Description: Concerning reimbursement of the financing of the Alaskan Way viaduct replacement project.

Sponsors: Representatives Clibborn, Fey and Tarleton; by request of Department of Transportation.

Brief History:

Committee Activity:

Transportation: 1/31/18, 2/6/18 [DP].

Brief Summary of Bill

- Requires Alaska Way Viaduct (AWV) tunnel toll charges to be used to repay the Transportation Partnership Account for any amounts transferred from it to the Highway Bond Retirement Fund to provide for bond retirement and interest for up to \$200 million of Washington State Department of Transportation (WSDOT) designated reimbursable bonds.
- Mandates that the WSDOT, in consultation with the Office of the State Treasurer (Treasurer's Office), prepare and submit to the tolling authority a toll reimbursement plan that includes an initial projected toll rate schedule and a debt service schedule (prepared by the Treasurer's Office).
- Requires that toll rates be established and toll revenue used for the currently required purposes, as well as to provide for the funding of a repair and replacement reserve in an amount to be determined by the WSDOT for current and future fiscal years.
- Mandates that, if the AWV toll revenue collected for any fiscal year is less than the amount required under state law, the WSDOT obtain and provide the tolling authority with written recommendations for any adjustments to the toll rate schedule, and that the Washington State Transportation Commission take steps to address the shortfall within 60 days of receipt of these recommendations.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 24 members: Representatives Clibborn, Chair; Fey, Vice Chair; Wylie, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Chapman, Gregerson, Hayes, Irwin, Kloba, Lovick, McBride, Morris, Ortiz-Self, Pellicciotti, Pike, Riccelli, Rodne, Stambaugh, Tarleton, Valdez, Van Werven and Young.

Minority Report: Without recommendation. Signed by 1 member: Representative Shea.

Staff: Jennifer Harris (786-7143).

Background:

The State Route 99 (SR 99) Alaskan Way Viaduct (AWV) is a major arterial serving freight and passenger vehicles in downtown Seattle. The facility sustained damage during the 2001 Nisqually earthquake, and was found to be susceptible to damage, closure, or catastrophic failure from additional earthquakes and tsunamis. Engrossed Substitute Senate Bill (ESSB) 5768, enacted during the 2009 legislative session, required the state to expedite environmental review and design processes to replace the AWV with a deep bore tunnel under First Avenue from the vicinity of the sports stadiums in Seattle to Aurora Avenue north of the Battery Street Tunnel. It also required that the SR 99 AWV Replacement Project finance plan not be permitted to include more than \$400 million in toll revenue.

Engrossed Substitute House Bill (ESHB) 1773, enacted during the 2008 legislative session, mandated that all revenue from an eligible toll facility may only be used:

1. to cover the operating costs of the toll facility, including necessary maintenance, preservation, administration, and toll enforcement;
2. to meet obligations for the repayment of debt and interest of the toll facility, and any other associated financing costs including, but not limited to, required reserves and insurance;
3. to meet any other obligations to provide funding contributions for any projects or operations on the toll facility;
4. to provide for the operations of conveyances of people or goods; and
5. for any other improvements to the toll facility.

Engrossed Substitute House Bill 1773 (as modified the following year by ESHB 1272) also mandated that, unless otherwise directed by the Legislature, the state tolling authority, the Washington State Transportation Commission (Commission) set toll rates to:

1. meet the operating costs of the eligible toll facilities, including necessary maintenance, preservation, renewal, replacement, administration, and toll enforcement;
2. meet obligations for the timely payment of debt services on bonds issued for the toll facility, and any other associated financing costs including, but not limited to, required reserves, minimum debt coverage, or other appropriate contingency funding, insurance, and compliance with all other financial and other covenants made by the state in the bond proceeding;

3. meet obligations to reimburse the Motor Vehicle Fund for excise taxes on motor vehicle and special fuels applied to the payment of bonds issued for the toll facility; and
4. meet any other obligations to provide funding contributions for any projects or operations on the toll facility.

In fixing and adjusting toll rates, the only toll revenue to be taken into account is required to be toll revenue pledged to bonds that include toll receipts, and the only debt service requirements to be taken into account must be debt service on bonds payable from and secured by toll revenue that includes toll receipts.

As specified in ESHB 1773, in determining toll rates, the Commission is also required to consider the following policy guidelines:

1. that toll rates be set to meet anticipated funding obligations; and
2. to the extent possible, that toll rates be set to optimize system performance, recognizing necessary trade-offs to generate revenue.

During the 2012 legislative session, Substitute Senate Bill 6444 was enacted and authorized tolling on the deep bore tunnel between First Avenue from the vicinity of the sports stadiums in Seattle to Aurora Avenue north of the Battery Street tunnel. It directed the Commission to impose a variable schedule of toll rates to maintain travel time, speed, and reliability and to generate necessary revenue, and granted the Commission the authority to adjust the variable schedule of toll rates at least annually to reflect inflation to meet requirements for the redemption of bonds and other obligations of the tolling authority.

Substitute Senate Bill 6444 also created the Replacement Project Account (Account). Deposits into the Account include all proceeds of bonds issued for construction of the AWW Replacement Project and all tolls and other revenues received from the operation of the AWW Replacement Project as a toll facility. The Account may be used for the purposes for which toll revenue may be used, as well as to repay amounts to the Motor Vehicle Fund.

Summary of Bill:

Toll charges must be used to repay the Transportation Partnership Account (TPA) for any amounts transferred from the TPA to the Highway Bond Retirement Fund to provide for bond retirement and interest for up to \$200 million in bonds issued for the AWW Replacement Project and designated by the Washington State Department of Transportation (WSDOT) as reimbursable bonds. Toll charges must remain on the AWW tunnel until the TPA is repaid.

To the extent the Legislature does not commit funds other than toll revenue to toll rates, in addition to meeting current state law requirements for toll rate setting and the use of toll revenue, toll rates must also be established and toll revenue used to provide for the funding, over a 12-month period, of a repair and replacement reserve in an amount to be determined by the WSDOT for the current and future fiscal years. The WSDOT must provide a schedule of funding requirements for this repair and replacement reserve.

Toll rates must be set and collected to meet an amount determined by the Office of the State Treasurer (Treasurer's Office), to be repaid to the TPA. The WSDOT, in consultation with the Treasurer's Office, must prepare and submit to the Commission a toll reimbursement plan that includes:

1. an initial projected toll rate schedule prepared by the WSDOT that takes into account the policies of optimizing system performance and minimizing diversion of traffic to other routes, and that is projected to meet toll revenue requirements;
2. a debt service schedule prepared by the Treasurer's Office that includes the aggregated total and annual principal and interest requirements and payment dates for up to 25 years, as well as an additional percentage as determined by the WSDOT and the Treasurer's Office, to provide additional coverage for the required reimbursement amounts;
3. a certificate from a traffic and revenue consultant stating the projected toll revenue for each fiscal year that will result from this toll rate schedule; and
4. a certificate from an independent consulting engineering firm stating the projected operating and maintenance expenses and repair and replacement requirements that apply to toll revenue generation.

In addition, the Treasurer's Office must submit a certificate to the Commission stating that the adoption of the revised toll rate schedule will not cause the toll revenue collected to be less than the amount required.

If the toll revenue collected for any fiscal year is less than the amount required, the WSDOT must obtain and provide the tolling authority with written recommendations of a traffic and revenue consultant for any adjustments to the toll rate schedule, and the Commission must take steps to address the shortfall within 60 days of receipt of these recommendations. If the traffic and revenue consultant determines that toll revenue cannot be increased to meet necessary expenses, the WSDOT, in consultation with the Treasurer's Office, must prepare a revised toll reimbursement plan that considers:

- additional funds other than toll revenue committed by the Legislature for these expenses;
- revisions to the bonds designated as reimbursable bonds; and
- revisions to the additional percentage to provide for additional coverage for the required reimbursement amounts.

In conjunction with the preparation of its biennial and any supplemental transportation budget, the WSDOT, in consultation with a traffic and revenue consultant, must prepare and submit a projected toll rate schedule to the Commission. The Commission must set the schedule of toll rates at least annually, determining if the schedule should be adjusted to reflect changes in operating or repair and replacement expenses, or to reflect changes in reimbursable bond requirements.

The AWW Replacement Project Account (Account) funds must be used to repay amounts to the TPA, to the extent the Legislature has not committed funds other than toll revenue to repay these amounts, for the following expenses in the order of priority in which they are listed:

1. operating and maintenance expenses of the toll collection system;
2. operating and maintenance expenses of the tolled portion of the AWW;
3. repair and replacement expenses of the toll collection system; and

4. amounts required to be repaid to the TPA.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The Commission currently has toll-setting authority. The AWV Replacement Project has ongoing needs and tolls will help pay for them. Tolls need to be set to cover what the Legislature has already planned for their contribution to funding the AWV Replacement Project. The Tacoma Narrows Bridge had poor financing, while the financing for SR 520 bond repayment was structured to ensure that tolls were set more consistently over time. This bill sets tolling so that it will more closely match the SR 520 approach, and provides the Commission with more direction to ensure that the amount obligated is paid back.

This bill provides clear direction that toll revenue will be used to pay back the Transportation Partnership Account for the funding provided from it to the AWV Replacement Project. It also clearly sets forth the types of expenses for which toll revenue can be used. The bill will provide clarity on these topics, so that the WSDOT does not need to return to the Legislature in the future for clarification related to tolling the AWV tunnel. The WSDOT understands both that substantial financial obligations must be met with tolling, and that there remains a need to balance these obligations against performance of the tolled facility.

(Opposed) None.

Persons Testifying: Representative Clibborn, prime sponsor; and Allison Camden and Patty Rubstello, Washington State Department of Transportation.

Persons Signed In To Testify But Not Testifying: None.