

# FINAL BILL REPORT

## SSB 5753

---

---

C 448 L 23  
Synopsis as Enacted

**Brief Description:** Concerning a roadway construction cooperative agreement between the department of transportation and the Lummi Nation.

**Sponsors:** Senate Committee on Transportation (originally sponsored by Senators Shewmake and Lovelett).

**Senate Committee on Transportation**  
**House Committee on Transportation**

**Background:** The Washington State Department of Transportation (WSDOT) may purchase right-of-way for constructing or improving city streets that are also state highways.

Title to all such rights-of-way shall vest in the city or town subject to the requirement that the local jurisdiction use the property for public road purposes. However, if the road or street is to be operated as either a partially or fully controlled access highway, title to and full control over that portion incorporated into the limited access highway shall be vested in the state.

Unused portions of right-of-way may be used for non-transportation uses with the prior written approval of WSDOT and in accordance with any limited access plan. All revenue derived from any non-transportation use shall be shared by the city or town and the state in the same proportion as the purchase costs were shared.

There is currently no general provision in state statute that authorizes WSDOT to convey active public right-of-way to the governing authority of a tribe, even if the tribe agrees to keep the road or street open for public use. However, there are specific provisions allowing a cooperative agreement between WSDOT and the governing authority for the Quinault Indian Reservation for development and maintenance of a highway extension from the existing State Route 109 North through the Quinault Indian Reservation and intersecting with highway 101 south of Queets. These provisions include authorization for WSDOT to

---

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

convey the right-of-way to the entire highway to the governing authority for the Quinault Indian Reservation in return for a conveyance to the state of Washington of a perpetual easement for public travel on the highway when constructed.

**Summary:** WSDOT is authorized to enter into a cooperative agreement with the Lummi Nation and other entities for the location, design, right-of-way acquisition, construction, and maintenance of a public road beginning on Rural Avenue at the southern boundary of the Ferndale city limits, traveling across the property held in tribal trust status for the Lummi Nation, and connecting to the approximate location of where the Ferndale city limits intersect Kope Road. The new road segment shall be named after construction is concluded.

WSDOT is authorized to determine the location of the roadway in consultation with and approval by the Lummi Nation, and then to design, and construct the roadway. The agreement shall allow WSDOT to request a temporary construction easement from the Lummi Nation for constructing the new road. The agreement shall reserve authority to construct road intersections or grade separation crossings of the roadway to the Lummi Nation. After construction of the roadway is complete, the Lummi Nation shall be responsible for the operation and maintenance and future improvement of the roadway as a public road.

The agreement may also authorize the Lummi Nation to convey to the United States an easement to construct, maintain, and repair roadway improvements if such an easement is required by regulations of the Bureau of Indian Affairs.

**Votes on Final Passage:**

Senate	49	0	
House	92	5	(House amended)
Senate	49	0	(Senate concurred)

**Effective:** July 23, 2023