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SENATE BILL 6043

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State of Washington                      56th Legislature                      1999 Regular Session

By Senators Roach, Patterson, Rasmussen and Johnson

Read first time 02/24/1999. Referred to Committee on Transportation.

1            AN ACT Relating to establishing a toll rate before an advisory vote  
2 on public-private transportation initiatives; and amending RCW  
3 47.46.030.

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

5            **Sec. 1.** RCW 47.46.030 and 1996 c 280 s 1 are each amended to read  
6 as follows:

7            (1) The secretary or a designee shall solicit proposals from, and  
8 negotiate and enter into agreements with, private entities to undertake  
9 as appropriate, together with the department and other public entities,  
10 all or a portion of the study, planning, design, construction,  
11 operation, and maintenance of transportation systems and facilities,  
12 using in whole or in part private sources of financing.

13            The public-private initiatives program may develop up to six  
14 demonstration projects. Each proposal shall be weighed on its own  
15 merits, and each of the six agreements shall be negotiated  
16 individually, and as a stand-alone project.

17            (2) If project proposals selected prior to September 1, 1994, are  
18 terminated by the public or private sectors, the department shall not  
19 select any new projects, including project proposals submitted to the

1 department prior to September 1, 1994, and designated by the  
2 transportation commission as placeholder projects, after June 16, 1995,  
3 until June 30, 1997.

4 The department, in consultation with the legislative transportation  
5 committee, shall conduct a program and fiscal audit of the public-  
6 private initiatives program for the biennium ending June 30, 1997. The  
7 department shall submit a progress report to the legislative  
8 transportation committee on the program and fiscal audit by June 30,  
9 1996, with preliminary and final audit reports due December 1, 1996,  
10 and June 30, 1997, respectively.

11 The department shall develop and submit a proposed public  
12 involvement plan to the 1997 legislature to identify the process for  
13 selecting new potential projects and the associated costs of  
14 implementing the plan. The legislature must adopt the public  
15 involvement plan before the department may proceed with any activity  
16 related to project identification and selection. Following legislative  
17 adoption of the public involvement plan, the department is authorized  
18 to implement the plan and to identify potential new projects.

19 The public involvement plan for projects selected after June 30,  
20 1997, shall, at a minimum, identify projects that: (a) Have the  
21 potential of achieving overall public support among users of the  
22 projects, residents of communities in the vicinity of the projects, and  
23 residents of communities impacted by the projects; (b) meet a state  
24 transportation need; (c) provide a significant state benefit; and (d)  
25 provide competition among proposers and maximum cost benefits to users.  
26 Prospective projects may include projects identified by the department  
27 or submitted by the private sector.

28 Projects that meet the minimum criteria established under this  
29 section and the requirements of the public involvement plan developed  
30 by the department and approved by the legislature shall be submitted to  
31 the Washington state transportation commission for its review. The  
32 commission, in turn, shall submit a list of eligible projects to the  
33 legislative transportation committee for its consideration. Forty-five  
34 days after the submission to the legislative transportation committee  
35 of the list of eligible projects, the secretary is authorized to  
36 solicit proposals for the eligible project.

37 (3) Prior to entering into agreements with private entities under  
38 the requirements of RCW 47.46.040 for any project proposal selected  
39 before September 1, 1994, or after June 30, 1997, except as provided

1 for in subsections (~~((11) and~~) (12) and (13) of this section, the  
2 department shall require an advisory vote as provided under subsections  
3 (5) through (10) of this section.

4 (4) The advisory vote shall apply to project proposals selected  
5 prior to September 1, 1994, or after June 30, 1997, that receive public  
6 opposition as demonstrated by the submission to the department of  
7 original petitions bearing at least five thousand signatures of  
8 individuals opposing the project collected and submitted in accordance  
9 with the dates established in subsections (12) and (13) of this  
10 section. The advisory vote shall be on the preferred alternative  
11 identified under the requirements of chapter 43.21C RCW and, if  
12 applicable, the national environmental policy act, 42 U.S.C. 4321 et  
13 seq. The execution by the department of the advisory vote process  
14 established in this section is subject to the prior appropriation of  
15 funds by the legislature for the purpose of conducting environmental  
16 impact studies, a public involvement program, local involvement  
17 committee activities, traffic and economic impact analyses, engineering  
18 and technical studies, and the advisory vote.

19 (5)(a) In preparing for the advisory vote, the department shall  
20 conduct a comprehensive analysis of traffic patterns and economic  
21 impact to define the geographical boundary of the project area that is  
22 affected by the imposition of tolls or user fees authorized under this  
23 chapter. The area so defined is referred to in this section as the  
24 affected project area. In defining the affected project area, the  
25 department shall, at a minimum, undertake: (~~((a))~~) (i) A comparison of  
26 the estimated percentage of residents of communities in the vicinity of  
27 the project and in other communities impacted by the project who could  
28 be subject to tolls or user fees and the estimated percentage of other  
29 users and transient traffic that could be subject to tolls or user  
30 fees; (~~((b))~~) (ii) an analysis of the anticipated traffic diversion  
31 patterns; (~~((c))~~) (iii) an analysis of the potential economic impact  
32 resulting from proposed toll rates or user fee rates imposed on  
33 residents, commercial traffic, and commercial entities in communities  
34 in the vicinity of and impacted by the project; (~~((d))~~) (iv) an  
35 analysis of the economic impact of tolls or user fees on the price of  
36 goods and services generally; and (~~((e))~~) (v) an analysis of the  
37 relationship of the project to state transportation needs and benefits.

38 (b) In defining the "economic impact" of the proposed project, the  
39 department shall prepare an estimated initial detailed cost analysis of

1 the proposed project to include all known and anticipated costs. Based  
2 on this cost analysis, the department shall prepare a projected toll or  
3 user fee rate analysis that provides for a sufficient payback of all  
4 costs, including financing costs associated with the proposed project.  
5 The rate or fee must be included within the project description that  
6 must appear on the advisory vote ballot. If revenue or funds other  
7 than tolls or user fees are identified within this initial cost  
8 analysis, the source of those funds together with nonrevocable  
9 authorization must also be identified.

10 (6)(a) After determining the definition of the affected project  
11 area, the department shall establish a committee comprised of  
12 individuals who represent cities and counties in the affected project  
13 area; organizations formed to support or oppose the project; and users  
14 of the project. The committee shall be named the public-private local  
15 involvement committee, and be known as the local involvement committee.

16 (b) The members of the local involvement committee shall be: (i)  
17 An elected official from each city within the affected project area;  
18 (ii) an elected official from each county within the affected project  
19 area; (iii) two persons from each county within the affected project  
20 area who represent an organization formed in support of the project, if  
21 the organization exists; (iv) two persons from each county within the  
22 affected project area who represent an organization formed to oppose  
23 the project, if the organization exists; and (v) four public members  
24 active in a state-wide transportation organization. If the committee  
25 makeup results in an even number of committee members, there shall be  
26 an additional appointment of an elected official from the county in  
27 which all, or the greatest portion of the project is located.

28 (c) City and county elected officials shall be appointed by a  
29 majority of the members of the city or county legislative authorities  
30 of each city or county within the affected project area, respectively.  
31 The county legislative authority of each county within the affected  
32 project area shall identify and validate organizations officially  
33 formed in support of or in opposition to the project and shall make the  
34 appointments required under this section from a list submitted by the  
35 chair of the organizations. Public members shall be appointed by the  
36 governor. All appointments to the local involvement committee shall be  
37 made and submitted to the department of transportation no later than  
38 January 1, 1996, for projects selected prior to September 1, 1994, and  
39 no later than thirty days after the affected project area is defined

1 for projects selected after June 30, 1997. Vacancies in the membership  
2 of the local involvement committee shall be filled by the appointing  
3 authority under (b)(i) through (v) of this subsection for each position  
4 on the committee.

5 (d) The local involvement committee shall serve in an advisory  
6 capacity to the department on all matters related to the execution of  
7 the advisory vote.

8 (e) Members of the local involvement committee serve without  
9 compensation and may not receive subsistence, lodging expenses, or  
10 travel expenses.

11 (7) The department shall conduct a minimum thirty-day public  
12 comment period on the definition of the geographical boundary of the  
13 project area. The department, in consultation with the local  
14 involvement committee, shall make adjustments, if required, to the  
15 definition of the geographical boundary of the affected project area,  
16 based on comments received from the public. Within fourteen calendar  
17 days after the public comment period, the department shall set the  
18 boundaries of the affected project area in units no smaller than a  
19 precinct as defined in RCW 29.01.120.

20 (8) The department, in consultation with the local involvement  
21 committee, shall develop a description for selected project proposals.  
22 After developing the description of the project proposal, the  
23 department shall publish the project proposal description in newspapers  
24 of general circulation for seven calendar days in the affected project  
25 area. Within fourteen calendar days after the last day of the  
26 publication of the project proposal description, the department shall  
27 transmit a copy of the map depicting the affected project area and the  
28 description of the project proposal to the county auditor of the county  
29 in which any portion of the affected project area is located.

30 (9) The department shall provide the legislative transportation  
31 committee with progress reports on the status of the definition of the  
32 affected project area and the description of the project proposal.

33 (10) Upon receipt of the map and the description of the project  
34 proposal, the county auditor shall, within thirty days, verify the  
35 precincts that are located within the affected project area. The  
36 county auditor shall prepare the text identifying and describing the  
37 affected project area and the project proposal using the definition of  
38 the geographical boundary of the affected project area and the project  
39 description submitted by the department and shall set an election date

1 for the submission of a ballot proposition authorizing the imposition  
2 of tolls or user fees to implement the proposed project within the  
3 affected project area, which date may be the next succeeding general  
4 election to be held in the state, or at a special election, if  
5 requested by the department. The text of the project proposal must  
6 appear in a voter's pamphlet for the affected project area. The  
7 department shall pay the costs of publication and distribution. The  
8 special election date must be the next date for a special election  
9 provided under RCW 29.13.020 that is at least sixty days but, if  
10 authorized under RCW 29.13.020, no more than ninety days after the  
11 receipt of the final map and project description by the auditor. The  
12 department shall pay the cost of an election held under this section.

13 (11) Notwithstanding any other provision of law, the department may  
14 contract with a private developer of a selected project proposal to  
15 conduct environmental impact studies, a public involvement program, and  
16 engineering and technical studies funded by the legislature. For  
17 projects subject to this subsection, the department shall not enter  
18 into an agreement under RCW 47.46.040 prior to the advisory vote on the  
19 preferred alternative.

20 (12) Subsections (5) through (10) of this section shall not apply  
21 to project proposals selected prior to September 1, 1994, that have no  
22 organized public opposition as demonstrated by the submission to the  
23 department of original petitions bearing at least five thousand  
24 signatures of individuals opposing the project, collected and submitted  
25 after September 1, 1994, and by thirty calendar days after June 16,  
26 1995.

27 (13) Subsections (5) through (10) of this section shall not apply  
28 to project proposals selected after June 30, 1997, that have no  
29 organized public opposition as demonstrated by the submission to the  
30 department of original petitions bearing at least five thousand  
31 signatures of individuals opposing the project, collected and submitted  
32 by ninety calendar days after project selection.

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