
HOUSE BILL 2609

State of Washington 58th Legislature 2004 Regular Session

By Representative Ericksen

Read first time 01/16/2004. Referred to Committee on Transportation.

1 AN ACT Relating to a private-public partnership program; and adding
2 a new chapter to Title 47.46 RCW.

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

4 NEW SECTION. **Sec. 1.** LEGISLATIVE INTENT. The legislature finds
5 that creating partnerships between private and public sector
6 organizations can most effectively use available resources for the
7 benefit of the citizens of the state. The legislature intends to
8 encourage and promote these ventures by creating a program that allows
9 private entities to finance and construct improvements to the state's
10 highway infrastructure that are financed and constructed with the
11 resources and best attributes of the public and private sectors.

12 NEW SECTION. **Sec. 2.** ESTABLISHING P4 PROGRAM WITHIN THE DOT. The
13 public-private partnership program (P4) is established within the
14 department of transportation. The department shall solicit proposals
15 for improvements to the state highway system from private entities, or
16 from public entities that have entered into an agreement with a private
17 entity that will provide more than fifty percent of financing for the
18 project.

1 Cities, counties, and public port districts are eligible to form
2 partnerships with private entities to sponsor a project for development
3 and construction under this chapter.

4 NEW SECTION. **Sec. 3.** PROJECT DEFINITION. New improvements to the
5 existing state transportation system, as well as reconstruction of
6 existing highway facilities, are eligible to be proposed by public or
7 private sponsors. Improvements must meet applicable standards of
8 design and operability of the state highway system or have deviations
9 that can be approved by the department before construction of the
10 project. Improvements include but are not limited to new or improved
11 access interchanges, facilities such as park and ride lots, highway
12 safety rest areas, and any other new or modified improvement to the
13 state highway system.

14 NEW SECTION. **Sec. 4.** CREATION OF P4 INFRASTRUCTURE ACCOUNT. The
15 public-private partners (P4) infrastructure account is established in
16 the state treasury. Revenues collected from state sales taxes on
17 transportation projects constructed under this chapter must be
18 deposited into the account. Money may be placed in the account from
19 the proceeds of bonds or from any other lawful source. Money in the
20 account may be used to provide, in whole or in part, financial
21 guarantees and payments as part of a negotiated development agreement
22 for state highway construction projects authorized in section 8 of this
23 act.

24 NEW SECTION. **Sec. 5.** ELIGIBILITY FOR FUNDING UNDER RURAL ECONOMIC
25 DEVELOPMENT FUND. Projects developed under this chapter qualify for
26 investment in rural counties from the rural economic development fund.

27 NEW SECTION. **Sec. 6.** RESPONSIBILITIES OF PRIVATE SPONSORS. All
28 projects constructed under this chapter must conform with the ASHTO
29 highway design standards in effect at the time of commencing project
30 construction. Private sponsors of projects constructed under this
31 chapter must pay for all project construction and permitting costs.
32 Compensation to the private sector for their participation in this
33 program will be under section 8 of this act.

1 NEW SECTION. **Sec. 7.** PROJECT PRIORITIZATION AND SELECTION. (1)

2 Projects funded under this chapter may not exceed fifty million
3 dollars.

4 (2) The department shall develop criteria for prioritizing projects
5 submitted for funding under this chapter. The selection criteria for
6 projects are:

7 (a) Economic development potential; and

8 (b) Amount of private investment as a percentage of total project
9 cost.

10 (3) After reaching a tentative negotiated agreement with a project
11 sponsor, the department shall forward the proposed project and
12 negotiated agreement to the legislative transportation committee for
13 review, comment, and final approval.

14 NEW SECTION. **Sec. 8.** NEGOTIATED AGREEMENTS. The department shall

15 review and evaluate proposals from private sponsors, or public sponsors
16 that have majority financial participation from private sector
17 partners. The department shall negotiate the terms and compensation
18 for projects constructed and delivered. The total amount of
19 compensation to be agreed upon must be comprised of a mix of funds from
20 the P4 infrastructure account in section 4 of this act and tax credits
21 and incentives provided in section 9 of this act. The department shall
22 make every effort to maximize compensation from tax incentives and
23 credits, and minimize direct payments from the P4 infrastructure
24 account. Payments to project sponsors must be completed within twenty-
25 five years of the date the project is certified as complete and control
26 returned to the state.

27 NEW SECTION. **Sec. 9.** TAX INCENTIVES SUBJECT TO NEGOTIATED

28 AGREEMENTS. In negotiating agreements under this chapter, the
29 department shall propose compensating private sector participants with
30 a combination of funds from the P4 infrastructure account and from tax
31 incentives. Tax incentives eligible for compensation include:

32 (1) Proceeds from tax increment financing, based upon new
33 development associated with the project;

34 (2) Property tax deferrals for new development associated with the
35 project;

- 1 (3) Property tax exemptions for new development associated with the
2 project;
- 3 (4) Sales tax deferrals for new development associated with the
4 project; and
- 5 (5) Sales tax exemptions for new development associated with the
6 project.

7 NEW SECTION. **Sec. 10.** Projects developed under this chapter are
8 not considered public works projects under Title 39 RCW. Projects
9 authorized for development under this chapter are subject to the
10 expedited permitting process as authorized under chapter 47.06C RCW.

11 NEW SECTION. **Sec. 11.** RESPONSIBILITIES AFTER PROJECT COMPLETION.
12 Project sponsors may not own the finished transportation facility after
13 construction is certified as complete. Private sector sponsors may not
14 impose tolls or other charges for use of the facility. The department
15 shall assume all maintenance and operation of the facility upon project
16 completion.

17 NEW SECTION. **Sec. 12.** Captions used in this act are not part of
18 the law.

19 NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act are each
20 added to chapter 47.46 RCW.

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