

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1541

Chapter 317, Laws of 2005

59th Legislature
2005 Regular Session

TRANSPORTATION INNOVATIVE PARTNERSHIPS PROGRAM

EFFECTIVE DATE: 7/24/05

Passed by the House April 20, 2005
Yeas 94 Nays 2

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 12, 2005
Yeas 33 Nays 13

BRAD OWEN

President of the Senate

Approved May 9, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1541** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 9, 2005 - 12:07 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1541

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Transportation (originally sponsored by Representatives Murray, Woods, Wallace, Jarrett, Ericksen, Morris, B. Sullivan, Chase, Schual-Berke, Rodne and Dickerson)

READ FIRST TIME 03/08/05.

1 AN ACT Relating to transportation innovative partnerships; adding
2 a new section to chapter 47.04 RCW; and adding a new chapter to Title
3 47 RCW.

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

5 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS AND INTENT. (1) The
6 legislature finds that the public-private initiatives act created under
7 chapter 47.46 RCW has not met the needs and expectations of the public
8 or private sectors for the development of transportation projects. The
9 legislature intends to phase out chapter 47.46 RCW coincident with the
10 completion of the Tacoma Narrows Bridge - SR 16 public-private
11 partnership. From the effective date of this act, this chapter will
12 provide a more desirable and effective approach to developing
13 transportation projects in partnership with the private sector by
14 applying lessons learned from other states and from this state's ten-
15 year experience with chapter 47.46 RCW.

16 (2) It is the legislature's intent to achieve the following goals
17 through the creation of this new approach to public-private
18 partnerships:

1 (a) To provide a well-defined mechanism to facilitate the
2 collaboration between public and private entities in transportation;

3 (b) To bring innovative thinking from the private sector and other
4 states to bear on public projects within the state;

5 (c) To provide greater flexibility in achieving the transportation
6 projects; and

7 (d) To allow for creative cost and risk sharing between the public
8 and private partners.

9 (3) The legislature intends that the powers granted in this chapter
10 to the commission or department are in addition to any powers granted
11 under chapter 47.56 RCW.

12 (4) It is further the intent of the legislature that the commission
13 shall be responsible for receiving, reviewing, and approving proposals
14 with technical support of the department; rule making; and for
15 oversight of contract execution. The department shall be responsible
16 for evaluating proposals and negotiating contracts.

17 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
18 section apply throughout this chapter.

19 (1) "Authority" means the transportation commission.

20 (2) "Commission" means the transportation commission.

21 (3) "Department" means the department of transportation.

22 (4) "Eligible project" means any project eligible for development
23 under section 5 of this act.

24 (5) "Eligible public works project" means only a project that meets
25 the criteria of either section 6 (3) or (4) of this act.

26 (6) "Private sector partner" and "private partner" means a person,
27 entity, or organization that is not the federal government, a state, or
28 a political subdivision of a state.

29 (7) "Public funds" means all moneys derived from taxes, fees,
30 charges, tolls, etc.

31 (8) "Public sector partner" and "public partner" means any federal
32 or state unit of government, bistate transportation organization, or
33 any other political subdivision of any state.

34 (9) "Transportation innovative partnership program" or "program"
35 means the program as outlined in section 4 of this act.

36 (10) "Transportation project" means a project, whether capital or
37 operating, where the state's primary purpose for the project is to

1 preserve or facilitate the safe transport of people or goods via any
2 mode of travel. However, this does not include projects that are
3 primarily for recreational purposes, such as parks, hiking trails, off-
4 road vehicle trails, etc.

5 (11) "Unit of government" means any department or agency of the
6 federal government, any state or agency, office, or department of a
7 state, any city, county, district, commission, authority, entity, port,
8 or other public corporation organized and existing under statutory law
9 or under a voter-approved charter or initiative, and any
10 intergovernmental entity created under chapter 39.34 RCW or this
11 chapter.

12 **PART I**

13 **POWERS AND DUTIES OF TRANSPORTATION COMMISSION**

14 NEW SECTION. **Sec. 3.** TRANSPORTATION COMMISSION POWERS AND
15 RESPONSIBILITIES. In addition to the powers it now possesses, the
16 commission shall:

17 (1) Approve or review contracts or agreements authorized in this
18 chapter;

19 (2) Adopt rules to carry out this chapter and govern the program,
20 which at a minimum must address the following issues:

21 (a) The types of projects allowed; however, all allowed projects
22 must be included in the Washington transportation plan or identified by
23 the authority as being a priority need for the state;

24 (b) The types of contracts allowed, with consideration given to the
25 best practices available;

26 (c) The composition of the team responsible for the evaluation of
27 proposals to include:

28 (i) Washington state department of transportation staff;

29 (ii) An independent representative of a consulting or contracting
30 field with no interests in the project that is prohibited from becoming
31 a project manager for the project and bidding on any part of the
32 project;

33 (iii) An observer from the state auditor's office or the joint
34 legislative audit and review committee;

35 (iv) A person appointed by the commission, if the secretary of

1 transportation is a cabinet member, or appointed by the governor if the
2 secretary of transportation is not a cabinet member; and

3 (v) A financial expert;

4 (d) Minimum standards and criteria required of all proposals;

5 (e) Procedures for the proper solicitation, acceptance, review, and
6 evaluation of projects;

7 (f) Criteria to be considered in the evaluation and selection of
8 proposals that includes:

9 (i) Comparison with the department's internal ability to complete
10 the project that documents the advantages of completing the project as
11 a partnership versus solely as a public venture; and

12 (ii) Factors such as, but not limited to: priority, cost, risk
13 sharing, scheduling, and management conditions;

14 (g) The protection of confidential proprietary information while
15 still meeting the need for public disclosure that is consistent with
16 section 19 of this act;

17 (h) Protection for local contractors to participate in
18 subcontracting opportunities;

19 (i) Specifying that maintenance issues must be resolved in a manner
20 consistent with the personnel system reform act, chapter 41.80 RCW;

21 (j) Specifying that provisions regarding patrolling and law
22 enforcement on a public facility are subject to approval by the
23 Washington state patrol;

24 (3) Adopt guidelines to address security and performance issues.

25 Preliminary rules and guidelines developed under this section must
26 be submitted to the chairs and ranking members of both transportation
27 committees by November 30, 2005, for review and comment. All final
28 rules and guidelines must be submitted to the full legislature during
29 the 2006 session for review.

30 **PART II**

31 **TRANSPORTATION INNOVATIVE PARTNERSHIPS PROGRAM**

32 NEW SECTION. **Sec. 4.** PURPOSE OF TRANSPORTATION INNOVATIVE
33 PARTNERSHIPS. The Transportation Innovative Partnerships Act is
34 created for the planning, acquisition, design, financing, management,
35 development, construction, reconstruction, replacement, improvement,

1 maintenance, preservation, repair, and operation of transportation
2 projects. The goals of this chapter are to:

- 3 (1) Reduce the cost of transportation project delivery;
- 4 (2) Recover transportation investment costs;
- 5 (3) Develop an expedited project delivery process;
- 6 (4) Encourage business investment in public infrastructure;
- 7 (5) Use any fund source outside the state treasury, where
8 financially advantageous and in the public interest;
- 9 (6) Maximize innovation;
- 10 (7) Develop partnerships between and among private entities and the
11 public sector for the advancement of public purposes on mutually
12 beneficial terms;
- 13 (8) Create synergies between and among public sector entities to
14 develop projects that serve both transportation and other important
15 public purposes; and
- 16 (9) Access specialized construction management and project
17 management services and techniques available in the private sector.

18 NEW SECTION. **Sec. 5.** ELIGIBLE PROJECTS. Projects eligible for
19 development under this chapter include:

- 20 (1) Transportation projects, whether capital or operating, where
21 the state's primary purpose for the project is to facilitate the safe
22 transport of people or goods via any mode of travel. However, this
23 does not include projects that are primarily for recreational purposes,
24 such as parks, hiking trails, off-road vehicle trails, etc.; and
- 25 (2) Facilities, structures, operations, properties, vehicles,
26 vessels, or the like that are developed concurrently with an eligible
27 transportation project and that are capable of (a) providing revenues
28 to support financing of an eligible transportation project, or (b) that
29 are public projects that advance public purposes unrelated to
30 transportation.

31 NEW SECTION. **Sec. 6.** ELIGIBLE TYPES OF FINANCING. (1) Subject to
32 the limitations in this section, the department may, in connection with
33 the evaluation of eligible projects, consider any financing mechanisms
34 identified under subsections (3) through (5) of this section or any
35 other lawful source, either integrated as part of a project proposal or

1 as a separate, stand-alone proposal to finance a project. Financing
2 may be considered for all or part of a proposed project. A project may
3 be financed in whole or in part with:

4 (a) The proceeds of grant anticipation revenue bonds authorized by
5 23 U.S.C. Sec. 122 and applicable state law. Legislative authorization
6 and appropriation is required in order to use this source of financing;

7 (b) Grants, loans, loan guarantees, lines of credit, revolving
8 lines of credit, or other financing arrangements available under the
9 Transportation Infrastructure Finance and Innovation Act under 23
10 U.S.C. Sec. 181 et seq., or any other applicable federal law;

11 (c) Infrastructure loans or assistance from the state
12 infrastructure bank established by RCW 82.44.195;

13 (d) Federal, state, or local revenues, subject to appropriation by
14 the applicable legislative authority;

15 (e) User fees, tolls, fares, lease proceeds, rents, gross or net
16 receipts from sales, proceeds from the sale of development rights,
17 franchise fees, or any other lawful form of consideration.

18 (2) As security for the payment of financing described in this
19 section, the revenues from the project may be pledged, but no such
20 pledge of revenues constitutes in any manner or to any extent a general
21 obligation of the state. Any financing described in this section may
22 be structured on a senior, parity, or subordinate basis to any other
23 financing.

24 (3) For any transportation project developed under this chapter
25 that is owned, leased, used, or operated by the state, as a public
26 facility, if indebtedness is issued, it must be issued by the state
27 treasurer for the transportation project.

28 (4) For other public projects defined in section 5(2) of this act
29 that are developed in conjunction with a transportation project,
30 financing necessary to develop, construct, or operate the public
31 project must be approved by the state finance committee or by the
32 governing board of a public benefit corporation as provided in the
33 federal Internal Revenue Code section 63-20;

34 (5) For projects that are developed in conjunction with a
35 transportation project but are not themselves a public facility or
36 public project, any lawful means of financing may be used.

1 NEW SECTION. **Sec. 7.** USE OF FEDERAL FUNDS AND SIMILAR SOURCES OF
2 REVENUE. The department may accept from the United States or any of
3 its agencies such funds as are available to this state or to any other
4 unit of government for carrying out the purposes of this chapter,
5 whether the funds are made available by grant, loan, or other financing
6 arrangement. The department may enter into such agreements and other
7 arrangements with the United States or any of its agencies as may be
8 necessary, proper, and convenient for carrying out the purposes of this
9 chapter, subject to section 8 of this act.

10 NEW SECTION. **Sec. 8.** OTHER SOURCES OF VALUABLE CONSIDERATION
11 AUTHORIZED. The department may accept from any source any grant,
12 donation, gift, or other form of conveyance of land, money, other real
13 or personal property, or other valuable thing made to the state of
14 Washington, the department, or a local government for carrying out the
15 purposes of this chapter.

16 Any eligible project may be financed in whole or in part by
17 contribution of any funds or property made by any private entity or
18 public sector partner that is a party to any agreement entered into
19 under this chapter.

20 NEW SECTION. **Sec. 9.** REVIEW, EVALUATION, AND SELECTION OF
21 POTENTIAL PROJECTS. (1) Subject to subsection (2) of this section, the
22 commission may:

23 (a) Solicit concepts or proposals for eligible projects from
24 private entities and units of government;

25 (b) On or after January 1, 2007, accept unsolicited concepts or
26 proposals for eligible projects from private entities and units of
27 government, subject to section 17 of this act;

28 (c) Direct the department to evaluate projects for inclusion in the
29 transportation innovative partnerships program that are already
30 programmed or identified for traditional development by the state;

31 (d) Direct the department to evaluate the concepts or proposals
32 received under this section; and

33 (e) Select potential projects based on the concepts or proposals.
34 The evaluation under this subsection must include consultation with any
35 appropriate unit of government.

1 (2) Before undertaking any of the activities contained in
2 subsection (1) of this section, the commission must have:

3 (a) Completed the tolling feasibility study; and

4 (b) Adopted rules specifying procedures for the proper
5 solicitation, acceptance, review, and evaluation of projects, which
6 procedures must include:

7 (i) A comparison with the department's internal ability to complete
8 the project that documents the advantages of completing the project as
9 a partnership versus solely as a public venture; and

10 (ii) Factors such as priority, cost, risk sharing, scheduling, and
11 management conditions.

12 NEW SECTION. **Sec. 10.** ADMINISTRATIVE FEE AUTHORIZED. The
13 department may charge a reasonable administrative fee for the
14 evaluation of an unsolicited project proposal. The amount of the fee
15 will be established in rules of the commission.

16 NEW SECTION. **Sec. 11.** AUTHORIZATION TO SPEND FUNDS FOR EVALUATION
17 AND NEGOTIATION OF PROPOSALS. The department may spend, out of any
18 funds identified for the purpose, such moneys as may be necessary for
19 the evaluation of concepts or proposals for eligible projects and for
20 negotiating agreements for eligible projects authorized by this
21 chapter. The department may employ engineers, consultants, or other
22 experts the department determines are needed for the purposes of doing
23 the evaluation and negotiation. Expenses incurred by the department
24 under this section before the issuance of transportation project bonds
25 or other financing must be paid by the department and charged to the
26 appropriate project. The department shall keep records and accounts
27 showing each amount so charged.

28 Unless otherwise provided in the omnibus transportation budget the
29 funds spent by the department under this section in connection with the
30 project must be repaid from the proceeds of the bonds or other
31 financing upon the sale of transportation project bonds or upon
32 obtaining other financing for an eligible project, as allowed by law or
33 contract.

34 NEW SECTION. **Sec. 12.** CONSULTATION WITH EXPERTS AUTHORIZED. The
35 commission and department may consult with legal, financial, and other

1 experts inside and outside the public sector in the evaluation,
2 negotiation, and development of projects under this chapter, consistent
3 with RCW 43.10.040 where applicable.

4 NEW SECTION. **Sec. 13.** ENVIRONMENTAL, ENGINEERING, AND TECHNICAL
5 STUDIES CONTRACTED. Notwithstanding any other provision of law, and in
6 the absence of any direct federal funding or direction, the department
7 may contract with a private developer of a selected project proposal to
8 conduct environmental impact studies and engineering and technical
9 studies.

10 NEW SECTION. **Sec. 14.** TERMS OF PARTNERSHIP AGREEMENTS. (1) The
11 following provisions must be included in any agreement to which the
12 state is a party:

13 (a) For any project that proposes terms for stand-alone maintenance
14 or asset management services for a public facility, those services must
15 be provided in a manner consistent with any collective bargaining
16 agreements, the personnel system reform act (chapter 41.80 RCW), and
17 civil service laws that are in effect for the public facility;

18 (b) Transportation projects that are selected for development under
19 this chapter must be identified in the Washington transportation plan
20 or be identified by the authority as being a priority need for the
21 state;

22 (c) If there is a tolling component to the project, then it must be
23 specified that tolling technology used in the project must be
24 consistent with tolling technology standards adopted by the department
25 for transportation-related projects;

26 (d) Provisions for bonding, financial guarantees, deposits, or the
27 posting of other security to secure the payment of laborers,
28 subcontractors, and suppliers who perform work or provide materials as
29 part of the project;

30 (e) All projects must be financed in a manner consistent with
31 section 6 of this act. This chapter is null and void if this
32 subsection or section 6 of this act fails to become law or is held
33 invalid by a court of final jurisdiction.

34 (2) Agreements between the state and private sector partners
35 entered into under this section must specifically include the following
36 contractual elements:

1 (a) The point in the project at which public and private sector
2 partners will enter the project and which partners will assume
3 responsibility for specific project elements;

4 (b) How the partners will share management of the risks of the
5 project;

6 (c) How the partners will share the costs of development of the
7 project;

8 (d) How the partners will allocate financial responsibility for
9 cost overruns;

10 (e) The penalties for nonperformance;

11 (f) The incentives for performance;

12 (g) The accounting and auditing standards to be used to evaluate
13 work on the project;

14 (h) For any project that reverts to public ownership, the
15 responsibility for reconstruction or renovations that are required in
16 order for a facility to meet all applicable government standards upon
17 reversion of the facility to the state; and

18 (i) Provisions for patrolling and law enforcement on transportation
19 projects that are public facilities.

20 NEW SECTION. **Sec. 15.** PUBLIC INVOLVEMENT AND PARTICIPATION PLAN.

21 (1) Before final approval, agreements entered into under this chapter
22 must include a process that provides for public involvement and
23 participation with respect to the development of the projects. This
24 plan must be submitted along with the proposed agreement, and both must
25 be approved under section 16 of this act before the state may enter a
26 binding agreement.

27 (2) All workshops, forums, open houses, meetings, public hearings,
28 or similar public gatherings must be administered and attended by
29 representatives of the state and any other public entities that are
30 party to an agreement authorized by this chapter.

31 NEW SECTION. **Sec. 16.** PROCESS FOR FINAL APPROVAL AND EXECUTION OF

32 CONTRACTS. (1) Before approving an agreement under subsection (2) of
33 this section, the commission, with the technical assistance of the
34 department, must:

35 (a) Prepare a financial analysis that fully discloses all project
36 costs, direct and indirect, including costs of any financing;

1 (b) Publish notice and make available the contents of the
2 agreement, with the exception of patent information, at least twenty
3 days before the public hearing required in (c) of this subsection; and

4 (c) Hold a public hearing on the proposed agreement, with proper
5 notice provided at least twenty days before the hearing. The public
6 hearing must be held within the boundaries of the county seat of the
7 county containing the project.

8 (2) The commission must allow at least twenty days from the public
9 hearing on the proposed agreement required under subsection (1)(c) of
10 this section before approving and executing any agreements authorized
11 under this chapter.

12 NEW SECTION. **Sec. 17. UNSOLICITED PROJECT PROPOSALS.** Before
13 accepting any unsolicited project proposals, the commission must adopt
14 rules to facilitate the acceptance, review, evaluation, and selection
15 of unsolicited project proposals. These rules must include the
16 following:

17 (1) Provisions that specify unsolicited proposals must meet
18 predetermined criteria;

19 (2) Provisions governing procedures for the cessation of
20 negotiations and consideration;

21 (3) Provisions outlining that unsolicited proposals are subject to
22 a two-step process that begins with concept proposals and would only
23 advance to the second step, which are fully detailed proposals, if the
24 commission so directed;

25 (4) Provisions that require concept proposals to include at least
26 the following information: Proposers' qualifications and experience;
27 description of the proposed project and impact; proposed project
28 financing; and known public benefits and opposition; and

29 (5) Provisions that specify the process to be followed if the
30 commission is interested in the concept proposal, which must include
31 provisions:

32 (a) Requiring that information regarding the potential project
33 would be published for a period of not less than thirty days, during
34 which time entities could express interest in submitting a proposal;

35 (b) Specifying that if letters of interest were received during the
36 thirty days, then an additional sixty days for submission of the fully
37 detailed proposal would be allowed; and

1 (c) Procedures for what will happen if there are insufficient
2 proposals submitted or if there are no letters of interest submitted in
3 the appropriate time frame.

4 The commission may adopt other rules as necessary to avoid
5 conflicts with existing laws, statutes, or contractual obligations of
6 the state.

7 The commission may not accept or consider any unsolicited proposals
8 before January 1, 2007.

9 NEW SECTION. **Sec. 18.** ADVISORY COMMITTEES REQUIRED FOR LARGE
10 PROJECTS. For projects with costs, including financing costs, of three
11 hundred million dollars or greater, advisory committees are required.

12 (1) The commission must establish an advisory committee to advise
13 with respect to eligible projects. An advisory committee must consist
14 of not fewer than five and not more than nine members, as determined by
15 the public partners. Members must be appointed by the commission, or
16 for projects with joint public sector participation, in a manner agreed
17 to by the commission and any participating unit of government. In
18 making appointments to the committee, the commission shall consider
19 persons or organizations offering a diversity of viewpoints on the
20 project.

21 (2) An advisory committee shall review concepts or proposals for
22 eligible projects and submit comments to the public sector partners.

23 (3) An advisory committee shall meet as necessary at times and
24 places fixed by the department, but not less than twice per year. The
25 state shall provide personnel services to assist the advisory committee
26 within the limits of available funds. An advisory committee may adopt
27 rules to govern its proceedings and may select officers.

28 (4) An advisory committee must be dissolved once the project has
29 been fully constructed and debt issued to pay for the project has been
30 fully retired.

31 NEW SECTION. **Sec. 19.** CONFIDENTIAL INFORMATION. A proposer shall
32 identify those portions of a proposal that the proposer considers to be
33 confidential, proprietary information, or trade secrets and provide any
34 justification as to why these materials, upon request, should not be
35 disclosed by the authority. Patent information will be covered until
36 the patent expires. Other information such as originality of design or

1 records of negotiation may only be protected under this section until
2 an agreement is reached. Disclosure must occur before final agreement
3 and execution of the contract. Projects under federal jurisdiction or
4 using federal funds must conform to federal regulations under the
5 Freedom of Information Act.

6 NEW SECTION. **Sec. 20.** APPLICATION OF PREVAILING WAGE LAW. If
7 public funds are used to pay any costs of construction of a public
8 facility that is part of an eligible project, chapter 39.12 RCW applies
9 to the entire eligible public works project.

10 NEW SECTION. **Sec. 21.** JOINT AGREEMENTS WITH OTHER GOVERNMENTAL
11 ENTITIES. The state may, either separately or in combination with any
12 other public sector partner, enter into working agreements,
13 coordination agreements, or similar implementation agreements,
14 including the formation of bistate transportation organizations, to
15 carry out the joint implementation of a transportation project selected
16 under this chapter. The state may enter into agreements with other
17 units of government or Canadian provinces for transborder
18 transportation projects.

19 NEW SECTION. **Sec. 22.** EMINENT DOMAIN. The state may exercise the
20 power of eminent domain to acquire property, rights of way, or other
21 rights in property for projects that are necessary to implement an
22 eligible project developed under this chapter, regardless of whether
23 the property will be owned in fee simple by the state.

24 **PART III**
25 **GENERAL PROVISIONS**

26 NEW SECTION. **Sec. 23.** CREATION OF TRANSPORTATION INNOVATIVE
27 PARTNERSHIP ACCOUNT. (1) The transportation innovative partnership
28 account is established in the custody of the state treasurer separate
29 and distinct from the state general fund. Interest earned by the
30 transportation innovative partnership account must be credited to the
31 account. The account is subject to allotment procedures under chapter
32 43.88 RCW.

1 (2) The following moneys must be deposited into the transportation
2 innovative partnership account:

3 (a) Proceeds from bonds or other financing instruments issued under
4 section 25 of this act;

5 (b) Revenues received from any transportation project developed
6 under this chapter or developed under the general powers granted to the
7 department; and

8 (c) Any other moneys that are by donation, grant, contract, law, or
9 other means transferred, allocated, or appropriated to the account.

10 (3) Moneys in the transportation innovative partnership account may
11 only be expended upon evidence of approval by the Washington state
12 legislature, either upon appropriation of supporting state funds or by
13 other statutory direction.

14 (4) The state treasurer shall serve as a fiduciary for the purpose
15 of carrying out this chapter and implementing all or portions of any
16 transportation project financed under this chapter.

17 (5) Moneys in the transportation innovative partnership account
18 that were derived from revenue subject to Article II, section 40
19 (Amendment 18) of the Washington state Constitution, may be used only
20 for purposes authorized by that provision of the state Constitution.

21 (6) The state treasurer shall establish separate subaccounts within
22 the transportation innovative partnership account for each
23 transportation project that is initiated under this chapter or under
24 the general powers granted to the department. Except as provided in
25 subsection (5) of this section, the state may pledge moneys in the
26 transportation innovative partnership account to secure revenue bonds
27 or any other debt obligations relating to the project for which the
28 account is established.

29 NEW SECTION. **Sec. 24.** USE OF TRANSPORTATION INNOVATIVE
30 PARTNERSHIP ACCOUNT. (1) The state may use moneys in the

31 transportation innovative partnership subaccount to ensure the
32 repayment of loan guarantees or extensions of credit made to or on
33 behalf of private entities engaged in the planning, acquisition,
34 financing, development, design, construction, reconstruction,
35 replacement, improvement, maintenance, preservation, management,
36 repair, or operation of any eligible project that is related to a
37 subaccount established under this chapter.

1 (2) The lien of a pledge made under this section is subordinate to
2 the lien of a pledge securing bonds payable from moneys in the motor
3 vehicle fund established in RCW 46.68.070, or the transportation
4 innovative partnership account established in section 23 of this act.

5 NEW SECTION. **Sec. 25.** AUTHORITY TO ISSUE REVENUE BONDS AND OTHER
6 OBLIGATIONS. (1) In addition to any authority the commission or
7 department has to issue and sell bonds and other similar obligations,
8 this section establishes continuing authority for the issuance and sale
9 of bonds and other similar obligations in a manner consistent with this
10 section. To finance a project in whole or in part, the commission may
11 request that the state treasurer issue revenue bonds on behalf of the
12 public sector partner. The bonds must be secured by a pledge of, and
13 a lien on, and be payable only from moneys in the transportation
14 innovative partnership account established in section 23 of this act,
15 and any other revenues specifically pledged to repayment of the bonds.
16 Such a pledge by the public partner creates a lien that is valid and
17 binding from the time the pledge is made. Revenue bonds issued under
18 this section are not general obligations of the state or local
19 government and are not secured by or payable from any funds or assets
20 of the state other than the moneys and revenues specifically pledged to
21 the repayment of such revenue bonds.

22 (2) Moneys received from the issuance of revenue bonds or other
23 debt obligations, including any investment earnings thereon, may be
24 spent:

25 (a) For the purpose of financing the costs of the project for which
26 the bonds are issued;

27 (b) To pay the costs and other administrative expenses of the
28 bonds;

29 (c) To pay the costs of credit enhancement or to fund any reserves
30 determined to be necessary or advantageous in connection with the
31 revenue bonds; and

32 (d) To reimburse the public sector partners for any costs related
33 to carrying out the projects authorized under this chapter.

34 **PART IV**
35 **ALTERNATIVE CONTRACTING AND INNOVATIVE PROJECT MANAGEMENT**

1 NEW SECTION. **Sec. 26.** STUDY OF ALTERNATIVE CONTRACTING AND
2 PROJECT MANAGEMENT AUTHORITIES. The department shall conduct a study
3 of:

4 (1) The contracting powers and project management authorities it
5 currently possesses; those same powers and authorities authorized under
6 this chapter; and those powers and authorities employed by other states
7 or the private sector;

8 (2) Methods of encouraging competition for the development of
9 transportation projects; and

10 (3) Any additional procedures that may be necessary or desirable
11 for negotiating contracts in situations of a single qualified bidder,
12 in either solicited or unsolicited proposals.

13 The department must submit its report, along with any recommended
14 legislative changes, to the commission by November 1, 2005, and to the
15 governor and the legislature for consideration in the 2006 legislative
16 session.

17 **PART V**
18 **CONSTRUCTION**

19 NEW SECTION. **Sec. 27.** CONFORMITY WITH FEDERAL LAWS.
20 Notwithstanding any provision of this chapter, applicable federal laws,
21 rules, and regulations govern in any situation that involves federal
22 funds if the federal laws, rules, or regulations:

23 (1) Conflict with any provision of this chapter;

24 (2) Require procedures that are additional to or different from
25 those provided in this chapter; or

26 (3) Require contract provisions not authorized in this chapter. If
27 no federal funds are provided, state laws, rates, and rules will
28 govern.

29 NEW SECTION. **Sec. 28.** Captions used in this chapter are not part
30 of the law.

31 NEW SECTION. **Sec. 29.** Sections 1 through 28 of this act
32 constitute a new chapter in Title 47 RCW.

1 NEW SECTION. **Sec. 30.** A new section is added to chapter 47.04 RCW
2 to read as follows:

3 The department of transportation may impose and collect latecomer
4 fees on behalf of another entity for infrastructure improvement
5 projects initially funded partially or entirely by private sources.
6 However, there must be an agreement in place between the department of
7 transportation and the entity, before the imposition and collection of
8 any such fees, that specifies (1) the collection process, (2) the
9 maximum amount that may be collected, and (3) the period of time during
10 which the collection may occur.

 Passed by the House April 20, 2005.

 Passed by the Senate April 12, 2005.

 Approved by the Governor May 9, 2005.

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