

SHB 1773 - H AMD 333

By Representative Clibborn

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 47.56 RCW
4 to read as follows:

5 (1) Unless otherwise delegated, only the legislature may authorize
6 the imposition of tolls on specific facilities, corridors, crossings,
7 or interconnections thereof.

8 (2) All revenue from tolled facilities, corridors, crossings, or
9 interconnections thereof must be used only to improve, preserve, or
10 operate the tolled facilities, corridors, crossings, or
11 interconnections on or in which the revenue is collected. For the
12 purposes of this chapter, "facilities, corridors, crossings, or
13 interconnections" means the following: (a) Bridges, highways, or
14 roadways; (b) vessels, buses, vehicles, or other conveyances of people
15 or goods; or (c) a system of facilities or corridors as defined by the
16 tolling authority. The expenditure of toll revenues is subject to
17 section 3 of this act.

18 (3) Any proposal for the initial establishment of tolled
19 facilities, corridors, crossings, or interconnections shall consider
20 the following policy guidelines:

21 (a) Overall Direction. Washington should use tolling to encourage
22 effective use of the transportation system and provide a supplementary
23 source of transportation funding.

24 (b) When to Use Tolling. Tolling should be used when it can be
25 demonstrated to contribute a significant portion of the cost of a
26 project that cannot be funded solely with existing sources or optimize
27 the performance of the transportation system. Such tolling should in
28 all cases be fairly and equitably applied in the context of the
29 statewide transportation system and not have significant adverse

1 impacts through the diversion of traffic to other routes that cannot
2 otherwise be mitigated.

3 (c) Use of Toll Revenue. All revenue from tolled facilities,
4 corridors, crossings, or interconnections must be used only to improve,
5 preserve, or operate the tolled facilities, corridors, crossings, or
6 interconnections on or in which the revenue is collected.

7 (d) Setting Toll Rates. Toll rates, which may include variable
8 pricing, should be set to optimize system performance, recognizing
9 necessary trade-offs to generate revenue.

10 (e) Duration of Toll Collection. Because transportation
11 infrastructure projects have costs and benefits that extend well beyond
12 those paid for by initial construction funding, tolls should remain in
13 place to fund additional capacity, capital rehabilitation, maintenance,
14 and operations, and to optimize performance of the system.

15 (4) A citizen advisory committee may be created at the direction of
16 the legislature or the toll authority for any tolled facilities,
17 corridors, crossings, or interconnections. The governor shall appoint
18 nine members to the committee, all of whom must be permanent residents
19 of the affected project area as defined for each project. Members of
20 the committee shall serve without receiving compensation.

21 (a) The citizen advisory committee shall serve in an advisory
22 capacity to the toll authority on all matters related to the imposition
23 of tolls including, but not limited to: (i) The feasibility of
24 providing discounts to frequent users, electronic transponder users,
25 senior citizens, or students; (ii) the trade-off of lower tolls versus
26 the early retirement of debt; and (iii) consideration of variable or
27 time of day pricing.

28 (b) If a citizen advisory committee is created, a toll rate or
29 variable tolling plan may not be imposed or modified unless the citizen
30 advisory committee has been given at least twenty days to review and
31 comment on any proposed toll rate schedule. In setting toll rates, the
32 toll authority shall consider recommendations of the citizen advisory
33 committee.

34 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.56 RCW
35 to read as follows:

36 (1) Unless these powers are otherwise delegated by the legislature,

1 the transportation commission is the tolling authority for the state.

2 The tolling authority may:

3 (a) Set toll rates, establish appropriate exemptions, and make
4 adjustments as conditions warrant;

5 (b) Review and approve toll collection and toll operations policies
6 on the affected facilities, corridors, crossings, or interconnections
7 thereof;

8 (c) Collect and remit toll revenues to the custody of the state
9 treasurer for deposit in a special toll account or, where the authority
10 is specifically authorized by law, pledge revenues for the repayment of
11 debt or as a capital contribution to improvements on the facilities,
12 corridors, or crossings;

13 (d) Enter into contracts with the department or local units of
14 government for the necessary construction, reconstruction, operations,
15 maintenance, preservation, or other improvements to the facilities,
16 corridors, or crossings.

17 (2) The toll authority, in determining toll rates, shall consider
18 the policy guidelines established in section 1 of this act.

19 (3) In setting and periodically adjusting toll rates, the toll
20 authority must ensure that toll rates will generate revenue sufficient
21 to:

22 (a) Cover the operating costs of the facilities, corridors,
23 crossings, or interconnections thereof, including necessary
24 maintenance, preservation, administration, and toll enforcement by
25 public law enforcement;

26 (b) Meet obligations for the repayment of debt and interest
27 thereon, and any other associated financing costs including, but not
28 limited to, required reserves and insurance; and

29 (c) Meet any other obligations of the toll authority to provide its
30 proportionate share of funding contributions for any projects or
31 operations in the facilities, corridors, crossings, or interconnections
32 thereof.

33 (4) The established toll rates may include variable pricing, and
34 should be set to optimize system performance, recognizing necessary
35 trade-offs to generate revenue for the purposes specified in subsection
36 (3) of this section. Tolls may vary for type of vehicle, time of day,
37 traffic conditions, or other factors designed to improve performance of
38 the system.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 47.56 RCW
2 to read as follows:

3 Expenditures of toll revenues shall be made only: To cover the
4 operating costs of the facilities, corridors, crossings, or
5 interconnections thereof, including necessary maintenance,
6 preservation, administration, and toll enforcement by public law
7 enforcement; to meet obligations for the repayment of debt and interest
8 thereon, and any other associated financing costs including, but not
9 limited to, required reserves and insurance; to meet any other
10 obligations to provide funding contributions for any projects or
11 operations on the facilities, corridors, crossings, or interconnections
12 thereof; or for any other improvements to the facilities, corridors,
13 crossings, or interconnections thereof.

14 **Sec. 4.** RCW 47.56.030 and 2002 c 114 s 19 are each amended to read
15 as follows:

16 (1) Except as permitted under chapter 47.29 or 47.46 RCW:

17 (a) The department of transportation shall have full charge of the
18 construction of all toll bridges and other toll facilities including
19 the Washington state ferries, and the operation and maintenance
20 thereof.

21 (b) Subject to section 2 of this act, the transportation commission
22 shall determine and establish the tolls and charges thereon, and shall
23 perform all duties and exercise all powers relating to the financing,
24 refinancing, and fiscal management of all toll bridges and other toll
25 facilities including the Washington state ferries, and bonded
26 indebtedness in the manner provided by law.

27 (c) The department shall have full charge of design of all toll
28 facilities.

29 (d) The department shall utilize and administer toll collection
30 systems that are simple, unified, and interoperable. To the extent
31 practicable, the department shall avoid the use of toll booths.

32 (e) Except as provided in this section, the department shall
33 proceed with the construction of such toll bridges and other facilities
34 and the approaches thereto by contract in the manner of state highway
35 construction immediately upon there being made available funds for such
36 work and shall prosecute such work to completion as rapidly as

1 practicable. The department is authorized to negotiate contracts for
2 any amount without bid under (~~(d)~~) (e)(i) and (ii) of this
3 subsection:

4 (i) Emergency contracts, in order to make repairs to ferries or
5 ferry terminal facilities or removal of such facilities whenever
6 continued use of ferries or ferry terminal facilities constitutes a
7 real or immediate danger to the traveling public or precludes prudent
8 use of such ferries or facilities; and

9 (ii) Single source contracts for vessel dry dockings, when there is
10 clearly and legitimately only one available bidder to conduct dry dock-
11 related work for a specific class or classes of vessels. The contracts
12 may be entered into for a single vessel dry docking or for multiple
13 vessel dry dockings for a period not to exceed two years.

14 (2) The department shall proceed with the procurement of materials,
15 supplies, services, and equipment needed for the support, maintenance,
16 and use of a ferry, ferry terminal, or other facility operated by
17 Washington state ferries, in accordance with chapter 43.19 RCW except
18 as follows:

19 (a) Except as provided in (d) of this subsection, when the
20 secretary of the department of transportation determines in writing
21 that the use of invitation for bid is either not practicable or not
22 advantageous to the state and it may be necessary to make competitive
23 evaluations, including technical or performance evaluations among
24 acceptable proposals to complete the contract award, a contract may be
25 entered into by use of a competitive sealed proposals method, and a
26 formal request for proposals solicitation. Such formal request for
27 proposals solicitation shall include a functional description of the
28 needs and requirements of the state and the significant factors.

29 (b) When purchases are made through a formal request for proposals
30 solicitation the contract shall be awarded to the responsible proposer
31 whose competitive sealed proposal is determined in writing to be the
32 most advantageous to the state taking into consideration price and
33 other evaluation factors set forth in the request for proposals. No
34 significant factors may be used in evaluating a proposal that are not
35 specified in the request for proposals. Factors that may be considered
36 in evaluating proposals include but are not limited to: Price;
37 maintainability; reliability; commonality; performance levels; life

1 cycle cost if applicable under this section; cost of transportation or
2 delivery; delivery schedule offered; installation cost; cost of spare
3 parts; availability of parts and service offered; and the following:

4 (i) The ability, capacity, and skill of the proposer to perform the
5 contract or provide the service required;

6 (ii) The character, integrity, reputation, judgment, experience,
7 and efficiency of the proposer;

8 (iii) Whether the proposer can perform the contract within the time
9 specified;

10 (iv) The quality of performance of previous contracts or services;

11 (v) The previous and existing compliance by the proposer with laws
12 relating to the contract or services;

13 (vi) Objective, measurable criteria defined in the request for
14 proposal. These criteria may include but are not limited to items such
15 as discounts, delivery costs, maintenance services costs, installation
16 costs, and transportation costs; and

17 (vii) Such other information as may be secured having a bearing on
18 the decision to award the contract.

19 (c) When purchases are made through a request for proposal process,
20 proposals received shall be evaluated based on the evaluation factors
21 set forth in the request for proposal. When issuing a request for
22 proposal for the procurement of propulsion equipment or systems that
23 include an engine, the request for proposal must specify the use of a
24 life cycle cost analysis that includes an evaluation of fuel
25 efficiency. When a life cycle cost analysis is used, the life cycle
26 cost of a proposal shall be given at least the same relative importance
27 as the initial price element specified in the request of proposal
28 documents. The department may reject any and all proposals received.
29 If the proposals are not rejected, the award shall be made to the
30 proposer whose proposal is most advantageous to the department,
31 considering price and the other evaluation factors set forth in the
32 request for proposal.

33 (d) If the department is procuring large equipment or systems
34 (e.g., electrical, propulsion) needed for the support, maintenance, and
35 use of a ferry operated by Washington state ferries, the department
36 shall proceed with a formal request for proposal solicitation under
37 this subsection (2) without a determination of necessity by the
38 secretary.

1 **Sec. 5.** RCW 47.56.070 and 1977 ex.s. c 151 s 67 are each amended
2 to read as follows:

3 The department of transportation may(~~(, with the approval of the~~
4 ~~transportation commission,~~) provide for the (~~(establishment,~~)
5 construction(~~(,)~~) and operation of toll tunnels, toll roads, and other
6 facilities necessary for their construction and connection with public
7 highways of the state. It may cause surveys to be made to determine
8 the propriety of their (~~(establishment,~~) construction(~~(,)~~) and
9 operation, and may acquire rights of way and other facilities necessary
10 to carry out the provisions hereof; and may issue, sell, and redeem
11 bonds, and deposit and expend them; secure and remit financial and
12 other assistance in the construction thereof; carry insurance thereon;
13 and handle any other matters pertaining thereto, all of which shall be
14 conducted in the same manner and under the same procedure as provided
15 for the (~~(establishing,~~) constructing, operating, and maintaining of
16 toll bridges by the department, insofar as reasonably consistent and
17 applicable. (~~(No toll facility, toll bridge, toll road, or toll~~
18 ~~tunnel, shall be combined with any other toll facility for the purpose~~
19 ~~of financing unless such facilities form a continuous project, to the~~
20 ~~end that each such facility or project be self liquidating and self-~~
21 ~~sustaining.))~~)

22 **Sec. 6.** RCW 47.56.075 and 2002 c 56 s 404 are each amended to read
23 as follows:

24 The department shall approve for construction only such toll roads
25 as the legislature specifically authorizes or such toll facilities as
26 are specifically sponsored by a regional transportation investment
27 district, transportation benefit district, city, town, or county.

28 **Sec. 7.** RCW 47.56.0761 and 2006 c 311 s 20 are each amended to
29 read as follows:

30 Notwithstanding any provision to the contrary in this chapter, a
31 regional transportation investment district may authorize vehicle
32 tolls, only after review by the transportation commission, on either
33 Lake Washington bridge within its boundaries to implement a regional
34 transportation investment plan as authorized in chapter 36.120 RCW and
35 RCW 47.56.076.

1 **Sec. 8.** RCW 47.56.240 and 1984 c 7 s 265 are each amended to read
2 as follows:

3 Subject to section 2 of this act, the commission is hereby
4 empowered to fix the rates of toll and other charges for all toll
5 bridges built under the terms of this chapter. Toll charges so fixed
6 may be changed from time to time as conditions warrant. The
7 commission, in establishing toll charges, shall give due consideration
8 to the cost of operating and maintaining such toll bridge or toll
9 bridges including the cost of insurance, and to the amount required
10 annually to meet the redemption of bonds and interest payments on them.
11 The tolls and charges shall be at all times fixed at rates to yield
12 annual revenue at least equal to annual operating and maintenance
13 expenses including insurance costs and all redemption payments and
14 interest charges of the bonds, including applicable excess coverage,
15 issued for any particular toll bridge or toll bridges as the bonds
16 become due. The bond redemption and interest payments constitute a
17 first direct (~~and exclusive~~) charge and lien on all such tolls and
18 other revenues and interest thereon. Sinking funds created therefrom
19 received from the use and operation of the toll bridge or toll bridges,
20 and such tolls and revenues together with the interest earned thereon
21 shall constitute a trust fund for the security and payment of such
22 bonds and shall not be used or pledged for any other purpose as long as
23 any of these bonds are outstanding and unpaid, except to the extent
24 that the tolls and charges exceed the amount necessary to achieve the
25 purpose of this section.

26 **Sec. 9.** RCW 35.74.050 and 1965 c 7 s 35.74.050 are each amended to
27 read as follows:

28 A city or town may build and maintain toll bridges and charge and
29 collect tolls thereon, and to that end may provide a system and elect
30 or appoint persons to operate the same, or the said bridges may be made
31 free, as it may elect.

32 Any toll proposed under this section must first be reviewed by the
33 transportation commission or its successor statewide tolling
34 authority."

35 Correct the title.

EFFECT: Replaces the term "facilities and corridors" throughout

the bill with "facilities, corridors, crossings, and interconnections" thereby broadening the definition of tolled projects to which the limitation on the expenditure of toll revenues apply. Limits the Transportation Commission to entering into contracts only with the Washington State Department of Transportation or local units of government for construction, operation, maintenance, preservation, or improvements related to toll facilities. Removes a restriction on combining toll facilities for financing purposes.

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