

SHB 1272 - H AMD 936

By Representative Dunshee

ADOPTED 04/26/2009

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

3 NEW SECTION. **Sec. 1.** For the purpose of providing funds to
4 finance the projects described and authorized by the legislature in the
5 capital and operating appropriations acts for the 2007-2009 and
6 2009-2011 fiscal bienniums, and all costs incidental thereto, the state
7 finance committee is authorized to issue general obligation bonds of
8 the state of Washington in the sum of two billion two hundred nineteen
9 million dollars, or as much thereof as may be required, to finance
10 these projects and all costs incidental thereto. Bonds authorized in
11 this section may be sold at such price as the state finance committee
12 shall determine. No bonds authorized in this section may be offered
13 for sale without prior legislative appropriation of the net proceeds of
14 the sale of the bonds.

15 NEW SECTION. **Sec. 2.** The proceeds from the sale of the bonds
16 authorized in section 1 of this act shall be deposited in the state
17 building construction account created by RCW 43.83.020. The proceeds
18 shall be transferred as follows:

19 (1) One billion nine hundred forty-seven million dollars to remain
20 in the state building construction account created by RCW 43.83.020;

21 (2) Twenty-seven million dollars to the outdoor recreation account
22 created by RCW 79A.25.060;

23 (3) Twenty-seven million dollars to the habitat conservation
24 account created by RCW 79A.15.020;

25 (4) Six million dollars to the riparian protection account created
26 by RCW 79A.15.120;

27 (5) Ten million dollars to the farmlands preservation account
28 created by RCW 79A.15.130;

1 (6) One hundred fifty-nine million dollars to the state taxable
2 building construction account. All receipts from taxable bond issues
3 are to be deposited into the account. If the state finance committee
4 deems it necessary or advantageous to issue more than the amount
5 specified in this subsection (6) as taxable bonds in order to comply
6 with federal internal revenue service rules and regulations pertaining
7 to the use of nontaxable bond proceeds or in order to reduce the total
8 financing costs for bonds issued, the proceeds of such additional
9 taxable bonds shall be transferred to the state taxable building
10 construction account in lieu of any transfer otherwise provided by this
11 section. The state treasurer shall submit written notice to the
12 director of financial management if it is determined that any such
13 additional transfer to the state taxable building construction account
14 is necessary. Moneys in the account may be spent only after
15 appropriation.

16 These proceeds shall be used exclusively for the purposes specified
17 in this section and for the payment of expenses incurred in the
18 issuance and sale of the bonds issued for the purposes of this section,
19 and shall be administered by the office of financial management subject
20 to legislative appropriation.

21 NEW SECTION. **Sec. 3.** (1) The debt-limit general fund bond
22 retirement account shall be used for the payment of the principal of
23 and interest on the bonds authorized in section 2 (1), (2), (3), (4),
24 (5), and (6) of this act.

25 (2) The state finance committee shall, on or before June 30th of
26 each year, certify to the state treasurer the amount needed in the
27 ensuing twelve months to meet the bond retirement and interest
28 requirements on the bonds authorized in section 2 (1), (2), (3), (4),
29 (5), and (6) of this act.

30 (3) On each date on which any interest or principal and interest
31 payment is due on bonds issued for the purposes of section 2 (1), (2),
32 (3), (4), (5), and (6) of this act the state treasurer shall withdraw
33 from any general state revenues received in the state treasury and
34 deposit in the debt-limit general fund bond retirement account an
35 amount equal to the amount certified by the state finance committee to
36 be due on the payment date.

1 NEW SECTION. **Sec. 4.** (1) Bonds issued under sections 1 through 3
2 of this act shall state that they are a general obligation of the state
3 of Washington, shall pledge the full faith and credit of the state to
4 the payment of the principal thereof and the interest thereon, and
5 shall contain an unconditional promise to pay the principal and
6 interest as the same shall become due.

7 (2) The owner and holder of each of the bonds or the trustee for
8 the owner and holder of any of the bonds may by mandamus or other
9 appropriate proceeding require the transfer and payment of funds as
10 directed in this section.

11 NEW SECTION. **Sec. 5.** The legislature may provide additional means
12 for raising moneys for the payment of the principal of and interest on
13 the bonds authorized in section 1 of this act, and sections 2 and 3 of
14 this act shall not be deemed to provide an exclusive method for the
15 payment.

16 **Sec. 6.** RCW 47.10.867 and 2003 c 147 s 7 are each amended to read
17 as follows:

18 For the purpose of providing funds for the planning, design,
19 construction, reconstruction, and other necessary costs for
20 transportation projects, the state finance committee is authorized to
21 issue general obligation bonds of the state of Washington in the sum of
22 ((three)) two hundred forty-nine million five hundred thousand dollars,
23 or as much thereof as may be required, to finance these projects and
24 all costs incidental thereto. Bonds authorized in this section may be
25 sold at such price as the state finance committee shall determine. No
26 bonds authorized in this section may be offered for sale without prior
27 legislative appropriation of the net proceeds of the sale of the bonds.

28 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act constitute
29 a new chapter in Title 43 RCW.

30 NEW SECTION. **Sec. 8.** In order to provide funds necessary for the
31 location, design, right-of-way, and construction of the state route
32 number 520 corridor projects, as allowed in section 2, chapter . . .
33 (Engrossed Substitute House Bill No. 2211), Laws of 2009, there shall
34 be issued and sold upon the request of the department of transportation

1 a total of one billion nine hundred fifty million dollars of general
2 obligation bonds of the state of Washington first payable from toll
3 revenue and excise taxes on motor vehicle and special fuels in
4 accordance with section 12 of this act.

5 NEW SECTION. **Sec. 9.** Upon the request of the department of
6 transportation, the state finance committee shall supervise and provide
7 for the issuance, sale, and retirement of the bonds authorized by this
8 act in accordance with chapter 39.42 RCW. Bonds authorized by this act
9 shall be sold in the manner, at time or times, in amounts, and at the
10 price as the state finance committee shall determine. No bonds may be
11 offered for sale without prior legislative appropriation of the net
12 proceeds of the sale of the bonds.

13 NEW SECTION. **Sec. 10.** The proceeds from the sale of bonds
14 authorized by this act shall be deposited in the state route number 520
15 corridor account created under chapter . . . (Engrossed Substitute
16 House Bill No. 2211), Laws of 2009, and shall be available only for the
17 purposes enumerated in section 8 of this act, for the payment of bond
18 anticipation notes or other interim financing, if any, capitalizing
19 interest on the bonds, and for the payment of bond issuance costs,
20 including the costs of underwriting.

21 NEW SECTION. **Sec. 11.** The toll facility bond retirement account
22 is created in the state treasury for the purpose of payment of the
23 principal of and interest and premium on bonds. Both principal of and
24 interest on the bonds issued for the purposes of this act shall be
25 payable from the toll facility bond retirement account. The state
26 finance committee may provide that special subaccounts be created in
27 the account to facilitate payment of the principal of and interest on
28 the bonds. The state finance committee shall, on or before June 30th
29 of each year, certify to the state treasurer the amount required for
30 principal and interest on the bonds in accordance with the bond
31 proceedings.

32 NEW SECTION. **Sec. 12.** Bonds issued under the authority of this
33 section and sections 8, 13, and 14 of this act shall distinctly state
34 that they are a general obligation of the state of Washington, shall

1 pledge the full faith and credit of the state to the payment of the
2 principal thereof and the interest thereon, and shall contain an
3 unconditional promise to pay such principal and interest as the same
4 shall become due. The principal of and interest on the bonds shall be
5 first payable in the manner provided in this section and sections 8,
6 13, and 14 of this act from toll revenue and then from proceeds of
7 excise taxes on motor vehicle and special fuels to the extent toll
8 revenue is not available for that purpose. Toll revenue and the state
9 excise taxes on motor vehicle and special fuels imposed by chapters
10 82.36 and 82.38 RCW are hereby pledged to the payment of any bonds and
11 the interest thereon issued under the authority of this section and
12 sections 8, 13, and 14 of this act, and the legislature agrees to
13 continue to impose these toll charges on the state route number 520
14 corridor, and on any other eligible toll facility designated by the
15 legislature and on which the imposition of tolls is authorized by the
16 legislature in respect of the bonds, and excise taxes on motor vehicle
17 and special fuels in amounts sufficient to pay, when due, the principal
18 and interest on all bonds issued under the authority of this section
19 and sections 8, 13, and 14 of this act.

20 NEW SECTION. **Sec. 13.** For bonds issued under the authority of
21 this section and sections 8, 12, and 14 of this act, the state
22 treasurer shall first withdraw toll revenue from the state route number
23 520 corridor account created under chapter . . . (Engrossed Substitute
24 House Bill No. 2211), Laws of 2009, and, to the extent toll revenue is
25 not available, excise taxes on motor vehicle and special fuels in the
26 motor vehicle fund and deposit in the toll facility bond retirement
27 account, or a special subaccount in the account, such amounts, and at
28 such times, as are required by the bond proceedings.

29 Any excise taxes on motor vehicle and special fuels required for
30 bond retirement or interest on the bonds authorized by this section and
31 sections 8, 12, and 14 of this act shall be taken from that portion of
32 the motor vehicle fund that results from the imposition of excise taxes
33 on motor vehicle and special fuels and which is, or may be,
34 appropriated to the department for state highway purposes. Funds
35 required shall never constitute a charge against any other allocations
36 of motor vehicle fuel and special fuel tax revenues to the state,
37 counties, cities, and towns unless the amount arising from excise taxes

1 on motor vehicle and special fuels distributed to the state in the
2 motor vehicle fund proves insufficient to meet the requirements for
3 bond retirement or interest on any such bonds.

4 Any payments for bond retirement or interest on the bonds taken
5 from other revenues from the motor vehicle fuel or special fuel taxes
6 that are distributable to the state, counties, cities, and towns shall
7 be repaid from available toll revenue in the manner provided in the
8 bond proceedings or, if toll revenue is not available for that purpose,
9 from the first excise taxes on motor vehicle and special fuels
10 distributed to the motor vehicle fund not required for bond retirement
11 or interest on the bonds. Any excise taxes on motor vehicle and
12 special fuels required for bond retirement or interest on the bonds
13 authorized by this section and sections 8, 12, and 14 of this act shall
14 be reimbursed to the motor vehicle fund from toll revenue in the manner
15 and with the priority specified in the bond proceedings.

16 NEW SECTION. **Sec. 14.** Bonds issued under the authority of
17 sections 8, 12, and 13 of this act and this section and any other
18 general obligation bonds of the state of Washington that have been or
19 that may be authorized and that pledge motor vehicle and special fuels
20 excise taxes for the payment of principal and interest thereon shall be
21 an equal charge against the revenues from such motor vehicle and
22 special fuels excise taxes.

23 **Sec. 15.** RCW 47.56.850 and 2008 c 122 s 7 are each amended to read
24 as follows:

25 (1) Unless these powers are otherwise delegated by the legislature,
26 the transportation commission is the tolling authority for the state.
27 The tolling authority shall:

28 (a) Set toll rates, establish appropriate exemptions, if any, and
29 make adjustments as conditions warrant on eligible toll facilities;

30 (b) Review toll collection policies, toll operations policies, and
31 toll revenue expenditures on the eligible toll facilities and report
32 annually on this review to the legislature.

33 (2) The tolling authority, in determining toll rates, shall
34 consider the policy guidelines established in RCW 47.56.830.

35 (3) Unless otherwise directed by the legislature, in setting and

1 periodically adjusting toll rates, the tolling authority must ensure
2 that toll rates will generate revenue sufficient to:

3 (a) Meet the operating costs of the eligible toll facilities,
4 including necessary maintenance, preservation, renewal, replacement,
5 administration, and toll enforcement by public law enforcement;

6 (b) Meet obligations for the ~~((repayment))~~ timely payment of debt
7 ~~((and interest on the))~~ service on bonds issued for eligible toll
8 facilities, and any other associated financing costs including, but not
9 limited to, required reserves, minimum debt coverage or other
10 appropriate contingency funding, ~~((and))~~ insurance, and compliance with
11 all other financial and other covenants made by the state in the bond
12 proceedings; ((and))

13 (c) Meet obligations to reimburse the motor vehicle fund for excise
14 taxes on motor vehicle and special fuels applied to the payment of
15 bonds issued for eligible toll facilities; and

16 (d) Meet any other obligations of the tolling authority to provide
17 its proportionate share of funding contributions for any projects or
18 operations of the eligible toll facilities.

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

25 (5) In fixing and adjusting toll rates under this section, the only
26 toll revenue to be taken into account must be toll revenue pledged to
27 bonds that includes toll receipts, and the only debt service
28 requirements to be taken into account must be debt service on bonds
29 payable from and secured by toll revenue that includes toll receipts.

30 (6) The legislature pledges to appropriate toll revenue as
31 necessary to carry out the purposes of this section. When the
32 legislature has specifically identified and designated an eligible toll
33 facility and authorized the issuance of bonds for the financing of the
34 eligible toll facility that are payable from and secured by a pledge of
35 toll revenue, the legislature further agrees for the benefit of the
36 owners of outstanding bonds issued by the state for eligible toll
37 facilities to continue in effect and not to impair or withdraw the
38 authorization of the tolling authority to fix and adjust tolls as

1 provided in this section. The state finance committee shall pledge the
2 state's obligation to impose and maintain tolls, together with the
3 application of toll revenue as described in this section, to the owners
4 of any bonds.

5 NEW SECTION. Sec. 16. If and to the extent that the state finance
6 committee determines, in consultation with the department of
7 transportation and the tolling authority, that it will be beneficial
8 for the state to issue any bonds authorized in sections 8 and 12
9 through 14 of this act as toll revenue bonds rather than as general
10 obligation bonds, the state finance committee is authorized to issue
11 and sell, upon the request of the department of transportation, such
12 bonds as toll revenue bonds and not as general obligation bonds.
13 Notwithstanding section 12 of this act, each such bond shall contain a
14 recital that payment or redemption of the bond and payment of the
15 interest and any premium thereon is payable solely from and secured
16 solely by a direct pledge, charge, and lien upon toll revenue and is
17 not a general obligation of the state to which the full faith and
18 credit of the state is pledged.

19 Toll revenue is hereby pledged to the payment of any bonds and the
20 interest thereon issued under the authority of this section, and the
21 legislature agrees to continue to impose these toll charges on the
22 state route number 520 corridor, and on any other eligible toll
23 facility designated by the legislature and on which the imposition of
24 tolls is authorized by the legislature in respect of the bonds, in
25 amounts sufficient to pay, when due, the principal and interest on all
26 bonds issued under the authority of this section.

27 NEW SECTION. Sec. 17. The state finance committee may determine
28 and include in any resolution authorizing the issuance of any bonds
29 under this act, such terms, provisions, covenants, and conditions as it
30 may deem appropriate in order to assist with the marketing and sale of
31 the bonds, confer rights upon the owners of bonds, and safeguard rights
32 of the owners of bonds including, among other things:

33 (1) Provisions regarding the maintenance and operation of eligible
34 toll facilities;

35 (2) The pledges, uses, and priorities of application of toll
36 revenue;

1 (3) Provisions that bonds shall be payable from and secured solely
2 by toll revenue as provided by section 16 of this act, or shall be
3 payable from and secured by both toll revenue and by a pledge of excise
4 taxes on motor vehicle and special fuels and the full faith and credit
5 of the state as provided in sections 8 and 12 through 14 of this act;

6 (4) In consultation with the department of transportation and the
7 tolling authority, financial covenants requiring that the eligible toll
8 facilities must produce specified coverage ratios of toll revenue to
9 debt service on bonds;

10 (5) The purposes and conditions that must be satisfied prior to the
11 issuance of any additional bonds that are to be payable from and
12 secured by any toll revenue on an equal basis with previously issued
13 and outstanding bonds payable from and secured by toll revenue;

14 (6) Provisions that bonds for which any toll revenue are pledged,
15 or for which a pledge of any toll revenue may be reserved, may be
16 structured on a senior, parity, subordinate, or special lien basis in
17 relation to any other bonds for which toll revenue is pledged, with
18 respect to toll revenue only; and

19 (7) Provisions regarding reserves, credit enhancement, liquidity
20 facilities, and payment agreements with respect to bonds.

21 Notwithstanding the foregoing, covenants and conditions detailing
22 the character of management, maintenance, and operation of eligible
23 toll facilities, insurance for eligible toll facilities, financial
24 management of toll revenue, and disposition of eligible toll facilities
25 must first be approved by the department of transportation.

26 The owner of any bond may by mandamus or other appropriate
27 proceeding require and compel performance of any duties imposed upon
28 the tolling authority and the department of transportation and their
29 respective officials, including any duties imposed upon or undertaken
30 by them or by their respective officers, agents, and employees, in
31 connection with the construction, maintenance, and operation of
32 eligible toll facilities and in connection with the collection,
33 deposit, investment, application, and disbursement of the proceeds of
34 the bonds and toll revenue.

35 NEW SECTION. **Sec. 18.** (1) For the purposes of this act, "toll
36 revenue" means all toll receipts, all interest income derived from the
37 investment of toll receipts, and any gifts, grants, or other funds

1 received for the benefit of eligible toll facilities. However, for the
2 purpose of any pledge of toll revenue to the payment of particular
3 bonds issued under this act, "toll revenue" means and includes only
4 such toll revenue or portion thereof that is pledged to the payment of
5 those bonds in the resolution authorizing the issuance of such bonds.
6 Toll revenue constitutes "fees and revenues derived from the ownership
7 or operation of any undertaking, facility, or project" as that phrase
8 is used in Article VIII, section 1(c)(1) of the state Constitution.

9 (2) For the purposes of this act, "tolling authority" has the same
10 meaning as in RCW 47.56.810.

11 NEW SECTION. **Sec. 19.** Sections 8 through 14 and 16 through 18 of
12 this act are each added to chapter 47.10 RCW.

13 NEW SECTION. **Sec. 20.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 21.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and takes effect
20 immediately."

21 Correct the title.

EFFECT: (1) Amends the bond bill to reflect the amounts in the
2009-2011 capital budget and the 2009 supplemental capital budget.

(2) Adds authorization for the issuance of \$1.95 billion in general
obligation bonds for projects or improvements on the State Route Number
520 corridor that are allowed pursuant to ESHB 2211.

(3) Requires the state tolling authority to fix and adjust toll
rates as necessary to support the repayment of these bonds backed in
whole or in part by toll revenues.

(4) Empowers the State Finance Committee to include provisions and
pledges in these bonds regarding such issues as maintenance and
operation of toll facilities, uses of toll revenues, the funding
sources backing the bonds, the ratio of toll collections to debt
service, the structure of the bonds, and conditions or limitations for
the issuance of further bonds.

(5) Clarifies the legislature's obligation to appropriate the toll revenue necessary to meet the operating costs and debt service on bonds issued for eligible toll facilities.

(6) Provides a pledge on the part of the legislature to not impair or withdraw the authorization of the tolling authority to fix and adjust tolls as necessary to meet the tolling authority's statutory obligations.

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