
SUBSTITUTE HOUSE BILL 2326

State of Washington **61st Legislature** **2009 Regular Session**

By House Transportation (originally sponsored by Representatives
Clibborn and Williams)

READ FIRST TIME 04/06/09.

1 AN ACT Relating to the authorization of bonds for the financing of
2 eligible toll facilities; and adding new sections to chapter 47.10 RCW.

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

4 NEW SECTION. **Sec. 1.** In order to provide funds necessary for the
5 location, design, right-of-way, and construction of the state route
6 number 520 corridor projects, there shall be issued and sold upon the
7 request of the state toll agency a total of one billion nine hundred
8 fifty million dollars of general obligation bonds of the state of
9 Washington.

10 NEW SECTION. **Sec. 2.** Upon the request of the state toll agency,
11 the state finance committee shall supervise and provide for the
12 issuance, sale, and retirement of the bonds authorized by this act in
13 accordance with chapter 39.42 RCW. Bonds authorized by this act shall
14 be sold in the manner, at time or times, in amounts, and at the price
15 as the state finance committee shall determine. No bonds may be
16 offered for sale without prior legislative appropriation of the net
17 proceeds of the sale of the bonds.

1 NEW SECTION. **Sec. 3.** The proceeds from the sale of bonds
2 authorized by this act shall be deposited in the state route number 520
3 corridor account created under section 4, chapter . . . (House Bill No.
4 2211), Laws of 2009, and shall be available only for the purposes
5 enumerated in section 1 of this act, for the payment of bond
6 anticipation notes or other interim financing, if any, capitalizing
7 interest on the bonds, and for the payment of bond issuance costs,
8 including the costs of underwriting.

9 NEW SECTION. **Sec. 4.** The toll facility bond retirement account is
10 created in the state treasury for the purpose of payment of the
11 principal of and interest and premium on bonds. Both principal of and
12 interest on the bonds issued for the purposes of this act shall be
13 payable from the toll facility bond retirement account. The state
14 finance committee may provide that special subaccounts be created in
15 the account to facilitate payment of the principal of and interest on
16 the bonds. The state finance committee shall, on or before June 30th
17 of each year, certify to the state treasurer the amount required for
18 principal and interest on the bonds in accordance with the bond
19 proceedings.

20 NEW SECTION. **Sec. 5.** Bonds issued under the authority of this
21 section and sections 1, 6, and 7 of this act shall distinctly state
22 that they are a general obligation of the state of Washington, shall
23 pledge the full faith and credit of the state to the payment of the
24 principal thereof and the interest thereon, and shall contain an
25 unconditional promise to pay such principal and interest as the same
26 shall become due. The principal of and interest on the bonds shall be
27 first payable in the manner provided in this section and sections 1, 6,
28 and 7 of this act from toll revenue and then from proceeds of excise
29 taxes on motor vehicle and special fuels to the extent toll revenue is
30 not available for that purpose. Toll revenue and the state excise
31 taxes on motor vehicle and special fuels imposed by chapters 82.36 and
32 82.38 RCW are hereby pledged to the payment of any bonds and the
33 interest thereon issued under the authority of this section and
34 sections 1, 6, and 7 of this act, and the legislature agrees to
35 continue to impose these toll charges on the state route number 520
36 corridor, and on any other eligible toll facility designated by the

1 legislature and on which the imposition of tolls is authorized by the
2 legislature in respect of the bonds, and excise taxes on motor vehicle
3 and special fuels in amounts sufficient to pay, when due, the principal
4 and interest on all bonds issued under the authority of this section
5 and sections 1, 6, and 7 of this act.

6 NEW SECTION. **Sec. 6.** For bonds issued under the authority of this
7 section and sections 1, 5, and 7 of this act, the state treasurer shall
8 first withdraw toll revenue from the state route number 520 corridor
9 account created under section 4, chapter . . . (House Bill No. 2211),
10 Laws of 2009, and, to the extent toll revenue is not available, excise
11 taxes on motor vehicle and special fuels in the motor vehicle fund and
12 deposit in the toll facility bond retirement account, or a special
13 subaccount in the account, such amounts, and at such times, as are
14 required by the bond proceedings.

15 Any excise taxes on motor vehicle and special fuels required for
16 bond retirement or interest on the bonds authorized by this section and
17 sections 1, 5, and 7 of this act shall be taken from that portion of
18 the motor vehicle fund that results from the imposition of excise taxes
19 on motor vehicle and special fuels and which is, or may be,
20 appropriated to the department for state highway purposes. Funds
21 required shall never constitute a charge against any other allocations
22 of motor vehicle fuel and special fuel tax revenues to the state,
23 counties, cities, and towns unless the amount arising from excise taxes
24 on motor vehicle and special fuels distributed to the state in the
25 motor vehicle fund proves insufficient to meet the requirements for
26 bond retirement or interest on any such bonds.

27 Any payments for bond retirement or interest on the bonds taken
28 from other revenues from the motor vehicle fuel or special fuel taxes
29 that are distributable to the state, counties, cities, and towns shall
30 be repaid from available toll revenue in the manner provided in the
31 bond proceedings or, if toll revenue is not available for that purpose,
32 from the first excise taxes on motor vehicle and special fuels
33 distributed to the motor vehicle fund not required for bond retirement
34 or interest on the bonds.

35 NEW SECTION. **Sec. 7.** Bonds issued under the authority of sections
36 1, 5, and 6 of this act and this section and any other general

1 obligation bonds of the state of Washington that have been or that may
2 be authorized and that pledge motor vehicle and special fuels excise
3 taxes for the payment of principal and interest thereon shall be an
4 equal charge against the revenues from such motor vehicle and special
5 fuels excise taxes.

6 NEW SECTION. **Sec. 8.** The tolling authority shall fix and adjust
7 toll rates in respect of eligible toll facilities in amounts, together
8 with other available toll revenue, sufficient to provide for payment of
9 operating and maintenance costs of eligible toll facilities, for timely
10 payment of debt service on bonds and to secure bonds issued for
11 eligible toll facilities, to comply with all financial and other
12 covenants made by the state in the bond proceedings, for reimbursement
13 of the motor vehicle fund for excise taxes on motor vehicle and special
14 fuels applied to the payment of bonds, and for construction costs of
15 any projects or portions thereof not financed with proceeds of bonds.
16 In fixing and adjusting toll rates under this section, the only toll
17 revenue to be taken into account shall be toll revenue pledged to bonds
18 that includes toll receipts, and the only debt service requirements to
19 be taken into account shall be debt service on bonds payable from and
20 secured by toll revenue that includes toll receipts. The legislature
21 pledges to appropriate toll revenue as necessary to carry out the
22 foregoing purposes. The legislature further agrees for the benefit of
23 the owners of outstanding bonds issued by the state for eligible toll
24 facilities to continue in effect and not to impair or withdraw the
25 authorization of the tolling authority to fix and adjust tolls as
26 provided in this act. The state finance committee shall pledge the
27 state's obligation to impose and maintain tolls, together with the
28 application of toll revenue as described in this section, to the owners
29 of any bonds.

30 NEW SECTION. **Sec. 9.** If and to the extent that the state finance
31 committee determines, in consultation with the state toll agency and
32 the tolling authority, that it will be beneficial for the state to
33 issue any bonds authorized in sections 1 and 5 through 7 of this act as
34 toll revenue bonds rather than as general obligation bonds, the state
35 finance committee is authorized to issue and sell, upon the request of
36 the state toll agency, such bonds as toll revenue bonds and not as

1 general obligation bonds. Notwithstanding section 5 of this act, each
2 such bond shall contain a recital that payment or redemption of the
3 bond and payment of the interest and any premium thereon is payable
4 solely from and secured solely by a direct pledge, charge, and lien
5 upon toll revenue and is not a general obligation of the state to which
6 the full faith and credit of the state is pledged.

7 Toll revenue is hereby pledged to the payment of any bonds and the
8 interest thereon issued under the authority of this section, and the
9 legislature agrees to continue to impose these toll charges on the
10 state route number 520 corridor, and on any other eligible toll
11 facility designated by the legislature and on which the imposition of
12 tolls is authorized by the legislature in respect of the bonds, in
13 amounts sufficient to pay, when due, the principal and interest on all
14 bonds issued under the authority of this section.

15 NEW SECTION. **Sec. 10.** The state finance committee may determine
16 and include in any resolution authorizing the issuance of any bonds
17 under this act, such terms, provisions, covenants, and conditions as it
18 may deem appropriate in order to assist with the marketing and sale of
19 the bonds, confer rights upon the owners of bonds, and safeguard rights
20 of the owners of bonds including, among other things:

21 (1) Provisions regarding the maintenance and operation of eligible
22 toll facilities;

23 (2) The pledges, uses, and priorities of application of toll
24 revenue;

25 (3) Provisions that bonds shall be payable from and secured solely
26 by toll revenue as provided by section 9 of this act, or shall be
27 payable from and secured by both toll revenue and by a pledge of excise
28 taxes on motor vehicle and special fuels and the full faith and credit
29 of the state as provided in sections 1 and 5 through 7 of this act;

30 (4) In consultation with the state toll agency and the tolling
31 authority, financial covenants requiring that the eligible toll
32 facilities must produce specified coverage ratios of toll revenue to
33 debt service on bonds;

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

1 (6) Provisions that bonds for which any toll revenue are pledged,
2 or for which a pledge of any toll revenue may be reserved, may be
3 structured on a senior, parity, subordinate, or special lien basis in
4 relation to any other bonds for which toll revenue is pledged, with
5 respect to toll revenue only; and

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

8 Notwithstanding the foregoing, covenants and conditions detailing
9 the character of management, maintenance, and operation of eligible
10 toll facilities, insurance for eligible toll facilities, financial
11 management of toll revenue, and disposition of eligible toll facilities
12 must first be approved by the state toll agency.

13 The owner of any bond may by mandamus or other appropriate
14 proceeding require and compel performance of any duties imposed upon
15 the tolling authority and the state toll agency and their respective
16 officials, including any duties imposed upon or undertaken by them or
17 by their respective officers, agents, and employees, in connection with
18 the construction, maintenance, and operation of eligible toll
19 facilities and in connection with the collection, deposit, investment,
20 application, and disbursement of the proceeds of the bonds and toll
21 revenue.

22 NEW SECTION. **Sec. 11.** For the purposes of this act, "toll
23 revenue" means all toll receipts, all interest income derived from the
24 investment of toll receipts, and any gifts, grants, or other funds
25 received for the benefit of eligible toll facilities. However, for the
26 purpose of any pledge of toll revenue to the payment of particular
27 bonds issued under this act, "toll revenue" means and includes only
28 such toll revenue or portion thereof that is pledged to the payment of
29 those bonds in the resolution authorizing the issuance of such bonds.
30 Toll revenue constitutes "fees and revenues derived from the ownership
31 or operation of any undertaking, facility, or project" as that phrase
32 is used in Article VIII, section 1(c)(1) of the state Constitution.

33 NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act are each
34 added to chapter 47.10 RCW.

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