

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6444

Chapter 83, Laws of 2012

62nd Legislature
2012 Regular Session

ALASKAN WAY VIADUCT REPLACEMENT--TOLL FACILITY

EFFECTIVE DATE: 06/07/12

Passed by the Senate February 11, 2012
YEAS 42 NAYS 5

BRAD OWEN

President of the Senate

Passed by the House March 3, 2012
YEAS 77 NAYS 19

FRANK CHOPP

Speaker of the House of Representatives

Approved March 23, 2012, 12:13 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6444** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 23, 2012

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6444

Passed Legislature - 2012 Regular Session

State of Washington

62nd Legislature

2012 Regular Session

By Senate Transportation (originally sponsored by Senators Haugen and Fain; by request of Department of Transportation)

READ FIRST TIME 02/07/12.

1 AN ACT Relating to eligible toll facilities; amending RCW 46.63.075
2 and 46.63.170; reenacting and amending RCW 43.84.092 and 46.16A.120;
3 adding new sections to chapter 47.56 RCW; creating a new section; and
4 repealing 2010 c 161 s 1126.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that there is an
7 urgent need to replace the central waterfront section of state route
8 number 99, known as the Alaskan Way viaduct, because the viaduct is
9 vulnerable to closure, damage, or catastrophic failure as a result of
10 earthquakes or other events. In 2009, the legislature determined that
11 the finance plan for the Alaskan Way viaduct replacement project should
12 include no more than four hundred million dollars in toll funding for
13 the project.

14 Therefore, it is the intent of the legislature to authorize tolling
15 on the Alaskan Way viaduct replacement project, both to help finance
16 the Alaskan Way viaduct replacement project and to help maintain travel
17 time, speed, and reliability on the portion of state route number 99
18 that would be replaced by this project.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.56 RCW
2 under the subchapter heading "toll facilities created after July 1,
3 2008" to read as follows:

4 (1) The initial imposition of tolls on the portion of state route
5 number 99 that is the deep bore tunnel under First Avenue from the
6 vicinity of the sports stadiums in Seattle to Aurora Avenue north of
7 the Battery Street tunnel is authorized, this portion of state route
8 number 99 is designated an eligible toll facility, and toll revenue
9 generated from this facility must only be expended as allowed under RCW
10 47.56.820.

11 (2) The toll imposed under this section must be charged only for
12 travel on the portion of state route number 99 that is a deep bore
13 tunnel.

14 (3)(a) In setting toll rates for the deep bore tunnel portion of
15 state route number 99 pursuant to RCW 47.56.850, the tolling authority
16 shall set a variable schedule of toll rates to maintain travel time,
17 speed, and reliability on this facility and generate the necessary
18 revenue as required under (b) of this subsection.

19 (b) The tolling authority may adjust the variable schedule of toll
20 rates at least annually to reflect inflation as measured by the
21 consumer price index to meet the redemption of bonds, to meet the
22 obligations of the tolling authority under RCW 47.56.850, and interest
23 payments on bonds and for those costs that are eligible under RCW
24 47.56.820.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 47.56 RCW
26 under the subchapter heading "toll facilities created after July 1,
27 2008" to read as follows:

28 A special account to be known as the Alaskan Way viaduct
29 replacement project account is created in the state treasury.

30 (1) Deposits to the account must include:

31 (a) All proceeds of bonds issued for construction of the Alaskan
32 Way viaduct replacement project, including any capitalized interest;

33 (b) All of the tolls and other revenues received from the operation
34 of the Alaskan Way viaduct replacement project as a toll facility, to
35 be deposited at least monthly;

36 (c) Any interest that may be earned from the deposit or investment
37 of those revenues;

1 (d) Notwithstanding RCW 47.12.063, proceeds from the sale of any
2 surplus real property acquired for the purpose of building the Alaskan
3 Way viaduct replacement project; and

4 (e) All damages, liquidated or otherwise, collected under any
5 contract involving the construction of the Alaskan Way viaduct
6 replacement project.

7 (2) Subject to the covenants made by the state in the bond
8 proceedings authorizing the issuance and sale of bonds for the
9 construction of the Alaskan Way viaduct replacement project, toll
10 charges, other revenues, and interest received from the operation of
11 the Alaskan Way viaduct replacement project as a toll facility may be
12 used to:

13 (a) Pay any required costs allowed under RCW 47.56.820; and

14 (b) Repay amounts to the motor vehicle fund as required.

15 (3) When repaying the motor vehicle fund, the state treasurer shall
16 transfer funds from the Alaskan Way viaduct replacement project account
17 to the motor vehicle fund on or before each debt service date for bonds
18 issued for the construction of the Alaskan Way viaduct replacement
19 project in an amount sufficient to repay the motor vehicle fund for
20 amounts transferred from that fund to the highway bond retirement fund
21 to provide for any bond principal and interest due on that date. The
22 state treasurer may establish subaccounts for the purpose of
23 segregating toll charges, bond sale proceeds, and other revenues.

24 **Sec. 4.** RCW 43.84.092 and 2011 1st sp.s. c 16 s 6, 2011 1st sp.s.
25 c 7 s 22, 2011 c 369 s 6, 2011 c 339 s 1, 2011 c 311 s 9, 2011 c 272 s
26 3, 2011 c 120 s 3, and 2011 c 83 s 7 are each reenacted and amended to
27 read as follows:

28 (1) All earnings of investments of surplus balances in the state
29 treasury shall be deposited to the treasury income account, which
30 account is hereby established in the state treasury.

31 (2) The treasury income account shall be utilized to pay or receive
32 funds associated with federal programs as required by the federal cash
33 management improvement act of 1990. The treasury income account is
34 subject in all respects to chapter 43.88 RCW, but no appropriation is
35 required for refunds or allocations of interest earnings required by
36 the cash management improvement act. Refunds of interest to the
37 federal treasury required under the cash management improvement act

1 fall under RCW 43.88.180 and shall not require appropriation. The
2 office of financial management shall determine the amounts due to or
3 from the federal government pursuant to the cash management improvement
4 act. The office of financial management may direct transfers of funds
5 between accounts as deemed necessary to implement the provisions of the
6 cash management improvement act, and this subsection. Refunds or
7 allocations shall occur prior to the distributions of earnings set
8 forth in subsection (4) of this section.

9 (3) Except for the provisions of RCW 43.84.160, the treasury income
10 account may be utilized for the payment of purchased banking services
11 on behalf of treasury funds including, but not limited to, depository,
12 safekeeping, and disbursement functions for the state treasury and
13 affected state agencies. The treasury income account is subject in all
14 respects to chapter 43.88 RCW, but no appropriation is required for
15 payments to financial institutions. Payments shall occur prior to
16 distribution of earnings set forth in subsection (4) of this section.

17 (4) Monthly, the state treasurer shall distribute the earnings
18 credited to the treasury income account. The state treasurer shall
19 credit the general fund with all the earnings credited to the treasury
20 income account except:

21 (a) The following accounts and funds shall receive their
22 proportionate share of earnings based upon each account's and fund's
23 average daily balance for the period: The aeronautics account, the
24 aircraft search and rescue account, the Alaskan Way viaduct replacement
25 project account, the budget stabilization account, the capital vessel
26 replacement account, the capitol building construction account, the
27 Cedar River channel construction and operation account, the Central
28 Washington University capital projects account, the charitable,
29 educational, penal and reformatory institutions account, the cleanup
30 settlement account, the Columbia river basin water supply development
31 account, the Columbia river basin taxable bond water supply development
32 account, the Columbia river basin water supply revenue recovery
33 account, the common school construction fund, the county arterial
34 preservation account, the county criminal justice assistance account,
35 the county sales and use tax equalization account, the deferred
36 compensation administrative account, the deferred compensation
37 principal account, the department of licensing services account, the
38 department of retirement systems expense account, the developmental

1 disabilities community trust account, the drinking water assistance
2 account, the drinking water assistance administrative account, the
3 drinking water assistance repayment account, the Eastern Washington
4 University capital projects account, the Interstate 405 express toll
5 lanes operations account, the education construction fund, the
6 education legacy trust account, the election account, the energy
7 freedom account, the energy recovery act account, the essential rail
8 assistance account, The Evergreen State College capital projects
9 account, the federal forest revolving account, the ferry bond
10 retirement fund, the freight congestion relief account, the freight
11 mobility investment account, the freight mobility multimodal account,
12 the grade crossing protective fund, the public health services account,
13 the health system capacity account, the high capacity transportation
14 account, the state higher education construction account, the higher
15 education construction account, the highway bond retirement fund, the
16 highway infrastructure account, the highway safety account, the high
17 occupancy toll lanes operations account, the hospital safety net
18 assessment fund, the industrial insurance premium refund account, the
19 judges' retirement account, the judicial retirement administrative
20 account, the judicial retirement principal account, the local leasehold
21 excise tax account, the local real estate excise tax account, the local
22 sales and use tax account, the marine resources stewardship trust
23 account, the medical aid account, the mobile home park relocation fund,
24 the motor vehicle fund, the motorcycle safety education account, the
25 multiagency permitting team account, the multimodal transportation
26 account, the municipal criminal justice assistance account, the
27 municipal sales and use tax equalization account, the natural resources
28 deposit account, the oyster reserve land account, the pension funding
29 stabilization account, the perpetual surveillance and maintenance
30 account, the public employees' retirement system plan 1 account, the
31 public employees' retirement system combined plan 2 and plan 3 account,
32 the public facilities construction loan revolving account beginning
33 July 1, 2004, the public health supplemental account, the public
34 transportation systems account, the public works assistance account,
35 the Puget Sound capital construction account, the Puget Sound ferry
36 operations account, the Puyallup tribal settlement account, the real
37 estate appraiser commission account, the recreational vehicle account,
38 the regional mobility grant program account, the resource management

1 cost account, the rural arterial trust account, the rural mobility
2 grant program account, the rural Washington loan fund, the site closure
3 account, the skilled nursing facility safety net trust fund, the small
4 city pavement and sidewalk account, the special category C account, the
5 special wildlife account, the state employees' insurance account, the
6 state employees' insurance reserve account, the state investment board
7 expense account, the state investment board commingled trust fund
8 accounts, the state patrol highway account, the state route number 520
9 civil penalties account, the state route number 520 corridor account,
10 the state wildlife account, the supplemental pension account, the
11 Tacoma Narrows toll bridge account, the teachers' retirement system
12 plan 1 account, the teachers' retirement system combined plan 2 and
13 plan 3 account, the tobacco prevention and control account, the tobacco
14 settlement account, the toll facility bond retirement account, the
15 transportation 2003 account (nickel account), the transportation
16 equipment fund, the transportation fund, the transportation improvement
17 account, the transportation improvement board bond retirement account,
18 the transportation infrastructure account, the transportation
19 partnership account, the traumatic brain injury account, the tuition
20 recovery trust fund, the University of Washington bond retirement fund,
21 the University of Washington building account, the volunteer
22 firefighters' and reserve officers' relief and pension principal fund,
23 the volunteer firefighters' and reserve officers' administrative fund,
24 the Washington judicial retirement system account, the Washington law
25 enforcement officers' and firefighters' system plan 1 retirement
26 account, the Washington law enforcement officers' and firefighters'
27 system plan 2 retirement account, the Washington public safety
28 employees' plan 2 retirement account, the Washington school employees'
29 retirement system combined plan 2 and 3 account, the Washington state
30 economic development commission account, the Washington state health
31 insurance pool account, the Washington state patrol retirement account,
32 the Washington State University building account, the Washington State
33 University bond retirement fund, the water pollution control revolving
34 fund, and the Western Washington University capital projects account.
35 Earnings derived from investing balances of the agricultural permanent
36 fund, the normal school permanent fund, the permanent common school
37 fund, the scientific permanent fund, and the state university permanent
38 fund shall be allocated to their respective beneficiary accounts.

1 (b) Any state agency that has independent authority over accounts
2 or funds not statutorily required to be held in the state treasury that
3 deposits funds into a fund or account in the state treasury pursuant to
4 an agreement with the office of the state treasurer shall receive its
5 proportionate share of earnings based upon each account's or fund's
6 average daily balance for the period.

7 (5) In conformance with Article II, section 37 of the state
8 Constitution, no treasury accounts or funds shall be allocated earnings
9 without the specific affirmative directive of this section.

10 **Sec. 5.** RCW 46.16A.120 and 2011 c 375 s 9 and 2011 c 375 s 8 are
11 each reenacted and amended to read as follows:

12 (1) Each court and government agency located in this state having
13 jurisdiction over standing, stopping, and parking violations, the use
14 of a photo toll system under RCW 46.63.160, the use of automated
15 traffic safety cameras under RCW 46.63.170, and the use of automated
16 school bus safety cameras under RCW 46.63.180 may forward to the
17 department any outstanding:

18 (a) Standing, stopping, and parking violations;

19 (b) Civil penalties for toll nonpayment detected through the use of
20 photo toll systems issued under RCW 46.63.160;

21 (c) Automated traffic safety camera infractions issued under RCW
22 46.63.030(1)(d); and

23 (d) Automated school bus safety camera infractions issued under RCW
24 (~~46.63.160~~) 46.63.030(1)(e).

25 (2) Violations, civil penalties, and infractions described in
26 subsection (1) of this section must be reported to the department in
27 the manner described in RCW 46.20.270(3).

28 (3) The department shall:

29 (a) Record the violations, civil penalties, and infractions on the
30 matching vehicle records; and

31 (b) Send notice approximately one hundred twenty days in advance of
32 the current vehicle registration expiration date to the registered
33 owner listing the dates and jurisdictions in which the violations,
34 civil penalties, and infractions occurred, the amounts of unpaid fines
35 and penalties, and the surcharge to be collected. Only those
36 violations, civil penalties, and infractions received by the department
37 one hundred twenty days or more before the current vehicle registration

1 expiration date will be included in the notice. Violations, civil
2 penalties, and infractions received by the department later than one
3 hundred twenty days before the current vehicle registration expiration
4 date that are not satisfied will be delayed until the next vehicle
5 registration expiration date.

6 (4) The department, county auditor or other agent, or subagent
7 appointed by the director shall not renew a vehicle registration if
8 there are any outstanding standing, stopping, and parking violations,
9 and other civil penalties issued under RCW 46.63.160 for the vehicle
10 unless:

11 (a) The outstanding standing, stopping, or parking violations and
12 civil penalties were received by the department within one hundred
13 twenty days before the current vehicle registration expiration;

14 (b) There is a change in registered ownership; or

15 (c) The registered owner presents proof of payment of each
16 violation, civil penalty, and infraction provided in this section and
17 the registered owner pays the surcharge required under RCW 46.17.030.

18 (5) The department shall:

19 (a) Forward a change in registered ownership information to the
20 court or government agency who reported the outstanding violations,
21 civil penalties, or infractions; and

22 (b) Remove the outstanding violations, civil penalties, and
23 infractions from the vehicle record.

24 **Sec. 6.** RCW 46.63.075 and 2011 c 375 s 7 are each amended to read
25 as follows:

26 (1) In a traffic infraction case involving an infraction detected
27 through the use of an automated traffic safety camera under RCW
28 46.63.170 or detected through the use of an automated school bus safety
29 camera under RCW 46.63.180, proof that the particular vehicle described
30 in the notice of traffic infraction was in violation of any such
31 provision of RCW 46.63.170 and 46.63.180, together with proof that the
32 person named in the notice of traffic infraction was at the time of the
33 violation the registered owner of the vehicle, constitutes in evidence
34 a prima facie presumption that the registered owner of the vehicle was
35 the person in control of the vehicle at the point where, and for the
36 time during which, the violation occurred.

1 (2) This presumption may be overcome only if the registered owner
2 states, under oath, in a written statement to the court or in testimony
3 before the court that the vehicle involved was, at the time, stolen or
4 in the care, custody, or control of some person other than the
5 registered owner.

6 **Sec. 7.** RCW 46.63.170 and 2011 c 367 s 704 are each amended to
7 read as follows:

8 (1) The use of automated traffic safety cameras for issuance of
9 notices of infraction is subject to the following requirements:

10 (a) The appropriate local legislative authority must first enact an
11 ordinance allowing for their use to detect one or more of the
12 following: Stoplight, railroad crossing, or school speed zone
13 violations. At a minimum, the local ordinance must contain the
14 restrictions described in this section and provisions for public notice
15 and signage. Cities and counties using automated traffic safety
16 cameras before July 24, 2005, are subject to the restrictions described
17 in this section, but are not required to enact an authorizing
18 ordinance.

19 (b) Use of automated traffic safety cameras is restricted to two-
20 arterial intersections, railroad crossings, and school speed zones
21 only.

22 (c) During the 2011-2013 fiscal biennium, automated traffic safety
23 cameras may be used to detect speed violations for the purposes of
24 section 201(2), chapter 367, Laws of 2011 if the local legislative
25 authority first enacts an ordinance authorizing the use of cameras to
26 detect speed violations.

27 (d) Automated traffic safety cameras may only take pictures of the
28 vehicle and vehicle license plate and only while an infraction is
29 occurring. The picture must not reveal the face of the driver or of
30 passengers in the vehicle.

31 (e) A notice of infraction must be mailed to the registered owner
32 of the vehicle within fourteen days of the violation, or to the renter
33 of a vehicle within fourteen days of establishing the renter's name and
34 address under subsection (3)(a) of this section. The law enforcement
35 officer issuing the notice of infraction shall include with it a
36 certificate or facsimile thereof, based upon inspection of photographs,
37 microphotographs, or electronic images produced by an automated traffic

1 safety camera, stating the facts supporting the notice of infraction.
2 This certificate or facsimile is prima facie evidence of the facts
3 contained in it and is admissible in a proceeding charging a violation
4 under this chapter. The photographs, microphotographs, or electronic
5 images evidencing the violation must be available for inspection and
6 admission into evidence in a proceeding to adjudicate the liability for
7 the infraction. A person receiving a notice of infraction based on
8 evidence detected by an automated traffic safety camera may respond to
9 the notice by mail.

10 (f) The registered owner of a vehicle is responsible for an
11 infraction under RCW 46.63.030(1)((e)) (d) unless the registered
12 owner overcomes the presumption in RCW 46.63.075, or, in the case of a
13 rental car business, satisfies the conditions under subsection (3) of
14 this section. If appropriate under the circumstances, a renter
15 identified under subsection (3)(a) of this section is responsible for
16 an infraction.

17 (g) Notwithstanding any other provision of law, all photographs,
18 microphotographs, or electronic images prepared under this section are
19 for the exclusive use of law enforcement in the discharge of duties
20 under this section and are not open to the public and may not be used
21 in a court in a pending action or proceeding unless the action or
22 proceeding relates to a violation under this section. No photograph,
23 microphotograph, or electronic image may be used for any purpose other
24 than enforcement of violations under this section nor retained longer
25 than necessary to enforce this section.

26 (h) All locations where an automated traffic safety camera is used
27 must be clearly marked by placing signs in locations that clearly
28 indicate to a driver that he or she is entering a zone where traffic
29 laws are enforced by an automated traffic safety camera.

30 (i) If a county or city has established an authorized automated
31 traffic safety camera program under this section, the compensation paid
32 to the manufacturer or vendor of the equipment used must be based only
33 upon the value of the equipment and services provided or rendered in
34 support of the system, and may not be based upon a portion of the fine
35 or civil penalty imposed or the revenue generated by the equipment.

36 (2) Infractions detected through the use of automated traffic
37 safety cameras are not part of the registered owner's driving record
38 under RCW 46.52.101 and 46.52.120. Additionally, infractions generated

1 by the use of automated traffic safety cameras under this section shall
2 be processed in the same manner as parking infractions, including for
3 the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3).
4 However, the amount of the fine issued for an infraction generated
5 through the use of an automated traffic safety camera shall not exceed
6 the amount of a fine issued for other parking infractions within the
7 jurisdiction.

8 (3) If the registered owner of the vehicle is a rental car
9 business, the law enforcement agency shall, before a notice of
10 infraction being issued under this section, provide a written notice to
11 the rental car business that a notice of infraction may be issued to
12 the rental car business if the rental car business does not, within
13 eighteen days of receiving the written notice, provide to the issuing
14 agency by return mail:

15 (a) A statement under oath stating the name and known mailing
16 address of the individual driving or renting the vehicle when the
17 infraction occurred; or

18 (b) A statement under oath that the business is unable to determine
19 who was driving or renting the vehicle at the time the infraction
20 occurred because the vehicle was stolen at the time of the infraction.
21 A statement provided under this subsection must be accompanied by a
22 copy of a filed police report regarding the vehicle theft; or

23 (c) In lieu of identifying the vehicle operator, the rental car
24 business may pay the applicable penalty.

25 Timely mailing of this statement to the issuing law enforcement
26 agency relieves a rental car business of any liability under this
27 chapter for the notice of infraction.

28 (4) Nothing in this section prohibits a law enforcement officer
29 from issuing a notice of traffic infraction to a person in control of
30 a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),
31 (b), or (c).

32 (5) For the purposes of this section, "automated traffic safety
33 camera" means a device that uses a vehicle sensor installed to work in
34 conjunction with an intersection traffic control system, a railroad
35 grade crossing control system, or a speed measuring device, and a
36 camera synchronized to automatically record one or more sequenced
37 photographs, microphotographs, or electronic images of the rear of a
38 motor vehicle at the time the vehicle fails to stop when facing a

1 steady red traffic control signal or an activated railroad grade
2 crossing control signal, or exceeds a speed limit in a school speed
3 zone as detected by a speed measuring device. During the 2011-2013
4 fiscal biennium, an automated traffic safety camera includes a camera
5 used to detect speed violations for the purposes of section 201(2),
6 chapter 367, Laws of 2011.

7 (6) During the 2011-2013 fiscal biennium, this section does not
8 apply to automated traffic safety cameras for the purposes of section
9 216(5), chapter 367, Laws of 2011.

10 NEW SECTION. **Sec. 8.** 2010 c 161 s 1126 is repealed.
Passed by the Senate February 11, 2012.
Passed by the House March 3, 2012.
Approved by the Governor March 23, 2012.
Filed in Office of Secretary of State March 23, 2012.