**5989-S AMS CLEV S2163.2 - NOT FOR FLOOR USE**

**SSB 5989** - S AMD **42**

By Senator Cleveland

**PULLED 6/29/2015**

On page 3, after line 38, insert the following:

"NEW SECTION. **Sec.**  In order to provide funds necessary for the location, design, right-of-way, and construction of the Interstate 5 bridge replacement project, there shall be issued and sold upon the request of the department of transportation up to four hundred fifty million dollars in funding and the additional cost of financing in general obligation bonds of the state of Washington, first payable from toll revenue and excise taxes on motor vehicle and special fuels in accordance with sections 9 through 17 of this act.

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

NEW SECTION. **Sec.**  The proceeds from the sale of bonds authorized by this act shall be deposited in the Interstate 5 bridge replacement project account created under RCW 47.56.894 and shall be available only for the purposes enumerated in section 8 of this act, for the payment of bond anticipation notes or other interim financing, if any, capitalizing interest on the bonds, and for the payment of bond issuance costs, including the costs of underwriting.

NEW SECTION. **Sec.**  Bonds issued under the authority of this section and sections 8, 12, and 13 of this act shall distinctly state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The principal of and interest on the bonds shall be first payable in the manner provided in this act from toll revenue and then from proceeds of excise taxes on motor vehicle and special fuels to the extent toll revenue is not available for that purpose. Toll revenue and the state excise taxes on motor vehicle and special fuels imposed by chapters 82.36 and 82.38 RCW are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of this act, and the legislature agrees to continue to impose these toll charges on the Interstate 5 bridge replacement project, and on any other eligible toll facility designated by the legislature and on which the imposition of tolls is authorized by the legislature in respect of the bonds, and excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of this act.

NEW SECTION. **Sec.**  For bonds issued under the authority of this act, the state treasurer shall first withdraw toll revenue from the Interstate 5 bridge replacement project account created under RCW 47.56.894 and, to the extent toll revenue is not available, excise taxes on motor vehicle and special fuels in the motor vehicle fund and deposit in the toll facility bond retirement account, or a special subaccount in the account, such amounts, and at such times, as are required by the bond proceedings.

Any excise taxes on motor vehicle and special fuels required for bond retirement or interest on the bonds authorized by this act shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and which is, or may be, appropriated to the department for state highway purposes. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues to the state, counties, cities, and towns unless the amount arising from excise taxes on motor vehicle and special fuels distributed to the state in the motor vehicle fund proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the motor vehicle fuel or special fuel taxes that are distributable to the state, counties, cities, and towns shall be repaid from available toll revenue in the manner provided in the bond proceedings or, if toll revenue is not available for that purpose, from the first excise taxes on motor vehicle and special fuels distributed to the motor vehicle fund not required for bond retirement or interest on the bonds. Any excise taxes on motor vehicle and special fuels required for bond retirement or interest on the bonds authorized by this act shall be reimbursed to the motor vehicle fund from toll revenue in the manner and with the priority specified in the bond proceedings.

NEW SECTION. **Sec.**  Bonds issued under the authority of this section and sections 8, 11, and 12 of this act and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes.

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

Toll revenue is hereby pledged to the payment of any bonds and the interest thereon issued under the authority of this section, and the legislature agrees to continue to impose these toll charges on the Interstate 5 bridge replacement project, in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of this section.

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

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

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

(3) Provisions that bonds shall be payable from and secured solely by toll revenue as provided by this act, or shall be payable from and secured by both toll revenue and by a pledge of excise taxes on motor vehicle and special fuels and the full faith and credit of the state as provided in this act;

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

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

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

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

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

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

NEW SECTION. **Sec.**  The state treasurer shall consult and collaborate with the tolling authority regarding any refinancing or refunding of bonds in order to evaluate both the potential benefits and costs to toll payers.

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

For the purposes of this act, "tolling authority" has the same meaning as in RCW 47.56.810.

**Sec.**  RCW 47.10.882 and 2011 c 377 s 3 are each amended to read as follows:

The toll facility bond retirement account is created in the state treasury for the purpose of payment of the principal of and interest and premium on bonds. Both principal of and interest on the bonds issued for the purposes of chapter 498, Laws of 2009 ((~~and~~)), chapter 377, Laws of 2011, and this act shall be payable from the toll facility bond retirement account. The state finance committee may provide that special subaccounts be created in the account to facilitate payment of the principal of and interest on the bonds. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings.

**Sec.**  RCW 47.56.894 and 2012 c 36 s 3 are each amended to read as follows:

(1) A special account to be known as the ((~~Columbia river crossing~~)) Interstate 5 bridge replacement project account is created in the state treasury.

(2) Deposits to the account must include:

(a) All proceeds of bonds and loans issued for the ((~~Columbia river crossing~~)) Interstate 5 bridge replacement project, including any capitalized interest;

(b) All tolls and other revenues received from the operation of the ((~~Columbia river crossing~~)) Interstate 5 bridge replacement project as a toll facility to be deposited at least monthly;

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

(d) Notwithstanding RCW 47.12.063, proceeds from the sale of any surplus real property acquired for the ((~~Columbia river crossing~~)) Interstate 5 bridge replacement project; and

(e) All damages, liquidated or otherwise, collected under any contract involving the Columbia river crossing project.

(3) Subject to the covenants made by the state in the bond proceedings authorizing the issuance and sale of bonds for the Interstate 5 bridge replacement project, toll charges, other revenues, and interest received from the operation of the Interstate 5 bridge replacement project as a toll facility may be used to:

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

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

(4) When repaying the motor vehicle fund, the state treasurer must transfer funds from the Interstate 5 bridge replacement project account to the motor vehicle fund on or before each debt service date for bonds issued for the Interstate 5 bridge replacement project in an amount sufficient to repay the motor vehicle fund for amounts transferred from that fund to the highway bond retirement fund to provide for any bond principal and interest due on that date. The state treasurer may establish subaccounts for the purpose of segregating toll charges, bond sale proceeds, and other revenues.

**Sec.**  RCW 47.56.890 and 2012 c 36 s 2 are each amended to read as follows:

(1) For the purposes of this section and RCW 47.56.892 and 47.56.894, "((~~Columbia river crossing~~)) Interstate 5 bridge replacement project" means the bistate, multimodal corridor improvement program between the state route number 500 interchange in Vancouver, Washington and the Victory Boulevard interchange in Portland, Oregon.

(2) The ((~~Columbia river crossing~~)) Interstate 5 bridge replacement project is designated an eligible toll facility. Tolls are authorized to be imposed on the ((~~Columbia river crossing~~)) Interstate 5 bridge replacement project. However, the tolls must be charged only for travel on the existing and replacement Interstate 5 Columbia river bridges. ((~~Tolls may not be charged for travel on any portion of Interstate 205.~~)) Toll revenue generated on the ((~~Columbia river crossing~~)) Interstate 5 bridge replacement project must be expended only as allowed under RCW 47.56.820. ((~~The total cost of the Columbia river crossing project may not exceed three billion four hundred thirteen million dollars.~~))

(3) The department may not begin to collect tolls on the Interstate 5 bridge replacement project until after a record of decision has been issued for the project and the department has received the necessary federal precompletion tolling approvals to toll an existing transportation facility.

**Sec.**  RCW 47.56.892 and 2012 c 36 s 4 are each amended to read as follows:

For the ((~~Columbia river crossing~~)) Interstate 5 bridge replacement project, the tolling authority may enter into agreements with the Oregon state transportation commission regarding the mutual or joint setting, adjustment, and review of toll rates as the tolling authority may find necessary to carry out the purposes of this section. Any agreement between the tolling authority and the Oregon state transportation commission made pursuant to this section takes effect, and is not binding and enforceable until, thirty days after adjournment of the next ensuing regular legislative session. ((~~If the tolling authority has not entered into an agreement with the Oregon state transportation commission by December 31, 2015, this section expires.~~))

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)2012 c 36 s 7 (uncodified); and

(2)2012 c 36 s 8 (uncodified).

NEW SECTION. **Sec.**  Sections 8 through 17 of this act are each added to chapter 47.10 RCW."

Renumber the remaining sections consecutively and correct any internal references accordingly.

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On page 1, at the beginning of line 2 of the title, strike the remainder of the title and insert "amending RCW 47.10.882, 47.56.894, 47.56.890, and 47.56.892; adding new sections to chapter 47.10 RCW; repealing 2012 c 36 ss 7 and 8 (uncodified); providing an effective date; providing a contingent effective date; and declaring an emergency."

EFFECT: Authorizes the sale of $450 million in general obligation or revenue bonds for the purposes of the Interstate 5 bridge replacement project. Also allows for the use of bond proceeds to repay the motor vehicle fund any moneys advanced to the project. Requires the state department of transportation, the state treasurer, and the state finance committee to collaborate with the state transportation commission in the development of a finance plan for the project. Also requires the state treasurer to collaborate with the state transportation commission if there is a future bond refunding opportunity. Repeals the contingent effective date on the authority to toll the Columbia river crossing project and modifies the language to refer to the Interstate 5 bridge replacement project. Tolls may not be collected on the Interstate 5 bridge replacement project until after a record of decision has been issued for the project and the department has received the necessary federal precompletion tolling approvals to toll an existing transportation facility.