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**HOUSE BILL 2741**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Clibborn, Fey, and Tarleton; by request of Department of Transportation

AN ACT Relating to reimbursement of the financing of the Alaskan Way viaduct replacement project; amending RCW 47.56.862 and 47.56.864; adding a new section to chapter 47.10 RCW; and adding a new section to chapter 47.56 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 47.10 RCW to read as follows:

Toll charges must be used to repay the transportation partnership account consistent with RCW 46.68.290 for any amounts transferred from the transportation partnership account to the highway bond retirement fund under RCW 47.10.877 to provide for bond retirement and interest for up to two hundred million dollars in bonds that are issued for the Alaskan Way viaduct replacement project and designated by the department in consultation with the office of the state treasurer as reimbursable bonds as described in section 2(2) of this act. Toll charges must remain on the facility financed by reimbursable bonds issued by the state for a length of time necessary to repay the transportation partnership account for amounts transferred from the transportation partnership account to the highway bond retirement fund under RCW 47.10.877 to provide for bond retirement and interest on such reimbursable bonds issued for the Alaskan Way viaduct replacement project.

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

(1) The tolling authority must establish and the department must charge and collect tolls and fees on the portion of state route number 99 that is a deep bore tunnel for the following costs and other financial requirements of the tolled portion of the Alaskan Way viaduct replacement project at rates sufficient to meet the payment of the following expenses, to the extent the legislature has not appropriated or otherwise committed funds other than toll revenue for the payment of such expenses:

(a) Reasonable and necessary operating and maintenance expenses of the toll collection system including, but not limited to, expenses of toll collection and enforcement and administrative and technical functions for processing toll transactions;

(b) Reasonable and necessary operating and maintenance expenses of the tolled portion of the Alaskan Way viaduct replacement project;

(c) Provide for the funding of, over a period of twelve months, a repair and replacement reserve in the Alaskan Way viaduct replacement project account in an amount determined by the department based on its projected needs to meet the reasonable and necessary repair and replacement expenses of the toll collection system in the current and future fiscal years, of which a schedule must be provided to the tolling authority; and

(d) Produce in each fiscal year in which any reimbursable bonds issued for the Alaskan Way viaduct replacement project are outstanding toll revenue net of the expenses described in (a) through (c) of this subsection in an amount determined by the office of the state treasurer to be repaid to the transportation partnership account pursuant to section 1 of this act and RCW 47.56.864(3) plus the additional percentage of the amounts shown on the debt service schedule for reimbursable bonds described in subsection (2)(b) of this section.

(2) For the purpose of determining the amount of bonds to be designated as reimbursable bonds pursuant to section 1 of this act and enabling the tolling authority to establish the initial toll rates on the portion of state route number 99 that is a deep bore tunnel, the department, in consultation with the office of the state treasurer, must prepare and submit to the tolling authority an Alaskan Way viaduct replacement project toll reimbursement plan that includes:

(a) An initial projected toll rate schedule prepared by the department in accordance with the requirements of subsection (5) of this section that (i) takes into account the policies of optimizing system performance and minimizing diversion of traffic to other routes, and (ii) is projected to produce at least the toll revenue required in subsection (1) of this section; and

(b) A debt service schedule prepared by the office of the state treasurer that shows the aggregate total and annual principal and interest requirements and payment dates extending over a period of not more than twenty-five years for the bonds designated as reimbursable bonds pursuant to section 1 of this act, including an additional percentage of the amounts shown on the debt service schedule as determined by the office of the state treasurer and the department and provided to the tolling authority to provide prudent coverage for the required reimbursement amounts.

(3) Prior to adopting any revision in the toll rate schedule for the portion of state route number 99 that is a deep bore tunnel, the tolling authority must obtain:

(a) From the department:

(i) A certificate from a traffic and revenue consultant stating, based upon reasonable assumptions and applying the revised toll rate schedule, the projected toll revenue for the current fiscal year and each subsequent fiscal year through the last scheduled maturity of all outstanding reimbursable bonds issued for the Alaskan Way viaduct replacement project; and

(ii) A certificate from an independent consulting engineering firm stating, based upon reasonable assumptions, the projected operating and maintenance expenses and repair and replacement requirements described in subsection (1)(a), (b), and (c) of this section for the current fiscal year and each subsequent fiscal year through the last scheduled maturity of all outstanding reimbursable bonds issued for the Alaskan Way viaduct replacement project; and

(b) From the office of the state treasurer, a certificate stating that, based upon the information contained in the certificates described in (a) of this subsection, the adoption of the revised toll rate schedule will not cause toll revenue collected on the portion of state route number 99 that is a deep bore tunnel to be less than the amount required under subsection (1) of this section.

(4) If for any fiscal year the toll revenue collected on the portion of state route number 99 that is a deep bore tunnel is less than the amount required under subsection (1) of this section, the department, within ninety days after the end of that fiscal year’s closing activities, must obtain and provide to the tolling authority the written recommendations of a traffic and revenue consultant as to the adjustments, if any, that should be made in the existing toll rate schedule for the portion of state route number 99 that is a deep bore tunnel to increase toll revenue in the following fiscal year to the level required under subsection (1) of this section, and the tolling authority must take steps to address the revenue shortfall within sixty days after receipt of the recommendations. If the traffic and revenue consultant advises the department that toll revenue cannot be increased to the level currently required under subsection (1) of this section, the department, in consultation with the office of the state treasurer, must prepare a revised toll reimbursement plan that takes into account: Additional funds other than toll revenue that are appropriated or otherwise committed by the legislature for the expenses in subsection (1) of this section, revisions in the amount of bonds designated as reimbursable bonds, and revisions in the additional percentage of the amounts shown on the debt service schedule for reimbursable bonds described in subsection (2)(b) of this section.

(5) In conjunction with the preparation of its biennial and any supplemental transportation budget, the department, in consultation with a traffic and revenue consultant, must prepare and submit a projected toll rate schedule to the tolling authority for its review and consideration in setting and adjusting tolls on the portion of state route number 99 that is a deep bore tunnel. The projected toll rate schedule must include, but not be limited to, an estimate of the toll revenue that will be required to meet the costs and other financial requirements described in subsection (1) of this section.

**Sec.**  RCW 47.56.862 and 2012 c 83 s 2 are each amended to read as follows:

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

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

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

(b) The tolling authority ((~~may adjust~~)) must set the initial variable schedule of toll rates and review, thereafter, the existing variable schedule of toll rates at least annually to determine if the schedule should be adjusted to reflect ((~~inflation as measured by the consumer price index~~)) changes in operating expenses, repair and replacement expenses, or reimbursement bond requirements as necessary to meet ((~~the redemption of bonds, to meet~~)) the obligations of the tolling authority under ((~~RCW 47.56.850, and interest payments on bonds and for those costs that are eligible under RCW 47.56.820~~)) section 2 of this act.

**Sec.**  RCW 47.56.864 and 2012 c 83 s 3 are each amended to read as follows:

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

(1) Deposits to the account must include:

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

(b) All of the tolls and other revenues received from the operation of the Alaskan Way viaduct replacement project as ((~~a~~)) an eligible 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 purpose of building the Alaskan Way viaduct replacement project; and

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

(2) ((~~Subject to the covenants made by the state in the bond proceedings authorizing the issuance and sale of bonds for the construction of the Alaskan Way viaduct replacement project, toll charges~~)) Tolls, other revenues, and interest received from the operation of the Alaskan Way viaduct replacement project as ((~~a~~)) an eligible toll facility ((~~may~~)) must be used to((~~:~~

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

((~~(b)~~)) repay amounts to the ((~~motor vehicle fund~~)) transportation partnership account as required in the following order of priority, to the extent the legislature has not appropriated or otherwise committed funds other than toll revenue for the payment of such expenses:

(a) Operating and maintenance expenses of the toll collection system;

(b) Operating and maintenance expenses of the tolled portion of the Alaskan Way viaduct replacement project;

(c) Repair and replacement expenses of the toll collection system; and

(d) Amounts required to be repaid to the transportation partnership account pursuant to section 1 of this act and subsection (3) of this section.

(3) When repaying the ((~~motor vehicle fund~~)) transportation partnership account for amounts transferred to the highway bond retirement fund under RCW 47.10.877 to provide for bond retirement and interest on reimbursable bonds issued for the Alaskan Way viaduct replacement project, the state treasurer shall transfer funds from the Alaskan Way viaduct replacement project account to the ((~~motor vehicle fund~~)) transportation partnership account on or before each debt service date for reimbursable bonds issued for the construction of the Alaskan Way viaduct replacement project in an amount sufficient to repay the ((~~motor vehicle fund~~)) transportation partnership account for amounts transferred from that ((~~fund~~)) account to the highway bond retirement fund to provide for any reimbursable bond principal and interest due on that date. The state treasurer may establish subaccounts for the purpose of segregating ((~~toll charges~~)) tolls and other revenues received from the operation of the Alaskan Way viaduct replacement project as an eligible toll facility, bond sale proceeds, and other revenues.

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