

# SENATE BILL REPORT

## ESSB 5825

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As Amended by House, April 27, 2019

**Title:** An act relating to tolling the Interstate 405, state route number 167, and state route number 509.

**Brief Description:** Addressing the tolling of Interstate 405, state route number 167, and state route number 509.

**Sponsors:** Senate Committee on Transportation (originally sponsored by Senators Hobbs and King; by request of Department of Transportation).

**Brief History:**

**Committee Activity:** Transportation: 2/21/19, 4/09/19 [DPS, w/oRec, DNP].

**Floor Activity:**

Passed Senate: 4/25/19, 30-18.

Passed House: 4/27/19, 60-38.

### Brief Summary of Engrossed First Substitute Bill

- Makes both the Interstate 405 express toll lanes and State Route 167 express toll lanes permanent, with separate toll revenue accounts.
- Modifies performance metrics for the required express toll lanes corridor reporting.
- Authorizes tolling on, and creates an account for, the future Puget Sound Gateway facility.
- Authorizes the issuance of up to \$1.5 billion of general obligation bonds for I-405, SR 167, and the Puget Sound Gateway facility, payable from toll revenue, motor fuel taxes, and vehicle-related fees, and adds legislative intent for projects on which the bond proceeds will be used.

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## SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** That Substitute Senate Bill No. 5825 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hobbs, Chair; Saldaña, Vice Chair; King, Ranking Member; Cleveland, Das, Lovelett, Nguyen, Randall, Takko and Wilson, C..

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** That it be referred without recommendation.

Signed by Senator Zeiger.

**Minority Report:** Do not pass.

Signed by Senators Fortunato and Padden.

**Staff:** Erica Bramlet (786-7321)

**Background:** Toll Facilities. The Legislature must authorize a facility as toll-eligible before it may be tolled. The Transportation Commission (Commission) is the state's tolling authority with responsibility for setting toll rates. The Department of Transportation (DOT) is the operator of the authorized toll facilities, which include the following:

Facility	Tolling Initiation	Format	Account Location
Tacoma Narrows Bridge	2007	All lanes tolled (eastbound)	Within motor vehicle fund
SR 167 High Occupancy Toll Lanes	2008	1 high occupancy toll lane tolled each direction	Outside motor vehicle fund
SR 520 Bridge	2011	All lanes tolled	Outside motor vehicle fund
I-405 Express Toll Lanes	2015	1-2 express toll lanes tolled each direction	Within motor vehicle fund
SR 99 Tunnel	2019 (expected)	All lanes tolled	Outside motor vehicle fund

Toll revenues from each facility are deposited into that facility's designated account. Some facility accounts are within the motor vehicle fund and some are outside the motor vehicle fund. The motor vehicle fund is restricted by the 18th amendment, which requires revenues be spent on "highway purposes."

Current law confines permissible uses of toll revenue to do the following:

- cover operating costs, including maintenance, preservation, administration, and toll enforcement;
- meet obligations for the repayment of debt;
- meet any other funding obligations for projects or operations;
- provide for the operation of conveyances of people or goods; and
- fund improvements to the facility.

State Route 167. In 2008, DOT converted one lane each direction of SR 167 between Renton and Auburn from a high occupancy vehicle (HOV) lane to a high occupancy toll (HOT) lane. Solo drivers can use a transponder to enter the lane and pay a toll to travel in the high occupancy lane during peak periods. If the vehicle has two or more people in it, they may travel in the HOT lane for free. There is currently no photo tolling on the SR 167 HOT lanes. The HOT lanes were initiated as a four-year pilot project through 2012, but tolling authorization has been extended in the transportation budget each biennia since.

Interstate 405. In 2015, DOT completed a widening and HOV conversion project and began tolling on the express toll lanes (ETLs) on I-405 between Bellevue and Lynnwood. Solo drivers can use a transponder to enter the lanes and pay a photo toll to travel in the express toll lanes during peak periods. If the vehicle has three or more people in it, they may travel in the ETLs for free if they have a transponder set to HOV mode. Some sections of the corridor have one ETL each direction, while some sections have two ETLs each direction.

The 2015 Connecting Washington package funded a similar widening and HOV conversion project for the south half of the I-405 corridor, to construct two ETLs each direction between Renton and Bellevue. The legislative project list funds the project at a \$1.23 billion level, with \$215 million of this expected to be toll funding. Assuming current law, the south end facility is expected to be open to traffic in 2024.

Puget Sound Gateway. The Puget Sound Gateway project was funded at \$1.88 billion in the 2015 Connecting Washington package, and will construct new segments of SR 167 in Pierce County and SR 509 in King County, simultaneously, over a 16-year period. The legislative project list assumes local contributions of \$130 million and toll funding of \$180 million, with the remaining \$1.57 billion paid with gas tax and other vehicle related fees.

The SR 167 portion of the Puget Sound Gateway project will complete the remaining four miles of SR 167 between North Meridian Avenue in Puyallup and I-5 in Fife. The SR 509 portion will extend the highway between South 188th Street and I-5 in SeaTac, and also includes a spur from I-5 in Fife to SR 509 in Tacoma. Phase 1 of the project is expected to be open to traffic by 2026, with phase 2 open by 2031. Initial tolling analyses assume all lanes would have variable tolling at three photo toll points.

**Summary of Engrossed First Substitute Bill:** I-405/SR 167 Corridor. The I-405 express toll lane corridor authorization is extended south to the junction with SR 167. The SR 167 HOT lanes pilot project is repealed, SR 167 express toll lanes are authorized between the junction with I-405 and junction with SR 512, and SR 167 toll revenues are directed into a new, permanent state route number 167 express toll lanes account within the motor vehicle fund.

The annual performance reporting requirement on how actual gross revenues align with the original fiscal note is removed. In addition to the required reporting metric of whether the ETLs maintain speeds of 45 miles per hour at least 90 percent of the time during peak periods, if DOT works with the Federal Highway Administration on an alternate metric, will be reported as well. A two-year, two-part performance trigger—based on speeds and revenue—to terminate the ETL operations is removed.

Bonding of \$1 billion is authorized for I-405, and directed to be used on the following projects:

- up to \$600 million for improvements on I-405 between SR 522 and SR 527;
- up to \$215 million for completion of the project on the south half of I-405, between Renton and Bellevue; and
- up to \$20 million for design on the I-405/North 8th Street direct access ramp project.

Bonding of \$160 million is authorized for SR 167, and directed to be used on the following projects:

- up to \$3 million to update the SR 167 master plan; and
- up to \$100 million to extend express toll lanes on SR 167 south.

Puget Sound Gateway. The Puget Sound Gateway facility is designated as an eligible toll facility and tolling is authorized. The facility is defined as SR 167 between North Meridian Avenue in Puyallup and I-5 in Fife, the SR 509 spur between I-5 in Fife and SR 509 in Tacoma, and SR 509 between South 188th Street and I-5 in SeaTac. The Commission is directed to set a variable toll rate schedule to maintain travel time, speed, and reliability, and may adjust rates for inflation. For the SR 509 portion of the facility, when setting the rates, the Commission and DOT are directed to consider a lower rate schedule for low-income drivers and for drivers that live in close proximity to the corridor.

A Puget Sound Gateway facility account is created within the motor vehicle fund. Deposits to the account are to include:

- all proceeds of bonds and loans;
- all tolls and other revenues received from the operation of the facility;
- any interest from those revenues;
- proceeds from the sale of any associated surplus property; and
- any damages collected under any associated contracts.

Monies in the account may only be spent after appropriation, and are confined to the same permissible uses as other Washington state tolling facilities.

Bonding of \$340 million is authorized for the Puget Sound Gateway facility, and directed to be used on the following projects:

- to advance toll contributions and \$129 million in Connecting Washington funds in order to open stage two of the project three years earlier and realize cost savings; and
- up to \$5 million for noise mitigation on SR 509 between South 188th Street and I-5.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** *The committee recommended a different version of the bill than what was heard.* PRO: Eastside cities strongly support the ETLs and their extension south to Renton. The ETLs are critical to ensuring the completion of the I-405 corridor build-out, as well as the viability of Bus Rapid Transit which will come online in 2024. With all of I-405 tolled, the buses will be able to operate a fast, reliable service. The full ETL system that connects with SR 167 will provide much-needed congestion relief, as the I-405 ETLs have already proven to move all vehicles more efficiently despite population growth in the area. If the Legislature decides to bond the I-405/SR 167 toll revenue,

resources should be directed toward direct access ramps at North 8th St, SR 522, SR 527, and additional north end ETLs.

The Gateway project should be fully funded, completed, and advanced if possible in order to relieve worsening congestion that costs businesses money in the south Puget Sound area. Ports need to be able to compete for cargo, and completing the corridors will bring more jobs and state tax revenue to Washington. The final \$180 million toll revenue installment for the project is needed. Local governments are putting in matching funds for the project in order to see it completed, and expect it will keep the freeways flowing.

This bill is needed because toll financing was assumed on these Connecting Washington projects, because the project scopes listed tolling as a way to manage demand on the expanded corridors, and because the projects are nearing the construction phase and need tolling authorization before the bid documents can go out.

CON: 32,000 people have signed the Stop 405 Tolls petition. The speed requirements should not be removed, as it would be harmful to transit, vanpool, and especially to Snohomish County users of the lanes, who pay an estimated 90 percent of the tolls. Removing the speed requirement would also erode public trust in the government, because the primary purpose was said to be to minimize congestion, not to generate revenue. The express toll lanes have not met the speed requirement over the last three years, and the bill should not change the rules to get around this.

**Persons Testifying:** PRO: Senator Steve Hobbs, Prime Sponsor; Ryan McIrvin, City Council Member, City of Renton; Shelly Helder, City of Bothell; Penny Sweet, Mayor, City of Kirkland; Carolyn Logue, South Sound Chamber of Commerce Legislative Coalition; Trent House, Port of Seattle; John Chelminiak, Mayor, City of Bellevue; Jennifer Robertson, Councilmember, Bellevue City; Kyle Moore, City of Seatac; Sean Eagan, Port of Tacoma; Patty Rubstello, DOT; Debbie Driver, Legislative Relations Director, DOT.

CON: David Hablewitz, Stop405Tolls.org.

**Persons Signed In To Testify But Not Testifying:** No one.

#### **EFFECT OF HOUSE AMENDMENT(S):**

- Merges the I-405 and SR 167 tolled corridors, accounts, and bond proceeds requirements.
- Prohibits toll charges for 2+ carpools on the south half of I-405 for the first year of tolling, unless DOT finds that this would affect the ETLs' financial obligations; if so, DOT must present alternatives to the Legislature.
- Removes the prioritization of expenditures of bond proceeds for I-405.
- Requires the Commission and DOT to consider naming the segments of the Puget Sound Gateway facility the "state route number 167 express way" and the "state route number 509 express way."
- Requires DOT and the Commission to lower toll rates to cover only required costs after any bonds issued have been repaid.