
SENATE BILL 5232

State of Washington

67th Legislature

2021 Regular Session

By Senator King

1 AN ACT Relating to limiting bonding toll revenues on certain
2 state highway facilities; amending RCW 47.56.830, 47.10.905,
3 47.10.906, 47.10.907, 47.56.880, 47.56.884, 47.56.895, and 47.56.897;
4 repealing RCW 47.10.896, 47.10.897, 47.10.898, 47.10.899, 47.10.900,
5 and 47.10.901; and declaring an emergency.

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

7 **Sec. 1.** RCW 47.56.830 and 2008 c 122 s 5 are each amended to
8 read as follows:

9 Any proposal for the establishment of eligible toll facilities
10 shall consider the following policy guidelines:

11 (1) Overall direction. Washington should use tolling to encourage
12 effective use of the transportation system and provide a source of
13 transportation funding.

14 (2) When to use tolling. Tolling should be used when it can be
15 demonstrated to contribute a significant portion of the cost of a
16 project that cannot be funded solely with existing sources or
17 optimize the performance of the transportation system. Such tolling
18 should, in all cases, be fairly and equitably applied in the context
19 of the statewide transportation system and not have significant
20 adverse impacts through the diversion of traffic to other routes that
21 cannot otherwise be reasonably mitigated. Such tolling should also

1 consider relevant social equity, environmental, and economic issues,
2 and should be directed at making progress toward the state's
3 greenhouse gas reduction goals.

4 (3) Use of toll revenue. All revenue from an eligible toll
5 facility must be used only to improve, preserve, manage, or operate
6 the eligible toll facility on or in which the revenue is collected.
7 Additionally, toll revenue should provide for and encourage the
8 inclusion of recycled and reclaimed construction materials. Further,
9 toll revenue may be pledged for debt financing only when the revenue
10 is generated from toll bridges and not when the revenue is generated
11 from express toll lanes.

12 (4) Setting toll rates. Toll rates, which may include variable
13 pricing, must be set to meet anticipated funding obligations. To the
14 extent possible, the toll rates should be set to optimize system
15 performance, recognizing necessary trade-offs to generate revenue.

16 (5) Duration of toll collection. Because transportation
17 infrastructure projects have costs and benefits that extend well
18 beyond those paid for by initial construction funding, tolls on
19 future toll facilities may remain in place to fund additional
20 capacity, capital rehabilitation, maintenance, management, and
21 operations, and to optimize performance of the system.

22 **Sec. 2.** RCW 47.10.905 and 2019 c 421 s 8 are each amended to
23 read as follows:

24 The toll facility bond retirement account is created in the state
25 treasury for the purpose of payment of the principal of and interest
26 and premium on bonds. Both principal of and interest on the bonds
27 issued for the purposes of chapter 498, Laws of 2009((7)) and chapter
28 377, Laws of 2011(~~, and chapter 421, Laws of 2019~~) shall be payable
29 from the toll facility bond retirement account. The state finance
30 committee may provide that special subaccounts be created in the
31 account to facilitate payment of the principal of and interest on the
32 bonds. The state finance committee shall, on or before June 30th of
33 each year, certify to the state treasurer the amount required for
34 principal and interest on the bonds in accordance with the bond
35 proceedings.

36 **Sec. 3.** RCW 47.10.906 and 2019 c 421 s 9 are each amended to
37 read as follows:

1 The state finance committee may determine and include in any
2 resolution authorizing the issuance of any bonds under chapter 498,
3 Laws of 2009(~~(7)~~) and chapter 377, Laws of 2011, (~~and chapter 421,~~
4 ~~Laws of 2019,~~) such terms, provisions, covenants, and conditions as
5 it may deem appropriate in order to assist with the marketing and
6 sale of the bonds, confer rights upon the owners of bonds, and
7 safeguard rights of the owners of bonds including, among other
8 things:

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

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

13 (3) Provisions that bonds shall be payable from and secured
14 solely by toll revenue as provided by RCW 47.10.886, or shall be
15 payable from and secured by both toll revenue and by a pledge of
16 excise taxes on motor vehicle and special fuels and the full faith
17 and credit of the state as provided in RCW 47.10.879 and 47.10.883
18 through 47.10.885;

19 (~~(4) ((Provisions that bonds shall be payable from and secured by~~
20 ~~both toll revenue and by a pledge of excise taxes on fuel and~~
21 ~~vehicle-related fees and the full faith and credit of the state as~~
22 ~~provided in RCW 47.10.896 and 47.10.899 through 47.10.901;~~

23 ~~(5))~~ (5) In consultation with the department of transportation and
24 the tolling authority, financial covenants requiring that the
25 eligible toll facilities must produce specified coverage ratios of
26 toll revenue to debt service on bonds;

27 (~~(6))~~ (5) The purposes and conditions that must be satisfied
28 prior to the issuance of any additional bonds that are to be payable
29 from and secured by any toll revenue on an equal basis with
30 previously issued and outstanding bonds payable from and secured by
31 toll revenue;

32 (~~(7))~~ (6) Provisions that bonds for which any toll revenue are
33 pledged, or for which a pledge of any toll revenue may be reserved,
34 may be structured on a senior, parity, subordinate, or special lien
35 basis in relation to any other bonds for which toll revenue is
36 pledged, with respect to toll revenue only; and

37 (~~(8))~~ (7) Provisions regarding reserves, credit enhancement,
38 liquidity facilities, and payment agreements with respect to bonds.

39 Notwithstanding the foregoing, covenants and conditions detailing
40 the character of management, maintenance, and operation of eligible

1 toll facilities, insurance for eligible toll facilities, financial
2 management of toll revenue, and disposition of eligible toll
3 facilities must first be approved by the department of
4 transportation.

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

14 **Sec. 4.** RCW 47.10.907 and 2019 c 421 s 10 are each amended to
15 read as follows:

16 (1) For the purposes of chapter 498, Laws of 2009((~~7~~)) and
17 chapter 377, Laws of 2011, (~~and chapter 421, Laws of 2019,~~) "toll
18 revenue" means all toll receipts, all interest income derived from
19 the investment of toll receipts, and any gifts, grants, or other
20 funds received for the benefit of transportation facilities in the
21 state, including eligible toll facilities. However, for the purpose
22 of any pledge of toll revenue to the payment of particular bonds
23 issued under chapter 498, Laws of 2009((~~7~~)) and chapter 377, Laws of
24 2011, (~~and chapter 421, Laws of 2019,~~) "toll revenue" means and
25 includes only such toll revenue or portion thereof that is pledged to
26 the payment of those bonds in the resolution authorizing the issuance
27 of such bonds. Toll revenue constitutes "fees and revenues derived
28 from the ownership or operation of any undertaking, facility, or
29 project" as that phrase is used in Article VIII, section 1(c)(1) of
30 the state Constitution.

31 (2) For the purposes of chapter 498, Laws of 2009((~~7~~)) and
32 chapter 377, Laws of 2011, (~~and chapter 421, Laws of 2019,~~)
33 "tolling authority" has the same meaning as in RCW 47.56.810.

34 **Sec. 5.** RCW 47.56.880 and 2019 c 421 s 11 are each amended to
35 read as follows:

36 (1) The imposition of tolls for express toll lanes on Interstate
37 405 between Interstate 5 on the north end in the city of Lynnwood and
38 Interstate 5 on the south end in the city of Tukwila, and for state

1 route number 167 between Interstate 405 on the north end and state
2 route number 512 on the south end is authorized. Interstate 405 and
3 state route number 167 are designated an eligible toll facility, and
4 toll revenue generated in the corridor must only be expended (~~on the~~
5 ~~Interstate 405 and state route number 167 projects as identified in~~
6 ~~each corridor's master plan and~~) as allowed under RCW 47.56.820.

7 (2) Tolls for the express toll lanes must be set as follows:

8 (a) The schedule of toll rates must be set by the tolling
9 authority pursuant to RCW 47.56.850. Toll rates may vary in amount by
10 time of day, level of traffic congestion within the highway facility,
11 or other criteria, as the tolling authority deems appropriate.

12 (b) In those locations with two express toll lanes in each
13 direction, the toll rate must be the same in both lanes.

14 (c) Toll charges may not be assessed on transit buses and
15 vanpools.

16 (d) The department shall establish performance standards for
17 travel time, speed, and reliability for the express toll lanes
18 project. The department must automatically adjust the toll rate
19 within the schedule established by the tolling authority, using
20 dynamic tolling, to maintain the goal that average vehicle speeds in
21 the lanes remain above (~~forty-five~~) 45 miles per hour at least
22 (~~ninety~~) 90 percent of the time during peak hours.

23 (e) The tolling authority shall periodically review the toll
24 rates against traffic performance of all lanes to determine if the
25 toll rates are effectively maintaining travel time, speed, and
26 reliability on the highway facilities.

27 (~~(f)(i) Toll charges may not be assessed on carpools with two or~~
28 ~~more people in the vehicle on the portion of Interstate 405 between~~
29 ~~Bellevue and state route number 167 for at least the first year~~
30 ~~following the initial imposition of tolls on that portion of the~~
31 ~~express toll lanes, contingent upon the analysis described in (f)(ii)~~
32 ~~of this subsection.~~

33 (~~(ii) The department must analyze the effect of (f)(i) of this~~
34 ~~subsection utilizing forecasting and modeling data and present the~~
35 ~~results of the analysis to the tolling authority. If the analysis~~
36 ~~indicates that the express toll lanes on the portion of Interstate~~
37 ~~405 between Bellevue and state route number 167 will not cover the~~
38 ~~financial obligations outlined in RCW 47.56.884(4), then the~~
39 ~~restriction on toll charges in (f)(i) of this subsection will not be~~
40 ~~implemented and the department must provide the transportation~~

1 ~~committees of the legislature with a report, within thirty days, that~~
2 ~~provides options for not assessing toll charges on carpools with two~~
3 ~~or more people in the vehicle, which also meet the financial~~
4 ~~obligations outlined in RCW 47.56.884(4).~~

5 ~~(g) After the bonds issued pursuant to RCW 47.10.896(1)(a) are~~
6 ~~retired, the tolling authority must reduce the toll rates~~
7 ~~commensurate with this reduction in the amount of toll revenues~~
8 ~~required from the express toll lanes.)~~

9 (3) The department shall work with local jurisdictions to
10 minimize and monitor impacts to local streets and, after consultation
11 with local jurisdictions, recommend mitigation measures to the
12 legislature in those locations where it is appropriate.

13 (4) The department shall monitor the express toll lanes and shall
14 annually report to the transportation commission and the legislature
15 on the impacts from the project on the following performance
16 measures:

17 (a) Whether the express toll lanes maintain speeds of (~~forty-~~
18 ~~five~~) 45 miles per hour at least (~~ninety~~) 90 percent of the time
19 during peak periods, and any alternate metric determined by the
20 department in conjunction with the federal highway administration;

21 (b) Whether the average traffic speed changed in the general
22 purpose lanes;

23 (c) Whether transit ridership changed;

24 (d) Whether the actual use of the express toll lanes is
25 consistent with the projected use;

26 (e) Whether the express toll lanes generated sufficient revenue
27 to pay for all express toll lane-related operating costs; and

28 (f) Whether travel times and volumes have increased or decreased
29 on adjacent local streets and state highways.

30 (5) The department, in consultation with the transportation
31 commission, shall consider making operational changes necessary to
32 fix any unintended consequences of implementing the express toll
33 lanes.

34 (6) A violation of the lane restrictions applicable to the
35 express toll lanes established under this section is a traffic
36 infraction.

37 **Sec. 6.** RCW 47.56.884 and 2019 c 421 s 12 are each amended to
38 read as follows:

1 (1) The Interstate 405 and state route number 167 express toll
2 lanes account is created in the motor vehicle fund.

3 (2) Deposits to the account must include:

4 (a) ~~((All proceeds of bonds authorized in RCW 47.10.896(1)(a) and
5 loans for the Interstate 405 and state route number 167 projects,
6 including capitalized interest;~~

7 ~~(b))~~ All tolls and other revenues received from the operation of
8 the Interstate 405 and state route number 167 express toll lanes
9 facility, to be deposited at least monthly;

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

12 ~~((d))~~ (c) Notwithstanding RCW 47.12.063, proceeds from the sale
13 of any surplus real property acquired for completing the Interstate
14 405 and state route number 167 express toll lanes facility; and

15 ~~((e))~~ (d) All damages liquidated or otherwise, collected under
16 any contract involving Interstate 405 or state route number 167
17 projects.

18 (3) Moneys in the account may be spent only after appropriation,
19 consistent with RCW 47.56.820.

20 ~~((4) The proceeds of the general obligation bonds authorized in
21 RCW 47.10.896(1)(a) shall be used to make progress toward completion
22 of the Interstate 405 and state route number 167 master plans. It is
23 the intent of the legislature to first use the bond proceeds for the
24 following projects:~~

25 ~~(a) Up to six hundred million dollars to design and construct
26 capacity improvements on Interstate 405 between state route number
27 522 and state route number 527. This project would widen Interstate
28 405 through the state route number 522 interchange, build direct
29 access ramps to the express toll lanes at state route number 522,
30 build one new lane in each direction to be used as a second express
31 toll lane, and build a partial direct access ramp at state route
32 number 527 to the east, north, and south, to provide connections to
33 the Canyon Park park and ride;~~

34 ~~(b) Up to two hundred fifteen million dollars toward completion
35 of the I-405/Renton to Bellevue - Corridor Widening project
36 (M00900R);~~

37 ~~(c) Up to three million dollars to update the state route number
38 167 master plan;~~

39 ~~(d) Up to one hundred million dollars to construct both the
40 northbound and southbound state route number 167 stage 6 extension~~

1 ~~project. This project would extend the express toll lanes south to~~
2 ~~the state route number 410 and state route number 512 interchange to~~
3 ~~help mitigate traffic congestion; and~~

4 ~~(e) Up to twenty million dollars to design the Interstate 405/~~
5 ~~North 8th Street Direct Access Ramp project in the city of Renton. It~~
6 ~~is the intent of the legislature to provide construction funding for~~
7 ~~this project at a later date.))~~

8 **Sec. 7.** RCW 47.56.895 and 2019 c 421 s 13 are each amended to
9 read as follows:

10 (1) The Puget Sound Gateway facility is designated an eligible
11 toll facility, tolls are authorized to be imposed on the Puget Sound
12 Gateway facility, and toll revenue generated must be expended only as
13 allowed under RCW 47.56.820.

14 (2)(a) In setting toll rates for the Puget Sound Gateway
15 facility, pursuant to RCW 47.56.850, the tolling authority shall set
16 a variable schedule of toll rates to maintain travel time, speed, and
17 reliability on the Puget Sound Gateway facility.

18 (b) The tolling authority may adjust toll rates to reflect
19 inflation as measured by the consumer price index or as necessary for
20 those costs that are eligible under RCW 47.56.820 and to meet the
21 obligations of the tolling authority under RCW 47.56.850.

22 ~~((c) After the bonds issued pursuant to RCW 47.10.896(1)(b) are~~
23 ~~retired, the tolling authority must reduce the toll rates~~
24 ~~commensurate with this reduction in the amount of toll revenues~~
25 ~~required from the express toll lanes.))~~

26 (3) For the purposes of this section and RCW 47.56.897, "Puget
27 Sound Gateway facility" means the state route number 167 roadway
28 between north Meridian Avenue in Puyallup and Interstate 5 in Fife,
29 the state route number 509 spur between Interstate 5 in Fife and
30 state route number 509 in Tacoma, and the state route number 509
31 roadway between south 188th Street and Interstate 5 in SeaTac.

32 (4) Prior to setting the schedule of toll rates on the portion of
33 state route number 509 between South 188th Street and Interstate 5 in
34 SeaTac, the department, in collaboration with the transportation
35 commission, must analyze and present to the transportation commission
36 at least one schedule of toll rates that exempts, discounts, or
37 provides other toll relief for low-income drivers during all hours of
38 operation on state route number 509 between South 188th Street and
39 Interstate 5 in SeaTac. In analyzing the schedule of toll rates, the

1 department shall consider implementing an exemption, discount, or
2 other toll relief policy for drivers that reside in close proximity
3 to the corridor.

4 **Sec. 8.** RCW 47.56.897 and 2019 c 421 s 14 are each amended to
5 read as follows:

6 (1) A special account to be known as the Puget Sound Gateway
7 facility account is created in the motor vehicle fund.

8 (2) Deposits to the account must include:

9 (a) ~~((All proceeds of bonds authorized in RCW 47.10.896(1)(b) and
10 loans for the Puget Sound Gateway project, including capitalized
11 interest;~~

12 ~~(b))~~ All tolls and other revenues received from the operation of
13 the Puget Sound Gateway facility, to be deposited at least monthly;

14 ~~((e))~~ (b) Any interest that may be earned from the deposit or
15 investment of those revenues;

16 ~~((d))~~ (c) Notwithstanding RCW 47.12.063, proceeds from the sale
17 of any surplus real property acquired for completing the Puget Sound
18 Gateway project, including existing state route number 509 right-of-
19 way in SeaTac and Des Moines; and

20 ~~((e))~~ (d) All damages liquidated or otherwise, collected under
21 any contract involving the Puget Sound Gateway project.

22 (3) Moneys in the account may be spent only after appropriation,
23 consistent with RCW 47.56.820.

24 (4) ~~((The proceeds of the general obligation bonds authorized in
25 RCW 47.10.896(1)(b) shall be used to make progress toward completion
26 of the Puget Sound Gateway facility. It is the intent of the
27 legislature to use the bond proceeds to advance the Puget Sound
28 Gateway facility in order to maximize net mobility benefits for both
29 freight and the traveling public. It is the intent of the legislature
30 for tolling to begin on stage one of the project as soon as
31 practicable in order to leverage toll funds, use bond proceeds to
32 advance one hundred twenty-nine million dollars of connecting
33 Washington state appropriations by two biennia to the 2023-2025
34 biennium, and advance local and federal contributions. This will
35 allow the department of transportation to deliver and open to the
36 public stage two of the project in fiscal year 2028, three years
37 earlier than originally planned, and to realize twenty million
38 dollars in cost savings in connecting Washington state
39 appropriations.~~

1 ~~(5) It is also the intent of the legislature to use the bond~~
2 ~~proceeds for up to five million dollars to provide noise mitigation~~
3 ~~on state route number 509 between south 188th Street and Interstate~~
4 ~~5.~~

5 (6)) It is further the intent of the legislature to clarify how
6 the tolling of state route number 167 and state route number 509 will
7 be implemented by requiring the transportation commission and the
8 department of transportation to consider naming the sections of each
9 facility where all of the lanes are tolled as the state route number
10 167 express way and the state route number 509 express way
11 respectively.

12 NEW SECTION. **Sec. 9.** The following acts or parts of acts are
13 each repealed:

- 14 (1) RCW 47.10.896 (Bond issue authorized) and 2019 c 421 s 2;
15 (2) RCW 47.10.897 (Administration and amount of sale) and 2019 c
16 421 s 3;
17 (3) RCW 47.10.898 (Proceeds—Deposit and use) and 2019 c 421 s 4;
18 (4) RCW 47.10.899 (Statement of general obligation—Pledge of toll
19 revenue and excise taxes and vehicle-related fees) and 2019 c 421 s
20 5;
21 (5) RCW 47.10.900 (Repayment procedure) and 2019 c 421 s 6; and
22 (6) RCW 47.10.901 (Equal charge against fuel excise taxes and
23 vehicle-related fees) and 2019 c 421 s 7.

24 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of
26 the state government and its existing public institutions, and takes
27 effect immediately.

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