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**SENATE BILL 5753**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Shewmake and Lovelett

AN ACT Relating to a cooperative agreement between the department of transportation and the Lummi Tribe of the Lummi Reservation, Washington concerning construction of a highway; and adding new sections to chapter 47.20 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 47.20 RCW to read as follows:

(1) The department is authorized to enter into a cooperative agreement with the governing authority of the Lummi Tribe of the Lummi Reservation and appropriate agencies of the United States for the location, design, right-of-way acquisition, construction, and maintenance of a public road beginning on Rural Avenue at the southern boundary of the Ferndale city limits, traveling across the property held in tribal trust status for the Lummi Nation, and connect to the approximate location of where the Ferndale city limits intersect Kope Road. The new road segment shall be named after construction is concluded.

(2) The definitions in this subsection apply throughout this section and sections 2 through 5 of this act unless context clearly requires otherwise.

(a) "Agreement" means the cooperative agreement between the department, the governing authority of the Lummi Tribe of the Lummi Reservation, and agencies of the United States, as authorized by subsection (1) of this section.

(b) "Highway" means the public road segment constructed pursuant to the agreement authorized by subsection (1) of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 47.20 RCW to read as follows:

The department may assume responsibility for the operation and maintenance and future improvement of the highway. The agreement may also reserve to the governing authority of the Lummi Tribe of the Lummi Reservation authority to construct road intersections or grade separation crossings of the highway.

NEW SECTION. **Sec.**  A new section is added to chapter 47.20 RCW to read as follows:

The department is authorized to determine the location of the highway after consultations with the governing authority of the Lummi Tribe of the Lummi Reservation and the bureau of Indian affairs. The department may then proceed with the establishment of this section of the highway as a limited access facility in the manner prescribed in RCW 47.52.131 through 47.52.137 and 47.52.195 and the administrative rules adopted by the department to implement those sections, subject to the following conditions: (1) The access report required by RCW 47.52.131 shall be approved by the governing authority of the Lummi Tribe of the Lummi Reservation before public hearings; and (2) the final limited access plan adopted pursuant to RCW 47.52.137 at the conclusion of the public hearing, or after any appeal from it has been decided, shall be approved by the governing authority of the Lummi Tribe of the Lummi Reservation and the bureau of Indian affairs before the right-of-way is acquired for this section of highway.

NEW SECTION. **Sec.**  A new section is added to chapter 47.20 RCW to read as follows:

The department is authorized to acquire the remaining right-of-way for the highway by purchase or by condemnation under state or federal eminent domain statutes. The secretary pursuant to the agreement is authorized to convey by deed to the Lummi Tribe of the Lummi Reservation the right-of-way to the entire highway when fully acquired in return for a conveyance by the governing authority of the Lummi Tribe of the Lummi Reservation to the state of Washington of a perpetual easement for public travel on the through lanes and shoulders of the highway when constructed. The agreement may also authorize the governing authority of the Lummi Tribe of the Lummi Reservation to convey to the United States an easement to construct, maintain, and repair highway improvements if such an easement is required by regulations of the bureau of Indian affairs.

NEW SECTION. **Sec.**  A new section is added to chapter 47.20 RCW to read as follows:

Except as otherwise provided by this act or by the agreement authorized by section 1 of this act, the department may proceed with the location, design, acquisition of right-of-way, construction, and maintenance of the highway as an agent of the governing authority of the Lummi Tribe of the Lummi Reservation in accordance with applicable state or federal law.

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