

# SENATE BILL REPORT

## ESSB 6044

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As Passed Senate, March 14, 1995

**Title:** An act relating to transportation systems and facilities.

**Brief Description:** Revising the selection process for transportation systems and facilities demonstration projects.

**Sponsors:** Senate Committee on Transportation (originally sponsored by Senators Owen, Prince and Kohl).

**Brief History:**

**Committee Activity:** Transportation: 3/2/95, 3/3/95 [DPS, DNP].  
Passed Senate, 3/14/95, 36-12.

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** That Substitute Senate Bill No. 6044 be substituted therefor, and the substitute bill do pass.

Signed by Senators Owen, Chair; Heavey, Vice Chair; Haugen, Kohl, Morton, Prentice, Prince, Rasmussen, Schow, Sellar and Wood.

**Minority Report:** Do not pass.

Signed by Senator Fairley.

**Staff:** Vicki Fabre (786-7313)

**Background:** New Partners: Public-Private Initiatives in Transportation (Chapter 47.46 RCW) is a program created by the 1993 Legislature to test the feasibility of privately financed transportation improvements in Washington State. The law provides a wide range of opportunities for private entities to undertake all or a portion of the study, planning, design, finance, construction, operation and maintenance of transportation systems and facilities.

The state Department of Transportation (DOT) is authorized to solicit proposals from the private sector and to select up to six demonstration projects identified by the private sector. Projects are owned by the private sector during construction, turned over to the state, and leased back for operation for up to 50 years.

The private developer is authorized to impose tolls or user fees to recover the private sector's investments and to allow them a reasonable rate of return on investment. After maximum return on investment is reached, the state may continue to charge user fees or tolls for operation or maintenance that may be shared with affected local jurisdictions.

In May of 1994, 14 proposals from 11 private sector consortia were received by the DOT. These were evaluated by a team of technical experts assembled by the DOT. At the end of

the evaluation process, the Secretary of Transportation, as required by law, recommended six projects to the Transportation Commission, which the commission adopted on August 18, 1994.

The following projects were selected: State Route (SR) 16-Tacoma Narrows; SR 18 corridor improvements; SR 520 corridor improvements; SR 522 corridor improvements; Puget Sound congestion pricing; and METRO/King County and DOT park and ride capacity enhancements.

Since early fall of 1994, the department and the six private consortia selected for the New Partners Program have been negotiating agreements to develop the transportation facilities described above. These agreements identify the responsibilities and commitments of each party and will drive project development activities.

Public opposition to the process employed to select the demonstration projects, concern about the degree and quality of public involvement in the project development stage, and opposition to the imposition by the private sector of tolls or user fees on these facilities lead the department to terminate further consideration of the proposal on SR 18 corridor improvements. These same concerns, however, continue with respect to the remaining projects.

**Summary of Bill:** The legislative intent section of the public-private initiatives law is amended to clarify the terms and parameters of the agreements negotiated under the program. The agreements do not bestow on private entities an immediate or vested right to construct and operate facilities. Rather, they provide an opportunity for private entities to design, plan and demonstrate public support in order to obtain a future decision by state and local agencies to build transportation facilities selected under the public-private initiatives program.

The project proposing corridor improvements on State Route 522 is terminated. The remaining four projects selected prior to September 1, 1994 and any replacement projects, if existing projects are terminated, must comply with an approval process that includes a public vote.

DOT is required to: (1) conduct a comprehensive analysis of traffic patterns and economic impact to define the geographical boundary of the area most affected by tolls or user fees; and (2) establish a public involvement process for decision-making on key issues (project size, cost, right-of-way, tolling and user fee ranges, environmental assessment, etc.) that are used to establish the project description.

Public comment, public hearings and legislative review through the Legislative Transportation Committee are provided.

The results of the analysis of traffic patterns and economic impact are used to establish the boundaries of the affected project area (by voting precinct) for a vote in a special election on: (1) the project description and characteristics; and (2) the imposition of tolls or user fees.

A simple majority of voters in the affected project area is required for DOT to solicit proposals for replacement projects or enter into an agreement with a private entity for projects selected prior to September 1, 1994.

Tolls or user fees may be used only for payment of a project's capital outlay costs, and the term of the agreement is limited to the time required to pay the capital outlay costs.

The private sector is required to reimburse DOT for all costs associated with the election.

The DOT is prohibited from imposing tolls after termination of the lease.

The private sector is required to contract with the Washington State Patrol for police service on the projects, and to reimburse these costs on the same basis as is incurred on other state highways.

Projects selected as demonstration projects under the public-private initiatives program and that are included in the department's six-year investment plan, retain their priority status. As state funds become available, such funds must be used toward the capital costs of the projects. If no state funding is required, available funds must be used (a) to reduce the rate of tolls or user fees imposed on the demonstration project or (b) for improvements on alternative state or local nontolled routes.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** The establishment of a public involvement process is needed to give users and residents of communities impacted by the selected projects a voice in the decision making with respect to their development. The involvement of the Legislative Transportation Committee provides necessary oversight to insure that the Department of Transportation and the private sector carry out the legislative intent and mandate with respect to public involvement in the selection of replacement projects and during the study and development of the existing projects.

**Testimony Against:** A process similar to a public vote (at least an advisory one) on the projects imposing tolls is needed to confirm public support. An inventory of public positions will not provide an adequate measurement of public support.

Those projects for which agreements are currently being negotiated should not be advanced and should be subject to the public involvement process established in the bill for identifying and selecting replacement projects.

Significant opposition to the Public-Private Initiatives program necessitates its repeal.

**Testified:** Jerry Ellis, WSDOT; Steve Lindstrom, Perini ABAB (pro); Jim Metcalf, United Infrastructure WA, Inc. (pro); Bob Mack, WA Transportation Partners (pro); Chris Clifford,

TRUST/CAUGHT (con); Dan Bray, TRUST (con); Gerald Dickson, CAUGHT (con); Chris Leman, Coalition of WA Communities (con); Maynard Arsove, No Expansion of 520 (con).