

# SENATE BILL REPORT

## EHB 1382

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As Reported by Senate Committee On:  
Transportation, March 31, 2011

**Title:** An act relating to the use of express toll lanes in the eastside corridor.

**Brief Description:** Concerning the use of express toll lanes in the eastside corridor.

**Sponsors:** Representatives Clibborn, Maxwell, Liias, Eddy, Hunter and Springer; by request of Department of Transportation.

**Brief History:** Passed House: 3/05/11, 52-46.

**Committee Activity:** Transportation: 3/16/11, 3/31/11 [DPA, DNP].

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass as amended.

Signed by Senators Haugen, Chair; White, Vice Chair; King, Ranking Minority Member; Fain, Assistant Ranking Minority Member; Delvin, Eide, Hill, Hobbs, Litzow, Nelson, Prentice, Ranker, Shin and Swecker.

**Minority Report:** Do not pass.

Signed by Senators Ericksen and Sheldon.

**Staff:** Hayley Gamble (786-7452)

**Background:** High occupancy vehicle (HOV) lanes are highway lanes reserved for vehicles carrying a minimum number of occupants. The statutory object of these lanes is to facilitate the operation of transit vehicles and other multi-occupant vehicles, allowing them to avoid congestion, and providing those vehicles with improved travel times. The Washington State Department of Transportation (DOT) has authority to designate lanes as HOV and set the occupancy requirement, and there are currently over 200 miles of HOV lanes in operation in the central Puget Sound area. High occupancy toll (HOT) lanes, also known as express toll lanes (ETLs) are HOV lanes that are also usable by toll-paying vehicles. The statutory goal for establishing HOT lanes is to maintain a high level of service for multi-occupant vehicles, while also permitting other vehicles to use surplus capacity in the lane by paying a toll.

DOT is currently operating a HOT lane pilot project along a nine-mile section of converted HOV lanes on State Route 167 (SR 167) within King County. Toll rates on the project are

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established by the state tolling authority, the Washington State Transportation Commission (Commission) and vary in amount by time of day and the level of traffic congestion. During peak hours, the tolls must be adjusted to maintain HOT lane performance of at least 45 miles per hour for at least 90 percent of the time during peak hours. HOT lanes on SR 167 are currently authorized through May 2012.

In 2009 DOT was directed, in Engrossed Substitute Senate Bill 5352, to conduct a traffic revenue study for Interstate 405 (I-405) in King and Snohomish counties that included funding for improvements including HOT lanes. DOT was also directed to develop a plan to operate two HOT lanes in each direction on I-405. DOT delivered the Eastside Corridor Tolling Study to the Legislature in January 2010. After release of the study, DOT convened an Expert Review Panel to review the study and validate certain conclusions. The Expert Review Panel final report was distributed in December 2010.

**Summary of Bill (Recommended Amendments):** The Legislature recognizes express toll lanes as having the potential to generate revenue for improvements on I-405 and SR 167, and intends to consider implementation of express toll lanes on additional sections of I-405 and SR 167 and on other facilities in the future.

I-405 is designated as an eligible toll facility and the imposition of tolls is authorized for express toll lanes on I-405 between I-5 on the north end and Northeast 6th Street in Bellevue on the south end, once certain capacity improvements on I-405 are complete. DOT is directed to proceed with capacity improvements to implement express toll lanes; however, any contract term that includes tolling equipment on I-405 may not take effect until specific appropriation authority has been provided in 2012.

An ETL means an HOV lane in which tolls may be charged to regulate use of the lane to maintain travel speed and reliability. The Commission must set the schedule of toll rates for the ETLs, which can vary by time of day, level of congestion, and other criteria determined by the Commission. Toll charges may not be assessed on transit buses and vanpools.

DOT is authorized to construct and operate the ETLs and set the performance standards for the project. DOT must automatically adjust the toll rate within the schedule established by the Commission to ensure that average vehicle speeds in the lanes remain above 45 miles per hour 90 percent of the time during peak hours. If, within two years, the express toll lanes project does not generate enough revenues to cover expenditures, or speeds drop below and average of 45 mph 90 percent of the time during peak periods, the project is terminated. The Commission must periodically review the toll rates against the traffic performance of all lanes to determine if the toll rates are effectively maintaining travel time, speed, and reliability. DOT must annually report to the Commission and the Legislature on the impact of the ETLs project on certain performance measures.

The Transportation Commission must conduct a traffic and revenue analysis for express toll lanes on I-405 and SR 167. The DOT, in consultation with the Transportation Commission, must develop a finance plan and a corridor-wide project management plan. DOT and the Transportation Commission must consult with certain elected officials and representatives from certain transit agencies while developing the performance standards, the traffic and revenue analysis, and the finance plan.

The Interstate 405 Express Toll Lanes Operations Account is created in the Motor Vehicle Fund. Toll revenues collected from users of the I-405 ETLs must be deposited into the account and may be used for debt service, planning, administration, construction, maintenance, repairing, rebuilding, operation, enforcement, and the expansion of ETLs on I-405.

**EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (Recommended Amendments):** DOT is directed to proceed with capacity improvements to implement express toll lanes; however, any contract term that includes tolling equipment on I-405 may not take effect until specific appropriation authority has been provided in 2012. DOT is directed to work with local jurisdictions to minimize I-405 tolling impacts on local streets. If, within two years, the express toll lanes project does not generate enough revenues to cover expenditures, or speeds drop below and average of 45 mph 90 percent of the time during peak periods, the project is terminated. DOT, in consultation with the Transportation Commission, must consider making operational changes necessary to fix any unintended consequences of implementing the express toll lanes project. The traffic and revenue analysis is to be conducted by independent experts selected by the Transportation Commission, rather than conducted by DOT. The finance plan is to be conducted by DOT, in consultation with the Transportation Commission. The I-405 Express Toll Lanes Operations Account is created as a subaccount of the Motor Vehicle Fund.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Engrossed House Bill :** PRO: The Regional Transportation Investment District was intended to pay for additional improvements on I-405, but that package did not pass and projects remain unfunded. Savings in the corridor allow for the HOT lanes proposal to move forward. This pilot will allow for a pilot project to determine if additional tolling could fund future improvements on I-405. This project will provide jobs now and contribute to the economic vitality of Washington. Without new revenue options new construction will be limited. Tolling is a reasonable proposal to fund expansion of capacity on I-405. Tolling only some lanes provides travelers with an option to pay a toll. HOT lanes around the world have been proven to improve traffic flow, and preserve the option to choose to use a general purpose lane. HOT lanes will help with bus rapid transit.

CON: Businesses in the area are dependant on I-405. Claims made about the proposed HOT lanes are not believable. This proposal will leave general purpose lanes more congested. SR 167 HOT lanes are not covering their operating costs, which is typical of other HOT lanes systems. More general purpose lanes would move more people. This proposal will not raise funds for I-405. There are other, better ways to do this. HOT lanes will need to move to

HOV 3+ to cover costs. The funds for this project were intended for general purpose lanes. This bill needs benchmarks and performance measures. This is not a step towards completing the Master Plan for I-405. The price of HOT lane tolls will be too high and could have unintended adverse effects on local businesses.

OTHER: AAA supports the concept of HOT lanes that provide an option to drivers; however, there should be consideration given to the impact of HOT lanes on general purpose lanes. Toll rates should be set to avoid congestion in the general purpose lanes, and include a cap on rates. Motorcycles should be given a clear exemption from being charged in HOT lanes; they take up less space, and it is safer for motorcycles to be allowed to use these lanes. More community involvement should be conducted on this project.

**Persons Testifying:** PRO: Representative Clibborn, prime sponsor; Paula Hammond, WSDOT; Doug McDonald; Mike Groesch, Microsoft; Duke Schaub, AGC of WA; Patrick Bannon, Bellevue Downtown Association.

CON: Kemper Freeman, Bruce Nurse, Kemper Development CO; Dick Paylor, Bill Eager, Eastside Transportation Association; Jerry Graham, Vic Bishop, citizens; William Popp, Poppin Jay's Cafe; Jim Horn, former State Senator; Kenneth R Seal, Bellevue.

OTHER: Dave Overstreet, AAA Washington; Larry Walker, WA Road Riders Association.