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SENATE BILL 6350

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State of Washington                      62nd Legislature                      2012 Regular Session

By Senators Haugen, King, Eide, Fain, and Tom

Read first time 01/18/12. Referred to Committee on Transportation.

1            AN ACT Relating to repealing the transportation innovative  
2 partnerships act; amending RCW 47.56.030, 47.56.031, and 70.94.528;  
3 creating a new section; and repealing RCW 47.29.010, 47.29.020,  
4 47.29.030, 47.29.040, 47.29.050, 47.29.060, 47.29.070, 47.29.080,  
5 47.29.090, 47.29.100, 47.29.110, 47.29.120, 47.29.130, 47.29.140,  
6 47.29.150, 47.29.160, 47.29.170, 47.29.180, 47.29.190, 47.29.200,  
7 47.29.210, 47.29.220, 47.29.230, 47.29.240, 47.29.250, 47.29.260,  
8 47.29.270, 47.29.280, 47.29.290, and 47.29.900.

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

10            NEW SECTION.            **Sec. 1.**            The legislature finds that the  
11 transportation innovative partnerships act created under chapter 47.29  
12 RCW has not met the needs and expectations of the public or private  
13 sectors for the development of transportation projects. Therefore, it  
14 is the intent of the legislature to remove from statute the project  
15 development process created under chapter 47.29 RCW that was not  
16 working and to continue to search for ways to bring innovative methods  
17 of transportation project delivery and finance to Washington.

1           NEW SECTION.   **Sec. 2.**   The following acts or parts of acts are each  
2 repealed:

3           (1) RCW 47.29.010 (Finding--Intent) and 2006 c 334 s 48 & 2005 c  
4 317 s 1;

5           (2) RCW 47.29.020 (Definitions) and 2005 c 317 s 2;

6           (3) RCW 47.29.030 (Transportation commission powers and duties) and  
7 2005 c 317 s 3;

8           (4) RCW 47.29.040 (Purpose) and 2005 c 317 s 4;

9           (5) RCW 47.29.050 (Eligible projects) and 2005 c 317 s 5;

10          (6) RCW 47.29.060 (Eligible financing) and 2008 c 122 s 18 & 2005  
11 c 317 s 6;

12          (7) RCW 47.29.070 (Use of federal funds and similar revenues) and  
13 2005 c 317 s 7;

14          (8) RCW 47.29.080 (Other sources of funds or property) and 2005 c  
15 317 s 8;

16          (9) RCW 47.29.090 (Project review, evaluation, and selection) and  
17 2005 c 317 s 9;

18          (10) RCW 47.29.100 (Administrative fee) and 2005 c 317 s 10;

19          (11) RCW 47.29.110 (Funds for proposal evaluation and negotiation)  
20 and 2005 c 317 s 11;

21          (12) RCW 47.29.120 (Expert consultation) and 2005 c 317 s 12;

22          (13) RCW 47.29.130 (Contracted studies) and 2005 c 317 s 13;

23          (14) RCW 47.29.140 (Partnership agreements) and 2005 c 317 s 14;

24          (15) RCW 47.29.150 (Public involvement and participation) and 2005  
25 c 317 s 15;

26          (16) RCW 47.29.160 (Approval and execution) and 2005 c 317 s 16;

27          (17) RCW 47.29.170 (Unsolicited proposals) and 2011 c 367 s 701,  
28 2009 c 470 s 702, 2007 c 518 s 702, 2006 c 370 s 604, & 2005 c 317 s  
29 17;

30          (18) RCW 47.29.180 (Advisory committees) and 2005 c 317 s 18;

31          (19) RCW 47.29.190 (Confidentiality) and 2005 c 317 s 19;

32          (20) RCW 47.29.200 (Prevailing wages) and 2005 c 317 s 20;

33          (21) RCW 47.29.210 (Government agreements) and 2005 c 317 s 21;

34          (22) RCW 47.29.220 (Eminent domain) and 2005 c 317 s 22;

35          (23) RCW 47.29.230 (Transportation innovative partnership account)  
36 and 2005 c 317 s 23;

37          (24) RCW 47.29.240 (Use of account) and 2005 c 317 s 24;

- 1 (25) RCW 47.29.250 (Issuing bonds and other obligations) and 2005  
2 c 317 s 25;
- 3 (26) RCW 47.29.260 (Study and report) and 2005 c 317 s 26;
- 4 (27) RCW 47.29.270 (Federal laws) and 2005 c 317 s 27;
- 5 (28) RCW 47.29.280 (Expert review panel on proposed project  
6 agreements--Creation--Authority) and 2006 c 334 s 49;
- 7 (29) RCW 47.29.290 (Expert review panel on proposed project  
8 agreements--Execution of agreements) and 2006 c 334 s 50; and
- 9 (30) RCW 47.29.900 (Captions not law) and 2005 c 317 s 28.

10 **Sec. 3.** RCW 47.56.030 and 2008 c 122 s 8 are each amended to read  
11 as follows:

12 (1) Except as permitted under chapter (~~(47.29-01)~~) 47.46 RCW:

13 (a) Unless otherwise delegated, and subject to RCW 47.56.820, the  
14 department of transportation shall have full charge of the planning,  
15 analysis, and construction of all toll bridges and other toll  
16 facilities including the Washington state ferries, and the operation  
17 and maintenance thereof.

18 (b) The transportation commission shall determine and establish the  
19 tolls and charges thereon.

20 (c) Unless otherwise delegated, and subject to RCW 47.56.820, the  
21 department shall have full charge of planning, analysis, and design of  
22 all toll facilities. The department may conduct the planning,  
23 analysis, and design of toll facilities as necessary to support the  
24 legislature's consideration of toll authorization.

25 (d) The department shall utilize and administer toll collection  
26 systems that are simple, unified, and interoperable. To the extent  
27 practicable, the department shall avoid the use of toll booths. The  
28 department shall set the statewide standards and protocols for all toll  
29 facilities within the state, including those authorized by local  
30 authorities.

31 (e) Except as provided in this section, the department shall  
32 proceed with the construction of such toll bridges and other facilities  
33 and the approaches thereto by contract in the manner of state highway  
34 construction immediately upon there being made available funds for such  
35 work and shall prosecute such work to completion as rapidly as  
36 practicable. The department is authorized to negotiate contracts for  
37 any amount without bid under (e)(i) and (ii) of this subsection:

1 (i) Emergency contracts, in order to make repairs to ferries or  
2 ferry terminal facilities or removal of such facilities whenever  
3 continued use of ferries or ferry terminal facilities constitutes a  
4 real or immediate danger to the traveling public or precludes prudent  
5 use of such ferries or facilities; and

6 (ii) Single source contracts for vessel dry dockings, when there is  
7 clearly and legitimately only one available bidder to conduct dry dock-  
8 related work for a specific class or classes of vessels. The contracts  
9 may be entered into for a single vessel dry docking or for multiple  
10 vessel dry dockings for a period not to exceed two years.

11 (2) The department shall proceed with the procurement of materials,  
12 supplies, services, and equipment needed for the support, maintenance,  
13 and use of a ferry, ferry terminal, or other facility operated by  
14 Washington state ferries, in accordance with chapter 43.19 RCW except  
15 as follows:

16 (a) When the secretary of the department of transportation  
17 determines in writing that the use of invitation for bid is either not  
18 practicable or not advantageous to the state and it may be necessary to  
19 make competitive evaluations, including technical or performance  
20 evaluations among acceptable proposals to complete the contract award,  
21 a contract may be entered into by use of a competitive sealed proposals  
22 method, and a formal request for proposals solicitation. Such formal  
23 request for proposals solicitation shall include a functional  
24 description of the needs and requirements of the state and the  
25 significant factors.

26 (b) When purchases are made through a formal request for proposals  
27 solicitation the contract shall be awarded to the responsible proposer  
28 whose competitive sealed proposal is determined in writing to be the  
29 most advantageous to the state taking into consideration price and  
30 other evaluation factors set forth in the request for proposals. No  
31 significant factors may be used in evaluating a proposal that are not  
32 specified in the request for proposals. Factors that may be considered  
33 in evaluating proposals include but are not limited to: Price;  
34 maintainability; reliability; commonality; performance levels; life  
35 cycle cost if applicable under this section; cost of transportation or  
36 delivery; delivery schedule offered; installation cost; cost of spare  
37 parts; availability of parts and service offered; and the following:

1 (i) The ability, capacity, and skill of the proposer to perform the  
2 contract or provide the service required;

3 (ii) The character, integrity, reputation, judgment, experience,  
4 and efficiency of the proposer;

5 (iii) Whether the proposer can perform the contract within the time  
6 specified;

7 (iv) The quality of performance of previous contracts or services;

8 (v) The previous and existing compliance by the proposer with laws  
9 relating to the contract or services;

10 (vi) Objective, measurable criteria defined in the request for  
11 proposal. These criteria may include but are not limited to items such  
12 as discounts, delivery costs, maintenance services costs, installation  
13 costs, and transportation costs; and

14 (vii) Such other information as may be secured having a bearing on  
15 the decision to award the contract.

16 (c) When purchases are made through a request for proposal process,  
17 proposals received shall be evaluated based on the evaluation factors  
18 set forth in the request for proposal. When issuing a request for  
19 proposal for the procurement of propulsion equipment or systems that  
20 include an engine, the request for proposal must specify the use of a  
21 life cycle cost analysis that includes an evaluation of fuel  
22 efficiency. When a life cycle cost analysis is used, the life cycle  
23 cost of a proposal shall be given at least the same relative importance  
24 as the initial price element specified in the request of proposal  
25 documents. The department may reject any and all proposals received.  
26 If the proposals are not rejected, the award shall be made to the  
27 proposer whose proposal is most advantageous to the department,  
28 considering price and the other evaluation factors set forth in the  
29 request for proposal.

30 **Sec. 4.** RCW 47.56.031 and 2005 c 335 s 2 are each amended to read  
31 as follows:

32 No tolls may be imposed on new or existing highways or bridges  
33 without specific legislative authorization, or upon a majority vote of  
34 the people within the boundaries of the unit of government empowered to  
35 impose tolls. (~~This section applies to chapter 47.56 RCW and to any  
36 tolls authorized under chapter 47.29 RCW, the transportation innovative  
37 partnership act of 2005.~~)

1       **Sec. 5.** RCW 70.94.528 and 2006 c 329 s 4 are each amended to read  
2 as follows:

3       (1) A county, city, or town may, as part of its commute trip  
4 reduction plan, designate existing activity centers listed in its  
5 comprehensive plan or new activity centers as growth and transportation  
6 efficiency centers and establish a transportation demand management  
7 program in the designated area.

8       (a) The transportation demand management program for the growth and  
9 transportation efficiency center shall be developed in consultation  
10 with local transit agencies, the applicable regional transportation  
11 planning organization, major employers, and other interested parties.

12       (b) In order to be eligible for state funding provided for the  
13 purposes of this section, designated growth and transportation  
14 efficiency centers shall be certified by the applicable regional  
15 transportation organization to: (i) Meet the minimum land use and  
16 transportation criteria established in collaboration among local  
17 jurisdictions, transit agencies, the regional transportation planning  
18 organization, and other interested parties as part of the regional  
19 commute trip reduction plan; and (ii) have established a transportation  
20 demand management program that includes the elements identified in (c)  
21 of this subsection and is consistent with the rules established by the  
22 department of transportation in RCW 70.94.537(2). If a designated  
23 growth and transportation efficiency center is denied certification,  
24 the local jurisdiction may appeal the decision to the commute trip  
25 reduction board.

26       (c) Transportation demand management programs for growth and  
27 transportation efficiency centers shall include, but are not limited  
28 to: (i) Goals for reductions in the proportion of single-occupant  
29 vehicle trips that are more aggressive than the state program goal  
30 established by the commute trip reduction board; (ii) a sustainable  
31 financial plan demonstrating how the program can be implemented to meet  
32 state and regional trip reduction goals, indicating resources from  
33 public and private sources that are reasonably expected to be made  
34 available to carry out the plan, and recommending any innovative  
35 financing techniques (~~consistent with chapter 47.29 RCW~~), including  
36 public/private partnerships, to finance needed facilities, services,  
37 and programs; (iii) a proposed organizational structure for  
38 implementing the program; (iv) a proposal to measure performance toward

1 the goal and implementation progress; and (v) an evaluation to which  
2 local land use and transportation policies apply, including parking  
3 policies and ordinances, to determine the extent that they complement  
4 and support the trip reduction investments of major employers. Each of  
5 these program elements shall be consistent with the rules established  
6 under RCW 70.94.537.

7 (d) A designated growth and transportation efficiency center shall  
8 be consistent with the land use and transportation elements of the  
9 local comprehensive plan.

10 (e) Transit agencies, local governments, and regional  
11 transportation planning organizations shall identify certified growth  
12 and transportation efficiency centers as priority areas for new service  
13 and facility investments in their respective investment plans.

14 (2) A county, city, or town that has established a growth and  
15 transportation efficiency center program shall support vehicle trip  
16 reduction activities in the designated area. The implementing  
17 jurisdiction shall adopt policies, ordinances, and funding strategies  
18 that will lead to attainment of program goals in those areas.

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