
HOUSE BILL 2575

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Armstrong, Johnson, Rivers, Asay, Kristiansen, Overstreet, Zeiger, Hargrove, Angel, Klippert, Shea, Haler, McCune, and Parker

Read first time 01/17/12. Referred to Committee on Transportation.

1 AN ACT Relating to the use of certain transportation revenue;
2 amending RCW 46.68.070, 47.56.030, 47.56.820, 47.56.830, and 47.56.790;
3 reenacting and amending RCW 47.56.810; adding a new section to chapter
4 47.56 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that last year nearly
7 nine hundred thousand voters approved Initiative Measure No. 1125.
8 Postelection polling showed that an overwhelming majority of voters
9 supported many of its major policies. In focusing on those provisions
10 the voters strongly support, this act would:

11 (1) Prohibit state government from diverting gas taxes and toll
12 revenues in the motor vehicle fund and other funds to any other funds
13 to be used for nontransportation purposes; and

14 (2) Require tolls to be dedicated to the project in which the tolls
15 are paid, end such tolls when the project is completed, and only allow
16 such tolls to be used for purposes consistent with Article II, section
17 40 of the state Constitution.

1 **Sec. 2.** RCW 46.68.070 and 1972 ex.s. c 103 s 6 are each amended to
2 read as follows:

3 There is created in the state treasury a permanent fund to be known
4 as the motor vehicle fund to the credit of which shall be deposited all
5 moneys directed by law to be deposited therein. This fund shall be for
6 the use of the state, and through state agencies, for the use of
7 counties, cities, and towns for proper road, street, and highway
8 purposes, including the purposes of RCW 47.30.030. The department of
9 transportation and any other state agency may not transfer any revenues
10 in the motor vehicle fund to any other fund to be used for
11 nontransportation purposes.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 47.56 RCW
13 to read as follows:

14 The department or any other state agency may not transfer any
15 revenues from any account created under this chapter to any other
16 account or fund to be used for nontransportation purposes.

17 **Sec. 4.** RCW 47.56.030 and 2008 c 122 s 8 are each amended to read
18 as follows:

19 (1) Except as permitted under chapter 47.29 or 47.46 RCW:

20 (a) Unless otherwise delegated, and subject to RCW 47.56.820, the
21 department of transportation shall have full charge of the planning,
22 analysis, and construction of all toll bridges and other toll
23 facilities including the Washington state ferries, and the operation
24 and maintenance thereof.

25 (b) The transportation commission shall determine and establish the
26 tolls and charges thereon. Except for Washington state ferries toll
27 facilities, revenue from tolls or charges on a highway, freeway, road,
28 bridge, or street may be used only for the cost of construction and
29 capital improvements to that particular highway, freeway, road, bridge,
30 or street and for purposes consistent with Article II, section 40 of
31 the state Constitution.

32 (c) Unless otherwise delegated, and subject to RCW 47.56.820, the
33 department shall have full charge of planning, analysis, and design of
34 all toll facilities. The department may conduct the planning,
35 analysis, and design of toll facilities as necessary to support the
36 legislature's consideration of toll authorization.

1 (d) The department shall utilize and administer toll collection
2 systems that are simple, unified, and interoperable. To the extent
3 practicable, the department shall avoid the use of toll booths. The
4 department shall set the statewide standards and protocols for all toll
5 facilities within the state, including those authorized by local
6 authorities.

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

14 (i) Emergency contracts, in order to make repairs to ferries or
15 ferry terminal facilities or removal of such facilities whenever
16 continued use of ferries or ferry terminal facilities constitutes a
17 real or immediate danger to the traveling public or precludes prudent
18 use of such ferries or facilities; and

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

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

29 (a) When the secretary of the department of transportation
30 determines in writing that the use of invitation for bid is either not
31 practicable or not advantageous to the state and it may be necessary to
32 make competitive evaluations, including technical or performance
33 evaluations among acceptable proposals to complete the contract award,
34 a contract may be entered into by use of a competitive sealed proposals
35 method, and a formal request for proposals solicitation. Such formal
36 request for proposals solicitation shall include a functional
37 description of the needs and requirements of the state and the
38 significant factors.

1 (b) When purchases are made through a formal request for proposals
2 solicitation the contract shall be awarded to the responsible proposer
3 whose competitive sealed proposal is determined in writing to be the
4 most advantageous to the state taking into consideration price and
5 other evaluation factors set forth in the request for proposals. No
6 significant factors may be used in evaluating a proposal that are not
7 specified in the request for proposals. Factors that may be considered
8 in evaluating proposals include but are not limited to: Price;
9 maintainability; reliability; commonality; performance levels; life
10 cycle cost if applicable under this section; cost of transportation or
11 delivery; delivery schedule offered; installation cost; cost of spare
12 parts; availability of parts and service offered; and the following:

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

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

17 (iii) Whether the proposer can perform the contract within the time
18 specified;

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

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

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

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

28 (c) When purchases are made through a request for proposal process,
29 proposals received shall be evaluated based on the evaluation factors
30 set forth in the request for proposal. When issuing a request for
31 proposal for the procurement of propulsion equipment or systems that
32 include an engine, the request for proposal must specify the use of a
33 life cycle cost analysis that includes an evaluation of fuel
34 efficiency. When a life cycle cost analysis is used, the life cycle
35 cost of a proposal shall be given at least the same relative importance
36 as the initial price element specified in the request of proposal
37 documents. The department may reject any and all proposals received.
38 If the proposals are not rejected, the award shall be made to the

1 proposer whose proposal is most advantageous to the department,
2 considering price and the other evaluation factors set forth in the
3 request for proposal.

4 **Sec. 5.** RCW 47.56.810 and 2011 c 377 s 7 and 2011 c 369 s 2 are
5 each reenacted and amended to read as follows:

6 The definitions in this section apply throughout this subchapter
7 unless the context clearly requires otherwise:

8 (1) "Eligible toll facility" or "eligible toll facilities" means
9 portions of the state highway system specifically identified by the
10 legislature including, but not limited to, transportation corridors,
11 bridges, crossings, interchanges, on-ramps, off-ramps, approaches,
12 bistate facilities, and interconnections between highways.

13 (2) "Express toll lanes" means one or more high occupancy vehicle
14 lanes of a highway in which the department charges tolls primarily as
15 a means of regulating access to or use of the lanes to maintain travel
16 speed and reliability.

17 (3) "Toll revenue" or "revenue from an eligible toll facility"
18 means toll receipts, all interest income derived from the investment of
19 toll receipts, and any gifts, grants, or other funds received for the
20 benefit of transportation facilities in the state, including eligible
21 toll facilities, which may be used only for purposes consistent with
22 Article II, section 40 of the state Constitution.

23 (4) "Tolling authority" means the governing body that is legally
24 empowered to review and adjust toll rates. Unless otherwise delegated,
25 the transportation commission is the tolling authority for all state
26 highways.

27 **Sec. 6.** RCW 47.56.820 and 2008 c 122 s 4 are each amended to read
28 as follows:

29 (1) Unless otherwise delegated, only the legislature may authorize
30 the imposition of tolls on eligible toll facilities.

31 (2) All revenue from an eligible toll facility must be used only
32 (~~to construct, improve, preserve, maintain, manage, or operate~~) for
33 the cost of construction and capital improvements to the eligible toll
34 facility on or in which the revenue is collected subject to the
35 limitations under RCW 47.56.830. Expenditures of toll revenues are

1 subject to appropriation and must be made only for the following
2 purposes as long as the expenditure is consistent with Article II,
3 section 40 of the state Constitution:

4 (a) To cover the operating costs of the eligible toll facility,
5 including necessary maintenance, preservation, administration, and toll
6 enforcement by public law enforcement within the boundaries of the
7 facility;

8 (b) To meet obligations for the repayment of debt and interest on
9 the eligible toll facilities, and any other associated financing costs
10 including, but not limited to, required reserves and insurance;

11 (c) To meet any other obligations to provide funding contributions
12 for any projects or operations on the eligible toll facilities;

13 (d) To provide for the operations of conveyances of people or
14 goods; or

15 (e) For any other improvements to the eligible toll facilities.

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

18 Any proposal for the establishment of eligible toll facilities
19 shall consider the following policy guidelines:

20 (1) Overall direction. Washington should use tolling to encourage
21 effective use of the transportation system and provide a source of
22 transportation funding.

23 (2) When to use tolling. Tolling should be used when it can be
24 demonstrated to contribute a significant portion of the cost of a
25 project that cannot be funded solely with existing sources or optimize
26 the performance of the transportation system. Such tolling should, in
27 all cases, be fairly and equitably applied in the context of the
28 statewide transportation system and not have significant adverse
29 impacts through the diversion of traffic to other routes that cannot
30 otherwise be reasonably mitigated. Such tolling should also consider
31 relevant social equity, environmental, and economic issues, and should
32 be directed at making progress toward the state's greenhouse gas
33 reduction goals.

34 (3) Use of toll revenue. All revenue from an eligible toll
35 facility must be used only to improve(~~(, preserve, manage,)~~) or operate
36 the eligible toll facility on or in which the revenue is collected and
37 for purposes consistent with Article II, section 40 of the state

1 Constitution. Additionally, toll revenue should provide for and
2 encourage the inclusion of recycled and reclaimed construction
3 materials.

4 (4) Setting toll rates. Toll rates must be uniform and consistent,
5 ~~((which))~~ may not include variable pricing, and must be set to meet
6 anticipated funding obligations. To the extent possible, the toll
7 rates should be set to optimize system performance, recognizing
8 necessary trade-offs to generate revenue.

9 (5) Dedication of tolls. As described in RCW 47.56.030, tolls
10 collected on a project must be spent only on that project, and all
11 revenue from such tolls may be used only for purposes consistent with
12 Article II, section 40 of the state Constitution.

13 (6) Duration of toll collection. ~~((Because transportation~~
14 ~~infrastructure projects have costs and benefits that extend well beyond~~
15 ~~those paid for by initial construction funding,)) Tolls on future toll
16 facilities ~~((may remain in place to fund additional capacity, capital~~
17 ~~rehabilitation, maintenance, management, and operations, and to~~
18 ~~optimize performance of the system)) must end after the cost of the
19 toll facility project is paid.~~~~

20 **Sec. 8.** RCW 47.56.790 and 2008 c 270 s 5 are each amended to read
21 as follows:

22 The department shall work with the federal highways administration
23 to determine the necessary actions for receiving federal authorization
24 to toll the Interstate 90 floating bridge. The department must
25 periodically report the status of those discussions to the governor and
26 the joint transportation committee. Tolls imposed and toll revenue
27 collected on Interstate 90 must be used exclusively for toll facilities
28 on and capital improvements to the Interstate 90 floating bridge and
29 may be used only for purposes consistent with Article II, section 40 of
30 the state Constitution.

31 NEW SECTION. **Sec. 9.** This act is to be liberally construed to
32 effectuate the intent, policies, and purposes of this act.

33 NEW SECTION. **Sec. 10.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

--- END ---