

HOUSE BILL REPORT

2ESHB 1317

As Passed House
May 17, 1995

Title: An act relating to transportation systems and facilities.

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

Sponsors: By House Committee on Transportation (originally sponsored by Representatives Robertson, Cairnes, B. Thomas, Mitchell, Van Luven, Dyer, Lambert, Radcliff, D. Schmidt, Backlund, Cooke, Reams, Campbell, Stevens, L. Thomas and Koster).

Brief History:

Committee Activity:

Transportation: 1/30/95, 2/23/95 [DPS].

Floor Activity:

Passed House: 3/9/95, 86-11.

Senate Amended.

House Does Not Concur.

Senate Refused to Recede.

House Refused to Grant Conference.

First Special Session

Floor Activity:

Passed House: 5/17/95, 79-12.

Reconsideration: 5/18/95, 67-21.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives K. Schmidt, Chairman; Mitchell, Vice Chairman; Skinner, Vice Chairman; R. Fisher, Ranking Minority Member; Hatfield, Assistant Ranking Minority Member; Backlund; Blanton; Brown; Buck; Cairnes; Chandler; Elliot; Hankins; Horn; Johnson; Koster; McMahan; Quall; Robertson; Romero; D. Schmidt and Scott.

Minority Report: Do not pass. Signed by 1 member: Representative Chopp.

Staff: Vicki Fabre (786-7313).

Background: New Partners: Public-Private Initiatives (PPI) 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:

LEGISLATIVE INTENT

The legislative intent section is expanded to clarify parameters and terms of PPI agreements.

The Department of Transportation is prohibited from implementing the Puget Sound Congestion Pricing Project without prior legislative review of the social, economic and transportation policies associated with the concept.

ADVISORY VOTE

An advisory vote must be taken on existing project proposals prior to entering into agreements with private entities. Projects that have no organized public opposition as demonstrated by the submission to DOT of petitions bearing at least 5,000 signatures collected after September 1, 1994, and by 30 calendar days after the bill becomes law are exempted from the vote.

The DOT must pay all costs associated with the advisory vote for existing projects, with reimbursement of election costs by the private sector if an agreement is signed. All future projects selected are subject to a mandatory advisory vote.

By August 1, 1995, a Public-Private Local Involvement Committee comprised of local elected officials, users, and organizations formed to support or oppose projects is established to work with the DOT to define the affected project area where the vote will be taken and to establish the project description for the ballot measure.

Progress reports on the status of the definition of the affected project area and the project description, as well as the results of the advisory vote, are provided to the Legislative Transportation Committee (LTC). Following submission of the advisory vote results, the LTC is required to adopt a resolution making a recommendation to the secretary of DOT on the disposition of project proposals.

PROJECT SELECTION PHASE

The DOT is required to develop a public involvement process, by January 1, 1997, for identifying replacement projects if existing projects selected prior to September 1, 1994, are terminated. The public involvement plan must be submitted to the LTC for review. Prospective projects may include projects identified by the public and private sectors, and project selections will be made using the public involvement process. The Transportation Commission is required to submit a list of eligible projects to LTC. If the LTC does not adopt a resolution rejecting projects, the Secretary of DOT is authorized to solicit proposals for eligible projects.

PROJECT AGREEMENT PHASE

The agreements for both new and existing projects must include a public involvement process in the project development stage.

The public involvement process includes a comprehensive inventory of public positions on identified key issues, and may include an advisory vote..

The Local Involvement Committee will continue in an advisory capacity to DOT and private entities.

The private entities and DOT are required to provide reports to the LTC and the Local Involvement Committee on the inventory and advisory vote.

Agreements must provide that police services on projects be with the Washington State Patrol.

Tolls and user fees are restricted to payment of the private entities' capital outlay cost. Capital outlay costs are expanded to include: project development costs, design and construction costs, and reimbursement to DOT by the private sector for costs associated with the advisory vote conducted by DOT for existing projects.

The existing authorization for negotiation of excess toll revenues or user fees is stricken.

The DOT is prohibited from extending tolls or user fees after expiration of the lease.

The bill contains an emergency clause.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Legislation is needed to guarantee meaningful public involvement in the study and development of projects selected in August 1994 under the Public-Private Initiatives Program, and in the identification and selection of replacement projects.

Testimony Against: Significant public opposition to the Department of Transportation's implementation of the Public-Private Initiatives Program and to the possibility of tolls or user fees on some of the selected projects necessitate the repeal of the program.

Projects selected and developed under the Public-Private Initiatives Program should be subject to approval by the full Legislature.

Testified: (Original Bill) Paul Demitriades, Tolls Represent Unfair State Taxes (TRUST) (pro); Susan Potts, Medina City Council (pro); Jan Brekke, Hunts Point Council (pro); Paul Wilcox, Hero Point (pro); Gerald Pfeffer, United Infrastructure Washington (con); Richard Carr, SR 522 Community Highway Association (con); Jared Smith, Washington Transportation Partners (con); Fred McConkey, Hunts Point SR 520 Ad Hoc Committee (pro, with amendment); Cornelius Peck, No Expansion of 520 (pro); Dan Foster, Citizens Against Unfair Gouging Highway Tolls (CAUGHT) (pro); Maggi Fimia, King County Council (con); Mayor Gretchen Swayze-Wilbert, city of Gig Harbor (con); Win Granlund, Kitsap County Commission (con); Maynard Arsove, Mountlake Community Club (pro); Chris Clifford, TRUST and CAUGHT (pro, with amendment); Bob Campbell, Lehman Brothers (con); Robert Dilger, Washington State Building and Construction Trades Council (con); Randy Pozdena, ECO Northwest (con); Duke Schaub, Associated General Contractors (neutral); Elizabeth Schrag, SR 18 Coalition (pro, with reservations); David Fields, citizen (pro); Gerald Dickson, CAUGHT (pro); Steve Preston, citizen (pro); Jeff Kuney, Max J. Kuney Construction Company (con); Dick Page, 520 Improvement Association (con); Andrew Laycock, MC Parcel Delivery (con); Janet Ray, AAA Washington (pro); Jorgen Bader, Ravenna-Bryant Community Association (pro); and Allan Fackenthall, citizen (neutral).