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By Representatives Lantz, Van Luven, Dunshee, Dunn, Wolfe, Mielke, Murray and O'Brien

Read first time 02/12/1999. Referred to Committee on Transportation.

1 AN ACT Relating to legislative approval of private financing of
2 public projects; and amending RCW 47.46.030.

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

4 **Sec. 1.** RCW 47.46.030 and 1996 c 280 s 1 are each amended to read
5 as follows:

6 (1) The secretary or a designee shall solicit proposals from, and
7 negotiate and enter into agreements with, private entities to undertake
8 as appropriate, together with the department and other public entities,
9 all or a portion of the study, planning, design, construction,
10 operation, and maintenance of transportation systems and facilities,
11 using in whole or in part private sources of financing.

12 The public-private initiatives program may develop up to six
13 demonstration projects. Each proposal shall be weighed on its own
14 merits, and each of the six agreements shall be negotiated
15 individually, and as a stand-alone project.

16 (2) If project proposals selected prior to September 1, 1994, are
17 terminated by the public or private sectors, the department shall not
18 select any new projects, including project proposals submitted to the
19 department prior to September 1, 1994, and designated by the

1 transportation commission as placeholder projects, after June 16, 1995,
2 until June 30, 1997.

3 The department, in consultation with the legislative transportation
4 committee, shall conduct a program and fiscal audit of the public-
5 private initiatives program for the biennium ending June 30, 1997. The
6 department shall submit a progress report to the legislative
7 transportation committee on the program and fiscal audit by June 30,
8 1996, with preliminary and final audit reports due December 1, 1996,
9 and June 30, 1997, respectively.

10 The department shall develop and submit a proposed public
11 involvement plan to the 1997 legislature to identify the process for
12 selecting new potential projects and the associated costs of
13 implementing the plan. The legislature must adopt the public
14 involvement plan before the department may proceed with any activity
15 related to project identification and selection. Following legislative
16 adoption of the public involvement plan, the department is authorized
17 to implement the plan and to identify potential new projects.

18 The public involvement plan for projects selected after June 30,
19 1997, shall, at a minimum, identify projects that: (a) Have the
20 potential of achieving overall public support among users of the
21 projects, residents of communities in the vicinity of the projects, and
22 residents of communities impacted by the projects; (b) meet a state
23 transportation need; (c) provide a significant state benefit; and (d)
24 provide competition among proposers and maximum cost benefits to users.
25 Prospective projects may include projects identified by the department
26 or submitted by the private sector.

27 Projects that meet the minimum criteria established under this
28 section and the requirements of the public involvement plan developed
29 by the department and approved by the legislature shall be submitted to
30 the Washington state transportation commission for its review. The
31 commission, in turn, shall submit a list of eligible projects to the
32 legislative transportation committee for its consideration. Forty-five
33 days after the submission to the legislative transportation committee
34 of the list of eligible projects, the secretary is authorized to
35 solicit proposals for the eligible project.

36 (3) Prior to entering into agreements with private entities under
37 the requirements of RCW 47.46.040 for any project proposal selected
38 before September 1, 1994, or after June 30, 1997, except as provided
39 for in subsections (~~((11) and~~) (12) and (13) of this section, the

1 department shall require an advisory vote as provided under subsections
2 (5) through (10) of this section.

3 (4) The advisory vote shall apply to project proposals selected
4 prior to September 1, 1994, or after June 30, 1997, that receive public
5 opposition as demonstrated by the submission to the department of
6 original petitions bearing at least five thousand signatures of
7 individuals opposing the project collected and submitted in accordance
8 with the dates established in subsections (12) and (13) of this
9 section. The advisory vote shall be on the preferred alternative
10 identified under the requirements of chapter 43.21C RCW and, if
11 applicable, the national environmental policy act, 42 U.S.C. 4321 et
12 seq. The execution by the department of the advisory vote process
13 established in this section is subject to the prior appropriation of
14 funds by the legislature for the purpose of conducting environmental
15 impact studies, a public involvement program, local involvement
16 committee activities, traffic and economic impact analyses, engineering
17 and technical studies, and the advisory vote.

18 (5) In preparing for the advisory vote, the department shall
19 conduct a comprehensive analysis of traffic patterns and economic
20 impact to define the geographical boundary of the project area that is
21 affected by the imposition of tolls or user fees authorized under this
22 chapter. The area so defined is referred to in this section as the
23 affected project area. In defining the affected project area, the
24 department shall, at a minimum, undertake: (a) A comparison of the
25 estimated percentage of residents of communities in the vicinity of the
26 project and in other communities impacted by the project who could be
27 subject to tolls or user fees and the estimated percentage of other
28 users and transient traffic that could be subject to tolls or user
29 fees; (b) an analysis of the anticipated traffic diversion patterns;
30 (c) an analysis of the potential economic impact resulting from
31 proposed toll rates or user fee rates imposed on residents, commercial
32 traffic, and commercial entities in communities in the vicinity of and
33 impacted by the project; (d) an analysis of the economic impact of
34 tolls or user fees on the price of goods and services generally; and
35 (e) an analysis of the relationship of the project to state
36 transportation needs and benefits.

37 (6)(a) After determining the definition of the affected project
38 area, the department shall establish a committee comprised of
39 individuals who represent cities and counties in the affected project

1 area; organizations formed to support or oppose the project; and users
2 of the project. The committee shall be named the public-private local
3 involvement committee, and be known as the local involvement committee.

4 (b) The members of the local involvement committee shall be: (i)
5 An elected official from each city within the affected project area;
6 (ii) an elected official from each county within the affected project
7 area; (iii) two persons from each county within the affected project
8 area who represent an organization formed in support of the project, if
9 the organization exists; (iv) two persons from each county within the
10 affected project area who represent an organization formed to oppose
11 the project, if the organization exists; and (v) four public members
12 active in a state-wide transportation organization. If the committee
13 makeup results in an even number of committee members, there shall be
14 an additional appointment of an elected official from the county in
15 which all, or the greatest portion of the project is located.

16 (c) City and county elected officials shall be appointed by a
17 majority of the members of the city or county legislative authorities
18 of each city or county within the affected project area, respectively.
19 The county legislative authority of each county within the affected
20 project area shall identify and validate organizations officially
21 formed in support of or in opposition to the project and shall make the
22 appointments required under this section from a list submitted by the
23 chair of the organizations. Public members shall be appointed by the
24 governor. All appointments to the local involvement committee shall be
25 made and submitted to the department of transportation no later than
26 January 1, 1996, for projects selected prior to September 1, 1994, and
27 no later than thirty days after the affected project area is defined
28 for projects selected after June 30, 1997. Vacancies in the membership
29 of the local involvement committee shall be filled by the appointing
30 authority under (b)(i) through (v) of this subsection for each position
31 on the committee.

32 (d) The local involvement committee shall serve in an advisory
33 capacity to the department on all matters related to the execution of
34 the advisory vote.

35 (e) Members of the local involvement committee serve without
36 compensation and may not receive subsistence, lodging expenses, or
37 travel expenses.

38 (7) The department shall conduct a minimum thirty-day public
39 comment period on the definition of the geographical boundary of the

1 project area. The department, in consultation with the local
2 involvement committee, shall make adjustments, if required, to the
3 definition of the geographical boundary of the affected project area,
4 based on comments received from the public. Within fourteen calendar
5 days after the public comment period, the department shall set the
6 boundaries of the affected project area in units no smaller than a
7 precinct as defined in RCW 29.01.120.

8 (8) The department, in consultation with the local involvement
9 committee, shall develop a description for selected project proposals.
10 After developing the description of the project proposal, the
11 department shall publish the project proposal description in newspapers
12 of general circulation for seven calendar days in the affected project
13 area. Within fourteen calendar days after the last day of the
14 publication of the project proposal description, the department shall
15 transmit a copy of the map depicting the affected project area and the
16 description of the project proposal to the county auditor of the county
17 in which any portion of the affected project area is located.

18 (9) The department shall provide the legislative transportation
19 committee with progress reports on the status of the definition of the
20 affected project area and the description of the project proposal.

21 (10) Upon receipt of the map and the description of the project
22 proposal, the county auditor shall, within thirty days, verify the
23 precincts that are located within the affected project area. The
24 county auditor shall prepare the text identifying and describing the
25 affected project area and the project proposal using the definition of
26 the geographical boundary of the affected project area and the project
27 description submitted by the department and shall set an election date
28 for the submission of a ballot proposition authorizing the imposition
29 of tolls or user fees to implement the proposed project within the
30 affected project area, which date may be the next succeeding general
31 election to be held in the state, or at a special election, if
32 requested by the department. The text of the project proposal must
33 appear in a voter's pamphlet for the affected project area. The
34 department shall pay the costs of publication and distribution. The
35 special election date must be the next date for a special election
36 provided under RCW 29.13.020 that is at least sixty days but, if
37 authorized under RCW 29.13.020, no more than ninety days after the
38 receipt of the final map and project description by the auditor. The
39 department shall pay the cost of an election held under this section.

1 (11) Notwithstanding any other provision of law, the department may
2 contract with a private developer of a selected project proposal to
3 conduct environmental impact studies, a public involvement program, and
4 engineering and technical studies funded by the legislature. For
5 projects subject to this subsection, the department shall not enter
6 into an agreement under RCW 47.46.040 prior to the advisory vote on the
7 preferred alternative.

8 (12) Subsections (5) through (10) of this section shall not apply
9 to project proposals selected prior to September 1, 1994, that have no
10 organized public opposition as demonstrated by the submission to the
11 department of original petitions bearing at least five thousand
12 signatures of individuals opposing the project, collected and submitted
13 after September 1, 1994, and by thirty calendar days after June 16,
14 1995.

15 (13) Subsections (5) through (10) of this section shall not apply
16 to project proposals selected after June 30, 1997, that have no
17 organized public opposition as demonstrated by the submission to the
18 department of original petitions bearing at least five thousand
19 signatures of individuals opposing the project, collected and submitted
20 by ninety calendar days after project selection.

21 (14) The secretary of transportation, with the approval of the
22 transportation commission, may complete preliminary negotiations with
23 the private entity as specified in RCW 47.46.040, subject to final
24 approval of the contract by the legislature and appropriation or
25 commitment of funds necessary to complete the state route number 16
26 corridor project.

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