

Transportation Committee

HB 2277

Brief Description: *Providing for public financing of Public-Private Initiative Projects.*

Sponsors: *Representative Ogden.*

Brief Summary of Bill

- *Allows greater flexibility for Public-Private Initiatives projects to be financed with either public or private funds.*

Hearing Date:

Staff: *Jeff Doyle (786-7322).*

Background:

The Legislature enacted the Public-Private Initiatives Act (PPI Act) in 1993. The PPI Act authorized the Secretary of Transportation to select up to six demonstration projects to use the private sector to undertake projects on behalf of the Washington State Department of Transportation (WSDOT). In June of 1999, WSDOT entered into an agreement with United Infrastructure Washington, Inc. (UIW) to finance, develop, build, and operate the Tacoma Narrows Bridge project.

The Peninsula Neighborhood Association (PNA) filed suit, alleging that the PPI Act was unconstitutional and that WSDOT failed to comply with several statutory provisions of the act. On November 9, 2000, the Washington State Supreme Court issued a unanimous decision with the following conclusions:

- *The PPI Act is a constitutional delegation of authority to identify toll bridges and set toll rates;*
- *The challenge to the advisory election is barred because PNA delayed its challenge; and*
- *The agreement between the WSDOT and UIW violates state law because it allows tolls*

on the existing bridge, it allows a private entity to set tolls instead of the Transportation Commission, and it allows tolls to be used for the maintenance and operation costs of the existing bridge.

As a result of the Supreme Court ruling, WSDOT and UIW have sought legislative relief from the provisions of law found to conflict with their PPI agreement. The specific changes needed are: 1) authorization to toll the existing Tacoma Narrows bridge; 2) clarification that tolling the existing bridge can be accomplished by the Special Purpose Entity (non-profit board) rather than the Transportation Commission; and 3) authorization to pay for maintenance and repair of the existing bridge from specific toll revenues, rather than from state transportation funds generally. WSDOT and UIW have found these changes necessary in order to proceed with private bond issuance and the project as currently designed.

An alternative approach to financing this project has been proposed. This alternative approach would keep the Transportation Commission as the public toll authority; pay for maintenance and repair of the existing bridge from state transportation funds rather than toll revenues; and allow for a mix of state transportation bonds in addition to private financing provided by the developer.

Summary of Bill:

The Public-Private Initiatives law, RCW 47.46, is amended to allow greater flexibility for PPI projects to be financed with either public or private funds. In those instances where the legislature specifically provides state financing, the Secretary of WSDOT must incorporate public financing provisions into any agreement to which the state is party. If the other parties to the agreement refuse to utilize state financing as directed by the legislature, the Secretary of WSDOT may not proceed with such agreement.

WSDOT is authorized to provide for the establishment and construction of public toll facilities that are selected for development under the PPI law. The Transportation Commission is authorized to act as toll authority to impose tolls for PPI projects that provide for state-financed toll bridges. A maximum of \$800 million in bonds approved under Referendum 49 are authorized for PPI projects. After the first initial bond sale, the State Finance Committee must review any subsequent bond sales to determine if private financing would be more cost-effective. If the State Finance Committee recommends private financing, the agreement must make use of this financing.

Transportation Commission is granted legislative approval to increase bridge tolls in excess of the fiscal growth factor as necessary to meet financial obligations of the project.

A special account is created for the Tacoma Narrows PPI project. Toll revenues and bond proceeds must be deposited into this account and used strictly for the Tacoma Narrows PPI project. Tax deferrals that are available to the private partner for this project are made available to the department of transportation, if the project is publicly financed.

The prohibition against tolling the existing Tacoma Narrows bridge is amended to allow tolling so long as any state-provided financing is utilized.

A citizen advisory committee is created to review and make recommendations on proposed changes to toll rates for PPI projects. The committee must be comprised of residents of the affected PPI project area.

A legislative oversight committee is created to monitor the development and implementation of any PPI project. One member from each caucus of the legislature would be appointed to the Oversight Committee.

Clarification is provided that any PPI project that has been subject to an open, competitive selection process is not subject to any additional selection processes.

Appropriation: None.

Fiscal Note: Not Requested.

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