

# SENATE BILL REPORT

## EHB 2723

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As Reported By Senate Committee On:  
Transportation, February 12, 2002

**Title:** An act relating to modifying the Public-Private Transportation Initiatives Act by authorizing state financing and administration of toll facilities.

**Brief Description:** Revising Public-Private Transportation Initiatives.

**Sponsors:** Representatives Ogden, Rockefeller, Lantz, Jackley, Eickmeyer, Haigh and Chase.

**Brief History:**

**Committee Activity:** Transportation: 2/12/02 [DPA, DNP].

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass as amended.

Signed by Senators Haugen, Chair; Gardner, Vice Chair; Eide, Finkbeiner, Jacobsen, Johnson, Kastama, Keiser, McAuliffe, Prentice, T. Sheldon and Shin.

**Minority Report:** Do not pass.

Signed by Senators McDonald, Oke and Swecker.

**Staff:** Jennifer Ziegler (786-7316)

**Background:** The Legislature enacted the Public-Private Initiatives Act (PPI Act) in 1993. The PPI Act authorizes 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, the WSDOT entered into an agreement with United Infrastructure Washington, Inc. (UIW) to finance, develop, and operate the Tacoma Narrows Bridge project.

The Peninsula Neighborhood Association (PNA) filed an action in Thurston County Superior Court on July 6, 1999, alleging that the PPI Act was unconstitutional and the WSDOT failed to comply with the provisions of the act regarding the advisory election. The Thurston County Superior Court concluded that the PPI Act was constitutional and challenges to the advisory election were barred because PNA waited eight months to challenge the election.

The PNA appealed the Superior Court decision to the Washington State Supreme Court. On November 9, 2000, the Washington State Supreme Court issued a unanimous decision with the following conclusions:

1. The PPI Act is a constitutional delegation of authority to identify toll bridges and set toll rates;

2. The challenge to the advisory election is barred because PNA delayed its challenge; and
3. 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.

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

On December 27, 2001, the WSDOT and UIW reached an agreement that commits each party to work toward amending the existing development agreement to incorporate public financing for the project, should legislation be enacted that directs that type of financing.

**Summary of Amended Bill:** The Public-Private Initiatives law is amended to allow PPI projects to be financed with either public or private funds. In those instances where the Legislature specifically provides state financing, the Secretary of Transportation must incorporate public financing provisions into any agreement to which the state is a party. If the other parties to the agreement refuse to use state financing as directed by the Legislature, the Secretary of Transportation may not proceed with the agreement.

The 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 the toll authority to impose tolls for PPI projects that provide for state-financed toll bridges. The commission is granted legislative approval as required under Initiative 601 to increase bridge tolls in excess of the fiscal growth factor, if necessary to meet the financial obligations of the project.

A special account is created for the Tacoma Narrows PPI project. Toll revenues and bond proceeds must be deposited in 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 WSDOT 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 used.

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 explore future public-private opportunities in Washington.

If a proposal has been selected under the PPI Act and subsequent agreements modify the original proposal, the modified agreement does not require solicitation of new proposals.

**Amended Bill Compared to Original Bill:** Advisory election and local involvement committee provisions of the current PPI law are eliminated. Maintenance costs on the existing bridge may be paid for with tolls. Funds previously appropriated by the Legislature that have not been spent may be required to be repaid to the state. A legislative committee is formed to explore future public-private financing opportunities.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Public financing results in lower tolls and direct accountability for toll payers. The department and UIW are ready to act quickly if the Legislature passes this bill. Kitsap County's economic development is dependent on a new bridge. This project will create 500 new jobs. The project will create 1 million trade hours as a result of 350 new trade jobs. A new bridge will provide safety and congestion relief.

**Testimony Against:** None.

**Testified:** Representative Val Ogden, prime sponsor; Senator Betti Sheldon; Senator Bob Oke; Paula Hammond, WSDOT; Roger Boatwright, Building Construction and Trades Council; David Johnson, International Organization of Iron Workers; Larry Archer, International Union of Operating Engineers; Larry O'Brien. UIW.