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**SUBSTITUTE HOUSE BILL 2984**

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**State of Washington**

**57th Legislature**

**2002 Regular Session**

**By** House Committee on Transportation (originally sponsored by Representatives Mielke, Armstrong, Ericksen, Holmquist, Schindler, Morell, Mitchell, Boldt and Woods)

Read first time 02/27/2002. Referred to Committee on .

1 AN ACT Relating to allowing additional public-private  
2 transportation initiatives; amending RCW 47.46.030; and creating a new  
3 section.

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

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

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

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

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

1 ~~department prior to September 1, 1994, and designated by the~~  
2 ~~transportation commission as placeholder projects, after June 16, 1995,~~  
3 ~~until June 30, 1997.~~

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

11 The department shall develop and submit a proposed public  
12 involvement plan to the ((1997)) 2003 legislature to identify the  
13 process for selecting new potential projects and the associated costs  
14 of implementing the plan. The ((legislature)) legislative  
15 transportation committee must adopt the public involvement plan before  
16 the department may proceed with any activity related to project  
17 identification and selection. Following legislative adoption of the  
18 public involvement plan, the department is authorized to implement the  
19 plan and to identify potential new projects.

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

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

38 (3) Prior to entering into agreements with private entities under  
39 the requirements of RCW 47.46.040 for any project proposal selected

1 before September 1, 1994, or after June 30, 1997, except as provided  
2 for in subsections (~~((11) and~~) (12) and (13) of this section, the  
3 department shall require an advisory vote as provided under subsections  
4 (5) through (10) of this section.

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

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

1 (6)(a) After determining the definition of the affected project  
2 area, the department shall establish a committee comprised of  
3 individuals who represent cities and counties in the affected project  
4 area; organizations formed to support or oppose the project; and users  
5 of the project. The committee shall be named the public-private local  
6 involvement committee, and be known as the local involvement committee.

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

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

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

1 (e) Members of the local involvement committee serve without  
2 compensation and may not receive subsistence, lodging expenses, or  
3 travel expenses.

4 (7) The department shall conduct a minimum thirty-day public  
5 comment period on the definition of the geographical boundary of the  
6 project area. The department, in consultation with the local  
7 involvement committee, shall make adjustments, if required, to the  
8 definition of the geographical boundary of the affected project area,  
9 based on comments received from the public. Within fourteen calendar  
10 days after the public comment period, the department shall set the  
11 boundaries of the affected project area in units no smaller than a  
12 precinct as defined in RCW 29.01.120.

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

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

26 (10) Upon receipt of the map and the description of the project  
27 proposal, the county auditor shall, within thirty days, verify the  
28 precincts that are located within the affected project area. The  
29 county auditor shall prepare the text identifying and describing the  
30 affected project area and the project proposal using the definition of  
31 the geographical boundary of the affected project area and the project  
32 description submitted by the department and shall set an election date  
33 for the submission of a ballot proposition authorizing the imposition  
34 of tolls or user fees to implement the proposed project within the  
35 affected project area, which date may be the next succeeding general  
36 election to be held in the state, or at a special election, if  
37 requested by the department. The text of the project proposal must  
38 appear in a voter's pamphlet for the affected project area. The  
39 department shall pay the costs of publication and distribution. The

1 special election date must be the next date for a special election  
2 provided under RCW 29.13.020 that is at least sixty days but, if  
3 authorized under RCW 29.13.020, no more than ninety days after the  
4 receipt of the final map and project description by the auditor. The  
5 department shall pay the cost of an election held under this section.

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

13 (12) Subsections (5) through (10) of this section shall not apply  
14 to project proposals selected prior to September 1, 1994, that have no  
15 organized public opposition as demonstrated by the submission to the  
16 department of original petitions bearing at least five thousand  
17 signatures of individuals opposing the project, collected and submitted  
18 after September 1, 1994, and by thirty calendar days after June 16,  
19 1995.

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

26 NEW SECTION. **Sec. 2.** The department of transportation shall  
27 provide staff support to a legislative oversight committee that will  
28 manage a study of public-private partnerships in transportation. The  
29 legislative oversight committee will consist of three members from each  
30 caucus in each house of the legislature, appointed by the leadership of  
31 the legislators' respective caucus. The legislative oversight  
32 committee shall analyze and make recommendations on: (1) The barriers  
33 that prevent the private sector from providing transportation services,  
34 which could include ferry, bus, or monorail; (2) the use of public-  
35 private partnerships nationally and the experiences of other states in  
36 using public-private partnerships; (3) the public-private opportunities  
37 for transportation projects in Washington; and (4) the advantages and  
38 disadvantages of the financing options available for public-private

1 partnerships. The legislative oversight committee shall report its  
2 findings and recommendations to the legislature by December 1, 2003.

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