

SHB 1541 - S AMD
By Senator Haugen

ADOPTED AS AMENDED 4/12/05

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS AND INTENT. (1) The
4 legislature finds that the public-private initiatives act created under
5 chapter 47.46 RCW has not met the needs and expectations of the public
6 or private sectors for the development of transportation projects. The
7 legislature intends to phase out chapter 47.46 RCW coincident with the
8 completion of the Tacoma Narrows Bridge - SR 16 public-private
9 partnership. From the effective date of this act, this chapter will
10 provide a more desirable and effective approach to developing
11 transportation projects in partnership with the private sector by
12 applying lessons learned from other states and from this state's ten-
13 year experience with chapter 47.46 RCW.

14 (2) It is the legislature's intent to achieve the following goals
15 through the creation of this new approach to public-private
16 partnerships:

17 (a) To provide a well-defined mechanism to facilitate the
18 collaboration between public and private entities in transportation;

19 (b) To bring innovative thinking from the private sector and other
20 states to bear on public projects within the state;

21 (c) To provide greater flexibility in achieving the transportation
22 projects; and

23 (d) To allow for creative cost and risk sharing between the public
24 and private partners.

25 (3) The legislature intends that the powers granted in this chapter
26 to the commission or department are in addition to any powers granted
27 under chapter 47.56 RCW.

28 (4) It is further the intent of the legislature that the commission
29 shall be responsible for receiving, reviewing, and approving proposals

1 with technical support of the department; rule making; and for
2 oversight of contract execution. The department shall be responsible
3 for evaluating proposals and negotiating contracts.

4 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
5 section apply throughout this chapter.

6 (1) "Authority" means the transportation commission.

7 (2) "Commission" means the transportation commission.

8 (3) "Department" means the department of transportation.

9 (4) "Eligible project" means any project eligible for development
10 under section 5 of this act.

11 (5) "Eligible public works project" means only a project that meets
12 the criteria of either section 6 (3) or (4) of this act.

13 (6) "Private sector partner" and "private partner" means a person,
14 entity, or organization that is not the federal government, a state, or
15 a political subdivision of a state.

16 (7) "Public funds" means all moneys derived from taxes, fees,
17 charges, tolls, etc.

18 (8) "Public sector partner" and "public partner" means any federal
19 or state unit of government, bistrate transportation organization, or
20 any other political subdivision of any state.

21 (9) "Transportation innovative partnership program" or "program"
22 means the program as outlined in section 4 of this act.

23 (10) "Transportation project" means a project, whether capital or
24 operating, where the state's primary purpose for the project is to
25 preserve or facilitate the safe transport of people or goods via any
26 mode of travel. However, this does not include projects that are
27 primarily for recreational purposes, such as parks, hiking trails, off-
28 road vehicle trails, etc.

29 (11) "Unit of government" means any department or agency of the
30 federal government, any state or agency, office, or department of a
31 state, any city, county, district, commission, authority, entity, port,
32 or other public corporation organized and existing under statutory law
33 or under a voter-approved charter or initiative, and any
34 intergovernmental entity created under chapter 39.34 RCW or this
35 chapter.

36 **PART I**

1 **POWERS AND DUTIES OF TRANSPORTATION COMMISSION**

2 NEW SECTION. **Sec. 3.** TRANSPORTATION COMMISSION POWERS AND
3 RESPONSIBILITIES. In addition to the powers it now possesses, the
4 commission shall:

5 (1) Approve or review contracts or agreements authorized in this
6 chapter;

7 (2) Adopt rules to carry out this chapter and govern the program,
8 which at a minimum must address the following issues:

9 (a) The types of projects allowed; however, all allowed projects
10 must be included in the Washington transportation plan or identified by
11 the authority as being a priority need for the state;

12 (b) The types of contracts allowed, with consideration given to the
13 best practices available;

14 (c) The composition of the team responsible for the evaluation of
15 proposals to include:

16 (i) Washington state department of transportation staff;

17 (ii) An independent representative of a consulting or contracting
18 field with no interests in the project that is prohibited from becoming
19 a project manager for the project and bidding on any part of the
20 project;

21 (iii) An observer from the state auditor's office or the joint
22 legislative audit and review committee;

23 (iv) A person appointed by the commission, if the secretary of
24 transportation is a cabinet member, or appointed by the governor if the
25 secretary of transportation is not a cabinet member; and

26 (v) A financial expert;

27 (d) Minimum standards and criteria required of all proposals;

28 (e) Procedures for the proper solicitation, acceptance, review, and
29 evaluation of projects;

30 (f) Criteria to be considered in the evaluation and selection of
31 proposals that includes:

32 (i) Comparison with the department's internal ability to complete
33 the project that documents the advantages of completing the project as
34 a partnership versus solely as a public venture; and

35 (ii) Factors such as, but not limited to: priority, cost, risk
36 sharing, scheduling, and management conditions;

1 (g) The protection of confidential proprietary information while
2 still meeting the need for public disclosure that is consistent with
3 section 19 of this act;

4 (h) Protection for local contractors to participate in
5 subcontracting opportunities;

6 (i) Specifying that maintenance issues must be resolved in a manner
7 consistent with the personnel system reform act, chapter 41.80 RCW;

8 (j) Specifying that provisions regarding patrolling and law
9 enforcement on a public facility are subject to approval by the
10 Washington state patrol;

11 (3) Adopt guidelines to address security and performance issues.

12 Preliminary rules and guidelines developed under this section must
13 be submitted to the chairs and ranking members of both transportation
14 committees by November 30, 2005, for review and comment. All final
15 rules and guidelines must be submitted to the full legislature during
16 the 2006 session for review.

17 **PART II**

18 **TRANSPORTATION INNOVATIVE PARTNERSHIPS PROGRAM**

19 NEW SECTION. **Sec. 4.** PURPOSE OF TRANSPORTATION INNOVATIVE
20 PARTNERSHIPS. The Transportation Innovative Partnerships Act is
21 created for the planning, acquisition, design, financing, management,
22 development, construction, reconstruction, replacement, improvement,
23 maintenance, preservation, repair, and operation of transportation
24 projects. The goals of this chapter are to:

25 (1) Reduce the cost of transportation project delivery;

26 (2) Recover transportation investment costs;

27 (3) Develop an expedited project delivery process;

28 (4) Encourage business investment in public infrastructure;

29 (5) Use any fund source outside the state treasury, where
30 financially advantageous and in the public interest;

31 (6) Maximize innovation;

32 (7) Develop partnerships between and among private entities and the
33 public sector for the advancement of public purposes on mutually
34 beneficial terms;

35 (8) Create synergies between and among public sector entities to

1 develop projects that serve both transportation and other important
2 public purposes; and

3 (9) Access specialized construction management and project
4 management services and techniques available in the private sector.

5 NEW SECTION. **Sec. 5.** ELIGIBLE PROJECTS. Projects eligible for
6 development under this chapter include:

7 (1) Transportation projects, whether capital or operating, where
8 the state's primary purpose for the project is to facilitate the safe
9 transport of people or goods via any mode of travel. However, this
10 does not include projects that are primarily for recreational purposes,
11 such as parks, hiking trails, off-road vehicle trails, etc.; and

12 (2) Facilities, structures, operations, properties, vehicles,
13 vessels, or the like that are developed concurrently with an eligible
14 transportation project and that are capable of (a) providing revenues
15 to support financing of an eligible transportation project, or (b) that
16 are public projects that advance public purposes unrelated to
17 transportation.

18 NEW SECTION. **Sec. 6.** ELIGIBLE TYPES OF FINANCING. (1) Subject to
19 the limitations in this section, the department may, in connection with
20 the evaluation of eligible projects, consider any financing mechanisms
21 identified under subsections (3) through (5) of this section or any
22 other lawful source, either integrated as part of a project proposal or
23 as a separate, stand-alone proposal to finance a project. Financing
24 may be considered for all or part of a proposed project. A project may
25 be financed in whole or in part with:

26 (a) The proceeds of grant anticipation revenue bonds authorized by
27 23 U.S.C. Sec. 122 and applicable state law. Legislative authorization
28 and appropriation is required in order to use this source of financing;

29 (b) Grants, loans, loan guarantees, lines of credit, revolving
30 lines of credit, or other financing arrangements available under the
31 Transportation Infrastructure Finance and Innovation Act under 23
32 U.S.C. Sec. 181 et seq., or any other applicable federal law;

33 (c) Infrastructure loans or assistance from the state
34 infrastructure bank established by RCW 82.44.195;

35 (d) Federal, state, or local revenues, subject to appropriation by
36 the applicable legislative authority;

1 (e) User fees, tolls, fares, lease proceeds, rents, gross or net
2 receipts from sales, proceeds from the sale of development rights,
3 franchise fees, or any other lawful form of consideration.

4 (2) As security for the payment of financing described in this
5 section, the revenues from the project may be pledged, but no such
6 pledge of revenues constitutes in any manner or to any extent a general
7 obligation of the state. Any financing described in this section may
8 be structured on a senior, parity, or subordinate basis to any other
9 financing.

10 (3) For any transportation project developed under this chapter
11 that is owned, leased, used, or operated by the state, as a public
12 facility, if indebtedness is issued, it must be issued by the state
13 treasurer for the transportation project.

14 (4) For other public projects defined in section 5(2) of this act
15 that are developed in conjunction with a transportation project,
16 financing necessary to develop, construct, or operate the public
17 project must be approved by the state finance committee or by the
18 governing board of a public benefit corporation as provided in the
19 federal Internal Revenue Code section 63-20;

20 (5) For projects that are developed in conjunction with a
21 transportation project but are not themselves a public facility or
22 public project, any lawful means of financing may be used.

23 NEW SECTION. **Sec. 7.** USE OF FEDERAL FUNDS AND SIMILAR SOURCES OF
24 REVENUE. The department may accept from the United States or any of
25 its agencies such funds as are available to this state or to any other
26 unit of government for carrying out the purposes of this chapter,
27 whether the funds are made available by grant, loan, or other financing
28 arrangement. The department may enter into such agreements and other
29 arrangements with the United States or any of its agencies as may be
30 necessary, proper, and convenient for carrying out the purposes of this
31 chapter, subject to section 8 of this act.

32 NEW SECTION. **Sec. 8.** OTHER SOURCES OF VALUABLE CONSIDERATION
33 AUTHORIZED. The department may accept from any source any grant,
34 donation, gift, or other form of conveyance of land, money, other real
35 or personal property, or other valuable thing made to the state of

1 Washington, the department, or a local government for carrying out the
2 purposes of this chapter.

3 Any eligible project may be financed in whole or in part by
4 contribution of any funds or property made by any private entity or
5 public sector partner that is a party to any agreement entered into
6 under this chapter.

7 NEW SECTION. **Sec. 9.** REVIEW, EVALUATION, AND SELECTION OF
8 POTENTIAL PROJECTS. (1) Subject to subsection (2) of this section, the
9 commission may:

10 (a) Solicit concepts or proposals for eligible projects from
11 private entities and units of government;

12 (b) On or after January 1, 2007, accept unsolicited concepts or
13 proposals for eligible projects from private entities and units of
14 government, subject to section 17 of this act;

15 (c) Direct the department to evaluate projects for inclusion in the
16 transportation innovative partnerships program that are already
17 programmed or identified for traditional development by the state;

18 (d) Direct the department to evaluate the concepts or proposals
19 received under this section; and

20 (e) Select potential projects based on the concepts or proposals.
21 The evaluation under this subsection must include consultation with any
22 appropriate unit of government.

23 (2) Before undertaking any of the activities contained in
24 subsection (1) of this section, the commission must have:

25 (a) Completed the tolling feasibility study; and

26 (b) Adopted rules specifying procedures for the proper
27 solicitation, acceptance, review, and evaluation of projects, which
28 procedures must include:

29 (i) A comparison with the department's internal ability to complete
30 the project that documents the advantages of completing the project as
31 a partnership versus solely as a public venture; and

32 (ii) Factors such as priority, cost, risk sharing, scheduling, and
33 management conditions.

34 NEW SECTION. **Sec. 10.** ADMINISTRATIVE FEE AUTHORIZED. The
35 department may charge a reasonable administrative fee for the

1 evaluation of an unsolicited project proposal. The amount of the fee
2 will be established in rules of the commission.

3 NEW SECTION. **Sec. 11.** AUTHORIZATION TO SPEND FUNDS FOR EVALUATION
4 AND NEGOTIATION OF PROPOSALS. The department may spend, out of any
5 funds identified for the purpose, such moneys as may be necessary for
6 the evaluation of concepts or proposals for eligible projects and for
7 negotiating agreements for eligible projects authorized by this
8 chapter. The department may employ engineers, consultants, or other
9 experts the department determines are needed for the purposes of doing
10 the evaluation and negotiation. Expenses incurred by the department
11 under this section before the issuance of transportation project bonds
12 or other financing must be paid by the department and charged to the
13 appropriate project. The department shall keep records and accounts
14 showing each amount so charged.

15 Unless otherwise provided in the omnibus transportation budget the
16 funds spent by the department under this section in connection with the
17 project must be repaid from the proceeds of the bonds or other
18 financing upon the sale of transportation project bonds or upon
19 obtaining other financing for an eligible project, as allowed by law or
20 contract.

21 NEW SECTION. **Sec. 12.** CONSULTATION WITH EXPERTS AUTHORIZED. The
22 commission and department may consult with legal, financial, and other
23 experts inside and outside the public sector in the evaluation,
24 negotiation, and development of projects under this chapter, consistent
25 with RCW 43.10.040 where applicable.

26 NEW SECTION. **Sec. 13.** ENVIRONMENTAL, ENGINEERING, AND TECHNICAL
27 STUDIES CONTRACTED. Notwithstanding any other provision of law, and in
28 the absence of any direct federal funding or direction, the department
29 may contract with a private developer of a selected project proposal to
30 conduct environmental impact studies and engineering and technical
31 studies.

32 NEW SECTION. **Sec. 14.** TERMS OF PARTNERSHIP AGREEMENTS. (1) The
33 following provisions must be included in any agreement to which the
34 state is a party:

1 (a) For any project that proposes terms for stand-alone maintenance
2 or asset management services for a public facility, those services must
3 be provided in a manner consistent with any collective bargaining
4 agreements, the personnel system reform act (chapter 41.80 RCW), and
5 civil service laws that are in effect for the public facility;

6 (b) Transportation projects that are selected for development under
7 this chapter must be identified in the Washington transportation plan
8 or be identified by the authority as being a priority need for the
9 state;

10 (c) If there is a tolling component to the project, then it must be
11 specified that tolling technology used in the project must be
12 consistent with tolling technology standards adopted by the department
13 for transportation-related projects;

14 (d) Provisions for bonding, financial guarantees, deposits, or the
15 posting of other security to secure the payment of laborers,
16 subcontractors, and suppliers who perform work or provide materials as
17 part of the project;

18 (e) All projects must be financed in a manner consistent with
19 section 6 of this act. This chapter is null and void if this
20 subsection or section 6 of this act fails to become law or is held
21 invalid by a court of final jurisdiction.

22 (2) Agreements between the state and private sector partners
23 entered into under this section must specifically include the following
24 contractual elements:

25 (a) The point in the project at which public and private sector
26 partners will enter the project and which partners will assume
27 responsibility for specific project elements;

28 (b) How the partners will share management of the risks of the
29 project;

30 (c) How the partners will share the costs of development of the
31 project;

32 (d) How the partners will allocate financial responsibility for
33 cost overruns;

34 (e) The penalties for nonperformance;

35 (f) The incentives for performance;

36 (g) The accounting and auditing standards to be used to evaluate
37 work on the project;

1 (h) For any project that reverts to public ownership, the
2 responsibility for reconstruction or renovations that are required in
3 order for a facility to meet all applicable government standards upon
4 reversion of the facility to the state; and

5 (i) Provisions for patrolling and law enforcement on transportation
6 projects that are public facilities.

7 NEW SECTION. **Sec. 15.** PUBLIC INVOLVEMENT AND PARTICIPATION PLAN.

8 (1) Before final approval, agreements entered into under this chapter
9 must include a process that provides for public involvement and
10 participation with respect to the development of the projects. This
11 plan must be submitted along with the proposed agreement, and both must
12 be approved under section 16 of this act before the state may enter a
13 binding agreement.

14 (2) All workshops, forums, open houses, meetings, public hearings,
15 or similar public gatherings must be administered and attended by
16 representatives of the state and any other public entities that are
17 party to an agreement authorized by this chapter.

18 NEW SECTION. **Sec. 16.** PROCESS FOR FINAL APPROVAL AND EXECUTION OF
19 CONTRACTS. (1) Before approving an agreement under subsection (2) of
20 this section, the commission, with the technical assistance of the
21 department, must:

22 (a) Prepare a financial analysis that fully discloses all project
23 costs, direct and indirect, including costs of any financing;

24 (b) Publish notice and make available the contents of the
25 agreement, with the exception of patent information, at least twenty
26 days before the public hearing required in (c) of this subsection; and

27 (c) Hold a public hearing on the proposed agreement, with proper
28 notice provided at least twenty days before the hearing. The public
29 hearing must be held within the boundaries of the county seat of the
30 county containing the project.

31 (2) The commission must allow at least twenty days from the public
32 hearing on the proposed agreement required under subsection (1)(c) of
33 this section before approving and executing any agreements authorized
34 under this chapter.

1 NEW SECTION. **Sec. 17.** UNSOLICITED PROJECT PROPOSALS. Before
2 accepting any unsolicited project proposals, the commission must adopt
3 rules to facilitate the acceptance, review, evaluation, and selection
4 of unsolicited project proposals. These rules must include the
5 following:

6 (1) Provisions that specify unsolicited proposals must meet
7 predetermined criteria;

8 (2) Provisions governing procedures for the cessation of
9 negotiations and consideration;

10 (3) Provisions outlining that unsolicited proposals are subject to
11 a two-step process that begins with concept proposals and would only
12 advance to the second step, which are fully detailed proposals, if the
13 commission so directed;

14 (4) Provisions that require concept proposals to include at least
15 the following information: Proposers' qualifications and experience;
16 description of the proposed project and impact; proposed project
17 financing; and known public benefits and opposition; and

18 (5) Provisions that specify the process to be followed if the
19 commission is interested in the concept proposal, which must include
20 provisions:

21 (a) Requiring that information regarding the potential project
22 would be published for a period of not less than thirty days, during
23 which time entities could express interest in submitting a proposal;

24 (b) Specifying that if letters of interest were received during the
25 thirty days, then an additional sixty days for submission of the fully
26 detailed proposal would be allowed; and

27 (c) Procedures for what will happen if there are insufficient
28 proposals submitted or if there are no letters of interest submitted in
29 the appropriate time frame.

30 The commission may adopt other rules as necessary to avoid
31 conflicts with existing laws, statutes, or contractual obligations of
32 the state.

33 The commission may not accept or consider any unsolicited proposals
34 before January 1, 2007.

35 NEW SECTION. **Sec. 18.** ADVISORY COMMITTEES REQUIRED FOR LARGE
36 PROJECTS. For projects with costs, including financing costs, of three
37 hundred million dollars or greater, advisory committees are required.

1 (1) The commission must establish an advisory committee to advise
2 with respect to eligible projects. An advisory committee must consist
3 of not fewer than five and not more than nine members, as determined by
4 the public partners. Members must be appointed by the commission, or
5 for projects with joint public sector participation, in a manner agreed
6 to by the commission and any participating unit of government. In
7 making appointments to the committee, the commission shall consider
8 persons or organizations offering a diversity of viewpoints on the
9 project.

10 (2) An advisory committee shall review concepts or proposals for
11 eligible projects and submit comments to the public sector partners.

12 (3) An advisory committee shall meet as necessary at times and
13 places fixed by the department, but not less than twice per year. The
14 state shall provide personnel services to assist the advisory committee
15 within the limits of available funds. An advisory committee may adopt
16 rules to govern its proceedings and may select officers.

17 (4) An advisory committee must be dissolved once the project has
18 been fully constructed and debt issued to pay for the project has been
19 fully retired.

20 NEW SECTION. **Sec. 19.** CONFIDENTIAL INFORMATION. A proposer shall
21 identify those portions of a proposal that the proposer considers to be
22 confidential, proprietary information, or trade secrets and provide any
23 justification as to why these materials, upon request, should not be
24 disclosed by the authority. Patent information will be covered until
25 the patent expires. Other information such as originality of design or
26 records of negotiation may only be protected under this section until
27 an agreement is reached. Disclosure must occur before final agreement
28 and execution of the contract. Projects under federal jurisdiction or
29 using federal funds must conform to federal regulations under the
30 Freedom of Information Act.

31 NEW SECTION. **Sec. 20.** APPLICATION OF PREVAILING WAGE LAW. If
32 public funds are used to pay any costs of construction of a public
33 facility that is part of an eligible project, chapter 39.12 RCW applies
34 to the entire eligible public works project.

1 legislature, either upon appropriation of supporting state funds or by
2 other statutory direction.

3 (4) The state treasurer shall serve as a fiduciary for the purpose
4 of carrying out this chapter and implementing all or portions of any
5 transportation project financed under this chapter.

6 (5) Moneys in the transportation innovative partnership account
7 that were derived from revenue subject to Article II, section 40
8 (Amendment 18) of the Washington state Constitution, may be used only
9 for purposes authorized by that provision of the state Constitution.

10 (6) The state treasurer shall establish separate subaccounts within
11 the transportation innovative partnership account for each
12 transportation project that is initiated under this chapter or under
13 the general powers granted to the department. Except as provided in
14 subsection (5) of this section, the state may pledge moneys in the
15 transportation innovative partnership account to secure revenue bonds
16 or any other debt obligations relating to the project for which the
17 account is established.

18 NEW SECTION. **Sec. 24.** USE OF TRANSPORTATION INNOVATIVE
19 PARTNERSHIP ACCOUNT. (1) The state may use moneys in the
20 transportation innovative partnership subaccount to ensure the
21 repayment of loan guarantees or extensions of credit made to or on
22 behalf of private entities engaged in the planning, acquisition,
23 financing, development, design, construction, reconstruction,
24 replacement, improvement, maintenance, preservation, management,
25 repair, or operation of any eligible project that is related to a
26 subaccount established under this chapter.

27 (2) The lien of a pledge made under this section is subordinate to
28 the lien of a pledge securing bonds payable from moneys in the motor
29 vehicle fund established in RCW 46.68.070, or the transportation
30 innovative partnership account established in section 23 of this act.

31 NEW SECTION. **Sec. 25.** AUTHORITY TO ISSUE REVENUE BONDS AND OTHER
32 OBLIGATIONS. (1) In addition to any authority the commission or
33 department has to issue and sell bonds and other similar obligations,
34 this section establishes continuing authority for the issuance and sale
35 of bonds and other similar obligations in a manner consistent with this
36 section. To finance a project in whole or in part, the commission may

1 request that the state treasurer issue revenue bonds on behalf of the
2 public sector partner. The bonds must be secured by a pledge of, and
3 a lien on, and be payable only from moneys in the transportation
4 innovative partnership account established in section 23 of this act,
5 and any other revenues specifically pledged to repayment of the bonds.
6 Such a pledge by the public partner creates a lien that is valid and
7 binding from the time the pledge is made. Revenue bonds issued under
8 this section are not general obligations of the state or local
9 government and are not secured by or payable from any funds or assets
10 of the state other than the moneys and revenues specifically pledged to
11 the repayment of such revenue bonds.

12 (2) Moneys received from the issuance of revenue bonds or other
13 debt obligations, including any investment earnings thereon, may be
14 spent:

15 (a) For the purpose of financing the costs of the project for which
16 the bonds are issued;

17 (b) To pay the costs and other administrative expenses of the
18 bonds;

19 (c) To pay the costs of credit enhancement or to fund any reserves
20 determined to be necessary or advantageous in connection with the
21 revenue bonds; and

22 (d) To reimburse the public sector partners for any costs related
23 to carrying out the projects authorized under this chapter.

24 **PART IV**
25 **ALTERNATIVE CONTRACTING AND INNOVATIVE PROJECT MANAGEMENT**

26 NEW SECTION. **Sec. 26.** STUDY OF ALTERNATIVE CONTRACTING AND
27 PROJECT MANAGEMENT AUTHORITIES. The department shall conduct a study
28 of:

29 (1) The contracting powers and project management authorities it
30 currently possesses; those same powers and authorities authorized under
31 this chapter; and those powers and authorities employed by other states
32 or the private sector;

33 (2) Methods of encouraging competition for the development of
34 transportation projects; and

35 (3) Any additional procedures that may be necessary or desirable

1 for negotiating contracts in situations of a single qualified bidder,
2 in either solicited or unsolicited proposals.

3 The department must submit its report, along with any recommended
4 legislative changes, to the commission by November 1, 2005, and to the
5 governor and the legislature for consideration in the 2006 legislative
6 session.

7 **PART V**
8 **CONSTRUCTION**

9 NEW SECTION. **Sec. 27.** CONFORMITY WITH FEDERAL LAWS.
10 Notwithstanding any provision of this chapter, applicable federal laws,
11 rules, and regulations govern in any situation that involves federal
12 funds if the federal laws, rules, or regulations:

- 13 (1) Conflict with any provision of this chapter;
14 (2) Require procedures that are additional to or different from
15 those provided in this chapter; or
16 (3) Require contract provisions not authorized in this chapter. If
17 no federal funds are provided, state laws, rates, and rules will
18 govern.

19 NEW SECTION. **Sec. 28.** Captions used in this chapter are not part
20 of the law.

21 NEW SECTION. **Sec. 29.** Sections 1 through 28 of this act
22 constitute a new chapter in Title 47 RCW.

23 NEW SECTION. **Sec. 30.** A new section is added to chapter 47.04 RCW
24 to read as follows:

25 The department of transportation may impose and collect latecomer
26 fees on behalf of another entity for infrastructure improvement
27 projects initially funded partially or entirely by private sources.
28 However, there must be an agreement in place between the department of
29 transportation and the entity, before the imposition and collection of
30 any such fees, that specifies (1) the collection process, (2) the
31 maximum amount that may be collected, and (3) the period of time during
32 which the collection may occur."

ADOPTED 4/12/05

1 In line 1 of the title, after "partnerships;" strike the remainder
2 of the title and insert "adding a new section to chapter 47.04 RCW; and
3 adding a new chapter to Title 47 RCW."

--- END ---