

SHB 1541 - S COMM AMD  
By Committee on Transportation

NOT ADOPTED 04/12/2005

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 rule making; and for contract execution. The department shall be  
2 responsible for evaluating proposals and negotiating contracts.

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

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

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

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

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

10 (5) "Private sector partner" and "private partner" means a person,  
11 entity, or organization that is not the federal government, a state, or  
12 a political subdivision of a state.

13 (6) "Public funds" means all moneys derived from taxes, fees,  
14 charges, tolls, etc.

15 (7) "Public sector partner" and "public partner" means any federal  
16 or state unit of government, bistate transportation organization, or  
17 any other political subdivision of any state.

18 (8) "Transportation innovative partnership program" or "program"  
19 means the program as outlined in section 4 of this act.

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

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

33 **PART I**  
34 **POWERS AND DUTIES OF TRANSPORTATION COMMISSION**

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

4        (1) Be designated as the transportation innovative partnership  
5 program authority with the authority to:

6            (a) Adopt rules necessary to carry out this chapter;

7            (b) Enter into contracts or agreements authorized in this chapter;

8 and

9            (c) Organize itself in ways necessary to support the purposes of  
10 this chapter;

11        (2) Be responsible for the day-to-day processes of the  
12 transportation innovative partnership program;

13        (3) Adopt rules to govern the program, which rules must include the  
14 following:

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

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

20            (c) The composition of the team responsible for the evaluation of  
21 proposals to include:

22                  (i) Washington state department of transportation staff;

23                  (ii) An independent representative of a consulting or contracting  
24 field with no interests in the project that is prohibited from becoming  
25 a project manager for the project and bidding on any part of the  
26 project;

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

29                  (iv) A person appointed by the commission, if the secretary of  
30 transportation is a cabinet member, or appointed by the governor if the  
31 secretary of transportation is not a cabinet member; and

32                  (v) A financial expert;

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

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

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

- 1 (i) Comparison with the department's internal ability to complete
- 2 the project; and
- 3 (ii) Factors such as, but not limited to: priority, cost, risk
- 4 sharing, scheduling, and management conditions;
- 5 (g) The protection of confidential proprietary information while
- 6 still meeting the need for public disclosure that is consistent with
- 7 section 19 of this act;
- 8 (h) Protection for local contractors to participate in
- 9 subcontracting opportunities;
- 10 (i) Specifying that maintenance issues must be resolved in a manner
- 11 consistent with the personnel system reform act, chapter 41.80 RCW;
- 12 (j) Specifying that provisions regarding patrolling and law
- 13 enforcement on a public facility are subject to approval by the
- 14 Washington state patrol;
- 15 (4) Adopt guidelines to address security and performance issues.
- 16 All rules and guidelines established under this section must be
- 17 submitted to the chairs and ranking members of both transportation
- 18 committees in October 2005 for review and then be submitted to the full
- 19 legislature in the 2006 session.

20 **PART II**

21 **TRANSPORTATION INNOVATIVE PARTNERSHIPS PROGRAM**

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

- 28 (1) Reduce the cost of transportation project delivery;
- 29 (2) Recover transportation investment costs;
- 30 (3) Develop an expedited project delivery process;
- 31 (4) Encourage business investment in public infrastructure;
- 32 (5) Use any fund source outside the state treasury, where
- 33 financially advantageous and in the public interest;
- 34 (6) Maximize innovation;
- 35 (7) Develop partnerships between and among private entities and the

1 public sector for the advancement of public purposes on mutually  
2 beneficial terms;

3 (8) Create synergies between and among public sector entities to  
4 develop projects that serve both transportation and other important  
5 public purposes; and

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

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

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

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

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

29 (a) The proceeds of grant anticipation revenue bonds authorized by  
30 23 U.S.C. Sec. 122 and applicable state law. Legislative authorization  
31 and appropriation is required in order to use this source of financing;

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

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

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

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

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

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

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

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

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

1        NEW SECTION.    **Sec. 8.**    OTHER SOURCES OF VALUABLE CONSIDERATION  
2 AUTHORIZED.    The department may accept from any source any grant,  
3 donation, gift, or other form of conveyance of land, money, other real  
4 or personal property, or other valuable thing made to the state of  
5 Washington, the department, or a local government for carrying out the  
6 purposes of this chapter.

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

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

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

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

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

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

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

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

29        (a) Completed the tolling feasibility study; and

30        (b) Adopted rules specifying procedures for the proper  
31 solicitation, acceptance, review, and evaluation of projects, which  
32 procedures must include:

33        (i) Comparison with the department's internal ability to complete  
34 the project; and

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

1        NEW SECTION.    **Sec. 10.**    ADMINISTRATIVE FEE AUTHORIZED.        The  
2 department may charge a reasonable administrative fee for the  
3 evaluation of an unsolicited project proposal.    The amount of the fee  
4 will be established in rules of the commission.

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

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

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

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



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

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

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

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

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

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

25        (2) Agreements between the state and private sector partners  
26 entered into under this section must specifically include the following  
27 contractual elements:

28        (a) The point in the project at which public and private sector  
29 partners will enter the project and which partners will assume  
30 responsibility for specific project elements;

31        (b) How the partners will share management of the risks of the  
32 project;

33        (c) How the partners will share the costs of development of the  
34 project;

35        (d) How the partners will allocate financial responsibility for  
36 cost overruns;

37        (e) The penalties for nonperformance;

38        (f) The incentives for performance;

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

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

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

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

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

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

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

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

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

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

32 (2) The commission must allow at least twenty days from the public  
33 hearing on the proposed agreement required under subsection (1)(c) of  
34 this section before approving and executing any agreements authorized  
35 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 specified and can be rejected by the commission  
8 at any point in the process;

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

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

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

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

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

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

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

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

34        NEW SECTION.    **Sec. 18.**    ADVISORY COMMITTEES REQUIRED FOR LARGE  
35 PROJECTS.    For projects with costs, including financing costs, of three  
36 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 state and any participating unit of government. In making  
7 appointments to the committee, the commission shall consider persons or  
8 organizations offering a diversity of viewpoints on the project.

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

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

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

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

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

34 NEW SECTION. **Sec. 21.** JOINT AGREEMENTS WITH OTHER GOVERNMENTAL  
35 ENTITIES. The state may, either separately or in combination with any

1 other public sector partner, enter into working agreements,  
2 coordination agreements, or similar implementation agreements,  
3 including the formation of bistate transportation organizations, to  
4 carry out the joint implementation of a transportation project selected  
5 under this chapter. The state may enter into agreements with other  
6 units of government or Canadian provinces for transborder  
7 transportation projects.

8 NEW SECTION. **Sec. 22.** EMINENT DOMAIN. The state may exercise the  
9 power of eminent domain to acquire property, rights of way, or other  
10 rights in property for projects that are necessary to implement an  
11 eligible project developed under this chapter, regardless of whether  
12 the property will be owned in fee simple by the state.

13 **PART III**  
14 **GENERAL PROVISIONS**

15 NEW SECTION. **Sec. 23.** CREATION OF TRANSPORTATION INNOVATIVE  
16 PARTNERSHIP ACCOUNT. (1) The transportation innovative partnership  
17 account is established in the custody of the state treasurer separate  
18 and distinct from the state general fund. Interest earned by the  
19 transportation innovative partnership account must be credited to the  
20 account. The account is subject to allotment procedures under chapter  
21 43.88 RCW.

22 (2) The following moneys must be deposited into the transportation  
23 innovative partnership account:

24 (a) Proceeds from bonds or other financing instruments issued under  
25 section 25 of this act;

26 (b) Revenues received from any transportation project developed  
27 under this chapter or developed under the general powers granted to the  
28 department; and

29 (c) Any other moneys that are by donation, grant, contract, law, or  
30 other means transferred, allocated, or appropriated to the account.

31 (3) Moneys in the transportation innovative partnership account may  
32 only be expended upon evidence of approval by the Washington state  
33 legislature, either upon appropriation of supporting state funds or by  
34 other statutory direction.

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

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

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

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

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

29 NEW SECTION. **Sec. 25.** AUTHORITY TO ISSUE REVENUE BONDS AND OTHER  
30 OBLIGATIONS. (1) In addition to any authority the commission or  
31 department has to issue and sell bonds and other similar obligations,  
32 this section establishes continuing authority for the issuance and sale  
33 of bonds and other similar obligations in a manner consistent with this  
34 section. To finance a project in whole or in part, the commission may  
35 request that the state treasurer issue revenue bonds on behalf of the  
36 public sector partner. The bonds must be secured by a pledge of, and

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

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

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

15 (b) To pay the costs and other administrative expenses of the  
16 bonds;

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

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

#### 22 PART IV

#### 23 ALTERNATIVE CONTRACTING AND INNOVATIVE PROJECT MANAGEMENT

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

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

31 (2) Methods of encouraging competition for the development of  
32 transportation projects; and

33 (3) Any additional procedures that may be necessary or desirable  
34 for negotiating contracts in situations of a single qualified bidder,  
35 in either solicited or unsolicited proposals.

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

5 **PART V**  
6 **CONSTRUCTION**

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

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

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

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

**SHB 1541** - S COMM AMD  
By Committee on Transportation

**NOT ADOPTED 04/12/2005**

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

--- END ---