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SENATE BILL 5864

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Cleveland, Murray, Eide, Hobbs, Harper, Fraser, Hatfield, Keiser, Frockt, Mullet, Kline, Nelson, Darneille, Chase, Ranker, Conway, Shin, Kohl-Welles, Hasegawa, McAuliffe, and Hargrove

Read first time 03/01/13. Referred to Committee on Transportation.

1 AN ACT Relating to the authorization of bonds for the financing of  
2 the Columbia river crossing project; amending RCW 47.10.882 and  
3 47.56.894; adding new sections to chapter 47.10 RCW; and providing a  
4 contingent effective date.

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

6 NEW SECTION. **Sec. 1.** In order to provide funds necessary for the  
7 location, design, right-of-way, and construction of the Columbia river  
8 crossing project, there shall be issued and sold upon the request of  
9 the department of transportation up to four hundred fifty million  
10 dollars in funding and the additional cost of financing in general  
11 obligation bonds of the state of Washington, first payable from toll  
12 revenue and excise taxes on motor vehicle and special fuels in  
13 accordance with sections 2 through 9 of this act.

14 NEW SECTION. **Sec. 2.** Upon the request of the department of  
15 transportation, the state finance committee shall supervise and provide  
16 for the issuance, sale, and retirement of the bonds authorized by this  
17 act in accordance with chapter 39.42 RCW. Bonds authorized by this act  
18 shall be sold in the manner, at time or times, in amounts, and at the

1 price as the state finance committee shall determine. No bonds may be  
2 offered for sale without prior legislative appropriation of the net  
3 proceeds of the sale of the bonds.

4 NEW SECTION. **Sec. 3.** The proceeds from the sale of bonds  
5 authorized by this act shall be deposited in the Columbia river  
6 crossing project account created under RCW 47.56.894 and shall be  
7 available only for the purposes enumerated in section 1 of this act,  
8 for the payment of bond anticipation notes or other interim financing,  
9 if any, capitalizing interest on the bonds, and for the payment of bond  
10 issuance costs, including the costs of underwriting.

11 NEW SECTION. **Sec. 4.** Bonds issued under the authority of this  
12 section and sections 1, 5, and 6 of this act shall distinctly state  
13 that they are a general obligation of the state of Washington, shall  
14 pledge the full faith and credit of the state to the payment of the  
15 principal thereof and the interest thereon, and shall contain an  
16 unconditional promise to pay such principal and interest as the same  
17 shall become due. The principal of and interest on the bonds shall be  
18 first payable in the manner provided in this act from toll revenue and  
19 then from proceeds of excise taxes on motor vehicle and special fuels  
20 to the extent toll revenue is not available for that purpose. Toll  
21 revenue and the state excise taxes on motor vehicle and special fuels  
22 imposed by chapters 82.36 and 82.38 RCW are hereby pledged to the  
23 payment of any bonds and the interest thereon issued under the  
24 authority of this act, and the legislature agrees to continue to impose  
25 these toll charges on the Columbia river crossing project, and on any  
26 other eligible toll facility designated by the legislature and on which  
27 the imposition of tolls is authorized by the legislature in respect of  
28 the bonds, and excise taxes on motor vehicle and special fuels in  
29 amounts sufficient to pay, when due, the principal and interest on all  
30 bonds issued under the authority of this act.

31 NEW SECTION. **Sec. 5.** For bonds issued under the authority of this  
32 act, the state treasurer shall first withdraw toll revenue from the  
33 Columbia river crossing project account created under RCW 47.56.894  
34 and, to the extent toll revenue is not available, excise taxes on motor  
35 vehicle and special fuels in the motor vehicle fund and deposit in the

1 toll facility bond retirement account, or a special subaccount in the  
2 account, such amounts, and at such times, as are required by the bond  
3 proceedings.

4 Any excise taxes on motor vehicle and special fuels required for  
5 bond retirement or interest on the bonds authorized by this act shall  
6 be taken from that portion of the motor vehicle fund that results from  
7 the imposition of excise taxes on motor vehicle and special fuels and  
8 which is, or may be, appropriated to the department for state highway  
9 purposes. Funds required shall never constitute a charge against any  
10 other allocations of motor vehicle fuel and special fuel tax revenues  
11 to the state, counties, cities, and towns unless the amount arising  
12 from excise taxes on motor vehicle and special fuels distributed to the  
13 state in the motor vehicle fund proves insufficient to meet the  
14 requirements for bond retirement or interest on any such bonds.

15 Any payments for bond retirement or interest on the bonds taken  
16 from other revenues from the motor vehicle fuel or special fuel taxes  
17 that are distributable to the state, counties, cities, and towns shall  
18 be repaid from available toll revenue in the manner provided in the  
19 bond proceedings or, if toll revenue is not available for that purpose,  
20 from the first excise taxes on motor vehicle and special fuels  
21 distributed to the motor vehicle fund not required for bond retirement  
22 or interest on the bonds. Any excise taxes on motor vehicle and  
23 special fuels required for bond retirement or interest on the bonds  
24 authorized by this act shall be reimbursed to the motor vehicle fund  
25 from toll revenue in the manner and with the priority specified in the  
26 bond proceedings.

27 NEW SECTION. **Sec. 6.** Bonds issued under the authority of this  
28 section and sections 1, 4, and 5 of this act and any other general  
29 obligation bonds of the state of Washington that have been or that may  
30 be authorized and that pledge motor vehicle and special fuels excise  
31 taxes for the payment of principal and interest thereon shall be an  
32 equal charge against the revenues from such motor vehicle and special  
33 fuels excise taxes.

34 NEW SECTION. **Sec. 7.** If and to the extent that the state finance  
35 committee determines, in consultation with the department of  
36 transportation and the tolling authority, that it will be beneficial

1 for the state to issue any bonds authorized in sections 1 and 4 through  
2 6 of this act as toll revenue bonds rather than as general obligation  
3 bonds, the state finance committee is authorized to issue and sell,  
4 upon the request of the department of transportation, such bonds as  
5 toll revenue bonds and not as general obligation bonds.  
6 Notwithstanding sections 4 and 5 of this act, each such bond shall  
7 contain a recital that payment or redemption of the bond and payment of  
8 the interest and any premium thereon is payable solely from and secured  
9 solely by a direct pledge, charge, and lien upon toll revenue and is  
10 not a general obligation of the state to which the full faith and  
11 credit of the state is pledged.

12 Toll revenue is hereby pledged to the payment of any bonds and the  
13 interest thereon issued under the authority of this section, and the  
14 legislature agrees to continue to impose these toll charges on the  
15 Columbia river crossing project, in amounts sufficient to pay, when  
16 due, the principal and interest on all bonds issued under the authority  
17 of this section.

18 NEW SECTION. **Sec. 8.** The state finance committee may determine  
19 and include in any resolution authorizing the issuance of any bonds  
20 under this act such terms, provisions, covenants, and conditions as it  
21 may deem appropriate in order to assist with the marketing and sale of  
22 the bonds, confer rights upon the owners of bonds, and safeguard rights  
23 of the owners of bonds including, among other things:

24 (1) Provisions regarding the maintenance and operation of eligible  
25 toll facilities;

26 (2) The pledges, uses, and priorities of application of toll  
27 revenue;

28 (3) Provisions that bonds shall be payable from and secured solely  
29 by toll revenue as provided by this act, or shall be payable from and  
30 secured by both toll revenue and by a pledge of excise taxes on motor  
31 vehicle and special fuels and the full faith and credit of the state as  
32 provided in this act;

33 (4) In consultation with the department of transportation and the  
34 tolling authority, financial covenants requiring that the eligible toll  
35 facilities must produce specified coverage ratios of toll revenue to  
36 debt service on bonds;

1 (5) The purposes and conditions that must be satisfied prior to the  
2 issuance of any additional bonds that are to be payable from and  
3 secured by any toll revenue on an equal basis with previously issued  
4 and outstanding bonds payable from and secured by toll revenue;

5 (6) Provisions that bonds for which any toll revenue are pledged,  
6 or for which a pledge of any toll revenue may be reserved, may be  
7 structured on a senior, parity, subordinate, or special lien basis in  
8 relation to any other bonds for which toll revenue is pledged, with  
9 respect to toll revenue only; and

10 (7) Provisions regarding reserves, credit enhancement, liquidity  
11 facilities, and payment agreements with respect to bonds.

12 Notwithstanding the foregoing, covenants and conditions detailing  
13 the character of management, maintenance, and operation of eligible  
14 toll facilities, insurance for eligible toll facilities, financial  
15 management of toll revenue, and disposition of eligible toll facilities  
16 must first be approved by the department of transportation.

17 The owner of any bond may by mandamus or other appropriate  
18 proceeding require and compel performance of any duties imposed upon  
19 the tolling authority and the department of transportation and their  
20 respective officials, including any duties imposed upon or undertaken  
21 by them or by their respective officers, agents, and employees, in  
22 connection with the construction, maintenance, and operation of  
23 eligible toll facilities and in connection with the collection,  
24 deposit, investment, application, and disbursement of the proceeds of  
25 the bonds and toll revenue.

26 NEW SECTION. **Sec. 9.** For the purposes of this act, "toll revenue"  
27 means all toll receipts, all interest income derived from the  
28 investment of toll receipts, and any gifts, grants, or other funds  
29 received for the benefit of transportation facilities in the state,  
30 including eligible toll facilities. However, for the purpose of any  
31 pledge of toll revenue to the payment of particular bonds issued under  
32 this act, "toll revenue" means and includes only such toll revenue or  
33 portion thereof that is pledged to the payment of those bonds in the  
34 resolution authorizing the issuance of such bonds. Toll revenue  
35 constitutes "fees and revenues derived from the ownership or operation  
36 of any undertaking, facility, or project" as that phrase is used in  
37 Article VIII, section 1(c)(1) of the state Constitution.

1 For the purposes of this act, "tolling authority" has the same  
2 meaning as in RCW 47.56.810.

3 **Sec. 10.** RCW 47.10.882 and 2011 c 377 s 3 are each amended to read  
4 as follows:

5 The toll facility bond retirement account is created in the state  
6 treasury for the purpose of payment of the principal of and interest  
7 and premium on bonds. Both principal of and interest on the bonds  
8 issued for the purposes of chapter 498, Laws of 2009 (~~and~~), chapter  
9 377, Laws of 2011, and this act shall be payable from the toll facility  
10 bond retirement account. The state finance committee may provide that  
11 special subaccounts be created in the account to facilitate payment of  
12 the principal of and interest on the bonds. The state finance  
13 committee shall, on or before June 30th of each year, certify to the  
14 state treasurer the amount required for principal and interest on the  
15 bonds in accordance with the bond proceedings.

16 **Sec. 11.** RCW 47.56.894 and 2012 c 36 s 3 are each amended to read  
17 as follows:

18 (1) A special account to be known as the Columbia river crossing  
19 project account is created in the state treasury.

20 (2) Deposits to the account must include:

21 (a) All proceeds of bonds and loans issued for the Columbia river  
22 crossing project, including any capitalized interest;

23 (b) All tolls and other revenues received from the operation of the  
24 Columbia river crossing project as a toll facility to be deposited at  
25 least monthly;

26 (c) Any interest that may be earned from the deposit or investment  
27 of those revenues;

28 (d) Notwithstanding RCW 47.12.063, proceeds from the sale of any  
29 surplus real property acquired for the Columbia river crossing project;  
30 and

31 (e) All damages, liquidated or otherwise, collected under any  
32 contract involving the Columbia river crossing project.

33 (3) Subject to the covenants made by the state in the bond  
34 proceedings authorizing the issuance and sale of bonds for the Columbia  
35 river crossing project, toll charges, other revenues, and interest

1 received from the operation of the Columbia river crossing project as  
2 a toll facility may be used to:

3 (a) Pay any required costs allowed under RCW 47.56.820; and

4 (b) Repay amounts to the motor vehicle fund as required.

5 (4) When repaying the motor vehicle fund, the state treasurer must  
6 transfer funds from the Columbia river crossing project account to the  
7 motor vehicle fund on or before each debt service date for bonds issued  
8 for the Columbia river crossing project in an amount sufficient to  
9 repay the motor vehicle fund for amounts transferred from that fund to  
10 the highway bond retirement fund to provide for any bond principal and  
11 interest due on that date. The state treasurer may establish  
12 subaccounts for the purpose of segregating toll charges, bond sale  
13 proceeds, and other revenues.

14 NEW SECTION. Sec. 12. Sections 1 through 9 of this act are each  
15 added to chapter 47.10 RCW.

16 NEW SECTION. Sec. 13. Section 11 of this act takes effect if the  
17 requirements set out in section 7, chapter 36, Laws of 2012 are met.

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