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**HOUSE BILL 2717**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Young, Orcutt, Muri, and Harmsworth

AN ACT Relating to directing the department of transportation to identify opportunities and, if appropriate, submit an invitation for bids or request for proposals to contract with concessionaires to operate on and collect tolls for the Tacoma Narrows bridge; amending RCW 47.56.030, 47.56.077, and 47.56.165; reenacting and amending RCW 47.56.010; adding a new section to chapter 47.56 RCW; creating new sections; and providing a contingent expiration date.

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

NEW SECTION. **Sec.**  This act may be known and cited as the Tacoma Narrows bridge toll by coffee act.

NEW SECTION. **Sec.**  The legislature finds that other states have leased land surrounding toll booths to concessionaires to create toll plazas that provide food, goods, or rest areas to drivers. Such private enterprises are allowed to build buildings and parking spaces, provide for commuter throughput, and make modifications to sell goods and services as long as they also collect the tolls for the road in an efficient manner. Because the Tacoma Narrows bridge has unique financing issues that may necessitate significant increases in tolls on the bridge in the future, it is the intent of the legislature to direct the department of transportation to assess and identify what steps need to be taken to create an economic opportunity involving the private sector that can result in reductions to administrative costs or result in additional revenue generated to minimize potential toll rate increases for the Tacoma Narrows bridge. The legislature also intends to provide an opportunity for private sector resources to assist in the payment and operations of the Tacoma Narrows bridge.

**Sec.**  RCW 47.56.010 and 2010 c 249 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "1950 Tacoma Narrows bridge" means the bridge crossing the Tacoma Narrows that was opened to vehicle travel in 1950.

(2) "Electronic toll collection system" means a system that collects tolls by crediting or debiting funds from a customer's unique prepaid tolling account.

(3) "Photo toll" means a toll charge associated with a particular vehicle that is identified by its license plate. A photo toll may be paid through one of the following methods:

(a) A customer-initiated account that is prepaid or postpaid.

(b) In response to a toll bill that is sent to the registered owner of the vehicle incurring the photo toll charge. The toll bill may designate a toll payment due date for the photo toll assessed.

(4) "Photo toll system" means a camera-based imaging system that uses digital video or still image formats to record license plate images of vehicles using toll lanes for the purpose of collecting a photo toll.

(5) "Toll booth" means a booth, as at a bridge or the entrance of a toll road, where a toll is collected. A toll booth need not be limited to the collection of tolls.

(6) "Toll bridge" means a bridge constructed or acquired under this chapter, upon which tolls are charged, together with all appurtenances, additions, alterations, improvements, and replacements thereof, and the approaches thereto, and all lands and interests used therefor, and buildings and improvements thereon.

((~~(6)~~)) (7) "Toll payment due date" means the date when a toll must be paid to avoid a toll violation civil penalty. The toll payment due date is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

((~~(7)~~)) (8) "Toll plaza" means a staffed facility where tolls are collected and where concessionaires may be allowed to offer goods or services for retail via a drive-through toll booth or a walk-in location, or both.

(9) "Toll road" means any express highway, superhighway, or motorway at such locations and between such termini as may be established by law, and constructed or to be constructed as a limited access highway under the provisions of this chapter by the department, and shall include, but not be limited to, all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service facilities, communications facilities, and administration, storage, and other buildings that the department may deem necessary for the operation of the project, together with all property, rights, easements, and interests that may be acquired by the department for the construction or the operation of the project, all of which shall be conducted in the same manner and under the same procedure as provided for the establishing, constructing, operating, and maintaining of toll bridges by the department, insofar as those procedures are reasonably consistent and applicable.

NEW SECTION. **Sec.**  A new section is added to chapter 47.56 RCW to read as follows:

The department's economic partnerships program, in consultation with the toll division, is directed to identify opportunities to create a toll plaza by leasing, in full or in part, the property upon which the Tacoma Narrows bridge toll booths are located or contract with the private sector to operate other businesses while collecting tolls, or both. The department should contract as needed with business consultants with knowledge and expertise of how to analyze and estimate the economic and traffic impacts of creating a toll plaza and to obtain a detailed analysis of the feasibility and fiscal implications of a potential lease or contract of the Tacoma Narrows bridge property surrounding the location of the toll booths, including the buildings. The analysis should identify the characteristics of private sector partners who would be able to successfully undertake a commercial or retail business jointly with the collection of tolls. The analysis must identify a set of requirements that form the minimum criteria of any request for proposals that could be issued such that the result will generate net positive revenues relative to current toll booth operating costs and, where possible, revenues will be maximized by the department while also maintaining or improving the toll payer's experience at the toll booth or toll plaza. If the analysis indicates favorable, sustainable results for the creation and operation of a toll plaza, the department must submit an invitation for bids in accordance with the process established under chapter 43.19 RCW or a request for proposals in accordance with the process established under RCW 47.56.030. The economic opportunities must always include the requirement that at least one booth operate solely to receive the payment of tolls in a timely manner.

The department should hold at least one public hearing in the community where the Tacoma Narrows bridge is located during 2016 as part of its analysis of the potential opportunity.

Any proceeds, separate from tolls, generated by a contract authorized in this section must be deposited into the Tacoma Narrows toll bridge account to be expended to pay for the principal and interest on bonds issued for the construction of the Tacoma Narrows bridge. Once the bonds have been paid, proceeds must be used for operations and maintenance of the bridge.

By December 1, 2016, the department must provide a report to the governor and transportation committees of the legislature on the actions taken by the department in implementing this section.

**Sec.**  RCW 47.56.030 and 2015 3rd sp.s. c 14 s 7 are each amended to read as follows:

(1) Except as permitted under chapter 47.29 or 47.46 RCW:

(a) Unless otherwise delegated, and subject to RCW 47.56.820, the department of transportation shall have full charge of the planning, analysis, and construction of all toll bridges and other toll facilities including the Washington state ferries, and the operation and maintenance thereof. Building, operating, and maintaining a Tacoma Narrows bridge toll plaza in accordance with section 4 of this act is a permitted exception and delegation of authority.

(b) The transportation commission shall determine and establish the tolls and charges thereon.

(c) Unless otherwise delegated, and subject to RCW 47.56.820, the department shall have full charge of planning, analysis, and design of all toll facilities. The department may conduct the planning, analysis, and design of toll facilities as necessary to support the legislature's consideration of toll authorization.

(d) The department shall utilize and administer toll collection systems that are simple, unified, and interoperable. To the extent practicable, the department shall avoid the use of toll booths. The department shall set the statewide standards and protocols for all toll facilities within the state, including those authorized by local authorities.

(e) Except as provided in this section, the department shall proceed with the construction of such toll bridges and other facilities and the approaches thereto by contract in the manner of state highway construction immediately upon there being made available funds for such work and shall prosecute such work to completion as rapidly as practicable. The department is authorized to negotiate contracts for any amount without bid under (e)(i) and (ii) of this subsection:

(i) Emergency contracts, in order to make repairs to ferries or ferry terminal facilities or removal of such facilities whenever continued use of ferries or ferry terminal facilities constitutes a real or immediate danger to the traveling public or precludes prudent use of such ferries or facilities; and

(ii) Single source contracts for vessel dry dockings, when there is clearly and legitimately only one available bidder to conduct dry dock-related work for a specific class or classes of vessels. The contracts may be entered into for a single vessel dry docking or for multiple vessel dry dockings for a period not to exceed two years.

(f) Any new vessel planning, construction, purchase, analysis, or design work must be consistent with RCW 47.60.810.

(2) The department shall proceed with the procurement of materials, supplies, services, and equipment needed for the support, maintenance, and use of a ferry, ferry terminal, or other facility operated by Washington state ferries, in accordance with chapter 43.19 RCW except as follows:

(a) When the secretary of the department of transportation determines in writing that the use of invitation for bid is either not practicable or not advantageous to the state and it may be necessary to make competitive evaluations, including technical or performance evaluations among acceptable proposals to complete the contract award, a contract may be entered into by use of a competitive sealed proposals method, and a formal request for proposals solicitation. Such formal request for proposals solicitation shall include a functional description of the needs and requirements of the state and the significant factors.

(b) When purchases are made through a formal request for proposals solicitation the contract shall be awarded to the responsible proposer whose competitive sealed proposal is determined in writing to be the most advantageous to the state taking into consideration price and other evaluation factors set forth in the request for proposals. No significant factors may be used in evaluating a proposal that are not specified in the request for proposals. Factors that may be considered in evaluating proposals include but are not limited to: Price; maintainability; reliability; commonality; performance levels; life-cycle cost if applicable under this section; cost of transportation or delivery; delivery schedule offered; installation cost; cost of spare parts; availability of parts and service offered; and the following:

(i) The ability, capacity, and skill of the proposer to perform the contract or provide the service required;

(ii) The character, integrity, reputation, judgment, experience, and efficiency of the proposer;

(iii) Whether the proposer can perform the contract within the time specified;

(iv) The quality of performance of previous contracts or services;

(v) The previous and existing compliance by the proposer with laws relating to the contract or services;

(vi) Objective, measurable criteria defined in the request for proposal. These criteria may include but are not limited to items such as discounts, delivery costs, maintenance services costs, installation costs, and transportation costs; and

(vii) Such other information as may be secured having a bearing on the decision to award the contract.

(c) When purchases are made through a request for proposal process, proposals received shall be evaluated based on the evaluation factors set forth in the request for proposal. When issuing a request for proposal for the procurement of propulsion equipment or systems that include an engine, the request for proposal must specify the use of a life-cycle cost analysis that includes an evaluation of fuel efficiency. When a life-cycle cost analysis is used, the life-cycle cost of a proposal shall be given at least the same relative importance as the initial price element specified in the request of proposal documents. The department may reject any and all proposals received. If the proposals are not rejected, the award shall be made to the proposer whose proposal is most advantageous to the department, considering price and the other evaluation factors set forth in the request for proposal.

**Sec.**  RCW 47.56.077 and 1984 c 7 s 253 are each amended to read as follows:

The department shall not grant concessions for the operation or establishment of any privately owned business upon toll road rights-of-way. However, the department may lease or contract with concessionaires as part of a toll plaza for the Tacoma Narrows bridge in accordance with section 4 of this act.

**Sec.**  RCW 47.56.165 and 2009 c 567 s 1 are each amended to read as follows:

A special account to be known as the Tacoma Narrows toll bridge account is created in the motor vehicle fund in the state treasury.

(1) Deposits to the account must include:

(a) All proceeds of bonds issued for construction of the Tacoma Narrows public-private initiative project, including any capitalized interest;

(b) All of the toll charges and other revenues received from the operation of the Tacoma Narrows bridge as a toll facility, to be deposited at least monthly;

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

(d) Notwithstanding RCW 47.12.063, proceeds from the sale of any surplus real property acquired for the purpose of building the second Tacoma Narrows bridge;

(e) Proceeds from contracts resulting from toll plaza activities as authorized in section 4 of this act; and

((~~(e)~~)) (f) All liquidated damages collected under any contract involving the construction of the second Tacoma Narrows bridge.

(2) Proceeds of bonds shall be used consistent with RCW 47.46.130, including the reimbursement of expenses and fees incurred under agreements entered into under RCW 47.46.040 as required by those agreements.

(3) Toll charges, other revenues, and interest may only be used to:

(a) Pay required costs that contribute directly to the financing, operation, maintenance, management, and necessary repairs of the tolled facility, as determined by rule by the transportation commission; and

(b) Repay amounts to the motor vehicle fund as required under RCW 47.46.140.

(4) Toll charges, other revenues, and interest may not be used to pay for costs that do not contribute directly to the financing, operation, maintenance, management, and necessary repairs of the tolled facility, as determined by rule by the transportation commission.

(5) The department shall make detailed quarterly expenditure reports available to the transportation commission and to the public on the department's web site using current department resources.

(6) When repaying the motor vehicle fund under RCW 47.46.140, the state treasurer shall transfer funds from the Tacoma Narrows toll bridge account to the motor vehicle fund on or before each debt service date for bonds issued for the Tacoma Narrows public-private initiative project in an amount sufficient to repay the motor vehicle fund for amounts transferred from that fund to the highway bond retirement fund to provide for any bond principal and interest due on that date. The state treasurer may establish subaccounts for the purpose of segregating toll charges, bond sale proceeds, and other revenues.

(7) Proceeds from contracts resulting from toll plaza activities as authorized in section 4 of this act must be expended to pay for the principal and interest on bonds issued for the construction of the Tacoma Narrows bridge. Once the bonds have been paid, proceeds must be used for operations and maintenance of the bridge.

NEW SECTION. **Sec.**  If a contract for a toll plaza as authorized under section 4 of this act is not initiated by June 30, 2026, this act expires.

NEW SECTION. **Sec.**  The department of transportation must provide notice of the expiration date of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

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