

SSB 5989 - S AMD 42

By Senator Cleveland

PULLED 6/29/2015

1 On page 3, after line 38, insert the following:

2 NEW SECTION. **Sec. 8.** In order to provide funds necessary for
3 the location, design, right-of-way, and construction of the
4 Interstate 5 bridge replacement project, there shall be issued and
5 sold upon the request of the department of transportation up to four
6 hundred fifty million dollars in funding and the additional cost of
7 financing in general obligation bonds of the state of Washington,
8 first payable from toll revenue and excise taxes on motor vehicle and
9 special fuels in accordance with sections 9 through 17 of this act.

10 NEW SECTION. **Sec. 9.** Upon the request of the department of
11 transportation, the state finance committee shall supervise and
12 provide for the issuance, sale, and retirement of the bonds
13 authorized by this act in accordance with chapter 39.42 RCW. Bonds
14 authorized by this act shall be sold in the manner, at time or times,
15 in amounts, and at the price as the state finance committee shall
16 determine. No bonds may be offered for sale without prior legislative
17 appropriation of the net proceeds of the sale of the bonds.

18 NEW SECTION. **Sec. 10.** The proceeds from the sale of bonds
19 authorized by this act shall be deposited in the Interstate 5 bridge
20 replacement project account created under RCW 47.56.894 and shall be
21 available only for the purposes enumerated in section 8 of this act,
22 for the payment of bond anticipation notes or other interim
23 financing, if any, capitalizing interest on the bonds, and for the
24 payment of bond issuance costs, including the costs of underwriting.

25 NEW SECTION. **Sec. 11.** Bonds issued under the authority of this
26 section and sections 8, 12, and 13 of this act shall distinctly state
27 that they are a general obligation of the state of Washington, shall
28 pledge the full faith and credit of the state to the payment of the
29 principal thereof and the interest thereon, and shall contain an
30 unconditional promise to pay such principal and interest as the same

1 shall become due. The principal of and interest on the bonds shall be
2 first payable in the manner provided in this act from toll revenue
3 and then from proceeds of excise taxes on motor vehicle and special
4 fuels to the extent toll revenue is not available for that purpose.
5 Toll revenue and the state excise taxes on motor vehicle and special
6 fuels imposed by chapters 82.36 and 82.38 RCW are hereby pledged to
7 the payment of any bonds and the interest thereon issued under the
8 authority of this act, and the legislature agrees to continue to
9 impose these toll charges on the Interstate 5 bridge replacement
10 project, and on any other eligible toll facility designated by the
11 legislature and on which the imposition of tolls is authorized by the
12 legislature in respect of the bonds, and excise taxes on motor
13 vehicle and special fuels in amounts sufficient to pay, when due, the
14 principal and interest on all bonds issued under the authority of
15 this act.

16 NEW SECTION. **Sec. 12.** For bonds issued under the authority of
17 this act, the state treasurer shall first withdraw toll revenue from
18 the Interstate 5 bridge replacement project account created under RCW
19 47.56.894 and, to the extent toll revenue is not available, excise
20 taxes on motor vehicle and special fuels in the motor vehicle fund
21 and deposit in the toll facility bond retirement account, or a
22 special subaccount in the account, such amounts, and at such times,
23 as are required by the bond proceedings.

24 Any excise taxes on motor vehicle and special fuels required for
25 bond retirement or interest on the bonds authorized by this act shall
26 be taken from that portion of the motor vehicle fund that results
27 from the imposition of excise taxes on motor vehicle and special
28 fuels and which is, or may be, appropriated to the department for
29 state highway purposes. Funds required shall never constitute a
30 charge against any other allocations of motor vehicle fuel and
31 special fuel tax revenues to the state, counties, cities, and towns
32 unless the amount arising from excise taxes on motor vehicle and
33 special fuels distributed to the state in the motor vehicle fund
34 proves insufficient to meet the requirements for bond retirement or
35 interest on any such bonds.

36 Any payments for bond retirement or interest on the bonds taken
37 from other revenues from the motor vehicle fuel or special fuel taxes
38 that are distributable to the state, counties, cities, and towns
39 shall be repaid from available toll revenue in the manner provided in

1 the bond proceedings or, if toll revenue is not available for that
2 purpose, from the first excise taxes on motor vehicle and special
3 fuels distributed to the motor vehicle fund not required for bond
4 retirement or interest on the bonds. Any excise taxes on motor
5 vehicle and special fuels required for bond retirement or interest on
6 the bonds authorized by this act shall be reimbursed to the motor
7 vehicle fund from toll revenue in the manner and with the priority
8 specified in the bond proceedings.

9 NEW SECTION. **Sec. 13.** Bonds issued under the authority of this
10 section and sections 8, 11, and 12 of this act and any other general
11 obligation bonds of the state of Washington that have been or that
12 may be authorized and that pledge motor vehicle and special fuels
13 excise taxes for the payment of principal and interest thereon shall
14 be an equal charge against the revenues from such motor vehicle and
15 special fuels excise taxes.

16 NEW SECTION. **Sec. 14.** If and to the extent that the state
17 finance committee determines, in consultation with the department of
18 transportation and the tolling authority, that it will be beneficial
19 for the state to issue any bonds authorized in sections 8 and 11
20 through 13 of this act as toll revenue bonds rather than as general
21 obligation bonds, the state finance committee is authorized to issue
22 and sell, upon the request of the department of transportation and
23 following consultation with the tolling authority, such bonds as toll
24 revenue bonds and not as general obligation bonds. Notwithstanding
25 sections 11 and 12 of this act, each such bond shall contain a
26 recital that payment or redemption of the bond and payment of the
27 interest and any premium thereon is payable solely from and secured
28 solely by a direct pledge, charge, and lien upon toll revenue and is
29 not a general obligation of the state to which the full faith and
30 credit of the state is pledged.

31 Toll revenue is hereby pledged to the payment of any bonds and
32 the interest thereon issued under the authority of this section, and
33 the legislature agrees to continue to impose these toll charges on
34 the Interstate 5 bridge replacement project, in amounts sufficient to
35 pay, when due, the principal and interest on all bonds issued under
36 the authority of this section.

1 NEW SECTION. **Sec. 15.** The state finance committee may determine
2 and include in any resolution authorizing the issuance of any bonds
3 under this act such terms, provisions, covenants, and conditions as
4 it may deem appropriate in order to assist with the marketing and
5 sale of the bonds, confer rights upon the owners of bonds, and
6 safeguard rights of the owners of bonds including, among other
7 things:

8 (1) Provisions regarding the maintenance and operation of
9 eligible toll facilities;

10 (2) The pledges, uses, and priorities of application of toll
11 revenue;

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

17 (4) In collaboration with the department of transportation and
18 the tolling authority, financial covenants requiring that the
19 eligible toll facilities must produce specified coverage ratios of
20 toll revenue to debt service on bonds;

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

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

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

32 Notwithstanding the foregoing, covenants and conditions detailing
33 the character of management, maintenance, and operation of eligible
34 toll facilities, insurance for eligible toll facilities, financial
35 management of toll revenue, and disposition of eligible toll
36 facilities must first be approved by the department of
37 transportation.

38 The owner of any bond may by mandamus or other appropriate
39 proceeding require and compel performance of any duties imposed upon
40 the tolling authority and the department of transportation and their

1 respective officials, including any duties imposed upon or undertaken
2 by them or by their respective officers, agents, and employees, in
3 connection with the construction, maintenance, and operation of
4 eligible toll facilities and in connection with the collection,
5 deposit, investment, application, and disbursement of the proceeds of
6 the bonds and toll revenue.

7 NEW SECTION. **Sec. 16.** The state treasurer shall consult and
8 collaborate with the tolling authority regarding any refinancing or
9 refunding of bonds in order to evaluate both the potential benefits
10 and costs to toll payers.

11 NEW SECTION. **Sec. 17.** For the purposes of this act, "toll
12 revenue" means all toll receipts, all interest income derived from
13 the investment of toll receipts, and any gifts, grants, or other
14 funds received for the benefit of transportation facilities in the
15 state, including eligible toll facilities. However, for the purpose
16 of any pledge of toll revenue to the payment of particular bonds
17 issued under this act, "toll revenue" means and includes only such
18 toll revenue or portion thereof that is pledged to the payment of
19 those bonds in the resolution authorizing the issuance of such bonds.
20 Toll revenue constitutes "fees and revenues derived from the
21 ownership or operation of any undertaking, facility, or project" as
22 that phrase is used in Article VIII, section 1(c)(1) of the state
23 Constitution.

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

26 **Sec. 18.** RCW 47.10.882 and 2011 c 377 s 3 are each amended to
27 read as follows:

28 The toll facility bond retirement account is created in the state
29 treasury for the purpose of payment of the principal of and interest
30 and premium on bonds. Both principal of and interest on the bonds
31 issued for the purposes of chapter 498, Laws of 2009 (~~and~~), chapter
32 377, Laws of 2011, and this act shall be payable from the toll
33 facility bond retirement account. The state finance committee may
34 provide that special subaccounts be created in the account to
35 facilitate payment of the principal of and interest on the bonds. The
36 state finance committee shall, on or before June 30th of each year,

1 certify to the state treasurer the amount required for principal and
2 interest on the bonds in accordance with the bond proceedings.

3 **Sec. 19.** RCW 47.56.894 and 2012 c 36 s 3 are each amended to
4 read as follows:

5 (1) A special account to be known as the ((Columbia river
6 crossing)) Interstate 5 bridge replacement project account is created
7 in the state treasury.

8 (2) Deposits to the account must include:

9 (a) All proceeds of bonds and loans issued for the ((Columbia
10 river crossing)) Interstate 5 bridge replacement project, including
11 any capitalized interest;

12 (b) All tolls and other revenues received from the operation of
13 the ((Columbia river crossing)) Interstate 5 bridge replacement
14 project as a toll facility to be deposited at least monthly;

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

17 (d) Notwithstanding RCW 47.12.063, proceeds from the sale of any
18 surplus real property acquired for the ((Columbia river crossing))
19 Interstate 5 bridge replacement project; and

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

22 (3) Subject to the covenants made by the state in the bond
23 proceedings authorizing the issuance and sale of bonds for the
24 Interstate 5 bridge replacement project, toll charges, other
25 revenues, and interest received from the operation of the Interstate
26 5 bridge replacement project as a toll facility may be used to:

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

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

29 (4) When repaying the motor vehicle fund, the state treasurer
30 must transfer funds from the Interstate 5 bridge replacement project
31 account to the motor vehicle fund on or before each debt service date
32 for bonds issued for the Interstate 5 bridge replacement project in
33 an amount sufficient to repay the motor vehicle fund for amounts
34 transferred from that fund to the highway bond retirement fund to
35 provide for any bond principal and interest due on that date. The
36 state treasurer may establish subaccounts for the purpose of
37 segregating toll charges, bond sale proceeds, and other revenues.

1 **Sec. 20.** RCW 47.56.890 and 2012 c 36 s 2 are each amended to
2 read as follows:

3 (1) For the purposes of this section and RCW 47.56.892 and
4 47.56.894, "~~((Columbia river crossing))~~ Interstate 5 bridge
5 replacement project" means the bistate, multimodal corridor
6 improvement program between the state route number 500 interchange in
7 Vancouver, Washington and the Victory Boulevard interchange in
8 Portland, Oregon.

9 (2) The ~~((Columbia river crossing))~~ Interstate 5 bridge
10 replacement project is designated an eligible toll facility. Tolls
11 are authorized to be imposed on the ~~((Columbia river crossing))~~
12 Interstate 5 bridge replacement project. However, the tolls must be
13 charged only for travel on the existing and replacement Interstate 5
14 Columbia river bridges. ~~((Tolls may not be charged for travel on any~~
15 ~~portion of Interstate 205.))~~ Toll revenue generated on the ~~((Columbia~~
16 ~~river crossing))~~ Interstate 5 bridge replacement project must be
17 expended only as allowed under RCW 47.56.820. ~~((The total cost of the~~
18 ~~Columbia river crossing project may not exceed three billion four~~
19 ~~hundred thirteen million dollars.))~~

20 (3) The department may not begin to collect tolls on the
21 Interstate 5 bridge replacement project until after a record of
22 decision has been issued for the project and the department has
23 received the necessary federal precompletion tolling approvals to
24 toll an existing transportation facility.

25 **Sec. 21.** RCW 47.56.892 and 2012 c 36 s 4 are each amended to
26 read as follows:

27 For the ~~((Columbia river crossing))~~ Interstate 5 bridge
28 replacement project, the tolling authority may enter into agreements
29 with the Oregon state transportation commission regarding the mutual
30 or joint setting, adjustment, and review of toll rates as the tolling
31 authority may find necessary to carry out the purposes of this
32 section. Any agreement between the tolling authority and the Oregon
33 state transportation commission made pursuant to this section takes
34 effect, and is not binding and enforceable until, thirty days after
35 adjournment of the next ensuing regular legislative session. ~~((If the~~
36 ~~tolling authority has not entered into an agreement with the Oregon~~
37 ~~state transportation commission by December 31, 2015, this section~~
38 ~~expires.))~~

1 NEW SECTION. **Sec. 22.** The following acts or parts of acts are
2 each repealed:

3 (1) 2012 c 36 s 7 (uncodified); and

4 (2) 2012 c 36 s 8 (uncodified).

5 NEW SECTION. **Sec. 23.** Sections 8 through 17 of this act are
6 each added to chapter 47.10 RCW."

7 Renumber the remaining sections consecutively and correct any
8 internal references accordingly.

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9 On page 1, at the beginning of line 2 of the title, strike the
10 remainder of the title and insert "amending RCW 47.10.882, 47.56.894,
11 47.56.890, and 47.56.892; adding new sections to chapter 47.10 RCW;
12 repealing 2012 c 36 ss 7 and 8 (uncodified); providing an effective
13 date; providing a contingent effective date; and declaring an
14 emergency."

EFFECT: Authorizes the sale of \$450 million in general obligation or revenue bonds for the purposes of the Interstate 5 bridge replacement project. Also allows for the use of bond proceeds to repay the motor vehicle fund any moneys advanced to the project. Requires the state department of transportation, the state treasurer, and the state finance committee to collaborate with the state transportation commission in the development of a finance plan for the project. Also requires the state treasurer to collaborate with the state transportation commission if there is a future bond refunding opportunity. Repeals the contingent effective date on the authority to toll the Columbia river crossing project and modifies the language to refer to the Interstate 5 bridge replacement project. Tolls may not be collected on the Interstate 5 bridge replacement project until after a record of decision has been issued for the project and the department has received the necessary federal precompletion tolling approvals to toll an existing transportation facility.

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