

SENATE BILL REPORT

SB 5558

As Reported by Senate Committee On:
Transportation, January 27, 2022

Title: An act relating to the bistate governance of interstate toll bridges owned by local governments.

Brief Description: Concerning the bistate governance of interstate toll bridges owned by local governments.

Sponsors: Senators King, Lias and Mullet.

Brief History:

Committee Activity: Transportation: 1/13/22, 1/27/22 [DPS].

Brief Summary of First Substitute Bill

- Allows local governments along a bordering state to form a bistate commission to finance, construct, and operate a new replacement interstate bridge.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5558 be substituted therefor, and the substitute bill do pass.

Signed by Senators Lias, Chair; Saldaña, Vice Chair; King, Ranking Member; Cleveland, Das, Fortunato, Hawkins, Holy, Lovelett, Lovick, Nguyen, Nobles, Randall, Sheldon, Wilson, C. and Wilson, J.

Staff: Kelly Simpson (786-7403)

Background: There are two interstate toll bridges between the states of Washington and Oregon. The Hood River-White Salmon Interstate Bridge spans the Columbia River connecting Hood River, Oregon with the communities of White Salmon and Bingen in

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Washington State. The bridge is owned and operated by the Port of Hood River in the city of Hood River, Oregon. The Bridge of the Gods spans the Columbia River connecting SR-14 in Washington to I-84 in Oregon. The bridge is owned and operated by the Port of Cascade Locks in the city of Cascade Locks, Oregon.

The Joint Transportation Committee (JTC) is a bicameral legislative committee established in law to review and research transportation programs and issues in order to educate and promote the dissemination of transportation research to state and local government policymakers, including legislators and associated staff. The JTC is governed by an executive committee consisting of the chairs and ranking members of the House and Senate Transportation committees. The chairs of the House and Senate Transportation committees serve as cochairs of the JTC.

The enacted 2021-2023 state transportation budget directed the JTC to contract for a legal consultant to analyze and recommend options for the formation of a bistate bridge authority for the purpose of constructing, financing, operating and maintaining a new replacement bridge over the Columbia River near Hood River connecting Klickitat county in Washington to Hood River county in Oregon. The required legal analysis was submitted to the JTC in September of 2021. It included recommendations for alternative or additional statutory authority to allow local governments to form a bistate bridge authority or governance structure for the Hood River Bridge replacement that at a minimum may issue bonds for bridge construction, collect tolls, and secure and administer grants and loans. The authors of the legal analysis reviewed and provided comment on draft legislation prepared by the Hood River Bistate Working Group that provides new, standalone authority for cities, counties, and ports to enter into an interlocal agreement to form a public corporation to accomplish a project such as the Hood River bridge project.

Summary of Bill (First Substitute): Formation of a Bistate Bridge Commission. Upon enactment of a similar bill by a bordering state, local governments along the bordering state may enter into a commission formation agreement to form and charter a bistate commission to finance, construct, and operate a new replacement interstate bridge. A bordering state is a state that shares a boundary with the state of Washington, the majority of which is formed by a river. The commission is a public corporation formed under the laws of both states, vested with the powers and duties granted under the bill. The commission formation agreement must be approved by the owner of an existing bridge and the governing bodies of the counties within which an existing bridge is situated.

Governance of a Bistate Bridge Commission. The commission must be governed by an appointed board of directors as established in the commission formation agreement. Directors must serve without compensation, but may be reimbursed for reasonable expenses related to the performance of their duties. Except for the initial appointments of directors, directors must serve four-year, staggered terms. The board must elect two cochairs from among its directors, with one cochair residing in Washington State and the other cochair residing in the bordering state. The two cochairs must serve as first cochair and second

cochair, with the first cochair responsible for presiding at all commission meetings. The two cochair positions must alternate on an annual basis.

Powers of a Bistate Bridge Commission. A commission has broad powers to finance, construct, and operate a new replacement interstate bridge. A commission has the exclusive authority to set tolls on the bridge, but may not impose any taxes or assessments. Toll revenues must only be used for a variety of specified purposes related to financing and operating the bridge, including repaying revenue bonds issued to finance the bridge. In setting toll rates, the board must ensure toll rates will annually yield revenue sufficient to meet all costs, expenses, and obligations of the commission, including the satisfaction of all debt obligations. A commission may exercise the power of eminent domain to acquire by condemnation any property interests situated within the state of Washington or the bordering state as the board deems necessary or incidental to the purposes of the commission.

Miscellaneous. A commission must design and construct the bridge to standards and specifications satisfactory to the departments of Transportation, and in accordance with all applicable permits, clearances, and mitigation requirements. A commission must arrange for timely review by the departments of Transportation of all pertinent engineering plans, specifications, and related reports. A board must require a feasibility review of the initial bridge financial plan and must submit the feasibility review to the departments of Transportation and the local governments for their review.

The public road construction sales tax exemption on labor and services must apply to taxes otherwise owing from construction of a bridge. The commission may apply for a deferral of all state and local sales and use taxes incurred from construction of a bridge that are not subject to the public road construction exemption. A commission is otherwise subject to taxes and assessments to the extent that a municipal corporation would be subject to the tax or assessment.

The commission board has the exclusive power to enact and enforce rules and regulations as the board may elect for the use, operations, maintenance, inspection, and preservation of any bridge owned or operated by the commission.

A commission must be governed by applicable federal law, this bill, rules adopted by the board under this bill, and by the laws of the commission's primary place of business. However, a commission's actions pertaining to the ownership, control, or use of a particular property site or area must be governed by the laws of the state and local government within which the particular property site or area is situated.

No legal challenge to the formation of a commission may be commenced more than 30 days after the effective date of the commission formation agreement.

The Attorney General's Office must determine whether a bordering state has enacted an act

having the same material effect as this act, for purposes of indicating when the authority begins for local governments to form a commission.

EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (First Substitute):

The substitute makes the following changes:

- makes various technical and grammatical changes;
- replaces the Statute Law Committee with the Attorney General's Office as the entity directed to determine whether a bordering state has enacted a similar law;
- allows a commission formation agreement to be enacted in phases, as long as all required elements are enacted prior to the issuance of toll revenue bonds;
- removes the requirement that the first cochair serve as a nonvoting commission director;
- requires the board to appoint an executive director before the start of bridge construction;
- clarifies that a commission budget is not required during years when the commission has no revenue and local area governments have budgeted for the commission;
- requires photo tolls to take photos of the vehicle and vehicle license plate only;
- allows vehicle rental companies to recover toll costs from the driver of the vehicle;
- allows a state agency or local government to support or guaranty the repayment of debt of the commission;
- revises the authority to issue revenue bonds to accommodate either applicable Washington law or a bordering state's law; and
- allows a commission to borrow funds from the federal government before the receipt of tolls or other charges.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Advocates of this concept to replace the Hood River Bridge have been working on this for at least three years, if not longer. The entities along the Washington and Oregon border on both sides of the river have worked as a cohesive group to replace the bridge. Oregon legislators are supporting a bill this year in their Legislature similar to this bill, and have made it one of their priorities this session. Passing SB 5558 would continue the progress made on replacing the Hood River Bridge. Washington and Oregon are working in partnership to replace the bridge. This bill fixes the problem which is the mismatch of management of important and

expensive infrastructure by local government. The Bridge of the Gods could also benefit from this bill. The bill provides an equitable management structure between both states for a replacement bridge. The current bridge is old and has weight restrictions that hamper the ability of the agriculture industry to get goods to market. The bridge is geographically located such that agricultural interests depend heavily on the bridge functioning—it is too far to travel to alternative bridges without damaging the viability of agricultural products being shipped. The Hood River Bridge is a critical link between the two states and the surrounding communities and, given its current age and condition, it is in need of replacement.

Persons Testifying: PRO: Senator Curtis King, Prime Sponsor; Kevin Greenwood, Port of Hood River Bridge Replacement Project Director; Jacob Anderson, Klickitat County Commissioner; Mayor Marla Keethler, Mayor of White Salmon; Bob Benton, Hood River County Commissioner; Matt Ransom, Southwest Washington Regional Transportation Council.

Persons Signed In To Testify But Not Testifying: No one.