
SUBSTITUTE SENATE BILL 5558

State of Washington

67th Legislature

2022 Regular Session

By Senate Transportation (originally sponsored by Senators King, Liiias, and Mullet)

READ FIRST TIME 01/28/22.

1 AN ACT Relating to the bistate governance of interstate toll
2 bridges owned by local governments; amending RCW 47.56.860; and
3 adding a new chapter to Title 47 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

6 (1) Interstate toll bridges owned by local governments provide
7 critical links for the transport of workers, services, tourism, and
8 emergency response between Washington and Oregon, and for Washington
9 and Oregon businesses to transport local agricultural products,
10 forest products, rock and gravel, and manufactured products within
11 their bistate regions and to broader national markets.

12 (2) Existing local government-owned interstate toll bridges are
13 becoming functionally obsolete, weight-restricted, seismically
14 deficient, and a hazardous obstacle for marine freight; and need to
15 be replaced.

16 (3) Replacement of aging interstate toll bridges by local
17 governments is extremely challenging, and local governments that own
18 or are served by the bridges require additional means to address the
19 problem. For some bistate regions, the successful replacement and
20 subsequent operations of interstate toll bridges can be best
21 accomplished by an independent bistate governmental authority,

1 chartered by local governments, with sufficient powers to efficiently
2 and equitably develop, operate, maintain, toll, and finance the
3 replacement bridge.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires
6 otherwise.

7 (1) "Applicable laws" means the laws applicable to the commission
8 pursuant to section 13 of this act.

9 (2) "Board" means the board of directors of a commission formed
10 under this chapter.

11 (3) "Bordering state" means a state that shares a boundary with
12 the state of Washington, the majority of which is formed by a river,
13 and that enacts legislation authorizing the formation by local
14 governments of a commission with the substantive powers provided in
15 this chapter.

16 (4) "Bridge" means an interstate bridge, including any
17 approaches, buildings, structures, facilities, equipment,
18 improvements, tolling systems and software, and appurtenances
19 necessary or incidental to the bridge, which replaces an existing
20 bridge.

21 (5) "Bridge finance plan" means a plan adopted by the board to
22 finance the design, construction, operations, maintenance,
23 administration, and governance of the bridge, as it may be revised
24 from time to time.

25 (6) "Commission" means a public corporation formed under this
26 chapter.

27 (7) "Commission formation agreement" means a bistrate agreement
28 among local governments to charter and form a commission under this
29 chapter.

30 (8) "Construction" or "construct" means all activities,
31 materials, and services necessary or incidental to the design and
32 construction of a bridge including, but not limited to, engineering,
33 permitting, property acquisition, procurement, installation of
34 equipment, site work, utility relocation, inspection, start-up,
35 landscaping, hard construction, environmental mitigation, demolition
36 and removal of an existing bridge, and all associated accounting,
37 legal, administrative, project management, and governance activities.

38 (9) "Debt instrument" means any contractual undertaking,
39 financing agreement, or instrument entered into or issued by a

1 commission to evidence an obligation to repay or guaranty repayment
2 of borrowed moneys including, but not limited to, bonds, refunding
3 bonds, notes, loans, interim financing, anticipation notes,
4 certificates, credit enhancement devices, or other debt obligations.

5 (10) "Departments of transportation" means the Washington state
6 department of transportation and the department of transportation of
7 a bordering state.

8 (11) "Director" means a duly appointed member of the board or,
9 when acting in the absence of a director, a duly appointed alternate
10 member of the board.

11 (12) "Existing bridge" means an interstate toll bridge owned by a
12 local government, or which has been conveyed by a local government to
13 a commission, which is to be replaced by a new bridge.

14 (13) "Local government" means any county, city, or port district
15 along the border of a bordering state that enters into a commission
16 formation agreement.

17 (14) "Operate" or "operations" means all activities necessary or
18 incidental to the operations, tolling, maintenance, repair,
19 rehabilitation, renewal, or replacement of the bridge, and all
20 associated financial, legal, administrative, management, and
21 governance activities.

22 (15) "Other charges" means administrative and other fees, civil
23 penalties, and other amounts established by the commission for use of
24 the bridge.

25 (16) "Primary place of business" means the state and county
26 within which the principal headquarters office of the commission is
27 established in a commission formation agreement, notwithstanding any
28 subsequent relocation of the principal headquarters office of the
29 commission.

30 (17) "Public corporation" means a corporation created under this
31 chapter to perform essential governmental functions for the public
32 purposes described in this chapter, and, when issuing bonds or other
33 debt instruments, acts on behalf of the local governments as a
34 constituted authority, within the meaning of the United States
35 department of the treasury regulations and the internal revenue
36 service rulings adopted under section 103, internal revenue code.

37 (18) "States" means the state of Washington and a bordering
38 state.

1 NEW SECTION.

2 **Sec. 3.**

3 (1) Upon enactment of an act by a
4 bordering state having the same material effect as this act, as
5 determined by the office of the attorney general, local governments
6 may enter into a commission formation agreement to form and charter a
7 commission under this chapter. The commission shall be a public
8 corporation formed under the laws of both states, vested with the
9 powers and duties granted by this chapter. The commission shall
perform an essential governmental function and shall exercise its
powers for the public purposes described in this chapter.

10 (2) Local governments may by resolution enter a commission
11 formation agreement, consistent with the requirements of this
12 chapter, to charter and form a commission. The commission formation
13 agreement shall, at a minimum, be approved and executed by the owner
14 of an existing bridge and the governing bodies of the counties within
15 which an existing bridge is situated. A commission formation
16 agreement may be enacted by local governments in phases. However, all
17 required elements of a commission formation agreement must be enacted
18 by the local governments prior to any board authorization to issue
19 toll revenue bonds for the construction of the bridge. The commission
20 formation agreement shall establish the following provisions:

21 (a) A name for the commission;

22 (b) The date on which the powers granted to the commission by
23 this chapter become effective;

24 (c) The primary place of business for the purpose of establishing
25 applicable laws under section 13 of this act;

26 (d) The composition and appointment process for members of the
27 board, as described in section 4 (1) and (2) of this act;

28 (e) The term of office for, and rules, responsibilities, and
29 requirements applicable to, the office of chair and cochair, as
30 described in section 4(4) of this act;

31 (f) The requirements for formal actions of the board, as
32 described in section 4(5) of this act; and

33 (g) Such other provisions as the local governments may elect, as
34 long as the provisions comply with applicable laws, and do not impair
35 or adversely affect the powers of the commission granted by this
36 chapter.

37 (3) The commission formation agreement may allow the board to
38 amend all or some of the provisions included in the commission
39 formation agreement pursuant to subsection (2)(d), (e), (f), or (g)

1 of this section and section 4(5) of this act, and may establish
2 conditions for such amendments.

3 (4) The purposes of the commission are to:

4 (a) Design, engineer, develop, finance and refinance, install,
5 equip, and construct a bridge to replace and remove an existing toll
6 bridge;

7 (b) Act as a cooperative bistate governance structure to develop,
8 own or control, fix and adjust tolls, and regulate the use of a
9 bridge;

10 (c) Oversee the efficient operation, maintenance, administration,
11 rehabilitation, and renewal of the bridge; and

12 (d) Perform such additional duties and exercise such additional
13 powers as may hereafter be conferred upon the commission pursuant to
14 law.

15 NEW SECTION. **Sec. 4.** (1) The commission shall be governed by a
16 board. The commission formation agreement shall establish the number
17 of voting and, if any, nonvoting or ex officio directors appointed by
18 local governments of each state and, if any, appointed by
19 governmental entities that are not local governments, and shall
20 further establish the procedures for the nomination and appointment
21 of such directors, which may differ by state.

22 (2) Each nominating authority shall nominate and each appointing
23 authority shall appoint an alternate director for each director it
24 nominates or appoints. The alternate director may only act in the
25 absence of the director for whom the alternate is appointed. Unless
26 the context requires otherwise, the term director under this chapter
27 includes the alternate director when such alternate director is
28 acting in the absence of the director.

29 (3) Directors and alternate directors shall serve without
30 compensation, but may be reimbursed for reasonable expenses incurred
31 as an incident to the performance of their duties. Directors and
32 alternate directors shall serve at the pleasure of the appointing
33 body, and with or without cause may be removed or suspended from
34 office by the appointing body. The commission formation agreement
35 shall establish the length of the initial term of each of director
36 and alternate director so that subsequent appointments by appointing
37 bodies from each state are reasonably and similarly staggered. Except
38 for the initial appointments of directors and alternate directors,
39 the term of directors and alternate directors shall be four years.

1 (4) The board shall elect two cochaairs from among its directors,
2 with one cochair residing in Washington state and the other cochair
3 residing in the bordering state. The two cochaairs shall serve as
4 first cochair and second cochair, with the first cochair responsible
5 for presiding at all commission meetings. The board shall indicate
6 which cochair will serve in the respective two positions within the
7 first year after the formation of the commission, after which time
8 the two positions must alternate on an annual basis. The commission
9 formation agreement shall establish the terms of the cochaairs, and
10 may establish such other requirements for the office of cochair as
11 the local governments elect.

12 (5) Formal actions of the board shall be by ordinance or
13 resolution duly approved at any regular or special meeting of the
14 board. No action of the board shall be effective unless there is a
15 quorum and a majority of the directors present assent. The commission
16 formation agreement shall establish the requirements for a quorum,
17 and may establish such other requirements for formal actions of the
18 board as the local governments may elect, provided such requirements
19 are consistent with applicable laws.

20 (6) Unless otherwise provided in an ordinance or resolution
21 enacted by the board, the board shall have the exclusive right to
22 exercise the powers granted by this chapter, and the exercise of all
23 powers granted to the board by this chapter shall not be subject to
24 any prior or subsequent authorization, approval, or concurrence by
25 any local government or other governmental entity of either state.

26 (7) The board shall adopt rules, consistent with applicable laws
27 and the commission formation agreement, regarding the organization,
28 activities, and procedures of the board and the commission, as the
29 board may determine.

30 NEW SECTION. **Sec. 5.** (1) In addition to any other powers
31 granted under this chapter, the commission shall have the power to:

32 (a) Construct, purchase, lease, acquire, own, operate, maintain,
33 control, hold, sell, convey, dispose of, and finance and refinance
34 real and personal property, facilities, materials, supplies,
35 equipment, or any interest therein, within the state of Washington
36 and the bordering state, as the board deems necessary or incidental
37 to the purposes of the commission;

38 (b) Secure all necessary federal, state, and local
39 authorizations, permits, and approvals for the construction,

1 maintenance, repair, operation, renewal, and financing or refinancing
2 of the bridge;

3 (c) Adopt, amend, and repeal bylaws, rules, and regulations,
4 consistent with applicable laws and the commission formation
5 agreement, which add specificity to the powers and duties of the
6 commission, clarify or interpret provisions in the commission
7 formation agreement, or clarify or interpret laws and regulations
8 applicable to the commission;

9 (d) Receive and accept, with or without consideration, from any
10 federal agency, state, local government, or any other public or
11 private source grants, contributions, loans, advances, credit
12 enhancements, or other contributions in money, property, labor,
13 materials, services, or other things of value to accomplish the
14 purposes of the commission;

15 (e) Invest its moneys in investments permitted for municipal
16 corporations and disburse funds for its lawful purposes;

17 (f) Make and enter into any contract or agreement the board deems
18 necessary or incidental to the purposes of the commission;

19 (g) Grant by franchise, lease, or otherwise, the use of any
20 property or facility owned or controlled by the commission and to
21 make charges therefor;

22 (h) Create and abolish offices, employments, and positions, and
23 employ or contract for professional and other services;

24 (i) Make and enforce regulations governing the use of facilities
25 owned or controlled by the commission, the services rendered by the
26 commission, and the tolls, fees, and other charges to be made
27 therefor;

28 (j) Adopt and use a corporate seal;

29 (k) Sue and be sued in the name of the commission;

30 (l) Establish such special funds, and controls on deposits to and
31 disbursements from them, as it finds convenient for the
32 implementation of this chapter;

33 (m) Delegate any of its powers and duties if consistent with the
34 purposes of this chapter;

35 (n) Perform all other functions necessary or incidental to the
36 purposes of the commission, or to the execution of the powers granted
37 under this chapter; and

38 (o) Exercise such additional powers as shall be conferred on it
39 by law.

40 (2) The commission may not impose any taxes or assessments.

1 NEW SECTION.

2 **Sec. 6.**

3 (1) Before the start of bridge
4 construction, the board shall appoint or retain:

5 (a) An executive director, who shall serve at the pleasure of the
6 board, and be in administrative charge of the activities of the
7 commission, and perform such additional duties as directed by the
8 board. Subject to any rules enacted by the commission, the executive
9 director may appoint staff or retain consultants to carry out the
10 purposes and duties of the commission.

11 (b) Legal counsel, including without limitation bond counsel, who
12 shall furnish or cause to be furnished to the commission such
13 opinions, advice, and counsel as may be required, and represent or
14 oversee the representation of the commission in legal matters or
15 hearings, as directed by the commission.

16 (2) The commission may employ such engineering, technical, legal,
17 administrative, operating, and other personnel, officers, or agents
18 on a regular, part-time, or consulting basis as in its judgment is
19 necessary or beneficial for the discharge of its duties. The
20 commission may fix and provide for the qualification, appointment,
21 removal, term, tenure, compensation, pension, and retirement rights
22 of its officers and employees. Employees of the commission shall be
23 afforded the labor rights and protections afforded public employees
24 under the laws of the state within which the primary place of
25 business is situated.

26 (3) All privileges and immunities from liability, laws, and
27 benefits that apply to directors, officers, agents, or employees of a
28 municipal corporation under applicable law shall apply to the
29 directors, officers, agents, and employees of the commission.

30 (4) The commission may purchase insurance or self-insure to
31 protect and hold personally harmless any of its directors, alternate
32 directors, and the officers, employees, and agents of the commission
33 from any action, claim, or proceeding arising out of their
34 performance, purported performance, or failure of performance, in
35 good faith of duties for, or employment with the commission, and to
36 hold these individuals harmless from any expenses connected with the
37 defense, settlement, or monetary judgments from such actions, claims,
38 or proceedings.

39 (5) The commission may purchase insurance or self-insure against
40 loss or damage to any of its properties or facilities, damage to
persons or property, loss of revenues, or such other coverages as the
board may elect to accomplish the purposes of the commission.

1 Insurance coverage shall be in such form and amount as the board may
2 determine, provided that it satisfies any requirements of any
3 agreement arising out of issuance of bonds or other obligations by
4 the commission. The board may enter into intergovernmental agreements
5 with any state, or local government, or combination thereof, to
6 acquire or maintain the insurance.

7 (6) The commission shall furnish such information with respect to
8 its affairs as may be requested by the state of Washington, bordering
9 state, or any local government. The commission shall prepare an
10 annual report which summarizes the major activities and expenditures
11 of the commission during the year and anticipated for the following
12 year. The commission shall furnish a copy of the annual report,
13 together with any additional information deemed appropriate, to the
14 local governments and other interested parties.

15 (7) Except as described in subsection (8) of this section, the
16 commission shall prepare and adopt a single-year or biennial budget
17 and make appropriations in accordance with this subsection. The
18 commission shall: (a) Establish a budget committee; (b) publish
19 public notice of each meeting of the budget committee; (c) publish
20 public notice and hold a public hearing on the proposed budget before
21 enacting a budget; (d) adopt the budget as it may be amended or
22 revised by the commission, before the start of the budget period; (e)
23 enact such amendments or supplementary budgets during a budget period
24 as the commission may determine are appropriate; and (f) transmit to
25 local area governments a copy of the final budget and any amended or
26 supplementary budgets approved by the commission. In no case may the
27 adopted budget expenditure allowances exceed total estimated revenues
28 unless accompanied by proposed legislation to obtain an equivalent
29 amount of additional revenue. The commission may adopt, and from time
30 to time, amend a rule that further details the preparation of the
31 budget and the process for its adoption.

32 (8) A commission is not required to enact a budget for any years
33 in which the commission has no revenue and all revenues and
34 expenditures for the bridge are authorized in a budget of one or more
35 local governments.

36 NEW SECTION. **Sec. 7.** The commission may:

37 (1) Finance, refinance, and acquire or otherwise assume control
38 by purchase, lease, donation, or by other means such real and
39 personal property, structures, property rights, franchises,

1 easements, and other property interests, whether situated within the
2 state of Washington or the bordering state, as the board may deem
3 necessary or incidental to the purposes of the commission; and

4 (2) Exercise the power of eminent domain to acquire by
5 condemnation any property, structures, property rights, franchises,
6 easements, and other property interests situated within the state of
7 Washington or the bordering state as the board deems necessary or
8 incidental to the purposes of the commission, subject to the
9 applicable laws described in section 13(1)(b) of this act. No
10 property owned or held by any state or local government shall be
11 taken by the commission without the prior consent of such state or
12 local government.

13 NEW SECTION. **Sec. 8.** (1) The board shall have the exclusive
14 power to impose, fix, and periodically adjust the rate of tolls and
15 other charges for use of any bridge owned by or operated by the
16 commission without any approval, authorization, or concurrence by a
17 legislature, state toll authority, local government, state agency or
18 official, or other entity. The board may establish and implement such
19 policies and criteria as the board deems advisable for the rate of
20 tolls and other charges including, but not limited to, establishing
21 discounts, exemptions, administrative fees, late fees, civil
22 penalties, and toll rates for such classes of vehicles and users as
23 the board may determine.

24 (2) In setting and periodically adjusting toll rates and other
25 charges, the board shall ensure that toll rates and other charges
26 will annually yield revenue sufficient to meet all costs, expenses,
27 and obligations of the commission, including the satisfaction of all
28 financial and other covenants made by the commission with regard to
29 any bond or other debt instrument.

30 (3) The commission may enter agreements with the Washington state
31 department of licensing and the applicable agency of the bordering
32 state to enforce the payment of tolls and other charges for use of
33 the bridge. Such agreements may provide that if the commission or its
34 designee gives notice to the applicable department that a person has
35 not paid a toll or other charge for use of the bridge, the applicable
36 department shall refuse to renew the motor vehicle registration of
37 the motor vehicle operated by the person at the time of the
38 violation. The applicable department may renew such motor vehicle
39 registration upon receipt of a notice from the commission or its

1 designee indicating that all tolls and other charges owed by the
2 person have been paid.

3 (4) Photo toll systems may take photographs, digital photographs,
4 microphotographs, videotapes, or other recorded images of the vehicle
5 and vehicle license plate only. A photo toll image of a vehicle and
6 the registration plate of the vehicle produced by a photo toll system
7 at the time the driver of the vehicle did not pay a toll is prima
8 facie evidence that the registered owner of the vehicle is the driver
9 of the vehicle. However, if the registered owner of a vehicle is a
10 person in the vehicle rental or leasing business, the registered
11 owner may elect to identify the person who was operating the vehicle
12 at the time the toll was not paid or to pay the toll, civil penalty,
13 and administrative fee. A registered owner of a vehicle who pays the
14 toll, civil penalty, and administrative fee is entitled to recover
15 the same from the driver, renter, or lessee of the vehicle.

16 (5) The rights to enforce the payment of tolls and other charges
17 of the commission granted under this chapter are supplemental; the
18 commission may employ all other remedies available to it under the
19 laws of the state of Washington and the bordering state.

20 (6) The proceeds from toll rates and other charges of the
21 commission shall only be used to pay the necessary and incidental
22 costs and expenses incurred by the commission in connection with
23 owning, constructing, operating, maintaining, renewing, and governing
24 the bridge, which shall include, but not be limited to, costs
25 incurred for:

26 (a) The design, development, construction, equipping,
27 installation, and financing and refinancing of the bridge, demolition
28 and removal of the existing bridge, and mitigation of associated
29 impacts;

30 (b) The operations of the bridge including, but not limited to,
31 repair, maintenance, resurfacing, preservation, equipping,
32 improvement, reconstruction, renewal, and replacement;

33 (c) The tolling of the bridge including, but not limited to, toll
34 collection, administration, and enforcement, and the acquisition,
35 leasing, maintenance, and replacement of tolling equipment and
36 software;

37 (d) The financing or refinancing of any bonds or other debt
38 instruments of the commission;

39 (e) A reasonable return on investment for any private financing
40 of any costs, expenses, or obligations of the commission;

1 (f) The establishment and maintenance of any reserves or sinking
2 funds approved by the board; and

3 (g) Any other obligations or expenses incurred by the commission
4 in carrying out its purposes under this chapter.

5 (7) The commission may grant to any public or private entity by
6 franchise, lease, or otherwise the use or control of any portion of
7 the bridge or any property or facility owned or under the control of
8 the commission, and may fix the terms, conditions, rents, and other
9 payments for such use.

10 (8) All revenues, receipts, grants, bond proceeds, and other
11 funds of the commission may be comingled and spent to carry out
12 commission purposes within either state, unless and to the extent
13 otherwise restricted by the terms of a grant agreement or debt
14 instrument.

15 (9) For purposes of this section, "photo toll system" means the
16 system defined in RCW 47.56.010 and 47.46.020.

17 NEW SECTION. **Sec. 9.** (1) The commission shall design and
18 construct the bridge to standards and specifications satisfactory to
19 the departments of transportation, and in accordance with all
20 applicable permits, clearances, and mitigation requirements. The
21 commission shall arrange for timely review by the departments of
22 transportation of all pertinent engineering plans, specifications,
23 and related reports.

24 (2) The commission may undertake any construction activities that
25 have necessary permits and for which funding is available, provided
26 that prior to issuing a notice to proceed with the construction of
27 any bridge foundation, the commission shall:

28 (a) Prepare and adopt an initial bridge finance plan to fund the
29 design, construction, operations, maintenance, administration, and
30 governance of the bridge. Prior to adopting the initial bridge
31 finance plan, the board shall require a feasibility review of the
32 initial bridge finance plan and shall submit the feasibility review
33 to the departments of transportation and the local governments for
34 their review as determined by the board. Following the review by the
35 departments of transportation and local governments, the board may
36 adopt the initial bridge finance plan, as it may be amended as a
37 result of the reviews. Following the adoption of the initial bridge
38 finance plan, the board may periodically adjust or amend the bridge
39 finance plan as the board may determine; and

1 (b) Make and enter into a written agreement with the owner of the
2 applicable existing bridge, under such terms and conditions as may be
3 acceptable to the commission and the owner of the existing bridge,
4 regarding the removal and disposition of the existing bridge. The
5 agreement shall address: (i) The roles, responsibilities, and
6 obligations of the parties with respect to the removal and disposal
7 of the existing bridge, including any liabilities or potential
8 liabilities incidental thereto; (ii) the retirement of any
9 outstanding debt for which toll revenue from the existing bridge is
10 pledged; (iii) the distribution of proceeds from any salvage value of
11 the existing bridge; (iv) the disposition of any property, equipment,
12 or other assets incidental to the existing bridge; (v) mitigation of
13 impacts to existing bridge operations; and (vi) such other matters as
14 the commission and owner of the existing bridge may determine.

15 (3) For purposes of the acquisition, design, construction,
16 installation, operation, or maintenance of the bridge, or any
17 combination thereof, the commission, without any prior or subsequent
18 authorization, approval, or concurrence by any state, local
19 government, or any other governmental entity of either state, may
20 enter into any combination of contracts, agreements, or other
21 arrangements with any one or more private entities or units of
22 government, or any combination thereof, as the commission may elect
23 including, but not limited to, any alternative or supplemental public
24 works contract such as design-build and construction manager-general
25 contractor contracts, public-private partnership agreement, lease
26 agreement, franchise agreement, or financing agreement, and may
27 include such terms and conditions as permitted under the
28 constitutions of both states and the parties may agree to.

29 (4) As part of the construction of a bridge, the commission shall
30 demolish, remove, and dispose of the applicable existing bridge in
31 accordance with all applicable environmental permits and the terms of
32 an agreement between the commission and owner of the existing bridge.
33 Unless otherwise agreed to by the owner of the existing bridge, the
34 proceeds from the sale of any salvaged materials from the existing
35 bridge shall be owing to such owner.

36 (5) A commission is deemed a municipal corporation for the
37 purposes of RCW 82.04.050(10), and therefore the public road
38 construction exemption under RCW 82.04.050(10) shall apply to taxes
39 otherwise owing from construction of a bridge. Subject to section 16
40 of this act, the commission may apply for a deferral of all state and

1 local sales and use taxes incurred from construction of a bridge that
2 are not relieved by the public road construction exemption.

3 NEW SECTION. **Sec. 10.** (1) The board shall have the exclusive
4 power to enact and enforce such rules and regulations as the board
5 may elect for the use, operations, maintenance, inspection, and
6 preservation of any bridge owned or operated by the commission,
7 including limiting loads permitted on the bridge and closing the
8 bridge to any traffic deemed unsafe by the commission, provided the
9 commission shall comply with all state and federal regulations
10 generally applicable to bridge operations, maintenance, safety, and
11 inspections.

12 (2) Any facility or property owned, leased, operated, or
13 controlled by the commission may be operated by the commission
14 directly, or by another public or a private entity pursuant to a
15 contract, lease, or agreement that is subject to such terms and
16 conditions as the board may determine.

17 (3) Compensation to a contractor under an operating contract may
18 be in the form of a payment by the commission to the contractor for
19 services rendered, a payment by the contractor to the commission for
20 the rights to operate the facility or property, or such other
21 arrangements as the board may elect.

22 (4) A state agency or local government may pledge or grant
23 revenue or other assistance to support or guaranty, in whole or part,
24 the repayment of debt, costs of operations, or capitalization of
25 reserves of the commission under such terms as the commission and the
26 state agency or local government may agree, and the commission may
27 accept such assistance.

28 NEW SECTION. **Sec. 11.** (1) The commission may, from time to
29 time, without the necessity of any assent by electors, local
30 governments, or any other governmental entity, issue or enter into
31 revenue bonds or other debt instruments paid from or secured by all
32 or any revenues available to the commission in one or more series,
33 and such amounts, maturities, denominations, and forms, with such
34 insurance, credit enhancements, or other guarantees, and with such
35 other terms and provisions as the board may determine.

36 (2) If the applicable laws pursuant to section 13 of this act are
37 those of the state of Washington, the commission may from time to
38 time issue and sell:

1 (a) Revenue bonds or other debt instruments on the same basis as
2 a local government in accordance with chapter 39.46 RCW, provided,
3 notwithstanding RCW 39.46.070(1), such bonds or other debt
4 instruments issued by the commission for the construction of a bridge
5 under this act may include capitalized interest for up to 72 months
6 from the date of issuance;

7 (b) Debt instruments to refund outstanding debt instruments on
8 the same basis as a public body under the refunding bond act, chapter
9 39.53 RCW; and

10 (c) Short-term obligations on the same basis as a municipal
11 corporation in accordance with chapter 39.50 RCW.

12 (3) The commission may enter into one or more agreements with a
13 federal agency for grants, loans, advances, credit enhancements, or
14 other contributions subject to the applicable federal law, and need
15 not comply with contrary state statutes that may otherwise apply.

16 (4) For the benefit of any holders of bonds or debt instruments
17 that are outstanding or otherwise authorized by the commission:

18 (a) The board shall continue in effect toll rates and other
19 charges that satisfy the provisions of this act and the covenants
20 made by the commission, and shall not take any action or inaction to
21 impair its ability to do so; and

22 (b) The state of Washington, or any political subdivision,
23 district, or municipality thereof, shall not take any action that
24 impairs, diminishes, or affects adversely the interest and rights of
25 the holders of bonds or debt instruments of the commission.

26 NEW SECTION. **Sec. 12.** Notwithstanding anything in the laws of
27 either state to the contrary, the commission shall not be required to
28 pay any tax or assessment, or any in lieu of tax or assessment, by
29 either state, or by any political subdivision, municipality, or
30 district thereof including, but not limited to, any property tax,
31 sales and use tax, or other tax or assessment upon real or personal
32 property acquired or otherwise under the control of the commission,
33 or upon any activity or expenditure of the commission, or upon the
34 revenues of the commission, except to the extent that a municipal
35 corporation would be subject to such a tax or assessment.

36 NEW SECTION. **Sec. 13.** (1) The commission shall be governed by
37 applicable federal law, this chapter, rules adopted by the board

1 under this chapter, and in the manner of a municipal corporation
2 under the following state and local laws:

3 (a) Except as provided in (b) and (c) of this subsection, the
4 commission and its board, officials, employees, and agents, shall be
5 governed by the laws of the primary place of business. Such laws
6 include, but are not limited to, laws pertaining to local government
7 audits, financial administration, and accounting requirements; public
8 records; prohibitions on using facilities for campaign purposes; open
9 public meetings; the code of ethics for municipal officers; the
10 rights of public employees; and local government whistleblower
11 protection.

12 (b) The real estate transactions of, and exercise of eminent
13 domain by, the commission, including relocation assistance;
14 compliance with land use, environmental, and building codes; and such
15 other actions of the commission pertaining to the ownership, control,
16 or use of a particular property site or area as the board may
17 determine by rule shall be governed by the laws of the state and
18 local government within which the particular property site or area is
19 situated.

20 (c) If there is a conflict between a provision of an otherwise
21 applicable state or local law and a provision of this chapter, this
22 chapter shall govern, and the conflicting provision in state or local
23 law is inapplicable to the commission.

24 (2) The court of original jurisdiction for any action brought by
25 or against the commission is the court designated pursuant to
26 applicable law.

27 NEW SECTION. **Sec. 14.** (1) The grantee for any federal, state,
28 or local grant for a bridge owned or to be owned by the commission
29 that was awarded before the formation date of the commission shall
30 remain the grantee until such grant is closed under the terms of the
31 grant agreement, unless otherwise agreed to by the grantee and the
32 commission. The governing body of the grantee shall oversee the work
33 under the grant, however, the grantee shall coordinate with the
34 commission, and not take any actions inconsistent with the policy
35 direction of the commission, unless required by the terms of the
36 grant agreement. Following the formation date of the commission, the
37 commission shall be the applicant and grantee for all federal, state,
38 or local grants for the bridge, unless the commission otherwise

1 agrees. The commission shall establish procedures for the timely
2 coordination of its activities with the states and local governments.

3 (2) The departments of transportation and local governments are
4 authorized to enter agreements with the commission to furnish it with
5 surveys, engineering, plans, and specifications, construction
6 management, project controls, operations, administration, and other
7 technical services, the cost of which shall be reimbursed by the
8 commission.

9 (3) The commission may fund its activities before the receipt of
10 tolls or other charges in any manner permitted by applicable law
11 including, but not limited to:

12 (a) Borrowing funds from the federal government, either or both
13 states, any local government, or any combination thereof, and
14 repaying such borrowings following the opening of the bridge with the
15 proceeds of tolls and other charges for use of the bridge, or in such
16 other manner as the parties may agree;

17 (b) Being a direct grantee of any federal, state, or local
18 government grant; and

19 (c) Receiving moneys as a subrecipient of a federal, state, or
20 local government grant for which a department or local government is
21 the grantee. To the extent permitted by the grant agreement, the
22 departments of transportation and local governments may enter into
23 agreements with the commission to make any portion of such grant
24 funds available to the commission under such terms and conditions as
25 the parties may agree to.

26 (4) The commission may from time to time assign or otherwise
27 convey any of its properties, facilities, funds, accounts,
28 obligations, or duties to any department, local government, or
29 combination thereof, provided such assignment or conveyance does not
30 in any manner impair or affect adversely the interests or rights of
31 the holders of any bonds or other debt instruments of the commission,
32 and the department or local government may, in its discretion, accept
33 such assignment or conveyance.

34 (5) The commission may be dissolved as follows:

35 (a) Before the issuance of any bonds or other debt instrument of
36 the commission, the board may enact a resolution to dissolve the
37 commission at any time it determines the dissolution is in the public
38 interest. The dissolution resolution shall address the methods by
39 which all liabilities and obligations of the commission will be
40 satisfied before the effective date of the dissolution, provided that

1 all liabilities incurred by the commission shall be satisfied
2 exclusively from the assets and properties of the commission and no
3 creditor or other person shall have any right of action against any
4 local government that formed the commission on account of any debts,
5 obligations, or liabilities of the commission. The dissolution
6 resolution shall also address the distribution and transference to
7 local governments of any properties or other assets of the commission
8 that may remain after the satisfaction of all commission liabilities,
9 and such other matters as the board may elect. A resolution to
10 dissolve the commission may not take effect until at least a majority
11 of the local governments in each state agree in writing to the
12 resolution; and

13 (b) Following the issuance of any bonds or other debt instruments
14 of the commission, or in the event of the insolvency of the
15 commission, the superior court or circuit court of the county of the
16 primary place of business shall have jurisdiction and authority to
17 appoint trustees or receivers of commission property and assets and
18 supervise such trusteeship or receivership, provided that all
19 liabilities incurred by the commission shall be satisfied exclusively
20 from the assets and properties of the commission and no creditor or
21 other person shall have any right of action against any local
22 government that formed the commission on account of any debts,
23 obligations, or liabilities of the commission. In the event the
24 commission is dissolved and properties or assets of the commission
25 remain after the satisfaction of all of its outstanding debts,
26 obligations, or liabilities, the remaining property and assets of the
27 commission shall be transferred to local governments in accordance
28 with an order issued by the superior court or circuit court of the
29 county of the primary place of business. The allocation and transfer
30 of the remaining properties and assets of the commission to local
31 governments shall be in such manner as the court determines is
32 equitable and serves the public interest.

33 NEW SECTION. **Sec. 15.** (1) This chapter is liberally construed
34 to effectuate the purposes of the commission, and the powers and
35 authority granted to the commission under this chapter are deemed
36 supplemental to all other powers and authorities granted to municipal
37 corporations under applicable law.

38 (2) If any provision of this chapter, or its application to any
39 person or circumstance, is held to be invalid, all other provisions

1 of this chapter, and the application of all of its provisions to all
2 other persons and circumstances, shall remain valid, and to this end
3 the provisions of this chapter are severable.

4 (3) No legal challenge to the formation of the commission
5 intended to be authorized or created pursuant to this chapter may be
6 commenced more than 30 days after the effective date of the
7 commission formation agreement.

8 NEW SECTION. **Sec. 16.** (1)(a) Any person involved in the
9 construction of a bridge under this chapter may apply for deferral of
10 state and local sales and use taxes on the site preparation for, the
11 construction of, the acquisition of any related machinery and
12 equipment that will become a part of, and the rental of equipment for
13 use in, the bridge.

14 (b) Applications shall be made to the department of revenue in a
15 form and manner prescribed by the department of revenue. The
16 application must contain information regarding estimated or actual
17 costs, time schedules for completion and operation, and other
18 information required by the department of revenue. The department of
19 revenue shall approve the application within 60 days if it meets the
20 requirements of this section.

21 (2) The department of revenue shall issue a sales and use tax
22 deferral certificate for state and local sales and use taxes imposed
23 or authorized under chapters 82.08, 82.12, and 82.14 RCW and RCW
24 81.104.170 on the bridge.

25 (3) A person granted a tax deferral under this section shall
26 begin paying the deferred taxes in the fifth year after the date
27 certified by the department of revenue as the date on which the
28 bridge is operationally complete. The project is operationally
29 complete under this section upon notification in writing by the
30 commission to the department of revenue that the bridge is
31 constructed and opened to traffic. The first payment is due on
32 December 31st of the fifth calendar year after the certified date,
33 with subsequent annual payments due on December 31st of the following
34 nine years. Each payment shall equal 10 percent of the deferred tax.

35 (4) The department of revenue may authorize an accelerated
36 repayment schedule upon request of a person granted a deferral under
37 this section.

38 (5) Interest shall not be charged on any taxes deferred under
39 this section for the period of deferral, although all other penalties

1 and interest applicable to delinquent excise taxes may be assessed
2 and imposed for delinquent payments under this section. The debt for
3 deferred taxes is not extinguished by insolvency or other failure of
4 any private entity granted a deferral under this section.

5 (6) Applications and any other information received by the
6 department of revenue under this section are not confidential and are
7 subject to disclosure. Chapter 82.32 RCW applies to the
8 administration of this section.

9 (7) A public road contractor who applies for a deferral may not
10 invoice a commission for sales and use taxes until after the taxes
11 have been paid to the department of revenue.

12 (8) The provisions of RCW 82.32.805 and 82.32.808 do not apply to
13 this section.

14 (9) For purposes of this section, "person" has the same meaning
15 as in RCW 82.04.030 and also includes a commission under this
16 chapter.

17 NEW SECTION. **Sec. 17.** The office of the attorney general must
18 give notice that the condition in section 3(1) of this act has been
19 met to the transportation committees of the house of representatives
20 and senate and the office of the code reviser.

21 **Sec. 18.** RCW 47.56.860 and 2008 c 122 s 2 are each amended to
22 read as follows:

23 This subchapter applies only to all state toll bridges and other
24 state toll facilities, excluding the Washington state ferries, first
25 authorized within this state after July 1, 2008. However, this
26 subchapter does not apply to bridges under chapter 47.--- RCW (the
27 new chapter created in section 19 of this act).

28 NEW SECTION. **Sec. 19.** Sections 1 through 17 of this act
29 constitute a new chapter in Title 47 RCW.

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