

SSB 6277 - H COMM AMD

By Committee on Transportation

NOT CONSIDERED 03/07/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** FINDINGS. (1) The legislature finds that
4 a full set of project procurement, contracting, and funding tools are
5 needed to enable the delivery of transportation projects in a manner
6 most advantageous to the public. Current public-private partnership
7 laws have failed to spur innovative proposals from the private sector
8 or new project delivery approaches from the department. The
9 legislature confirms the findings from previous studies that current
10 laws and administrative processes are the primary obstacle impairing
11 the state's ability to utilize public-private partnerships.

12 (2) The legislature finds that a new public-private partnership
13 law is needed to:

14 (a) Transparently demonstrate and deliver better value for the
15 public including, but not limited to, expedited project delivery and
16 more effective management of project life-cycle costs;

17 (b) Provide an additional option for delivering complex
18 transportation projects;

19 (c) Incorporate private sector expertise and innovation into
20 transportation project delivery;

21 (d) Allocate project risks to the parties best able to manage
22 those risks;

23 (e) Allow new sources for private capital;

24 (f) Increase access to federal funding and financing mechanisms;

25 (g) Better align private sector incentives with public
26 priorities; and

27 (h) Provide consistency in the review and approval processes for
28 the full range of project delivery tools and contracting methods.

29 (3) The legislature further finds that a new public-private
30 partnership law must only be used for projects where the engineer's
31 estimate of the cost of the project is less than \$500,000,000.

1 (4) The legislature further finds that a new public-private
2 partnership law may not be used for rail projects.

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

6 (1) "Commission" means the transportation commission.

7 (2) "Department" means the department of transportation.

8 (3) "Eligible project" means any project eligible for development
9 under section 4 of this act.

10 (4) "Private sector partner" and "private partner" means a
11 person, entity, or organization that is not the federal government, a
12 state, or a political subdivision of a state.

13 (5) "Public funds" means all moneys derived from taxes, fees,
14 charges, tolls, or other levies of money from the public.

15 (6) "Public sector partner" and "public partner" means any
16 federal or state unit of government, bistate transportation
17 organization, or any other political subdivision of any state.

18 (7) "State finance committee" means the entity created in chapter
19 43.33 RCW.

20 (8) "Transportation project" means a project that is not a rail
21 project, whether capital or operating, and where the engineer's
22 estimate of the cost of the project is less than \$500,000,000 and the
23 state's purpose for the project is to preserve or facilitate the safe
24 transport of people or goods via any mode of travel.

25 (9) "Unit of government" means any department or agency of the
26 federal government, any state or agency, office, or department of a
27 state, any city, county, district, commission, authority, entity,
28 port, or other public corporation organized and existing under
29 statutory law or under a voter-approved charter or initiative, and
30 any intergovernmental entity created under chapter 39.34 RCW or this
31 chapter.

32 NEW SECTION. **Sec. 3.** WASHINGTON STATE DEPARTMENT OF
33 TRANSPORTATION POWERS AND DUTIES. (1) The department shall develop
34 policies and, where appropriate, rules to carry out this chapter and
35 govern the use of public-private partnerships for transportation
36 projects. At a minimum, the department's policies and rules must
37 address the following issues:

1 (a) Consistent with section 4 of this act, the types of projects
2 allowed;

3 (b) Consistent with section 7 of this act, a process and
4 methodology for determining whether a public-private partnership
5 delivery model will be in the public's interest;

6 (c) Consistent with section 12 of this act, a process and
7 methodology for determining whether a negotiated partnership
8 agreement will result in greater public value to the state than if
9 the project is delivered using other procurement and contracting
10 methods;

11 (d) The types of contracts allowed, with consideration given to
12 the best practices available;

13 (e) Minimum standards and criteria required of all proposals;

14 (f) Procedures for the proper identification, solicitation,
15 acceptance, review, and evaluation of projects, consistent with
16 existing project procurement and contracting requirements and
17 practices;

18 (g) Criteria to be considered in the evaluation and selection of
19 proposals that includes:

20 (i) Comparison with the department's internal ability to complete
21 the project that documents the advantages of completing the project
22 as a partnership versus solely as a public venture; and

23 (ii) Factors such as, but not limited to: Priority, life-cycle
24 cost, risk sharing, scheduling, innovation, and management
25 conditions;

26 (h) The protection of confidential proprietary information while
27 still meeting the need for transparency and public disclosure that is
28 consistent with section 13 of this act;

29 (i) Protection for local contractors to participate in
30 subcontracting opportunities;

31 (j) Specifying that maintenance issues must be resolved in a
32 manner consistent with chapter 41.80 RCW;

33 (k) Guidelines to address security and performance issues.

34 (2) Preliminary rules, policies, and guidelines developed under
35 this section must be submitted to the chairs and ranking members of
36 both transportation committees by November 30, 2026, for review and
37 comment, along with draft legislation to implement any necessary
38 changes to govern the use of public-private partnerships for
39 transportation projects under this chapter. The department may not
40 adopt rules to carry out this chapter.

1 NEW SECTION. **Sec. 4.** ELIGIBLE PROJECTS. (1) Projects eligible
2 for development under this chapter include transportation projects.

3 (2) For any project that requires the imposition of tolls on a
4 state facility, the legislature must approve the imposition of such
5 tolls consistent with RCW 47.56.820.

6 (3) For any project that requires setting or adjusting toll rates
7 on a state facility, the commission has sole responsibility
8 consistent with RCW 47.56.850.

9 NEW SECTION. **Sec. 5.** ELIGIBLE FINANCING. (1) Subject to the
10 limitations in this section, the department may, in connection with
11 the evaluation of eligible projects, consider any financing
12 mechanisms from any lawful source, either integrated as part of a
13 project proposal or as a separate, stand-alone proposal to finance a
14 project. Financing may be considered for all or part of a proposed
15 project. A project may be financed in whole or in part with:

16 (a) The proceeds of grant anticipation revenue bonds authorized
17 under 23 U.S.C. Sec. 122 and applicable state law. Legislative
18 authorization and appropriation are required to use this source of
19 financing;

20 (b) Grants, loans, loan guarantees, lines of credit, revolving
21 lines of credit, or other financing arrangements available under the
22 transportation infrastructure finance and innovation act under 23
23 U.S.C. Sec. 181 et seq., or any other applicable federal law;

24 (c) Infrastructure loans or assistance from the state
25 infrastructure bank established under RCW 82.44.195;

26 (d) Federal, state, or local revenues, subject to appropriation
27 by the applicable legislative authority;

28 (e) User fees, tolls, fares, lease proceeds, rents, gross or net
29 receipts from sales, proceeds from the sale of development rights,
30 franchise fees, or any other lawful form of consideration. However,
31 projects financed by tolls must first be authorized by the
32 legislature under RCW 47.56.820;

33 (f) Loans, pledges, or contributions of funds, including equity
34 investments, from private entities.

35 (2) Subject to subsection (4) of this section, the department may
36 develop a plan of finance that would require either the state or a
37 private partner, or both, to: Issue debt, equity, or other securities
38 or obligations; enter into contracts, leases, concessions, and grant
39 and loan agreements; or secure any financing with a pledge of funds

1 to be appropriated by the legislature or with a lien or exchange of
2 real property.

3 (3) As security for the payment of any financing, the revenues
4 from the project may be pledged, but no such pledge of revenues
5 constitutes in any manner or to any extent a general obligation of
6 the state, unless specifically authorized by the legislature. Any
7 financing described in this section may be structured on a senior,
8 parity, or subordinate basis to any other financing.

9 (4) The department shall not execute any agreement, including any
10 agreement that could materially impact the state's debt capacity or
11 credit rating, without prior review and approval of the plan of
12 finance and proposed financing terms by the state finance committee.

13 NEW SECTION. **Sec. 6.** USE OF FEDERAL FUNDS OR OTHER SOURCES. (1)
14 The department may accept from the United States or any of its
15 agencies such funds as are available to this state or to any other
16 unit of government for carrying out the purposes of this chapter,
17 whether the funds are made available by grant, loan, or other
18 financing arrangement. The department may enter into such agreements
19 and other arrangements with the United States or any of its agencies
20 as may be necessary, proper, and convenient for carrying out the
21 purposes of this chapter, subject to subsection (2) of this section.

22 (2)(a) The department may accept from any source any grant,
23 donation, gift, or other form of conveyance of land, money, other
24 real or personal property, or other valuable thing made to the state
25 of Washington, the department, or a local government for carrying out
26 the purposes of this chapter.

27 (b) Any eligible project may be financed in whole or in part by
28 contribution of any funds or property made by any private entity or
29 public sector partner that is a party to any agreement entered into
30 under this chapter.

31 NEW SECTION. **Sec. 7.** PUBLIC INTEREST FINDING. (1) The
32 department may evaluate projects that are already programmed for
33 other delivery methods to determine their appropriateness for
34 delivery under a public-private partnership model.

35 (2) Before entering into a formal solicitation or procurement to
36 develop a project as a public-private partnership, the department
37 must make formal findings that utilizing a public-private partnership
38 delivery method is in the public's interest. The department must

1 develop rules detailing the process and criteria for making such
2 findings. At a minimum, the criteria must consider whether:

3 (a) Public ownership of the asset can be retained;

4 (b) Transparency during the consideration of a public-private
5 partnership agreement can be provided;

6 (c) Public oversight of the private entity's management of the
7 asset can be provided; and

8 (d) Additional criteria that reflects the legislative findings in
9 section 1 of this act.

10 (3) Upon a finding of public interest pursuant to subsection (2)
11 of this section, the department must provide written notification of
12 their finding of public interest and intent to deliver the project as
13 a public-private partnership to the general public, to the chairs and
14 ranking members of the transportation committees of the legislature,
15 and to the governor.

16 (4) Before commencing any solicitation to deliver the project as
17 a public-private partnership, the department must provide an
18 opportunity for public comment on the proposed project and delivery
19 method.

20 (5) Upon a finding of public interest pursuant to subsection (2)
21 of this section, the department may:

22 (a) Solicit concepts or proposals for the identified public-
23 private partnership project from private entities and units of
24 government;

25 (b) Evaluate the concepts or proposals received under this
26 section. The evaluation under this subsection must include
27 consultation with any appropriate unit of government; and

28 (c) Select potential projects based on the concepts or proposals.

29 NEW SECTION. **Sec. 8.** USE OF FUNDS FOR PROPOSAL PURPOSES. (1)

30 The department may spend such moneys as may be necessary for stipends
31 for respondents to a solicitation, the evaluation of concepts or
32 proposals for eligible projects, and for negotiating agreements for
33 eligible projects authorized under this chapter. Expenses incurred by
34 the department under this section before the issuance of
35 transportation project bonds or other financing must be paid by the
36 department and charged to the appropriate project. The department
37 must keep records and accounts showing each charged amount.

38 (2) Unless otherwise provided in the omnibus transportation
39 appropriations act, the funds spent by the department under this

1 section in connection with the project must be repaid from the
2 proceeds of the bonds or other financing upon the sale of
3 transportation project bonds or upon obtaining other financing for an
4 eligible project, as allowed by law or contract.

5 NEW SECTION. **Sec. 9.** EXPERT CONSULTATION. The department may
6 consult with legal, financial, technical, and other experts in the
7 public and private sector in the evaluation, negotiation, and
8 development of projects under this chapter.

9 NEW SECTION. **Sec. 10.** CONTRACTED STUDIES. In the absence of any
10 direct federal funding or direction, the department may contract with
11 a private developer of a selected project proposal to conduct
12 environmental impact studies and engineering and technical studies.

13 NEW SECTION. **Sec. 11.** PARTNERSHIP AGREEMENTS. (1) The following
14 provisions must be included in any transportation project agreement
15 entered into under the authority of this chapter and to which the
16 state is a party:

17 (a) For any project that proposes terms for stand alone
18 maintenance or asset management services for a public facility, those
19 services must be provided in a manner consistent with any collective
20 bargaining agreements, chapter 41.80 RCW, and civil service laws that
21 are in effect for the public facility;

22 (b) A finding of public interest, as issued by the department
23 pursuant to section 7 of this act;

24 (c) If there is a tolling component to the project, it must be
25 specified that tolling technology used in the project must be
26 consistent with tolling technology standards adopted by the
27 department for transportation-related projects;

28 (d) Provisions for bonding, financial guarantees, deposits, or
29 the posting of other security to secure the payment of laborers,
30 subcontractors, and suppliers who perform work or provide materials
31 as part of the project;

32 (e) All projects must be financed in a manner consistent with
33 section 6 of this act.

34 (2) At a minimum, agreements between the state and private sector
35 partners entered into under this section must specifically include
36 the following contractual elements:

1 (a) The point in the project at which public and private sector
2 partners will enter the project and which partners will assume
3 responsibility for specific project elements;

4 (b) How the partners will share management of the risks of the
5 project;

6 (c) The compensation method and amount for the private partner,
7 establishing a maximum rate of return, and identifying how project
8 revenue, if any, in excess of the maximum rate of return will be
9 distributed;

10 (d) How the partners will share the costs of development of the
11 project;

12 (e) How the partners will allocate financial responsibility for
13 cost overruns;

14 (f) The penalties for nonperformance;

15 (g) The incentives for performance;

16 (h) The accounting and auditing standards to be used to evaluate
17 work on the project;

18 (i) For any project that reverts to public ownership, the
19 responsibility for reconstruction or renovations that are required
20 for a facility to meet all service standards and state of good repair
21 upon reversion of the facility to the state;

22 (j) Provisions and remedies for default by either party, and
23 provisions for termination of the agreement for or without cause;

24 (l) Provisions for public communication and participation with
25 respect to the development of the project.

26 NEW SECTION. **Sec. 12.** BEST VALUE FINDING AND AGREEMENT
27 EXECUTION. Before executing an agreement under this chapter, the
28 department must make a formal finding that the negotiated partnership
29 agreement is expected to result in best value for the public, and the
30 agreement must be approved through duly enacted legislation. The
31 department must develop and adopt a process and criteria for
32 measuring, determining, and transparently reporting best value
33 relevant to the proposed project. At minimum, the criteria must
34 include:

35 (1) A comparison of the total cost to deliver the project,
36 including any operations and maintenance costs, as a public-private
37 partnership compared to traditional or other alternative delivery
38 methods available to the department;

1 (2) A comparison with the department's current plan, resources,
2 delivery capacity, and schedule to complete the project that
3 documents the advantages of completing the project as a public-
4 private partnership versus solely as a public venture; and

5 (3) Factors such as, but not limited to: Priority, cost, risk
6 sharing, scheduling, asset and service quality, innovation, and
7 management conditions.

8 NEW SECTION. **Sec. 13.** CONFIDENTIALITY. A proposer must identify
9 those portions of a proposal that the proposer considers to be
10 confidential, proprietary information, or trade secrets and provide
11 any justification as to why these materials, upon request, should not
12 be disclosed by the department. Patent information will be covered
13 until the patent expires. Other information, such as originality of
14 design or records of negotiation, may only be protected under this
15 section until an agreement is reached. Disclosure must occur before
16 final agreement and execution of the contract. Projects under federal
17 jurisdiction or using federal funds must conform to federal
18 regulations under the freedom of information act.

19 NEW SECTION. **Sec. 14.** PREVAILING WAGES. If public funds are
20 used to pay any costs of construction of a public facility that is
21 part of an eligible project, chapter 39.12 RCW applies to the entire
22 eligible public works project.

23 NEW SECTION. **Sec. 15.** GOVERNMENT AGREEMENTS. The state may,
24 either separately or in combination with any other public sector
25 partner, enter into working agreements, coordination agreements, or
26 similar implementation agreements, including the formation of bistate
27 transportation organizations, to carry out the joint implementation
28 and operation of a transportation project selected under this
29 chapter. The state may enter into agreements with other units of
30 government or Canadian provinces for transborder transportation
31 projects.

32 NEW SECTION. **Sec. 16.** EMINENT DOMAIN. The state may exercise
33 the power of eminent domain to acquire property, rights-of-way, or
34 other rights in property for projects that are necessary to implement
35 an eligible project developed under this chapter. Any property

1 acquired pursuant to this section must be owned in fee simple by the
2 state.

3 NEW SECTION. **Sec. 17.** FEDERAL LAWS. Applicable federal laws,
4 rules, and regulations govern in any situation that involves federal
5 funds if the federal laws, rules, or regulations:

6 (1) Conflict with any provision of this chapter;

7 (2) Require procedures that are additional to or different from
8 those provided in this chapter; or

9 (3) Require contract provisions not authorized in this chapter.

10 If federal funds are provided, disadvantaged business enterprise
11 inclusion requirements as established, monitored, and administered by
12 the department's office of equity and civil rights apply. If no
13 federal funds are provided, state laws, rates, and rules must govern,
14 including the small business enforceable goals program required
15 through 49 C.F.R. Sec. 26.39 as established, monitored, and
16 administered by the department's office of equity and civil rights.

17 NEW SECTION. **Sec. 18.** PUBLIC-PRIVATE PARTNERSHIPS ACCOUNT. (1)
18 The public-private partnerships account is created in the custody of
19 the state treasurer.

20 (2) The following moneys must be deposited into the account:

21 (a) Proceeds from bonds or other financing instruments issued
22 under section 19 of this act;

23 (b) Revenues received from any transportation project developed
24 under this chapter or developed under the general powers granted to
25 the department; and

26 (c) Any other moneys that are by donation, grant, contract, law,
27 or other means transferred, allocated, or appropriated to the
28 account.

29 (3) Expenditures from the account may be used only to ensure the
30 repayment of loan guarantees or extensions of credit made to or on
31 behalf of private entities engaged in the planning, acquisition,
32 financing, development, design, construction, reconstruction,
33 replacement, improvement, maintenance, preservation, management,
34 repair, or operation of any eligible project under this chapter. The
35 lien of a pledge made under this subsection is subordinate to the
36 lien of a pledge securing bonds payable from moneys in the motor
37 vehicle fund created in RCW 46.68.070.

1 (4) The state treasurer may establish separate subaccounts within
2 the public-private partnerships account for each transportation
3 project that is initiated under this chapter or under the general
4 powers granted to the department. The state may pledge moneys in the
5 public-private partnerships account to secure revenue bonds or any
6 other debt obligations relating to the project for which the account
7 is established.

8 (5) Only the secretary or the secretary's designee may authorize
9 distributions from the account. The account is subject to the
10 allotment procedures under chapter 43.88 RCW, but an appropriation is
11 not required for expenditures.

12 NEW SECTION. **Sec. 19.** A new section is added to chapter 47.10
13 RCW to read as follows:

14 BOND ISSUANCE. (1) In addition to any authority the department
15 has to issue and sell bonds and other similar obligations, this
16 section establishes continuing authority for the issuance and sale of
17 bonds and other similar obligations in a manner consistent with this
18 section. To finance a project as authorized in chapter 47.--- RCW
19 (the new chapter created in section 24 of this act) in whole or in
20 part, the department may request that the state treasurer issue
21 revenue bonds on behalf of the public sector partner. The bonds must
22 be secured by a pledge of, and a lien on, and be payable only from
23 moneys in the public-private partnerships account created in section
24 18 of this act, and any other revenues specifically pledged to
25 repayment of the bonds. Such a pledge by the public partner creates a
26 lien that is valid and binding from the time the pledge is made.
27 Revenue bonds issued under this section are not general obligations
28 of the state or local government and are not secured by or payable
29 from any funds or assets of the state other than the moneys and
30 revenues specifically pledged to the repayment of such revenue bonds.

31 (2) Moneys received from the issuance of revenue bonds or other
32 debt obligations, including any investment earnings thereon, may be
33 spent:

34 (a) For the purpose of financing the costs of the project for
35 which the bonds are issued;

36 (b) To pay the costs and other administrative expenses of the
37 bonds;

1 (c) To pay the costs of credit enhancement or to fund any
2 reserves determined to be necessary or advantageous in connection
3 with the revenue bonds; and

4 (d) To reimburse the public sector partners for any costs related
5 to carrying out the projects authorized under this chapter.

6 **Sec. 20.** RCW 47.56.030 and 2023 c 429 s 6 are each amended to
7 read as follows:

8 (1) Except as permitted under chapter (~~47.29~~) 47.--- RCW (the
9 new chapter created in section 24 of this act) or 47.46 RCW:

10 (a) Unless otherwise delegated, and subject to RCW 47.56.820, the
11 department of transportation shall have full charge of the planning,
12 analysis, and construction of all toll bridges and other toll
13 facilities including the Washington state ferries, and the operation
14 and maintenance thereof.

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

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

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

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

36 (i) Emergency contracts, in order to make repairs to ferries or
37 ferry terminal facilities or removal of such facilities whenever
38 continued use of ferries or ferry terminal facilities constitutes a

1 real or immediate danger to the traveling public or precludes prudent
2 use of such ferries or facilities; and

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

8 (f) Any new vessel planning, construction, purchase, analysis, or
9 design work must be consistent with RCW 47.60.810, except as
10 otherwise provided in RCW 47.60.826.

11 (2) The department shall proceed with the procurement of
12 materials, supplies, services, and equipment needed for the support,
13 maintenance, and use of a ferry, ferry terminal, or other facility
14 operated by Washington state ferries, in accordance with chapter
15 43.19 RCW except as follows:

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

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

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

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

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

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

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

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

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

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

29 **Sec. 21.** RCW 47.56.031 and 2005 c 335 s 2 are each amended to
30 read as follows:

31 No tolls may be imposed on new or existing highways or bridges
32 without specific legislative authorization, or upon a majority vote
33 of the people within the boundaries of the unit of government
34 empowered to impose tolls. This section applies to chapter 47.56 RCW
35 and to any tolls authorized under chapter ~~((47.29 RCW, the~~
36 ~~transportation innovative partnership act of 2005))~~ 47.--- RCW (the
37 new chapter created in section 24 of this act).

1 **Sec. 22.** RCW 70A.15.4030 and 2020 c 20 s 1126 are each amended
2 to read as follows:

3 (1) A county, city, or town may, as part of its commute trip
4 reduction plan, designate existing activity centers listed in its
5 comprehensive plan or new activity centers as growth and
6 transportation efficiency centers and establish a transportation
7 demand management program in the designated area.

8 (a) The transportation demand management program for the growth
9 and transportation efficiency center shall be developed in
10 consultation with local transit agencies, the applicable regional
11 transportation planning organization, major employers, and other
12 interested parties.

13 (b) In order to be eligible for state funding provided for the
14 purposes of this section, designated growth and transportation
15 efficiency centers shall be certified by the applicable regional
16 transportation organization to: (i) Meet the minimum land use and
17 transportation criteria established in collaboration among local
18 jurisdictions, transit agencies, the regional transportation planning
19 organization, and other interested parties as part of the regional
20 commute trip reduction plan; and (ii) have established a
21 transportation demand management program that includes the elements
22 identified in (c) of this subsection and is consistent with the rules
23 established by the department of transportation in RCW
24 70A.15.4060(2). If a designated growth and transportation efficiency
25 center is denied certification, the local jurisdiction may appeal the
26 decision to the commute trip reduction board.

27 (c) Transportation demand management programs for growth and
28 transportation efficiency centers shall include, but are not limited
29 to: (i) Goals for reductions in the proportion of single-occupant
30 vehicle trips that are more aggressive than the state program goal
31 established by the commute trip reduction board; (ii) a sustainable
32 financial plan demonstrating how the program can be implemented to
33 meet state and regional trip reduction goals, indicating resources
34 from public and private sources that are reasonably expected to be
35 made available to carry out the plan, and recommending any innovative
36 financing techniques consistent with chapter ((47.29-RCW)) 47.--- RCW
37 (the new chapter created in section 24 of this act), including
38 public/private partnerships, to finance needed facilities, services,
39 and programs; (iii) a proposed organizational structure for
40 implementing the program; (iv) a proposal to measure performance

1 toward the goal and implementation progress; and (v) an evaluation to
2 which local land use and transportation policies apply, including
3 parking policies and ordinances, to determine the extent that they
4 complement and support the trip reduction investments of major
5 employers. Each of these program elements shall be consistent with
6 the rules established under RCW 70A.15.4060.

7 (d) A designated growth and transportation efficiency center
8 shall be consistent with the land use and transportation elements of
9 the local comprehensive plan.

10 (e) Transit agencies, local governments, and regional
11 transportation planning organizations shall identify certified growth
12 and transportation efficiency centers as priority areas for new
13 service and facility investments in their respective investment
14 plans.

15 (2) A county, city, or town that has established a growth and
16 transportation efficiency center program shall support vehicle trip
17 reduction activities in the designated area. The implementing
18 jurisdiction shall adopt policies, ordinances, and funding strategies
19 that will lead to attainment of program goals in those areas.

20 NEW SECTION. **Sec. 23.** The following acts or parts of acts are
21 each repealed:

22 (1) RCW 47.29.010 (Finding—Intent) and 2006 c 334 s 48 & 2005 c
23 317 s 1;

24 (2) RCW 47.29.020 (Definitions) and 2005 c 317 s 2;

25 (3) RCW 47.29.030 (Transportation commission powers and duties)
26 and 2005 c 317 s 3;

27 (4) RCW 47.29.040 (Purpose) and 2005 c 317 s 4;

28 (5) RCW 47.29.050 (Eligible projects) and 2005 c 317 s 5;

29 (6) RCW 47.29.060 (Eligible financing) and 2008 c 122 s 18 & 2005
30 c 317 s 6;

31 (7) RCW 47.29.070 (Use of federal funds and similar revenues) and
32 2005 c 317 s 7;

33 (8) RCW 47.29.080 (Other sources of funds or property) and 2005 c
34 317 s 8;

35 (9) RCW 47.29.090 (Project review, evaluation, and selection) and
36 2005 c 317 s 9;

37 (10) RCW 47.29.100 (Administrative fee) and 2005 c 317 s 10;

38 (11) RCW 47.29.110 (Funds for proposal evaluation and
39 negotiation) and 2005 c 317 s 11;

- 1 (12) RCW 47.29.120 (Expert consultation) and 2005 c 317 s 12;
2 (13) RCW 47.29.130 (Contracted studies) and 2005 c 317 s 13;
3 (14) RCW 47.29.140 (Partnership agreements) and 2005 c 317 s 14;
4 (15) RCW 47.29.150 (Public involvement and participation) and
5 2005 c 317 s 15;
6 (16) RCW 47.29.160 (Approval and execution) and 2005 c 317 s 16;
7 (17) RCW 47.29.170 (Unsolicited proposals) and 2017 c 313 s 711,
8 2015 1st sp.s. c 10 s 704, 2013 c 306 s 708, 2011 c 367 s 701, 2009 c
9 470 s 702, 2007 c 518 s 702, 2006 c 370 s 604, & 2005 c 317 s 17;
10 (18) RCW 47.29.180 (Advisory committees) and 2005 c 317 s 18;
11 (19) RCW 47.29.190 (Confidentiality) and 2005 c 317 s 19;
12 (20) RCW 47.29.200 (Prevailing wages) and 2005 c 317 s 20;
13 (21) RCW 47.29.210 (Government agreements) and 2005 c 317 s 21;
14 (22) RCW 47.29.220 (Eminent domain) and 2005 c 317 s 22;
15 (23) RCW 47.29.230 (Transportation innovative partnership
16 account) and 2005 c 317 s 23;
17 (24) RCW 47.29.240 (Use of account) and 2005 c 317 s 24;
18 (25) RCW 47.29.250 (Issuing bonds and other obligations) and 2005
19 c 317 s 25;
20 (26) RCW 47.29.260 (Study and report) and 2005 c 317 s 26;
21 (27) RCW 47.29.270 (Federal laws) and 2005 c 317 s 27;
22 (28) RCW 47.29.280 (Expert review panel on proposed project
23 agreements—Creation—Authority) and 2006 c 334 s 49; and
24 (29) RCW 47.29.290 (Expert review panel on proposed project
25 agreements—Execution of agreements) and 2006 c 334 s 50.

26 NEW SECTION. **Sec. 24.** Sections 1 through 18 of this act
27 constitute a new chapter in Title 47 RCW.

28 NEW SECTION. **Sec. 25.** This act takes effect January 1, 2026."

29 Correct the title.

EFFECT: • Limits the use of public-private partnerships to projects with an engineer's estimated cost of less than \$500,000,000 and to projects that are not rail projects.

• Prevents the WSDOT from adopting rules to carry out public-private partnerships allowed under the bill.

• Requires the WSDOT to develop draft legislation to implement any necessary changes to the use of public-private partnerships under the bill.

- Requires approval of any agreement relative to a public-private partnership under the bill to be approved through duly enacted legislation.
- Requires property acquired through eminent domain under the bill to be owned in fee simple by the state.

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