S-1185.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5702**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Ramos, Goehner, and Nobles

AN ACT Relating to streamlining the toll rate setting process at the transportation commission; amending RCW 34.05.030, 47.56.850, 47.56.165, 47.56.795, 47.46.100, and 47.46.105; adding a new section to chapter 47.56 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. **Sec.**  The legislature finds that most tolling facilities in Washington state are subject to strict bond covenants and financial requirements, requiring swift action in response to changing circumstances. However, the current process for setting or adjusting toll rates or toll rate policies takes an average of 160 days to complete due to requirements in the administrative procedure act, chapter 34.05 RCW. The legislature further finds that this process lacks the flexibility that is necessary to quickly adjust tolls to meet legally mandated revenue and performance requirements in response to unforeseen circumstances. Therefore, in order to address the challenges with the current toll rate setting process, it is the intent of the legislature to exempt toll setting from the administrative procedure act and to instead establish a toll setting process that can be carried out efficiently and expeditiously while maintaining public transparency.

**Sec.**  RCW 34.05.030 and 2021 c 314 s 24 are each amended to read as follows:

(1) This chapter shall not apply to:

(a) The state militia((~~,~~)); or

(b) The ((~~board of~~)) clemency and pardons ((~~[clemency and pardons board],~~)) board; or

(c) The department of corrections or the indeterminate sentencing review board with respect to persons who are in their custody or are subject to the jurisdiction of those agencies; or

(d) The transportation commission when exercising its powers as the state tolling authority under RCW 47.56.850 and section 4 of this act.

(2) The provisions of RCW 34.05.410 through 34.05.598 shall not apply:

(a) To adjudicative proceedings of the board of industrial insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

(b) Except for actions pursuant to chapter 46.29 RCW, to the denial, suspension, or revocation of a driver's license by the department of licensing;

(c) To the department of labor and industries where another statute expressly provides for review of adjudicative proceedings of a department action, order, decision, or award before the board of industrial insurance appeals;

(d) To actions of the Washington personnel resources board, the director of financial management, and the department of enterprise services when carrying out their duties under chapter 41.06 RCW;

(e) To adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261;

(f) To actions to implement the provisions of chapter 70A.02 RCW, except as specified in RCW 70A.02.130; or

(g) To the extent they are inconsistent with any provisions of chapter 43.43 RCW.

(3) Unless a party makes an election for a formal hearing pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not apply to a review hearing conducted by the board of tax appeals.

(4) The rule-making provisions of this chapter do not apply to:

(a) Reimbursement unit values, fee schedules, arithmetic conversion factors, and similar arithmetic factors used to determine payment rates that apply to goods and services purchased under contract for clients eligible under chapter 74.09 RCW; and

(b) Adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261.

(5) All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act.

**Sec.**  RCW 47.56.850 and 2009 c 498 s 15 are each amended to read as follows:

(1) Unless these powers are otherwise delegated by the legislature, the transportation commission is the tolling authority for the state. The tolling authority shall:

(a) ((~~Set~~)) Consistent with the process described in section 4 of this act, set toll rates, establish appropriate exemptions, including discounts, if any, and make adjustments as conditions warrant on eligible toll facilities;

(b) Review toll collection policies, toll operations policies, and toll revenue expenditures on the eligible toll facilities and report annually on this review to the legislature.

(2) The tolling authority, in determining toll rates, shall consider the policy guidelines established in RCW 47.56.830.

(3) Unless otherwise directed by the legislature, in setting and periodically adjusting toll rates, the tolling authority must ensure that toll rates will generate revenue sufficient to:

(a) Meet the operating costs of the eligible toll facilities, including necessary maintenance, preservation, renewal, replacement, administration, and toll enforcement by public law enforcement;

(b) Meet obligations for the timely payment of debt service on bonds issued for eligible toll facilities, and any other associated financing costs including, but not limited to, required reserves, minimum debt coverage or other appropriate contingency funding, insurance, and compliance with all other financial and other covenants made by the state in the bond proceedings;

(c) Meet obligations to reimburse the motor vehicle fund for excise taxes on motor vehicle and special fuels applied to the payment of bonds issued for eligible toll facilities; and

(d) Meet any other obligations of the tolling authority to provide its proportionate share of funding contributions for any projects or operations of the eligible toll facilities.

(4) The established toll rates may include variable pricing, and should be set to optimize system performance, recognizing necessary trade-offs to generate revenue for the purposes specified in subsection (3) of this section. Tolls may vary for type of vehicle, time of day, traffic conditions, or other factors designed to improve performance of the system.

(5) In fixing and adjusting toll rates under this section, the only toll revenue to be taken into account must be toll revenue pledged to bonds that includes toll receipts, and the only debt service requirements to be taken into account must be debt service on bonds payable from and secured by toll revenue that includes toll receipts.

(6) The legislature pledges to appropriate toll revenue as necessary to carry out the purposes of this section. When the legislature has specifically identified and designated an eligible toll facility and authorized the issuance of bonds for the financing of the eligible toll facility that are payable from and secured by a pledge of toll revenue, the legislature further agrees for the benefit of the owners of outstanding bonds issued by the state for eligible toll facilities to continue in effect and not to impair or withdraw the authorization of the tolling authority to fix and adjust tolls as provided in this section. The state finance committee shall pledge the state's obligation to impose and maintain tolls, together with the application of toll revenue as described in this section, to the owners of any bonds.

NEW SECTION. **Sec.**  A new section is added to chapter 47.56 RCW under the subchapter heading "TOLL FACILITIES CREATED AFTER July 1, 2008" to read as follows:

(1) When setting or adjusting toll rates on eligible toll facilities, or establishing or adjusting appropriate exemptions, including discounts, the transportation commission shall:

(a) Issue written notice to the public that the commission intends to set or adjust toll rates on a given facility. At a minimum, the notice must be published on the commission's website at least 30 days before any proposed rates would take effect;

(b) Carry out a public outreach process on a possible toll rate option or options under consideration by the commission;

(c) After review of options and public input, if any, the commission shall select the applicable toll rates and may adopt the rates as soon as needed; however, adopting toll rates is deemed to be an action as defined in RCW 42.30.020 and must occur at an open public meeting of the commission; and

(d) Within one week of adopting toll rates, the commission shall notify the public and stakeholder agencies, including the department of transportation, of the toll rates, and provide the updated information on its website.

(2) If the commission determines that immediate adoption of a toll change is necessary in order to comply with the legal or financial obligations of the state including, but not limited to, state or federal law, federal rule, federal grant conditions, or the bond covenants of the state, then the commission may adopt a toll change on an emergency basis, without observing the notice and public outreach and input requirements of subsection (1) of this section. However, notice and public outreach and input requirements must be observed to the greatest extent practicable as the emergency circumstances allow.

(3) The commission shall establish administrative fees as appropriate for toll collection processes using the same process described in subsection (1) of this section.

(4) The commission shall post all current toll rates and toll policies on its website.

(5) All open public meetings conducted under this section must include an option for the public to participate remotely through electronic means.

(6) The commission shall adopt rules that establish further detail around the toll rate setting process and where relevant information will be provided.

(7) This section does not apply to any rule making regarding toll rate setting in progress by the commission on the effective date of this section, which shall be completed under chapter 34.05 RCW.

**Sec.**  RCW 47.56.165 and 2022 c 223 s 1 are each amended to read as follows:

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

(1) Deposits to the account must include:

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

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

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

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

(e) All liquidated damages collected under any contract involving the construction of the second Tacoma Narrows bridge; and

(f) Beginning with September 2022 and ending July 1, 2032, by the last day of September, December, March, and June of each year, the state treasurer shall transfer from the general fund to the account the sum of $3,250,000. The total amount that may be transferred pursuant to this subsection is $130,000,000.

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

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

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

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

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

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

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

**Sec.**  RCW 47.56.795 and 2015 c 292 s 2 are each amended to read as follows:

(1) A toll collection system may include, but is not limited to, electronic toll collection and photo tolling.

(2)(a) A photo toll system may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this chapter are for the exclusive use of the tolling agency for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty under RCW 46.63.160. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under RCW 46.63.160. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies. Aggregate records that do not identify an individual, vehicle, or account may be maintained.

(3) The department and its agents shall only use electronic toll collection system technology for toll collection purposes.

(4) Tolls may be collected and paid by the following methods:

(a) A customer may pay an electronic toll through an electronic toll collection account;

(b) A customer may pay a photo toll either through a customer-initiated payment or in response to a toll bill; or

(c) A customer may pay with cash on toll facilities that have a manual cash collection system.

(5) To the extent practicable, the department shall adopt electronic toll collection options, which allow for anonymous customer accounts and anonymous accounts that are not linked to a specific vehicle.

(6) The transportation commission shall ((~~adopt rules, in accordance with chapter 34.05 RCW, to~~)), consistent with the process described in section 4 of this act, assess administrative fees as appropriate for toll collection processes. Administrative fees must not exceed toll collection costs. All administrative fees collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed.

(7) Failure to pay a photo toll by the toll payment due date is a violation for which a notice of civil penalty may be issued under RCW 46.63.160.

(8) For an electronic toll collection system that uses an in-vehicle device, such as a transponder, to identify a particular customer for the purposes of paying an electronic toll from that customer's toll collection account, the department must allow such in-vehicle devices to be offered for sale at vehicle dealers.

**Sec.**  RCW 47.46.100 and 2002 c 114 s 7 are each amended to read as follows:

(1) ((~~The~~)) Consistent with the process described in section 4 of this act, the commission shall fix the rates of toll and other charges for all toll bridges built under this chapter that are financed primarily by bonds issued by the state. Subject to RCW 47.46.090, the commission may impose and modify toll charges from time to time as conditions warrant.

(2) In establishing toll charges, the commission shall give due consideration to any required costs for operating and maintaining the toll bridge or toll bridges, including the cost of insurance, and to any amount required by law to meet the redemption of bonds and interest payments on them.

(3) The toll charges must be imposed in amounts sufficient to:

(a) Provide annual revenue sufficient to provide for annual operating and maintenance expenses, except as provided in RCW 47.56.245;

(b) Make payments required under RCW 47.56.165 and 47.46.140, including insurance costs and the payment of principal and interest on bonds issued for any particular toll bridge or toll bridges; and

(c) Repay the motor vehicle fund under RCW 47.46.110, 47.56.165, and 47.46.140.

(4) The bond principal and interest payments, including repayment of the motor vehicle fund for amounts transferred from that fund to provide for such principal and interest payments, constitute a first direct and exclusive charge and lien on all tolls and other revenues from the toll bridge concerned, subject to operating and maintenance expenses.

**Sec.**  RCW 47.46.105 and 2010 c 249 s 4 are each amended to read as follows:

(1) A toll collection system may include, but is not limited to, electronic toll collection and photo tolling.

(2)(a) A photo toll system may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this chapter are for the exclusive use of the tolling agency for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty under RCW 46.63.160. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under RCW 46.63.160. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies.

(3) The department and its agents shall only use electronic toll collection system technology for toll collection purposes.

(4) Tolls may be collected and paid by the following methods:

(a) A customer may pay an electronic toll through an electronic toll collection account;

(b) A customer who does not have an electronic toll collection account may pay a photo toll either through a customer-initiated payment or in response to a toll bill; or

(c) A customer who does not have an electronic toll collection account may pay with cash on toll facilities that have a manual cash collection system.

(5) To the extent practicable, the department shall adopt electronic toll collection options, which allow for anonymous customer accounts and anonymous accounts that are not linked to a specific vehicle.

(6) The transportation commission shall ((~~adopt rules, in accordance with chapter 34.05 RCW, to~~)), consistent with the process described in section 4 of this act, assess administrative fees as appropriate for toll collection processes. Administrative fees must not exceed toll collection costs. All administrative fees collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed.

(7) Failure to pay a photo toll by the toll payment due date is a violation for which a notice of civil penalty may be issued under RCW 46.63.160.

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

**--- END ---**