
SENATE BILL 5773

State of Washington**69th Legislature****2025 Regular Session****By** Senators Lias and King

1 AN ACT Relating to alternative procurement and delivery models
2 for transportation projects; amending RCW 47.56.030, 47.56.031,
3 70A.15.4030, 47.20.780, 47.20.785, 39.10.270, 39.10.280, and
4 43.131.408; adding a new chapter to Title 47 RCW; creating a new
5 section; repealing RCW 47.29.010, 47.29.020, 47.29.030, 47.29.040,
6 47.29.050, 47.29.060, 47.29.070, 47.29.080, 47.29.090, 47.29.100,
7 47.29.110, 47.29.120, 47.29.130, 47.29.140, 47.29.150, 47.29.160,
8 47.29.170, 47.29.180, 47.29.190, 47.29.200, 47.29.210, 47.29.220,
9 47.29.230, 47.29.240, 47.29.250, 47.29.260, 47.29.270, 47.29.280, and
10 47.29.290; and providing an effective date.

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

12 NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that a full
13 set of project procurement, contracting, financing, and funding tools
14 are needed to enable the delivery of transportation projects in a
15 manner most advantageous to the public. Current public-private
16 partnership laws have failed to spur innovative proposals from the
17 private sector or new project delivery approaches from the department
18 of transportation.

19 (b) The legislature confirms the findings from previous studies
20 that current laws and administrative processes are the primary
21 obstacle impairing the state's ability to utilize public-private

1 partnerships. The legislature finds that a new public-private
2 partnership law is needed to:

3 (i) Transparently demonstrate and deliver better value for the
4 public including, but not limited to, expedited project delivery and
5 more effective management of project life-cycle costs;

6 (ii) Provide an additional option for delivering complex
7 transportation projects, including addressing a shortage of truck
8 parking;

9 (iii) Incorporate private sector expertise and innovation into
10 transportation project delivery;

11 (iv) Allocate project risks to the parties best able to manage
12 those risks;

13 (v) Allow new sources of private capital;

14 (vi) Increase access to federal funding and financing mechanisms;

15 (vii) Better align private sector incentives with public
16 priorities; and

17 (viii) Provide consistency in the review and approval processes
18 for the full range of project delivery tools and contracting methods.

19 (2) The legislature further finds that there is a need to develop
20 other innovative approaches to deliver transportation infrastructure
21 in a manner that maximizes value and addresses the increasing costs
22 of project delivery. Requiring mandatory review and approval of other
23 alternative project delivery models available to the department of
24 transportation stifles procurement and timely project delivery.
25 Expanded and expedited use of alternative project delivery models,
26 like progressive design-build and general contractor/construction
27 manager procedures, without mandatory approval or review by the
28 capital projects advisory review board will deliver better value for
29 the public and provide the department of transportation with more
30 options to deliver complex transportation projects. This will also
31 give the department of transportation the needed flexibility to adapt
32 to changing conditions, and result in fewer delays in project
33 delivery. Any use of such delivery models should continue to strive
34 and adhere to disadvantaged business enterprise and small business
35 enterprise program contract goals.

36 **I. PUBLIC-PRIVATE PARTNERSHIPS**

1 NEW SECTION. **Sec. 101.** DEFINITIONS. The definitions in this
2 section apply throughout this chapter unless the context clearly
3 requires otherwise.

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

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

6 (3) "Eligible transportation project" means any project, whether
7 capital or operating, where the state's purpose for the project is to
8 preserve or facilitate the safe transport of people or goods via any
9 mode of travel.

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, bistrate 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) "Unit of government" means any department or agency of the
21 federal government, any state or agency, office, or department of a
22 state, any city, county, district, commission, authority, entity,
23 port, or other public corporation organized and existing under
24 statutory law or under a voter-approved charter or initiative, and
25 any intergovernmental entity created under chapter 39.34 RCW or this
26 chapter.

27 NEW SECTION. **Sec. 102.** WASHINGTON STATE DEPARTMENT OF
28 TRANSPORTATION POWERS AND DUTIES. (1) The department shall develop
29 policies and, where appropriate, adopt rules to carry out this
30 chapter and govern the use of public-private partnerships for
31 transportation projects. At a minimum, the department's policies and
32 rules must address the following issues:

33 (a) The types of projects allowed;

34 (b) Consistent with section 108 of this act, a process and
35 methodology for determining whether a public-private partnership
36 delivery model will be in the public's interest;

37 (c) Consistent with section 113 of this act, a process and
38 methodology for determining whether a negotiated partnership
39 agreement will result in greater public value to the state than if

1 the project is delivered using other procurement and contracting
2 methods;

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

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

6 (f) Procedures for the proper identification, solicitation,
7 acceptance, review, and evaluation of projects, consistent with
8 existing project procurement and contracting requirements and
9 practices;

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

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

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

18 (h) The protection of confidential proprietary information while
19 still meeting the need for transparency and public disclosure that is
20 consistent with section 113 of this act;

21 (i) Protection for local contractors to participate in
22 subcontracting opportunities that is consistent with section 103(3)
23 of this act;

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

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

27 (2) During its rule-making activities, the department must
28 consult with the department's office of equity and civil rights.

29 (3) By September 1, 2026, the department must provide a report to
30 the house of representatives and senate transportation committees on
31 proposed policies and guidelines it intends to develop into
32 administrative rules. Rules adopted by the department pursuant to
33 this chapter may not take effect before January 1, 2027.

34 NEW SECTION. **Sec. 103.** APPLICABILITY OF OTHER TRANSPORTATION
35 PROJECT GOVERNING PROVISIONS.

36 (1) For any eligible transportation project that requires the
37 imposition of tolls on a state facility, the legislature must approve
38 the imposition of such tolls consistent with RCW 47.56.820.

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

4 (3) (a) If federal funds are provided for an eligible
5 transportation project developed under this chapter, disadvantaged
6 business enterprise inclusion requirements, as established,
7 monitored, and administered by the department's office of equity and
8 civil rights, apply.

9 (b) If no federal funds are provided for an eligible
10 transportation project developed under this chapter, state laws,
11 rates, and rules must govern, including the small business
12 enforceable goals program required through 49 C.F.R. Sec. 26.39 as
13 established, monitored, and administered by the department's office
14 of equity and civil rights.

15 (4) All other transportation project procurement and contracting
16 governing provisions and procedures that do not conflict with this
17 chapter apply unless otherwise specified.

18 NEW SECTION. **Sec. 104.** PROJECT COST THRESHOLD FOR P3
19 EVALUATION. Any eligible transportation project with an estimated
20 cost to the state of less than \$500,000,000 may be evaluated for
21 delivery under a public-private partnership model as prescribed under
22 this chapter. Any eligible transportation project with an estimated
23 cost to the state of \$500,000,000 or more may only be evaluated for
24 delivery under a public-private partnership model pursuant to this
25 chapter if explicitly authorized by the legislature.

26 NEW SECTION. **Sec. 105.** ELIGIBLE FINANCING. (1) Subject to the
27 limitations in this section, the department may, in connection with
28 the evaluation of eligible transportation projects, consider any
29 financing mechanisms from any lawful source, either integrated as
30 part of a project proposal or as a separate, stand-alone proposal to
31 finance a project. Financing may be considered for all or part of a
32 proposed project. A project may be financed in whole or in part with:

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

37 (b) Grants, loans, loan guarantees, lines of credit, revolving
38 lines of credit, or other financing arrangements available under the

1 transportation infrastructure finance and innovation act under 23
2 U.S.C. Sec. 181 et seq., or any other applicable federal law, subject
3 to legislative authorization and appropriation as required;

4 (c) Infrastructure loans or assistance from the state
5 infrastructure bank established under RCW 82.44.195, subject to
6 legislative authorization and appropriation as required;

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

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

14 (f) Loans, pledges, or contributions of funds, including equity
15 investments, from private entities;

16 (g) Revenue bonds, subject to legislative authorization and
17 appropriation as required.

18 (2) Subject to subsection (4) of this section, the department may
19 develop a plan of finance that would require either the state or a
20 private partner, or both, to: Issue debt, equity, or other securities
21 or obligations; enter into contracts, leases, concessions, and grant
22 and loan agreements; or secure any financing with a pledge of funds
23 to be appropriated by the legislature or with a lien or exchange of
24 real property.

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

31 (4) The department shall not execute any agreement with respect
32 to an eligible transportation project, including any agreement that
33 could materially impact the state's debt capacity or credit rating as
34 determined by the state finance committee, without prior review and
35 approval of the plan of finance and proposed financing terms by the
36 state finance committee.

37 NEW SECTION. **Sec. 106.** USE OF FEDERAL FUNDS OR OTHER SOURCES.

38 (1) The department may accept from the United States or any of its
39 agencies such funds as are available to this state or to any other

1 unit of government for carrying out the purposes of this chapter,
2 whether the funds are made available by grant, loan, or other
3 financing arrangement. The department may enter into such agreements
4 and other arrangements with the United States or any of its agencies
5 as may be necessary, proper, and convenient for carrying out the
6 purposes of this chapter, subject to subsection (2) of this section.

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

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

16 NEW SECTION. **Sec. 107.** PUBLIC INTEREST FINDING. (1) The
17 department may evaluate eligible transportation projects that are
18 already programmed for other delivery methods to determine their
19 appropriateness for delivery under a public-private partnership
20 model.

21 (2) Before entering into a formal solicitation or procurement to
22 develop a project as a public-private partnership, the department
23 must make formal findings that utilizing a public-private partnership
24 delivery method is in the public's interest. The department must
25 adopt rules detailing the process and criteria for making such
26 findings. At a minimum, the criteria must consider whether:

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

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

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

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

34 (3) Before commencing any solicitation to deliver the project as
35 a public-private partnership, the department must provide an
36 opportunity for public comment on the proposed project and delivery
37 method.

38 (4) Upon a finding of public interest pursuant to subsection (2)
39 of this section, the department must provide written notification of

1 their finding of public interest and intent to deliver the project as
2 a public-private partnership to the general public, to the chairs and
3 ranking members of the transportation committees of the legislature,
4 and to the governor.

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

7 (a) Solicit concepts or proposals for the identified public-
8 private partnership project from private entities and units of
9 government;

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

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

14 NEW SECTION. **Sec. 108.** USE OF FUNDS FOR PROPOSAL PURPOSES. (1)
15 Subject to the availability of amounts appropriated for this specific
16 purpose, the department may spend such moneys as may be necessary for
17 stipends for respondents to a solicitation, the evaluation of
18 concepts or proposals for eligible transportation projects, and for
19 negotiating agreements for eligible transportation projects
20 authorized under this chapter. Expenses incurred by the department
21 under this section before the issuance of transportation project
22 bonds or other financing must be paid by the department and charged
23 to the appropriate project. The department must keep records and
24 accounts showing each charged amount.

25 (2) Unless otherwise provided in the omnibus transportation
26 appropriations act, the funds spent by the department under this
27 section in connection with the project must be repaid from the
28 proceeds of the bonds or other financing upon the sale of
29 transportation project bonds or upon obtaining other financing for an
30 eligible transportation project, as allowed by law or contract.

31 NEW SECTION. **Sec. 109.** EXPERT CONSULTATION. The department may
32 consult with legal, financial, technical, and other experts in the
33 public and private sector in the evaluation, negotiation, and
34 development of projects under this chapter.

35 NEW SECTION. **Sec. 110.** CONTRACTED STUDIES. In the absence of
36 any direct federal funding or direction, the department may contract

1 with a private developer of a selected project proposal to conduct
2 environmental impact studies and engineering and technical studies.

3 NEW SECTION. **Sec. 111.** PARTNERSHIP AGREEMENTS. (1) The
4 following provisions must be included in any transportation project
5 agreement entered into under the authority of this chapter and to
6 which the state is a party:

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

12 (b) A finding of public interest, as issued by the department
13 pursuant to section 107 of this act;

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

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

22 (e) All projects must be financed in a manner consistent with
23 section 106 of this act.

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

27 (a) The point in the project at which public and private sector
28 partners will enter the project and which partners will assume
29 responsibility for specific project elements;

30 (b) How the partners will share management of the risks of the
31 project;

32 (c) The compensation method and amount for the private partner,
33 establishing a maximum rate of return, and identifying how project
34 revenue, if any, in excess of the maximum rate of return will be
35 distributed;

36 (d) How the partners will share the costs of development of the
37 project;

38 (e) How the partners will allocate financial responsibility for
39 cost overruns;

- 1 (f) The penalties for nonperformance;
- 2 (g) The incentives for performance;
- 3 (h) The accounting and auditing standards to be used to evaluate
4 work on the project;
- 5 (i) For any project that reverts to public ownership, the
6 responsibility for reconstruction or renovations that are required
7 for a facility to meet all service standards and state of good repair
8 upon reversion of the facility to the state;
- 9 (j) Provisions and remedies for default by either party, and
10 provisions for termination of the agreement for or without cause;
- 11 (k) Provisions for public communication and participation with
12 respect to the development of the project.

13 NEW SECTION. **Sec. 112.** BEST VALUE FINDING AND AGREEMENT
14 EXECUTION. Before executing an agreement under section 111 of this
15 act, the department must make a formal finding that the negotiated
16 partnership agreement is expected to result in best value for the
17 public. The department must develop and adopt a process and criteria
18 for measuring, determining, and transparently reporting best value
19 relevant to the proposed project. At minimum, the criteria must
20 include:

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

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

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

32 NEW SECTION. **Sec. 113.** CONFIDENTIALITY. A proposer must
33 identify those portions of a proposal that the proposer considers to
34 be confidential, proprietary information, or trade secrets and
35 provide any justification as to why these materials, upon request,
36 should not be disclosed by the department. Patent information will be
37 covered until the patent expires. Other information, such as
38 originality of design or records of negotiation, is protected under

1 this section only until an agreement under section 112 of this act is
2 reached. Eligible transportation projects under federal jurisdiction
3 or using federal funds must conform to federal regulations under the
4 freedom of information act.

5 NEW SECTION. **Sec. 114.** PREVAILING WAGES. If public funds are
6 used to pay any costs of construction of a public facility that is
7 part of an eligible transportation project, chapter 39.12 RCW applies
8 to the entire eligible transportation project.

9 NEW SECTION. **Sec. 115.** GOVERNMENT AGREEMENTS. The state may,
10 either separately or in combination with any other public sector
11 partner, enter into working agreements, coordination agreements, or
12 similar implementation agreements, including the formation of bistate
13 transportation organizations, to carry out the joint implementation
14 and operation of an eligible transportation project selected under
15 this chapter. The state may enter into agreements with other units of
16 government or Canadian provinces for transborder transportation
17 projects.

18 NEW SECTION. **Sec. 116.** EMINENT DOMAIN. The state may exercise
19 the power of eminent domain to acquire property, easements, or other
20 rights or interests in property for projects that are necessary to
21 implement an eligible transportation project developed under this
22 chapter. Any property acquired pursuant to this section must be owned
23 in fee simple by the state.

24 NEW SECTION. **Sec. 117.** FEDERAL LAWS. Applicable federal laws,
25 rules, and regulations govern in any situation that involves federal
26 funds if the federal laws, rules, or regulations:

- 27 (1) Conflict with any provision of this chapter;
28 (2) Require procedures that are additional to or inconsistent
29 with those provided in this chapter; or
30 (3) Require contract provisions not authorized in this chapter.

31 NEW SECTION. **Sec. 118.** PUBLIC-PRIVATE PARTNERSHIPS ACCOUNT. (1)
32 The public-private partnerships account is created in the custody of
33 the state treasurer.

- 34 (2) The following moneys must be deposited into the account:
35 (a) Proceeds from bonds or other financing instruments;

1 (b) Revenues received from any transportation project developed
2 under this chapter or developed under the general powers granted to
3 the department; and

4 (c) Any other moneys that are by donation, grant, contract, law,
5 or other means transferred, allocated, or appropriated to the
6 account.

7 (3) Expenditures from the account may be used only for the
8 planning, acquisition, financing, development, design, construction,
9 reconstruction, replacement, improvement, maintenance, preservation,
10 management, repair, or operation of any eligible transportation
11 project under this chapter.

12 (4) The state treasurer may establish separate subaccounts within
13 the public-private partnerships account for each transportation
14 project that is initiated under this chapter or under the general
15 powers granted to the department. The state may pledge moneys in the
16 public-private partnerships account to secure revenue bonds or any
17 other debt obligations relating to the project for which the account
18 is established.

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

23 **Sec. 119.** RCW 47.56.030 and 2023 c 429 s 6 are each amended to
24 read as follows:

25 (1) Except as permitted under chapter (~~47.29~~) 47.--- RCW (the
26 new chapter created in section 402 of this act) or 47.46 RCW:

27 (a) Unless otherwise delegated, and subject to RCW 47.56.820, the
28 department of transportation shall have full charge of the planning,
29 analysis, and construction of all toll bridges and other toll
30 facilities including the Washington state ferries, and the operation
31 and maintenance thereof.

32 (b) The transportation commission shall determine and establish
33 the tolls and charges thereon.

34 (c) Unless otherwise delegated, and subject to RCW 47.56.820, the
35 department shall have full charge of planning, analysis, and design
36 of all toll facilities. The department may conduct the planning,
37 analysis, and design of toll facilities as necessary to support the
38 legislature's consideration of toll authorization.

1 (d) The department shall utilize and administer toll collection
2 systems that are simple, unified, and interoperable. To the extent
3 practicable, the department shall avoid the use of toll booths. The
4 department shall set the statewide standards and protocols for all
5 toll facilities within the state, including those authorized by local
6 authorities.

7 (e) Except as provided in this section, the department shall
8 proceed with the construction of such toll bridges and other
9 facilities and the approaches thereto by contract in the manner of
10 state highway construction immediately upon there being made
11 available funds for such work and shall prosecute such work to
12 completion as rapidly as practicable. The department is authorized to
13 negotiate contracts for any amount without bid under (e) (i) and (ii)
14 of this subsection:

15 (i) Emergency contracts, in order to make repairs to ferries or
16 ferry terminal facilities or removal of such facilities whenever
17 continued use of ferries or ferry terminal facilities constitutes a
18 real or immediate danger to the traveling public or precludes prudent
19 use of such ferries or facilities; and

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

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

28 (2) The department shall proceed with the procurement of
29 materials, supplies, services, and equipment needed for the support,
30 maintenance, and use of a ferry, ferry terminal, or other facility
31 operated by Washington state ferries, in accordance with chapter
32 43.19 RCW except as follows:

33 (a) When the secretary of the department of transportation
34 determines in writing that the use of invitation for bid is either
35 not practicable or not advantageous to the state and it may be
36 necessary to make competitive evaluations, including technical or
37 performance evaluations among acceptable proposals to complete the
38 contract award, a contract may be entered into by use of a
39 competitive sealed proposals method, and a formal request for
40 proposals solicitation. Such formal request for proposals

1 solicitation shall include a functional description of the needs and
2 requirements of the state and the significant factors.

3 (b) When purchases are made through a formal request for
4 proposals solicitation the contract shall be awarded to the
5 responsible proposer whose competitive sealed proposal is determined
6 in writing to be the most advantageous to the state taking into
7 consideration price and other evaluation factors set forth in the
8 request for proposals. No significant factors may be used in
9 evaluating a proposal that are not specified in the request for
10 proposals. Factors that may be considered in evaluating proposals
11 include but are not limited to: Price; maintainability; reliability;
12 commonality; performance levels; life-cycle cost if applicable under
13 this section; cost of transportation or delivery; delivery schedule
14 offered; installation cost; cost of spare parts; availability of
15 parts and service offered; and the following:

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

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

20 (iii) Whether the proposer can perform the contract within the
21 time specified;

22 (iv) The quality of performance of previous contracts or
23 services;

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

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

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

32 (c) When purchases are made through a request for proposal
33 process, proposals received shall be evaluated based on the
34 evaluation factors set forth in the request for proposal. When
35 issuing a request for proposal for the procurement of propulsion
36 equipment or systems that include an engine, the request for proposal
37 must specify the use of a life-cycle cost analysis that includes an
38 evaluation of fuel efficiency. When a life-cycle cost analysis is
39 used, the life-cycle cost of a proposal shall be given at least the
40 same relative importance as the initial price element specified in

1 the request of proposal documents. The department may reject any and
2 all proposals received. If the proposals are not rejected, the award
3 shall be made to the proposer whose proposal is most advantageous to
4 the department, considering price and the other evaluation factors
5 set forth in the request for proposal.

6 **Sec. 120.** RCW 47.56.031 and 2005 c 335 s 2 are each amended to
7 read as follows:

8 No tolls may be imposed on new or existing highways or bridges
9 without specific legislative authorization, or upon a majority vote
10 of the people within the boundaries of the unit of government
11 empowered to impose tolls. This section applies to chapter 47.56 RCW
12 and to any tolls authorized under chapter (~~47.29 RCW, the~~
13 ~~transportation innovative partnership act of 2005~~) 47.--- RCW (the
14 new chapter created in section 402 of this act).

15 **Sec. 121.** RCW 70A.15.4030 and 2020 c 20 s 1126 are each amended
16 to read as follows:

17 (1) A county, city, or town may, as part of its commute trip
18 reduction plan, designate existing activity centers listed in its
19 comprehensive plan or new activity centers as growth and
20 transportation efficiency centers and establish a transportation
21 demand management program in the designated area.

22 (a) The transportation demand management program for the growth
23 and transportation efficiency center shall be developed in
24 consultation with local transit agencies, the applicable regional
25 transportation planning organization, major employers, and other
26 interested parties.

27 (b) In order to be eligible for state funding provided for the
28 purposes of this section, designated growth and transportation
29 efficiency centers shall be certified by the applicable regional
30 transportation organization to: (i) Meet the minimum land use and
31 transportation criteria established in collaboration among local
32 jurisdictions, transit agencies, the regional transportation planning
33 organization, and other interested parties as part of the regional
34 commute trip reduction plan; and (ii) have established a
35 transportation demand management program that includes the elements
36 identified in (c) of this subsection and is consistent with the rules
37 established by the department of transportation in RCW
38 70A.15.4060(2). If a designated growth and transportation efficiency

1 center is denied certification, the local jurisdiction may appeal the
2 decision to the commute trip reduction board.

3 (c) Transportation demand management programs for growth and
4 transportation efficiency centers shall include, but are not limited
5 to: (i) Goals for reductions in the proportion of single-occupant
6 vehicle trips that are more aggressive than the state program goal
7 established by the commute trip reduction board; (ii) a sustainable
8 financial plan demonstrating how the program can be implemented to
9 meet state and regional trip reduction goals, indicating resources
10 from public and private sources that are reasonably expected to be
11 made available to carry out the plan, and recommending any innovative
12 financing techniques consistent with chapter ((47.29 RCW)) 47.--- RCW
13 (the new chapter created in section 402 of this act), including
14 public/private partnerships, to finance needed facilities, services,
15 and programs; (iii) a proposed organizational structure for
16 implementing the program; (iv) a proposal to measure performance
17 toward the goal and implementation progress; and (v) an evaluation to
18 which local land use and transportation policies apply, including
19 parking policies and ordinances, to determine the extent that they
20 complement and support the trip reduction investments of major
21 employers. Each of these program elements shall be consistent with
22 the rules established under RCW 70A.15.4060.

23 (d) A designated growth and transportation efficiency center
24 shall be consistent with the land use and transportation elements of
25 the local comprehensive plan.

26 (e) Transit agencies, local governments, and regional
27 transportation planning organizations shall identify certified growth
28 and transportation efficiency centers as priority areas for new
29 service and facility investments in their respective investment
30 plans.

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

36 **II. PROGRESSIVE DESIGN-BUILD AND**
37 **GENERAL CONTRACTOR/CONSTRUCTION MANAGER**

1 **Sec. 201.** RCW 47.20.780 and 2015 3rd sp.s. c 18 s 1 are each
2 amended to read as follows:

3 (1) The department of transportation shall develop a process for
4 awarding competitively bid highway construction contracts for
5 projects over ((two million dollars)) \$2,000,000 that may be
6 constructed using a design-build procedure, a progressive design-
7 build procedure, or any general contractor/construction manager
8 procedure.

9 (2) As used in this section and RCW 47.20.785((, "design-build")):

10 (a) "Design-build procedure" means a method of contracting under
11 which the department of transportation contracts with another party
12 for the party to both design and build the structures, facilities,
13 and other items specified in the contract.

14 (b) "General contractor/construction manager procedure" means a
15 method of contracting under which the department of transportation
16 selects a firm to provide services during the design phase, negotiate
17 a maximum allowable construction cost, and act as construction
18 manager and general contractor during the construction phase.

19 (c) "Progressive design-build procedure" means a method of
20 contracting under which the department of transportation selects a
21 design-builder before the establishment of a final project design,
22 price, and schedule, and thereafter, the department and design-
23 builder collaborate to develop a final project scope, schedule, and
24 price.

25 (3) The process developed by the department must, at a minimum,
26 include ((the)): The scope of services required under the design-
27 build procedure, progressive design-build procedure, or general
28 contractor/construction manager procedures; contractor
29 prequalification requirements((τ)); criteria for evaluating technical
30 information and project costs((τ)); contractor selection
31 criteria((τ)); and issue resolution procedures.

32 (4) Until June 30, 2031, upon completing a delivery method
33 selection process that identifies the progressive design-build
34 procedure or any general contract/construction manager procedure as
35 the preferred delivery method for a project in excess of
36 \$100,000,000, the department shall consult with the capital projects
37 advisory review board under chapter 39.10 RCW to review the selected
38 delivery method for the project and provide any recommendations or
39 feedback for the department to consider. The department and the

1 capital projects advisory review board shall collaboratively develop
2 and implement the coordination and details of this consultation.

3 **Sec. 202.** RCW 47.20.785 and 2015 3rd sp.s. c 18 s 2 are each
4 amended to read as follows:

5 The department of transportation is authorized and strongly
6 encouraged to use the design-build procedure, the progressive design-
7 build procedure, or any general contractor/construction manager
8 procedure for public works projects over ((two million dollars))
9 \$2,000,000 when:

10 (1) The construction activities are highly specialized and a
11 design-build, progressive design-build, or general contractor/
12 construction manager approach is critical in developing the
13 construction methodology; or

14 (2) The projects selected provide opportunity for greater
15 innovation and efficiencies between the designer and the builder; or

16 (3) Significant savings in project delivery time would be
17 realized.

18 **Sec. 203.** RCW 39.10.270 and 2019 c 212 s 3 are each amended to
19 read as follows:

20 (1) A public body may apply for certification to use the design-
21 build or general contractor/construction manager contracting
22 procedure, or both. Once certified, a public body may use the
23 contracting procedure for which it is certified on individual
24 projects without seeking committee approval for a period of three
25 years. A public body seeking certification must submit to the
26 committee an application in a format and manner as prescribed by the
27 committee. The application must include a description of the public
28 body's qualifications, its capital plan during the certification
29 period, and its intended use of alternative contracting procedures.

30 (2) A public body seeking certification for the design-build
31 procedure must demonstrate successful management of at least one
32 design-build project within the previous five years. A public body
33 seeking certification for the general contractor/construction manager
34 procedure must demonstrate successful management of at least one
35 general contractor/construction manager project within the previous
36 five years.

37 (3) To certify a public body, the committee shall determine that
38 the public body:

1 (a) Has the necessary experience and qualifications to determine
2 which projects are appropriate for using alternative contracting
3 procedures;

4 (b) Has the necessary experience and qualifications to carry out
5 the alternative contracting procedure including, but not limited to:
6 (i) Project delivery knowledge and experience; (ii) personnel with
7 appropriate construction experience; (iii) a management plan and
8 rationale for its alternative public works projects; (iv)
9 demonstrated success in managing public works projects; (v) the
10 ability to properly manage its capital facilities plan including, but
11 not limited to, appropriate project planning and budgeting
12 experience; and (vi) the ability to meet requirements of this
13 chapter; and

14 (c) Has resolved any audit findings on previous public works
15 projects in a manner satisfactory to the committee.

16 (4) The committee shall make its determination at the public
17 meeting during which an application for certification is reviewed.
18 Public comments must be considered before a determination is made.
19 Within ten business days of the public meeting, the committee shall
20 provide a written determination to the public body, and make its
21 determination available to the public on the committee's website.

22 (5) The committee may revoke any public body's certification upon
23 a finding, after a public hearing, that its use of design-build or
24 general contractor/construction manager contracting procedures no
25 longer serves the public interest.

26 (6) The committee may renew the certification of a public body
27 for additional three-year periods. The public body must submit an
28 application for recertification at least three months before the
29 initial certification expires. The committee may accept late
30 applications, if administratively feasible, to avoid expiration of
31 certification on a case-by-case basis. The application shall include
32 updated information on the public body's experience and current
33 staffing with the procedure it is applying to renew, and any other
34 information requested in advance by the committee. The committee must
35 review the application for recertification at a meeting held before
36 expiration of the applicant's initial certification period. A public
37 body must reapply for certification under the process described in
38 subsection (1) of this section once the period of recertification
39 expires.

1 (7) Certified public bodies must submit project data information
2 as required in RCW 39.10.320 and 39.10.350.

3 (8) The department of transportation is not subject to the
4 certification requirements under this section to use the design-build
5 procedure, the progressive design-build procedure, or any general
6 contractor/construction manager contracting procedure on individual
7 projects.

8 **Sec. 204.** RCW 39.10.280 and 2014 c 42 s 2 are each amended to
9 read as follows:

10 (1) A public body not certified under RCW 39.10.270 must apply
11 for approval from the committee to use the design-build or general
12 contractor/construction manager contracting procedure on a project. A
13 public body seeking approval must submit to the committee an
14 application in a format and manner as prescribed by the committee.
15 The application must include a description of the public body's
16 qualifications, a description of the project, the public body's
17 intended use of alternative contracting procedures, and, if
18 applicable, a declaration that the public body has elected to procure
19 the project as a heavy civil construction project.

20 (2) To approve a proposed project, the committee shall determine
21 that:

22 (a) The alternative contracting procedure will provide a
23 substantial fiscal benefit or the use of the traditional method of
24 awarding contracts in lump sum to the low responsive bidder is not
25 practical for meeting desired quality standards or delivery
26 schedules;

27 (b) The proposed project meets the requirements for using the
28 alternative contracting procedure as described in RCW 39.10.300 or
29 39.10.340;

30 (c) The public body has the necessary experience or qualified
31 team to carry out the alternative contracting procedure including,
32 but not limited to: (i) Project delivery knowledge and experience;
33 (ii) sufficient personnel with construction experience to administer
34 the contract; (iii) a written management plan that shows clear and
35 logical lines of authority; (iv) the necessary and appropriate
36 funding and time to properly manage the job and complete the project;
37 (v) continuity of project management team, including personnel with
38 experience managing projects of similar scope and size to the project

1 being proposed; and (vi) necessary and appropriate construction
2 budget;

3 (d) For design-build projects, public body personnel or
4 consultants are knowledgeable in the design-build process and are
5 able to oversee and administer the contract; and

6 (e) The public body has resolved any audit findings related to
7 previous public works projects in a manner satisfactory to the
8 committee.

9 (3) The committee shall, if practicable, make its determination
10 at the public meeting during which a submittal is reviewed. Public
11 comments must be considered before a determination is made.

12 (4) Within (~~ten~~) 10 business days after the public meeting, the
13 committee shall provide a written determination to the public body,
14 and make its determination available to the public on the committee's
15 website. If the committee fails to make a written determination
16 within (~~ten~~) 10 business days of the public meeting, the request of
17 the public body to use the alternative contracting procedure on the
18 requested project shall be deemed approved.

19 (5) Failure of the committee to meet within (~~sixty~~) 60 calendar
20 days of a public body's application to use an alternative contracting
21 procedure on a project shall be deemed an approval of the
22 application.

23 (6) The department of transportation is not subject to the
24 project approval requirements under this section.

25 **Sec. 205.** RCW 43.131.408 and 2023 c 395 s 36 are each amended to
26 read as follows:

27 The following acts or parts of acts, as now existing or hereafter
28 amended, are each repealed, effective June 30, 2032:

29 (1) RCW 39.10.200 and 2023 c 395 s 4, 2010 1st sp.s. c 21 s 2,
30 2007 c 494 s 1, & 1994 c 132 s 1;

31 (2) RCW 39.10.210 and 2023 c 395 s 5, 2021 c 230 s 1, 2019 c 212
32 s 1, 2014 c 42 s 1, & 2013 c 222 s 1;

33 (3) RCW 39.10.220 and 2023 c 395 s 6, 2021 c 230 s 2, 2013 c 222
34 s 2, 2007 c 494 s 102, & 2005 c 377 s 1;

35 (4) RCW 39.10.230 and 2023 c 395 s 7, 2021 c 230 s 3, 2013 c 222
36 s 3, 2010 1st sp.s. c 21 s 3, 2009 c 75 s 1, 2007 c 494 s 103, & 2005
37 c 377 s 2;

38 (5) RCW 39.10.240 and 2023 c 395 s 8, 2021 c 230 s 4, 2013 c 222
39 s 4, & 2007 c 494 s 104;

1 (6) RCW 39.10.250 and 2021 c 230 s 5, 2019 c 212 s 2, 2013 c 222
2 s 5, 2009 c 75 s 2, & 2007 c 494 s 105;

3 (7) RCW 39.10.260 and 2013 c 222 s 6 & 2007 c 494 s 106;

4 (8) RCW 39.10.270 and 2025 c ... s 203 (section 203 of this act),
5 2019 c 212 s 3, 2017 c 211 s 1, 2013 c 222 s 7, 2009 c 75 s 3, & 2007
6 c 494 s 107;

7 (9) RCW 39.10.280 and 2025 c ... s 204 (section 204 of this act),
8 2014 c 42 s 2, 2013 c 222 s 8, & 2007 c 494 s 108;

9 (10) RCW 39.10.290 and 2007 c 494 s 109;

10 (11) RCW 39.10.300 and 2021 c 230 s 6, 2019 c 212 s 4, 2013 c 222
11 s 9, 2009 c 75 s 4, & 2007 c 494 s 201;

12 (12) RCW 39.10.320 and 2019 c 212 s 5, 2013 c 222 s 10, 2007 c
13 494 s 203, & 1994 c 132 s 7;

14 (13) RCW 39.10.330 and 2023 c 395 s 9, 2021 c 230 s 7, 2019 c 212
15 s 6, 2014 c 19 s 1, 2013 c 222 s 11, 2009 c 75 s 5, & 2007 c 494 s
16 204;

17 (14) RCW 39.10.340 and 2014 c 42 s 3, 2013 c 222 s 12, & 2007 c
18 494 s 301;

19 (15) RCW 39.10.350 and 2021 c 230 s 8, 2014 c 42 s 4, & 2007 c
20 494 s 302;

21 (16) RCW 39.10.360 and 2023 c 395 s 10, 2021 c 230 s 9, 2014 c
22 42 s 5, 2013 c 222 s 13, 2009 c 75 s 6, & 2007 c 494 s 303;

23 (17) RCW 39.10.370 and 2021 c 230 s 10, 2014 c 42 s 6, & 2007 c
24 494 s 304;

25 (18) RCW 39.10.380 and 2023 c 395 s 11, 2021 c 230 s 11, 2013 c
26 222 s 14, & 2007 c 494 s 305;

27 (19) RCW 39.10.385 and 2023 c 395 s 12, 2021 c 230 s 12, 2013 c
28 222 s 15, & 2010 c 163 s 1;

29 (20) RCW 39.10.390 and 2021 c 230 s 13, 2014 c 42 s 7, 2013 c 222
30 s 16, & 2007 c 494 s 306;

31 (21) RCW 39.10.400 and 2021 c 230 s 14, 2013 c 222 s 17, & 2007 c
32 494 s 307;

33 (22) RCW 39.10.410 and 2007 c 494 s 308;

34 (23) RCW 39.10.420 and 2019 c 212 s 7, 2017 c 136 s 1, & 2016 c
35 52 s 1;

36 (24) RCW 39.10.430 and 2021 c 230 s 15, 2019 c 212 s 8, & 2007 c
37 494 s 402;

38 (25) RCW 39.10.440 and 2021 c 230 s 16, 2019 c 212 s 9, 2015 c
39 173 s 1, 2013 c 222 s 19, & 2007 c 494 s 403;

- 1 (26) RCW 39.10.450 and 2019 c 212 s 10, 2012 c 102 s 2, & 2007 c
2 494 s 404;
- 3 (27) RCW 39.10.460 and 2021 c 230 s 17, 2012 c 102 s 3, & 2007 c
4 494 s 405;
- 5 (28) RCW 39.10.470 and 2019 c 212 s 11, 2014 c 19 s 2, 2005 c 274
6 s 275, & 1994 c 132 s 10;
- 7 (29) RCW 39.10.480 and 1994 c 132 s 9;
- 8 (30) RCW 39.10.490 and 2021 c 230 s 18, 2013 c 222 s 20, 2007 c
9 494 s 501, & 2001 c 328 s 5;
- 10 (31) RCW 39.10.900 and 1994 c 132 s 13;
- 11 (32) RCW 39.10.901 and 1994 c 132 s 14;
- 12 (33) RCW 39.10.903 and 2007 c 494 s 510;
- 13 (34) RCW 39.10.904 and 2007 c 494 s 512;
- 14 (35) RCW 39.10.905 and 2007 c 494 s 513; and
- 15 (36) RCW 39.10.908 and 2023 c 395 s 13 and 2021 c 230 s 19.

16 **III. ALLIANCE CONTRACTING**

17 NEW SECTION. **Sec. 301.** The joint transportation committee, in
18 collaboration with the department of transportation, must evaluate
19 the alliance contracting procedure as a potential alternative
20 contracting procedure for delivering transportation-related projects.
21 By July 1, 2027, the joint transportation committee must submit an
22 evaluation report to the transportation committees of the
23 legislature, including any findings and recommended statutory
24 changes. For purposes of this section, "alliance contracting
25 procedure" means a method of contracting under which the department
26 of transportation and one or more service providers, including the
27 designers and constructors, collaborate on the delivery of a project
28 using contractually established financial incentives to encourage
29 project performance and cooperation among all participants.

30 **IV. MISCELLANEOUS**

31 NEW SECTION. **Sec. 401.** The following acts or parts of acts are
32 each repealed:

- 33 (1) RCW 47.29.010 (Finding—Intent) and 2006 c 334 s 48 & 2005 c
34 317 s 1;
- 35 (2) RCW 47.29.020 (Definitions) and 2005 c 317 s 2;

1 (3) RCW 47.29.030 (Transportation commission powers and duties)
2 and 2005 c 317 s 3;
3 (4) RCW 47.29.040 (Purpose) and 2005 c 317 s 4;
4 (5) RCW 47.29.050 (Eligible projects) and 2005 c 317 s 5;
5 (6) RCW 47.29.060 (Eligible financing) and 2008 c 122 s 18 & 2005
6 c 317 s 6;
7 (7) RCW 47.29.070 (Use of federal funds and similar revenues) and
8 2005 c 317 s 7;
9 (8) RCW 47.29.080 (Other sources of funds or property) and 2005 c
10 317 s 8;
11 (9) RCW 47.29.090 (Project review, evaluation, and selection) and
12 2005 c 317 s 9;
13 (10) RCW 47.29.100 (Administrative fee) and 2005 c 317 s 10;
14 (11) RCW 47.29.110 (Funds for proposal evaluation and
15 negotiation) and 2005 c 317 s 11;
16 (12) RCW 47.29.120 (Expert consultation) and 2005 c 317 s 12;
17 (13) RCW 47.29.130 (Contracted studies) and 2005 c 317 s 13;
18 (14) RCW 47.29.140 (Partnership agreements) and 2005 c 317 s 14;
19 (15) RCW 47.29.150 (Public involvement and participation) and
20 2005 c 317 s 15;
21 (16) RCW 47.29.160 (Approval and execution) and 2005 c 317 s 16;
22 (17) RCW 47.29.170 (Unsolicited proposals) and 2017 c 313 s 711,
23 2015 1st sp.s. c 10 s 704, 2013 c 306 s 708, 2011 c 367 s 701, 2009 c
24 470 s 702, 2007 c 518 s 702, 2006 c 370 s 604, & 2005 c 317 s 17;
25 (18) RCW 47.29.180 (Advisory committees) and 2005 c 317 s 18;
26 (19) RCW 47.29.190 (Confidentiality) and 2005 c 317 s 19;
27 (20) RCW 47.29.200 (Prevailing wages) and 2005 c 317 s 20;
28 (21) RCW 47.29.210 (Government agreements) and 2005 c 317 s 21;
29 (22) RCW 47.29.220 (Eminent domain) and 2005 c 317 s 22;
30 (23) RCW 47.29.230 (Transportation innovative partnership
31 account) and 2005 c 317 s 23;
32 (24) RCW 47.29.240 (Use of account) and 2005 c 317 s 24;
33 (25) RCW 47.29.250 (Issuing bonds and other obligations) and 2005
34 c 317 s 25;
35 (26) RCW 47.29.260 (Study and report) and 2005 c 317 s 26;
36 (27) RCW 47.29.270 (Federal laws) and 2005 c 317 s 27;
37 (28) RCW 47.29.280 (Expert review panel on proposed project
38 agreements—Creation—Authority) and 2006 c 334 s 49; and
39 (29) RCW 47.29.290 (Expert review panel on proposed project
40 agreements—Execution of agreements) and 2006 c 334 s 50.

1 NEW SECTION. **Sec. 402.** Sections 101 through 118 of this act
2 constitute a new chapter in Title 47 RCW.

3 NEW SECTION. **Sec. 403.** Sections 101 through 118 and 401 of this
4 act take effect July 1, 2026.

--- **END** ---