

Initiative Measure 1579, filed January 8, 2018

PROTECT GAS TAXES AND TOLL REVENUES ACT

AN ACT Relating to transportation; amending RCW 47.56.030, 47.56.820, and 47.56.830; reenacting and amending RCW 47.56.810; adding a new section to chapter 46.68; adding a new section to chapter 47.56; and creating new sections.

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

POLICIES AND PURPOSES

NEW SECTION. **Sec. 1.** In 2011, voters nearly approved Initiative Measure No. 1125 which put reasonable limits on gas taxes and bridge and highway toll revenues. Post-election polling showed that an overwhelming majority of voters supported many of its major policies. This follow-up measure provides the opportunity for voters to approve the provisions they strongly support.

This measure would require bridge and highway tolls to be reserved for project-specific highway purposes, and remain only until project costs are paid; and allow use of state-highway lanes only for highway purposes.

GAS TAXES AND TOLL REVENUES CANNOT BE DIVERTED TO THE GENERAL FUND OR OTHER FUNDS AND CANNOT BE USED FOR NONTRANSPORTATION PURPOSES

NEW SECTION. **Sec. 2.** A new section is added to chapter 46.68 RCW to read as follows:

State government, the department of transportation, and other agencies may not transfer revenues in the motor vehicle fund or any

toll revenue fund to the general fund or other funds and may not use such revenue for nontransportation purposes.

**TOLLS MUST BE USED ONLY
FOR PROJECT-SPECIFIC HIGHWAY PURPOSES**

Sec. 3. RCW 47.56.030 and 2008 c 122 s 8 are each amended to read as follows:

(1) Except as permitted under chapter 47.29 or 47.46 RCW:

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

(b) The transportation commission shall determine and establish the tolls and charges thereon. Revenue from bridge and highway tolls may only be used for project-specific highway purposes including construction and capital improvements.

(i) For the purposes of this chapter, "project-specific" means revenue from tolls on a highway, freeway, road, bridge, or street may be used only for that particular highway, freeway, road, bridge, or street.

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

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

(e) Except as provided in this section, the department shall proceed with the construction of such toll bridges and other

facilities and the approaches thereto by contract in the manner of state highway construction immediately upon there being made available funds for such work and shall prosecute such work to completion as rapidly as practicable. The department is authorized to negotiate contracts for any amount without bid under (e)(i) and (ii) of this subsection:

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

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

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

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

(b) When purchases are made through a formal request for proposals solicitation the contract shall be awarded to the responsible proposer whose competitive sealed proposal is determined in writing to be the most advantageous to the state taking into consideration price and

other evaluation factors set forth in the request for proposals. No significant factors may be used in evaluating a proposal that are not specified in the request for proposals. Factors that may be considered in evaluating proposals include but are not limited to: Price; maintainability; reliability; commonality; performance levels; life cycle cost if applicable under this section; cost of transportation or delivery; delivery schedule offered; installation cost; cost of spare parts; availability of parts and service offered; and the following:

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

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

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

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

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

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

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

(c) When purchases are made through a request for proposal process, proposals received shall be evaluated based on the evaluation factors set forth in the request for proposal. When issuing a request for proposal for the procurement of propulsion equipment or systems that include an engine, the request for proposal must specify the use of a life cycle cost analysis that includes an evaluation of fuel efficiency. When a life cycle cost analysis is used, the life cycle cost of a proposal shall be given at least the same relative importance as the initial price element specified in the request of proposal documents. The department may reject any and all proposals received. If the proposals are not rejected, the award shall be made

to the proposer whose proposal is most advantageous to the department, considering price and the other evaluation factors set forth in the request for proposal.

Sec. 4. RCW 47.56.810 and 2011 c 377 s 7 and 2011 c 369 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise:

(1) "Eligible toll facility" or "eligible toll facilities" means portions of the state highway system specifically identified by the legislature including, but not limited to, transportation corridors, bridges, crossings, interchanges, on-ramps, off-ramps, approaches, bistate facilities, and interconnections between highways subject to the requirements in RCW 47.56.030.

(2) "Express toll lanes" means one or more high occupancy vehicle lanes of a highway in which the department charges tolls primarily as a means of regulating access to or use of the lanes to maintain travel speed and reliability.

(3) "Toll revenue" or "revenue from an eligible toll facility" means toll receipts, all interest income derived from the investment of toll receipts, and any gifts, grants, or other funds received for the benefit of transportation facilities in the state, including eligible toll facilities.

(4) "Tolling authority" means the governing body that is legally empowered to review and adjust toll rates. Unless otherwise delegated, the transportation commission is the tolling authority for all state highways.

Sec. 5. RCW 47.56.820 and 2008 c 122 s 4 are each amended to read as follows:

(1) Unless otherwise delegated, only the legislature may authorize the imposition of tolls on eligible toll facilities.

(2) All revenue from an eligible toll facility must be used only to construct, improve, preserve, maintain, manage, or operate the eligible toll facility on or in which the revenue is collected,

subject to the requirements in RCW 47.56.030. Expenditures of toll revenues are subject to appropriation and must be made only for project-specific highway purposes including construction and capital improvements:

(a) To cover the operating costs of the eligible toll facility, including necessary (~~maintenance, preservation,~~) administration, and toll enforcement by public law enforcement within the boundaries of the facility;

(b) To meet obligations for the repayment of debt and interest on the eligible toll facilities, and any other associated financing costs including, but not limited to, required reserves and insurance;

(c) To meet any other obligations to provide funding contributions for any projects or operations on the eligible toll facilities;

(d) To provide for the operations of conveyances of people or goods(~~or~~

~~(e) For any other improvements to the eligible toll facilities)).~~

(3) Bridge and highway toll revenue from bridge and highway tolls may only be used for project-specific highway purposes including construction and capital improvements as required by RCW 47.56.030.

Sec. 6. RCW 47.56.830 and 2008 c 122 s 5 are each amended to read as follows:

Any proposal for the establishment of eligible toll facilities shall consider the following policy guidelines:

(1) Overall direction. Washington should use tolling to encourage effective use of the transportation system and provide a source of transportation funding.

(2) When to use tolling. Tolling should be used when it can be demonstrated to contribute a significant portion of the cost of a project that cannot be funded solely with existing sources or optimize the performance of the transportation system. Such tolling

should, in all cases, be fairly and equitably applied in the context of the statewide transportation system and not have significant adverse impacts through the diversion of traffic to other routes that cannot otherwise be reasonably mitigated. Such tolling should also consider relevant social equity, environmental, and economic issues, and should be directed at making progress toward the state's greenhouse gas reduction goals.

(3) Use of toll revenue. All revenue from an eligible toll facility must be used only to improve(~~(, preserve, manage,)~~) or operate the eligible toll facility on or in which the revenue is collected but must comply with the requirements of RCW 47.56.030 and 47.56.820. Additionally, toll revenue should provide for and encourage the inclusion of recycled and reclaimed construction materials.

(4) Setting toll rates. Toll rates, which must be uniform and consistent and may not include variable pricing, must be set to meet anticipated funding obligations. To the extent possible, the toll rates should be set to optimize system performance, recognizing necessary trade-offs to generate revenue.

(5) Dedication of tolls. As described in RCW 47.56.030, bridge and highway toll revenue may only be used for project-specific highway purposes including construction and capital improvements.

(6) Duration of toll collection. (~~(Because transportation infrastructure projects have costs and benefits that extend well beyond those paid for by initial construction funding,)~~) Tolls on ((future)) bridge and highway toll facilities ((may remain in place to fund additional capacity, capital rehabilitation, maintenance, management, and operations, and to optimize performance of the system)) may only be imposed until the cost of the toll facility project is paid.

NEW SECTION. Sec. 7. A new section is added to chapter 47.56 RCW to read as follows:

State government, the department of transportation, and other agencies may only use lanes on state highways for highway purposes.

The use or transfer of lanes on state highways for non-highway purposes is prohibited when such lanes were originally paid for with gas taxes and/or toll revenue.

NEW SECTION. **Sec. 8.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. **Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 10.** This act is known and may be cited as the "Protect Gas Taxes and Toll Revenues Act."

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