Initiative Measure No. 467

Filed 10/7/2010

SAVE OUR HIGHWAYS – HANDS OFF THE GAS TAX

AN ACT Relating to protecting the 18th Amendment to the Washington Constitution; amending RCW 47.56.030, 47.56.810, 47.56.820, 47.56.830, and 47.56.790; and creating new sections.

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

POLICIES AND PURPOSES

NEW SECTION. **Sec. 1.** The 18th Amendment to the Washington Constitution protects gas taxes and other vehicle-related revenues, ensuring that they're spent exclusively for highway purposes. But politicians and special interest groups have been working for years to sidestep the 18th Amendment's protections and divert those revenues to non-transportation purposes. This measure protects the 18th Amendment to the Washington Constitution. This measure would:

(1) Prohibit state government from diverting gas taxes and other vehicle-related revenues in the motor vehicle fund to the general fund or other funds and used for non-transportation purposes;

(2) Prohibit state government from transferring or using gas-tax-funded lanes on state highways for non-highway purposes; and

(3) Require tolls to be dedicated to the project they're paying for, ending such tolls when the project is completed, and only allowing tolls to be used for purposes consistent with the 18th Amendment to the Washington Constitution. Tolls on a project must be spent on that project and may not be diverted and spent on other things (allowing tolls to be imposed on anyone and spent on anything stops them from being tolls and makes them into de facto taxes).

GAS TAXES CANNOT BE DIVERTED TO THE GENERAL FUND OR OTHER FUNDS AND USED FOR NON-TRANSPORTATION PURPOSES

NEW SECTION. **Sec. 2.** State government, the department of transportation, and other agencies may not transfer revenues in the motor vehicle fund to the general fund or other funds and used for non-transportation purposes.

GAS-TAX-FUNDED LANES ON STATE HIGHWAYS CANNOT BE TRANSFERRED OR USED FOR NON-HIGHWAY PURPOSES

NEW SECTION. **Sec. 3.** State government, the department of transportation, and other agencies may not transfer or use gas-tax-funded lanes on state highways for non-highway purposes.

TOLLS ON A PROJECT MUST BE DEDICATED TO THAT PROJECT, ENDED WHEN THE PROJECT IS COMPLETED, AND USED ONLY FOR PURPOSES CONSISTENT WITH THE 18TH AMENDMENT TO THE WASHINGTON CONSTITUTION

Sec. 4. 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~~)) legislature, subject to

the requirements of RCW 43.135.055, shall determine and establish the tolls and charges thereon. Except for Washington state ferries toll facilities, revenue from tolls or charges on a highway, freeway, road, bridge, or street may only be used for the cost of construction, operation, or maintenance of toll facilities and capital improvements to that particular highway, freeway, road, bridge, or street and all revenues from such tolls may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution.

(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 tolls ((~~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. 5. RCW 47.56.810 and 2008 c 122 s 3 are each amended to read as follows:

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

(1) "Tolling authority" means the governing body that is legally empowered to review and adjust toll rates. ((~~Unless otherwise delegated, the transportation commission~~)) As required by

RCW 43.135.055, the legislature is the tolling authority for all state highways.

(2) "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.

(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 the eligible toll facility that may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution..

Sec. 6. RCW 47.56.820 and 2008 c 122 s 4 are each amended to read as follows:

(1) ((~~Unless otherwise delegated~~)) As required by RCW 43.135.055, 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 limitations in RCW 47.56.830. Expenditures of toll revenues are subject to appropriation and must be made only for the following purposes as long as the expenditure is consistent with the eighteenth amendment to the Washington Constitution:

(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.

Sec. 7. 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. Additionally, toll revenue should provide for and encourage the inclusion of recycled and reclaimed construction materials.

(4) Setting toll rates. Toll rates, which may 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) 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 toll facilities ((~~may remain in place to fund additional capacity, capital rehabilitation, maintenance, management, and operations, and to optimize performance of the system~~)) must end after the completion of the project.

(6) Dedication of tolls. As referenced in RCW 47.56.030, tolls on a project must be spent on that project and may not be diverted elsewhere and all revenues from such tolls may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution.

Sec. 8. RCW 47.56.790 and 2008 c 270 s 5 are each amended to read as follows:

The department shall work with the federal highways administration to determine the necessary actions for receiving federal authorization to toll the Interstate 90 floating bridge. The department must periodically report the status of those discussions to the governor and the joint transportation committee. Toll revenue imposed and collected on the Interstate 90 floating bridge must be used exclusively for toll facilities and capital improvements to the Interstate 90 floating bridge and may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution.

MISCELLANEOUS

NEW SECTION. **Sec. 9.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. **Sec. 10.** 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. 11.** This act is called the "Save Our Highways – Hands Off the Gas Tax."

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