

CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE HOUSE BILL 1272**

Chapter 498, Laws of 2009

61st Legislature  
2009 Regular Session

CAPITAL AND OPERATING BUDGET PROJECTS--BONDS

EFFECTIVE DATE: 05/15/09

Passed by the House April 26, 2009  
Yeas 60 Nays 36

FRANK CHOPP

\_\_\_\_\_  
Speaker of the House of Representatives

Passed by the Senate April 26, 2009  
Yeas 30 Nays 15

BRAD OWEN

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President of the Senate

Approved May 15, 2009, 1:55 p.m.

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1272** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

\_\_\_\_\_  
Chief Clerk

FILED  
May 18, 2009

CHRISTINE GREGOIRE

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Secretary of State  
State of Washington

**Governor of the State of Washington**

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**ENGROSSED SUBSTITUTE HOUSE BILL 1272**

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Passed Legislature - 2009 Regular Session

**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By House Capital Budget (originally sponsored by Representatives Dunshee and White; by request of Office of Financial Management)**

READ FIRST TIME 04/06/09.

AN ACT Relating to state general obligation bonds and related accounts; amending RCW 47.10.867 and 47.56.850; adding new sections to chapter 47.10 RCW; adding a new chapter to Title 43 RCW; and declaring an emergency.

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

**NEW SECTION. Sec. 1** For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 2007-2009 and 2009-2011 fiscal bienniums, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two billion two hundred nineteen million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

**NEW SECTION. Sec. 2** The proceeds from the sale of the bonds authorized in section 1 of this act shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

- (1) One billion nine hundred forty-seven million dollars to remain in the state building construction account created by RCW 43.83.020;
- (2) Twenty-seven million dollars to the outdoor recreation account created by RCW 79A.25.060;
- (3) Twenty-seven million dollars to the habitat conservation account created by RCW 79A.15.020;
- (4) Six million dollars to the riparian protection account created by RCW 79A.15.120;
- (5) Ten million dollars to the farmlands preservation account created by RCW 79A.15.130;
- (6) One hundred fifty-nine million dollars to the state taxable building construction account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary or advantageous to issue more than the amount specified in this

subsection (6) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds or in order to reduce the total financing costs for bonds issued, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation.

**NEW SECTION. Sec. 3** (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in section 2 (1), (2), (3), (4), (5), and (6) of this act.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in section 2 (1), (2), (3), (4), (5), and (6) of this act.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of section 2 (1), (2), (3), (4), (5), and (6) of this act the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

**NEW SECTION. Sec. 4** (1) Bonds issued under sections 1 through 3 of this act shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

**NEW SECTION. Sec. 5** The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 1 of this act, and sections 2 and 3 of this act shall not be deemed to provide an exclusive method for the payment.

**Sec. 6** RCW 47.10.867 and 2003 c 147 s 7 are each amended to read as follows:

For the purpose of providing funds for the planning, design, construction, reconstruction, and other necessary costs for transportation projects, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of ~~((three))~~ two hundred forty-nine million five hundred thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

**NEW SECTION. Sec. 7** Sections 1 through 5 of this act constitute a new chapter in Title 43 RCW.

**NEW SECTION. Sec. 8** In order to provide funds necessary for the location, design, right-of-way, and construction of the state route number 520 corridor projects, as allowed in section 2, chapter . . . (Engrossed Substitute House Bill No. 2211), Laws of 2009, there shall be issued and sold upon the request of the department of transportation a total of one billion nine hundred fifty million dollars of general obligation bonds of the state of Washington first payable from toll revenue and excise taxes on motor vehicle and special fuels in accordance with section 12 of this act.

**NEW SECTION. Sec. 9** Upon the request of the department of transportation, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by this act in accordance with chapter 39.42 RCW. Bonds authorized by this act shall be sold in the manner, at time or times, in amounts, and at the price as the state finance committee shall determine. No bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

**NEW SECTION. Sec. 10** The proceeds from the sale of bonds authorized by this act shall be deposited in the state route number 520 corridor account created under chapter . . . (Engrossed Substitute House Bill No. 2211), Laws of 2009, and shall be available only for the purposes enumerated in section 8 of this act, for the payment of bond anticipation notes or other interim financing, if any, capitalizing interest on the bonds, and for the payment of bond issuance costs, including the costs of underwriting.

**NEW SECTION. Sec. 11** The toll facility bond retirement account is created in the state treasury for the purpose of payment of the principal of and interest and premium on bonds. Both principal of and interest on the bonds issued for the purposes of this act shall be payable from the toll facility bond retirement account. The state finance committee may provide that special subaccounts be created in the account to facilitate payment of the principal of and interest on the bonds. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings.

**NEW SECTION. Sec. 12** Bonds issued under the authority of this section and sections 8, 13, and 14 of this act shall distinctly state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The principal of and interest on the bonds shall be first payable in the manner provided in this section and sections 8, 13, and 14 of this act from toll revenue and then from proceeds of excise taxes on motor vehicle and special fuels to the extent toll revenue is not available for that purpose. Toll revenue and the state excise taxes on motor vehicle and special fuels imposed by chapters 82.36 and 82.38 RCW are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of this section and sections 8, 13, and 14 of this act, and the legislature agrees to continue to impose these toll charges on the state route number 520 corridor, and on any other eligible toll facility designated by the legislature

and on which the imposition of tolls is authorized by the legislature in respect of the bonds, and excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of this section and sections 8, 13, and 14 of this act.

**NEW SECTION. Sec. 13** For bonds issued under the authority of this section and sections 8, 12, and 14 of this act, the state treasurer shall first withdraw toll revenue from the state route number 520 corridor account created under chapter . . . (Engrossed Substitute House Bill No. 2211), Laws of 2009, and, to the extent toll revenue is not available, excise taxes on motor vehicle and special fuels in the motor vehicle fund and deposit in the toll facility bond retirement account, or a special subaccount in the account, such amounts, and at such times, as are required by the bond proceedings.

Any excise taxes on motor vehicle and special fuels required for bond retirement or interest on the bonds authorized by this section and sections 8, 12, and 14 of this act shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and which is, or may be, appropriated to the department for state highway purposes. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues to the state, counties, cities, and towns unless the amount arising from excise taxes on motor vehicle and special fuels distributed to the state in the motor vehicle fund proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the motor vehicle fuel or special fuel taxes that are distributable to the state, counties, cities, and towns shall be repaid from available toll revenue in the manner provided in the bond proceedings or, if toll revenue is not available for that purpose, from the first excise taxes on motor vehicle and special fuels distributed to the motor vehicle fund not required for bond retirement or interest on the bonds. Any excise taxes on motor vehicle and special fuels required for bond retirement or interest on the bonds authorized by this section and sections 8, 12, and 14 of this act shall be reimbursed to the motor vehicle fund from toll revenue in the manner and with the priority specified in the bond proceedings.

**NEW SECTION. Sec. 14** Bonds issued under the authority of sections 8, 12, and 13 of this act and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes.

**Sec. 15** RCW 47.56.850 and 2008 c 122 s 7 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 toll rates, establish appropriate exemptions, 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 ~~((repayment))~~ timely payment of debt ~~((and interest on the))~~ 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, ~~((and))~~ insurance, and compliance with all other financial and other covenants made by the state in the bond proceedings; ~~((and))~~

(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. 16** If and to the extent that the state finance committee determines, in consultation with the department of transportation and the tolling authority, that it will be beneficial for the state to issue any bonds authorized in sections 8 and 12 through 14 of this act as toll revenue bonds rather than as general obligation bonds, the state finance committee is authorized to issue and sell, upon the request of the department of transportation, such bonds as toll revenue bonds and not as general obligation bonds. Notwithstanding section 12 of this act, each such bond shall contain a recital that payment or redemption of the bond and payment of the interest and any premium thereon is payable solely from and secured solely by a direct pledge, charge, and lien upon toll revenue and is not a general obligation of the state to which the full faith and credit of the state is pledged.

Toll revenue is hereby pledged to the payment of any bonds and the interest thereon issued under the authority of this section, and the legislature agrees to continue to impose these toll charges on the state route number 520 corridor, and on any other eligible toll facility designated by the legislature and on which the imposition of tolls is authorized by the legislature in respect of the

bonds, in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of this section.

**NEW SECTION. Sec. 17** The state finance committee may determine and include in any resolution authorizing the issuance of any bonds under this act, such terms, provisions, covenants, and conditions as it may deem appropriate in order to assist with the marketing and sale of the bonds, confer rights upon the owners of bonds, and safeguard rights of the owners of bonds including, among other things:

- (1) Provisions regarding the maintenance and operation of eligible toll facilities;
- (2) The pledges, uses, and priorities of application of toll revenue;
- (3) Provisions that bonds shall be payable from and secured solely by toll revenue as provided by section 16 of this act, or shall be payable from and secured by both toll revenue and by a pledge of excise taxes on motor vehicle and special fuels and the full faith and credit of the state as provided in sections 8 and 12 through 14 of this act;
- (4) In consultation with the department of transportation and the tolling authority, financial covenants requiring that the eligible toll facilities must produce specified coverage ratios of toll revenue to debt service on bonds;
- (5) The purposes and conditions that must be satisfied prior to the issuance of any additional bonds that are to be payable from and secured by any toll revenue on an equal basis with previously issued and outstanding bonds payable from and secured by toll revenue;
- (6) Provisions that bonds for which any toll revenue are pledged, or for which a pledge of any toll revenue may be reserved, may be structured on a senior, parity, subordinate, or special lien basis in relation to any other bonds for which toll revenue is pledged, with respect to toll revenue only; and
- (7) Provisions regarding reserves, credit enhancement, liquidity facilities, and payment agreements with respect to bonds.

Notwithstanding the foregoing, covenants and conditions detailing the character of management, maintenance, and operation of eligible toll facilities, insurance for eligible toll facilities, financial management of toll revenue, and disposition of eligible toll facilities must first be approved by the department of transportation.

The owner of any bond may by mandamus or other appropriate proceeding require and compel performance of any duties imposed upon the tolling authority and the department of transportation and their respective officials, including any duties imposed upon or undertaken by them or by their respective officers, agents, and employees, in connection with the construction, maintenance, and operation of eligible toll facilities and in connection with the collection, deposit, investment, application, and disbursement of the proceeds of the bonds and toll revenue.

**NEW SECTION. Sec. 18** (1) For the purposes of this act, "toll revenue" means all toll receipts, all interest income derived from the investment of toll receipts, and any gifts, grants, or other funds received for the benefit of eligible toll facilities. However, for the purpose of any pledge of toll revenue to the payment of particular bonds issued under this act, "toll revenue" means and includes only such toll revenue or portion thereof that is pledged to the payment of those bonds in the resolution authorizing the issuance of such bonds. Toll revenue constitutes "fees and revenues derived from the ownership or operation of any undertaking, facility, or project" as that phrase is used in Article VIII, section 1(c)(1) of the state Constitution.

(2) For the purposes of this act, "tolling authority" has the same meaning as in RCW 47.56.810.

**NEW SECTION. Sec. 19** Sections 8 through 14 and 16 through 18 of this act are each added to chapter 47.10 RCW.

**NEW SECTION. Sec. 20** 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. 21** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 26, 2009.

Passed by the Senate April 26, 2009.

Approved by the Governor May 15, 2009.

Filed in Office of Secretary of State May 18, 2009.