



## SUMMARY OF INITIATIVE 1125 TO THE PEOPLE (Concerns state expenditures on transportation)

*This summary has been prepared in response to specific questions about the provisions and effects of Initiative 1125 and is provided for legislative purposes only; it is **not** provided as an expression for or against the ballot measure. Please remember that it is inappropriate to use public resources to support or oppose a ballot measure. Please refer to pages 8-9 of the 2011 Legislative Ethics Manual or contact Senate Counsel for further guidance on when and how comment on ballot measures is appropriate.*

### **BRIEF SUMMARY**

State government and other agencies may not transfer revenues in the Motor Vehicle Fund or any toll fund to the General Fund or other funds to be used for non-transportation purposes, and may not transfer or use gas-tax-funded or toll-funded lanes on state highways for non-highway purposes.

Some of the statutes related to toll rate setting authority are amended to require the Legislature to set toll rates. Toll revenue may only be used for purposes consistent with the 18th Amendment to the Washington Constitution (i.e., "highway purposes").

The policy guidelines that must be considered by any proposal to establish a new toll facility are amended to include the following: Toll rates must be set by the Legislature, be uniform and consistent, and not include variable pricing; tolls must be dedicated to the project being tolled; and tolls must end after the cost of the project is paid.

### **BACKGROUND**

#### **Current Tolling Authority**

Under current law, the Legislature is the only entity with the authority to authorize tolls on an eligible toll facility. An eligible toll facility is defined as "portions of the state highway system specifically identified by the legislature, including transportation corridors, bridges, crossings, interchanges, on-ramps, off-ramps, approaches, bistate facilities, and interconnections between highways." The Legislature has authorized collection of tolls on the following facilities: the Tacoma Narrows Bridge; the SR 520 floating bridge; the SR 167 high-occupancy toll ("HOT") lanes; and the Interstate 405 express toll lanes.

The Washington Transportation Commission (Commission) is a seven member body of citizens appointed by the Governor, with the consent of the Senate, for six-year terms. The Secretary of the Washington State Department of Transportation (WSDOT) and a

representative from the Governor's Office are nonvoting members of the Commission. The Commission provides a public forum for transportation policy development. It reviews and assesses how the entire transportation system works across the state and issues the state's 20-year Statewide Transportation Plan. Additionally, the Legislature has designated the Commission as the state tolling authority with responsibility for setting toll rates, including variable pricing, and reviewing toll operations. Prior to the convening of each regular session of the Legislature, the Commission must report to the Transportation Committees of the Legislature on any increase or decrease in toll rates approved by the Commission.

Any proposal for the establishment of eligible toll facilities must consider specified policy guidelines which include: overall direction (purpose for toll); when to use tolling; use of toll revenue; setting toll rates; and duration of toll collection.

### **Limitations on Use of Toll Revenue**

Generally, current law requires that all revenue from an eligible toll facility be used only to "construct, improve, preserve, maintain, manage, or operate the eligible toll facility on or in which the revenue is collected." The current statutes further restrict the use of toll revenue only for the following: to cover operating costs, including maintenance, preservation, administration, and toll enforcement by public law enforcement; to meet obligations for the repayment of debt; to meet any other funding obligations for projects or operations on the eligible toll facility; to provide for the operation of conveyances of people or goods; and to fund improvements to the eligible toll facility.

In addition to the general statutes limiting the use of toll revenue, the Legislature has also enacted specific restrictions on the use of toll revenue unique to each of the four currently authorized toll facilities.

### **Duration of Toll Collection**

Current policy guidelines provide that any proposal for the establishment of an eligible toll facility must consider the duration of toll collection on the facility. The policy guideline provides that because transportation infrastructure projects have costs and benefits that extend well beyond those paid for by initial construction funding, tolls may remain in place to fund additional capacity, capital rehabilitation, maintenance, management, and operations, and to optimize performance of the system.

### **18th Amendment to Washington State Constitution**

In 1944 statewide voters approved the 18th Amendment to the Washington Constitution, which states that license fees and all excise taxes collected on the sale, distribution, or use of motor vehicle fuel and all other state revenue intended to be used for highway purposes must be used exclusively for highway purposes. "Highway purposes" include (1) the necessary operating, engineering and legal expenses connected with the administration of public highways, county roads, and city streets; (2) the construction, reconstruction, maintenance, repair, and betterment of public highways, county roads, bridges, and city streets; (3) the payment or refunding of any state or local obligation for which any of the dedicated revenues have been pledged; (4) refunds authorized by law for taxes paid on motor vehicle fuels; and

(5) the cost of collecting the dedicated revenue. The Motor Vehicle Fund is the special fund used exclusively for highway purposes.

Toll revenue is not explicitly mentioned in the 18th Amendment. However, the Legislature has in some instances deposited toll revenues into an account *within* the Motor Vehicle Fund, thus limiting the use of those toll revenues to "highway purposes." In other instances, the Legislature has deposited toll revenue in an account *outside* the Motor Vehicle Fund, which does not limit use of that revenue to "highway purposes." Account information regarding the four currently authorized toll facilities is as follows:

- Tolls from the Tacoma Narrows Bridge are deposited into a special account, the "Tacoma Narrows toll bridge account," *within* the Motor Vehicle Fund;
- Tolls from the SR 520 corridor will be deposited into a special account, the "state route number 520 corridor account," *outside* the Motor Vehicle Fund;
- Tolls from the SR 167 HOT lanes are deposited into the "high occupancy toll lanes operations account," *outside* the Motor Vehicle Fund; and
- Tolls from the I-405 express toll lanes will be deposited into the "Interstate 405 express toll lanes operations account," *within* the Motor Vehicle Fund.

## **SUMMARY OF INITIATIVE 1125**

### **Tolling Authority**

Two of the fourteen existing statutes specifically delegating toll rate setting authority to the Transportation Commission are amended to require the Legislature, rather than the Commission, to set toll rates. The two amendments are as follows: (1) the definition of "tolling authority" is amended to specify that the Legislature, not the Commission, is the tolling authority for all state highways and removes the authority of the Legislature to delegate the tolling authority and; (2) the general toll rate setting authority existing prior to 2008 is amended to specify that the Legislature, not the Commission, must "determine and establish" tolls.

The policy guidelines that must be considered by any proposal to establish a toll facility are amended to require that toll rates must be set by the Legislature, be uniform and consistent, and not include variable pricing.

### **Limitations on Use of Toll Revenue**

Four of five statutes regarding the general use of toll revenue are amended as follows, including expressly requiring that toll revenue be spent on purposes consistent with the 18th Amendment to the Washington Constitution (i.e., "highway purposes"):

- One amended statute would require that tolls or charges collected on a highway, freeway, road, bridge, or street may only be used for the cost of construction and capital improvements to that particular facility;
- One amended statute retains the general limitation that toll revenue must be used only to construct, improve, preserve, maintain, manage, or operate the eligible toll facility on or in which the revenue is collected, but adds a specific reference to the tolling policy guidelines statute;

- The definition of "toll revenue" is now restricted to purposes consistent with the 18th Amendment to the Washington Constitution; and
- The tolling policy guidelines statute is amended by adding a sixth policy guideline category requiring that tolls be dedicated to the project being tolled.

Statutes outlining specific restrictions on the use of toll revenue unique to each of the four currently authorized toll facilities are not amended. However, the Initiative adds a new restriction to the statute governing WSDOT's work with the Federal Highways Administration to determine the necessary actions for receiving federal authorization to toll the Interstate 90 ("I-90") floating bridge. Any toll imposed and collected on the I-90 floating bridge must be used exclusively for toll facilities and capital improvements to I-90 and may only be used for purposes consistent with the 18th Amendment.

### **Duration of Toll Collection**

The policy guidelines that must be considered regarding the establishment of an eligible toll facility are amended to provide that tolls must end after the cost of the project is paid.

### **Use of Motor Vehicle Fund-Related Monies or Facilities**

State government and other agencies are prohibited from transferring revenues in the Motor Vehicle Fund or any toll fund to the General Fund or other funds to be used for non-transportation purposes. The term "non-transportation purposes" is not defined.

State government and other agencies are prohibited from transferring or using gas-tax-funded or toll-funded lanes on state highways for non-highway purposes.

For information on assumptions, see the OFM statement of fiscal impacts (given only in total dollars) at the following website: <http://ofm.wa.gov/initiatives/default.asp>.

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For further information please contact:  
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*This summary should not be considered legislative history for purposes of interpreting Initiative 1125.*