

Initiative Measure**1125**

Proposed by initiative petition:

Initiative Measure No. 1125 concerns state expenditures on transportation.

This measure would prohibit the use of motor vehicle fund revenue and vehicle toll revenue for non-transportation purposes, and require that road and bridge tolls be set by the legislature and be project-specific.

Should this measure be enacted into law?

Yes

No

The Official Ballot Title and the Explanatory Statement were written by the Attorney General as required by law. The Fiscal Impact Statement was written by the Office of Financial Management as required by law. The Secretary of State is not responsible for the content of arguments or statements (WAC 434-381-180). The complete text of Initiative Measure 1125 is located at the end of this pamphlet.

Explanatory Statement

Written by the Office of the Attorney General

The Law as it Presently Exists

The legislature has enacted various laws that direct where and how tolls can be set for bridges, ferries, tunnels, roads, and related facilities. Those laws also restrict the ways in which toll revenue can be used. Initiative Measure No. 1125 would impose additional restrictions on the use of toll revenue.

The Eighteenth Amendment to the Washington Constitution requires that certain state revenue be used only for "highway purposes." That amendment, which was approved in 1944,

provides that the following revenue must be paid into the state treasury and placed in a special fund to be used exclusively for "highway purposes": all fees the state collects as license fees for motor vehicles; all excise taxes the state collects on the sale, distribution, or use of motor vehicle fuel; and all other state revenue "intended to be used for highway purposes." That fund is the "motor vehicle fund" established in RCW 46.68.070. The Eighteenth Amendment also lists some uses that must be considered "highway purposes," including the necessary operating, engineering, and legal expenses connected with the administration of public highways, county roads, and city streets; and the construction, reconstruction, maintenance, repair, and betterment of public highways, county roads, bridges, and city streets.

Since well before the adoption of the Eighteenth Amendment, the legislature has authorized the use of tolls as one means of paying for the acquisition, construction, and operation of bridges, ferries, tunnels, roads, and related facilities. That authority includes the use of tolls to retire bonds issued to finance acquisition and construction of bridges, ferries, tunnels, roads, and related facilities; tolls used for that purpose must be deposited in special trust funds kept separate from all other funds.

Under current law, the legislature must authorize the collection of tolls but it can delegate the authority to set the amounts of tolls. The legislature has designated the state Transportation Commission as the "tolling authority" responsible for setting most tolls, under standards and guidelines established in law to ensure that the revenue generated by tolls is sufficient to pay maintenance and operating costs for the facility; pay principal and interest on bonds, related financing costs, and insurance; and reimburse the motor vehicle fund for any money used from that fund to pay for bonds. Unless otherwise provided in law, all revenue from a toll facility is to be used for that facility, and tolls may continue to be collected after initial construction has been paid for to fund additional capacity, maintenance, and operation of the facility.

The Effect of the Proposed Measure, if Approved

Initiative Measure No. 1125 would require that toll amounts be set by the legislature by majority vote, rather than by the Transportation Commission, and would make the setting of

toll amounts subject to statutes that require preparation of various reports and analyses relating to costs. It would require that tolls be “uniform and consistent” and would not allow variable pricing of tolls. (“Variable priced” tolls typically are higher during periods of traffic congestion and lower at other times of the day or week.)

While the measure would leave in place the authority to collect and use tolls for the preservation, maintenance, management, and operation of a facility, it would add provisions that limit the use of some tolls to construction and capital improvement only and that require tolls on future facilities to end after the cost of the project is paid. The measure would require revenue from tolls to be used only for purposes “consistent with” the Eighteenth Amendment, and would prohibit any revenue in the motor vehicle fund or any toll fund from being transferred to the “general fund or other funds” and used for “non-transportation purposes.”

The measure would restate the existing requirement that tolls must be used on the facility for which they are collected, explicitly referencing the Interstate 90 floating bridge. The measure also would prohibit the state or a state agency from transferring or using “gas-tax-funded or toll-funded lanes on state highways” for “non-highway purposes.”

Fiscal Impact Statement

Written by the Office of Financial Management

No fiscal impact is assumed for the Tacoma Narrows Bridge and State Route 167 toll lanes. Fiscal impacts for future toll roads and toll bridges are unknown and indeterminate. The State Treasurer states that bonds secured solely by toll revenue will become prohibitively expensive if the Legislature sets tolls, thus eliminating this financing tool for transportation projects. Prohibiting variable tolling will require additional analyses estimated to cost up to \$8.3 million. Because the restrictions on future toll revenue, toll expenditures and toll lanes cannot be quantified, the fiscal impact on state and local governments from these provisions is indeterminate.

General Assumptions

The initiative is effective Dec. 8, 2011, and applies prospectively.

The term “highway purposes” is used to describe the 18th Amendment purposes. For purposes of the fiscal impact statement, “highway purposes” excludes operating funds for transit and other funding for transit, bicycle and pedestrian facilities that do not directly benefit the highway system.

Estimates are described using the state’s fiscal year (FY) of July 1 through June 30.

The fiscal impact statement covers the period FY 2012 through FY 2017.

Fiscal impacts are measured against current law, enacted budgets and bond authorizations.

Bonds are a form of state debt used to finance capital construction and transportation projects. Bonds enable the state to receive funds today on the promise that the funds will be repaid with interest. Bonds must be authorized by the Legislature and identify how the debt will be paid.

Assumptions by Section

Section 2 limits expenditures from the Motor Vehicle Fund and toll funds to transportation purposes.

Section 3 prohibits the state and its agencies from the transfer or use of gas tax or toll-funded lanes for non-highway purposes.

Section 4 applies to all tolled facilities, except the Tacoma Narrows Bridge and state ferries. The Legislature shall determine and establish tolls and charges on tolled facilities. The initiative does not change existing tolls, toll rates or methodologies. However, to impose a new toll, increase a toll or change a toll methodology to increase revenue, the Legislature must act. In addition, toll revenue must be used for the facility in which the funds are generated and only for highway purposes.

Sections 5 through 7 apply to toll bridges and other state toll facilities, excluding state ferries, first authorized after July 1, 2008. The Legislature is the tolling authority for all state highways. The initiative does not change existing tolls, toll rates or methodologies. However, to impose a new toll, increase a toll or change a toll methodology to increase revenue, the Legislature must act. In addition, for the future:

- Toll revenue must be used for the facility in which the funds are generated;
- Toll revenue must be used only for highway purposes;
- Toll rates must be uniform and consistent and may not include variable pricing; and
- Tolls on future tolled facilities must end after the cost of the project is paid.

Section 8 applies only to tolls on the Interstate 90 floating bridge. Toll revenue from this facility must be used exclusively for toll facilities and capital improvements on Interstate 90 and only for highway purposes.

State and Local Fiscal Impacts

Section 2. No fiscal impact is assumed from this section. Expenditures from the Motor Vehicle Fund and toll funds are restricted by law to transportation purposes.

Section 3. This restriction is assumed to have no impact on state or local revenues. The restriction also does not direct new expenditures or new costs. Therefore, it is assumed that state and local governments will adjust their actions to comply with this restriction, resulting in no new increased or decreased costs.

Sections 4 through 8 are described by tolled facility:

Tacoma Narrows Bridge

These sections do not apply to this bridge, and therefore, no fiscal impact is assumed.

State Route 167 High-Occupancy Vehicle Lanes

Because these tolled lanes were first authorized before July 1, 2008, only Section 4 applies to them. Tolls are authorized for this facility until June 30, 2013. It is not anticipated that toll rates will increase during this authorization. Therefore, no fiscal impact is assumed on toll revenues from the lanes. There is no debt on these lanes.

Tolls collected from high-occupancy toll lanes can be used to increase transit, vanpool, carpool and trip reduction services in the State Route 167 corridor, which could be inconsistent with highway purposes. However, enacted budgets provide that all tolls collected from the lanes be used solely for the operation, administration and enforcement of these lanes. Therefore, no fiscal impact is assumed for state and local expenditures.

State Route 520 Bridge

Sections 4 through 7 apply to this bridge. Tolls are authorized and have been set for this bridge. The Legislature has identified toll revenue as part of the State Route 520 bridge replacement and high-occupancy vehicle program. It is not known whether a toll rate increase will be necessary during the period covered by this fiscal impact statement. However, if it is necessary, the Legislature will need to act to set tolls subject to requirements contained in Section 7.

Current law requires the use of variable tolling. If a toll rate increase is necessary, a new toll rate analysis and supplemental environmental review will be required to implement a uniform and consistent toll rate. Assuming that these analyses can be conducted concurrently within project schedules, the cost is estimated at up to \$3.2 million. Prior analysis indicates that a fixed toll rate equivalent to the weighted average of variable tolls could reduce revenue by up to 11 percent due to different traffic patterns (Parsons Brinckerhoff analysis, March 2008). However, because a new analysis is necessary to quantify impacts and it is not certain that a toll rate increase is necessary during the period covered by the fiscal impact statement, the impact on toll revenue is indeterminate.

Federal Urban Partnership Agreement (UPA) grants were awarded to the Washington State Department of Transportation, King County and King County Ferry District conditioned on implementing variable tolling on the existing State Route 520 bridge. If a toll rate increase is necessary and variable tolling is prohibited, the state, King County and King County Ferry District would lose authority to spend remaining grant funds and could be required to repay the entire grant amount. The state has spent \$64.4 million of the state's \$86.1 million UPA grant, leaving \$21.7 million remaining as of July 2011. King County has spent \$34.8 million of the county's \$41 million UPA grant, leaving \$6.2 million remaining as of July 2011. The King County Ferry District was awarded \$1 million, none of which has been spent as of July 2011. Because it is not known if a toll rate increase is necessary during the period covered by the fiscal impact statement or what action the federal government will take, the impact on this grant revenue is indeterminate.

Tolls collected from State Route 520 can be used to provide for the operations of conveyances of people or goods, which could be inconsistent

with highway purposes. However, current law and enacted budgets provide that tolls collected from State Route 520 must be used for operation and administration of the tolled bridge and high-occupancy vehicle program and to repay bond obligations used to finance construction and capital improvement costs, which are assumed to be consistent with highway purposes. Therefore, no fiscal impact is assumed on state and local government expenditures during the period covered by the fiscal impact statement.

Current law authorizes the issuance of \$1.95 billion in bonds secured solely by toll revenue or secured by both toll and gas tax revenue. The State Treasurer states that requiring tolls to be set and adjusted by the Legislature rather than by an independent toll-setting body would make the cost of bonds secured solely by toll revenue prohibitively expensive and would be unprecedented nationally. Because investors in toll revenue bonds see the independence of toll-setting bodies as a critical credit characteristic, no other toll revenue bond issuer in the nation sets tolls subject to legislative approval (Public Resource Advisory Group analysis, Feb. 8, 2011). Therefore, the State Treasurer states that bonds secured solely by toll revenue would be eliminated as a financing tool for the bridge. Gas tax or other revenues would be necessary to issue bonds, reducing overall capacity to finance transportation projects, which may impact future expenditures.

Interstate 405 High-Occupancy Vehicle Lanes

Sections 4 through 7 apply to these lanes. Tolls are authorized for these lanes, but tolls have not been set. Current law requires the use of dynamic tolling. To implement a uniform and consistent toll rate, a new toll rate analysis and supplemental environmental review would be required. Assuming that these analyses can be conducted concurrently within project schedules, the cost is estimated at up to \$2.5 million. Because the new analysis is necessary to quantify impacts, the impact on toll revenue is indeterminate.

Tolls collected from Interstate 405 high-occupancy vehicle lanes can be used to provide for the operations of conveyances of people or goods, which could be inconsistent with the highway purposes. However, current law and enacted budgets provide that tolls collected from the lanes must be used for operation and administration of the tolled lanes and to repay bond obligations to finance construction and capital improvement

costs, which are assumed to be consistent with the highway purposes. Therefore, no fiscal impact is assumed on state and local government expenditures during the period covered by the fiscal impact statement.

Current bond authorizations for construction and capital improvements of Interstate 405 high-occupancy vehicle lanes from Bellevue to Lynnwood are secured by gas tax revenue. Therefore, no fiscal impact is assumed on indebtedness for these lanes.

State Route 99 Alaskan Way Viaduct

Sections 4 through 7 apply to this highway. Tolls have not been authorized by the Legislature. Current toll rate analysis for this highway has assumed the use of variable pricing. To implement a uniform and consistent rate, a new toll rate analysis and supplemental environmental review would be required. Assuming that these analyses can be conducted concurrently within project schedules, the cost is estimated at up to \$2.6 million. Because tolls have not been authorized and the new analysis is necessary to quantify impacts, the impact to toll revenue is indeterminate.

The Legislature has identified toll revenue as part of the State Route 99 Alaskan Way Viaduct replacement project. This expenditure is assumed to be consistent with the highway purposes. Therefore, no fiscal impact is assumed on state and local expenditures.

Current bond authorizations for construction and capital improvements for portions of the State Route 99 Alaskan Way Viaduct replacement project are secured by gas tax revenue. If costs exceed \$2.4 billion, no more than \$400 million of additional costs will be financed with toll revenue. Because there is no authorization to use toll revenue for bonds, the fiscal impact on indebtedness for this highway is indeterminate. Additionally, the State Treasurer states that bonds secured solely by toll revenue would be eliminated as a financing tool for this highway.

Interstate 90 Floating Bridge

Sections 4 through 8 will apply to this bridge. Whether the Legislature will authorize tolls on the Interstate 90 floating bridge and for what purpose are unknown. Therefore, the fiscal impact is unknown and indeterminate. Additionally, State Treasurer states that bonds secured solely by toll

revenue would be eliminated as a financing tool for this highway.

Future Facilities

Sections 4 through 7 will apply to future tolled facilities. The Washington State Department of Transportation was directed by the Legislature to conduct tolling analysis on the Interstate 5 Columbia River Crossing in Clark County, Interstate 5 express lanes between Seattle and Northgate, Interstate 90 in King County, Interstate 405 high-occupancy vehicle lanes from Bellevue south, State Route 509 in King County and State Route 167 extension in Pierce County. Whether the Legislature will authorize tolling on these highways and for what purpose are unknown. Therefore, the fiscal impact is unknown and indeterminate. Additionally, the State Treasurer states that bonds secured solely by toll revenue would be eliminated as a financing tool for these bridges and highways.

Mock Election

Real education

Students in grades K-12 can practice voting in the online Washington State Mock Election.

Voting opens at 9 am on Monday, October 31 and will close at 1 pm on Friday, November 4. Students in grades 6-12 will vote for real candidates and ballot measures. Younger students will be given a more age-appropriate ballot.

The Mock Election is free, fun and educational!

Make voting a family activity; encourage your kids to vote in the online Mock Election at www.vote.wa.gov.

Argument For Initiative Measure 1125

Olympia still doesn't get it. Four times the voters have approved initiatives requiring two-thirds vote...

...of the Legislature to raise taxes and majority vote to increase fees. Four times. Yet despite I-1053's 64% approval last year, Olympia repeatedly violated it. I-1125 closes loopholes they put in I-1053, requiring again that fee increases be decided by elected representatives of the people, not unelected bureaucrats at state agencies. I-1125 ensures accountability and transparency.

Voters rejected a state income tax. Olympia's response? "Anything goes" tolls which'd be even worse

If Olympia is going to force struggling families to pay thousands of dollars per year in burdensome tolls, I-1125 makes sure tolls are dedicated to the project. And when the project is paid for? The toll goes away. Without I-1125, tolls will continue *forever*, being raided and diverted during "emergencies."

Tolls aren't taxes – I-1125 keeps it that way.

I-1125 requires transportation taxes only be used for transportation – stops Olympia's bait & switch schemes

Our state imposes one of the highest gas taxes in the nation, collecting *billions* in transportation taxes and fees every year – before double-taxing us with burdensome tolls, I-1125 stops transportation revenue from being diverted to non-transportation purposes.

I-1125 reinstates I-1053's voter approved protections, closes loopholes, and reinforces existing statutory and constitutional protections

Governor Gregoire: *"I'm not gonna let 1053 stand in the way of me moving forward for what I think is right."* Voters approved I-1053 – don't let Olympia get away with violating it. Vote *yes* (again). Approve I-1125.

Rebuttal of Argument Against

Olympia repeatedly violated last year's I-1053 despite voters' 64% approval – I-1125 brings back I-1053's protections. Tolls aren't taxes – I-1125 keeps it that way. Our Constitution's 18th Amendment protects transportation revenue – I-1125 backs it up. I-1125's policies all relate to ensuring accountability and transparency on transportation spending on past, current, and future projects by having politicians abide by the Constitution and voter-approved laws like I-1053. Make Olympia follow the law. Vote *yes* (again). Approve I-1125.

Argument Prepared by

Erma Turner, beauty shop owner, gathered 1282 signatures, Cle Elum; **Darryl Ehlers**, farmer, husband, father, poet, gathered 1003 signatures, Lynden; **Larry Helseth**, wife Mandy, retired couple, gathered 925 signatures, Vancouver; **Tim Eyman**; **Lauralei Bencze** (retired Boeing), husband Steve, gathered 980 signatures, Othello; **Bessie Danilchik**, housewife, gathered 825 signatures, lifetime resident of Seattle.

Contact: (425) 493-8707; jakatak@comcast.net; www.VotersWantMoreChoices.com

Argument Against Initiative Measure 1125

Initiative 1125 is another flawed and irresponsible Tim Eyman initiative. At a time when our economy is hurting, 1125 creates transportation gridlock, places projects across Washington at risk, increases congestion and eliminates thousands of jobs.

Olympia Politicians Should Not Set Toll Rates

No state in the country allows legislators to set tolls because investors won't buy bonds backed by tolls that are subject to legislative politics. A bipartisan supermajority of the legislature already voted to have an independent commission of experts set tolls, but 1125 re-inserts politics into the process. Why have legislators from Bellingham set tolls for projects in Tacoma? Independent experts commissioned by the State Treasurer say 1125 will cause the state to lose billions in toll bond funding for major projects.

Gridlock on Important Projects

1125 stalls construction projects across the state vital to our economy. The 520 Bridge, I-405 expansion, and hundreds of local and rural gas-tax funded projects across the state are threatened. Eyman says 1125 will kill voter-approved light rail across I-90 – lawsuits will follow.

Increases Costs for Taxpayers

Eyman's transportation measures have all been defeated by voters or overturned in court because of unintended consequences or constitutional questions. We need jobs, not costly transportation chaos.

Tolls Are Fairer

Tolls are a user fee – people only pay for what they use. That's fairer than raising taxes on everyone – or diverting limited resources – to fund critical projects. Transportation experts across the state oppose 1125. So do business, labor and environmental leaders. Please vote *no*.

Rebuttal of Argument For

Tim Eyman is the one playing bait and switch. 1125 has nothing to do with the two-thirds requirement for tax increases. 1125 wrongly authorizes the legislature to set toll rates. No other state in the country allows politicians to set rates – a prescription for unfair tolls and huge new financing costs. 1125 threatens light rail and critical road projects, will cost thousands of jobs, increases gridlock and harms our economy. Vote *no* on 1125.

Argument Prepared by

Doug MacDonald, Former State Transportation Secretary; **Sid Morrison**, Former State Transportation Secretary, Yakima Resident; **Jim McIntire**, Washington State Treasurer; **Jeff Johnson**, President, Washington State Labor Council, AFL-CIO; **Laura Peterson**, Vice-President, Government Relations – Northwest, The Boeing Company; **Phil Bussey**, President & CEO, Greater Seattle Chamber of Commerce.

Contact: (206) 660-6356; info@VoteNo1125.com; www.VoteNo1125.com

Complete Text

Initiative Measure 1125

PROTECT GAS-TAXES AND TOLL-REVENUES ACT

PROTECT THE 18TH AMENDMENT TO WASHINGTON'S CONSTITUTION

AN ACT Relating to transportation; amending RCW 47.56.030, 47.56.810, 47.56.820, 47.56.830, and 47.56.790; adding new sections to chapter 46.68; and creating new sections.

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

POLICIES AND PURPOSES

NEW SECTION. Sec. 1. The 18th Amendment to the Washington Constitution protects gas taxes and toll revenues. 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 our gas taxes and toll revenues from a legislative raid by giving voters the chance to reaffirm their support for the 18th Amendment to the Washington Constitution. This measure would:

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

(2) Prohibit state government from transferring or using gas-tax-funded or toll-revenue-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 AND TOLL REVENUES 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 or any toll fund to the general fund or other funds and used for non-transportation purposes.



How do I read measure text?

Any language in double parentheses with a line through it is existing state law and will be taken out of the law if the measure is approved by voters.

Any underlined language or new sections do not appear in current state law but will be added to the law if the measure is approved by voters.

GAS-TAX-FUNDED OR TOLL-REVENUE-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 or toll-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 as amended by Initiative Measure No. 1053, 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 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 as amended by Initiative

Measure No. 1053, 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 as amended by Initiative Measure No. 1053, 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 as long as the revenues are spent on purposes consistent with the eighteenth amendment to the Washington Constitution. Additionally, toll revenue should provide for and encourage the inclusion of recycled and reclaimed construction materials.

(4) Setting toll rates. Toll rates must be set by the legislature as required by RCW 43.135.055 as amended by Initiative Measure No. 1053, must be uniform and consistent, ((which)) may not include variable pricing, and 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 cost of the project is paid.

(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 Interstate 90 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 "Protect Gas-Taxes and Toll-Revenues Act – Protect the 18th Amendment to Washington's Constitution."

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Complete Text Initiative Measure 1163

AN ACT Relating to restoring long-term care services for eligible elderly and persons with disabilities; adding new sections to chapter 74.39A RCW; adding new sections to chapter 18.88B RCW; creating new sections; repealing RCW 18.88B.020, 18.88B.030, 18.88B.040, 74.39A.009, 74.39A.050, 74.39A.055, 74.39A.073, 74.39A.075, 74.39A.085, 74.39A.260, 74.39A.310, 74.39A.330, 74.39A.340, and 74.39A.350; providing an effective date; and providing contingent effective dates.

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

NEW SECTION. Sec. 1. It is the intent of the people through this initiative to protect vulnerable elderly and people with disabilities by reinstating the requirement that all long-term care workers obtain criminal background checks and adequate training. The people of the state of Washington find as follows:

(1) The state legislature proposes to eliminate the requirement that long-term care workers obtain criminal background checks and adequate training, which would jeopardize the safety and quality care of vulnerable elderly and persons with disabilities. Should the legislature take this action, this initiative will reinstate these critical protections for vulnerable elderly and persons with disabilities; and

(2) Taxpayers' investment will be protected by requiring regular program audits, including fraud investigations, and capping administrative expenses.

PART I PROTECTING VULNERABLE ELDERLY AND PERSONS WITH DISABILITIES BY REINSTATING CRIMINAL BACKGROUND CHECK AND TRAINING REQUIREMENTS FOR LONG-TERM CARE WORKERS

NEW SECTION. Sec. 101. A new section is added to chapter 74.39A RCW to read as follows:

(1) All long term care workers for the elderly or persons with disabilities hired after January 1, 2012, shall be screened through state and federal background checks in a uniform and timely manner to ensure that they do not have a criminal history that would disqualify them from working with vulnerable persons. These background checks shall include checking against the federal bureau of investigation fingerprint identification records system and against the national sex offenders registry or their successor programs. The department shall require these long-term care workers to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation.

(2) To allow the department of health to satisfy its certification responsibilities under chapter 18.88B RCW, the department shall share state and federal background check results with the department of health. Neither department may share the federal background check results with any other state agency or person.

(3) The department shall not pass on the cost of these criminal background checks to the workers or their employers.