

A-Engrossed
House Bill 4113

Ordered by the House February 14
Including House Amendments dated February 14

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Transportation and Economic Development)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Requires Department of Transportation to prepare report on regional transportation projects in need of additional funding.]

[Sunsets January 2, 2017.]

Modifies conditions that must be met before State Treasurer may issue bonds to pay for Interstate 5 bridge replacement project.

Prohibits owner of vehicle from operating or permitting operation of vehicle on tollway if owner of vehicle owes toll for use of that vehicle on that tollway or civil penalty or fee related to failure to pay toll. Punishes by maximum fine of \$1,000.

Creates offense of failure to pay toll. Punishes by maximum fine of \$250.

Authorizes issuance of citation on basis of photographs for certain tollway-related offenses.

Authorizes Department of Transportation to impound or immobilize vehicle for failure to pay toll under certain circumstances.

Directs department to secure intergovernmental agreement with State of Washington regarding collection of tolls from users of Interstate 5 bridges.

Expands offense of permitting unlawful operation of vehicle.

Directs Oregon Transportation Commission to establish Mobility Council.

Restores reciprocal taxation exemption for certain interstate bridges.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to transportation; creating new provisions; amending ORS 383.035, 383.055 and 811.255 and
3 sections 3 and 19, chapter 4, Oregon Laws 2013, and section 7, chapter 705, Oregon Laws 2013;
4 and declaring an emergency.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** Section 3, chapter 4, Oregon Laws 2013, is amended to read:

7 **Sec. 3.** (1) As used in this section, "Interstate 5 bridge replacement project" means the project
8 described in section 2, **chapter 4, Oregon Laws 2013** *[of this 2013 Act]*.

9 (2) The total cost of the Interstate 5 bridge replacement project may not exceed \$3.413 billion
10 after *[the effective date of this 2013 Act.]* **March 12, 2013. The total cost of the project, excluding**
11 **costs associated with improvements to Interstate 5 and the interchange improvements north**
12 **of the State Route 14 interchange in the State of Washington, may not exceed \$2.9 billion**
13 **after the effective date of this 2014 Act.**

14 (3) For the purpose of financing the Interstate 5 bridge replacement project, the State Treasurer
15 may not have outstanding, at any *[one]* time, **general obligation** bonds in an amount exceeding \$450
16 million of net proceeds, plus an amount determined by the State Treasurer to pay estimated bond-
17 related costs *[of issuance, for the purpose of funding Oregon's share of the aggregated contribution to*

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 *the project from Oregon and the State of Washington as described in the Final Environmental Impact*
 2 *Statement submitted to the United States Government for the project*]. It is the intent of the Legislative
 3 Assembly that moneys from the United States Government or toll revenues be used to directly fund
 4 the project, be used to repay other borrowings for the project or be pledged alone or with other
 5 security to lower the costs of other borrowings for the project.

6 (4) **Except as provided in section 2 of this 2014 Act**, the Department of Transportation may
 7 not request and the State Treasurer may not issue any bond to finance the Interstate 5 bridge re-
 8 placement project unless **all of the following have occurred**:

9 [(a) *No later than September 30, 2013, the State of Washington has appropriated, authorized or*
 10 *committed sufficient funds to:*]

11 [(A) *Satisfy the United States Department of Transportation requirement for a proposed full fund-*
 12 *ing grant agreement application; and*]

13 [(B) *Meet the requirements of the finance section included in the project's Final Environmental*
 14 *Impact Statement published on September 11, 2011, and endorsed by the Federal Transit Adminis-*
 15 *tration and the Federal Highway Administration in the record of decision dated December 7, 2011;*]

16 [(b)] (a) The United States Department of Transportation has submitted a full funding grant
 17 agreement application **for the project**, in an amount of at least \$850 million of Federal Transit
 18 Administration funds, for [*congressional*] review[;] **by the White House Office of Management and**
 19 **Budget.**

20 (b) **The State of Oregon and the State of Washington have entered into one or more**
 21 **intergovernmental agreements to ensure the State of Oregon's delivery of the Interstate 5**
 22 **bridge replacement project and the repayment of all toll-backed borrowings by the State of**
 23 **Oregon, including but not limited to agreements pertaining to:**

24 (A) **Highway and transit improvements included in the project and the acquisition of all**
 25 **highway rights of way located within the State of Washington necessary for the project;**

26 (B) **The allocation of responsibilities between the State of Oregon and the State of**
 27 **Washington for the development, design and construction of the project; and**

28 (C) **The allocation of responsibilities of the State of Oregon and the State of Washington**
 29 **in the operations and maintenance of the project during and after the period in which all**
 30 **borrowings by the State of Oregon are outstanding.**

31 (c) The State Treasurer has [*participated in*] **reviewed** and approved the findings of an invest-
 32 ment grade analysis of toll revenues associated with the project's application for a loan from the
 33 Federal Highway Administration's Transportation Infrastructure Finance and Innovation Act
 34 program[, *and provided for ongoing financial analysis of the project;*].

35 (d) The [*State Treasurer*] **Oregon Transportation Commission** has:

36 (A) Reviewed and approved a **multiyear cost estimate and comprehensive financing plan** for
 37 the project[, *after making*] **that includes** written findings that there are **or are expected to be**
 38 sources of funds committed by contract, [*or*] **by law or otherwise** [*obligated that are reasonably ex-*
 39 *pected to be*] available [*and that will*] **to provide sufficient cash flows to pay the estimated capital**
 40 **costs of the initial phase of the project described in the full funding grant agreement without re-**
 41 **venues from borrowings in addition to those described in subsection (3) of this section; [and]**

42 (B) **Provided a copy of the multiyear cost estimate and comprehensive financing plan**
 43 **described in this paragraph to the State Treasurer; and**

44 (C) **No later than October 1, 2014, approved a management plan for the project that de-**
 45 **scribes how the Department of Transportation will:**

- 1 (i) **Oversee and deliver the project;**
- 2 (ii) **Develop a financial management system;**
- 3 (iii) **Implement decision-making structures and internal department capabilities;**
- 4 (iv) **Provide transparent reporting mechanisms that describe the project's progress; and**
- 5 (v) **Engage third-party oversight by a quality assurance firm.**

6 (e) The United States Coast Guard has issued a general bridge permit for the main channel of
7 the Columbia River for the project.

8 **SECTION 2. (1) As used in this section, "Interstate 5 bridge replacement project" means**
9 **the project described in section 2, chapter 4, Oregon Laws 2013.**

10 (2) **For the biennium beginning July 1, 2013, of the bonds described in section 3 (3),**
11 **chapter 4, Oregon Laws 2013, at request of the Department of Transportation, the State**
12 **Treasurer may issue general obligation bonds in an amount of up to \$125 million in net pro-**
13 **ceeds to pay costs associated with right of way acquisition, plus an amount determined by**
14 **the State Treasurer to pay estimated bond-related costs after:**

15 (a) **The Tri-County Metropolitan Transportation District of Oregon has submitted an ap-**
16 **plication for a full funding grant agreement for the Interstate 5 bridge replacement project,**
17 **in an amount of at least \$850 million, to the Federal Transit Administration of the United**
18 **States Department of Transportation; and**

19 (b) **The conditions described in section 3 (4)(b), (c) and (e), chapter 4, Oregon Laws 2013,**
20 **have been satisfied.**

21 **SECTION 3.** ORS 383.035 is amended to read:

22 383.035. (1) **A person shall pay a toll established under ORS 383.004 once the Department**
23 **of Transportation or the department's agent, vendor or other duly authorized representative**
24 **issues an invoice for the toll.**

25 [(1)] (2) **In addition to any other penalty,** a person who fails to pay [a] **the toll**, *established*
26 *pursuant to ORS 383.004,* shall pay to the department [*of Transportation*] the amount of the toll, a
27 civil penalty of not more than \$25 and an administrative fee established by the tollway operator not
28 to exceed the actual cost of collecting the unpaid toll.

29 [(2)] (3) In addition to any other penalty, the department shall refuse to renew the motor vehicle
30 registration of the motor vehicle owned by a person who has not paid the toll, the civil penalty and
31 any administrative fee charged under this section.

32 [(3)] (4) This section does not apply to:

33 (a) A person operating a vehicle owned by a unit of government or the tollway operator;

34 (b) A person who is a member of a category of persons exempted by the Oregon Transportation
35 Commission from paying a toll; or

36 (c) A person who is a member of a category of persons made eligible by the commission for
37 paying a reduced toll, to the extent of the reduction.

38 [(4)] *Subsection (1) of this section does not apply to a person who fails to pay a toll established*
39 *under section 8, chapter 4, Oregon Laws 2013.]*

40 [(5)(a)] *Upon receiving a request from the State of Washington, or from the State of Washington's*
41 *designee that has contracted with the State of Washington to collect tolls, the department shall provide*
42 *information to identify registered owners of vehicles who fail to pay a toll established under section*
43 *8, chapter 4, Oregon Laws 2013.]*

44 [(b)] *If the State of Washington, or the State of Washington's designee that has contracted with the*
45 *State of Washington to collect tolls, gives notice to the department that a person has not paid a toll*

1 *established under section 8, chapter 4, Oregon Laws 2013, or a civil penalty or administrative fee im-*
2 *posed by reason of failure to pay the toll, the department shall refuse to renew the Oregon motor vehicle*
3 *registration of the motor vehicle operated by the person at the time of the violation.]*

4 *[(c) The department may renew an Oregon motor vehicle registration of a person described in*
5 *paragraph (b) of this subsection upon receipt of a notice from the State of Washington, or from the*
6 *State of Washington's designee, indicating that all tolls, civil penalties and other administrative fees*
7 *owed by the person have been paid.]*

8 **(5) The department shall provide an opportunity for a hearing before imposing a civil**
9 **penalty or administrative fee, refusing to renew a person's motor vehicle registration under**
10 **this section or taking action under section 8 of this 2014 Act. The hearing described in this**
11 **subsection shall be conducted by an administrative law judge assigned by the Office of Ad-**
12 **ministrative Hearings and under rules prescribed by the Oregon Transportation Commission**
13 **under ORS 383.055. The department may authorize the administrative law judge to issue a**
14 **final order in any case.**

15 **SECTION 4. Sections 5 to 8 of this 2014 Act are added to and made a part of ORS 383.003**
16 **to 383.075.**

17 **SECTION 5. The owner of a vehicle may not operate or knowingly permit or require the**
18 **operation of the vehicle on a tollway if the owner of the vehicle owes a toll for use of that**
19 **vehicle on that tollway or owes a civil penalty or administrative fee related to failure to pay**
20 **the toll as described in this section.**

21 **SECTION 6. Violation of section 5 of this 2014 Act is a Class B violation.**

22 **SECTION 7. (1) Notwithstanding any other provision of law, a citation for violation of**
23 **section 5 or 12 of this 2014 Act may be issued on the basis of photographs from a photo**
24 **enforcement system taken without the presence of a peace officer if the following conditions**
25 **are met:**

26 **(a) Signs are posted, so far as is practicable, on all major routes entering the jurisdiction**
27 **indicating that tolls are enforced through cameras.**

28 **(b) The citation is mailed by first-class mail, return receipt requested, to the registered**
29 **owner of the vehicle within 10 business days of the alleged violation.**

30 **(c) The registered owner is given 30 days from the date the citation is mailed to respond**
31 **to the citation.**

32 **(d) A peace officer or a toll enforcement officer, appointed by the Director of Transpor-**
33 **tation under subsection (9) of this section, who has reviewed the photograph signs the cita-**
34 **tion. The citation may be prepared on a digital medium, and the signature may be electronic**
35 **in accordance with the provisions of ORS 84.001 to 84.061.**

36 **(2) If the person named as the registered owner of a vehicle in the current records of the**
37 **Department of Transportation or the motor vehicle registration and licensing authority of**
38 **another jurisdiction fails to respond to a citation issued under subsection (1) of this section,**
39 **a default judgment under ORS 153.102 may be entered for failure to appear after notice has**
40 **been given that the judgment will be entered.**

41 **(3) In the case of joint ownership of a vehicle, the officer shall mail the traffic citation**
42 **to the first name appearing on the vehicle registration, unless the first name appearing on**
43 **the registration is a business organization, in which case the second name appearing on the**
44 **vehicle registration may be used.**

45 **(4) A rebuttable presumption exists that the registered owner of the vehicle was the**

1 driver of the vehicle when the citation was issued and delivered as provided in this section.

2 (5) A person issued a citation under subsection (1) of this section may respond to the
3 citation by submitting a certificate of nonliability under subsection (6) of this section or any
4 other response allowed by law.

5 (6)(a) A registered owner of a vehicle may respond by mail to a citation issued under
6 subsection (1) of this section by submitting, within 30 days from the mailing of the citation,
7 a certificate of nonliability swearing or affirming that the owner was not the driver of the
8 vehicle and by providing a photocopy of the owner's driver license. The certification of non-
9 liability must identify the alleged driver of the vehicle. A court that receives a certificate of
10 nonliability under this paragraph shall dismiss the citation without requiring a court ap-
11 pearance by the registered owner or any other information from the registered owner other
12 than the swearing or affirmation and the photocopy. The citation may be reissued only once,
13 only to the registered owner and only if the court verifies that the registered owner appears
14 to have been the driver at the time of the violation. A registered owner may not submit a
15 certificate of nonliability in response to a reissued citation.

16 (b) If a business or public agency responds to a citation issued under subsection (1) of
17 this section by submitting, within 30 days from the mailing of the citation, a certificate of
18 nonliability stating that at the time of the alleged violation the vehicle was in the custody
19 and control of an employee or was in the custody and control of a renter or lessee under the
20 terms of a motor vehicle rental agreement or lease, and if the business or public agency
21 provides the driver license number, name and address of the employee, renter or lessee, the
22 citation shall be dismissed with respect to the business or public agency. The citation may
23 then be reissued and delivered by mail or otherwise to the employee, renter or lessee iden-
24 tified in the certificate of nonliability.

25 (7) The penalties for and all consequences of a violation of section 5 or 12 of this 2014
26 Act initiated by the use of a photo enforcement system are the same as for a violation ini-
27 tiated by any other means.

28 (8) A registered owner or an employee, renter or lessee against whom a judgment for
29 failure to appear is entered may move the court to relieve the owner or the employee, renter
30 or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to
31 mistake, inadvertence, surprise or excusable neglect.

32 (9) In the enforcement of sections 5 and 12 of this 2014 Act, the director may appoint toll
33 enforcement officers. The officers are authorized to issue and serve uniform traffic citations,
34 as provided in ORS chapter 153, for the purpose of enforcing the provisions of sections 5 and
35 12 of this 2014 Act. The director shall by rule establish any training or certification require-
36 ments the director deems desirable.

37 (10) Nothing in this section shall prohibit a peace officer from issuing a citation for a
38 violation of section 5 or 12 of this 2014 Act. A citation issued under this section by a toll
39 enforcement officer shall have the same force and effect as a citation issued by a peace of-
40 ficer for the same offense.

41 (11) For the purposes of this section, "peace officer" has the meaning given that term in
42 ORS 133.005.

43 **SECTION 8.** (1) If a final order is issued after a hearing described in ORS 383.035 (5), the
44 Department of Transportation may, upon written notice to the registered owner, immobilize
45 or impound a motor vehicle that is registered to the person who is subject to the final order.

1 (2) The department shall release the vehicle to its owner after the owner pays all moneys
2 owed to the department under ORS 383.035 and subsection (3) of this section.

3 (3) In addition to tolls, civil penalties and administrative fees, the registered owner of the
4 vehicle is liable for the department's reasonable expenses related to immobilizing, towing,
5 impounding and storing the vehicle.

6 (4) The department shall by rule specify the procedures for notice, immobilization, tow-
7 ing, impoundment, storage, release and disposition of vehicles subject to this section.

8 (5) The department may enter into any combination of contracts or agreements with
9 towing businesses, public bodies or other vendors for the immobilization, towing,
10 impoundment, storage, release and disposition of motor vehicles under this section.

11 **SECTION 9.** The Department of Transportation shall seek to secure an intergovern-
12 mental agreement with the State of Washington under which the State of Washington would
13 assist the State of Oregon in the collection of tolls from users of the existing Interstate 5
14 bridge and the new, replacement highway spans, both prior to and upon completion of the
15 construction of the Interstate 5 bridge replacement project described in section 2, chapter
16 4, Oregon Laws 2013. The agreement must provide for the following:

17 (1) The mutual enforcement of toll violations;

18 (2) The exchange of information necessary to facilitate the detection and identification
19 of motor vehicles and drivers in violation of each state's tolling laws and rules; and

20 (3) A plan for monitoring the effectiveness of the enforcement methods used and ensur-
21 ing compliance with the terms of the agreement.

22 **SECTION 10.** Section 7, chapter 705, Oregon Laws 2013, is amended to read:

23 **Sec. 7.** (1) Except as provided in section 2 of this 2014 Act, the Department of Transportation
24 may not request and the State Treasurer may not issue any bonds for the Interstate 5 bridge re-
25 placement project until the conditions set forth in section 3 (4), chapter 4, Oregon Laws 2013, have
26 been satisfied.

27 (2) In lieu of the general obligation bonds authorized for the Department of Transportation un-
28 der section 1 (7), **chapter 705, Oregon Laws 2013** [*of this 2013 Act*], the State Treasurer may issue
29 up to \$453,725,000 of revenue bonds as provided in chapter 4, Oregon Laws 2013. The amount of
30 bonds authorized under section 1 (7), **chapter 705, Oregon Laws 2013**, [*of this 2013 Act*] for the
31 Department of Transportation shall be reduced, and the amount of bonds authorized under section
32 2, **chapter 705, Oregon Laws 2013**, [*of this 2013 Act*] for the Department of Transportation shall
33 be increased, by the amount of any revenue bonds issued in lieu of the general obligation bonds
34 authorized under section 1 (7), **chapter 705, Oregon Laws 2013** [*of this 2013 Act*].

35 **SECTION 11.** Section 12 of this 2014 Act is added to and made a part of ORS chapter 811.

36 **SECTION 12.** (1) A person commits the offense of failure to pay a toll if:

37 (a) The person is the owner of a motor vehicle and the vehicle is operated on a tollway
38 without a toll being paid for the vehicle; or

39 (b) A person is liable for a toll, civil penalty or administrative fee under ORS 383.035 and
40 the person fails to pay the toll, civil penalty or administrative fee.

41 (2) Subsection (1) of this section does not apply to:

42 (a) A person described in ORS 383.035 (4);

43 (b) An owner whose vehicle is operated on a tollway without the owner's permission to
44 operate the vehicle;

45 (c) An owner who responds to a citation as provided in section 7 (6)(a) of this 2014 Act;

1 or

2 (d) A business or public agency that responds to a citation as provided in section 7 (6)(b)
3 of this 2014 Act.

4 (3) The offense described in this section, failure to pay a toll, is a Class D traffic vio-
5 lation.

6 (4) As used in this section, “tollway” has the meaning given that term in ORS 383.003.

7 **SECTION 13.** ORS 811.255 is amended to read:

8 811.255. (1) A person who is an owner, lessor or lessee of a motor vehicle or who employs or
9 otherwise directs the driver of a motor vehicle, commits the offense of permitting the unlawful op-
10 eration of a vehicle if the person knowingly permits or requires the operation of the vehicle in vi-
11 olation of any of the following:

12 (a) The rules of the road.

13 (b) The laws governing equipment of motor vehicles.

14 (c) The laws governing weight of motor vehicles.

15 (d) The laws governing operator driving privileges.

16 (e) The laws governing registration or titling of vehicles.

17 (f) The laws governing payment of a toll for use of a tollway, as defined in ORS 383.003.

18 (2) The offense described in this section, permitting unlawful operation of a vehicle, is a Class
19 B traffic violation.

20 **SECTION 14.** ORS 383.055 is amended to read:

21 383.055. The Oregon Transportation Commission shall establish a process by rule for the as-
22 sessment of unpaid tolls, **the conduct of hearings under ORS 383.035 (5)** and the collection of civil
23 penalties and administrative fees under ORS 383.035.

24 **SECTION 15.** Section 19, chapter 4, Oregon Laws 2013, is amended to read:

25 **Sec. 19.** (1) As used in this section, “Interstate 5 bridge replacement project” means the project
26 described in section 2, **chapter 4, Oregon Laws 2013** [*of this 2013 Act*].

27 (2) The Oregon Transportation Commission shall conduct studies and develop recommendations
28 on each of the following:

29 (a) Establishing a fund that may be used to address any air quality or other public health con-
30 cerns that may impact the communities along the Interstate 5 corridor from the Fremont Bridge to
31 the Columbia River.

32 [*(b) Determining locations in this state to station construction materials for the Interstate 5 bridge*
33 *replacement project.*]

34 (b) **Identifying and assessing the suitability of locations in this state, including the Port**
35 **of Morrow and the Port of St. Helens, that would be appropriate for stationing construction**
36 **materials for the Interstate 5 bridge replacement project.**

37 (c) Developing strategies for managing the potential diversion impacts on Interstate 205 as a
38 result of the Interstate 5 bridge replacement project.

39 (3) The commission shall present the studies and recommendations to the appropriate interim
40 committees of the Legislative Assembly related to transportation no later than [*September 15, 2014*]
41 **January 1, 2015.**

42 **SECTION 16.** (1) **The Oregon Transportation Commission shall establish an advisory**
43 **committee, known as the Mobility Council, to provide input to the Oregon Transportation**
44 **Commission, transit agencies and the Joint Policy Advisory Committee on Transportation,**
45 **as described in ORS 391.120 (3)(c), on active management of mobility for all modes of trans-**

1 portation using the Interstate 5 and Interstate 205 bridges, including management of poten-
2 tial traffic diversion on Interstate 205.

3 (2) The commission shall periodically consult with the Mobility Council before, during and
4 after the construction of the Interstate 5 bridge replacement project.

5 (3) The commission shall appoint members of the Mobility Council and the members shall
6 serve at the pleasure of the commission. The commission shall appoint members to the Mo-
7 bility Council who represent the interests of Interstate 5 and Interstate 205 users and busi-
8 nesses and members who represent those impacted by the diversion of traffic to Interstate
9 205 as a result of the Interstate 5 bridge replacement project.

10 (4) The members of the Mobility Council shall serve without compensation or re-
11 imbursement of expenses for services performed.

12 (5) As used in this section, "Interstate 5 bridge replacement project" means the project
13 described in section 2, chapter 4, Oregon Laws 2013.

14 SECTION 17. Every bridge that passes over a river or body of water forming a boundary
15 between this state and another state, and that has been constructed or acquired and is being
16 operated by the other state or by any county, city or other municipality of the other state,
17 shall, together with its approaches, be exempt from all property and other taxes in this state,
18 if the other state exempts from all taxation every such interstate bridge, together with its
19 approaches, constructed or acquired and operated by this state or by any county, city or
20 other municipality of this state.

21 SECTION 18. Section 17 of this 2014 Act is operative retroactively to January 1, 2008, and
22 the operation and effect of section 17 of this 2014 Act shall continue unaffected from January
23 1, 2008, to the effective date of this 2014 Act and thereafter. Any otherwise lawful action
24 taken or otherwise lawful obligation incurred under authority of section 17 of this 2014 Act
25 after January 1, 2008, and before the effective date of this 2014 Act is ratified and approved.

26 SECTION 19. This 2014 Act being necessary for the immediate preservation of the public
27 peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect
28 on its passage.