

B-Engrossed
House Bill 2750

Ordered by the House May 12
Including House Amendments dated April 14 and May 12

Sponsored by Representative JOHNSON, Senator THOMSEN

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.

Modifies laws related to interstate bridges operated by local governments.

Permits Port of Hood River to establish, alter or collect toll on bridges that Port of Hood River has authority to operate and maintain.

Permits Port of Hood River to sell or transfer ownership of bridge or approach to bridge that is owned by port as part of tollway project.

A BILL FOR AN ACT

1
2 Relating to bridges; creating new provisions; and amending ORS 381.205, 381.265, 381.824, 383.003,
3 383.004 and 383.035.

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

5 **SECTION 1.** ORS 381.205 is amended to read:

6 381.205. (1) Each county, city, town or port of this state adjoining or bordering on any interstate
7 river or stream of water may:

8 (a) Construct, reconstruct, purchase, rent, lease or otherwise acquire, **design**, improve, operate
9 and maintain bridges over any interstate river or stream of water to any adjoining state.

10 (b) **Subject to other provisions of law, acquire property and use revenues to connect**
11 **bridges to roads, approaches and other transportation facilities within or outside of its**
12 **boundaries.**

13 (2) **The Port of Hood River may sell or otherwise transfer ownership of any bridge or its**
14 **approaches owned by the port as part of a tollway project, as defined in ORS 383.003.**

15 **SECTION 2.** ORS 383.004 is amended to read:

16 383.004. (1) Except as provided in subsection (2) of this section, a toll may not be established
17 unless the Oregon Transportation Commission has reviewed and approved the toll. The commission
18 shall adopt rules specifying the process under which proposals to establish tolls will be reviewed.
19 When reviewing a proposal to establish tolls, the commission shall take into consideration:

20 (a) The amount and classification of the traffic using, or anticipated to use, the tollway;

21 (b) The amount of the toll proposed to be established for each class or category of tollway user
22 and, if applicable, the different amounts of the toll depending on time and day of use;

23 (c) The extent of the tollway, including improvements necessary for tollway operation and im-
24 provements necessary to support the flow of traffic onto or off of the tollway;

25 (d) The location of toll plazas or toll collection devices to collect the toll for the tollway;

26 (e) The cost of constructing, reconstructing, improving, installing, maintaining, repairing and

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 operating the tollway;

2 (f) The amount of indebtedness incurred for the construction of the tollway and debt service
3 requirements, if any;

4 (g) The value of assets, equipment and services required for the operation of the tollway;

5 (h) The period of time during which the toll will be in effect;

6 (i) The process for altering the amount of the toll during the period of operation of the tollway;

7 (j) The method of collecting the toll; and

8 (k) The rate of return that would be fair and reasonable for a private equity holder, if any, in
9 the tollway.

10 (2)(a) Nothing in ORS 383.003 to 383.075 prohibits a city or county from establishing a toll on
11 any highway, as defined in ORS 801.305, that the city or county has jurisdiction over as a road au-
12 thority pursuant to ORS 810.010.

13 (b) Nothing in ORS 383.003 to 383.075 prohibits Multnomah County from establishing a toll on
14 the bridges across the Willamette River that are within the boundaries of the City of Portland and
15 that are operated and maintained by Multnomah County as required under ORS 382.305 and 382.310.

16 (c) **Nothing in ORS 383.003 to 383.075 prohibits the Port of Hood River from establishing,**
17 **altering or collecting tolls or civil penalties or imposing administrative fees for the use of**
18 **the bridges across the Columbia River that are operated and maintained by the port as au-**
19 **thorized under ORS 381.205 to 381.305. Any private entity or unit of government that owns**
20 **or operates a tollway pursuant to an agreement with the port may impose and collect tolls,**
21 **civil penalties and administrative fees on the tollway project.**

22 **SECTION 3.** ORS 381.824 is amended to read:

23 381.824. Every bridge that passes over a river or body of water forming a boundary between this
24 state and another state, and that has been constructed or acquired and is being operated by the
25 other state or by any county, city, **port** or other municipality of the other state, shall, together with
26 its approaches, be exempt from all property and other taxes in this state, if the other state exempts
27 from all taxation every such interstate bridge, together with its approaches, constructed or acquired
28 and operated by this state or by any county, city, **port** or other municipality of this state.

29 **SECTION 4.** ORS 381.265 is amended to read:

30 381.265. (1) Preparation of the specifications and designs of any bridge constructed under ORS
31 381.205 to 381.305 may give consideration to and include provisions for facilities and accommo-
32 dations for traffic by rail as well as for traffic by motor vehicle, team, **bicycle**, pedestrian or other
33 regular highway traffic.

34 (2) If provision is made for rail traffic, then the agencies under whose jurisdiction and control
35 the bridge has been constructed may contract with any railroad companies for the use of the part
36 of the bridge constructed to accommodate traffic by rail. The contract may be upon such terms and
37 conditions as the interested parties may agree.

38 **SECTION 5.** **Section 6 of this 2017 Act is added to and made a part of ORS 381.205 to**
39 **381.305.**

40 **SECTION 6.** **Notwithstanding ORS 381.260, 381.265, 381.270, 381.275 and 381.280, a tollway**
41 **project, as defined in ORS 383.003, undertaken by the Port of Hood River under ORS 381.205,**
42 **is subject to the public contracting requirements described in section 8 of this 2017 Act.**

43 **SECTION 7.** **Section 8 of this 2017 Act is added to and made a part of ORS 383.003 to**
44 **383.075.**

45 **SECTION 8.** (1) **The Port of Hood River may award any contract, franchise, license or**

1 agreement related to a tollway project, located fully or partially within its district, under a
2 competitive process or by private negotiation with one or more entities, or by any combina-
3 tion of competition and negotiation without regard to any other laws concerning the pro-
4 curement of goods or services or making public improvements for projects of the port.

5 (2) When using a competitive process for the award of a contract to construct a tollway
6 project, the port shall consider the following factors in addition to the proposer's estimate
7 of cost:

8 (a) The quality of the design, if applicable, submitted by a proposer. In considering the
9 quality of the design of a tollway project, the port shall take into consideration:

10 (A) The structural integrity of the design, including the probable effect of the design on
11 the future costs of maintenance of the tollway;

12 (B) The aesthetic qualities of the design, including such factors as the width of lane
13 separators, landscaping and sound walls;

14 (C) The traffic capacity of the design;

15 (D) The aspects of the design that affect safety, such as the lane width, the quality of
16 lane markers and separators, the shape and positioning of ramps and curves and the changes
17 in elevation; and

18 (E) The ease with which traffic will be able to pass through the toll collection facilities.

19 (b) The extent to which small businesses will be involved in the tollway project. The port
20 shall encourage participation by small businesses to the maximum extent the port deter-
21 mines is practicable. As used in this paragraph, "small business" means an independent
22 business with fewer than 20 employees and with average annual gross receipts over the last
23 three years not exceeding \$1 million for construction firms and \$300,000 for nonconstruction
24 firms. "Small business" does not include a subsidiary or parent company belonging to a group
25 of firms that are owned and controlled by the same individuals and that have average ag-
26 gregate annual gross receipts in excess of \$1 million for construction firms or \$300,000 for
27 nonconstruction firms over the last three years.

28 (c) The financial stability of the proposer and the ability of the proposer to provide
29 funding for the tollway project and surety for its performance and financial obligations with
30 respect to the tollway project.

31 (d) The experience of the proposer and its subcontractors in building and operating
32 projects such as the tollway project.

33 (e) The terms of the financial arrangement proposed or accepted by the proposer with
34 respect to franchise fees, license fees, lease payments or operating expenses and the
35 proposer's required rate of return from its operation or maintenance of the tollway.

36 (3) Notwithstanding any other provision of this section, the port may use any method for
37 the award of any contract, franchise, license or agreement that is necessary to comply with
38 the requirements of any grant or other funding source.

39 (4) If public funds are involved in the project, construction of a tollway project shall be
40 subject to the prevailing wage requirements of ORS 279C.800 to 279C.870.

41 (5) For purposes of complying with applicable state and local land use laws, including
42 statewide planning goals, comprehensive plans, land use regulations, ORS chapters 195, 196,
43 197, 198, 199, 215, 221, 222 and 227, and any requirement imposed by the Land Conservation
44 and Development Commission, a tollway project shall be treated as a project of the port and
45 not as a project of any other person or entity.

1 (6) Tollways, and any related facilities that would normally be purchased, constructed or
2 installed by the port if the tollway were a conventional highway that was constructed and
3 operated by the port, shall be exempt from ad valorem property taxation.

4 (7) Tollways are considered state highways for purposes of law enforcement and applica-
5 tion of the Oregon Vehicle Code.

6 (8) The provisions of ORS 279.835 to 279.855 and ORS chapters 279A, 279B and 279C do not
7 apply to tollway projects undertaken pursuant to this section, or to agreements entered into
8 under this section, except that if public moneys are used to pay any costs of construction
9 of public works that is part of a project, the provisions of ORS 279C.800 to 279C.870 apply to
10 the public works. In addition, if public moneys are used to pay any costs of construction of
11 public works that is part of a project, the construction contract for the public works must
12 contain provisions that require the payment of workers under the contract in accordance
13 with ORS 279C.540 and 279C.800 to 279C.870.

14 (9) Sensitive business, commercial or financial information presented to the Port of Hood
15 River by a private entity for the purpose of determining the feasibility of the entity's par-
16 ticipation in a tollway project is exempt from disclosure under ORS 192.410 to 192.505. The
17 terms of a final agreement for a tollway project and the terms of a proposed agreement for
18 a tollway project presented to the port for review and approval are subject to disclosure
19 under ORS 192.410 to 192.505.

20 (10) The provisions of ORS 383.004 (1), 383.005, 383.013, 383.015, 383.017 and 383.055 do not
21 apply to a tollway project undertaken by the Port of Hood River.

22 **SECTION 9.** ORS 383.003 is amended to read:

23 383.003. As used in ORS 383.003 to 383.075:

24 (1) "Department" means the Department of Transportation.

25 (2) "Electronic toll collection system" means a system that records use of a tollway by elec-
26 tronic transmissions to or from the vehicle using the tollway and that collects tolls, or that is ca-
27 pable of charging an account established by a person for use of the tollway.

28 (3) "Photo enforcement system" means a system of sensors installed to work in conjunction with
29 an electronic toll collection system and other traffic control devices and that automatically produces
30 videotape or one or more photographs, microphotographs or other recorded images of a vehicle in
31 connection with the collection or enforcement of tolls.

32 (4) "Private entity" means any nongovernmental entity, including a corporation, partnership,
33 company or other legal entity, or any natural person.

34 (5) "Related facility" means any real or personal property that:

35 (a) Will be used to operate, maintain, renovate or facilitate the use of the tollway;

36 (b) Will provide goods or services to the users of the tollway; or

37 (c) Can be developed efficiently when tollways are developed and will generate revenue that
38 may be used to reduce tolls or will be deposited in the State Tollway Account **or another account**
39 **established by a unit of government.**

40 (6) "Toll" means any fee or charge for the use of a tollway.

41 (7) "Toll booth collections" means the manual or mechanical collection of cash or charging of
42 an account at a toll plaza, toll booth or similar fixed toll collection facility.

43 (8) "Tollway" means any roadway, path, highway, bridge, tunnel, railroad track, bicycle path or
44 other paved surface or structure specifically designed as a land vehicle transportation route, the
45 construction, operation or maintenance of which is wholly or partially funded with toll revenues

1 resulting from an agreement under ORS 383.005 **or section 8 of this 2017 Act.**

2 (9) "Tollway operator" means the unit of government or the private entity that is responsible
3 for the construction, reconstruction, installation, improvement, financing, maintenance, repair and
4 operation of a tollway or a related facility.

5 (10) "Tollway project" means any capital project involving the acquisition of land for, or the
6 construction, reconstruction, improvement, installation, development or equipping of, a tollway, re-
7 lated facilities or any portion thereof.

8 (11) "Unit of government" means any department or agency of the federal government, any state,
9 any department or agency of a state, any bistate entity created by agreement under ORS 190.420
10 or other law for the purposes of the Interstate 5 bridge replacement project, and any city, county,
11 district, port or other public corporation organized and existing under statutory law or under a
12 voter-approved charter.

13 **SECTION 10.** ORS 383.035 is amended to read:

14 383.035. (1) A person who fails to pay a toll, established pursuant to ORS 383.004, shall pay to
15 the Department of Transportation the amount of the toll, a civil penalty of not more than \$25 and
16 an administrative fee established by the tollway operator not to exceed the actual cost of collecting
17 the unpaid toll.

18 (2) In addition to any other penalty, **upon written request of a tollway operator other than**
19 **the department or if the tollway operator is the department,** the department shall refuse to
20 renew the motor vehicle registration of the motor vehicle owned by a person who has not paid the
21 toll, the civil penalty and any administrative fee charged under this section. **The department shall**
22 **adopt rules establishing a process by which a tollway operator may request the department**
23 **take action under this subsection.**

24 (3) This section does not apply to:

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

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

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

30 (4) Subsection (1) of this section does not apply to a person who fails to pay a toll established
31 under section 8, chapter 4, Oregon Laws 2013.

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

36 (b) If the State of Washington, or the State of Washington's designee that has contracted with
37 the State of Washington to collect tolls, gives notice to the department that a person has not paid
38 a toll established under section 8, chapter 4, Oregon Laws 2013, or a civil penalty or administrative
39 fee imposed by reason of failure to pay the toll, the department shall refuse to renew the Oregon
40 motor vehicle registration of the motor vehicle operated by the person at the time of the violation.

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

45 **SECTION 11. Notwithstanding ORS 315.037, section 8 of this 2017 Act and the amend-**

1 **ments to ORS 381.824 by section 3 of this 2017 Act apply to tax years beginning on or after**
2 **January 1, 2018.**

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