

Requested by Representative HOLVEY

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2750**

1 On page 1 of the printed A-engrossed bill, delete lines 5 through 13 and
2 insert:

3 **“SECTION 1. ORS 381.205 is amended to read:**

4 **“381.205. (1) Each county, city, town or port of this state adjoining or**
5 **bordering on any interstate river or stream of water may construct, recon-**
6 **struct, purchase, rent, lease or otherwise **design,** acquire, improve, operate**
7 **and maintain bridges over any interstate river or stream of water to any**
8 **adjoining state.**

9 **“(2)(a) If a county, city, town or port intends to enter into a**
10 **public-private partnership to undertake a project described in sub-**
11 **section (1) of this section or to acquire property or use revenues to**
12 **connect a bridge to a road, approach or other transportation facility**
13 **within or outside the boundaries of the county, city, town or port, the**
14 **county, city, town or port shall first contract with a private consultant**
15 **to evaluate the feasibility and financial viability of the project as a**
16 **public-private partnership and submit to the Oregon Transportation**
17 **Commission for review and approval a report from the consultant**
18 **that, at a minimum:**

19 **“(A) Describes the project and any transportation corridors to**
20 **which the project will connect;**

21 **“(B) Identifies and assesses the feasibility of funding options for the**

1 **project, including funding options that rely on charging tolls;**

2 **“(C) Includes a traffic study that is sufficient to allow a private**
3 **contractor or private investor to evaluate the project for financial vi-**
4 **ability and adequate investment return;**

5 **“(D) Includes a technical assessment of project options that con-**
6 **siders characteristics of any identified building site, potential design**
7 **options, potential traffic benefits and impacts and potential environ-**
8 **mental impacts;**

9 **“(E) Assesses the financial viability of the project over the expected**
10 **duration of the public-private partnership or, alternatively, over the**
11 **expected service life of the project, under the range of funding options**
12 **identified in accordance with subparagraph (B) of this paragraph;**

13 **“(F) Evaluates the need for public communication and education**
14 **with respect to, and the likely degree of public acceptance of, the**
15 **project;**

16 **“(G) Includes a preliminary implementation plan with these ele-**
17 **ments:**

18 **“(i) A projected allocation of risk among the participants in the**
19 **project;**

20 **“(ii) The projected organizational structure of the public-private**
21 **partnership;**

22 **“(iii) The anticipated contracting and delivery method for the**
23 **project, such as a design-build, construction manager/general con-**
24 **tractor or other contracting and delivery method;**

25 **“(iv) An anticipated funding source or a method for procuring nec-**
26 **essary funding and an identification of anticipated sources for repay-**
27 **ing any borrowed moneys;**

28 **“(v) An identification of key issues for implementing the project;**
29 **and**

30 **“(vi) The anticipated term and scope of any tolling or concession**

1 agreements; and

2 “(H) Includes a preliminary financing plan with these elements:

3 “(i) The projected year-by-year revenue from tolls and concessions
4 over the duration of the public-private partnership and over the an-
5 ticipated service life of the project;

6 “(ii) An alternative funding source that accounts for potential
7 shortfalls in revenue from tolls or concessions;

8 “(iii) The anticipated financing structure and primary financial as-
9 sumptions for the project; and

10 “(iv) A plan to secure any debt financing or alternative financing
11 necessary for the project.

12 “(b) In addition to submitting a report under paragraph (a) of this
13 subsection, the county, city, town or port shall include in any agree-
14 ment that implements the public-private partnership material and le-
15 gally enforceable provisions that ensure accountability to the public,
16 and among all parties to the agreement, with respect to governance,
17 operations, maintenance, revenue, public access, protection of public
18 investments, transparency and similar or related concerns in con-
19 nection with the project. The commission by rule may specify ac-
20 countability standards and additional related requirements for the
21 agreement.

22 “(c) The commission must approve the report described in para-
23 graph (a) of this subsection and the agreement provisions described in
24 paragraph (b) of this subsection before a county, city, town or port
25 may enter into a public-private agreement, or receive any state mon-
26 eys, for a project described in subsection (1) of this section.

27 “(3) The Port of Hood River may sell or otherwise transfer owner-
28 ship of any bridge or any approaches the port owns that constitute all
29 or part of a tollway project, as defined in ORS 383.003.”.

30 On page 2, delete lines 42 through 45.

1 Delete page 3.

2 On page 4, delete lines 1 through 18 and insert:

3 **“SECTION 8. (1) When using a competitive process to award a**
4 **contract to construct a tollway project, the Port of Hood River shall**
5 **consider the following factors in addition to the proposer’s estimate**
6 **of cost:**

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

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

12 **“(B) The aesthetic qualities of the design, including such factors**
13 **as the width of lane 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**
16 **width, the quality of lane markers and separators, the shape and po-**
17 **sitioning of ramps and curves and the changes in elevation; and**

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

20 **“(b) The extent to which small businesses will be involved in the**
21 **tollway project. The port shall encourage participation by small busi-**
22 **nesses to the maximum extent the port determines is practicable. As**
23 **used in this paragraph, ‘small business’ means an independent busi-**
24 **ness with fewer than 20 employees and with average annual gross re-**
25 **ceipts over the last three years not exceeding \$1 million for**
26 **construction firms and \$300,000 for nonconstruction firms. ‘Small**
27 **business’ does not include a subsidiary or parent company belonging**
28 **to a group of firms that are owned and controlled by the same indi-**
29 **viduals and that have average aggregate annual gross receipts in ex-**
30 **cess of \$1 million for construction firms or \$300,000 for**

1 nonconstruction firms over the last three years.

2 “(c) The financial stability of the proposer and the ability of the
3 proposer to provide funding for the tollway project and surety for the
4 proposer’s performance and financial obligations with respect to the
5 tollway project.

6 “(d) The experience of the proposer and the proposer’s subcontrac-
7 tors in building and operating projects such as the tollway project.

8 “(e) The terms of the financial arrangement proposed or accepted
9 by the proposer with respect to franchise fees, license fees, lease pay-
10 ments or operating expenses and the proposer’s required rate of return
11 from operating and maintaining the tollway.

12 “(2) If public funds are involved in the project, construction of a
13 tollway project is subject to the prevailing wage requirements of ORS
14 279C.800 to 279C.870.

15 “(3) For purposes of complying with applicable state and local land
16 use laws, including statewide planning goals, comprehensive plans,
17 land use regulations, ORS chapters 195, 196, 197, 198, 199, 215, 221, 222
18 and 227, and any requirement imposed by the Land Conservation and
19 Development Commission, a tollway project is a project of the port and
20 is not a project of any other person or entity.

21 “(4) Tollways, and any related facilities that would normally be
22 purchased, constructed or installed by the port if the tollway were a
23 conventional highway that was constructed and operated by the port,
24 are exempt from ad valorem property taxation.

25 “(5) Tollways are state highways for purposes of law enforcement
26 and application of the Oregon Vehicle Code.

27 “(6) Sensitive business, commercial or financial information pre-
28 sented to the Port of Hood River by a private entity for the purpose
29 of determining the feasibility of the entity’s participation in a tollway
30 project is exempt from disclosure under ORS 192.410 to 192.505. The

1 **terms of a final agreement for a tollway project and the terms of a**
2 **proposed agreement for a tollway project presented to the port for re-**
3 **view and approval are subject to disclosure under ORS 192.410 to**
4 **192.505.**

5 **“(7) The provisions of ORS 383.004 (1), 383.005, 383.013, 383.015, 383.017**
6 **and 383.055 do not apply to a tollway project undertaken by the Port**
7 **of Hood River.”.**

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