

HB 4089-1
(LC 247)
1/27/22 (HE/vsr/ps)

Requested by JOINT COMMITTEE ON TRANSPORTATION (at the request of Hood River-White Salmon Replacement Bridge Project Bi-State Working Group)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4089**

1 In line 2 of the printed bill, after “bridges” insert “creating new pro-
2 visions; amending ORS 383.004 and 383.035; and prescribing an effective
3 date”.

4 Delete lines 4 through 9 and insert:

5 **“SECTION 1. Findings. The Legislative Assembly finds and declares**
6 **that:**

7 **“(1) Interstate toll bridges owned by local governments provide**
8 **critical links for the transport of workers, services, tourism and**
9 **emergency response between the State of Oregon and the State of**
10 **Washington, and for Oregon businesses to transport local agricultural**
11 **products, forest products, rock, gravel and manufactured products**
12 **within the region and to national markets.**

13 **“(2) Existing interstate toll bridges owned by local governments are**
14 **becoming functionally obsolete, weight-restricted, seismically deficient**
15 **and hazardous for marine freight, and need to be replaced.**

16 **“(3) Replacement of aging interstate toll bridges by local govern-**
17 **ments is extremely challenging, and the local governments that own**
18 **or are served by the bridges require additional means to address the**
19 **problem. For some bistate regions, the successful replacement and**
20 **subsequent operation of interstate toll bridges is best accomplished by**
21 **an independent bistate governmental authority, chartered by local**

1 governments, with sufficient powers to efficiently and equitably de-
2 velop, operate, maintain, toll and finance a replacement bridge.

3 **“SECTION 2. Definitions.** As used in sections 2 to 15 of this 2022
4 Act, unless the context requires otherwise:

5 **“(1) ‘Board’ means the board of directors of a commission.**

6 **“(2) ‘Bridge’ means an interstate toll bridge, including any ap-
7 proaches, that replaces an existing bridge crossing the Columbia River
8 between the State of Oregon and the State of Washington.**

9 **“(3) ‘Bridge finance plan’ means a plan adopted by a board to fi-
10 nance the design, construction, operation, maintenance, adminis-
11 tration and governance of a bridge replacement project.**

12 **“(4) ‘Bridge replacement project’ means a project undertaken by a
13 commission to replace an existing bridge, including but not limited to
14 any approaches, buildings, structures, facilities, equipment, improve-
15 ments, tolling systems and software and appurtenances necessary or
16 incidental to the new bridge.**

17 **“(5) ‘Commission’ means a public corporation formed under section
18 3 of this 2022 Act with the powers described in section 5 of this 2022
19 Act.**

20 **“(6) ‘Commission formation agreement’ means a bistate agreement
21 among local governments to form a commission.**

22 **“(7) ‘Construction’ or ‘construct’ means activities, materials and
23 services necessary or incidental to the design and construction of a
24 bridge replacement project, including but not limited to engineering,
25 permitting, property acquisition, procurement, installation of equip-
26 ment, site work, utility relocation, inspection, start-up, landscaping,
27 hard construction, environmental mitigation, demolition and removal
28 of an existing bridge and associated accounting, legal, administrative,
29 project management and governance activities.**

30 **“(8) ‘Debt instrument’ means a contractual undertaking, financing**

1 agreement or other instrument entered into or issued by a commission
2 to evidence an obligation to repay or guaranty repayment of borrowed
3 moneys, including but not limited to bonds, refunding bonds, notes,
4 loans, interim financing, anticipation notes, certificates, credit en-
5 hancement devices or other debt obligations.

6 “(9) ‘Departments of transportation’ means the Oregon Department
7 of Transportation and the Washington State Department of Trans-
8 portation.

9 “(10) ‘Director’ means a duly appointed member of the board or,
10 when acting in the absence of a director, a duly appointed alternate
11 member of the board.

12 “(11) ‘Existing bridge’ means an existing interstate toll bridge
13 crossing the Columbia River between the State of Oregon and the
14 State of Washington.

15 “(12) ‘Local government’ has the meaning given that term in ORS
16 174.116 and includes local governments in the State of Washington.

17 “(13) ‘Operate,’ ‘operation’ or ‘operations’ means the activities
18 necessary or incidental to the operation, tolling, maintenance, repair,
19 rehabilitation, renewal or replacement of a bridge, and the associated
20 financial, legal, administrative, management and governance activ-
21 ities.

22 “(14) ‘Other charges’ means administrative and other fees, civil
23 penalties and other amounts established by the commission for use of
24 a bridge.

25 “(15) ‘Primary place of business’ means the state and county within
26 which the principal headquarters office of a commission is established
27 in a commission formation agreement, notwithstanding a subsequent
28 relocation of the principal headquarters office of the commission.

29 “(16) ‘Public corporation’ means a corporation created under sec-
30 tion 3 of this 2022 Act to perform essential governmental functions for

1 the public purposes described in section 3 of this 2022 Act that, when
2 issuing bonds or other debt instruments, acts on behalf of the local
3 governments as a constituted authority, within the meaning of regu-
4 lations adopted by the United States Department of the Treasury and
5 rulings of the Internal Revenue Service under section 103 of the
6 Internal Revenue Code.

7 “(17) ‘State’ means the State of Oregon or the State of Washington.

8 **“SECTION 3. Creation and Purposes.** (1) Upon enactment by the
9 State of Washington of legislation having the same material effect as
10 sections 2 to 15 of this 2022 Act, local governments may enter into a
11 commission formation agreement to form and charter a commission
12 under this section. The commission is a public corporation formed
13 under the laws of the State of Oregon and the State of Washington,
14 vested with the powers and duties granted by sections 2 to 15 of this
15 2022 Act. The commission shall perform an essential governmental
16 function and exercise the commission’s powers for the public purposes
17 described in this section.

18 “(2) Local governments by resolution may enter into a commission
19 formation agreement, consistent with the requirements of sections 2
20 to 15 of this 2022 Act, to charter and form a commission. A commis-
21 sion formation agreement at a minimum must be approved and exe-
22 cuted by the owner of an existing bridge and by the governing bodies
23 of the counties within which an existing bridge is situated. A com-
24 mission formation agreement may be adopted by local governments in
25 phases, provided that all required elements of a commission formation
26 agreement be adopted before a board may authorize the issuance of
27 toll revenue bonds. A commission formation agreement must specify:

28 “(a) A name for the commission;

29 “(b) The date on which the powers granted to the commission by
30 sections 2 to 15 of this 2022 Act become effective;

1 “(c) The primary place of business for the purpose of establishing
2 the applicable laws described in section 13 of this 2022 Act;

3 “(d) The composition and appointment process for members of the
4 board as described in section 4 (1) and (2) of this 2022 Act;

5 “(e) The terms of office and any rules, responsibilities and require-
6 ments that apply to the offices of chair and cochair as described in
7 section 4 (4) of this 2022 Act;

8 “(f) The requirements for formal actions of the board as described
9 in section 4 (5) of this 2022 Act; and

10 “(g) Any other provisions adopted by a local government, provided
11 that the provisions comply with the applicable laws under section 13
12 of this 2022 Act and do not impair or adversely affect the powers of the
13 commission under sections 2 to 15 of this 2022 Act.

14 “(3) A commission formation agreement may allow for a board to
15 amend the provisions of the commission formation agreement pursu-
16 ant to subsection (2)(d) to (g) of this section and section 4 (5) of this
17 2022 Act, and may establish conditions for an amendment.

18 “(4) The purposes of a commission are to:

19 “(a) Design, engineer, develop, finance, refinance, install, equip and
20 construct a bridge to replace and remove an existing bridge;

21 “(b) Act as a cooperative bistate governance structure to develop,
22 own or control, fix and adjust tolls and regulate the use of a bridge;

23 “(c) Oversee the efficient operation, maintenance, administration,
24 rehabilitation and renewal of a bridge; and

25 “(d) Perform other duties and exercise other powers as may be
26 conferred upon the commission by law.

27 “SECTION 4. Governance. (1) A commission shall be governed by a
28 board of directors. A commission formation agreement must specify
29 the number of voting directors and nonvoting directors, if any, ap-
30 pointed by local governments from each state and by governmental

1 entities that are not local governments, if any, and shall establish
2 procedures for the nomination and appointment of the directors,
3 which may differ by state.

4 “(2) Each nominating authority shall nominate and each appointing
5 authority shall appoint an alternate director for each director it
6 nominates or appoints. The alternate director may act only in the ab-
7 sence of the director for whom the alternate is appointed.

8 “(3) Directors shall serve without compensation, but may be reim-
9 bursed for reasonable expenses incurred as an incident to the per-
10 formance of their duties. Directors shall serve at the pleasure of the
11 appointing authority and may be removed or suspended from office by
12 the appointing authority with or without cause. The commission for-
13 mation agreement must specify the initial term of office of each di-
14 rector to ensure that subsequent appointments by appointing
15 authorities from each state are reasonably and similarly staggered.
16 Except for the initial appointment of directors, the term of office of
17 a director shall be four years.

18 “(4) The board shall elect two cochair from among the directors
19 of the board. One cochair must reside in the State of Oregon and the
20 other cochair must reside in the State of Washington. The cochair
21 shall serve as first cochair and second cochair, with the first cochair
22 responsible for presiding at the commission meetings. The board shall
23 specify which cochair will serve in which position within one year from
24 the date of formation of the commission, after which time the two
25 positions must alternate on an annual basis. The commission forma-
26 tion agreement must establish the terms of office of the cochair and
27 may establish other requirements for the office of cochair as requested
28 by the local governments.

29 “(5) Formal actions of the board must be taken by ordinance or
30 resolution duly approved at any regular or special meeting of the

1 board. An action of the board is not effective unless there is a quorum
2 present and a majority of the directors present assent to the action.
3 A commission formation agreement must establish the requirements
4 for a quorum and may establish other requirements for formal actions
5 of the board as requested by the local governments.

6 “(6) Unless otherwise provided in an ordinance or resolution
7 adopted by a board, a board has the exclusive right to exercise the
8 powers granted by sections 2 to 15 of this 2022 Act, and the exercise
9 of the powers granted to the board by sections 2 to 15 of this 2022 Act
10 may not be subject to any prior or subsequent authorization, approval
11 or concurrence by a local government or other governmental entity
12 in the State of Oregon or the State of Washington.

13 “(7) A board must adopt rules, consistent with applicable laws under
14 section 13 of this 2022 Act and a commission formation agreement,
15 regarding the organization, activities and procedures of the board and
16 the commission, as the board may determine.

17 **“SECTION 5. Powers. (1) In addition to any other powers granted**
18 **under sections 2 to 15 of this 2022 Act, a commission may:**

19 “(a) Construct, purchase, lease, acquire, own, operate, maintain,
20 control, hold, sell, convey, dispose of, finance or refinance real prop-
21 erty, personal property, facilities, materials, supplies or equipment,
22 or any interest therein, within the State of Oregon or the State of
23 Washington, as the board deems necessary or incidental to the pur-
24 poses of the commission described in section 3 of this 2022 Act;

25 “(b) Secure all necessary federal, state and local authorizations,
26 permits and approvals for the construction, maintenance, repair, op-
27 eration, renewal, financing or refinancing of a bridge;

28 “(c) Adopt, amend or repeal bylaws, rules or regulations, consistent
29 with applicable laws under section 13 of this 2022 Act and a commission
30 formation agreement, that further specify the powers and duties of a

1 **commission, clarify or interpret provisions in a commission formation**
2 **agreement or clarify or interpret laws or regulations applicable to the**
3 **commission;**

4 **“(d) Receive and accept, with or without consideration, from a fed-**
5 **eral agency, a state, a local government or any other public or private**
6 **source, grants, contributions, loans, advances, credit enhancements**
7 **or other contributions in money, property, labor, materials, services**
8 **or other things of value to accomplish the purposes of the commission;**

9 **“(e) Invest the commission’s monies in investments permitted for**
10 **municipal corporations and disburse funds for the commission’s lawful**
11 **purposes;**

12 **“(f) Make and enter into any contract or agreement the board**
13 **deems necessary or incidental to the purposes of the commission;**

14 **“(g) Grant, by franchise, lease or otherwise, the use of any property**
15 **or facility owned or controlled by the commission and the making of**
16 **payments for the use;**

17 **“(h) Create and abolish offices, employments or positions, and em-**
18 **ploy or contract for professional and other services;**

19 **“(i) Establish and enforce regulations governing the use of facilities**
20 **owned or controlled by the commission, the services rendered by the**
21 **commission and the tolls and other charges issued by the commission;**

22 **“(j) Adopt and use a corporate seal;**

23 **“(k) Sue and be sued in the name of the commission;**

24 **“(L) Establish special funds, and controls on deposits to and dis-**
25 **bursements from the special funds, as the commission deems conven-**
26 **ient for the implementation of sections 2 to 15 of this 2022 Act;**

27 **“(m) Delegate any of the commission’s powers and duties if con-**
28 **sistent with the purposes of sections 2 to 15 of this 2022 Act;**

29 **“(n) Perform other functions necessary or incidental to the pur-**
30 **poses of the commission or to the execution of the powers granted**

1 under sections 2 to 15 of this 2022 Act; and

2 “(o) Exercise other additional powers as may be conferred on the
3 commission by law.

4 “(2) A commission may not impose a tax or an assessment.

5 **“SECTION 6. Organization and Administration.** (1) Before con-
6 struction may begin on a bridge, a board must appoint or retain an
7 executive director to perform the duties and functions of the chief
8 administrator of the commission and exercise the powers conferred
9 upon the executive director by the board or under sections 2 to 15 of
10 this 2022 Act. The executive director serves at the pleasure of the
11 board. Subject to any rules adopted by the commission, the executive
12 director may appoint staff or retain consultants to carry out the pur-
13 poses and duties of the commission.

14 “(2) Before construction may begin on a bridge, the board must
15 appoint or retain legal counsel, including but not limited to bond
16 counsel, to furnish or cause to be furnished to the commission any
17 opinions, advice and counsel requested by the commission, and to
18 represent or oversee the representation of the commission in legal
19 matters or hearings, as directed by the commission.

20 “(3) The commission may employ such engineering, technical, legal,
21 administrative, operating or other personnel, officers or agents on a
22 regular, part-time or consulting basis as the commission deems nec-
23 essary or beneficial to the performance of the commission’s duties.
24 The commission may fix and provide for the qualification, appoint-
25 ment, removal, term, tenure, compensation, pension and retirement
26 rights of the commission’s officers and employees. Employees of the
27 commission are afforded the labor rights and protections afforded to
28 public employees under the laws of the state within which the primary
29 place of business of the commission is situated.

30 “(4) All privileges and immunities from liability, laws and benefits

1 that apply to directors, officers, agents or employees of a municipal
2 corporation under the applicable laws described in section 13 of this
3 2022 Act apply to the directors, officers, agents and employees of the
4 commission.

5 “(5) The commission may purchase insurance or self-insure to pro-
6 tect and hold personally harmless any of the directors, officers, em-
7 ployees or agents of the commission from any action, claim or
8 proceeding arising out of the performance, purported performance or
9 failure of performance in good faith of duties for or employment with
10 the commission of the directors, officers, employees and agents, and
11 to hold the directors, officers, employees and agents harmless from
12 any expenses connected with the defense, settlement or monetary
13 judgments arising from the actions, claims or proceedings.

14 “(6) The commission may purchase insurance or self-insure against
15 loss or damage to any of the commission’s properties or facilities,
16 damage to persons or property, loss of revenues or other coverages,
17 as the board may elect to accomplish the purposes of the commission.
18 The board may determine the form and amount of the insurance cov-
19 erage, provided that the insurance amount satisfies the requirements
20 of any agreement arising from the issuance of bonds or other obli-
21 gations by the commission. The board may enter into intergovern-
22 mental agreements with a state, a local government or a combination
23 of states and local governments, to acquire or maintain insurance.

24 “(7) Upon request by the State of Oregon, the State of Washington
25 or a local government, the commission shall furnish information re-
26 lated to the commission’s affairs to the requester. The commission
27 shall prepare an annual report summarizing the major activities and
28 expenditures of the commission for the fiscal year and forecasting the
29 major activities and expenditures of the commission for the following
30 year. The commission shall furnish a copy of the annual report, to-

1 **gether with any additional information the commission deems appro-**
2 **priate, to the local governments and other interested parties.**

3 **“(8) Except as provided in subsection (9) of this section, a board**
4 **shall prepare and adopt an annual or a biennial budget and make ap-**
5 **propriations consistent with this subsection. In no case can the**
6 **adopted budget expenditure allowances exceed total estimated reve-**
7 **nues unless accompanied by proposed legislation to obtain an equiv-**
8 **alent amount of additional revenue. The board may adopt, and**
9 **subsequently amend, a rule establishing requirements and processes**
10 **for adopting a budget. The board shall:**

11 **“(a) Establish a budget committee;**

12 **“(b) Publish a public notice for each meeting of the budget com-**
13 **mittee;**

14 **“(c) Publish a public notice and hold a public hearing on the pro-**
15 **posed budget before adopting a budget;**

16 **“(d) Adopt the budget, as amended or revised by the board, before**
17 **the start of the budget period;**

18 **“(e) Adopt amendments to the adopted budget or adopt supplemen-**
19 **tary budgets during a budget period, as the board deems appropriate;**
20 **and**

21 **“(f) Transmit to local governments a copy of the final budget and**
22 **any amended or supplementary budgets adopted by the board.**

23 **“(9) Notwithstanding subsection (8) of this section, a commission**
24 **is not required to adopt a budget for any year in which the commission**
25 **does not have revenue and all revenues and expenditures for a bridge**
26 **replacement project derive from and are authorized by a budget of one**
27 **or more local governments.**

28 **“SECTION 7. Real Property. (1) A commission may finance, refi-**
29 **nance, acquire or otherwise assume control of, by purchase, lease,**
30 **donation or other means, real property or personal property, struc-**

1 tures, property rights, franchises, easements or other property inter-
2 ests, whether situated within the State of Oregon or the State of
3 Washington, as the board deems necessary or incidental to the pur-
4 poses of the commission.

5 “(2) The commission may exercise the power of eminent domain to
6 acquire by condemnation any property, structures, property rights,
7 franchises, easements or other property interests situated within the
8 State of Oregon or the State of Washington as the board deems nec-
9 essary or incidental to the purposes of the commission, subject to the
10 applicable laws described in section 13 (3) of this 2022 Act. Property
11 owned or held by a state or a local government may not be taken by
12 the commission without the prior consent of the state or local gov-
13 ernment.

14 “SECTION 8. Revenues. (1) A board shall have the exclusive power
15 to impose, fix and periodically adjust the rate of tolls or other charges
16 for use of a bridge owned or operated by the commission without ap-
17 proval, authorization or concurrence by a state legislature, state toll
18 authority, local government, state agency, state official or other en-
19 tity. The board may establish and implement rules for specifying the
20 rate of tolls and other charges, including but not limited to discounts,
21 exemptions and distinct rates for certain classes of vehicle and user.
22 Nothing in ORS 383.001 to 383.245 prohibits a commission from estab-
23 lishing or setting a toll or other charge for use of a bridge owned or
24 operated by the commission.

25 “(2) In setting and periodically adjusting toll rates or other charges,
26 a board shall ensure that toll rates and other charges annually yield
27 revenue sufficient to meet the costs, expenses and obligations of the
28 commission, including the satisfaction of the financial and other
29 covenants made by the commission with regard to bonds or other debt
30 instruments.

1 **“(3) To enforce the payment of tolls and other charges for use of a**
2 **bridge, the commission may enter into agreements with the Depart-**
3 **ment of Transportation and an agency of the State of Washington.**
4 **An agreement may provide that:**

5 **“(a) The department or agency shall provide information to the**
6 **commission or the commission’s designee to identify registered owners**
7 **of vehicles who fail to pay a toll or other charge established by the**
8 **commission under this section.**

9 **“(b) If a commission, or a commission’s designee, gives notice to**
10 **the department or agency that a person has not paid a toll or other**
11 **charge established under this section, the department or agency shall**
12 **refuse to renew the motor vehicle registration of the motor vehicle**
13 **operated by the person at the time of the violation.**

14 **“(c) The department or agency may renew a motor vehicle regis-**
15 **tration of a person described in paragraph (b) of this subsection upon**
16 **receipt of a notice from a commission, or a commission’s designee,**
17 **indicating that all tolls and other charges established under this sec-**
18 **tion and owed by the person have been paid.**

19 **“(4) A transponder record or recorded image of a vehicle and the**
20 **registration plate of the vehicle produced by a photo enforcement**
21 **system at the time a driver of a vehicle did not pay a toll is prima facie**
22 **evidence that the registered owner of the vehicle is the driver of the**
23 **vehicle, provided that, if the registered owner of a vehicle is a person**
24 **in the vehicle rental or leasing business, the registered owner may**
25 **identify the person who was operating the vehicle at the time the toll**
26 **was not paid or pay the toll and other charges. A registered owner of**
27 **a vehicle who pays a toll or other charge imposed while another person**
28 **was operating the vehicle of the registered owner is entitled to full**
29 **reimbursement from the operator. The rights granted to the commis-**
30 **sion to enforce the payment of tolls and other charges of the com-**

1 mission under sections 2 to 15 of this 2022 Act are supplemental, and
2 the commission may employ all other remedies available to the com-
3 mission under the laws of the State of Oregon and the State of
4 Washington.

5 “(5) The proceeds from toll rates and other charges of the commis-
6 sion may only be used to pay the necessary and incidental costs and
7 expenses incurred by the commission in connection with owning,
8 constructing, operating, maintaining, renewing and governing a
9 bridge, including but not limited to costs incurred for:

10 “(a) The design, development, construction, equipping, installation,
11 financing or refinancing of the bridge, demolition and removal of the
12 existing bridge and mitigation of associated impacts;

13 “(b) The operation, repair, maintenance, resurfacing, preservation,
14 equipping, improvement, reconstruction, renewal and replacement of
15 the bridge;

16 “(c) The tolling of the bridge, the collection, administration and
17 enforcement of tolls and the acquisition, leasing, maintenance and
18 replacement of tolling equipment and software;

19 “(d) The financing or refinancing of any bonds or other debt in-
20 struments of the commission;

21 “(e) A reasonable return on investment for the private financing
22 of the costs, expenses or obligations of the commission;

23 “(f) The establishment and maintenance of reserves or sinking
24 funds approved by the board; and

25 “(g) Any other obligations or expenses incurred by the commission
26 in carrying out the commission’s purposes under sections 2 to 15 of
27 this 2022 Act.

28 “(6) The commission may grant to a public or private entity by
29 franchise, lease or in another manner the use or control of all or part
30 of a bridge, property or facility owned or under the control of the

1 commission, and may fix the terms, conditions, rents and other pay-
2 ments for the use or control.

3 “(7) For the purpose of funding a bridge under sections 2 to 15 of
4 this 2022 Act, the approaches, connecting roads, related facilities and
5 appurtenances on both sides of the Columbia River are designated as
6 part of the highway system of Oregon. All revenues, receipts, grants,
7 bond proceeds and other funds of the commission may be commingled
8 and spent to carry out the purposes of the commission, unless and to
9 the extent otherwise restricted by the terms of a grant agreement or
10 debt instrument.

11 “SECTION 9. Bridge Design and Construction. (1) The commission
12 shall:

13 “(a) Design and construct a bridge to standards and specifications
14 satisfactory to the departments of transportation;

15 “(b) Comply with all applicable permits, clearances and mitigation
16 requirements; and

17 “(c) Arrange for timely review by the departments of transportation
18 of all pertinent engineering plans, specifications and related reports.

19 “(2) The commission may undertake construction activities that
20 have necessary permits and for which funding is available, provided
21 that before issuing a notice to proceed with the construction of a
22 bridge foundation, the commission shall:

23 “(a) Prepare and adopt an initial bridge finance plan to fund the
24 design, construction, operation, maintenance, administration and
25 governance of the bridge. Before adopting the initial bridge finance
26 plan, a board shall require a feasibility review of the initial bridge fi-
27 nance plan and shall submit the feasibility review to the departments
28 of transportation and the local governments that are parties to the
29 commission formation agreement, for their review. Following receipt
30 of feedback from the departments of transportation and local govern-

1 ments, the board may adopt the initial bridge finance plan. After the
2 initial bridge finance plan is adopted, the board may periodically adjust
3 or amend the initial bridge finance plan; and

4 “(b) Make and enter into a written agreement with the owner of
5 an existing bridge, under terms and conditions that are mutually
6 agreeable, regarding the removal and disposition of the existing bridge.
7 The agreement must address:

8 “(A) The roles, responsibilities and obligations of the parties re-
9 garding the removal and disposal of the existing bridge, including the
10 liabilities or potential liabilities incident thereto;

11 “(B) The retirement of the outstanding debt for which toll revenue
12 from the existing bridge is pledged;

13 “(C) The distribution of proceeds from the salvage value of the ex-
14 isting bridge;

15 “(D) The disposition of the property, equipment or other assets in-
16 cidental to the existing bridge;

17 “(E) Mitigation of impacts to existing bridge operations; and

18 “(F) Any other matters to which the commission and owner of the
19 existing bridge agree.

20 “(3) For purposes of the acquisition, design, construction, installa-
21 tion, operation or maintenance of the bridge, or any combination
22 thereof, the commission, without the prior or subsequent authori-
23 zation, approval or concurrence by the State of Oregon, the State of
24 Washington, a local government or other governmental entity of ei-
25 ther state, may enter into any combination of contracts, agreements
26 or other arrangements with one or more private entities or units of
27 government, or any combination thereof, as the commission may
28 elect, including, but not limited to, any alternative or supplemental
29 public works contract such as design-build and construction
30 manager-general contractor contracts, public-private partnership

1 agreement, lease agreement, franchise agreement or financing agree-
2 ment, and may include any terms and conditions permitted under the
3 Oregon Constitution and the Washington State Constitution and to
4 which the parties agree.

5 “(4) As part of the construction of a bridge, a commission shall
6 demolish, remove and dispose of an existing bridge in accordance with
7 applicable environmental permits and the terms of an agreement be-
8 tween the commission and owner of the existing bridge. Unless other-
9 wise agreed to by the owner of the existing bridge, the proceeds from
10 the sale of salvaged materials from the existing bridge are owing to
11 the owner.

12 “SECTION 10. Bridge Operations. (1) A board shall have the exclu-
13 sive power to adopt and enforce the rules and regulations for the use,
14 operation, maintenance, inspection and preservation of a bridge owned
15 or operated by the commission, including loads permitted on the
16 bridge and closing the bridge to any traffic deemed unsafe by the
17 commission, provided that the commission must comply with all state
18 and federal regulations generally applicable to bridge operations,
19 maintenance, safety and inspections.

20 “(2) A facility or property owned, leased, operated or controlled by
21 the commission may be operated by the commission directly or by a
22 public or private entity pursuant to a contract, lease or agreement.

23 “(3) Compensation to a contractor under an operating contract may
24 be in the form of a payment by the commission to the contractor for
25 services rendered, a payment by the contractor to the commission for
26 the rights to operate the facility or property or other such arrange-
27 ments as the board may elect.

28 “(4) A state agency or local government may pledge revenue or
29 other assistance to support or guaranty, in whole or in part, the re-
30 payment of debt, costs of operations or capitalization of reserves of the

1 commission under such terms as the parties may agree, and the com-
2 mission may accept the assistance.

3 **“SECTION 11. Financing. (1) A board, for any lawful purpose of the**
4 **commission, without the necessity of any assent by electors, local**
5 **governments or any other governmental entity, may by resolution or**
6 **ordinance provide for the issuance and sale of:**

7 **“(a) Revenue bonds or other debt instruments paid from and se-**
8 **cured by all or any revenue of the commission;**

9 **“(b) Short-term obligations, notes, warrants or other debt instru-**
10 **ments in anticipation of any grant receipts from the federal govern-**
11 **ment, a state government or a local government or other receipts of**
12 **the commission; and**

13 **“(c) Revenue refunding bonds or other refunding debt instruments**
14 **for the purpose of redeeming, refinancing, extending or unifying, in**
15 **whole or in part, outstanding bonds or other debt instruments.**

16 **“(2) To the extent permitted by federal law, bonds and other debt**
17 **instruments of the commission may be issued as taxable bonds or as**
18 **tax-exempt bonds under the income tax laws of the United States.**
19 **Notwithstanding the status of the bonds or other debt instruments for**
20 **federal income tax purposes, interest paid to the owners of the bonds**
21 **or other debt instruments of the commission is exempt from personal**
22 **income taxes imposed by the State of Oregon or any political subdivi-**
23 **sion, district or municipality thereof.**

24 **“(3) If the applicable laws under section 13 of this 2022 Act are those**
25 **of the State of Oregon, the commission as a public body may issue and**
26 **sell:**

27 **“(a) Revenue bonds or other debt instruments under ORS 287A.150;**

28 **“(b) Debt instruments to refund outstanding debt instruments un-**
29 **der ORS 287A.150 (6) and ORS 287A.360 to 287A.380; and**

30 **“(c) Short-term obligations under ORS 287A.180.**

1 **“(4) If the applicable laws under section 13 of this 2022 Act are those**
2 **of the State of Oregon, the commission as a public body shall admin-**
3 **ister bonds and other debt instruments under ORS 287A.300 to**
4 **287A.380, provided that the commission may not issue a general obli-**
5 **gation bond or pledge any taxing power to an obligation.**

6 **“(5)(a) The commission may enter into one or more agreements**
7 **with a federal agency for grants, loans, advances, credit enhancements**
8 **or other contributions subject to the applicable federal law.**

9 **“(b) If the commission enters into an agreement under paragraph**
10 **(a) of this subsection, the commission is not required to comply with**
11 **otherwise applicable state statutes that conflict with the applicable**
12 **federal law.**

13 **“(6) For the benefit of any holders of bonds or debt instruments**
14 **that are outstanding or otherwise authorized by a commission:**

15 **“(a) The board shall continue in effect toll rates and other charges**
16 **that satisfy sections 2 to 15 of this 2022 Act and the covenants made**
17 **by the commission, and may not take any action or inaction to impair**
18 **the board’s ability to do so; and**

19 **“(b) The State of Oregon, the State of Washington and local gov-**
20 **ernments may not take any action that impairs, diminishes or affects**
21 **adversely the interest and rights of the holders of bonds or debt in-**
22 **struments of the commission.**

23 **“SECTION 12. Taxation. (1) Notwithstanding the laws of this state**
24 **or the State of Washington and except as provided in subsection (2)**
25 **of this section, a state or political subdivision may not require the**
26 **commission to pay a tax or assessment, or an in lieu of tax or as-**
27 **essment, including but not limited to a property tax, sales tax, use**
28 **tax or other tax or assessment upon real property or personal property**
29 **acquired or otherwise under the control of the commission, or upon**
30 **an activity or expenditure of the commission, or upon the revenues**

1 of the commission.

2 “(2) Notwithstanding subsection (1) of this section, a state or poli-
3 tical subdivision may require a commission to pay a tax or assessment
4 to the same extent as a municipal corporation.

5 **“SECTION 13. Applicable Law and Jurisdiction.** (1) A commission
6 is subject to applicable federal law, sections 2 to 15 of this 2022 Act,
7 rules adopted by the commission’s board under sections 2 to 15 of this
8 2022 Act and any state or local laws that apply to a municipal corpo-
9 ration as specified in this section.

10 “(2) Except as provided in subsections (3) and (4) of this section, the
11 commission, the board and the commission’s officials, employees and
12 agents are governed by the laws of the primary place of business. The
13 laws of the primary place of business include, but are not limited to,
14 laws pertaining to local government audits, financial administration
15 and accounting, public records, prohibitions on using facilities for
16 campaign purposes, open public meetings, the code of ethics for mu-
17 nicipal officers, the rights of public employees and local government
18 whistleblower protections.

19 “(3) The real estate transactions of, and the exercise of eminent
20 domain by, the commission, including relocation assistance, compli-
21 ance with land use, environmental and building codes and other
22 actions of the commission pertaining to the ownership, control or use
23 of a particular property site or area as the board may determine by
24 rule, are governed by the laws of the state and local jurisdiction within
25 which the particular property site or area is situated.

26 “(4) If a conflict arises between a provision of sections 2 to 15 of this
27 2022 Act and a provision of state or local law, the provision under
28 sections 2 to 15 of this 2022 Act controls.

29 “(5) The court of original jurisdiction for any action brought by or
30 against the commission is the court designated under the applicable

1 laws under this section.

2 **“SECTION 14. Implementation and Dissolution. (1) A grantee for a**
3 **federal, state or local grant for a bridge owned or to be owned by a**
4 **commission that was awarded before the formation date of the com-**
5 **mission is the grantee until the grant is closed under the terms of the**
6 **grant agreement, unless otherwise agreed to by the grantee and the**
7 **commission. The governing body of the grantee shall oversee the work**
8 **under the grant, provided that the grantee coordinate with the com-**
9 **mission and not take any actions inconsistent with the policy direction**
10 **of the commission, unless required by the terms of the grant agree-**
11 **ment. Following the formation date of the commission, the commis-**
12 **sion is the applicant and grantee for all federal, state or local grants**
13 **for the bridge, unless the commission agrees otherwise. The commis-**
14 **sion shall establish procedures for the timely coordination of the**
15 **commission’s activities with the states and local governments.**

16 **“(2)(a) The departments of transportation and local governments**
17 **may enter into agreements with a commission to furnish to the com-**
18 **mission surveys, engineering, plans, specifications, construction man-**
19 **agement, project controls, operations, administration and other**
20 **technical services.**

21 **“(b) The commission shall reimburse the departments of transpor-**
22 **tation and local governments for services furnished under paragraph**
23 **(a) of this subsection.**

24 **“(3) Before receiving tolls or other charges, the commission may**
25 **fund activities under sections 2 to 15 of this 2022 Act in any manner**
26 **permitted by applicable laws under section 13 of this 2022 Act, includ-**
27 **ing but not limited to:**

28 **“(a) Borrowing funds from the federal government, the State of**
29 **Oregon, the State of Washington, a local government or a combination**
30 **thereof, and repaying the borrowed funds following the opening of the**

1 bridge with the proceeds from tolls and other charges for use of the
2 bridge, or in such other manner as the parties may agree;

3 “(b) Receiving a grant from the federal government, the State of
4 Oregon, the State of Washington, a local government or combination
5 thereof; and

6 “(c) Receiving monies as a subrecipient of a federal, state or local
7 government grant for which a department of transportation or local
8 government is the grantee. To the extent permitted by the grant
9 agreement, the departments of transportation and local governments
10 may enter into agreements with the commission to make a portion of
11 the grant funds available to the commission under the terms and
12 conditions to which the parties agree.

13 “(4)(a) The commission may assign or otherwise convey the
14 commission’s properties, facilities, funds, accounts, obligations or du-
15 ties to a state agency, local government or combination thereof, pro-
16 vided that the assignment or conveyance does not in any manner
17 impair or affect adversely the interests or rights of the holders of any
18 bonds or other debt instruments of the commission.

19 “(b) A state agency or local government may accept an assignment
20 or conveyance under paragraph (a) of this subsection.

21 “(5) A commission may be dissolved as follows:

22 “(a) Before the commission issues any bonds or other debt instru-
23 ment, the board may adopt a resolution to dissolve the commission
24 at any time upon determining that the dissolution is in the public in-
25 terest. The dissolution resolution must address the methods by which
26 all liabilities and obligations of the commission will be satisfied before
27 the effective date of the dissolution, provided that all liabilities in-
28 curred by the commission must be satisfied exclusively from the assets
29 and properties of the commission and no creditor or other person shall
30 have any right of action against any local government that formed the

1 commission on account of any debts, obligations or liabilities of the
2 commission. The dissolution resolution must also address the distrib-
3 ution and transference to local governments of any properties or other
4 assets of the commission that may remain after the satisfaction of all
5 commission liabilities and other matters that the board deems appro-
6 priate. A resolution to dissolve a commission may not take effect until
7 at least a majority of the local governments in each state agree in
8 writing to the resolution.

9 “(b) After the commission issues bonds or other debt instruments
10 or if the commission is insolvent, the circuit court or superior court
11 for the county in which the primary place of business is situated shall
12 have jurisdiction and authority to appoint trustees or receivers of the
13 property and assets of the commission and supervise such trusteeship
14 or receivership, provided that all liabilities incurred by the commission
15 be satisfied exclusively from the assets and properties of the commis-
16 sion and no creditor or other person shall have any right of action
17 against a local government that formed the commission on account
18 of any debts, obligations or liabilities of the commission. If a com-
19 mission is dissolved and properties or assets of the commission remain
20 after the satisfaction of all of the commission’s outstanding debts,
21 obligations or liabilities, the remaining property and assets of the
22 commission must be transferred to local governments in accordance
23 with an order issued by the court. The allocation and transfer of the
24 remaining properties and assets of the commission to local govern-
25 ments must be in such manner as the court determines is equitable
26 and serves the public interest.

27 “SECTION 15. General Provisions. (1) Sections 2 to 15 of this 2022
28 Act must be liberally construed to effectuate the purposes of the
29 commission, and the powers and authority granted to the commission
30 under sections 2 to 15 of this 2022 Act are supplemental to all other

1 **powers and authorities granted to municipal corporations under the**
2 **applicable laws described under section 13 of this 2022 Act.**

3 **“(2) A legal challenge to the formation of a commission intended**
4 **to be authorized or created under sections 2 to 15 of this 2022 Act may**
5 **not be commenced more than 30 days after the effective date of a**
6 **commission formation agreement.**

7 **“SECTION 16.** ORS 383.004 is amended to read:

8 “383.004. (1) Except as provided in subsection (2) of this section, a toll
9 may not be established unless the Oregon Transportation Commission has
10 reviewed and approved the toll. The commission shall adopt rules specifying
11 the process under which proposals to establish tolls will be reviewed. When
12 reviewing a proposal to establish tolls, the commission shall take into con-
13 sideration:

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

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

19 “(c) The extent of the tollway, including improvements necessary for
20 tollway operation and improvements necessary to support the flow of traffic
21 onto or off of the tollway;

22 “(d) The location of toll booths or electronic toll collection systems to
23 collect the toll for the tollway;

24 “(e) The cost of constructing, reconstructing, improving, installing,
25 maintaining, repairing and operating the tollway;

26 “(f) The amount of indebtedness incurred for the construction of the
27 tollway and all expenses and obligations related to the indebtedness includ-
28 ing, without limitation, financial covenants, debt service requirements, re-
29 serve requirements and any other funding requirements established under the
30 terms of any indenture prepared under ORS 383.225 and any other contracts

1 establishing the terms of the indebtedness, if any;

2 “(g) The value of assets, equipment and services required for the opera-
3 tion of the tollway;

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

5 “(i) The process for altering the amount of the toll during the period of
6 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
9 equity holder, if any, in the tollway.

10 “(2)(a) Nothing in ORS 383.001 to 383.245 prohibits a city or county from
11 establishing a toll on any highway, as defined in ORS 801.305, that the city
12 or county has jurisdiction over as a road authority pursuant to ORS 810.010.

13 “(b) Nothing in ORS 383.001 to 383.245 prohibits Multnomah County from
14 establishing a toll on the bridges across the Willamette River that are within
15 the boundaries of the City of Portland and that are operated and maintained
16 by Multnomah County as required under ORS 382.305 and 382.310.

17 “(c) Nothing in ORS 383.001 to 383.245 prohibits the Port of Hood River
18 from establishing a toll on the bridges across the Columbia River that are
19 operated and maintained by the port.

20 “(d) Nothing in ORS 383.001 to 383.245 prohibits the Port of Cascade
21 Locks from establishing a toll on the bridges across the Columbia River that
22 are operated and maintained by the port.

23 **“(e) Nothing in ORS 383.001 to 383.245 prohibits a commission**
24 **formed under section 3 of this 2022 Act from establishing a toll on a**
25 **bridge across the Columbia River that is operated and maintained by**
26 **the commission or the commission’s designee.**

27 **“SECTION 17.** ORS 383.035 is amended to read:

28 “383.035. (1) A person shall pay a toll established under ORS 383.004.

29 “(2) A person who fails to pay a toll established under ORS 383.004 shall
30 pay to the Department of Transportation the amount of the toll, a civil

1 penalty and an administrative fee established by the tollway operator not to
2 exceed the actual cost of collecting the unpaid toll. The department shall
3 adopt by rule the amount of civil penalty that may be imposed for each vio-
4 lation of subsection (1) of this section.

5 “(3) A civil penalty imposed under this section may be remitted or reduced
6 upon such terms and conditions as the department considers proper and
7 consistent.

8 “(4) In addition to any other penalty, the department shall refuse to renew
9 the motor vehicle registration of a motor vehicle when the registered owner
10 of the motor vehicle has not paid the toll, the civil penalty and any admin-
11 istrative fee charged under this section.

12 “(5) This section does not apply to:

13 “(a) A person who is a member of a category of persons exempted by the
14 Oregon Transportation Commission from paying a toll; or

15 “(b) A person who is a member of a category of persons made eligible by
16 the commission for paying a reduced toll, to the extent of the reduction.

17 “(6) Civil penalties imposed under this section shall be imposed in the
18 manner provided by ORS 183.745.

19 “(7) **The department may enter into an agreement with a commis-**
20 **sion or a commission’s designee under section 8 (3) of this 2022 Act to**
21 **enforce the payment of tolls and other charges for use of an interstate**
22 **toll bridge.**

23 “**SECTION 18. The section captions used in this 2022 Act are pro-**
24 **vided only for the convenience of the reader and do not become part**
25 **of the statutory law of this state or express any legislative intent in**
26 **the enactment of this 2022 Act.**

27 “**SECTION 19. This 2022 Act takes effect on the 91st day after the**
28 **date on which the 2022 regular session of the Eighty-first Legislative**
29 **Assembly adjourns sine die.”.**

30