

Senate Bill 719

Sponsored by Senator GIROD (Pre-session filed.)

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 **as introduced**.

Defines terms used in Article IX, section 16, of Oregon Constitution.

Modifies law related to tolling to conform with enactment of Article IX, section 16, of Oregon Constitution.

Takes effect only if _____ Joint Resolution __ (2023) (LC 156) is approved by people at next regular general election. Takes effect on effective date of constitutional amendment proposed in _____ Joint Resolution __ (2023) (LC 156).

A BILL FOR AN ACT

1
2 Relating to transportation; creating new provisions; amending ORS 383.004 and 383.150 and section
3 8, chapter 7, Oregon Laws 2022; and prescribing an effective date.

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

5 **SECTION 1.** ORS 383.150 is amended to read:

6 383.150. (1) The Oregon Transportation Commission shall establish a toll program.

7 (2) **Subject to the restrictions in Article IX, section 16, of the Oregon Constitution**, [As
8 *part of the toll program*,] after seeking and receiving approval from the Federal Highway Adminis-
9 tration, the commission may assess variable rate tolls. Tolling may include, but is not limited to
10 assessing variable rate tolls for the purpose of:

11 (a) Managing congestion; and

12 (b) Partially or wholly funding the construction, operation or maintenance of a highway.

13 [(3) *The commission shall assess tolls in the following locations:*]

14 [(a) *On Interstate 205, beginning at the Washington state line and ending where it intersects with*
15 *Interstate 5 in this state.*]

16 [(b) *On Interstate 5, beginning at the Washington state line and ending where it intersects with*
17 *Interstate 205.*]

18 [(4) *To the extent necessary and permitted by state and federal law and Article IX, section 3a, of*
19 *the Oregon Constitution, the commission shall ensure tolls assessed pursuant to subsection (3) of this*
20 *section or tolls assessed as part of the Interstate 5 Boone Bridge and Seismic Improvement Project:*]

21 [(a) *Reduce traffic congestion by managing demand on the tollway and by improving operations*
22 *on the tollway;*]

23 [(b) *Reduce traffic congestion as a result of the tollway, not only on the tollway but also on adja-*
24 *cent, connected or parallel highways to the tollways, regardless of ownership;*]

25 [(c) *Improve safety not only on the tollway but also on adjacent, connected or parallel highways*
26 *to the tollways, regardless of ownership; and*]

27 [(d) *Minimize and mitigate impacts to historically and currently underrepresented and disadvan-*
28 *tagged communities.*]

29 [(5)] **(3)** Any unit of government assessing tolls on highways for which the unit of government

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 is the road authority, pursuant to ORS 810.010, shall collaborate with other units of government to:

2 (a) Determine whether assessing tolls may result in traffic, equity, safety or climate impacts as
3 a result of assessing tolls;

4 (b) Determine appropriate investments or efforts that may minimize or reduce any potential im-
5 pacts; and

6 (c) Periodically review any investments or efforts identified and implemented under this sub-
7 section.

8 *[(6) Before assessing tolls in the locations described under subsection (3) of this section, the com-
9 mission shall report to the Joint Committee on Transportation established under ORS 171.858.]*

10 *[(7)]* (4) The commission may enter into agreements with the State of Washington, or the State
11 of Washington's tollway operator or other designee, relating to establishing, reviewing, adjusting
12 and collecting tolls for the program described in this section.

13 *[(8)]* (5) As used in this section, "highway" has the meaning given that term in ORS 366.005.

14 **SECTION 2.** ORS 383.004, as amended by section 16, chapter 7, Oregon Laws 2022, is amended
15 to read:

16 383.004. (1) Except as provided in [*subsection (2)*] **subsections (2) and (3)** of this section, a toll
17 may not be established unless the Oregon Transportation Commission has reviewed and approved
18 the toll. The commission shall adopt rules specifying the process under which proposals to establish
19 tolls will be reviewed. When reviewing a proposal to establish tolls, the commission shall take into
20 consideration:

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

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

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

26 (d) The location of toll booths or electronic toll collection systems to collect the toll for the
27 tollway;

28 (e) The cost of constructing, reconstructing, improving, installing, maintaining, repairing and
29 operating the tollway;

30 (f) The amount of indebtedness incurred for the construction of the tollway and all expenses and
31 obligations related to the indebtedness including, without limitation, financial covenants, debt ser-
32 vice requirements, reserve requirements and any other funding requirements established under the
33 terms of any indenture prepared under ORS 383.225 and any other contracts establishing the terms
34 of the indebtedness, if any;

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

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

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

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

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

41 (2)(a) Nothing in ORS 383.001 to 383.245 prohibits a city or county from establishing a toll on
42 any highway, as defined in ORS 801.305, that the city or county has jurisdiction over as a road au-
43 thority pursuant to ORS 810.010.

44 (b) Nothing in ORS 383.001 to 383.245 prohibits Multnomah County from establishing a toll on
45 the bridges across the Willamette River that are within the boundaries of the City of Portland and

1 that are operated and maintained by Multnomah County as required under ORS 382.305 and 382.310.

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

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

6 (e) Nothing in ORS 383.001 to 383.245 prohibits a commission formed under section 3, chapter
7 7, Oregon Laws 2022, from establishing a toll on a bridge across the Columbia River that is operated
8 and maintained by the commission or the commission's designee.

9 **(3) The provisions of this section are subject to the restrictions specified in Article IX,
10 section 16, of the Oregon Constitution.**

11 **SECTION 3. As used in Article IX, section 16, of the Oregon Constitution:**

12 **(1) "Highway" has the meaning given that term in ORS 366.005.**

13 **(2) "Public body" has the meaning given that term in ORS 174.109.**

14 **SECTION 4. Section 8, chapter 7, Oregon Laws 2022, is amended to read:**

15 **Sec. 8. (1) Subject to the limitations under Article IX, section 16, of the Oregon Consti-**
16 **tution,** a board shall have the exclusive power to impose, fix and periodically adjust the rate of tolls
17 or other charges for use of a bridge owned or operated by the commission without approval, au-
18 thorization or concurrence by a state legislature, state toll authority, local government, state
19 agency, state official or other entity. The board may establish and implement rules for specifying the
20 rate of tolls and other charges, including but not limited to discounts, exemptions and distinct rates
21 for certain classes of vehicle and user. Nothing in ORS 383.001 to 383.245 prohibits a commission
22 from establishing or setting a toll or other charge for use of a bridge owned or operated by the
23 commission.

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

28 (3) To enforce the payment of tolls and other charges for use of a bridge, the commission may
29 enter into agreements with the Department of Transportation and an agency of the State of
30 Washington. An agreement may provide that:

31 (a) The department or agency shall provide information to the commission or the commission's
32 designee to identify registered owners of vehicles who fail to pay a toll or other charge established
33 by the commission under this section.

34 (b) If a commission, or a commission's designee, gives notice to the department or agency that
35 a person has not paid a toll or other charge established under this section, the department or agency
36 shall refuse to renew the motor vehicle registration of the motor vehicle operated by the person at
37 the time of the violation.

38 (c) The department or agency may renew a motor vehicle registration of a person described in
39 paragraph (b) of this subsection upon receipt of a notice from a commission, or a commission's
40 designee, indicating that all tolls and other charges established under this section and owed by the
41 person have been paid.

42 (4) A transponder record or recorded image of a vehicle and the registration plate of the vehicle
43 produced by a photo enforcement system at the time a driver of a vehicle did not pay a toll is prima
44 facie evidence that the registered owner of the vehicle is the driver of the vehicle, provided that,
45 if the registered owner of a vehicle is a person in the vehicle rental or leasing business, the regis-

1 tered owner may identify the person who was operating the vehicle at the time the toll was not paid
 2 or pay the toll and other charges. A registered owner of a vehicle who pays a toll or other charge
 3 imposed while another person was operating the vehicle of the registered owner is entitled to full
 4 reimbursement from the operator. The rights granted to the commission to enforce the payment of
 5 tolls and other charges of the commission under sections 2 to 15 of this 2022 Act are supplemental,
 6 and the commission may employ all other remedies available to the commission under the laws of
 7 the State of Oregon and the State of Washington.

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

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

14 (b) The operation, repair, maintenance, resurfacing, preservation, equipping, improvement, re-
 15 construction, renewal and replacement of the bridge;

16 (c) The tolling of the bridge, the collection, administration and enforcement of tolls and the ac-
 17 quisition, leasing, maintenance and replacement of tolling equipment and software;

18 (d) The financing or refinancing of any bonds or other debt instruments of the commission;

19 (e) A reasonable return on investment for the private financing of the costs, expenses or obli-
 20 gations of the commission;

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

22 (g) Any other obligations or expenses incurred by the commission in carrying out the
 23 commission's purposes under sections 2 to 15 of this 2022 Act.

24 (6) The commission may grant to a public or private entity by franchise, lease or in another
 25 manner the use or control of all or part of a bridge, property or facility owned or under the control
 26 of the commission, and may fix the terms, conditions, rents and other payments for the use or con-
 27 trol.

28 (7) For the purpose of funding a bridge under sections 2 to 15 of this 2022 Act, the approaches,
 29 connecting roads, related facilities and appurtenances on both sides of the Columbia River are des-
 30 ignated as part of the highway system of Oregon. All revenues, receipts, grants, bond proceeds and
 31 other funds of the commission may be commingled and spent to carry out the purposes of the com-
 32 mission, unless and to the extent otherwise restricted by the terms of a grant agreement or debt
 33 instrument.

34 **SECTION 5. This 2023 Act does not take effect unless the amendment to the Oregon**
 35 **Constitution proposed by ____ Joint Resolution __ (2023) (LC 156) is approved by the people**
 36 **at the regular general election held in November 2024. This 2023 Act takes effect on the ef-**
 37 **fective date of that amendment.**