

**Minutes of the Traffic Safety Commission
Monday, March 13, 1995
Newberg Public Library**

PRESENT: Chairman Bob Andrews
 Andy Anderson
 Doris Brandt
 Jerry Fisher

Richard McCabe
Richard Meyer
Russel Pack
Earl Sandager

ABSENT: Glenn Benedict

STAFF

PRESENT: Chief Robert Tardiff, Chief of Police
 Larry Anderson, Community Development Engineer
 Heidi Hess, Recording Secretary

OTHER

PRESENT: Mayor Donna Proctor
 Sue Roberts
 Tony Wilson
 George Alexander

George Johnson
Tim Commins
Nondas Gilroy

I. CALL MEETING TO ORDER:

The meeting was called to order at 7:00 p.m.

A) Review and approve minutes of Monday, January 9, 1995.

MOTION: McCabe/Brandt to approve the January 9, 1995 minutes, as submitted. **Motion was carried unanimously.**

Chairman Andrews advised that the regular agenda would be recessed and moved forward to the Public Hearings.

II. PUBLIC HEARINGS:

A) Consider parking restrictions in Sportsman Airpark/ Flightways Industrial Park area.

The Notice of Public Hearing was read.

The proposal for consideration of eliminating parking in the Sportsman Airpark / Flightways Industrial Park area included the following:

- 1. Eliminate TRUCK PARKING on the west side of Elliott Road between Portland Road and Hancock Street;**
- 2. Eliminate TRUCK PARKING on the west side of Deborah Road between Portland Road and Hayes Street;**
- 3. Eliminate TRUCK PARKING on the south side of Hancock Street, including the unimproved roadway, between Elliott Road and its terminus;**
- 4. Eliminate ALL PARKING on the east side of Elliott Road from Portland Road to Hancock Street;**
- 5. Eliminate ALL PARKING on the north side of Hayes Street between Elliott Road and Deborah Street;**
- 6. Eliminate TRUCK PARKING on the south side of Hayes Street between Elliott Road and Deborah Street;**
- 7. Eliminate ALL PARKING on the east side of Deborah Street between Portland Road and Hayes Street; and**
- 8. Eliminate ALL PARKING on the north side of Hancock Street, including the unimproved roadway, east of Elliott Road to its terminus.**

The Chair called for Commission abstentions and objections to jurisdiction. Hearing none, the Staff Report was requested. City Engineer, Larry Anderson noted that, over the years, there have been numerous complaints received concerning trucks parked in the area of the Sportsman Airpark/Flightways Industrial Airpark. He indicated that the complaints were compiled and, in an effort to maintain continuity with the pattern previously begun on Hancock and Elliott Streets, the preceding parking plan was implemented as a solution.

At the time of development, the streets were built to a residential street standard, created with a depth built for residential use, not truck traffic. Now, with the development of industrial and commercial businesses in the area, some truck traffic is anticipated. Although overlays could be implemented

to accommodate heavier traffic, the streets cannot be widened. The current standard for commercial and industrial streets, as well as collector streets, is 46 feet in width. This provides for two lanes, bike lanes, if needed, and parking, a center turn lane, etc. The existing streets in the Airpark are 36' wide with an 8' parking lane on each side, giving a mere 20' of road width which is a bit narrow. Staff received no objections from the notices sent. It is the recommendation of the Staff to eliminate parking, as described in the Notice set forth.

The Chair called for proponents to the parking elimination, as described by Larry Anderson.

Tony Wilson of 1908 Portland Rd., requested a staff clarification, as to the reasoning of the elimination of car parking on alternate sides of the street(s). Mr. Wilson said he could understand the truck parking elimination, but questioned the reasoning behind the parking of cars. It was noted that the Loren Berg car dealership had recently purchased property in the vicinity. Mr. Wilson felt that, with the dealership in the area, a more logical approach to better traffic flow would be the elimination of parking on the south side of Hayes, rather than the north side.

The Chair asked for additional comments from proponents. Seeing none, opponents present were asked to testify.

Mayor Donna Proctor arose, on behalf of citizens from whom she had received opposition to the no parking plan. The Mayor thanked the Commission for their interest and time regarding this issue. She noted that several truckers had contacted her regarding the issue. She also commented that there is a truck route near Allen Fruit on Illinois St. and no trucks are parked there. Previously, the Community Relations Committee was asked to address the issue. The City was asked to seek a place for the truckers to drop their trailers upon their arrival into town. The situation has created some difficulties for the truckers for several reasons. Some of these truckers are tax paying citizens who own homes in the city of Newberg. This presents a definite concern, as a place needs to be created for the trucks to park when they come into town. Truck parking is needed in the Sportsman industrial area. The Mayor said that she would like to see that the decision be brought back to the Community Relations Committee. Although there are both pros and cons, as with any issue, Mayor Proctor stated that she feels it is important that the city create a place for the trucks to park upon their arrival back into town.

Commission Member Sandager questioned the Mayor as to whether other cities had similar problems with truck parking. In her contact with the city of McMinnville, Mayor Proctor found no problem with truck parking. Seeing no significant difficulties, McMinnville has no ordinance concerning the matter. In additional comments, Mr. Sandager said that he feels rather strongly about the truckers being responsible for their own parking space.

Community member, Tony Wilson, again raised a question from the floor. If a problem exists, why

were the truckers not present to comment on their own behalf? Mr. Wilson mentioned that he is part owner of the Newberg Plaza. There is an overflow truck parking area at the Plaza but, to his knowledge, no contact has been made with Mercury Development, Century 21 or he, in an effort to make parking arrangements there.

Sue Roberts of 108 Pinehurst Ct. testified on behalf of her husband who is a trucker. She voiced her concern about finding adequate parking space for the size of truck they own (248" wheel base with a 48' long trailer). They have parked behind Les Schwab for some time and now are in a "frenzy" thinking of what to do. She said they had considered buying a home in Newberg but they may now be forced to consider locating outside the city, in order to accommodate their truck and tractor parking situation. Mrs. Roberts suggested the possibility of reserving one block for trailer parking, as most of the truckers are able to take their tractors home to park them. Mrs. Roberts also noted that Loren Berg will have to park a truck on Hayes Street to drop their car shipments. They will be violating traffic safety also, if no parking is available there.

Mrs. Roberts was questioned as to why the truckers had not taken Tony Wilson up on his offer when he made his lot available. Mrs. Roberts then noted that Current Electronics had recently negotiated parking for their employees in that lot. The employees would be shuttled from the lot to their place of employment, Current Electronics, by Senior Services each morning and evening. Again, this would present a problem to the truckers when returning in the evening. Tony Wilson questioned Mrs. Roberts as to whom this deal was negotiated with - Mercury Development? Mrs. Roberts said was unsure.

Commissioner Sandager commented that there is a great deal of undeveloped lots in the Airpark. As a Realtor, he is concerned with the image presented to potential buyers when there are trucks blocking the roadway.

Addressing the issue raised by raised by Mrs. Roberts, Commissioner Pack pointed out that the Commission has taken the position of setting a precedence of no parking on the north side and east sides of the street. This is the reasoning to the proposed no parking plan, as outlined on the map in the Notice.

Sue Roberts asked if it would eliminate some of the problem by creating a designated parking place for each individual truck. Mrs. Roberts proposed an idea - would it be possible for trucks to park from the safety distance behind the fire hydrant (east of Lumberman's) towards Elliott to the end of the block?

Chairman Andrews referred to previous hearings, noting that the location of the parked trailers were impeding the ability of deliveries coming into existing businesses on the other side of the street. Referred to were those businesses east of Les Schwab, just before Elliott Rd.

Commissioner Andy Anderson noted that there was a place on the other side of Western Helicopter offered to one truck who was causing a problem and he was not interested. In response to this, Sue Roberts questioned, "Could a turn be made there manipulating 69.9 feet of truck length?" Larry Anderson commented that this was a heavier road section, built and designed for heavy traffic. Coming off of Hwy. 219, toward Western Helicopter, parking may occur on the north shoulder as well as the 46' cul-de-sac heading south, near the new industrial site.

A question from the floor was raised, directed toward Sue Roberts. "What is the measurement of an 'average' truck?" She responded saying normal trailer length is 40 feet.

Commissioner McCabe commented regarding truckers taking their tractors home. Streets were being broken down when the trucks were being taken home. There are no streets in Newberg made for the heavy weight of trucks. Also, there is also a great deal of liability in starting a lot where people are going to park their trucks.

Sue Roberts asked that the decision be tabled so the Commission could do some research on the availability of a space to park some trucks and trailers. Without adequate parking, there are a few truckers who are unable to locate within the city of Newberg. They will have to move elsewhere. Commission member McCabe asked Mrs. Roberts and the other truck owner(s) to research the availability of space for parking.

Commissioner Anderson clarified the matter as being simply a question of whether the City wants to provide truck parking. Commissioner Sandager then commented that all businesses who start up within the city must provide parking for the business. It is his feeling that the truckers are asking the City to provide something for their business that should be their own responsibility.

Sue Roberts interjected an idea - that the truckers would be willing to pay a monthly fee to the City, if the City was to make truck parking available.

George Alexander, 33405 Old Parrett Mtn. Rd., spoke concerning the issue. Elliott Rd. needs to have restricted parking, because of the fact that children and big trucks don't mix very well. Mr. Alexander owns the service station there which service the trucks with fuel. According to Mr. Alexander, restrictions should be made on Elliott Rd. from the highway on through, due to the access limitation that is placed on other trucks getting into the station for fueling. On the basis of the parking restrictions, Mr. Alexander said he is an proponent of the issue. However, he feels that a space does need to accommodate trucks parking.

George Johnson, owner of the Texaco Station at 701 Deborah Rd., commented that Tony Wilson's business will be deterred if trucks are parked there. Tony is currently building an auto repair business in the area which will tied in with Loren Berg Chevrolet. If trucks are allowed to park

there, it will present a hardship on the station, therefore, cutting city revenues. There is a definite hardship created on through traffic when two trucks are parked across from one another, especially on Hayes St. In the winter months, especially hazardous conditions are present. Another point made by Mr. Johnson was that on several occasions, the landing gears of trucks have been put down and penetrated through the asphalt on his property. He reiterated the fact that the streets are just not built for this type of weight. Mr. Johnson felt the Commission has a good plan in progress, and hoped that the no parking will be implemented in the area.

Codes for truck parking were identified, as outlined in the Oregon Revised Statutes. Referred to was ORS 801.355, 575 & 580. Chief Tardiff also referred to two City ordinances dealing with trucks. Ordinance No. 6-6.18 Section 21(3) and 6-10(1)(A), deals with the travel of vehicles on streets which are not truck routes. The only exception to that are sections outlined where trucks are making deliveries and using the route to and from the delivery. Basically, the ordinance says that tractor/trucks cannot be taken home. *(See attached ORS and City Ordinances.)*

There was one letter received from a proponent to the issue. That letter, from Rich Racette of Malone Realty located at 2818 Portland Rd., was reviewed for the record. Chairman Andrews thanked the public for their comments and reconvened the Traffic Safety Commission to deliberate on the findings.

The Chair questioned City Engineer, Larry Anderson. In trying to standardize the issue, the matter of parking was considered by eliminating the areas to the North and the East, with limited parking to the South and West. If there is an issue because of the nature of the type businesses going in on Hayes St., would there be a problem with making a variation with Deborah St. and Elliott Rd. on Hayes St.? Larry Anderson responded, saying that there is no problem at the present. However, it is difficult to foresee what may arise in the future as far, as the nature of businesses and through streets which will be developed in the future.

Commissioner Anderson said that the Commission needs to set a standard to follow. Otherwise, it could end up being an constant open-ended issue with no resolutions.

Commissioner Fisher mentioned his feeling is that private enterprises should provide their own parking spaces. In the history of Newberg businesses, the businesses have always been required to provide their own parking. Trucking is a business.

In following the concerns shared, the Chair asked Mayor Proctor what she felt the role of the Traffic Safety Commission is with trying to facilitate or locate some type of a truck/trailer parking area? Mayor Proctor answered that the Council would go on the recommendation of the Traffic Safety Committee. As far as the city buying a parking lot or providing parking to the truckers, the Mayor indicated that she did not feel that would take place.

It was clarified by the Chair that there are two issues on the floor - (1) the parking issue and (2) what position/action the committee wants to take on the matter. An advisory type of recommendation needs to be made to the Council in an attempt to standardize these matters.

It was noted by Commissioner Dick McCabe that there were some truckers given a place to park, however, they did not use it. Sue Roberts asked if she could get a list of places to park. Larry will Anderson said he would provide her with such listing.

MOTION: Anderson/Pack to adopt the limitations of parking as outlined in the Public Notice. **Motion was carried unanimously.**

Commissioner Anderson requested that a draft of the proposal be referred to the Council concerning the recommendations previously made by the Commission regarding parking issues. This draft would be reviewed at the next meeting of the Traffic Safety Commission, then forwarded to the City Council.

The Committee recessed for a short break and reconvened 10 minutes later at 8:10 p.m.

B) Consider posting the intersection of S. College & 9th St. as a four-way stop.

The second Public Hearing was then opened. To be heard was the consideration of installing a four-way stop at the intersection of 9th and College Streets.

In Commissioner Pack and Anderson's observation of the intersection, they did noted a need for some action concerning pedestrian crossing at the location. The majority of northbound traffic is going to and from the apartment complex. Those people going south are mostly school traffic - delivering or picking up kids and so forth. Except for a very short time during the day, not much traffic was noted on College St. The stop signs on 9th St seem to serve as a traffic control, more than traffic impeding.

Staff report was requested. Staff member Larry Anderson commented, noting that there are no sidewalks currently on 9th St. There are a lot of kids are crossing at that location and it is confusing there, due to the fact that it is usually customary for the major street to be stopped for the minor street. 9th St. is the major street but College St. is the street currently being stopped. In the summer months, when the baseball field is in use, there is a need for safe crossing in that location. The street services a great deal of cars in the summer months. If a two-way stop analysis were done, 9th St. would not be stopped. Based on the fact that most traffic already stops at 9th St., the recommendation was that a four-way stop sign be approved.

Commissioner McCabe suggested to the staff that crosswalks be painted on 9th and College streets.

It was noted by Larry Anderson that the developer of the apartments located on the corner of 9th and College would be required to add improvements of a ramp and sidewalk installation. There is an existing city ordinance which requires property owners to install and maintain a sidewalk in front of their property. Again, it is the recommendation of the staff that a four-way stop be installed at the intersection of College and 9th streets.

The hearing was then closed and the Chair called for deliberations.

Commissioner Anderson questioned whether there is enough traffic going through the intersection to warrant a four-way stop. He does believe that the stop on 9th St. is necessary, especially during the summer, as this stop would control the speed and safety factor.

Engineer Anderson identified the main problem as being confusion at this particular intersection. Cars heading north and south on College St. can travel through the intersection. The majority of the cars are turning off of 9th St. onto College St. The stop sign there now is used for a speed control device. Stop signs should not serve the purpose of speed control. College St. is no longer a through street. 9th St. is the major street, as well as a collector street. Pedestrian traffic needs to have a stop there. The functioning of the intersection would not be impaired by a four-way stop.

Chief Tardiff supported what Larry Anderson's statements. Motorists stopping at 9th St. anticipate the side street (College St., in this case) to stop, too. Knowing College is a side street, it is the driver's anticipation that it will stop too, since the major street is being stopped. A hazard is created by stopping the reverse street. Traffic may stop but they may be heading out right away, thinking that the car pulling up from the side will be stopping as well. If general rules of the road are followed and the minor street is stopped, the problem most likely would not exist. However, when the minor street is stopped the motorist logically assumes there is a stop sign on that side street as well, creating a potential hazard.

Commissioner Pack commented that he has always known College St. to be a through street. He would expect a stop to be there, as would anyone who has lived in the area any length of time. Commissioner Sandager agreed that this is true, but newcomers may not know this.

Staff mentioned that only one incident report has been received on this location, to their knowledge.

MOTION: McCabe/Brandt that a four-way stop be installed at 9th and College. **Motion was carried unanimously.**

MOTION: McCabe/Brandt at the intersection of 9th and College St., to paint crosswalks to connect sidewalks. **Motion was carried unanimously.**

As a final note, Larry Anderson said that a plan is in progress to implement sidewalks on the other side of the street. Sidewalks should be in place before crosswalks are painted. Sidewalks will be installed heading from the south to the intersection in front of the apartments. Crosswalks may be painted on the west side of College, crossing 9th St., then turning east and crossing College St., to connect those sidewalks.

III. NEW BUSINESS:

A) Tim Commins, Director of Security at George Fox College

Tim Commins was invited to speak on behalf of the college's traffic safety and parking concerns. He indicated that the college desires to be a good neighbor and, at the same time, to manage the parking situation more effectively internally. Sheridan and Sherman Streets are too narrow to effectively handle the traffic. The traffic management resources of the college is not adequate to patrol the parking of students in that area. It is the intent of the college to seek cooperation from the Commission in enforcing student parking in that area. Thanking the Commission for the opportunity to be heard, Mr. Commins handed out an outline of GFC concerns regarding traffic safety, giving a brief overview of their action plan. *(See George Fox College Traffic Safety Concerns, attached.)*

Commissioners Russel Pack and Andy Anderson noted that they measured the area on River St., going north between Sheridan and Sherman Streets. Their finding was that the road clearance between two adjacent parked cars was 11 feet. There is limited area access for emergency vehicles. 11 feet would be inadequate space, if there was a need for a motorist to pull over for the passage of an emergency vehicle. The driver would have to pull into someone's driveway. It was also noted that, at some point, traveling north on River St., the street it widened out a bit, maybe 3-4 feet. In response to the those findings, Mr. Commins referred to item A on the plan submitted which indicates part of the plan as restricting narrow street parking on (1) E. Sheridan St., east of Meridian St. (2) Sherman St., east of Meridian St., and (3) River St., north of Sheridan St. As he sees it, a clear view of traffic is imperative. He indicated that three accidents had occurred on the corner of River and Sherman Streets, due to poor visibility.

There are 564 faculty/staff member cars and 904 student cars registered on campus. Although not all of these cars are parked on campus at the same time, there is a sincere concern for the community residents. There is a definite problem noted by the school that needs to be managed, both internally and with respect to the surrounding residents.

Commissioner Andy Anderson commented that he lives on Center, across from Pennington House. He has observed some people making their own bypassing, in order to cut off some of Hancock St. It is his opinion, those who need on-street parking are penalized, to accommodate those who are

wanting to get home a few minutes early. There is a lot of the traffic is through traffic wanting to get through around Hancock during rush hour, especially on Friday nights.

Commissioner McCabe commented that some on-campus parking exists. He asked Mr. Commins why more students are not using that area for parking? Mr. Commins responded, identifying the problem as convenience and inadequate security. There is a lack of security staff on campus. Vandalism has occurred with several cars parked in the Fulton St. - Wheeler parking area. Until residence halls are established there, creating more area awareness, a security concern does exist. The question was raised regarding parking fees. It was noted that fees may be implemented for parking permits in the future. Larry Anderson stated a concern - that this might, in effect, force more students to seek street parking.

Nondas Gilroy, 313 N. River (across from Pennington Hall) spoke, saying their house has a very narrow driveway. As the enrollment at the college has increased, getting in and out of their driveway has been a hardship. Mrs. Gilroy's concern is in knowing what to do when her driveway is blocked. According to Mrs. Gilroy, the Police Department said that neither the College nor the City can enforce that matter.

Chief Tardiff commented that the City can cite. However, the city has no rights or authority to tow a car that is not on private property. To date, no ordinance or ORS is in place to enforce towing. The problem remains enabled, because of this. ORS 810.430 allows for removal of illegally parked vehicle if in violation of ORS 811.555 or 811.570. (Also refer to 811.550.) Although the college does not require students to have a permit to park on a city street, they do required the registration of vehicles. The GFC standards which are in place can only be enforced on GFC property. The Police Department does not currently have a parking enforcement position. With the budget process currently taking place, a request for such position has been submitted.

Chairman Andrews asked that the Commission to consider creating some type of a zone to limit parking to residential parking.

The discussion was deferred to the next meeting.

City Attorney, Terry Mahr, was recognized. Chairman Andrews requested clarification as to the jurisdiction of the Traffic Safety Commission. Mr. Mahr mentioned that he contacted Helen Liere, ODOT Community Traffic Safety Program Coordinator, and gathered information regarding the method by which decisions are made. This information was presented to the Commission in the form of a handout. (*See attached.*) Mr. Mahr outlined the methods of major and minor matters before the Commission. According to the additional research done by the office of the City Attorney, quasi-judicial hearings are held within some cities.

It was Mr. Mahr's recommendation that, if it is the opinion of the Commission to continue to make these minor decisions and final decisions, an ordinance should be drafted, eliminating the need for a full-blown public hearing with each request.

The Traffic Safety Commission was established as a Council advisory committee in 1974 by Resolution No. 74-509. Ordinance No. 93-2354 in 1993 then adopted a "new" Traffic Safety Commission, granting the Commission the authority to make decisions established by ordinance. Prior to the passage of the 1993 ordinance, it was noted there were too many unresolved issues when the committee was merely an information-gathering, advisory-type committee. There was a great deal of time spent making decisions. The passage of Ordinance No. 93-2354 allowed the committee to function as a decision-making Commission.

Does the Commission want to be an advisory committee? In conclusion to this question, the group stated their wish to function as a Commission, not merely an advisory committee. It is the desire of Commission members to streamline the public hearing process by appealing final decisions to the Council level. Attorney Mahr will draft a sample ordinance to be reviewed by the Traffic Safety Commission.

Commissioner Sandager questioned what are the parameters are for holding a Public Hearing? As per the establishment of ordinance No. 93-2354, there are two methods by which such matters of parking, cross-walks, safety zone, etc. may be determined. The Commission may either (1) hold a public hearing for input after notice or (2) make a decision with appeal to the Council.

Chief Tardiff said that he shared the Commission's concerns of information getting lost in the shuffle between governing bodies, or tabled with no decisions were being made. The Public Hearing process is cumbersome but it was the trade-off for becoming a commission, rather than an advisory committee. In the Chief's opinion, it is appropriate to ask that the process be streamlined, so a public hearing does not have to be called for every minor issue.

The Chair commented that, in the process of rule developing, rules may be drafted and put out for public comment. The public comment can either come in as testimony or a Public Hearing can be requested. If an area is of particular concern, a Public Hearing may be requested and justified. The Chair questioned whether the process could be condensed if the meeting agenda were published in *The Graphic*. Would this alleviate the need of a public hearing, with the exception of what is a major and a minor matter? Any initial appeals would be to the Commission would then be taken to the Council.

The Commission has a concern as to what they can do to make the City Government more available to the people, taking some of the burden off of the City Council. The Commission is looking to be an asset - to the Council and to the City of Newberg. It was decided in the discussion that the City

Attorney would draft an ordinance for the Commission to review and present to Council.

IV. OLD BUSINESS

- A) **Review parking on both sides of Sheridan, between Meridian and Center streets, in the vicinity of George Fox College.**

Discussion of the above item was postponed.

Information was requested from Larry Anderson regarding past issues. A complaint was received previously by Neil Miller regarding semi-truck parking. Follow-up will be done with Lt. Newland to see if the matter was resolved.

V. COMMUNICATIONS FROM THE FLOOR:

Potential N. College St. Hazard

An additional traffic hazard was brought to the attention of the Commission by Commissioner Sandager. There is a potential hazard with the development on the east side of N. College St. The Commissioner requested Staff to ensure the signage of where N. College St. starts up the hill - to the north, just beyond Foothills Drive. Larry Anderson will follow up on the matter.

Issues Raised Concerning 99W Traffic Flow

It was noted that a copy of letter was received in the packet from Mr. Scott Phoenix to Kenneth E. Husby, P.E., ODOT Regional Administrator. Commissioners were asked to please be advised of it. No action was requested.

Bi-Pass/ Toll Ways Hearing Held - March 6, 1995

Members of the House and Senate were present at a hearing held last Monday at George Fox College. The hearing was in regards to Senate Bill 626 and House Bill No. 3235 which would provide toll roads by means of putting in new highways, etc. The question was raised by the Chair whether the Commission felt it beneficial for Chair Andrews to make testimony, on the behalf of the Commission, to the House and Senate at the next hearing.

Vice Chair Meyer advised the Commission of an additional hearing on the matter which will be held in Salem. The Commission could appear and speak at this meeting. Jerry Fisher commented that he felt letters would be beneficial. Commissioners were asked to draft letters which would be presented to House and Senate members at the next public hearing.

April 1, 1995 Spring Fair/Fashion Event Traffic Assistance

It was requested that the Traffic Safety Commission assist with trafficking from 1:00- 3:00 and security all day on April 1, 1995. This Spring Fashion and Merchandise Fair is sponsored by the Chamber of Commerce. Commissioner Meyers requested volunteers help with the event.

VI. ADJOURNMENT TO NEXT MEETING:

The meeting was adjourned at 10:15 p.m.

The next meeting of the Traffic Safety Commission will be held on May 8, 1995, 7:00 p.m. at the Newberg Public Library.

Mary Newell Mendy Secretary
Heidi D. Hess, Recording Secretary 5/8/95



George Fox College Traffic Safety Concerns

**Prepared for Traffic Safety Commission Meeting
March 13th, 1995**

- A. Restrict narrow street parking.**
 - 1. E. Sheridan, East of Meridian**
 - 2. Sherman, East of Meridian**
 - 3. River, North of Sheridan**
- B. Yellow zones 15 feet from corners**
- C. Stripe parking on N. Meridian North to E. North St.**
- D. One way traffic mini grid; same streets as section A.**
- E. Directional signs to event centers on campus.**
 - 1. Identify direction to Wheeler Sport Center and Bauman Auditorium.**
 - 2. Intersection at Fulton and Villa.**
 - 3. Intersection at Fulton and Meridian.**
- F. Residential curb zones.**
 - 1. Some to-be-designated color curb painted to designate resident only parking, especially residents without driveways**
 - 2. Curbs either side of residential driveways designated in same manner.**

801.562 "Transitional ownership record." "Transitional ownership record" means a record containing all of the following:

(1) The date of sale or if no sale is involved, the date the contract or security interest being perfected was signed.

(2) The name of each owner of the vehicle.

(3) The name and address of each security interest holder.

(4) If there are multiple security interest holders, the priorities of interest if the security interest holders do not jointly hold a single security interest.

(5) The vehicle identification number.

(6) The name of the security interest holder or person who submits the transitional ownership record for the security interest holder. [1989 c.927 §4; 1993 c.233 §10]

801.565 "Travel trailer." "Travel trailer" means:

(1) A manufactured dwelling that is eight and one-half feet or less in width and is not being used for commercial or business purposes;

(2) A recreational vehicle without motive power that is eight and one-half feet or less in width and is not being used for commercial or business purposes; and

(3) A prefabricated structure that is eight and one-half feet or less in width and that is not being used for commercial or business purposes. [1983 c.338 §104; 1993 c.696 §8]

801.570 "Trolley." "Trolley" means any vehicle propelled by electric energy obtained from overhead trolley wires and transmitted through trolley poles. [1983 c.338 §105]

801.575 "Truck tractor." "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and constructed so as not to carry any load other than a part of the weight of the vehicle or load, or both, as drawn. [1983 c.338 §106]

801.580 "Truck trailer." "Truck trailer" means any trailer designed and used primarily for carrying loads other than passengers whether designed as a balance trailer, pole

trailer, semitrailer or self-supporting trailer. [1983 c.338 §107]

801.585 "Unloaded weight." "Unloaded weight" means the weight of a vehicle when the vehicle is fully equipped exclusive of load. [1983 c.338 §108; 1985 c.172 §4]

801.590 "Vehicle." "Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means. [1983 c.338 §109]

801.595 "Vehicle code." "Vehicle code" means the Oregon Vehicle Code. [1983 c.338 §110]

801.600 "Vehicle identification number." "Vehicle identification number" means a distinguishing number assigned and affixed to a vehicle or vehicle component, such as an engine or transmission or other severable portion of a vehicle, by the manufacturer or under ORS 819.400 for the purpose of providing identification for the vehicle or vehicle component. [1983 c.338 §111]

801.605 "Vehicle of special interest." "Vehicle of special interest" means any American or foreign made motor vehicle that is maintained as a collector's item and that complies with all of the following:

(1) The vehicle must be:

(a) At least 25 years old as dated from any current year; or

(b) Sanctioned as a vehicle of special interest by an established organization that provides for recognition of vehicles of special interest.

(2) If the vehicle is a reconstructed vehicle, the Department of Transportation must determine that the vehicle has been reconstructed with substantially original parts and that the vehicle otherwise complies with this section. [1983 c.338 §112; 1985 c.16 §29]

801.610 "Worker transport bus." "Worker transport bus" means a vehicle that is described under ORS 820.010 that has a seating capacity of 12 or more passengers. [1983 c.338 §113]

801.323 "Issue"; "issuance." "Issue" or "issuance," when used in relation to title, means either the creation of a record of title for a vehicle or physical delivery of a certificate of title to a person, or both. [1993 c.233 §3]

801.325 "Limited visibility condition." "Limited visibility condition" means:

- (1) Any time from sunset to sunrise; and
- (2) Any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles are not clearly discernible on a straight, level, unlighted highway at a distance of 1,000 feet ahead. [1983 c.338 §55; 1987 c.158 §159]

801.330 "Loaded weight." "Loaded weight" means the weight transmitted to the road, through an axle or set of axles, when the vehicle is fully loaded. [1983 c.338 §56; 1989 c.723 §4]

801.332 "Manufactured dwelling." "Manufactured dwelling" has the meaning given in ORS 446.003 and also includes a structure that would meet the definition in ORS 446.003 except that it is being used for other than residential purposes. [1993 c.696 §2]

801.333 "Manufactured structure." (1) "Manufactured structure" means:

- (a) A manufactured dwelling that is more than eight and one-half feet wide;
- (b) A prefabricated structure that is more than eight and one-half feet wide; and
- (c) A recreational vehicle that is more than eight and one-half feet wide.

(2) "Manufactured structure" does not include any special use trailer. [1993 c.696 §3]

801.335 "Manufacturer." "Manufacturer" means any person engaged in the manufacture of new vehicles as a regular business. [1983 c.338 §57]

801.340 [1983 c.338 §58; 1985 c.16 §16; repealed by 1993 c.696 §19]

801.345 "Moped." "Moped" means a vehicle, including any bicycle equipped with a power source, that complies with all of the following:

- (1) It is designed to be operated on the ground upon wheels.
- (2) It has a seat or saddle for use of the rider.
- (3) It is designed to travel with not more than three wheels in contact with the ground.
- (4) It is equipped with an independent power source that:

(a) Is capable of propelling the vehicle, unassisted, at a speed of not more than 30 miles per hour on a level road surface; and

(b) If the power source is a combustion engine, has a piston or rotor displacement of 3.05 cubic inches or less or 50 cubic centimeters or less regardless of the number of chambers in the power source.

(5) It is equipped with a power drive system that functions directly or automatically only and does not require clutching or shifting by the operator after the system is engaged. [1983 c.338 §59; 1985 c.16 §19]

801.350 "Motor home." "Motor home" means a motor vehicle that:

(1) Is reconstructed, permanently altered or originally designed to provide facilities for human habitation; or

(2) Has a structure permanently attached to it that would be a camper if the structure was not permanently attached to the motor vehicle. [1983 c.338 §60]

801.355 "Motor truck." "Motor truck" means a motor vehicle that is primarily designed or used for carrying loads other than passengers. [1983 c.338 §61]

801.360 "Motor vehicle." "Motor vehicle" means a vehicle that is self-propelled or designed for self-propulsion. [1983 c.338 §62]

801.365 "Motorcycle." "Motorcycle" means any self-propelled vehicle other than a moped or farm tractor that:

(1) Has a seat or saddle for use of the rider;

(2) Is designed to be operated on the ground upon wheels; and

(3) Is designed to travel with not more than three wheels in contact with the ground. [1983 c.338 §63]

801.370 "Operation." "Operation" means any operation, towing, pushing, movement or otherwise propelling. [1983 c.338 §66]

801.375 "Owner." "Owner" when referring to the owner of a vehicle means:

(1) The person in whose name title to a vehicle is issued, and who is entitled to possession and use of the vehicle.

(2) If the title and right to possession and use for a vehicle are in different persons:

(a) The person, other than a security interest holder, who is entitled to the possession and use of the vehicle under a security agreement.

(b) The lessor or lessee of a vehicle, as designated by the lessor on the application for title, if the lessee is entitled to possession and use of the vehicle under a lease agreement. [1983 c.338 §67; 1991 c.551 §1; 1993 c.233 §7]

801.377 "Ownership record." "Ownership record" means:

(h) Trailers with a registration weight in excess of 8,000 pounds.

(3) Requirements to be equipped with roadside vehicle warning devices are contained in ORS 815.285.

(4) The offense described in this section, failure to post warnings for a disabled vehicle, is a Class B traffic infraction. [1983 c.338 §662; 1985 c.16 §325; 1985 c.420 §11; 1989 c.992 §21]

OBEYING POLICE

811.535 Failing to obey police officer; penalty. (1) A person commits the offense of failing to obey a police officer if the person refuses or fails to comply with any lawful order, signal or direction of a police officer who:

(a) Is displaying the police officer's star or badge; and

(b) Has lawful authority to direct, control or regulate traffic.

(2) The offense described in this section, failing to obey a police officer, is a Class C traffic infraction. [1983 c.338 §663]

811.540 Fleeing or attempting to elude police officer; penalty. (1) A person commits the crime of fleeing or attempting to elude a police officer if:

(a) The person is operating a motor vehicle; and

(b) A police officer who is in uniform and prominently displaying the police officer's badge of office or operating a vehicle appropriately marked showing it to be an official police vehicle gives a visual or audible signal to bring the vehicle to a stop, including any signal by hand, voice, emergency light or siren, and either:

(A) The person, while still in the vehicle, knowingly flees or attempts to elude a pursuing police officer; or

(B) The person gets out of the vehicle and knowingly flees or attempts to elude the police officer.

(2) The offense described in this section, fleeing or attempting to elude a police officer, is a Class A misdemeanor and is applicable upon any premises open to the public. [1983 c.338 §664; 1991 c.655 §1]

PARKING, STOPPING AND STANDING

(Generally)

811.550 Places where stopping, standing and parking prohibited. This section establishes places where stopping, standing and parking a vehicle are prohibited for purposes of the penalties under ORS 811.555. Except as provided under an exemption in ORS 811.560, a person is in violation of ORS 811.555 if a person parks, stops or leaves

standing a vehicle in any of the following places:

(1) Upon a roadway outside a business district or residence district, whether attended or unattended, when it is practicable to stop, park or leave the vehicle standing off the roadway. Exemptions under ORS 811.560 (1), (7) and (9) are applicable to this subsection.

(2) On a shoulder, whether attended or unattended, unless a clear and unobstructed width of the roadway opposite the standing vehicle is left for the passage of other vehicles and the standing vehicle is visible from a distance of 200 feet in each direction upon the roadway or the person, at least 200 feet in each direction upon the roadway, warns approaching motorists of the standing vehicle by use of flagpersons, flags, signs or other signals. Exemptions under ORS 811.560 (9) are applicable to this subsection.

(3) On the roadway side of a vehicle stopped or parked at the edge or curb of a highway. Exemptions under ORS 811.560 (7) are applicable to this subsection.

(4) On a sidewalk. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(5) Within an intersection. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(6) On a crosswalk. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(7) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs and markings. For purposes of this subsection the safety zone must be an area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(8) Alongside or opposite a street excavation or obstruction when stopping, standing or parking would obstruct traffic. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(9) Upon a bridge or other elevated structure upon a highway. Exemptions under ORS 811.560 (4) to (8) are applicable to this subsection.

(10) Within a highway tunnel. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(11) On any railroad tracks or within seven and one-half feet of the nearest rail at

815.160, 815.170, 818.020, 818.040, 818.060, 818.090, 818.110, 818.130, 818.160, 818.300, 818.320, 818.340, 818.350, 818.400, 820.400 or 822.220. [1983 c.338 §384; 1985 c.16 §199; 1987 c.138 §1]

810.380 [1985 c.744 §3; 1987 c.730 §19; 1987 c.904 §2; repealed by 1987 c.905 §37]

POLICE

(General Authority)

810.400 Uniform or badge required.

Any police officer attempting to enforce the traffic laws of this state shall be in uniform or shall conspicuously display an official identification card showing the officer's lawful authority. [1983 c.338 §399]

810.410 Arrest and citation. (1) A police officer may arrest or issue a citation to a person for a traffic crime at any place within or outside the jurisdictional authority of the governmental unit by which the police officer is authorized to act as provided by ORS 133.235 and 133.310.

(2) A police officer may issue a citation to a person for a traffic infraction at any place within or outside the jurisdictional authority of the governmental unit by which the police officer is authorized to act when the traffic infraction is committed in the police officer's presence or when the police officer has probable cause to believe an offense has occurred based on a description of the vehicle or other information received from a police officer who observed the traffic infraction from a train.

(3) A police officer:

(a) Shall not arrest a person for a traffic infraction.

(b) May stop and detain a person for a traffic infraction for the purposes of investigation reasonably related to the traffic infraction, identification and issuance of citation.

(c) May make an arrest of a person as authorized by ORS 133.310 (2) if the person is stopped and detained pursuant to the authority of this section.

(4) When a police officer at the scene of a traffic accident has reasonable grounds, based upon the police officer's personal investigation, to believe that a person involved in the accident has committed a traffic offense in connection with the accident, the police officer may issue to the person a citation for that offense. The authority under this subsection is in addition to any other authority to issue a citation for a traffic offense. [1983 c.338 §400; 1985 c.16 §212; 1991 c.720 §1]

810.420 Citation in radar cases. When the speed of a vehicle has been checked by radio microwaves or other electrical device, the driver of the vehicle may be stopped, de-

tained and issued a citation by a police officer if the officer is in uniform and has either:

(1) Observed the recording of the speed of the vehicle by the radio microwaves or other electrical device; or

(2) Probable cause to detain based upon a description of the vehicle or other information received from the officer who has observed the speed of the vehicle recorded. [1983 c.338 §401]

810.425 Procedure in certain parking cases.

(1) In all prosecutions of the owner of a vehicle for violation of ORS 811.555 (1)(b), 811.570 (1)(b), 811.575 (1)(b) and 811.585 (1)(b), or an applicable ordinance, it shall be sufficient for a police officer to charge the defendant by an unsworn written notice if the notice clearly states:

(a) The date, place and nature of the charge.

(b) The time and place for defendant's appearance in court.

(c) The name of the issuing officer.

(d) The license number of the vehicle.

(2) The notice provided for in subsection (1) of this section shall either be delivered to the defendant or placed in a conspicuous place upon the vehicle involved in the violation. A duplicate original of the notice shall serve as the complaint in the case when it is filed with the court. In all other respects the procedure otherwise provided by law in such cases shall be followed. Notwithstanding ORS 810.410, the issuing officer need not have observed the act of parking, but need only have observed that the vehicle appeared to be parked in violation of ORS 811.555 (1)(b), 811.570 (1)(b), 811.575 (1)(b) and 811.585 (1)(b), or an applicable ordinance.

(3) A district court and a justice court have concurrent jurisdiction over parking offenses committed within the county.

(4) This section does not apply to prosecutions under city ordinances but ORS 221.340 shall apply to such prosecutions. [1987 c.687 §2]

810.430 Movement of illegally parked vehicles.

A police officer who finds a vehicle parked or standing upon a highway in violation of ORS 811.555 or 811.570 may move the vehicle, cause it to be moved or require the driver or person in charge of the vehicle to move it. The authority to move vehicles under this section is in addition to any authority under ORS 819.110 to 819.130. [1983 c.338 §402]

(Security for Appearance)

810.440 Security for appearance of person arrested for traffic crime. A police officer may take security for the appearance

(6) When applicable, this subsection exempts vehicles acting in compliance with law or at the direction of a police officer or a traffic control device.

(7) When applicable, this subsection exempts the driver of a vehicle that is disabled in such manner and to such extent that the driver cannot avoid stopping or temporarily leaving the disabled vehicle in a prohibited position.

(8) When applicable, this subsection exempts vehicles owned or operated by the State Department of Fish and Wildlife when stopping, standing or parking is necessary to enable employees to release fish.

(9) When applicable, this subsection exempts vehicles momentarily stopped to allow oncoming traffic to pass before making a right-hand or left-hand turn or momentarily stopped in preparation for or while negotiating an exit from the road. [1983 c.338 §670; 1985 c.334 §2; 1989 c.433 §3]

811.565 Dangerous movement of stopped, standing or parked vehicle; penalty. (1) A person commits the offense of dangerous movement of a stopped, standing or parked vehicle if the person moves a vehicle so stopped, standing or parked when the movement cannot be made with reasonable safety.

(2) The offense described in this section, dangerous movement of a stopped, standing or parked vehicle, is a Class C traffic infraction. [1983 c.338 §675]

811.570 Improperly positioning parallel parked vehicle; exception; affirmative defense; penalty. (1) A person commits the offense of improperly positioning a parallel parked vehicle if:

(a) The person stops or parks a vehicle on a highway where parallel parking is permitted and the vehicle is not parked in accordance with the following:

(A) Upon a two-way highway, the vehicle shall be positioned so that the right-hand wheels are parallel to and within 12 inches of the right curb or, if none, as close as possible to the right edge of the right shoulder.

(B) On a one-way highway where parallel parking is permitted on either side, a vehicle parked or stopped on the right side shall be positioned in accordance with the requirements of subparagraph (A) of this paragraph and a vehicle parked or stopped on the left side shall be positioned so that the left-hand wheels are parallel to and within 12 inches of the left curb or, if none, as close as possible to the left edge of the left shoulder.

(C) Where marked parking spaces are provided, a vehicle shall be positioned so that it faces in the direction in which vehi-

cles in the adjacent lane of the roadway are required to travel and so that the wheels are within the parking space markings which are parallel to the curb or, if none, to the edge of the shoulder; or

(b) The person is the owner of an unattended vehicle parked on a highway in violation of paragraph (a) of this subsection.

(2) The provisions of this section do not apply to the driver of a vehicle that is disabled in such manner and to such extent that the driver cannot avoid stopping or temporarily leaving the disabled vehicle in a position prohibited by this section.

(3) A police officer, under authority granted by ORS 810.430, may move or require to be moved a vehicle that is parked in violation of this section.

(4) It is an affirmative defense to a prosecution of the owner of a vehicle under subsection (1)(b) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication.

(5) The offense described in this section, improperly positioning a parallel parked vehicle, is a Class D traffic infraction. [1983 c.338 §671; 1987 c.687 §5]

811.575 Violation of posted parking restrictions on state highways; affirmative defense; penalty. (1) A person commits the offense of violation of posted parking restrictions on state highways if appropriate signs or markings are posted giving notice of any regulations, restrictions or prohibitions on the parking, stopping or standing of vehicles on a state highway and:

(a) The person parks, stops or stands a vehicle on a state highway in violation of any such regulations, restrictions or prohibitions; or

(b) The person is the owner of an unattended vehicle parked on a state highway in violation of any such regulations, restrictions or prohibitions.

(2) Authority to impose restrictions, regulations and prohibitions on parking, stopping or standing of vehicles on state highways is established under ORS 810.160.

(3) It is an affirmative defense to a prosecution of the owner of a vehicle under subsection (1)(b) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication.

(4) The offense described in this section, violation of posted parking restrictions on state highways, is a Class D traffic infraction. [1983 c.338 §672; 1987 c.687 §6]

811.580 Parking vehicle on state highway for vending purposes; penalty. (1) A driver commits the offense of unlawful park-

a time when the parking of vehicles would conflict with railroad operations or repair of the railroad tracks. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(12) On a throughway. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(13) In the area between roadways of a divided highway, including crossovers. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(14) At any place where traffic control devices prohibit stopping. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(15) In front of a public or private driveway. Exemptions under ORS 811.560 (2) and (4) to (7) are applicable to this subsection.

(16) Within 10 feet of a fire hydrant. Exemptions under ORS 811.560 (2) and (4) to (7) are applicable to this subsection.

(17) Within 20 feet of a crosswalk at an intersection. Exemptions under ORS 811.560 (2) and (4) to (7) are applicable to this subsection.

(18) Within 50 feet upon the approach to an official flashing signal, stop sign, yield sign or traffic control device located at the side of the roadway if the standing or parking of a vehicle will obstruct the view of any traffic control device located at the side of the roadway. Exemptions under ORS 811.560 (2) and (4) to (7) are applicable to this subsection.

(19) Within 15 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station, within 75 feet of the entrance. Exemptions under ORS 811.560 (2) and (4) to (7) are applicable to this subsection.

(20) At any place where traffic control devices prohibit standing. Exemptions under ORS 811.560 (2) and (4) to (7) are applicable to this subsection.

(21) Within 50 feet of the nearest rail of a railroad crossing. Exemptions under ORS 811.560 (3) to (7) are applicable to this subsection.

(22) At any place where traffic control devices prohibit parking. Exemptions under ORS 811.560 (3) to (7) are applicable to this subsection.

(23) On a bicycle lane. Exemptions under ORS 811.560 are applicable to this subsection.

(24) On a bicycle path. Exemptions under ORS 811.560 are applicable to this sub-

section. [1983 c.338 §669; 1985 c.21 §1; 1985 c.334 §1; 1989 c.433 §2]

811.555 Illegal stopping, standing or parking; affirmative defense; penalty. (1) A person commits the offense of illegal stopping, standing or parking if:

(a) The person stops, parks or leaves standing a vehicle in a place where such stopping, parking or standing is prohibited under ORS 811.550; or

(b) The person is the owner of an unattended vehicle parked in a place where such parking is prohibited under ORS 811.550.

(2) Exemptions from this section are established under ORS 811.560.

(3) A police officer, under authority granted by ORS 810.430, may move or require to be moved a vehicle that is stopped, parked or left standing in violation of this section.

(4) It is an affirmative defense to a prosecution of the owner of a vehicle under subsection (1)(b) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication.

(5) The offense described by this section, illegal stopping, standing or parking, is a Class D traffic infraction. [1983 c.338 §668; 1987 c.687 §4]

811.560 Exemptions from prohibitions on stopping, standing and parking. This section provides exemptions from ORS 811.550 and 811.555. The following exemptions are applicable as provided under ORS 811.550:

(1) When applicable, this subsection exempts school buses or worker transport buses stopped on a roadway to load or unload workers or children, providing that the flashing school bus safety lights on the bus are operating.

(2) When applicable, this subsection exempts vehicles stopped, standing or parked momentarily to pick up or discharge a passenger.

(3) When applicable, this subsection exempts vehicles stopped, standing or parked momentarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(4) When applicable, this subsection exempts vehicles owned or operated by the state, a county or city when stopping, standing or parking is necessary to perform maintenance or repair work on the roadway.

(5) When applicable, this subsection exempts vehicles from the prohibitions and penalties when the driver's disregard of the prohibitions is necessary to avoid conflict with other traffic.

Section 18. Removing Glass and Debris. A party to a vehicle accident or a person causing broken glass or other debris to be upon a street shall remove the glass and other debris from the street.

Section 19. Amended by Ord. 1697, 6-4-73; repealed by Ord. 1737, 7-1-74).

PARKING REGULATIONS

Section 20. Method of Parking.

- (1) No person shall stand or park a vehicle in a street other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, and with the curbside wheels of the vehicle within 12 inches of the edge of the curb, except where street is marked or signed for angle parking.
- (2) Where parking space markings are placed on a street, no person shall stand or park a vehicle other than in the indicated direction and, unless the size and shape of the vehicle makes compliance impossible, within a single marked space.
- (3) The operator who first begins maneuvering his motor vehicle into a vacant parking space on a street shall have priority to park in that space, and no other vehicle operator shall attempt to deprive him of his priority or block his access.
- (4) Whenever the operator of a vehicle discovers that his vehicle is parked close to a building to which the fire department has been summoned, he shall immediately remove the vehicle from the area, unless otherwise directed by police or fire officers.

Section 21. Prohibited Parking and Standing. In addition to the state motor vehicle laws prohibiting parking, no person shall park or stand:

- (1) A vehicle upon a bridge, viaduct or other elevated structure used as street or within a street tunnel unless authorized.
- (2) A vehicle in an alley other than for the expeditious loading or unloading of persons or materials, but in no case for a period in excess of 30 consecutive minutes.
- (3) A motor truck as defined by ORS ^{801.575}~~483.014~~(3) on a street between the hours of 9:00 p.m. and 7:00 a.m. of the following day in front of or adjacent to a residence, motel, apartment house, hotel or other sleeping accommodation.
- (4) A vehicle upon a parkway or freeway, except as authorized.

ORDINANCE NO. 2073

AN ORDINANCE PROVIDING A TRUCK ROUTE FOR ALL TRUCKS OF 10,000 POUNDS OR MORE TRAVELING OVER STREETS LOCATED WITHIN THE CITY LIMITS OF THE CITY OF NEWBERG, OREGON; PROVIDING A PENALTY FOR VIOLATION; AND DECLARING AN EMERGENCY.

WHEREAS, trucks hauling freight in the City of Newberg are using numerous streets in the City of Newberg not designed for truck travel; and

WHEREAS, said streets are in need of repair and continued use of said streets by heavy trucks will entail large outlays of City funds for major repairs and it is therefore necessary that a truck route be designated for the operation of trucks within the city limits of the City of Newberg; and

WHEREAS, Ordinance No. 2035 passed and approved October 6, 1980 has provided some load limitations for trucks on the streets of the City of Newberg; and

WHEREAS, the City Council of the City of Newberg at its meeting on November 2, 1981, referred this matter to the Ordinance/Legislative Committee of the Council, which committee considered this matter on November 16, 1981, and recommends the passage of this ordinance to the Council; and

WHEREAS, the Council now being fully advised on the premises, NOW, THEREFORE, THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

Section 1. It shall be unlawful to operate any vehicle with a gross weight of the vehicle and its load exceeding 10,000 pounds upon the streets located within the City of Newberg, excepting those vehicles making retail deliveries to and from persons located within the city limits of the City of Newberg, except upon those streets designated as a truck route below and on a map which is designated as Exhibit A, attached hereto, said truck route being as follows, to-wit:

A. From the intersection of West Second Street with Main Street easterly along Second Street to South River Street; from the intersection of West Third Street with Highway 99W easterly along West Third Street to South Main Street; from the intersection of South College Street with East First Street southerly to East Fourth Street; from the intersection of South College with East Fourth easterly along East Fourth Street to Wynooski Street; from the intersection of East Fourth Street southeasterly along Wynooski Street to the intersection of Wynooski Street with East Eleventh Street; from the intersection of East Eleventh Street with Wynooski Street westerly along east Eleventh Street to South River Street; from the intersection of South River Street with East First Street southerly on River Street to Fourth Street; from the intersection of First Street with Main Street southerly on Main Street to Third Street; from the

intersection of South River Street with East Eleventh Street southerly along South River Street to the south city limits of the City of Newberg; from the intersection of East Illinois Street with North Main Street easterly on East Illinois Street to North College Street; from the intersection of Springbrook Street and the south city limits of the City of Newberg northerly along Springbrook Street to the Southern Pacific Railroad Tracks; and from the intersection of Springbrook Street and Crestview Drive westerly along Crestview Drive to the western most limits of the ADEC Industrial Park.

B. All streets and thoroughfares designated as state highways.
(As Amended by Ord. 2190, 10-6-86 - Eliminates Wynooski as part of Truck Route).

Section 2. Penalties. Violation of any provision of this ordinance is a City Class 2 civil infraction and shall be processed in accordance with the procedure set forth in the "Uniform Civil Infraction Procedure Ordinance" of this City. (As amended by Ord 2163, 4-1-85).

Section 3. WHEREAS, there is an immediate need for restriction of load amounts in the area designated above and for the designation of a truck route to accommodate truck traffic, thus avoiding damages to the city streets of the City of Newberg and therefore, it is necessary for the peace, health and safety of the people of the City of Newberg that this ordinance shall be immediately effective. NOW, THEREFORE, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

PASSED by the Council and approved by the Mayor December 2, 1981.

TRAFFIC SAFETY COMMISSION
(Community Traffic Safety Program)
March 13, 1995

- I. Newberg Traffic Safety Commission (TSC)
 - A. Resolution No. 74-509 in 1974 established TSC
 - (1) Safety Programs
 - (2) "...acting in an advisory capacity to the City Council in coordination of traffic safety activities of the official agencies and departments of the City of Newberg; ..."
 - B. Ordinance No. 93-2354 in October, 1993, adopted a "new" Traffic Safety Commission
 - (1) Safety Programs
 - (2) **Made decisions on location of "parking, crosswalks, safety zones, traffic lanes, traffic truck routes and traffic control signs within the community".**
 - (3) Required notice of hearings and held public hearings
 - (4) Appeal from TSC's decision to the City Council.
- II. Two Methods of Determining Parking, Cross-Walks, Safety Zones, etc.
 - A. As of October, 1993 - TSC, through Ordinance No. 93-2354
 - (1) TSC holds public hearing for input after notice
 - (2) TSC makes decision with appeal to Council
 - B. Established in 1971, Ordinance No. 1593, as amended
 - (1) City Council
 - (2) Police Chief Authority

III. Resolution of Method

- A. Council will consider on March 20, 1995, an amendment to the Ordinance.
- B. Any amendment could be referred to a subcommittee of the Council to (1) consider recommendation of TSC to other input.
 - (1) Consider recommendation TSC
 - (2) Other input
- C. Report to the Council
- D. Council adopts new Ordinance setting out method

IV. Method at TSC

- A. Minor Matters
 - (1) Notice
 - (2) Time for Written Comment
 - (3) Request hearing before TSC
- B. Major Matters
 - (1) Examples: truck routes, traffic light location, speed changes, etc.
 - (2) Public hearings at TSC
- C. Appeals to the Council
- D. Sample Ordinance

Ord No. 93-2354
1993

Section 9. Purpose and duties. The purpose of this commission is to promote the traffic safety through investigation, study and analysis of the traffic safety program; to conduct educational efforts among the public on matters of traffic safety; to consider all traffic safety programs which are referred to them for recommendation by the City Council and to make reports to the City Council on all matters of traffic safety and traffic safety programs. The Traffic Safety Commission shall hold hearings and decide on the location of parking, crosswalks, safety zones, traffic lanes, truck routes, and traffic control signs within the community. Notice of hearings shall be posted and distributed in accordance with the public meetings law of the state of Oregon.

Section 10. Appeal to the Council. Decisions of the Traffic Safety Commission may be appealed to the council by the applicant, an affected party which appeared either in writing or in person at the Traffic Safety Commission meeting, or the City Manager. Such an appeal shall be filed in the office of the City Manager within 10 days after the commission's decision. In the event of appeal of the Traffic Safety Commission's decision, notice thereof shall be sent by mail to the applicant and affected parties that appeared in writing or in person at the Traffic Safety Commission meeting, and any parties expressing an interest in being noticed during the hearing process. An appeal of a Traffic Safety Commission action shall be made on a form prescribed by the City Manager which shall include the following data:

- A. Name, address and phone number of appellant.
- B. Reason for the appeal.

Section 11. Decision on Appeal. The City Council shall make the final decision concerning any appeal from the Traffic Safety Commission. The City Council reserves the right to consider the appeal based solely on the record or by taking oral or written testimony. A staff report shall be presented at the City Council meeting which addresses the issues raised in the appeal.

PASSED by the Council and APPROVED by the Mayor October 4, 1993.

RES. 74-509
1974

SECTION 2. DUTIES AND RESPONSIBILITIES OF THE COMMISSION

The Commission shall be specifically responsible but not limited to the following:

- a. Researching, developing and implementing coordinated traffic safety programs which meet local needs; ~~acting in an advisory capacity to the City Council in the coordination of traffic safety activities of the official agencies and departments of the City of Newberg;~~ upon request provide research and furnish information to other official agencies of the City of Newberg; promote public acceptance of official programs proposed or instigated by the City, fostering public knowledge and support of traffic law enforcement and traffic engineering problems, cooperating with the public and private school systems of the City in promoting traffic safety aids in the schools, promoting the education of the public on traffic safety and generally, assisting in the over-all reduction of traffic accidents, injuries and deaths on the City's streets.
- b. The Commission shall formulate rules and policies for solicitation, promotion and advertising the activities of the Traffic Commission.

Ord # 1593
Est 1971 (A. 1973)

- (2) The powers of the council shall include but not be limited to:
- (a) Designation of through streets.
 - (b) Designation of one-way streets.
 - (c) Designation of truck routes.
 - (d) Designation of parking meter zones.
 - (e) Restriction of the use of certain streets by any class or kind of vehicle to protect the streets from damage.
 - (f) Authorization of greater maximum weights or lengths for vehicles using city streets than specified by state law.
 - (g) Initiation of proceedings to change speed zones.
 - (h) Revision of speed limits in parks.
 - (i) Establishment, maintenance, removal or alteration of traffic control signals.
 - (j) Establishment, maintenance, removal or alteration of loading zones and stops for all vehicles.
 - (k) Designation of certain streets as bridle paths and prohibition of horses and animals on other streets.
 - (l) Temporary blocking or closing of streets. (Amended by Ord. 1709, 9-17-73).

Section 4A. Duties of the Chief of Police. The chief of police or his designate shall exercise the following duties:

- (1) Implement the ordinances, resolutions and motions of the council and his own orders by installing traffic control devices. Such installations shall be based on the standards contained in the Oregon manual on Uniform Traffic Control Devices for Streets and Highways.
- (2) Establish, maintain, remove or alter the following classes of traffic controls:
 - (a) Crosswalks, safety zones and traffic lanes.
 - (b) Intersection channelization and areas where drivers of vehicles shall not make right, left or U-turns, and the time when the prohibition applies.
 - (c) Parking areas and time limitations, including the form of permissible parking (e.g., parallel or diagonal).
- (3) Issue oversize or overweight vehicle permits.
- (4) The chief of police shall file with the recorder as a public record a report of any action taken by him under this section. (Added by Ord. 1709, 9-17-73).

GUIDELINES FOR STARTING A TRAFFIC SAFETY COMMISSION

Why should our community have a traffic safety commission?

The main reason is to prevent and reduce the loss of life, human suffering and economic costs resulting from traffic accidents.

Here are some statistics that underline the tremendous costs, human and economic, that traffic accidents have:

1. Motor vehicle accidents continue to be the leading cause of death and injury for all Oregonians up to age 35, and the number one preventable killer andcrippler of children.
2. Nationally, about 40,000 people die in traffic crashes each year and 5 million are injured. 107 people die each day from traffic crashes. In comparison, about 25,000 murders and one million aggravated assaults occur each year.
3. There were 51,613 traffic accidents in Oregon in 1990, including 500 traffic fatalities and 22,414 injury accidents.
4. Accidents involving alcohol or other drugs account for over 45% of the fatal and serious injury accidents occurring in Oregon each year.
5. Motor vehicle crashes are the number 1 cause of lost work time and on-the-job fatalities in the U.S.
6. Teens 15-19 are twice as likely to be involved in fatal and injury crashes as the population as a whole.
7. 75 percent of all crashes occur within 25 miles of home.
8. 40 percent of fatal crashes occur on roads with posted speed limits of 45 miles per hour or less.
9. About two in every five Americans will be involved in an alcohol-related crash at some time in their lives.
10. Motor vehicle crashes cost society more than \$137 billion each year. We save \$35,000 in health care costs alone for each serious injury we prevent. Personal and other household crimes cost their victims \$19 billion.

How do we get started?

A commission can be initiated by citizens, elected officials, or local government staff. However, to increase its effectiveness, the commission should be authorized through an ordinance, resolution, or executive order of the local government. A model and sample of such ordinances and resolutions are included at the back of these guidelines.

Who should be on the commission?

The important thing is to get a commission in place that is able to help meet the safety needs of the community. The makeup of the commission should fit the needs of the community.

In a small community, the commission might consist of key officials/staff with traffic safety responsibilities, who meet to discuss problems and plan a coordinated program of traffic safety activities. However, whenever possible, citizens should be included to build public support and acceptance of programs. Another approach smaller communities may want to consider is adding traffic safety responsibilities to the mission of an existing commission or committee.

In a larger community, the commission would ideally consist of volunteer citizens, and have funding and sufficient staff to conduct an ongoing program.

The commission's membership will be decided by the local government's council or commission. The Chairperson might be selected by its members or appointed by the Mayor or by the Chairperson of the County Commission. If the commission does not have staff, one of the members should serve as the secretary and keep the official minutes of all meetings.

The following agencies and organizations should be considered for representation on a city or county traffic safety commission:

- law enforcement agency
- local school or board of education
- planning commission
- local newspaper
- health care providers (doctors, nurses, hospitals)
- local emergency medical services (paramedics, ambulance drivers)
- the public safety/engineering department
- civic groups (MADD, Kiwanis, Rotary, Lions, PTA, etc.)
- student safety organizations (OSSOM/SADD)
- fire department
- public utilities
- auto insurance companies
- business organizations
- cities (for county traffic safety commissions only)

What can a traffic safety commission do?

The activities of the commission will depend upon its structure and the needs of the community.

A careful analysis of traffic safety needs and problems should be made by the commission to determine the proper focus for the commission's activities.

Based on a review of local accident data and safety needs, the traffic safety commission may decide to focus on specific segments of the population. For example: youth and/or seniors. The commission may also decide that their efforts need to focus on specific areas of traffic safety. For example: pedestrians, bicycles, motorcycles, trucks, safety belts, drunk driving, speed, traffic engineering, etc.

The purpose of the commission needs to be specified in the resolution or ordinance establishing the commission. (Please see the model and sample documents attached.) The following list identifies possible projects for a traffic safety commission:

1. Conducting an ongoing public information campaign designed to call public attention to traffic safety problems in the community. Examples include: explaining how to use pedestrian lights/signs, describing dangerous intersections in the local newspaper.
2. Conducting an ongoing public information campaign to educate people about driving laws, DUII, safety belts, etc. This might include safety messages on business signs or development of a student safety program in the local schools.
3. Providing an open forum to hear, and to respond to, citizen concerns/complaints.
4. Advising city or county staff on traffic safety priorities.
5. Conducting a study to locate and document accident locations.
6. Conducting a study of local signage (i.e., Are local tourist sites easy to find?)
7. Organizing bike rodeos.
8. Conducting a study to identify obstructions to safe driving.

For more information or assistance in setting up a local traffic safety commission, please contact Helen Liere, Coordinator, Community Traffic Safety Program, 656-7207. The Community Traffic Safety Program is a contracted program of the Oregon Department of Transportation, Transportation Safety Section.

House Bill 3235

Sponsored by Representative BRIAN

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.

Authorizes building, operation and maintenance of toll roads by governments, private entities, or combination.

Establishes State Tollway Account. Appropriates moneys from account to Department of Transportation for purposes authorized by law.

A BILL FOR AN ACT

1
2 Relating to tollways; and appropriating money.

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

4 **SECTION 1. The Legislative Assembly finds that:**

5 (1) **The development, improvement, expansion and maintenance of an efficient, safe and**
6 **well-maintained system of roads, highways and other transportation facilities is essential to**
7 **the economic well-being and high quality of life of the people of this state.**

8 (2) **Public sources of revenues, including federal funding, to provide an efficient trans-**
9 **portation system have not kept pace with the state's growing population and growing**
10 **transportation needs, and all available alternative sources of funding should be utilized to**
11 **supplement available public sources of revenues.**

12 (3) **Because public funding sources are not providing the state with sufficient funds to**
13 **meet all of its transportation needs, private funding should be encouraged as an additional**
14 **source of funding for transportation projects and facilities.**

15 (4) **Various alternatives for utilizing the funds of private entities in the acquisition, de-**
16 **sign, construction, reconstruction, operation and maintenance of transportation facilities**
17 **exist, including arrangements whereby private entities obtain exclusive agreements to de-**
18 **sign, build, own, lease or operate with private funds all or a portion of transportation**
19 **projects and facilities in exchange for the right to receive certain revenues generated from**
20 **the operation and utilization of such transportation projects and facilities.**

21 (5) **Another important alternative for the funding of transportation facilities is the use**
22 **of federal funds pursuant to 23 U.S.C. §129(a), as amended by Section 112 of the Intermodal**
23 **Surface Transportation Efficiency Act of 1991, which established a program authorizing fed-**
24 **eral participation in construction of publicly or privately owned toll highways, bridges and**
25 **tunnels.**

26 (6) **The federal legislation allows for a mix of federal funding and private funding of**
27 **transportation facilities, allowing the states to leverage available federal funds as a means**
28 **for attracting private capital.**

29 (7) **Legislation for the utilization of private funding of transportation facilities should be**
30 **flexible enough to permit the Department of Transportation to obtain the advantages of any**

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 available alternative under which the acquisition, design, construction, reconstruction, op-
 2 eration, maintenance and repair of transportation facilities can be financed in whole or in
 3 part or in combination by any available sources of private or public funding.

4 (8) The funding of transportation facilities through the imposition of tolls on those who
 5 use such facilities is a fair and impartial means of assessing the costs of improvements
 6 against those who most benefit from such improvements, and is consistent with public pol-
 7 icy.

8 (9) Joint ventures of public and private entities do the following:

9 (a) Take advantage of private sector efficiencies in designing, constructing and operating
 10 transportation projects.

11 (b) Allow for the rapid formation of capital necessary for funding transportation projects.

12 (c) Require continued compliance with environmental requirements and applicable state
 13 and federal laws that all publicly financed projects must address.

14 **SECTION 2.** As used in sections 2 to 11 of this Act:

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

16 (2) "Private entity" means any nongovernmental entity, including a corporation, part-
 17 nership, company or other legal entity, or any natural person.

18 (3) "Related facility" means any real or personal property appurtenant to a tollway and
 19 used to operate, maintain or renovate the tollway or to provide goods and services to the
 20 users of the tollway as required by this Act.

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

22 (5) "Tollway" means any roadway, path, highway, bridge, tunnel, railroad track, bicycle
 23 path or other paved surface or structure specifically designed as a land vehicle transporta-
 24 tion route, the construction, operation or maintenance of which is wholly or partially funded
 25 with toll revenues resulting from an agreement under section 3 of this Act.

26 (6) "Tollway project" means any capital project involving the acquisition of land for, or
 27 the construction, reconstruction, installation or equipping of, a tollway and related facilities
 28 or any portion thereof.

29 (7) "Unit of government" means any department or agency of the Federal Government,
 30 any state, or any agency, office or department thereof, and any city, county, district, port
 31 or other public corporation organized and existing under statutory law or under a voter-
 32 approved charter.

33 **SECTION 3.** For purposes of the acquisition, design, construction, reconstruction, oper-
 34 ation or maintenance and repair of land and improvements for tollways and related facilities,
 35 the Department of Transportation may enter into any combination of contracts, agreements
 36 and other arrangements with any one or more private entities or units of government, or
 37 any combination thereof, including but not limited to the following:

38 (1) Design-build contracts with private entities pursuant to which a portion or all aspects
 39 of the design, construction and installation of all or any portion of a tollway or related fa-
 40 cility are accomplished by the private entity;

41 (2) Lease agreements, lease-purchase agreements and installment sale arrangements for
 42 the lease, sale or purchase of real and personal property by the state from private entities
 43 or units of government or by private entities or units of government from the state;

44 (3) Licenses, franchises or other agreements for the periodic or long-term operation or
 45 maintenance of a tollway or any related facility;

- 1 (4) Financing agreements pursuant to which the department makes any loan, grant,
 2 guaranty or other financing arrangement with a private entity or unit of government; and
 3 (5) Agreements for purchase or acquisition of fee ownership, easements, rights of way
 4 or any other interests in land upon which a tollway or related facility is to be built.

5 **SECTION 4.** (1) There is hereby established the State Tollway Account as a separate ac-
 6 count within the State Highway Fund. The State Tollway Account shall consist of:

7 (a) All moneys and revenues derived from or made available by the Federal Government
 8 for any tollway project or for the operation or maintenance of any tollway;

9 (b) Any moneys received by the Department of Transportation from any unit of govern-
 10 ment or any private entity for a tollway project or for the operation or maintenance of any
 11 tollway;

12 (c) All moneys and revenues derived from fees paid by private entities or units of gov-
 13 ernment under any lease, agreement, franchise or license for the right to the possession and
 14 use, operation or management of a tollway or any related facility;

15 (d) All tolls and other revenues received by the department from the users of any tollway
 16 or related facility;

17 (e) The proceeds of any bonds authorized to be issued by the department for tollway
 18 purposes;

19 (f) Any moneys that the department has legally transferred from the State Highway Fund
 20 to the State Tollway Account for tollway purposes;

21 (g) All moneys and revenues received from all other sources that by donation, grant,
 22 contract or law are allocated or dedicated for tollway purposes; and

23 (h) All interest earnings on investments made from any of the moneys held in the State
 24 Tollway Account, and all loan repayments and interest earnings from loans made by the de-
 25 partment to any private entity or unit of government under section 3 of this Act.

26 (2) Moneys in the State Tollway Account may be used by the department for the following
 27 purposes:

28 (a) To finance preliminary studies and reports for any tollway project;

29 (b) To acquire land to be owned by the state for tollways and any related facilities
 30 therefor;

31 (c) To finance the construction, renovation, maintenance and repair of any tollway or
 32 related facility;

33 (d) To finance the renovation, operation, maintenance and repair of any former tollway
 34 or related facility;

35 (e) To make grants or loans to a unit of government for tollway purposes;

36 (f) To make loans to a private entity for tollway purposes;

37 (g) To pay the principal, interest and premium due with respect to, and to pay the costs
 38 connected with the issuance or ongoing administration of any bonds or other financial obli-
 39 gations authorized to be issued by, or the proceeds of which are received by, the department
 40 for any tollway project;

41 (h) To provide a guaranty or other security for any bonds or other financial obligations,
 42 including but not limited to financial obligations with respect to any bond insurance, surety
 43 or credit enhancement device issued or incurred by the department, a unit of government
 44 or a private entity, for the purpose of financing a single tollway project or any related group
 45 or system of tollways or related facilities; and

1 (i) To pay the costs incurred by the department in connection with its oversight, opera-
 2 tion and administration of the State Tollway Account, the proposals and projects submitted
 3 under section 7 of this Act and the tollways and related facilities financed under section 3
 4 of this Act.

5 (3) For purposes of providing a guaranty, surety or other security as provided in this
 6 section, the department may:

7 (a) Irrevocably pledge any amounts in the State Tollway Account, and, if deemed neces-
 8 sary by the department, transfer such amounts from the State Tollway Account to a sepa-
 9 rate trust fund or account for the bonds or other obligations thereby secured; and

10 (b) Irrevocably pledge and, as deemed necessary by the department, transfer to a sepa-
 11 rate trust fund or account any revenues received or to be received:

12 (A) From the tolls or other operations of the tollway or related facility financed by the
 13 bonds or obligations; or

14 (B) From any discrete system or group of tollways or related facilities.

15 (4) Notwithstanding any other provision of this Act, the department shall not pledge any
 16 funds or amounts at any time held in the State Tollway Account as security for the obli-
 17 gations of a private entity unless the department has entered into a binding and enforceable
 18 agreement pursuant to which the department has:

19 (a) Unlimited recourse, for the reimbursement of any moneys drawn under or paid as a
 20 result of such pledge, to all available assets and accounts, including any assets or accounts
 21 related to a tollway of:

22 (A) The private entity whose obligations are thereby secured; and

23 (B) Any entity that controls such private entity; and

24 (b) The right to be defended and indemnified for, from and against any expenses resulting
 25 from any claims, litigation or other events related or consequent to the department's pledge
 26 of such funds or amounts, including any legal expenses, and expenses incurred on appeal,
 27 from:

28 (A) The private entity whose obligations are thereby secured; and

29 (B) Any entity that controls such private entity.

30 (5) For the purposes of subsection (4) of this section, an entity shall be deemed to control
 31 a private entity if such entity, together with any spouse, partner, parent or subsidiary of
 32 such entity, has at least 10 percent of the total combined voting power of all interests enti-
 33 tled to vote or at least 10 percent of the total value of the ownership interest in the con-
 34 trolled entity or the general partner of the controlled entity.

35 (6) The State Tollway Account is continuously appropriated to the department for pur-
 36 poses authorized by law. The department may create such subaccounts within the State
 37 Tollway Account as the department deems necessary or convenient to the development, op-
 38 eration and maintenance of tollways and tollway systems.

39 **SECTION 5.** Title to any portion of the legal interests in the real and personal property
 40 constituting a tollway or any related facility may be held by the private entity that con-
 41 structs or operates the tollway or related facility, or by a unit of government or by the state
 42 subject to the following provisions:

43 (1) The Department of Transportation shall hold legal title to all interest in real property
 44 acquired with moneys from the State Tollway Account or acquired by the department either
 45 by donation, agreement or exercise of the power of eminent domain.

1 (2) The department shall take and hold a leasehold interest in all real property not owned
 2 by the department sufficient to give the department a lessor's interest in the protection,
 3 preservation, operation and maintenance of such real property.

4 (3) Every contract, agreement or other arrangement between the department and any
 5 private entity pursuant to which a private entity owns, leases or operates a tollway or re-
 6 lated facility shall provide:

7 (a) That all legal interests in all tollway real property, or, as applicable, in the real
 8 property of the related facility, shall be conveyed, or, as applicable, relinquished to, or in
 9 favor of, the department not later than the 40th anniversary of the effective date of the
 10 contract, agreement or other arrangement;

11 (b) That with respect to any tollway, upon the occurrence of an event of default that
 12 seriously jeopardizes or impairs the continued availability and operation of the tollway as a
 13 route for vehicular traffic, the department shall be entitled to enter into and take possession
 14 of the tollway and to exercise all of the rights attendant to such possession, including the
 15 right to receive all tolls and other revenues of the tollway and the right to operate, maintain,
 16 repair and reconstruct the tollway; and

17 (c) That the power of eminent domain in the department with respect to the real prop-
 18 erty not owned in fee simple by the department shall be preserved.

19 **SECTION 6.** (1) The design of all tollways shall at least meet the minimum design stan-
 20 dards generally applicable to the state and other units of government authorized to build and
 21 own roads, highways, bridges, tunnels, railways and related facilities.

22 (2) Every tollway design shall include a bicycle path, subject to the following conditions
 23 and exceptions:

24 (a) The design of each tollway project other than a railway or the renovation or recon-
 25 struction of an existing road or highway shall include a bicycle path.

26 (b) The design of each tollway project that involves the renovation or reconstruction of
 27 an existing road or highway other than a railway shall include a bicycle path unless the
 28 inclusion of the bicycle path would make the renovation or reconstruction impracticable.

29 (3) Every tollway that is longer than 40 miles shall provide tollway travelers with toll-free
 30 rest areas that contain concessions providing food, telephone service and vehicle fuel and
 31 maintenance service at least once in every 30-mile stretch of tollway. The land on which such
 32 concessions are located shall be acquired simultaneously with the acquisition of land for the
 33 tollway, or in connection with the conversion of an existing road to a tollway, prior to such
 34 conversion. Concessions and franchises for the purveyors of services and commodities
 35 available in such rest areas shall be granted by a competitive bid process according to rules
 36 and procedures developed by the Department of Transportation in accordance with section
 37 8 of this Act. The allocation of revenues derived from the franchise, license or other ar-
 38 rangement for such concessions shall be made in accordance with any arrangement between
 39 the department and the owner or operator of the tollway or rest area that the department
 40 deems desirable.

41 (4) In considering the design of a tollway, the department shall solicit the recommen-
 42 dation of all units of government having jurisdiction over any of the territory encompassing
 43 or adjacent to the proposed route of the tollway. The department shall consider the present
 44 and future needs of local transit authorities and whether the proposed tollway project should
 45 be expanded to include the acquisition of land or rights of way for future mass transit needs

1 or for future expansion due to projected population growth.

2 (5) In considering the design of a tollway, the department shall solicit the recommen-
 3 dation of state and local parks departments to consider whether parks or campsites for
 4 travelers or bicyclists should be incorporated into the tollway design. The department may
 5 enter into agreements for the use of state and local funding for the acquisition and con-
 6 struction of such parks and campsites. The land on which such parks and campsites shall
 7 be located may be owned or leased in any manner in which any other tollway property may
 8 be owned or leased and shall be managed by any entity chosen by the department for such
 9 purpose, including the entity that operates or maintains the tollway. The allocation of re-
 10 venues derived from the ownership or operation of any park or campsite shall be in accord-
 11 ance with any arrangement the department deems desirable.

12 SECTION 7. (1) Tollway projects may be initiated by the Department of Transportation,
 13 by a unit of government having an interest in the installation of a tollway, or by a private
 14 entity interested in bidding on the construction of a tollway. The department shall charge
 15 an administrative fee of not more than \$35,000 for reviewing and considering any tollway
 16 project proposed by a private entity. All such administrative fees shall be deposited into the
 17 State Tollway Account.

18 (2) The department shall adopt rules pursuant to which it will consider authorization of
 19 a tollway project. The rules shall require consideration of:

20 (a) The opinions and interests of units of government encompassing or adjacent to the
 21 path of the proposed tollway in having the tollway installed;

22 (b) The probable impact of the proposed tollway on local environmental, aesthetic and
 23 economic conditions and on the economy of the state in general;

24 (c) The extent to which funding other than state funding is available for the proposed
 25 tollway;

26 (d) The likelihood that the estimated use of the tollway will provide sufficient revenues
 27 to independently finance the costs related to the construction and future maintenance, re-
 28 pair and reconstruction of the tollway, including the repayment of any loans to be made from
 29 moneys in the State Tollway Account; and

30 (e) With respect to tollway projects, any portion of which will be financed with state
 31 funds or department loans or grants:

32 (A) The relative importance of the proposed tollway compared to other proposed tollways;
 33 and

34 (B) Traffic congestion and economic conditions in the communities that will be affected
 35 by competing tollway projects.

36 (3) Notwithstanding any other provision of this Act, no tollway shall be installed unless
 37 the department finds that either:

38 (a) Based on the department's estimate of present and future traffic patterns, the re-
 39 venues generated by the tollway will be sufficient, after payment of all obligations incurred
 40 in connection with the acquisition, construction and operation of such tollway, to ensure the
 41 continued maintenance, repair and reconstruction of the tollway without the contribution
 42 of additional public funds; or

43 (b) The revenues generated by the tollway will be at least sufficient to pay its operational
 44 expenses and a portion of the costs of its construction, maintenance, repair and recon-
 45 struction, and the importance of the tollway to the welfare or economy of the state is great

1 enough to justify the use of public funding for a portion of its construction, maintenance,
 2 repair and reconstruction.

3 (4) If the department finds that a proposed tollway project qualifies for authorization
 4 under this section, the department may conduct or cause to be conducted any environ-
 5 mental, geological or other studies required by law as a condition of construction of the
 6 tollway project. The costs of completing the studies for any proposed tollway project may be
 7 paid by moneys in the State Tollway Account, provided that any such payment shall consti-
 8 tute a loan against the proposed tollway project and shall be reimbursed to the State Tollway
 9 Account as a part of the permanent financing for the project.

10 **SECTION 8.** (1) The Department of Transportation may award any contract, franchise,
 11 license or agreement authorized by this Act, other than a concession for the provision of
 12 goods or services at a rest area, under a competitive process or by private negotiation with
 13 one or more entities, or by any combination of competition and negotiation without regard
 14 to any other laws concerning the procurement of goods or services for projects of the state.

15 (2) When using a competitive process for the award of a tollway project contract, the
 16 department shall consider the following factors in addition to the bidder's estimate of cost:

17 (a) The quality of the design, if applicable, submitted by a bidder. In considering the
 18 quality of the design of a tollway project, the department shall take into consideration:

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

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

23 (C) The traffic capacity of the design;

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

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

28 (b) Whether the business is a small business. As used in this paragraph, "small
 29 business" means an independent business with fewer than 20 employees and with average
 30 annual gross receipts over the last three years not exceeding \$1 million for construction
 31 firms and \$300,000 for nonconstruction firms. "Small business" does not include a subsidiary
 32 or parent company belonging to a group of firms that are owned and controlled by the same
 33 individuals and that have average aggregate annual gross receipts in excess of \$1 million for
 34 construction firms or \$300,000 for nonconstruction firms over the last three years.

35 (c) The financial stability of the bidder and the ability of the bidder to provide funding
 36 for the project and surety for its performance and financial obligations with respect to the
 37 tollway project.

38 (d) The experience of the bidder and its subcontractors in building and operating projects
 39 such as the tollway project.

40 (e) The terms of the financial arrangement proposed or accepted by the bidder with re-
 41 spect to franchise fees, license fees, lease payments or operating expenses and the bidder's
 42 required rate of return from its operation or maintenance of the tollway.

43 (3)(a) The department may adopt rules and procedures for the award of franchises, li-
 44 censes, leases or other concessions for rest areas without regard to any other laws con-
 45 cerning the procurement of goods or services for projects of the state. All franchises,

1 licenses, leases or other concessions shall require the franchisee, licensee, lessee or
2 concessionaire, as applicable, to maintain the subject premises in accordance with all appli-
3 cable state and federal health and safety standards, to maintain one or more policies of
4 casualty and property insurance and adequate workers' compensation insurance, and to pay
5 and discharge all taxes, utilities, fees and other charges or claims that are levied, assessed
6 or charged against the premises or concession or that may become a lien upon the premises.
7 Any small business shall be given a 10 percent bid advantage in any bidding process for a
8 concession, provided that the department may increase the small business advantage for any
9 concession to a greater percentage if the department finds that the greater percentage is
10 necessary to enable small businesses to compete with other entities likely to bid on the
11 concession.

12 (b) As used in this subsection, "small business" means an independent business with
13 fewer than 20 employees and with average annual gross receipts over the last three years
14 not exceeding \$300,000. "Small business" does not include a subsidiary or parent company
15 belonging to a group of firms that are owned and controlled by the same individuals and that
16 have average aggregate annual gross receipts in excess of \$300,000 over the last three years.
17 "Small business" also does not include a franchise of any business that has average aggre-
18 gate annual gross receipts in excess of \$300,000 over the last three years.

19 (4) Notwithstanding any other provision of this section, the department may use any
20 method for the award of any contract, franchise, license or agreement that is necessary to
21 comply with the requirements of any grant or other funding source.

22 SECTION 9. (1) Every agreement between the Department of Transportation and a pri-
23 vate entity pursuant to which the private entity owns or leases a tollway and is entitled to
24 collect the revenues therefrom shall require the private entity to maintain the highway in a
25 safe condition and to ensure that upon the termination of the agreement the tollway will be
26 returned to the state in a safe and serviceable condition without need of any repair or re-
27 construction.

28 (2) Every agreement between the department and a private entity pursuant to which the
29 private entity owns or leases a tollway and is entitled to collect the revenues therefrom shall
30 provide for the establishment and funding of a maintenance, repair and reconstruction trust
31 fund. The moneys in the trust fund shall act as a surety for the maintenance, repair and
32 reconstruction of the tollway and shall be available to the department for the payment of the
33 costs of maintaining, repairing or reconstructing the tollway, including the costs of engi-
34 neering tests and reports related thereto, whenever the department finds that the private
35 entity is not inspecting, testing, maintaining, repairing or reconstructing the tollway in ac-
36 cordance with the provisions of its agreements with the department. The private entity may
37 satisfy its obligation to fund the maintenance, repair and reconstruction trust fund by ob-
38 taining an irrevocable letter of credit, insurance, bond or other surety in favor of the de-
39 partment or its designee, satisfactory to the department. Moneys held in a maintenance,
40 repair and reconstruction trust fund shall be at all times the property of the private entity,
41 subject to the rights of the department therein, and shall be released to the private entity
42 at the end of the stated term of the agreement pursuant to which the trust fund was es-
43 tablished if the private entity is not in breach of any of its covenants thereunder and the
44 tollway is surrendered to the department in good condition without need of repair or recon-
45 struction.

1 **SECTION 10.** (1) The agreement between the Department of Transportation and the op-
 2 erator of a tollway shall limit the amount of the toll that may be collected by the operator
 3 from a user of the tollway. The limitation on tolls may be achieved under any arrangement
 4 deemed suitable by the department, including but not limited to the setting of tolls by for-
 5 mula to provide a specified return on the operator's costs and capital investment, negotiated
 6 rate tables or fixed rates that are adjusted with a standard factor such as the cost of living.
 7 Reasonable differences between toll rates may be provided for different types of vehicles or
 8 users or for travel during high use and low use days or hours.

9 (2) Notwithstanding subsection (1) of this section, the department may adopt rules de-
 10 fining "essential facility" and providing for reduction or mitigation of tolls for residents of
 11 an area served by a tollway if the tollway replaces or becomes the only route of travel for
 12 residents to and from essential facilities.

13 **SECTION 11.** (1) The Department of Transportation may issue revenue bonds for the
 14 purpose of financing a tollway project, provided that such bonds shall never constitute an
 15 obligation of the department or of this state or any of its political subdivisions, but shall be
 16 payable solely from:

17 (a) Moneys in the State Tollway Account that are pledged as security for the payment
 18 of the bonds;

19 (b) Revenues generated by tollways, including but not limited to tolls, franchise fees and
 20 lease payments; and

21 (c) Loan repayments received with respect to any loan made from the proceeds of the
 22 bonds.

23 (2) The proceeds of revenue bonds issued under this section may be used by the depart-
 24 ment or loaned to a private entity or a unit of government for the purpose of financing any
 25 portion of the capital costs related to the construction of a tollway, including costs of the
 26 acquisition of interests in land upon which the tollway will be constructed, to provide a fi-
 27 nancial reserve required under any federal funding agreement and for the payment of the
 28 costs of issuing the bonds.

29 (3) The bonds authorized by this section may be issued by the department as taxable
 30 bonds or as tax-exempt bonds under the income tax laws of the United States.

31 (4) Notwithstanding the status of the bonds for federal income tax purposes, interest paid
 32 to the owners of the bonds will be exempt from income taxes imposed by this state.

33 **SECTION 12.** Section 13 of this Act is added to and made a part of ORS 382.105 to 382.115
 34 and 383.320 to 383.380.

35 **SECTION 13.** Notwithstanding any provision of law to the contrary, nothing in ORS
 36 328.105 to 382.115 and 383.320 to 383.380 applies to toll bridges constructed, maintained or
 37 operated under the provisions of sections 2 to 11 of this 1995 Act.
 38

Senate Bill 626

Sponsored by Senators BUNN, SHANNON, Representatives HAYDEN, LEWIS, MILNE; Senators BAKER, BRADBURY, CEASE, DERFLER, KINTIGH, MILLER, TIMMS, YIH, Representatives BRIAN, FISHER, MARKHAM, WELLS, WYLIE

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.

Authorizes building, operation and maintenance of toll roads by governments, private entities or combination.

Establishes State Tollway Account. Appropriates moneys from account to Department of Transportation for purposes authorized by law.

A BILL FOR AN ACT

1
2 Relating to tollways; and appropriating money.

3 Be It Enacted by the People of the State of Oregon:

4 **SECTION 1.** The Legislative Assembly finds that:

5 (1) The development, improvement, expansion and maintenance of an efficient, safe and
6 well-maintained system of roads, highways and other transportation facilities is essential to
7 the economic well-being and high quality of life of the people of this state.

8 (2) Public sources of revenues, including federal funding, to provide an efficient trans-
9 portation system have not kept pace with the state's growing population and growing
10 transportation needs, and all available alternative sources of funding should be utilized to
11 supplement available public sources of revenues.

12 (3) Because public funding sources are not providing the state with sufficient funds to
13 meet all of its transportation needs, private funding should be encouraged as an additional
14 source of funding for transportation projects and facilities.

15 (4) Various alternatives for utilizing the funds of private entities in the acquisition, de-
16 sign, construction, reconstruction, operation and maintenance of transportation facilities
17 exist, including arrangements whereby private entities obtain exclusive agreements to de-
18 sign, build, own, lease or operate with private funds all or a portion of transportation
19 projects and facilities in exchange for the right to receive certain revenues generated from
20 the operation and utilization of such transportation projects and facilities.

21 (5) Another important alternative for the funding of transportation facilities is the use
22 of federal funds pursuant to 23 U.S.C. §129(a), as amended by section 112 of the Intermodal
23 Surface Transportation Efficiency Act of 1991, which established a program authorizing fed-
24 eral participation in construction of publicly or privately owned toll highways, bridges and
25 tunnels.

26 (6) The federal legislation allows for a mix of federal funding and private funding of
27 transportation facilities, allowing the states to leverage available federal funds as a means
28 for attracting private capital.

29 (7) Legislation for the utilization of private funding of transportation facilities should be

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 flexible enough to permit the Department of Transportation to obtain the advantages of any
 2 available alternative under which the acquisition, design, construction, reconstruction, op-
 3 eration, maintenance and repair of transportation facilities can be financed in whole or in
 4 part or in combination by any available sources of private or public funding.

5 (8) The funding of transportation facilities through the imposition of tolls on those who
 6 use such facilities is a fair and impartial means of assessing the costs of improvements
 7 against those who most benefit from such improvements, and is consistent with public pol-
 8 icy.

9 (9) Joint ventures of public and private entities do the following:

10 (a) Take advantage of private sector efficiencies in designing, constructing and operating
 11 transportation projects.

12 (b) Allow for the rapid formation of capital necessary for funding transportation projects.

13 (c) Require continued compliance with environmental requirements and applicable state
 14 and federal laws that all publicly financed projects must address.

15 **SECTION 2.** As used in sections 2 to 11 of this Act:

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

17 (2) "Private entity" means any nongovernmental entity, including a corporation, part-
 18 nership, company or other legal entity, or any natural person.

19 (3) "Related facility" means any real or personal property appurtenant to a tollway and
 20 used to operate, maintain or renovate the tollway or to provide goods and services to the
 21 users of the tollway as required by this Act.

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

23 (5) "Tollway" means any roadway, path, highway, bridge, tunnel, railroad track, bicycle
 24 path or other paved surface or structure specifically designed as a land vehicle transporta-
 25 tion route, the construction, operation or maintenance of which is wholly or partially funded
 26 with toll revenues resulting from an agreement under section 3 of this Act.

27 (6) "Tollway project" means any capital project involving the acquisition of land for, or
 28 the construction, reconstruction, installation or equipping of, a tollway and related facilities
 29 or any portion thereof.

30 (7) "Unit of government" means any department or agency of the Federal Government,
 31 any state, or any agency, office or department thereof, and any city, county, district, port
 32 or other public corporation organized and existing under statutory law or under a voter-
 33 approved charter.

34 **SECTION 3.** For purposes of the acquisition, design, construction, reconstruction, oper-
 35 ation or maintenance and repair of land and improvements for tollways and related facilities,
 36 the Department of Transportation may enter into any combination of contracts, agreements
 37 and other arrangements with any one or more private entities or units of government, or
 38 any combination thereof, including but not limited to the following:

39 (1) Design-build contracts with private entities pursuant to which a portion or all aspects
 40 of the design, construction and installation of all or any portion of a tollway or related fa-
 41 cility are accomplished by the private entity;

42 (2) Lease agreements, lease-purchase agreements and installment sale arrangements for
 43 the lease, sale or purchase of real and personal property by the state from private entities
 44 or units of government or by private entities or units of government from the state;

45 (3) Licenses, franchises or other agreements for the periodic or long-term operation or

1 maintenance of a tollway or any related facility;

2 (4) Financing agreements pursuant to which the department makes any loan, grant,
3 guaranty or other financing arrangement with a private entity or unit of government; and

4 (5) Agreements for purchase or acquisition of fee ownership, easements, rights of way
5 or any other interests in land upon which a tollway or related facility is to be built.

6 **SECTION 4.** (1) There is hereby established the State Tollway Account as a separate ac-
7 count within the State Highway Fund. The State Tollway Account shall consist of:

8 (a) All moneys and revenues derived from or made available by the Federal Government
9 for any tollway project or for the operation or maintenance of any tollway;

10 (b) Any moneys received by the Department of Transportation from any unit of govern-
11 ment or any private entity for a tollway project or for the operation or maintenance of any
12 tollway;

13 (c) All moneys and revenues derived from fees paid by private entities or units of gov-
14 ernment under any lease, agreement, franchise or license for the right to the possession and
15 use, operation or management of a tollway or any related facility;

16 (d) All tolls and other revenues received by the department from the users of any tollway
17 or related facility;

18 (e) The proceeds of any bonds authorized to be issued by the department for tollway
19 purposes;

20 (f) Any moneys that the department has legally transferred from the State Highway Fund
21 to the State Tollway Account for tollway purposes;

22 (g) All moneys and revenues received from all other sources which by donation, grant,
23 contract or law are allocated or dedicated for tollway purposes; and

24 (h) All interest earnings on investments made from any of the moneys held in the State
25 Tollway Account, and all loan repayments and interest earnings from loans made by the de-
26 partment to any private entity or unit of government under section 3 of this Act.

27 (2) Moneys in the State Tollway Account may be used by the department for the following
28 purposes:

29 (a) To finance preliminary studies and reports for any tollway project;

30 (b) To acquire land to be owned by the state for tollways and any related facilities
31 therefor;

32 (c) To finance the construction, renovation, maintenance and repair of any tollway or
33 related facility;

34 (d) To finance the renovation, operation, maintenance and repair of any former tollway
35 or related facility;

36 (e) To make grants or loans to a unit of government for tollway purposes;

37 (f) To make loans to a private entity for tollway purposes;

38 (g) To pay the principal, interest and premium due with respect to, and to pay the costs
39 connected with the issuance or ongoing administration of any bonds or other financial obli-
40 gations authorized to be issued by, or the proceeds of which are received by, the department
41 for any tollway project;

42 (h) To provide a guaranty or other security for any bonds or other financial obligations,
43 including but not limited to financial obligations with respect to any bond insurance, surety
44 or credit enhancement device issued or incurred by the department, a unit of government
45 or a private entity, for the purpose of financing a single tollway project or any related group

1 or system of tollways or related facilities; and

2 (i) To pay the costs incurred by the department in connection with its oversight, opera-
3 tion and administration of the State Tollway Account, the proposals and projects submitted
4 under section 7 of this Act and the tollways and related facilities financed under section 3
5 of this Act.

6 (3) For purposes of providing a guaranty, surety or other security as provided in this
7 section, the department may:

8 (a) Irrevocably pledge any amounts in the State Tollway Account, and, if deemed neces-
9 sary by the department, transfer such amounts from the State Tollway Account to a sepa-
10 rate trust fund or account for the bonds or other obligations thereby secured; and

11 (b) Irrevocably pledge, and, as deemed necessary by the department, transfer to a sepa-
12 rate trust fund or account any revenues received or to be received:

13 (A) From the tolls or other operations of the tollway or related facility financed by the
14 bonds or obligations; or

15 (B) From any discrete system or group of tollways or related facilities.

16 (4) Notwithstanding any other provision of this Act, the department shall not pledge any
17 funds or amounts at any time held in the State Tollway Account as security for the obli-
18 gations of a private entity unless the department has entered into a binding and enforceable
19 agreement pursuant to which the department has:

20 (a) Unlimited recourse, for the reimbursement of any moneys drawn under or paid as a
21 result of such pledge, to all available assets and accounts, including any assets or accounts
22 related to a tollway of:

23 (A) The private entity whose obligations are thereby secured; and

24 (B) Any entity that controls such private entity; and

25 (b) The right to be defended and indemnified for, from and against any expenses resulting
26 from any claims, litigation or other events related or consequent to the department's pledge
27 of such funds or amounts, including any legal expenses, and expenses incurred on appeal,
28 from:

29 (A) The private entity whose obligations are thereby secured; and

30 (B) Any entity that controls such private entity.

31 (5) For the purposes of subsection (4) of this section, an entity shall be deemed to control
32 a private entity if such entity, together with any spouse, partner, parent or subsidiary of
33 such entity, has at least 10 percent of the total combined voting power of all interests enti-
34 tled to vote or at least 10 percent of the total value of the ownership interest in the con-
35 trolled entity or the general partner of the controlled entity.

36 (6) The State Tollway Account is continuously appropriated to the department for pur-
37 poses authorized by law. The department may create such subaccounts within the State
38 Tollway Account as the department deems necessary or convenient to the development, op-
39 eration and maintenance of tollways and tollway systems.

40 **SECTION 5.** Title to any portion of the legal interests in the real and personal property
41 constituting a tollway or any related facility may be held by the private entity that con-
42 structs or operates the tollway or related facility, or by a unit of government or by the state
43 subject to the following provisions:

44 (1) The Department of Transportation shall hold legal title to all interest in real property
45 acquired with moneys from the State Tollway Account or acquired by the department either

1 by donation, agreement or exercise of the power of eminent domain.

2 (2) The department shall take and hold a leasehold interest in all real property not owned
3 by the department sufficient to give the department a lessor's interest in the protection,
4 preservation, operation and maintenance of such real property.

5 (3) Every contract, agreement or other arrangement between the department and any
6 private entity pursuant to which a private entity owns, leases or operates a tollway or re-
7 lated facility shall provide:

8 (a) That all legal interests in all tollway real property, or, as applicable, in the real
9 property of the related facility, shall be conveyed, or, as applicable, relinquished to, or in
10 favor of, the department not later than the 40th anniversary of the effective date of the
11 contract, agreement or other arrangement;

12 (b) That with respect to any tollway, upon the occurrence of an event of default that
13 seriously jeopardizes or impairs the continued availability and operation of the tollway as a
14 route for vehicular traffic, the department shall be entitled to enter into and take possession
15 of the tollway and to exercise all of the rights attendant to such possession, including the
16 right to receive all tolls and other revenues of the tollway and the right to operate, maintain,
17 repair and reconstruct the tollway; and

18 (c) That the power of eminent domain in the department with respect to the real prop-
19 erty not owned in fee simple by the department shall be preserved.

20 SECTION 6. (1) The design of all tollways shall at least meet the minimum design stan-
21 dards generally applicable to the state and other units of government authorized to build and
22 own roads, highways, bridges, tunnels, railways and related facilities.

23 (2) Every tollway design shall include a bicycle path, subject to the following conditions
24 and exceptions:

25 (a) The design of each tollway project other than a railway or the renovation or recon-
26 struction of an existing road or highway shall include a bicycle path.

27 (b) The design of each tollway project that involves the renovation or reconstruction of
28 an existing road or highway other than a railway shall include a bicycle path unless the
29 inclusion of the bicycle path would make the renovation or reconstruction impracticable.

30 (3) Every tollway that is longer than 40 miles shall provide tollway travelers with toll-free
31 rest areas that contain concessions providing food, telephone service and vehicle fuel and
32 maintenance service at least once in every 30-mile stretch of tollway. The land on which such
33 concessions are located shall be acquired simultaneously with the acquisition of land for the
34 tollway, or in connection with the conversion of an existing road to a tollway, prior to such
35 conversion. Concessions and franchises for the purveyors of services and commodities
36 available in such rest areas shall be granted by a competitive bid process according to rules
37 and procedures developed by the Department of Transportation in accordance with section
38 8 of this Act. The allocation of revenues derived from the franchise, license or other ar-
39 rangement for such concessions shall be made in accordance with any arrangement between
40 the department and the owner or operator of the tollway or rest area that the department
41 deems desirable.

42 (4) In considering the design of a tollway, the department shall solicit the recommen-
43 dation of all units of government having jurisdiction over any of the territory encompassing
44 or adjacent to the proposed route of the tollway. The department shall consider the present
45 and future needs of local transit authorities and whether the proposed tollway project should

1 be expanded to include the acquisition of land or rights of way for future mass transit needs
2 or for future expansion due to projected population growth.

3 (5) In considering the design of a tollway, the department shall solicit the recommen-
4 dation of state and local parks departments to consider whether parks or campsites for
5 travelers or bicyclists should be incorporated into the tollway design. The department may
6 enter into agreements for the use of state and local funding for the acquisition and con-
7 struction of such parks and campsites. The land on which such parks and campsites shall
8 be located may be owned or leased in any manner in which any other tollway property may
9 be owned or leased and shall be managed by any entity chosen by the department for such
10 purpose, including the entity that operates or maintains the tollway. The allocation of re-
11 venues derived from the ownership or operation of any park or campsite shall be in accord-
12 ance with any arrangement the department deems desirable.

13 SECTION 7. (1) Tollway projects may be initiated by the Department of Transportation,
14 by a unit of government having an interest in the installation of a tollway, or by a private
15 entity interested in bidding on the construction of a tollway. The department shall charge
16 an administrative fee of not more than \$35,000 for reviewing and considering any tollway
17 project proposed by a private entity. All such administrative fees shall be deposited into the
18 State Tollway Account.

19 (2) The department shall adopt rules pursuant to which it will consider authorization of
20 a tollway project. The rules shall require consideration of:

21 (a) The opinions and interests of units of government encompassing or adjacent to the
22 path of the proposed tollway in having the tollway installed;

23 (b) The probable impact of the proposed tollway on local environmental, aesthetic and
24 economic conditions and on the economy of the state in general;

25 (c) The extent to which funding other than state funding is available for the proposed
26 tollway;

27 (d) The likelihood that the estimated use of the tollway will provide sufficient revenues
28 to independently finance the costs related to the construction and future maintenance, re-
29 pair and reconstruction of the tollway, including the repayment of any loans to be made from
30 moneys in the State Tollway Account; and

31 (e) With respect to tollway projects, any portion of which will be financed with state
32 funds or department loans or grants:

33 (A) The relative importance of the proposed tollway compared to other proposed tollways;
34 and

35 (B) Traffic congestion and economic conditions in the communities that will be affected
36 by competing tollway projects.

37 (3) Notwithstanding any other provision of this Act, no tollway shall be installed unless
38 the department finds that either:

39 (a) Based on the department's estimate of present and future traffic patterns, the re-
40 venues generated by the tollway will be sufficient, after payment of all obligations incurred
41 in connection with the acquisition, construction and operation of such tollway, to ensure the
42 continued maintenance, repair and reconstruction of the tollway without the contribution
43 of additional public funds; or

44 (b) The revenues generated by the tollway will be at least sufficient to pay its operational
45 expenses and a portion of the costs of its construction, maintenance, repair and recon-

1 construction, and the importance of the tollway to the welfare or economy of the state is great
 2 enough to justify the use of public funding for a portion of its construction, maintenance,
 3 repair and reconstruction.

4 (4) If the department finds that a proposed tollway project qualifies for authorization
 5 under this section, the department may conduct or cause to be conducted any environ-
 6 mental, geological or other studies required by law as a condition of construction of the
 7 tollway project. The costs of completing the studies for any proposed tollway project may be
 8 paid by moneys in the State Tollway Account, provided that any such payment shall consti-
 9 tute a loan against the proposed tollway project and shall be reimbursed to the State Tollway
 10 Account as a part of the permanent financing for the project.

11 **SECTION 8.** (1) The Department of Transportation may award any contract, franchise,
 12 license or agreement authorized by this Act, other than a concession for the provision of
 13 goods or services at a rest area, under a competitive process or by private negotiation with
 14 one or more entities, or by any combination of competition and negotiation without regard
 15 to any other laws concerning the procurement of goods or services for projects of the state.

16 (2) When using a competitive process for the award of a tollway project contract, the
 17 department shall consider the following factors in addition to the bidder's estimate of cost:

18 (a) The quality of the design, if applicable, submitted by a bidder. In considering the
 19 quality of the design of a tollway project, the department shall take into consideration:

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

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

24 (C) The traffic capacity of the design;

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

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

29 (b) Whether the business is a small business. As used in this paragraph, "small
 30 business" means an independent business with fewer than 20 employees and with average
 31 annual gross receipts over the last three years not exceeding \$1 million for construction
 32 firms and \$300,000 for nonconstruction firms. "Small business" does not include a subsidiary
 33 or parent company belonging to a group of firms that are owned and controlled by the same
 34 individuals and that have average aggregate annual gross receipts in excess of \$1 million for
 35 construction firms or \$300,000 for nonconstruction firms over the last three years.

36 (c) The financial stability of the bidder and the ability of the bidder to provide funding
 37 for the project and surety for its performance and financial obligations with respect to the
 38 tollway project.

39 (d) The experience of the bidder and its subcontractors in building and operating projects
 40 such as the tollway project.

41 (e) The terms of the financial arrangement proposed or accepted by the bidder with re-
 42 spect to franchise fees, license fees, lease payments or operating expenses and the bidder's
 43 required rate of return from its operation or maintenance of the tollway.

44 (3)(a) The department may adopt rules and procedures for the award of franchises, li-
 45 censes, leases or other concessions for rest areas without regard to any other laws con-

1 cerning the procurement of goods or services for projects of the state. All franchises,
2 licenses, leases or other concessions shall require the franchisee, licensee, lessee or
3 concessionaire, as applicable, to maintain the subject premises in accordance with all appli-
4 cable state and federal health and safety standards, to maintain one or more policies of
5 casualty and property insurance and adequate workers' compensation insurance, and to pay
6 and discharge all taxes, utilities, fees and other charges or claims that are levied, assessed
7 or charged against the premises or concession or that may become a lien upon the premises.
8 Any small business shall be given a 10 percent bid advantage in any bidding process for a
9 concession, provided that the department may increase the small business advantage for any
10 concession to a greater percentage if the department finds that the greater percentage is
11 necessary to enable small businesses to compete with other entities likely to bid on the
12 concession.

13 (b) As used in this subsection, "small business" means an independent business with
14 fewer than 20 employees and with average annual gross receipts over the last three years
15 not exceeding \$300,000. "Small business" does not include a subsidiary or parent company
16 belonging to a group of firms that are owned and controlled by the same individuals and that
17 have average aggregate annual gross receipts in excess of \$300,000 over the last three years.
18 "Small business" also does not include a franchise of any business that has average aggre-
19 gate annual gross receipts in excess of \$300,000 over the last three years.

20 (4) Notwithstanding any other provision of this section, the department may use any
21 method for the award of any contract, franchise, license or agreement that is necessary to
22 comply with the requirements of any grant or other funding source.

23 SECTION 9. (1) Every agreement between the Department of Transportation and a pri-
24 vate entity pursuant to which the private entity owns or leases a tollway and is entitled to
25 collect the revenues therefrom shall require the private entity to maintain the highway in a
26 safe condition and to ensure that upon the termination of the agreement the tollway will be
27 returned to the state in a safe and serviceable condition without need of any repair or re-
28 construction.

29 (2) Every agreement between the department and a private entity pursuant to which the
30 private entity owns or leases a tollway and is entitled to collect the revenues therefrom shall
31 provide for the establishment and funding of a maintenance, repair and reconstruction trust
32 fund. The moneys in the trust fund shall act as a surety for the maintenance, repair and
33 reconstruction of the tollway and shall be available to the department for the payment of the
34 costs of maintaining, repairing or reconstructing the tollway, including the costs of engi-
35 neering tests and reports related thereto, whenever the department finds that the private
36 entity is not inspecting, testing, maintaining, repairing or reconstructing the tollway in ac-
37 cordance with the provisions of its agreements with the department. The private entity may
38 satisfy its obligation to fund the maintenance, repair and reconstruction trust fund by ob-
39 taining an irrevocable letter of credit, insurance, bond or other surety in favor of the de-
40 partment or its designee, satisfactory to the department. Moneys held in a maintenance,
41 repair and reconstruction trust fund shall be at all times the property of the private entity,
42 subject to the rights of the department therein, and shall be released to the private entity
43 at the end of the stated term of the agreement pursuant to which the trust fund was es-
44 tablished if the private entity is not in breach of any of its covenants thereunder and the
45 tollway is surrendered to the department in good condition without need of repair or recon-

1 struction.

2 **SECTION 10.** (1) The agreement between the Department of Transportation and the op-
 3 erator of a tollway shall limit the amount of the toll that may be collected by the operator
 4 from a user of the tollway. The limitation on tolls may be achieved under any arrangement
 5 deemed suitable by the department, including but not limited to the setting of tolls by for-
 6 mula to provide a specified return on the operator's costs and capital investment, negotiated
 7 rate tables or fixed rates that are adjusted with a standard factor such as the cost of living.
 8 Reasonable differences between toll rates may be provided for different types of vehicles or
 9 users or for travel during high use and low use days or hours.

10 (2) Notwithstanding subsection (1) of this section, the department may adopt rules de-
 11 fining "essential facility" and providing for reduction or mitigation of tolls for residents of
 12 an area served by a tollway if the tollway replaces or becomes the only route of travel for
 13 residents to and from essential facilities.

14 **SECTION 11.** (1) The Department of Transportation may issue revenue bonds for the
 15 purpose of financing a tollway project, provided that such bonds shall never constitute an
 16 obligation of the department or of this state or any of its political subdivisions, but shall be
 17 payable solely from:

18 (a) Moneys in the State Tollway Account that are pledged as security for the payment
 19 of the bonds;

20 (b) Revenues generated by tollways, including but not limited to tolls, franchise fees and
 21 lease payments; and

22 (c) Loan repayments received with respect to any loan made from the proceeds of the
 23 bonds.

24 (2) The proceeds of revenue bonds issued under this section may be used by the depart-
 25 ment or loaned to a private entity or a unit of government for the purpose of financing any
 26 portion of the capital costs related to the construction of a tollway, including costs of the
 27 acquisition of interests in land upon which the tollway will be constructed, to provide a fi-
 28 nancial reserve required under any federal funding agreement and for the payment of the
 29 costs of issuing the bonds.

30 (3) The bonds authorized by this section may be issued by the department as taxable
 31 bonds or as tax-exempt bonds under the income tax laws of the United States.

32 (4) Notwithstanding the status of the bonds for federal income tax purposes, interest paid
 33 to the owners of the bonds will be exempt from income taxes imposed by this state.

34 **SECTION 12.** Section 13 of this Act is added to and made a part of ORS 382.105 to 382.115
 35 and 383.320 to 383.380.

36 **SECTION 13.** Notwithstanding any provision of law to the contrary, nothing in ORS
 37 382.105 to 382.115 and 383.320 to 383.380 applies to toll bridges constructed, maintained or
 38 operated under the provisions of sections 2 to 11 of this 1995 Act.
 39