

# HOUSE BILL REPORT

## SSB 5753

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### As Passed House - Amended:

April 7, 2023

**Title:** An act relating to a cooperative agreement between the department of transportation and the Lummi Nation concerning construction of a roadway.

**Brief Description:** Concerning a roadway construction cooperative agreement between the department of transportation and the Lummi Nation.

**Sponsors:** Senate Committee on Transportation (originally sponsored by Senators Shewmake and Lovelett).

### Brief History:

#### Committee Activity:

Transportation: 3/15/23, 4/4/23 [DPA].

#### Floor Activity:

Passed House: 4/7/23, 92-5.

### Brief Summary of Substitute Bill (As Amended by House)

- Authorizes the Washington State Department of Transportation to enter into a cooperative agreement with the Lummi Nation, and other entities, to construct and maintain a public road through tribal trust lands.

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## HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass as amended. Signed by 24 members: Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Berry, Bronoske, Chapman, Cortes, Dent, Doglio, Duerr, Entenman, Griffey, Hackney, Klicker, Mena, Ramel, Ramos, Taylor and Wylie.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** Do not pass. Signed by 2 members: Representatives Orcutt and Volz.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Goehner and Walsh.

**Staff:** David Munnecke (786-7315).

**Background:**

The Washington State Department of Transportation (WSDOT) may purchase right-of-way for constructing or improving city streets that are also state highways. Title to all such rights-of-way vests in the city or town, subject to the requirement that the local jurisdiction use the property for public road purposes. However, if the road or street is to be operated as either a partially or fully controlled access highway, title to and full control over that portion incorporated into the limited access highway vests in the state.

Unused portions of right-of-way may be used for non-transportation uses with the prior written approval of the WSDOT and in accordance with any limited access plan. All revenue derived from any non-transportation use must be shared by the city or town and the state in the same proportion as the purchase costs were shared.

The WSDOT and the governing authority for the Quinault Indian Reservation were authorized, in 1985, to enter into a cooperative agreement for development and maintenance of a highway extension from the existing State Route 109 North through the Quinault Indian Reservation and intersecting with Highway 101 south of Queets. The WSDOT was also authorized to convey the right-of-way for the highway to the governing authority for the Quinault Indian Reservation, in return for a conveyance to the state of Washington of a perpetual easement for public travel on the highway.

**Summary of Amended Bill:**

Cooperative Agreement Authorization.

The WSDOT is authorized to enter into a cooperative agreement with the Lummi Nation and the appropriate agencies of the United States for the location, design, construction, and maintenance of a public road beginning on Rural Avenue at the southern boundary of the Ferndale city limits, traveling across the property held in tribal trust status for the Lummi Nation, and connecting to the approximate location of where the Ferndale city limits intersect Kope Road. The new road segment must be named after construction is concluded.

The cooperative agreement must reserve authority to construct road intersections or grade separation crossings of the roadway to the Lummi Nation. The Lummi Nation must assume responsibility for the operation and maintenance and future improvement of the roadway as a public road after construction is complete.

Location and Right-of-way Acquisition, and Conveyance to the Lummi Nation.

The WSDOT is authorized to determine the location of the roadway, in consultation with and with the approval of the Lummi Nation, and then to design, and construct the roadway. The WSDOT is also allowed to request a temporary easement for the purpose of constructing the new road.

The agreement may also authorize the Lummi Nation to convey to the United States an easement to construct, maintain, and repair roadway improvements, if such an easement is required by regulations of the Bureau of Indian Affairs.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The WSDOT does not have the authority to work with tribes in the same fashion as cities and towns. This bill should apply to all tribes, but this authority is needed now for the WSDOT to work with the Lummi Nation.

The I-5/Slater Road project has been designed and is scheduled to begin construction. A portion of the project needs to be built on Lummi Nation land, and this bill allows that land to be returned upon project completion. The bill should also state that an easement is required.

There should be a more global process put in place for tribes to utilize in the future.

(Opposed) None.

**Persons Testifying:** Senator Sharon Shewmake, prime sponsor; and Timothy Ballew, Lummi Commercial Company.

**Persons Signed In To Testify But Not Testifying:** None.