
SENATE BILL 5813

State of Washington

64th Legislature

2015 Regular Session

By Senators Cleveland, Miloscia, Lias, Darneille, Hobbs, McAuliffe, and Habib

Read first time 02/04/15. Referred to Committee on Transportation.

1 AN ACT Relating to local transportation options; amending RCW
2 36.73.065, 82.80.070, and 82.80.140; adding a new chapter to Title 35
3 RCW; adding a new chapter to Title 36 RCW; repealing RCW 82.80.040,
4 82.80.050, and 82.80.060; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** FINDINGS—TRANSPORTATION UTILITY PURPOSE.

7 The legislature finds that:

8 (1) The maintenance, operation, and preservation of the streets
9 and the provision of transportation utility service in urban areas is
10 essential for the safety, protection, and convenience of residents,
11 businesses, and governmental entities receiving the service.
12 Inadequate and poorly maintained streets and poor transportation
13 utility service adversely affect the health, safety, welfare, and
14 property of residents and businesses located in these areas. Harmful
15 impacts include traffic congestion, decreased vehicle fuel
16 efficiency, and a consequent severe adverse impact on air quality.
17 Further adverse impacts include vehicle damage, increased accident
18 frequency, more serious accidents, and decreased access to needed
19 services and businesses.

20 (2) Residents and businesses in areas with poorly maintained
21 streets and poor transportation utility service experience decreased

1 access to service and delivery vehicle support, including decreased
2 access to public transportation and taxi service, the delivery of
3 goods and services, and slower response times for fire, police, and
4 emergency medical vehicle services.

5 (3) Poor transportation utility service in urban areas
6 accelerates deterioration of private vehicles, increases traffic
7 volumes, and exacerbates peak flow traffic problems for the residents
8 and businesses in affected areas. Furthermore, it is also the intent
9 of the legislature to provide credits for demonstrable reductions in
10 automobile traffic in order to provide incentives to make better land
11 use decisions and to encourage behaviors that reduce needless wear on
12 our transportation infrastructures.

13 (4) The benefits for city residents and businesses in areas with
14 well-constructed and maintained streets and good transportation
15 utility service include improved air quality, fuel efficiency, travel
16 speed, travel safety, reduction of damage and deterioration of
17 vehicles, lower insurance rates, and better public transportation,
18 fire, police, and emergency medical vehicle response times.

19 (5) Access to and use of the street system and transportation
20 utility service is necessary to support the use of all developed real
21 property.

22 (6) Maintenance, repair, and preservation of the streets and
23 other transportation utility service in urban areas has traditionally
24 been funded by general taxes without regard to the burdens placed
25 upon streets by different classes of users or the respective benefits
26 derived by them.

27 (7) Objective means are available to assess pavement conditions
28 to identify distressed areas of urban streets.

29 (8) Objective measures are available to assess the relative
30 burdens placed upon streets and transportation utility service users
31 in urban areas by different classes of users and the respective
32 benefits derived by them.

33 (9) Maintenance and preservation of streets and transportation
34 utility service in urban areas should be funded by rates charged to
35 users of the streets consistent with the burden placed on the streets
36 by various classes of users and the respective benefits derived by
37 them as transportation utility supported users of the street system.

38 (10) A transportation utility provides a more equitable and
39 efficient means to monitor, regulate, and maintain the streets and to
40 provide transportation utility service than general tax funding.

1 (11) Since 1980, vehicle registration has increased by sixty
2 percent and vehicle miles traveled on municipal streets have
3 increased far in excess of the rate of population growth.

4 (12) Pavement surfaces in urban areas are subjected to much
5 heavier use and have much higher maintenance needs than pavement in
6 rural areas. When pavement is not properly maintained, the pavement
7 deterioration process, amount of work to restore the pavement, and
8 costs of restoration all accelerate exponentially. This creates a
9 downward spiral of increasing pavement deterioration and higher costs
10 to remediate the problem.

11 (13) The institute of transportation engineers is an
12 international educational and scientific professional association. It
13 has developed reports, which fairly measure the relative benefits of
14 streets to different classes of property use. The institute of
15 transportation engineers report is a nationally recognized and
16 accredited manual that provides a reasonable basis to apportion a
17 part of the costs of transportation utility service.

18 (14) A transportation utility created and governed by the
19 legislative authority of a city consistent with the requirements of
20 this chapter provides an appropriate and efficient means to monitor,
21 regulate, and maintain public streets.

22 (15) The preservation of streets through a transportation utility
23 service program will directly serve and benefit those who pay
24 transportation utility rates by allocating transportation utility
25 revenues to those who perform maintenance within the transportation
26 utility service area.

27 (16) The purpose of this chapter is to authorize the creation of
28 a transportation utility by cities to serve the residents,
29 businesses, governmental entities, and all other like users in
30 transportation utility service areas through the preservation and
31 maintenance of streets for areas with an identified transportation
32 utility service. In order to reflect the relative burdens placed upon
33 the streets by different classes of users, transportation utility
34 rates are determined in proportion to the levels of use of different
35 classes of residents, businesses, governmental entities, and all
36 other like users who depend upon access to and use of the street
37 system.

1 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
2 section apply throughout this chapter unless the context clearly
3 requires otherwise.

4 (1) "City" means an incorporated city or town.

5 (2) "Independent examiner" means an official appointed by a
6 majority vote of the legislative authority of the city and who is not
7 subject to discharge except for misfeasance or malfeasance in office.
8 The independent examiner considers ratepayer appeals of
9 transportation utility matters arising under section 7 of this act.
10 Alternatively, for cities with an administrative hearings examiner
11 system, independent examiner duties may be assigned to the hearings
12 examiner.

13 (3) "Maintenance" means maintaining or preserving existing public
14 street facilities, including meeting adopted municipal street
15 standards.

16 (4) "Sound engineering principles" means principles or practices
17 reasonably accepted within the civil engineering or traffic
18 engineering profession including, but not limited to, the department
19 of transportation extended method in determining paving distress
20 ratings, the department of transportation pavement distress manual,
21 the department of transportation local agency pavement management
22 guide, materials developed by the institute of transportation
23 engineers, including manuals or materials differentiating types of
24 property uses and correlating property use and the expected number of
25 annual motor vehicle and pedestrian trips generated by these uses,
26 and other studies, manuals, or materials that are reliable and based
27 on engineering practices as may be developed by professional
28 engineering staff or consultants according to generally accepted
29 professional standards.

30 (5) "Street" means a city's public right-of-way within the
31 boundaries of areas used for motor vehicle, bicycle, pedestrian, or
32 other nonmotorized traffic. "Street" includes bridges, gutters,
33 curbs, other surface water management systems, and sidewalks.

34 (6) "Transportation utility" means a citywide utility service
35 offered by a city to provide transportation services in accordance
36 with this chapter. Transportation utility activities may further be
37 identified by ordinance consistent with this chapter.

38 (7) "Transportation utility rates" means transportation utility
39 user charges authorized under this chapter for transportation utility
40 services.

1 (8) "Transportation utility service" means actions by a city-
2 established transportation utility to own, manage, operate, maintain,
3 and preserve to adopted municipal standards all or any described
4 portion of its existing streets and other existing transportation
5 systems. Transportation utility services may also include (a)
6 repayment of revenue or general obligation bonds repayable from
7 charges listed in section 6 of this act issued in accordance with
8 chapter 35.41, 35.92, or 39.46 RCW, or (b) other evidences of
9 indebtedness issued to pay costs for which transportation utility
10 service revenues may be used.

11 (9) "Transportation utility service area" means a citywide area,
12 excluding private streets, in which transportation utility services
13 are provided and transportation utility rates are charged, as
14 established under this chapter.

15 NEW SECTION. **Sec. 3.** ELIGIBILITY. (1) The authority to
16 establish a transportation utility under this chapter applies to
17 every city.

18 (2) A city that establishes a transportation utility under this
19 chapter before January 1, 2018, is considered a pilot project and is
20 required to submit a report to the house of representatives and
21 senate transportation committees by December 31, 2018. The report
22 must include, but not be limited to: A description on how the
23 transportation utility was established, the creation of the rate
24 system, and the establishment of its advisory committee; and a copy
25 of the annual report required in section 5(4)(c)(ii)(A) of this act.

26 NEW SECTION. **Sec. 4.** LEGISLATIVE AUTHORITY ACTION. (1) Subject
27 to section 5 of this act, the legislative authority of a city may
28 submit an authorizing proposition to the voters and, if approved,
29 establish a transportation utility to provide transportation utility
30 service, with the authority to own and operate the transportation
31 utility. A transportation utility may only be established by a city
32 if an authorizing proposition is approved by the voters of the city.

33 (2) The legislative authority of the city is the governing body
34 of the transportation utility. The legislative authority of the city
35 may not assess a transportation utility user rate outside its
36 jurisdictional limits.

1 NEW SECTION. **Sec. 5.** FORMATION PROCESS. (1) The legislative
2 authority of a city shall conduct a public hearing prior to
3 submitting an authorizing proposition to the voters for the formation
4 of a transportation utility. Notice of the hearing must include an
5 explanation of the proposal and the proposed transportation utility
6 service area. The notice may include a description of the condition
7 of the pavement areas for the proposed transportation utility service
8 area, summaries of pertinent studies, field investigations, and
9 pavement condition scores, including areas classified, or at risk to
10 be classified, for no further maintenance without transportation
11 utility support. The notice must include a general proposed plan for
12 transportation utility service to be carried out with transportation
13 utility rates, a summary of the proposed transportation utility
14 rates, a description of the proposed area for utility service, and
15 any other pertinent information. The notice must be published once a
16 week for two consecutive weeks in a newspaper of general circulation
17 within the proposed transportation utility service area.
18 Alternatively, there may be one publication, combined with the
19 presentation of the notice information on a government cable
20 television channel at least ten times in the two-week period and
21 prominently posting the required information on a municipal web site.

22 (2) At the hearing, the city's legislative authority shall review
23 the proposal and consider comments from any interested party and may
24 modify the proposal in response to those comments, as well as any
25 information, opinion polls, or other material relevant to the
26 question presented. The hearing may be continued if necessary.

27 (3) Upon the conclusion of the hearing, the city's legislative
28 authority may submit an authorizing proposition to the voters
29 creating a transportation utility, together with the intended
30 transportation utility rates to support the transportation utility,
31 which must be supported by an evidentiary record with findings in
32 accordance with this section and consistent with the findings and
33 purposes of this chapter.

34 (4)(a) The transportation utility ordinance must include:

35 (i) A finding that the creation of a transportation utility is in
36 the interest of the public health and safety as supported by findings
37 from the hearing and any other basis;

38 (ii) A finding that the transportation utility will allocate the
39 relative burdens placed on the streets by various classes of users
40 and the benefits derived by the various classes of users;

1 (iii) A finding that the transportation utility rates are
2 intended to be adequate to provide revenues sufficient for the
3 transportation utility, including payment of the principal and
4 interest on such bonds or warrants and payments that the
5 transportation utility is obligated to set aside in any special fund
6 or funds created for such purposes;

7 (iv) A description of the transportation utility service area and
8 user rate schedule consistent with section 6 of this act setting
9 forth the amounts to be charged to residential users, business users,
10 governmental entities, and other like street users located in the
11 transportation utility service area; and

12 (v) A provision that a transportation utility advisory committee
13 must be established as a part of utility formation to advise the city
14 from time to time regarding the transportation utility. The
15 transportation utility advisory committee must be appointed by the
16 mayor or mayor's designee and confirmed by the city's legislative
17 authority. Committee membership may not exceed seven members, a
18 majority of which must be city residents or business owners, and must
19 represent the different user classifications of the transportation
20 utility. Transportation utility advisory committee duties may
21 include, but are not limited to, the review of proposed maintenance
22 projects, rates, credits, or plan changes, or other matters assigned
23 by ordinance. Committee members must serve without compensation, but
24 city-approved committee expenses and staff support must be provided
25 by the city.

26 (b)(i) The transportation utility ordinance may include a
27 description or summary of the condition of the pavement in the
28 transportation utility service area, based on field investigations,
29 pavement condition scores, or other information. The description or
30 summary may include a proposed timetable for transportation utility
31 services, summary of the services, budget, including projected
32 revenues from transportation utility rates or other sources, and any
33 other factors deemed relevant.

34 (ii) In transportation utility service areas that include land
35 owned by port districts, transportation utility activity supporting
36 freight movement is an allowable use for utility revenue.

37 (c)(i) The transportation utility ordinance must include a policy
38 to address major plan changes that affect transportation utility
39 project delivery or ability to finance identified projects. The
40 policy must at least address material changes to cost, scope, and

1 schedule, and how the city will address those changes. At a minimum,
2 the city shall consult with the transportation utility advisory
3 committee and publish a public notice regarding how the plan change
4 should be resolved.

5 (ii)(A) A transportation utility shall issue an annual report
6 indicating the status of program revenues, annual revenues received,
7 and portion of revenues that are bonded, a summary of annual
8 expenditures on identified maintenance and preservation projects, and
9 programmed projected construction schedules for the next budget year.
10 The annual report must also provide a means of describing if rates
11 and revenues are sufficient to obtain and maintain the city's
12 systemwide pavement condition index standard and a comparison of the
13 systemwide pavement condition index data available for prior years
14 since formation of the transportation utility, the number of lane
15 miles by street classification within the utility, and the number of
16 new lane miles by street classification added or subtracted from the
17 system during the year.

18 (B) Where underlying public or private utilities are required by
19 city policy to make repairs to pavement structures for utility
20 trenches, the annual report must estimate the amount of contributed
21 restoration work performed for pavement restoration.

22 (C) Cities shall make available copies of the annual report to
23 any ratepayer upon request.

24 NEW SECTION. **Sec. 6. RATES.** (1)(a) If a city creates a
25 transportation utility, the city may establish transportation utility
26 rates by appropriate legislative action not inconsistent with this
27 section.

28 (b) Transportation utility rates apply to residents, businesses,
29 governmental entities, and other users located in the transportation
30 utility service area. Once rates are established using sound
31 engineering principles and the factors identified in subsection (2)
32 of this section, rates may be expressed as a designated dollar amount
33 per trip generated, type of household unit, or type of business.
34 Rates may be collected no more frequently than monthly and no less
35 frequently than annually. Rates set for users other than households
36 may be expressed in equivalents of household units or as specified by
37 ordinance. A city must phase in rates on a schedule of not less than
38 four years, as the city may determine.

1 (2)(a) In establishing transportation utility rates, the
2 following factors must be considered:

3 (i) The correlation between property uses and the estimated
4 number of vehicle trips from these uses; and

5 (ii) The institute of transportation engineers manual or other
6 resources of comparable acceptance or reliability.

7 (b) In establishing transportation utility rates, the following
8 factors may be considered:

9 (i) A cost component for the transportation utility's ongoing
10 base level operations. For the purposes of this subsection (2)(b)(i),
11 "base level operations" (A) means the threshold costs of operating
12 the utility per subscriber unit without regard for level of use or
13 intensity of service, and (B) refer to general systemwide costs. The
14 estimated number of vehicle trips generated by specific types of
15 property occupancies or uses may also be considered.

16 (ii)(A) User location;

17 (B) Differences in costs of service to different user classes;

18 (C) User proximity to arterial streets;

19 (D) Differences in costs or character of the service to users;

20 (E) Times of use;

21 (F) Number and type of vehicles associated with household units,
22 governmental entities, or businesses;

23 (G) Differences in the cost of maintenance, operation, repair,
24 and replacement of various parts of the street system, with
25 consideration to lowest life-cycle costing, by capital contributions
26 made to the system including, but not limited to, assessments,
27 achievement of traffic reduction, and air quality improvement goals;

28 (H) Capital contributions made to the system including, but not
29 limited to, assessments; and

30 (I) Special assessments, such as local improvement districts, for
31 streets and street-related improvements.

32 (iii) Any other matters that present a reasonable difference as a
33 grounds for distinction.

34 (3) Transportation utility rates may not:

35 (a) Include an exemption or credit for the payment of any tax;

36 (b) Be included for any reason on a user's property tax bill or
37 notice; or

38 (c) Be imposed on undeveloped premises.

1 (4)(a) A city may credit transportation utility rates on vacant
2 premises, provided that the owner produces proof of time of vacancy
3 under procedures set forth by the city.

4 (b) A city may reduce or credit rates on residential properties
5 to the extent of their occupancy by low-income senior citizens and
6 other low-income citizens as provided in RCW 74.38.070 and consistent
7 with Article VIII, section 7 of the state Constitution, or to the
8 extent determined proper for the necessary support of the poor and
9 infirm, as reasonably determined by the city in the transportation
10 utility ordinance.

11 (c) A city may reduce or credit rates on business or governmental
12 entities to the extent such business or governmental entities are
13 providing for streets, street-related improvements, and
14 transportation utility services within the transportation utility
15 service area, and based on a showing that the reduction or credit
16 granted is reasonably proportionate to the value contributed or cost
17 avoided by the transportation utility.

18 (d) A city may reduce or credit rates on residences, business
19 entities, or other users served by private streets to the extent they
20 are providing for streets, street-related improvements, and
21 transportation utility services, and based on a showing that the
22 reduction or credit granted is reasonably proportionate to the value
23 contributed or cost avoided by the transportation utility.

24 (5) If feasible, the ordinance must provide for mitigation for
25 incidental trips that are often combined with other trips, as
26 compared to destination trips that are associated with creating
27 separate trip burdens on the streets.

28 (6) The ordinance may provide for user rate reduction if there is
29 a showing of trip reduction, including reductions for residential
30 users participating in regular carpool or vanpool arrangements or for
31 commercial users offering carpool, vanpool, public transit passes, or
32 a trip reduction program approved under provisions as established by
33 ordinance.

34 (7) Transportation utility rates must be uniform for the same
35 class of ratepayers receiving services provided or imposing burdens
36 on a transportation system. Transportation utility rates collected by
37 a transportation utility must not be established in excess of the
38 amount authorized by the ordinance.

39 (8) Transportation utility rates may supplement any other
40 available resources for maintaining or preserving streets, but may

1 not duplicate or replace transportation impact fees authorized under
2 growth management laws designed to pay for increasing the capacity of
3 the street system to accommodate the needs for new growth and
4 development rather than street maintenance or remediation of existing
5 deficiencies in the street system.

6 (9) A city may provide or contract to provide billing and
7 collection services of the transportation utility rates as a part of
8 or separate from other transportation utility services provided. The
9 ordinance may use the connection or consumption of other
10 transportation utility services as a basis to establish occupancy or
11 use.

12 (10) Transportation utility rates may not be computed based on
13 the ad valorem value of the underlying real property or its
14 improvements.

15 (11) Transportation utility rates established under this section
16 do not constitute taxes or fees as provided under RCW 82.02.050
17 through 82.02.100 or chapter 39.92 RCW. A transportation utility may
18 be funded by rates or any other lawful revenue source.

19 (12) Prior to any rate change, the transportation utility shall
20 conduct a public hearing to review the condition of the street
21 infrastructure and future program needs based upon adopted standards.

22 (13) In the case of a legal challenge to any rates or rate
23 classification, it is the burden of the establishing government, by a
24 preponderance of the evidence, to show that the rates are not in
25 excess of the burden created by the ratepayer or rate class
26 concerned.

27 NEW SECTION. **Sec. 7.** APPEALS. (1) The transportation utility
28 ordinance under section 6 of this act must include provision for a
29 user to appeal a rate or rate classification upon a showing that the
30 user does not generate equivalent trips, on the average, to other
31 parcels in the same rate class, that the appellant's rate has been
32 improperly calculated, or another good cause. An appeal may also
33 request a review of whether the base rate is adequate to cover
34 ongoing base level operations and whether base rate items are
35 properly allocated to the base rate for a given class of users.
36 Refunds on collected rates are not required for any period before the
37 time a written appeal is received under procedures established by
38 ordinance. A reasonable charge, not to exceed actual cost of the
39 appeal, may be required to be paid by an appealing ratepayer.

1 (2) Ratepayer appeals must be considered by an independent
2 examiner. The examiner shall receive and examine available
3 information, prepare a record of the information, and enter findings
4 of fact, conclusions based upon those facts, and a decision. The
5 jurisdiction of the independent examiner extends to appeals about the
6 base rate, rate classifications, and rates charged to an individual
7 user. The independent examiner's jurisdiction does not extend to any
8 other aspects of transportation utility operation, enforcement of the
9 transportation utility ordinance, or any management or control of the
10 city's streets. Appeals from decisions of the examiner acting within
11 its jurisdictional duties must be directly made to the superior
12 court. Additional provisions that govern appeals under this section
13 must be provided by ordinance.

14 NEW SECTION. **Sec. 8.** RATE COLLECTION. (1) A transportation
15 utility ordinance may include provision of a penalty for rates sixty
16 days past due, but not to exceed one percent per month thereafter on
17 the unpaid balance. All unpaid transportation utility rates may be
18 collected against the owner, tenant, or occupant in any manner as
19 provided by law, but for a tenant or occupant, rates collected may
20 not be outside the period of tenancy or occupancy.

21 (2) As a supplemental remedy, a transportation utility ordinance
22 may: (a) Provide that any unpaid rates and applicable penalties are a
23 lien against the real property for which the transportation utility
24 services were provided, which amounts may be foreclosed in the manner
25 of a lien for labor and materials furnished on the subject premises.
26 Each year, a lien may not exceed twelve months of accrued and unpaid
27 charges, plus any applicable penalties; or (b) provide that unpaid
28 transportation utility rates are a lien against the property to which
29 the services are provided, which may be enforced in the same manner
30 as rates and charges for the use of systems of sewerage and storm
31 drainage under chapter 35.67 RCW.

32 NEW SECTION. **Sec. 9.** USE OF REVENUES. (1) All transportation
33 utility rate revenues must be deposited in a special fund or account
34 dedicated to permissible transportation utility service and must be
35 used for those purposes only.

36 (2) Permitted purposes include any identified transportation
37 utility service.

1 NEW SECTION. **Sec. 10.** DISSOLUTION. The legislative authority of
2 a city may dissolve a transportation utility by ordinance upon a
3 finding that the dissolution is in the public interest, but any
4 unexpended funds must be held in trust to be expended for only those
5 permissible purposes as provided in section 9 of this act.

6 NEW SECTION. **Sec. 11.** BID LAWS. Cities that operate a
7 transportation utility under this chapter remain subject to public
8 works bid limits as described in RCW 35.22.620, 35.23.352, and
9 35A.40.210.

10 NEW SECTION. **Sec. 12.** OTHER RESOURCES. A city electing to
11 establish a transportation utility under this chapter may use any
12 other resources for transportation utility service otherwise
13 permitted by law, consistent with any limitations on the service.

14 NEW SECTION. **Sec. 13.** SCOPE. (1) This chapter or any action
15 taken under its authority does not diminish any other general or
16 specific municipal regulatory or funding powers otherwise permitted
17 by law.

18 (2) This chapter is not intended to create or enhance any duty
19 upon any city with respect to the maintenance and preservation of its
20 streets beyond that which now exists under the general law.

21 NEW SECTION. **Sec. 14.** Any city or county in which a
22 transportation benefit district has been established pursuant to
23 chapter 36.73 RCW with boundaries coterminous with the boundaries of
24 the city or county may by ordinance or resolution of the city or
25 county legislative authority assume the rights, powers, functions,
26 and obligations of the transportation benefit district in accordance
27 with this chapter.

28 NEW SECTION. **Sec. 15.** (1) The assumption of the rights, powers,
29 functions, and obligations of a transportation benefit district may
30 be initiated by the adoption of an ordinance or a resolution by the
31 city or county legislative authority indicating its intention to
32 conduct a hearing concerning the assumption of such rights, powers,
33 functions, and obligations. If the city or county legislative
34 authority adopts such an ordinance or a resolution of intention, the
35 ordinance or resolution must set a time and place at which the city

1 or county legislative authority will consider the proposed assumption
2 of the rights, powers, functions, and obligations of the
3 transportation benefit district, and must state that all persons
4 interested may appear and be heard. The ordinance or resolution of
5 intention must be published at least two times during the two weeks
6 preceding the scheduled hearing in newspapers of daily general
7 circulation printed or published in the city or county in which the
8 transportation benefit district is to be located.

9 (2) At the time scheduled for the hearing in the ordinance or
10 resolution of intention, the city or county legislative authority
11 must consider the assumption of the rights, powers, functions, and
12 obligations of the transportation benefit district and hear those
13 appearing and all protests and objections to it. The city or county
14 legislative authority may continue the hearing from time to time, not
15 exceeding sixty days in all.

16 NEW SECTION. **Sec. 16.** (1) If, after receiving testimony, the
17 city or county legislative authority determines that the public
18 interest or welfare would be satisfied by the city or county assuming
19 the rights, powers, immunities, functions, and obligations of the
20 transportation benefit district, the city or county legislative
21 authority may declare that to be its intent and assume such rights,
22 powers, immunities, functions, and obligations by ordinance or
23 resolution, providing that the city or county is vested with every
24 right, power, immunity, function, and obligation currently granted to
25 or possessed by the transportation benefit district.

26 (2) Upon assumption of the rights, powers, immunities, functions,
27 and obligations of the transportation benefit district by the city or
28 county, the governing body established pursuant to RCW 36.73.020 must
29 be abolished and the city or county legislative authority is vested
30 with all rights, powers, immunities, functions, and obligations
31 otherwise vested by law in the governing board of the transportation
32 benefit district.

33 NEW SECTION. **Sec. 17.** No transfer of any function made pursuant
34 to this chapter may be construed to impair or alter any existing
35 rights acquired under chapter 36.73 RCW or any other provision of law
36 relating to transportation benefit districts, nor as impairing or
37 altering any actions, activities, or proceedings validated
38 thereunder, nor as impairing or altering any civil or criminal

1 proceedings instituted thereunder, nor any rule, regulation, or order
2 promulgated thereunder, nor any administrative action taken
3 thereunder; and neither the assumption of control of any
4 transportation benefit district function by a city or county, nor any
5 transfer of rights, powers, functions, and obligations as provided in
6 this chapter, may impair or alter the validity of any act performed
7 by such transportation benefit district or division thereof or any
8 officer thereof prior to the assumption of such rights, powers,
9 functions, and obligations by any city or county as authorized under
10 this chapter.

11 NEW SECTION. **Sec. 18.** (1) All rules and regulations and all
12 pending business before the board of any transportation benefit
13 district transferred pursuant to this chapter must be continued and
14 acted upon by the city or county.

15 (2) All existing contracts and obligations of the transferred
16 transportation benefit district remain in full force and effect and
17 must be performed by the city or county. A transfer authorized in
18 this chapter does not affect the validity of any official act
19 performed by any official or employee prior to the transfer
20 authorized pursuant to this chapter.

21 NEW SECTION. **Sec. 19.** (1) All reports, documents, surveys,
22 books, records, files, papers, or other writings relating to the
23 administration of the powers, duties, and functions transferred
24 pursuant to this chapter and available to the transportation benefit
25 district must be made available to the city or county.

26 (2) All funds, credits, or other assets held in connection with
27 powers, duties, and functions transferred under this chapter must be
28 assigned to the city or county.

29 (3) Any appropriations or federal grant made to the
30 transportation benefit district for the purpose of carrying out the
31 rights, powers, functions, and obligations authorized to be assumed
32 by a city or county pursuant to this chapter, on the effective date
33 of such transfer, must be credited to the city or county for the
34 purpose of carrying out such transferred rights, powers, functions,
35 and obligations.

36 NEW SECTION. **Sec. 20.** The city or county must assume and agree
37 to provide for the payment of all of the indebtedness of the

1 transportation benefit district, including the payment and retirement
2 of outstanding general obligation and revenue bonds issued by the
3 transportation benefit district.

4 **Sec. 21.** RCW 36.73.065 and 2012 c 152 s 3 are each amended to
5 read as follows:

6 (1) Except as provided in subsection (4) of this section, taxes,
7 fees, charges, and tolls may not be imposed by a district without
8 approval of a majority of the voters in the district voting on a
9 proposition at a general or special election. The proposition must
10 include a specific description of: (a) The transportation improvement
11 or improvements proposed by the district; (b) any rebate program
12 proposed to be established under RCW 36.73.067; and (c) the proposed
13 taxes, fees, charges, and the range of tolls imposed by the district
14 to raise revenue to fund the improvement or improvements or rebate
15 program, as applicable.

16 (2) Voter approval under this section must be accorded
17 substantial weight regarding the validity of a transportation
18 improvement as defined in RCW 36.73.015.

19 (3) A district may not increase any taxes, fees, charges, or
20 range of tolls imposed or change a rebate program under this chapter
21 once the taxes, fees, charges, tolls, or rebate program takes effect,
22 unless authorized by the district voters pursuant to RCW 36.73.160,
23 or up to fifty dollars of the vehicle fee authorized in RCW 82.80.140
24 by the governing board of the district or up to two-tenths of one
25 percent of the sales and use tax authorized in RCW 82.14.0455 by the
26 governing board of the district if the district is entirely outside
27 the boundaries of a regional transit authority that includes a county
28 with a population of one million or more.

29 (4)(a) A district that includes all the territory within the
30 boundaries of the jurisdiction, or jurisdictions, establishing the
31 district, but not including territory in which a fee is currently
32 being collected under RCW 82.80.140, may impose by a majority vote of
33 the governing board of the district the following fees, taxes, and
34 charges:

35 (i) Up to (~~twenty~~) fifty dollars of the vehicle fee authorized
36 in RCW 82.80.140; (~~or~~)

37 (ii) Up to two-tenths of one percent of the sales and use tax
38 authorized in RCW 82.14.0455, if the district is entirely outside the

1 boundaries of a regional transit authority that includes a county
2 with a population of one million or more; or

3 (iii) A fee or charge in accordance with RCW 36.73.120.

4 (b) The vehicle fee authorized in (a) of this subsection may only
5 be imposed for a passenger-only ferry transportation improvement if
6 the vehicle fee is first approved by a majority of the voters within
7 the jurisdiction of the district.

8 (c)(i) A district solely comprised of a city or cities (~~shall~~)
9 may not impose the fees or charges identified in (a) of this
10 subsection within one hundred eighty days after July 22, 2007, unless
11 the county in which the city or cities reside, by resolution,
12 declares that it will not impose the fees or charges identified in
13 (a) of this subsection within the one hundred eighty-day period; or

14 (ii) A district solely comprised of a city or cities identified
15 in RCW 36.73.020(6)(b) may not impose the fees or charges until after
16 May 22, 2008, unless the county in which the city or cities reside,
17 by resolution, declares that it will not impose the fees or charges
18 identified in (a) of this subsection through May 22, 2008.

19 (5) If the interlocal agreement in RCW 82.80.140(2)(a) cannot be
20 reached, a district that includes only the unincorporated territory
21 of a county may impose by a majority vote of the governing body of
22 the district up to (~~twenty~~) fifty dollars of the vehicle fee
23 authorized in RCW 82.80.140 or up to two-tenths of one percent of the
24 sales and use tax authorized in RCW 82.14.0455.

25 **Sec. 22.** RCW 82.80.070 and 2005 c 319 s 139 are each amended to
26 read as follows:

27 (1) The proceeds collected pursuant to the exercise of the local
28 option authority of RCW 82.80.010(~~(7)~~) and 82.80.030(~~(7) and~~
29 ~~82.80.050~~) (hereafter called "local option transportation revenues")
30 shall be used for transportation purposes only, including but not
31 limited to the following: The operation and preservation of roads,
32 streets, and other transportation improvements; new construction,
33 reconstruction, and expansion of city streets, county roads, and
34 state highways and other transportation improvements; development and
35 implementation of public transportation and high capacity transit
36 improvements and programs; and planning, design, and acquisition of
37 right-of-way and sites for such transportation purposes. The proceeds
38 collected from excise taxes on the sale, distribution, or use of
39 motor vehicle fuel and special fuel under RCW 82.80.010 shall be used

1 exclusively for "highway purposes" as that term is construed in
2 Article II, section 40 of the state Constitution.

3 (2) The local option transportation revenues shall be expended
4 for transportation uses consistent with the adopted transportation
5 and land use plans of the jurisdiction expending the funds and
6 consistent with any applicable and adopted regional transportation
7 plan for metropolitan planning areas.

8 (3) Each local government with a population greater than eight
9 thousand that levies or expends local option transportation funds, is
10 also required to develop and adopt a specific transportation program
11 that contains the following elements:

12 (a) The program shall identify the geographic boundaries of the
13 entire area or areas within which local option transportation
14 revenues will be levied and expended.

15 (b) The program shall be based on an adopted transportation plan
16 for the geographic areas covered and shall identify the proposed
17 operation and construction of transportation improvements and
18 services in the designated plan area intended to be funded in whole
19 or in part by local option transportation revenues and shall identify
20 the annual costs applicable to the program.

21 (c) The program shall indicate how the local transportation plan
22 is coordinated with applicable transportation plans for the region
23 and for adjacent jurisdictions.

24 (d) The program shall include at least a six-year funding plan,
25 updated annually, identifying the specific public and private sources
26 and amounts of revenue necessary to fund the program. The program
27 shall include a proposed schedule for construction of projects and
28 expenditure of revenues. The funding plan shall consider the
29 additional local tax revenue estimated to be generated by new
30 development within the plan area if all or a portion of the
31 additional revenue is proposed to be earmarked as future
32 appropriations for transportation improvements in the program.

33 (4) Local governments with a population greater than eight
34 thousand exercising the authority for local option transportation
35 funds shall periodically review and update their transportation
36 program to ensure that it is consistent with applicable local and
37 regional transportation and land use plans and within the means of
38 estimated public and private revenue available.

39 (5) In the case of expenditure for new or expanded transportation
40 facilities, improvements, and services, priorities in the use of

1 local option transportation revenues shall be identified in the
2 transportation program and expenditures shall be made based upon the
3 following criteria, which are stated in descending order of weight to
4 be attributed:

5 (a) First, the project serves a multijurisdictional function;

6 (b) Second, it is necessitated by existing or reasonably
7 foreseeable congestion;

8 (c) Third, it has the greatest person-carrying capacity;

9 (d) Fourth, it is partially funded by other government funds,
10 such as from the state transportation improvement board, or by
11 private sector contributions, such as those from the local
12 transportation act, chapter 39.92 RCW; and

13 (e) Fifth, it meets such other criteria as the local government
14 determines is appropriate.

15 (6) It is the intent of the legislature that as a condition of
16 levying, receiving, and expending local option transportation
17 revenues, no local government agency use the revenues to replace,
18 divert, or loan any revenues currently being used for transportation
19 purposes to nontransportation purposes.

20 (7) Local governments are encouraged to enter into interlocal
21 agreements to jointly develop and adopt with other local governments
22 the transportation programs required by this section for the purpose
23 of accomplishing regional transportation planning and development.

24 (8) Local governments may use all or a part of the local option
25 transportation revenues for the amortization of local government
26 general obligation and revenue bonds issued for transportation
27 purposes consistent with the requirements of this section.

28 (9) Subsections (1) through (8) of this section do not apply to a
29 regional transportation investment district imposing a tax or fee
30 under the local option authority of this chapter. Proceeds collected
31 under the exercise of local option authority under this chapter by a
32 district must be used in accordance with chapter 36.120 RCW.

33 **Sec. 23.** RCW 82.80.140 and 2010 c 161 s 917 are each amended to
34 read as follows:

35 (1) Subject to the provisions of RCW 36.73.065, a transportation
36 benefit district under chapter 36.73 RCW may fix and impose an annual
37 vehicle fee, not to exceed one hundred dollars per vehicle registered
38 in the district, for each vehicle subject to vehicle license fees
39 under RCW 46.17.350(1) (a), (c), (d), (e), (g), (h), (j), or (n)

1 through (q) and for each vehicle subject to gross weight license fees
2 under RCW 46.17.355 with a scale weight of six thousand pounds or
3 less.

4 (2)(a) A district that includes all the territory within the
5 boundaries of the jurisdiction, or jurisdictions, establishing the
6 district, but not including territory in which a fee is currently
7 being collected under this section, may impose by a majority vote of
8 the governing board of the district up to (~~twenty~~) fifty dollars of
9 the vehicle fee authorized in subsection (1) of this section.

10 (i) If the district is countywide, the revenues of the fee
11 (~~shall~~) must be distributed to each city within the (~~county~~)
12 district by interlocal agreement that must be effective prior to
13 imposition of the fee. The interlocal agreement is effective when
14 approved by the (~~county~~) district and sixty percent of the cities
15 representing seventy-five percent of the population of the cities
16 within the (~~county~~) district in which the countywide fee is
17 collected.

18 (ii) If the district is less than countywide, the revenues of the
19 fee must be distributed to each city within the district by
20 interlocal agreement that must be effective prior to imposition of
21 the fee.

22 (b) A district may not impose a fee under this subsection (2):

23 (i) For a passenger-only ferry transportation improvement unless
24 the vehicle fee is first approved by a majority of the voters within
25 the jurisdiction of the district; or

26 (ii) That, if combined with the fees previously imposed by
27 another district within its boundaries under RCW 36.73.065(4)(a)(i),
28 exceeds (~~twenty~~) fifty dollars.

29 If a district imposes or increases a fee under this subsection
30 (2) that, if combined with the fees previously imposed by another
31 district within its boundaries, exceeds (~~twenty~~) fifty dollars, the
32 district shall provide a credit for the previously imposed fees so
33 that the combined vehicle fee does not exceed (~~twenty~~) fifty
34 dollars.

35 (3) The department of licensing shall administer and collect the
36 fee. The department shall deduct a percentage amount, as provided by
37 contract, not to exceed one percent of the fees collected, for
38 administration and collection expenses incurred by it. The department
39 shall remit remaining proceeds to the custody of the state treasurer.

1 The state treasurer shall distribute the proceeds to the district on
2 a monthly basis.

3 (4) No fee under this section may be collected until six months
4 after approval under RCW 36.73.065.

5 (5) The vehicle fee under this section applies only when renewing
6 a vehicle registration, and is effective upon the registration
7 renewal date as provided by the department of licensing.

8 (6) The following vehicles are exempt from the fee under this
9 section:

10 (a) Campers, as defined in RCW 46.04.085;

11 (b) Farm tractors or farm vehicles, as defined in RCW 46.04.180
12 and 46.04.181;

13 (c) Mopeds, as defined in RCW 46.04.304;

14 (d) Off-road and nonhighway vehicles, as defined in RCW
15 46.04.365;

16 (e) Private use single-axle trailer, as defined in RCW 46.04.422;

17 (f) Snowmobiles, as defined in RCW 46.04.546; and

18 (g) Vehicles registered under chapter 46.87 RCW and the
19 international registration plan.

20 NEW SECTION. **Sec. 24.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 25.** The following acts or parts of acts are
25 each repealed:

26 (1) RCW 82.80.040 (Street utility—Establishment) and 1991 c 141 s
27 1;

28 (2) RCW 82.80.050 (Street utility—Charges, credits) and 2006 c
29 301 s 5, 2000 c 103 s 21, & 1991 c 141 s 2; and

30 (3) RCW 82.80.060 (Use of other proceeds by utility) and 1991 c
31 141 s 3.

32 NEW SECTION. **Sec. 26.** Sections 1 through 13 of this act
33 constitute a new chapter in Title 35 RCW.

34 NEW SECTION. **Sec. 27.** Sections 14 through 20 of this act
35 constitute a new chapter in Title 36 RCW.

1 NEW SECTION. **Sec. 28.** This act takes effect August 1, 2015.

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