
SUBSTITUTE HOUSE BILL 1274

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Transportation (originally sponsored by Representatives R. Fisher and Schmidt).

Read first time February 22, 1991.

1 AN ACT Relating to street utilities; reenacting and amending RCW
2 82.80.040, 82.80.050, and 82.80.060; reenacting RCW 82.80.070; and
3 declaring an emergency.

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

5 **Sec. 1.** RCW 82.80.040 and 1990 c 42 s 209 are each reenacted and
6 amended to read as follows:

7 A city or town may elect by action of its legislative authority to
8 own, construct, maintain, operate, and preserve all or any described
9 portion of its streets as a separate enterprise and facility, known as
10 a street utility, and from time to time add other existing or new
11 streets to that street utility, with full power to own, construct,
12 maintain, operate, and preserve such streets. The legislative
13 authority of the city or town may include as a part of the street
14 utility, street lighting, traffic control devices, sidewalks, curbs,
15 gutters, parking facilities, and drainage facilities. The legislative

1 authority of the city or town is the governing body of the street
2 utility.

3 **Sec. 2.** RCW 82.80.050 and 1990 c 42 s 210 are each reenacted and
4 amended to read as follows:

5 A city or town electing to own, construct, maintain, operate, and
6 preserve its streets as a separate street utility may levy periodic
7 charges for the use or availability of the streets in ~~((order to meet))~~
8 a total annual amount of up to fifty percent of the actual costs for
9 maintenance, operation, and preservation of facilities under the
10 jurisdiction of the street utility. The rates charged for the use must
11 be uniform for the same class of service and all ~~((classes of service))~~
12 business and residential properties must be subject to the utility
13 charge. Charges imposed on businesses shall be measured solely by the
14 number of employees and shall not exceed the equivalent of two dollars
15 per full-time equivalent employee per month. Charges imposed against
16 owners or occupants of residential property shall not exceed two
17 dollars per month per housing unit as defined in RCW 35.95.040.
18 ~~((Charges against owners of property that is exempt from property tax~~
19 ~~under chapter 84.36 RCW or leasehold tax under chapter 82.29A RCW shall~~
20 ~~be based solely on the number of employees of the tax exempt body~~
21 ~~associated with the property. Provided that in recognition of the~~
22 ~~benefits accruing to the city or town from the service provided by such~~
23 ~~tax exempt entities, the charges authorized herein shall be paid by the~~
24 ~~city or town.))~~ Charges authorized in this section shall not be
25 imposed against owners of property: (1) Exempt under RCW 84.36.010;
26 (2) exempt from the leasehold tax under chapter 82.29A RCW; or (3) used
27 for nonprofit or sectarian purposes, which if said property were owned
28 by such organization would qualify for exemption under chapter 84.36
29 RCW. The charges shall not be computed on the basis of an ad valorem

1 charge on the underlying real property and improvements. This section
2 shall not be used as a basis to directly or indirectly charge
3 transportation impact fees or mitigation fees of any kind against new
4 development. A city or town may contract with any other utility or
5 local government to provide for billing and collection of the street
6 utility charges.

7 In classifying service furnished within the general categories of
8 business and residential, the city or town legislative authority may in
9 its discretion consider any or all of the following factors: The
10 difference in cost of service to the various users or traffic
11 generators; location of the various users or traffic generators within
12 the city or town; the difference in cost of maintenance, operation,
13 construction, repair, and replacement of the various parts of the
14 enterprise and facility; the different character of the service
15 furnished to various users or traffic generators within the city or
16 town; the size and quality of the street service furnished; the time of
17 use or traffic generation; capital contributions made to the facility
18 including but not limited to special assessments; and any other matters
19 that present a reasonable difference as a ground for distinction, or
20 the entire category of business or residential may be established as a
21 single class. The city or town may reduce or exempt charges on
22 residential properties to the extent of their occupancy by low-income
23 senior citizens and low-income disabled citizens as provided in RCW
24 74.38.070(1), or to the extent of their occupancy by the needy or
25 infirm.

26 The charges shall be charges against the property and the use
27 thereof and shall become liens and be enforced in the same manner as
28 rates and charges for the use of systems of sewerage under chapter
29 35.67 RCW.

1 Any city or town ordinance or resolution creating a street utility
2 must contain a provision granting to any business a credit against any
3 street utility charge the full amount of any commuter or employer tax
4 paid for transportation purposes by that business.

5 **Sec. 3.** RCW 82.80.060 and 1990 c 42 s 211 are each reenacted and
6 amended to read as follows:

7 The city or town electing to own, construct, maintain, operate, and
8 preserve its streets and related facilities as a utility under this
9 chapter may finance the construction, operation, maintenance, and
10 preservation through local improvement districts, utility local
11 improvement districts, or with proceeds from general obligation bonds
12 and revenue bonds payable from the charges issued in accordance with
13 chapter 35.41 (~~(or)~~), 35.92, or 39.46 RCW, or any combination thereof.
14 The city or town may use, in addition to the charges authorized by RCW
15 82.80.050, funds from general taxation, money received from the
16 federal, state, or other local governments, and other funds made
17 available to it. The proceeds of the charges authorized by RCW
18 82.80.050 shall be used strictly for transportation purposes in
19 accordance with this chapter and RCW 82.80.070.

20 **Sec. 4.** RCW 82.80.070 and 1990 c 42 s 212 are each reenacted to
21 read as follows:

22 (1) The proceeds collected pursuant to the exercise of the local
23 option authority of RCW 82.80.010, 82.80.020, 82.80.030, and 82.80.050
24 (hereafter called "local option transportation revenues") shall be used
25 for transportation purposes only, including but not limited to the
26 following: The operation and preservation of roads, streets, and other
27 transportation improvements; new construction, reconstruction, and
28 expansion of city streets, county roads, and state highways and other

1 transportation improvements; development and implementation of public
2 transportation and high-capacity transit improvements and programs; and
3 planning, design, and acquisition of right of way and sites for such
4 transportation purposes. The proceeds collected from excise taxes on
5 the sale, distribution, or use of motor vehicle fuel and special fuel
6 under RCW 82.80.010 shall be used exclusively for "highway purposes" as
7 that term is construed in Article II, section 40 of the state
8 Constitution.

9 (2) The local option transportation revenues shall be expended for
10 transportation uses consistent with the adopted transportation and land
11 use plans of the jurisdiction expending the funds and consistent with
12 any applicable and adopted regional transportation plan for
13 metropolitan planning areas.

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

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

21 (b) The program shall be based on an adopted transportation plan
22 for the geographic areas covered and shall identify the proposed
23 operation and construction of transportation improvements and services
24 in the designated plan area intended to be funded in whole or in part
25 by local option transportation revenues and shall identify the annual
26 costs applicable to the program.

27 (c) The program shall indicate how the local transportation plan is
28 coordinated with applicable transportation plans for the region and for
29 adjacent jurisdictions.

1 (d) The program shall include at least a six-year funding plan,
2 updated annually, identifying the specific public and private sources
3 and amounts of revenue necessary to fund the program. The program
4 shall include a proposed schedule for construction of projects and
5 expenditure of revenues. The funding plan shall consider the
6 additional local tax revenue estimated to be generated by new
7 development within the plan area if all or a portion of the additional
8 revenue is proposed to be earmarked as future appropriations for
9 transportation improvements in the program.

10 (4) Local governments with a population greater than eight thousand
11 exercising the authority for local option transportation funds shall
12 periodically review and update their transportation program to ensure
13 that it is consistent with applicable local and regional transportation
14 and land use plans and within the means of estimated public and private
15 revenue available.

16 (5) In the case of expenditure for new or expanded transportation
17 facilities, improvements, and services, priorities in the use of local
18 option transportation revenues shall be identified in the
19 transportation program and expenditures shall be made based upon the
20 following criteria, which are stated in descending order of weight to
21 be attributed:

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

23 (b) Second, it is necessitated by existing or reasonably
24 foreseeable congestion;

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

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

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

3 (6) It is the intent of the legislature that as a condition of
4 levying, receiving, and expending local option transportation revenues,
5 no local government agency use the revenues to replace, divert, or loan
6 any revenues currently being used for transportation purposes to
7 nontransportation purposes. The association of Washington cities and
8 the Washington state association of counties, in consultation with the
9 legislative transportation committee, shall study the issue of
10 nondiversion and make recommendations to the legislative transportation
11 committee for language implementing the intent of this section by
12 December 1, 1990.

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

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

21 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and shall take
24 effect immediately.