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SENATE BILL 5895

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State of Washington                      55th Legislature                      1997 Regular Session

By Senators Roach, Heavey, Schow, Deccio, Johnson and Patterson

Read first time 02/18/97. Referred to Committee on Transportation.

1            AN ACT Relating to mitigating impacts of rail facility use and  
2 expansion; amending RCW 53.08.330, 82.12.0254, 82.16.020, 81.112.080,  
3 and 82.02.090; adding a new section to chapter 82.32 RCW; adding a new  
4 section to chapter 82.02 RCW; and repealing RCW 84.36.105.

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

6            **Sec. 1.** RCW 53.08.330 and 1990 c 5 s 1 are each amended to read as  
7 follows:

8            Any port district in this state, acting through its commission,  
9 ((may)) shall expend port funds toward construction, upgrading,  
10 improvement, or repair of any street, road, or highway that serves port  
11 facilities. Ports in the central Puget Sound shall participate on a  
12 pro rata basis in the mitigation of impacts to local communities caused  
13 by the increased use of surface transportation facilities as a result  
14 of increases in containerized cargo shipping through port facilities.

15            **Sec. 2.** RCW 82.12.0254 and 1995 c 63 s 2 are each amended to read  
16 as follows:

17            The provisions of this chapter shall not apply in respect to the  
18 use of any airplane, locomotive, ((~~railroad car~~)) or watercraft used

1 primarily in conducting interstate or foreign commerce by transporting  
2 therein or therewith property and persons for hire or used primarily in  
3 commercial deep sea fishing operations outside the territorial waters  
4 of the state, and in respect to use of tangible personal property which  
5 becomes a component part of any such airplane, locomotive, (~~(railroad~~  
6 ~~ear~~)) or watercraft, and in respect to the use by a nonresident of  
7 this state of any motor vehicle or trailer used exclusively in  
8 transporting persons or property across the boundaries of this state  
9 and in intrastate operations incidental thereto when such motor vehicle  
10 or trailer is registered and licensed in a foreign state and in respect  
11 to the use by a nonresident of this state of any motor vehicle or  
12 trailer so registered and licensed and used within this state for a  
13 period not exceeding fifteen consecutive days under such rules as the  
14 department of revenue shall adopt: PROVIDED, That under circumstances  
15 determined to be justifiable by the department of revenue a second  
16 fifteen day period may be authorized consecutive with the first fifteen  
17 day period; and for the purposes of this exemption the term  
18 "nonresident" as used herein, shall include a user who has one or more  
19 places of business in this state as well as in one or more other  
20 states, but the exemption for nonresidents shall apply only to those  
21 vehicles which are most frequently dispatched, garaged, serviced,  
22 maintained, and operated from the user's place of business in another  
23 state; and in respect to the use by the holder of a carrier permit  
24 issued by the Interstate Commerce Commission of any motor vehicle or  
25 trailer whether owned by or leased with or without driver to the permit  
26 holder and used in substantial part in the normal and ordinary course  
27 of the user's business for transporting therein persons or property for  
28 hire across the boundaries of this state; and in respect to the use of  
29 any motor vehicle or trailer while being operated under the authority  
30 of a one-transit permit issued by the director of licensing pursuant to  
31 RCW 46.16.160 and moving upon the highways from the point of delivery  
32 in this state to a point outside this state; and in respect to the use  
33 of tangible personal property which becomes a component part of any  
34 motor vehicle or trailer used by the holder of a carrier permit issued  
35 by the Interstate Commerce Commission authorizing transportation by  
36 motor vehicle across the boundaries of this state whether such motor  
37 vehicle or trailer is owned by or leased with or without driver to the  
38 permit holder.

1       **Sec. 3.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to read  
2 as follows:

3       (1) There is levied and there shall be collected from every person  
4 a tax for the act or privilege of engaging within this state in any one  
5 or more of the businesses herein mentioned. The tax shall be equal to  
6 the gross income of the business, multiplied by the rate set out after  
7 the business, as follows:

8       (a) Express, sewerage collection, and telegraph businesses: Three  
9 and six-tenths percent;

10       (b) Light and power business: Three and sixty-two one-hundredths  
11 percent;

12       (c) Gas distribution business: Three and six-tenths percent;

13       (d) Urban transportation business: Six-tenths of one percent;

14       (e) Vessels under sixty-five feet in length, except tugboats,  
15 operating upon the waters within the state: Six-tenths of one percent;

16       (f) Motor transportation, railroad, railroad car, and tugboat  
17 businesses, and all public service businesses other than ones mentioned  
18 above: (~~One and eight tenths~~) Five and four-tenths of one percent;

19       (g) Water distribution business: Four and seven-tenths percent.

20       (2) An additional tax is imposed equal to the rate specified in RCW  
21 82.02.030 multiplied by the tax payable under subsection (1) of this  
22 section.

23       (3) Twenty percent of the moneys collected under subsection (1) of  
24 this section on water distribution businesses and sixty percent of the  
25 moneys collected under subsection (1) of this section on sewerage  
26 collection businesses shall be deposited in the public works assistance  
27 account created in RCW 43.155.050.

28       **Sec. 4.** RCW 81.112.080 and 1992 c 101 s 8 are each amended to read  
29 as follows:

30       An authority shall have the following powers in addition to the  
31 general powers granted by this chapter:

32       (1) To carry out the planning processes set forth in RCW  
33 81.104.100;

34       (2) To acquire by purchase, condemnation, gift, or grant and to  
35 lease, construct, add to, improve, replace, repair, maintain, operate,  
36 and regulate the use of high capacity transportation facilities and  
37 properties within authority boundaries including surface, underground,  
38 or overhead railways, tramways, busways, buses, bus sets, entrained and

1 linked buses, ferries, or other means of local transportation except  
2 taxis, and including escalators, moving sidewalks, personal rapid  
3 transit systems or other people-moving systems, passenger terminal and  
4 parking facilities and properties, and such other facilities and  
5 properties as may be necessary for passenger, vehicular, and vessel  
6 access to and from such people-moving systems, terminal and parking  
7 facilities and properties, together with all lands, rights of way,  
8 property, equipment, and accessories necessary for such high capacity  
9 transportation systems. When developing specifications for high  
10 capacity transportation system operating equipment, an authority shall  
11 take into account efforts to establish or sustain a domestic  
12 manufacturing capacity for such equipment. The right of eminent domain  
13 shall be exercised by an authority in the same manner and by the same  
14 procedure as or may be provided by law for cities of the first class,  
15 except insofar as such laws may be inconsistent with the provisions of  
16 this chapter. Public transportation facilities and properties which  
17 are owned by any city, county, county transportation authority, public  
18 transportation benefit area, or metropolitan municipal corporation may  
19 be acquired or used by an authority only with the consent of the agency  
20 owning such facilities. Such agencies are hereby authorized to convey  
21 or lease such facilities to an authority or to contract for their joint  
22 use on such terms as may be fixed by agreement between the agency and  
23 the authority.

24 The facilities and properties of an authority whose vehicles will  
25 operate primarily within the rights of way of public streets, roads, or  
26 highways, may be acquired, developed, and operated without the corridor  
27 and design hearings that are required by RCW 35.58.273 for mass transit  
28 facilities operating on a separate right of way;

29 (3) To dispose of any real or personal property acquired in  
30 connection with any authority function and that is no longer required  
31 for the purposes of the authority, in the same manner as provided for  
32 cities of the first class. When an authority determines that a  
33 facility or any part thereof that has been acquired from any public  
34 agency without compensation is no longer required for authority  
35 purposes, but is required by the agency from which it was acquired, the  
36 authority shall by resolution transfer it to such agency;

37 (4) To fix rates, tolls, fares, and charges for the use of such  
38 facilities and to establish various routes and classes of service.  
39 Fares or charges may be adjusted or eliminated for any distinguishable

1 class of users. Rates, fares, and charges for the use of any commuter  
2 passenger rail operation shall include an additional fee of five  
3 dollars per ticket sold. The money collected shall be deposited into  
4 the rail impact mitigation account established by section 6 of this  
5 act.

6 NEW SECTION. Sec. 5. A new section is added to chapter 82.32 RCW  
7 to read as follows:

8 Taxes collected due to the repeal of RCW 84.36.105 under section 8,  
9 chapter . . ., Laws of 1997 (section 8 of this act), sixty-six percent  
10 of the taxes collected under RCW 82.16.020(1)(f), and any taxes  
11 collected due to the amendments to RCW 82.12.0254 in section 2, chapter  
12 . . ., Laws of 1997 (section 2 of this act) shall be deposited into the  
13 rail impact mitigation account established in section 6 of this act.  
14 The department shall adopt rules to carry out the provisions of this  
15 section.

16 NEW SECTION. Sec. 6. A new section is added to chapter 82.02 RCW  
17 to read as follows:

18 The rail impact mitigation account is created in the state  
19 treasury. All receipts from section 5 of this act must be deposited in  
20 the account. Moneys in the account may be appropriated by the  
21 legislature for capital construction purposes designed to mitigate the  
22 disruption to communities caused by the increased use or refurbishment  
23 and expansion of rail facilities in this state.

24 **Sec. 7.** RCW 82.02.090 and 1990 1st ex.s. c 17 s 48 are each  
25 amended to read as follows:

26 Unless the context clearly requires otherwise, the following  
27 definitions shall apply in RCW 82.02.050 through 82.02.090:

28 (1) "Development activity" means any construction or expansion of  
29 a building, structure, railroad facility, or use, any change in use of  
30 a building ((~~or~~)), structure, or railroad facility or any changes in  
31 the use of land, that creates additional demand and need for public  
32 facilities.

33 (2) "Development approval" means any written authorization from a  
34 county, city, or town which authorizes the commencement of development  
35 activity.

1 (3) "Impact fee" means a payment of money imposed upon development  
2 as a condition of development approval, or to mitigate impacts of  
3 railroad facility development or expansion, to pay for public  
4 facilities needed to serve new growth and development, and that is  
5 reasonably related to the new development that creates additional  
6 demand and need for public facilities, that is a proportionate share of  
7 the cost of the public facilities, and that is used for facilities that  
8 reasonably benefit the new development. "Impact fee" does not include  
9 a reasonable permit or application fee.

10 (4) "Owner" means the owner of record of real property, although  
11 when real property is being purchased under a real estate contract, the  
12 purchaser shall be considered the owner of the real property if the  
13 contract is recorded.

14 (5) "Proportionate share" means that portion of the cost of public  
15 facility improvements that are reasonably related to the service  
16 demands and needs of new development.

17 (6) "Project improvements" mean site improvements and facilities  
18 that are planned and designed to provide service for a particular  
19 development project and that are necessary for the use and convenience  
20 of the occupants or users of the project, and are not system  
21 improvements. No improvement or facility included in a capital  
22 facilities plan approved by the governing body of the county, city, or  
23 town shall be considered a project improvement.

24 (7) "Public facilities" means the following capital facilities  
25 owned or operated by government entities: (a) Public streets and  
26 roads; (b) publicly owned parks, open space, and recreation facilities;  
27 (c) school facilities; and (d) fire protection facilities in  
28 jurisdictions that are not part of a fire district.

29 (8) "Service area" means a geographic area defined by a county,  
30 city, town, or intergovernmental agreement in which a defined set of  
31 public facilities provide service to development within the area.  
32 Service areas shall be designated on the basis of sound planning or  
33 engineering principles.

34 (9) "System improvements" mean public facilities that are included  
35 in the capital facilities plan and are designed to provide service to  
36 service areas within the community at large, in contrast to project  
37 improvements.

1        NEW SECTION.   **Sec. 8.**   RCW 84.36.105 and 1975 1st ex.s. c 20 s 1  
2   are each repealed.

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