
HOUSE BILL 2700

State of Washington

57th Legislature

2002 Regular Session

By Representatives Fisher, Mitchell, Simpson, Ogden, Murray, Wood and McIntire

Read first time 01/24/2002. Referred to Committee on Transportation.

1 AN ACT Relating to local transportation by authorizing the
2 establishment of municipal street utilities to maintain streets and
3 providing local options for funding local transportation; amending RCW
4 82.80.020, 82.80.010, 35.21.710, 82.36.440, and 82.38.280; adding new
5 sections to chapter 35.77 RCW; creating a new section; repealing RCW
6 82.80.040, 82.80.050, and 82.80.060; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.77 RCW
9 to read as follows:

10 The legislature finds that:

11 (1) Cities or towns maintain their streets to provide maximum
12 protection of the public's health, safety, and welfare; that well-
13 maintained streets, free from the deteriorating effects of regular use
14 and the encroachments of the adjacent landscape, ensure safe and
15 efficient travel for the public and emergency vehicles, and minimize
16 the likelihood of property damage, serious bodily injury, and death;

17 (2) Since 1980, vehicle registration has increased by sixty percent
18 and vehicle miles traveled on municipal streets have increased far in
19 excess of the rate of population growth;

1 (3) Municipal streets are deteriorating from heavy use and lack a
2 reliable, dedicated funding source. Failure to provide ongoing
3 maintenance accelerates right-of-way degradation and erodes the value
4 and availability of this significant public asset;

5 (4) Residences and businesses contribute to the deteriorating
6 effects on streets as a result of automobile and pedestrian traffic
7 generated by different types of property uses;

8 (5) A street utility created and governed by the legislative
9 authority of a city or town provides an appropriate and efficient means
10 to monitor, regulate, and maintain public streets;

11 (6) It is appropriate for the legislative authorities of cities and
12 towns to properly define a class or classes of street users responsible
13 for burdens created or benefits enjoyed by these street users, in the
14 exercise of their police power, in order to protect the public health,
15 safety, and welfare;

16 (7) In order to provide safe and efficient travel on public
17 streets, it is necessary for street utilities to impose appropriate
18 street use charges on street users, identified by classifications such
19 as residences and businesses, based upon the type of uses made of each
20 property and the estimated impact that uses have on public streets,
21 subject to the limitations in section 4 of this act, all of which is
22 necessary to protect the public's welfare.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.77 RCW
24 to read as follows:

25 For the purposes of sections 1 through 5 of this act, the following
26 definitions apply unless the context clearly requires otherwise.

27 (1) "Street" means the traveled portion of the street right-of-way
28 including gutters, curbs, and sidewalks, as well as street lights,
29 traffic control devices, and proper drainage facilities.

30 (2) "Street maintenance" means activities that keep streets in good
31 operating condition or that enhance public safety including, but not
32 limited to, preservation, resurfacing, pothole filling, restriping,
33 additional street lights, traffic control devices, sidewalks, proper
34 drainage facilities, and related facilities as may be identified by
35 local ordinance.

36 (3) "Street utility" means a separate utility generating a
37 dedicated fund for street maintenance, created and governed by the

1 legislative body of a city or town, that may levy periodic charges,
2 consistent with section 4 of this act, for the use of public streets.

3 (4) "Street user fees or charges" means a fee or charge against
4 residences and businesses, based upon the expected trip generation from
5 specific types of property uses.

6 (5) "Street user" means a person or business who resides within the
7 boundaries of the street utility, identified by classification
8 established by ordinance, who uses the streets, who receives the
9 benefit of use of the streets, or who creates a burden or expense for
10 maintaining the streets. There shall be no street user associated with
11 a vacant parcel.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.77 RCW
13 to read as follows:

14 A city or town may elect by action of its legislative authority to
15 own, maintain, operate, and preserve all or any described portion of
16 its streets as a separate enterprise and facility, known as a street
17 utility, and from time to time add other existing or new streets to
18 that street utility, with full power to own, maintain, operate, and
19 preserve these streets. The legislative authority of the city or town
20 may include as a part of the street utility street lighting, traffic
21 control devices, sidewalks, curbs, gutters, parking facilities, and
22 drainage facilities, and any other facilities, equipment, or service
23 directly related to public streets as may be prescribed by ordinance.
24 The legislative authority of the city or town is the governing body of
25 the street utility.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.77 RCW
27 to read as follows:

28 (1) A city or town electing to own, maintain, operate, and preserve
29 its streets as a separate street utility may levy periodic charges upon
30 street users identified by ordinance for the use of the streets in a
31 total annual amount of up to fifty percent of the actual costs for
32 maintenance, operation, and preservation of facilities under the
33 jurisdiction of the street utility. These fees or charges shall be
34 placed in a specific fund dedicated to street maintenance.

35 (2) Street utility fees and charges shall be expended only for
36 street maintenance uses consistent with the adopted transportation and
37 land use plans of the jurisdiction expending the funds and consistent

1 with any applicable and adopted regional transportation plan for
2 metropolitan planning areas. Classification of street user charges
3 shall be consistent with the following:

4 (a) Fees shall be based on the estimated number of vehicle trips
5 generated by specific types of a street user's property uses. Cities
6 or towns shall calculate vehicle trips using generally accepted traffic
7 engineering principles or other data that demonstrate a correlation
8 between each type of property use and the estimated number of
9 automobile and pedestrian trips that each use generates;

10 (b) All charges shall be uniform for each class of street user;

11 (c) Street user charges shall not be computed on the basis of an ad
12 valorem charge on real property or improvements. This section shall
13 not be used as a basis to directly or indirectly charge transportation
14 impact fees or mitigation fees of any kind against new development. A
15 city or town may contract to provide billing and collection of the
16 street utility charges;

17 (d) The city or town may reduce or exempt street user charges
18 affecting residential low-income senior citizens, other low-income
19 citizens as provided in RCW 74.38.070(1), and the otherwise needy or
20 infirm as may be further defined by ordinance;

21 (e) Charges imposed pursuant to this chapter do not constitute
22 taxes nor are they charges provided for under RCW 82.02.050 through
23 82.02.090, growth impact fees, or transportation fees under chapter
24 39.92 RCW;

25 (f) The city or town legislative authority shall create a means of
26 administrative appeal by persons desiring to contest their
27 classification or status as street users. Persons who are not street
28 users as defined by this statute or local ordinance shall not be
29 subject to street use fees or charges.

30 (3) The charges provided for in this section shall become liens and
31 be enforced in the same manner as rates and charges for the use of
32 systems of sewerage under chapter 35.67 RCW.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.77 RCW
34 to read as follows:

35 The city or town electing to own, maintain, operate, and preserve
36 its streets and related facilities as a utility under this chapter may
37 finance the operation, maintenance, and preservation through local
38 improvement districts, utility local improvement districts, or with

1 proceeds from general obligation bonds and revenue bonds payable from
2 the charges issued in accordance with chapter 35.41, 35.92, or 39.46
3 RCW, or any combination thereof. The city or town may use, in addition
4 to the charges authorized, funds from general taxation, money received
5 from the federal, state, or other local governments, and other funds
6 made available to it. The proceeds of the charges authorized shall be
7 used strictly for street maintenance purposes in accordance with this
8 chapter.

9 **Sec. 6.** RCW 82.80.020 and 2001 c 64 s 15 are each amended to read
10 as follows:

11 (1) The legislative authority of a county, or (~~subject to~~
12 ~~subsection (7) of this section, a qualifying~~) a city or town located
13 in a county that has not imposed (~~a fifteen-dollar~~) the maximum fee
14 under this section, may fix and impose an additional fee, not to exceed
15 (~~fifteen~~) fifty dollars per vehicle, for each vehicle that is subject
16 to license fees under RCW 46.16.0621 and for each vehicle that is
17 subject to RCW 46.16.070 with an unladen weight of six thousand pounds
18 or less, and that is determined by the department of licensing to be
19 registered within the boundaries of the county.

20 (2) The department of licensing shall administer and collect the
21 fee. The department shall deduct a percentage amount, as provided by
22 contract, not to exceed two percent of the taxes collected, for
23 administration and collection expenses incurred by it. The remaining
24 proceeds shall be remitted to the custody of the state treasurer for
25 monthly distribution under RCW 82.80.080.

26 (3) The proceeds of this fee shall be used strictly for
27 transportation purposes in accordance with RCW 82.80.070.

28 (4) A county (~~or qualifying~~) city, or town imposing this fee or
29 initiating an exemption process shall delay the effective date at least
30 six months from the date the ordinance is enacted to allow the
31 department of licensing to implement administration and collection of
32 or exemption from the fee.

33 (5) The legislative authority of a county (~~or qualifying~~) city,
34 or town may develop and initiate an exemption process of the (~~fifteen~~
35 ~~dollar~~) fee for the registered owners of vehicles residing within the
36 boundaries of the county (~~or qualifying~~) city, or town: (a) Who are
37 sixty-one years old or older at the time payment of the fee is due and
38 whose household income for the previous calendar year is less than an

1 amount prescribed by the county (~~(or qualifying)~~), city, or town
2 legislative authority; or (b) who have a physical disability.

3 (6) The legislative authority of a county (~~(or qualifying)~~), city,
4 or town shall develop and initiate an exemption process of the
5 (~~(fifteen-dollar)~~) fee for vehicles registered within the boundaries of
6 the county that are licensed under RCW 46.16.374.

7 (7) (~~(For purposes of this section, a "qualifying city or town"~~
8 ~~means a city or town residing within a county having a population of~~
9 ~~greater than seventy five thousand in which is located all or part of~~
10 ~~a national monument.)~~) A (~~(qualifying)~~) city or town may impose the
11 fee authorized in subsection (1) of this section subject to the
12 following conditions and limitations:

13 (a) The city or town may impose the fee only if authorized to do so
14 by a majority of registered voters voting at a general or special
15 election on a proposition for that purpose. (~~(At a minimum, the ballot~~
16 ~~measure shall contain: (i) A description of the transportation project~~
17 ~~proposed for funding, properly identified by mileposts or other~~
18 ~~designations that specify the project parameters; (ii) the proposed~~
19 ~~number of months or years necessary to fund the city or town's share of~~
20 ~~the project cost; and (iii) the amount of fee to be imposed for the~~
21 ~~project.)~~)

22 (b) The city or town may not impose a fee that, if combined with
23 the county fee, exceeds (~~(fifteen)~~) fifty dollars. If a county imposes
24 or increases a fee under this section that, if combined with the fee
25 imposed by a city or town, exceeds (~~(fifteen)~~) fifty dollars, the city
26 or town fee shall be reduced or eliminated as needed so that in no city
27 or town does the combined fee exceed (~~(fifteen)~~) fifty dollars. All
28 revenues from county-imposed fees shall be distributed as called for in
29 RCW 82.80.080.

30 (~~(c) Any fee imposed by a city or town under this section shall~~
31 ~~expire at the end of the term of months or years provided in the ballot~~
32 ~~measure, or when the city or town's bonded indebtedness on the project~~
33 ~~is retired, whichever is sooner.)~~)

34 (8) The fee imposed under subsection (7) of this section shall
35 apply only to renewals and shall not apply to ownership transfer
36 transactions.

37 **Sec. 7.** RCW 82.80.010 and 1998 c 176 s 86 are each amended to read
38 as follows:

1 (1) Subject to the conditions of this section, any county may levy,
2 by approval of its legislative body and a majority of the registered
3 voters of the county voting on the proposition at a general or special
4 election, additional excise taxes (~~(equal to ten)~~) not to exceed twenty
5 percent of the statewide motor vehicle fuel tax rate under RCW
6 82.36.025 on each gallon of motor vehicle fuel as defined in RCW
7 82.36.010 and on each gallon of special fuel as defined in RCW
8 82.38.020 sold within the boundaries of the county.

9 (2) The legislative authority of any city or town located within a
10 county that has not imposed the tax under subsection (1) of this
11 section by July 1, 2004, may levy additional excise taxes on sales of
12 motor vehicle fuel and special fuel within the boundaries of the city
13 or town in accordance with the terms of subsection (1) of this section
14 subject to approval of a majority of the registered voters in the city
15 or town voting at a general or special election.

16 (3) Vehicles paying an annual license fee under RCW 82.38.075 are
17 exempt from the (~~county fuel~~) excise (~~tax~~) taxes under this
18 section.

19 (4) An election held under this section must be held not more than
20 twelve months before the date on which the proposed tax is to be
21 levied. The ballot setting forth the proposition shall state the tax
22 rate that is proposed. The county's authority to levy additional
23 excise taxes under this section includes the incorporated and
24 unincorporated areas of the county. A city's or town's authority to
25 levy additional excise taxes under this section includes only the
26 incorporated area within the city or town. The additional excise taxes
27 are subject to the same exceptions and rights of refund as applicable
28 to other motor vehicle fuel and special fuel excise taxes levied under
29 chapters 82.36 and 82.38 RCW. The proposed tax shall not be levied
30 less than one month from the date the election results are certified by
31 the county election officer. The commencement date for the levy of any
32 tax under this section shall be the first day of January, April, July,
33 or October.

34 (~~(+2)~~) (5) Every person subject to the tax shall pay, in addition
35 to any other taxes provided by law, an additional excise tax to the
36 director of licensing at the rate levied by a county or city exercising
37 its authority under this section, except that any tax imposed by a city
38 or town under subsection (2) of this section shall be allowed as a

1 credit against tax imposed by a county under subsection (1) of this
2 section upon the same taxable event.

3 ~~((3))~~ (6) The state treasurer shall distribute monthly to the
4 levying county and cities contained therein, or to the levying city or
5 town, the proceeds of the additional excise taxes collected under this
6 section, after the deductions for payments and expenditures as provided
7 in RCW 46.68.090 ~~((1) and (2))~~ and under the conditions and
8 limitations provided in RCW 82.80.080.

9 ~~((4))~~ (7) The proceeds of the additional excise taxes levied
10 under this section shall be used strictly for transportation purposes
11 in accordance with RCW 82.80.070.

12 ~~((5))~~ (8) The department of licensing shall administer and
13 collect the county and city fuel taxes. The department shall deduct a
14 percentage amount, as provided by contract, for administrative,
15 collection, refund, and audit expenses incurred. The remaining
16 proceeds shall be remitted to the custody of the state treasurer for
17 monthly distribution under RCW 82.80.080.

18 **Sec. 8.** RCW 35.21.710 and 1983 2nd ex.s. c 3 s 33 are each amended
19 to read as follows:

20 Any city which imposes a license fee or tax upon business
21 activities consisting of the making of retail sales of tangible
22 personal property which are measured by gross receipts or gross income
23 from such sales, shall impose such tax at a single uniform rate upon
24 all such business activities. The taxing authority granted to cities
25 for taxes upon business activities measured by gross receipts or gross
26 income from sales shall not exceed a rate of .0020; except that any
27 city with an adopted ordinance at a higher rate, as of January 1, 1982
28 shall be limited to a maximum increase of ten percent of the January
29 1982 rate, not to exceed an annual incremental increase of two percent
30 of current rate: PROVIDED, That any adopted ordinance which classifies
31 according to different types of business or services shall be subject
32 to both the ten percent and the two percent annual incremental increase
33 limitation on each tax rate: PROVIDED FURTHER, That all surtaxes on
34 business and occupation classifications in effect as of January 1,
35 1982, shall expire no later than December 31, 1982, or by expiration
36 date established by local ordinance. Cities which impose a license fee
37 or tax upon business activities consisting of the making of retail
38 sales of tangible personal property which are measured by gross

1 receipts or gross income from such sales shall be required to submit an
2 annual report to the state auditor identifying the rate established and
3 the revenues received from each fee or tax. This section shall not
4 apply to any business activities subject to the tax imposed by chapter
5 82.16 RCW, or activities subject to tax pursuant to RCW 82.36.440 or
6 82.38.280. For purposes of this section, the providing to consumers of
7 competitive telephone service, as defined in RCW 82.04.065, shall be
8 deemed to be the retail sale of tangible personal property.

9 **Sec. 9.** RCW 82.36.440 and 1991 c 173 s 4 are each amended to read
10 as follows:

11 The tax levied in this chapter is in lieu of any excise, privilege,
12 or occupational tax upon the business of manufacturing, selling, or
13 distributing motor vehicle fuel, and no city, town, county, township or
14 other subdivision or municipal corporation of the state shall levy or
15 collect any excise tax upon or measured by the sale, receipt,
16 distribution, or use of motor vehicle fuel, except as provided in RCW
17 82.80.010 and 82.47.020, and except that a city or town may impose an
18 excise tax upon privilege of making retail sales of motor vehicle fuel
19 within the limits of the city or town at a rate of up to five percent
20 of the gross receipts derived from retail sales. Money received from
21 the tax shall be used solely for transportation purposes as that term
22 is used in RCW 82.80.070. The imposition or increase in the rate of
23 tax is subject to the referendum procedure in RCW 35.21.706, but not
24 subject to the limitations of RCW 35.21.710.

25 **Sec. 10.** RCW 82.38.280 and 1991 c 173 s 5 are each amended to read
26 as follows:

27 The tax levied in this chapter is in lieu of any excise, privilege,
28 or occupational tax upon the business of manufacturing, selling, or
29 distributing special fuel, and no city, town, county, township or other
30 subdivision or municipal corporation of the state shall levy or collect
31 any excise tax upon or measured by the sale, receipt, distribution, or
32 use of special fuel, except as provided in RCW 82.80.010 and 82.47.020,
33 and except that a city or town may impose an excise tax upon the
34 privilege of making retail sales of special fuel within the limits of
35 the city or town at a rate of up to five percent of the gross receipts
36 derived from retail sales. Money received from the tax shall be used
37 solely for transportation purposes as that term is used in RCW

1 82.80.070. The imposition or increase in the rate of tax is subject to
2 the referendum procedure in RCW 35.21.706, but not subject to the
3 limitations of RCW 35.21.710.

4 NEW SECTION. Sec. 11. The following acts or parts of acts are
5 each repealed:

6 (1) RCW 82.80.040 (Street utility--Establishment) and 1991 c 141 s
7 1;

8 (2) RCW 82.80.050 (Street utility--Charges, credits) and 2000 c 103
9 s 21 & 1991 c 141 s 2; and

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

12 NEW SECTION. Sec. 12. If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 NEW SECTION. Sec. 13. The provisions of this act are remedial and
17 supplemental. This act shall be construed liberally to accomplish its
18 intended purpose. No authority extended to a city or town shall be
19 construed to restrict or limit any authority previously extended or
20 heretofore or hereafter existing.

21 NEW SECTION. Sec. 14. This act takes effect July 1, 2002.

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