

ESHB 2228 - S COMM AMD

By Committee on Highways & Transportation

ADOPTED AS AMENDED 04/15/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
4 section apply throughout this chapter and section 9 of this act unless
5 the context clearly requires otherwise.

6 (1) "Public agency" means any county, city, or other local
7 government agency or any state government agency, board, or commission.

8 (2) "Public transportation" means the same as "public
9 transportation service" as defined in RCW 36.57A.010 and includes
10 passenger services of the Washington state ferries.

11 (3) "Nonmotorized commuting" means commuting to and from the
12 workplace by an employee by walking or running or by riding a bicycle
13 or other device not powered by a motor.

14 (4) "Ride sharing" means the same as "flexible commuter ride
15 sharing" as defined in RCW 46.74.010, including ride sharing on
16 Washington state ferries.

17 (5) "Car sharing" means a membership program intended to offer an
18 alternative to car ownership under which persons or entities that
19 become members are permitted to use vehicles from a fleet on an hourly
20 basis.

21 (6) "Telework" means a program where work functions that are
22 normally performed at a traditional workplace are instead performed by
23 an employee at his or her home at least one day a week for the purpose
24 of reducing the number of trips to the employee's workplace.

25 NEW SECTION. **Sec. 2.** TAX CREDITS--BUSINESS AND OCCUPATION AND
26 PUBLIC UTILITY TAXES. (1) Employers in this state who are taxable
27 under chapter 82.04 or 82.16 RCW and provide financial incentives to
28 their own or other employees for ride sharing, for using public
29 transportation, for using car sharing, or for using nonmotorized

1 commuting before July 1, 2013, are allowed a credit against taxes
2 payable under chapters 82.04 and 82.16 RCW for amounts paid to or on
3 behalf of employees for ride sharing in vehicles carrying two or more
4 persons, for using public transportation, for using car sharing, or for
5 using nonmotorized commuting, not to exceed sixty dollars per employee
6 per year.

7 (2) Property managers who are taxable under chapter 82.04 or 82.16
8 RCW and provide financial incentives to persons employed at a worksite
9 in this state managed by the property manager for ride sharing, for
10 using public transportation, for using car sharing, or for using
11 nonmotorized commuting before July 1, 2013, are allowed a credit
12 against taxes payable under chapters 82.04 and 82.16 RCW for amounts
13 paid to or on behalf of these persons for ride sharing in vehicles
14 carrying two or more persons, for using public transportation, for
15 using car sharing, or for using nonmotorized commuting, not to exceed
16 sixty dollars per person per year.

17 (3) The credit under this section is equal to the amount paid to or
18 on behalf of each employee multiplied by fifty percent, but may not
19 exceed sixty dollars per employee per year. The credit may not exceed
20 the amount of tax that would otherwise be due under chapters 82.04 and
21 82.16 RCW.

22 (4) A person may not receive credit under this section for amounts
23 paid to or on behalf of the same employee under both chapters 82.04 and
24 82.16 RCW.

25 (5) A person may not take a credit under this section for amounts
26 claimed for credit by other persons.

27 NEW SECTION. **Sec. 3.** TAX CREDIT FILING. (1) Application for tax
28 credit under section 2 of this act may only be made in the form and
29 manner prescribed in rules adopted by the department.

30 (2) The credit under this section must be taken or deferred under
31 section 4 of this act against taxes due for the same fiscal year in
32 which the amounts for which credit is claimed were paid to or on behalf
33 of employees for ride sharing, for using public transportation, for
34 using car sharing, or for using nonmotorized commuting and must be
35 claimed by the due date of the last tax return for the fiscal year in
36 which the payment is made.

1 (3) Any person who knowingly makes a false statement of a material
2 fact in the application for a credit under section 2 of this act is
3 guilty of a gross misdemeanor.

4 NEW SECTION. **Sec. 4.** TAX CREDIT LIMITATIONS. (1) The department
5 shall keep a running total of all credits accrued under section 2 of
6 this act during each fiscal year. No person is eligible for tax
7 credits under section 2 of this act if the credits would cause the
8 tabulation for the total amount of credits taken in any fiscal year to
9 exceed two million two hundred fifty thousand dollars. This limitation
10 includes any credits carried forward under subsection (2)(b) of this
11 section from prior years.

12 (2)(a) No person is eligible for tax credits under section 2 of
13 this act in excess of the amount of tax that would otherwise be due
14 under chapter 82.04 or 82.16 RCW.

15 (b) A person with taxes equal to or in excess of the credit under
16 section 2 of this act, and therefore not subject to the limitation in
17 (a) of this subsection, may defer tax credits for a period of not more
18 than three years after the year in which the credits accrue. A person
19 deferring tax credits under this subsection (2)(b) must submit an
20 application in the year in which the tax credits will be applied. This
21 application is subject to eligibility under subsection (1) of this
22 section for the fiscal year in which the tax credits will be applied.

23 (3) No person is eligible for tax credits under section 2 of this
24 act in excess of two hundred thousand dollars in any fiscal year. This
25 limitation does not apply to credits deferred in prior years under
26 subsection (2)(b) of this section.

27 (4) No person is eligible for tax credits, including deferred
28 credits authorized under subsection (2)(b) of this section, after June
29 30, 2013.

30 (5) Credits may not be carried forward or carried backward other
31 than as authorized in subsection (2)(b) of this section.

32 NEW SECTION. **Sec. 5.** FUND TRANSFER. (1) The director shall on
33 the 25th of February, May, August, and November of each year advise the
34 state treasurer of the amount of credit taken under section 2 of this

1 act during the preceding calendar quarter ending on the last day of
2 December, March, June, and September, respectively.

3 (2) On the last day of March, June, September, and December of each
4 year, the state treasurer, based upon information provided by the
5 department, shall deposit to the general fund a sum equal to the dollar
6 amount of the credit provided under section 2 of this act from the
7 multimodal transportation account.

8 NEW SECTION. **Sec. 6.** COMMUTE TRIP REDUCTION REPORTING. The
9 commute trip reduction task force shall determine the effectiveness of
10 the tax credit under section 2 of this act, the grant program in
11 section 9 of this act, and the relative effectiveness of the tax credit
12 and the grant program as part of its ongoing evaluation of the commute
13 trip reduction law and report to the legislative transportation
14 committee and to the fiscal committees of the house of representatives
15 and the senate. The report must include information on the amount of
16 tax credits claimed to date and recommendations on future funding
17 between the tax credit program and the grant program. The report must
18 be incorporated into the recommendations required in RCW 70.94.537(5).

19 NEW SECTION. **Sec. 7.** ADMINISTRATION. Chapter 82.32 RCW applies
20 to the administration of this chapter.

21 NEW SECTION. **Sec. 8.** EXPIRATION. This chapter expires July 1,
22 2013, except for section 5 of this act, which expires January 1, 2014.

23 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.94 RCW
24 to read as follows:

25 (1) The department of transportation shall administer a
26 performance-based grant program for private employers, public agencies,
27 nonprofit organizations, developers, and property managers who provide
28 financial incentives for ride sharing in vehicles carrying two or more
29 persons, for using public transportation, for using car sharing, or for
30 using nonmotorized commuting, including telework, before July 1, 2013,
31 to their own or other employees. However, no employer is eligible for
32 both grants provided under this section and tax credits under section
33 2 of this act within the same fiscal year.

1 (2) The amount of the grant will be determined based on the value
2 to the transportation system of the vehicle trips reduced. The commute
3 trip reduction task force shall develop an award rate giving priority
4 to applications achieving the greatest reduction in trips and commute
5 miles per public dollar requested and considering the following
6 criteria: The local cost of providing new highway capacity, congestion
7 levels, and geographic distribution.

8 (3) No private employer, public agency, nonprofit organization,
9 developer, or property manager is eligible for grants under this
10 section in excess of one hundred thousand dollars in any fiscal year.

11 (4) The total of grants provided under this section may not exceed
12 seven hundred fifty thousand dollars in any calendar year.

13 (5) The department of transportation shall report to the department
14 of revenue by the 15th day of each month the aggregate monetary amount
15 of grants provided under this section in the prior month and the
16 identity of the recipients of those grants.

17 (6) The source of funds for this grant program is the multimodal
18 transportation account.

19 (7) This section expires January 1, 2014.

20 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
21 each repealed:

22 (1) RCW 82.04.4453 (Credit--Ride-sharing, public transportation, or
23 nonmotorized commuting incentives--Penalty--Report to legislature) and
24 1999 c 402 s 1, 1996 c 128 s 1, & 1994 c 270 s 2;

25 (2) RCW 82.04.4454 (Credit--Ride-sharing, public transportation, or
26 nonmotorized commuting incentives--Ceiling) and 1999 c 402 s 3, 1996 c
27 128 s 2, & 1994 c 270 s 3;

28 (3) RCW 82.16.048 (Credit--Ride-sharing, public transportation, or
29 nonmotorized commuting incentives--Penalty--Report to legislature) and
30 1999 c 402 s 2, 1996 c 128 s 3, & 1994 c 270 s 4;

31 (4) RCW 82.16.049 (Credit--Ride-sharing, public transportation, or
32 nonmotorized commuting incentives--Ceiling) and 1999 c 402 s 4, 1996 c
33 128 s 4, & 1994 c 270 s 5; and

34 (5) RCW 47.01.900 (Commute trip reduction program--Transfer from
35 state energy office--References to director or state energy office) and
36 1998 c 245 s 93 & 1996 c 186 s 301.

1 **Sec. 11.** RCW 70.94.527 and 1997 c 250 s 2 are each amended to read
2 as follows:

3 (1) Each county with a population over one hundred fifty thousand,
4 and each city or town within those counties containing a major employer
5 (~~(shall, by October 1, 1992,)~~) may adopt by ordinance and implement a
6 commute trip reduction plan for all major employers. The plan shall be
7 developed in cooperation with local transit agencies, regional
8 transportation planning organizations as established in RCW 47.80.020,
9 major employers, and the owners of and employers at major worksites.
10 The plan shall be designed to achieve reductions in the proportion of
11 single-occupant vehicle commute trips and the commute trip vehicle
12 miles traveled per employee by employees of major public and private
13 sector employers in the jurisdiction.

14 (2) All other counties, and cities and towns in those counties, may
15 adopt and implement a commute trip reduction plan.

16 (3) The department of ecology may, after consultation with the
17 department of transportation, as part of the state implementation plan
18 for areas that do not attain the national ambient air quality standards
19 for carbon monoxide or ozone, require municipalities other than those
20 identified in subsection (1) of this section to adopt and implement
21 commute trip reduction plans if the department determines that such
22 plans are necessary for attainment of said standards.

23 (4) A commute trip reduction plan shall be consistent with the
24 guidelines established under RCW 70.94.537 and shall include but is not
25 limited to (a) goals for reductions in the proportion of single-
26 occupant vehicle commute trips and the commute trip vehicle miles
27 traveled per employee; (b) designation of commute trip reduction zones;
28 (c) requirements for major public and private sector employers to
29 implement commute trip reduction programs; (d) a commute trip reduction
30 program for employees of the county, city, or town; (e) a review of
31 local parking policies and ordinances as they relate to employers and
32 major worksites and any revisions necessary to comply with commute trip
33 reduction goals and guidelines; (f) an appeals process by which major
34 employers, who as a result of special characteristics of their business
35 or its locations would be unable to meet the requirements of a commute
36 trip reduction plan, may obtain waiver or modification of those
37 requirements; and (g) means for determining base year values of the

1 proportion of single-occupant vehicle commute trips and the commute
2 trip vehicle miles traveled per employee and progress toward meeting
3 commute trip reduction plan goals on an annual basis. Goals which are
4 established shall take into account existing transportation demand
5 management efforts which are made by major employers. Each
6 jurisdiction shall ensure that employers shall receive full credit for
7 the results of transportation demand management efforts and commute
8 trip reduction programs which have been implemented by major employers
9 prior to the base year. The goals for miles traveled per employee for
10 all major employers shall not be less than a fifteen percent reduction
11 from the worksite base year value or the base year value for the
12 commute trip reduction zone in which their worksite is located by
13 January 1, 1995, twenty percent reduction from the base year values by
14 January 1, 1997, twenty-five percent reduction from the base year
15 values by January 1, 1999, and a thirty-five percent reduction from the
16 base year values by January 1, 2005.

17 (5) A county, city, or town may, as part of its commute trip
18 reduction plan, require commute trip reduction programs for employers
19 with ten or more full time employees at major worksites in federally
20 designated nonattainment areas for carbon monoxide and ozone. The
21 county, city or town shall develop the programs in cooperation with
22 affected employers and provide technical assistance to the employers in
23 implementing such programs.

24 (6) The commute trip reduction plans adopted by counties, cities,
25 and towns under this chapter shall be consistent with and may be
26 incorporated in applicable state or regional transportation plans and
27 local comprehensive plans and shall be coordinated, and consistent
28 with, the commute trip reduction plans of counties, cities, or towns
29 with which the county, city, or town has, in part, common borders or
30 related regional issues. Such regional issues shall include assuring
31 consistency in the treatment of employers who have worksites subject to
32 the requirements of this chapter in more than one jurisdiction.
33 Counties, cities, or towns adopting commute trip reduction plans may
34 enter into agreements through the interlocal cooperation act or by
35 resolution or ordinance as appropriate with other jurisdictions, local
36 transit agencies, or regional transportation planning organizations to
37 coordinate the development and implementation of such plans. Transit

1 agencies shall work with counties, cities, and towns to take into
2 account the location of major employer worksites when planning transit
3 service changes or the expansion of public transportation services.
4 Counties, cities, or towns adopting a commute trip reduction plan shall
5 review it annually and revise it as necessary to be consistent with
6 applicable plans developed under RCW 36.70A.070.

7 (7) Each county, city, or town implementing a commute trip
8 reduction program shall, within thirty days submit a summary of its
9 plan along with certification of adoption to the commute trip reduction
10 task force established under RCW 70.94.537.

11 (8) Each county, city, or town implementing a commute trip
12 reduction program shall submit an annual progress report to the commute
13 trip reduction task force established under RCW 70.94.537. The report
14 shall be due July 1, 1994, and each July 1st thereafter through July 1,
15 2006. The report shall describe progress in attaining the applicable
16 commute trip reduction goals for each commute trip reduction zone and
17 shall highlight any problems being encountered in achieving the goals.
18 The information shall be reported in a form established by the commute
19 trip reduction task force.

20 (9) Any waivers or modifications of the requirements of a commute
21 trip reduction plan granted by a jurisdiction shall be submitted for
22 review to the commute trip reduction task force established under RCW
23 70.94.537. The commute trip reduction task force may not deny the
24 granting of a waiver or modification of the requirements of a commute
25 trip reduction plan by a jurisdiction but they may notify the
26 jurisdiction of any comments or objections.

27 (10) Each county, city, or town implementing a commute trip
28 reduction program shall count commute trips eliminated through work-at-
29 home options or alternate work schedules as one and two-tenths vehicle
30 trips eliminated for the purpose of meeting trip reduction goals.

31 (11) Each county, city, or town implementing a commute trip
32 reduction program shall ensure that employers that have modified their
33 employees' work schedules so that some or all employees are not
34 scheduled to arrive at work between 6:00 a.m. and 9:00 a.m. are
35 provided credit when calculating single-occupancy vehicle use and
36 vehicle miles traveled at that worksite. This credit shall be awarded
37 if implementation of the schedule change was an identified element in

1 that worksite's approved commute trip reduction program or if the
2 schedule change occurred because of impacts associated with chapter
3 36.70A RCW, the growth management act.

4 (12) Plans implemented under this section shall not apply to
5 commute trips for seasonal agricultural employees.

6 (13) Plans implemented under this section shall not apply to
7 construction worksites when the expected duration of the construction
8 project is less than two years.

9 **Sec. 12.** RCW 82.08.0287 and 2001 c 320 s 4 are each amended to
10 read as follows:

11 The tax imposed by this chapter shall not apply to sales of
12 passenger motor vehicles which are to be used for commuter ride sharing
13 or ride sharing for persons with special transportation needs, as
14 defined in RCW 46.74.010, if the vehicles are used as ride-sharing
15 vehicles for thirty-six consecutive months beginning from the date of
16 purchase.

17 To qualify for the tax exemption, those passenger motor vehicles
18 with five or six passengers, including the driver, used for commuter
19 ride-sharing, must be operated ~~((either))~~ within ~~((the state's eight
20 largest))~~ counties that ~~((are required to))~~ develop commute trip
21 reduction plans as directed by chapter 70.94 RCW or in other counties,
22 or cities and towns within those counties, that elect to adopt and
23 implement a commute trip reduction plan. Additionally at least one of
24 the following conditions must apply: (1) The vehicle must be operated
25 by a public transportation agency for the general public; or (2) the
26 vehicle must be used by a major employer, as defined in RCW 70.94.524
27 as an element of its commute trip reduction program for their
28 employees; or (3) the vehicle must be owned and operated by individual
29 employees and must be registered either with the employer as part of
30 its commute trip reduction program or with a public transportation
31 agency serving the area where the employees live or work. Individual
32 employee owned and operated motor vehicles will require certification
33 that the vehicle is registered with a major employer or a public
34 transportation agency. Major employers who own and operate motor
35 vehicles for their employees must certify that the commuter ride-

1 sharing arrangement conforms to a carpool/vanpool element contained
2 within their commute trip reduction program or used primarily for van
3 or car pooling purposes.

4 **Sec. 13.** RCW 82.12.0282 and 2001 c 320 s 5 are each amended to
5 read as follows:

6 The tax imposed by this chapter shall not apply with respect to the
7 use of passenger motor vehicles used as ride-sharing vehicles by not
8 less than five persons, including the driver, with a gross vehicle
9 weight not to exceed 10,000 pounds where the primary usage is for
10 commuter ride-sharing, as defined in RCW 46.74.010, by not less than
11 four persons including the driver when at least two of those persons
12 are confined to wheelchairs when riding, or passenger motor vehicles
13 where the primary usage is for ride-sharing for persons with special
14 transportation needs, as defined in RCW 46.74.010, if the vehicles are
15 used as ride-sharing vehicles for thirty-six consecutive months
16 beginning with the date of first use.

17 To qualify for the tax exemption, those passenger motor vehicles
18 with five or six passengers, including the driver, used for commuter
19 ride-sharing, must be operated (~~((either))~~) within (~~((the state's eight~~
20 ~~largest))~~) counties that (~~((are required to))~~) develop commute trip
21 reduction plans as directed by chapter 70.94 RCW or in other counties,
22 or cities and towns within those counties, that elect to adopt and
23 implement a commute trip reduction plan. Additionally at least one of
24 the following conditions must apply: (1) The vehicle must be operated
25 by a public transportation agency for the general public; or (2) the
26 vehicle must be used by a major employer, as defined in RCW 70.94.524
27 as an element of its commute trip reduction program for their
28 employees; or (3) the vehicle must be owned and operated by individual
29 employees and must be registered either with the employer as part of
30 its commute trip reduction program or with a public transportation
31 agency serving the area where the employees live or work. Individual
32 employee owned and operated motor vehicles will require certification
33 that the vehicle is registered with a major employer or a public
34 transportation agency. Major employers who own and operate motor
35 vehicles for their employees must certify that the commuter ride-

1 sharing arrangement conforms to a carpool/vanpool element contained
2 within their commute trip reduction program or used primarily for van
3 or car pooling purposes.

4 **Sec. 14.** RCW 82.44.015 and 1996 c 244 s 7 are each amended to read
5 as follows:

6 For the purposes of this chapter, in addition to the exclusions
7 under RCW 82.44.010, "motor vehicle" shall not include passenger motor
8 vehicles used primarily for commuter ride sharing and ride sharing for
9 persons with special transportation needs, as defined in RCW 46.74.010.
10 The registered owner of one of these vehicles shall notify the
11 department of licensing upon termination of primary use of the vehicle
12 in commuter ride sharing or ride sharing for persons with special
13 transportation needs and shall be liable for the tax imposed by this
14 chapter, prorated on the remaining months for which the vehicle is
15 licensed.

16 To qualify for the tax exemption, those passenger motor vehicles
17 with five or six passengers, including the driver, used for commuter
18 ride-sharing, must be operated (~~((either))~~) within (~~((the state's eight~~
19 ~~largest))~~) counties that (~~((are required to))~~) develop commute trip
20 reduction plans as directed by chapter 70.94 RCW or in other counties,
21 or cities and towns within those counties, that elect to adopt and
22 implement a commute trip reduction plan. Additionally at least one of
23 the following conditions must apply: (1) The vehicle must be operated
24 by a public transportation agency for the general public; or (2) the
25 vehicle must be used by a major employer, as defined in RCW 70.94.524
26 as an element of its commute trip reduction program for their
27 employees; or (3) the vehicle must be owned and operated by individual
28 employees and must be registered either with the employer as part of
29 its commute trip reduction program or with a public transportation
30 agency serving the area where the employees live or work. Individual
31 employee owned and operated motor vehicles will require certification
32 that the vehicle is registered with a major employer or a public
33 transportation agency. Major employers who own and operate motor
34 vehicles for their employees must certify that the commuter ride-
35 sharing arrangement conforms to a carpool/vanpool element contained

1 within their commute trip reduction program or used primarily for van
2 or car pooling purposes.

3 NEW SECTION. Sec. 15. Sections 1 through 8 of this act constitute
4 a new chapter in Title 82 RCW.

5 NEW SECTION. Sec. 16. The code reviser shall place cross-
6 reference sections to chapter 82.-- RCW (sections 1 through 8 of this
7 act) in chapters 82.04 and 82.16 RCW.

8 NEW SECTION. Sec. 17. (1) Sections 1 through 10, 15, and 16 of
9 this act take effect July 1, 2004, but only if legislation that
10 provides additional revenues, excluding transfers, for the multimodal
11 transportation account is in effect on that date.

12 (2) Sections 11 through 14 of this act are necessary for the
13 immediate preservation of the public peace, health, or safety, or
14 support of the state government and its existing public institutions,
15 and take effect July 1, 2003.

16 NEW SECTION. Sec. 18. Captions used in this act are not part of
17 the law."

ESHB 2228 - S COMM AMD
By Committee on Highways & Transportation

ADOPTED AS AMENDED 04/15/2003

18 On page 1, line 1 of the title, after "incentives;" strike the
19 remainder of the title and insert "amending RCW 70.94.527, 82.08.0287,
20 82.12.0282, and 82.44.015; adding a new section to chapter 70.94 RCW;
21 adding a new chapter to Title 82 RCW; creating new sections; repealing
22 RCW 82.04.4453, 82.04.4454, 82.16.048, 82.16.049, and 47.01.900;
23 prescribing penalties; providing an effective date; providing a
24 contingent effective date; providing expiration dates; and declaring an
25 emergency."

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