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By Representatives Upthegrove, Jarrett, Moeller, Wood, Hankins, Murray, Appleton, B. Sullivan, Dickerson, Simpson, Lovick and Pettigrew

Read first time 02/14/2005. Referred to Committee on Transportation.

1 AN ACT Relating to local transportation funding options; amending
2 RCW 82.80.010 and 82.80.070; adding new sections to chapter 82.80 RCW;
3 adding new sections to chapter 35.77 RCW; creating new sections;
4 repealing RCW 82.80.040, 82.80.050, and 82.80.060; and providing
5 effective dates.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.80 RCW
8 to read as follows:

9 (1)(a) The legislative authority of a county, city, or town may fix
10 and impose an annual vehicle fee, not to exceed: (i) Twenty dollars
11 per vehicle between January 1, 2006, and January 1, 2010; (ii) twenty-
12 five dollars per vehicle between January 1, 2010, and January 1, 2015;
13 and (iii) thirty dollars per vehicle for all fees imposed after
14 December 31, 2014. This fee applies to each vehicle that is subject to
15 license fees under RCW 46.16.0621 and for each vehicle that is subject
16 to RCW 46.16.070 with an unladen weight of ten thousand pounds or less,
17 that is determined by the department of licensing to be registered
18 within the boundaries of the county, city, or town imposing the fee.

1 (b) The following vehicles registered within the county or city
2 boundaries are exempt under this act: (i) Farm equipment as defined in
3 RCW 46.04.181; (ii) vehicles licensed under RCW 46.16.374; and (iii)
4 small trailers with an empty scale weight under one thousand pounds.

5 (2) A city or town may not impose a fee that, if combined with the
6 county fee, exceeds the amount authorized under subsection (1) of this
7 section. If a county imposes or increases a fee under this section
8 that, if combined with the fee imposed by a city or town exceeds the
9 amount authorized under subsection (1) of this section, the city or
10 town fee shall be reduced or eliminated so the combined vehicle fee
11 does not exceed the amount authorized under subsection (1) of this
12 section.

13 (3) The department of licensing shall administer and annually
14 collect the fee at the time of registration renewal. A county, city,
15 or town imposing the fee, or initiating an exemption process, shall
16 enter into a contract with the department of licensing. The contract
17 must contain provisions that fully recover the costs to the department
18 of licensing for collection and administration of the fee.

19 (4) If the fee collected under this section is countywide, the fee
20 will be allocated to the county based on the number of registered
21 vehicles registered in the unincorporated county, and a particular city
22 or town's distribution will be based on the number of registered
23 vehicles within each city or town.

24 (5) The county, city, or town imposing this fee, or initiating an
25 exemption process, shall delay the effective date at least six months
26 from the date the ordinance is enacted, and the fee will be effective
27 upon the registration date as provided by the department of licensing,
28 to allow the department of licensing to implement administration and
29 collection or exemption from the fee.

30 (6) The legislative authority of a county or city or town may
31 develop and initiate an exemption process for the registered owners of
32 vehicles residing within the boundaries of the county, city, or town:
33 (a) Who are sixty-two years old or older at the time payment of the fee
34 is due and whose household income for the previous calendar year is
35 less than an amount prescribed by the county, city, or town legislative
36 authority; or (b) who have a physical disability.

37 (7) The proceeds of this fee shall be used strictly for
38 transportation purposes in accordance with RCW 82.80.070.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.80 RCW
2 to read as follows:

3 (1)(a) The legislative authority of a county, city, or town may fix
4 and impose an annual roadway improvement fee of one and one-half cents
5 per vehicle pound based on the vehicle empty scale weight for each
6 vehicle that is subject to license fees under RCW 46.16.0621 and for
7 each vehicle that is subject to RCW 46.16.070 with an unladen weight of
8 ten thousand pounds or less, that is determined by the department of
9 licensing to be registered within the boundaries of the county, city,
10 or town imposing the fee.

11 (b) The following vehicles registered within the county or city
12 boundaries are exempt under this act: (i) Farm equipment as defined in
13 RCW 46.04.181; (ii) vehicles licensed under RCW 46.16.374; and (iii)
14 small trailers with an empty scale weight under one thousand pounds.

15 (2) The city or town may not impose a fee that, if combined with
16 the county fee, exceeds one and one-half cents per vehicle pound based
17 on the empty scale weight. If a county imposes or increases a fee
18 under this section that, if combined with the fee imposed by a city or
19 town exceeds one and one-half cents, the city or town fee shall be
20 reduced or eliminated as needed so that in no city or town does the
21 combined fee exceed one and one-half cents.

22 (3) The department of licensing shall administer and collect the
23 fee annually at the time of license registration renewal. The
24 department shall rely on the vehicle empty scale weights as provided by
25 vehicle manufacturers, or other sources defined by the department to
26 determine the weight of each vehicle type. The department shall adopt
27 rules to handle vehicles without manufacturer empty scale weights, such
28 as home-built vehicles.

29 (4) A county, city, or town imposing an annual roadway improvement
30 fee of one and one-half cents per vehicle pound on vehicle weight, or
31 initiating an exemption process, shall enter into a contract with the
32 department of licensing. The contract must contain provisions that
33 fully recover the costs to the department of licensing for collection
34 and administration of the fee. The department shall remit remaining
35 proceeds to the custody of the state treasurer for monthly distribution
36 under RCW 82.80.080.

37 (5) The county, city, or town imposing the fee, or initiating an
38 exemption process, shall delay the effective date at least six months

1 from the date the ordinance is enacted, and the fee will be effective
2 upon the registration date as provided by the department of licensing,
3 to allow the department of licensing to implement administration and
4 collection or exemption from the fee.

5 (6) If the fee collected under this section is countywide, the fee
6 will be allocated to the county based on the number of registered
7 vehicles registered in the unincorporated county, and a particular city
8 or town's distribution will be based on the number of registered
9 vehicles within each city or town.

10 (7) The legislative authority of a county, city, or town may
11 develop and initiate an exemption process of the fee for the registered
12 owners of vehicles residing within the boundaries of the county, city,
13 or town: (a) Who are sixty-two years old or older at the time payment
14 of the fee is due and whose household income for the previous calendar
15 year is less than an amount prescribed by the county, city, or town
16 legislative authority; or (b) who have a physical disability.

17 (8) The proceeds of this fee shall be used strictly for
18 transportation purposes in accordance with RCW 82.80.070.

19 **Sec. 3.** RCW 82.80.010 and 2003 c 350 s 1 are each amended to read
20 as follows:

21 (1) For purposes of this section:

22 (a) "Distributor" means every person who imports, refines,
23 manufactures, produces, or compounds motor vehicle fuel and special
24 fuel as defined in RCW 82.36.010 and 82.38.020, respectively, and sells
25 or distributes the fuel into a county;

26 (b) "Person" has the same meaning as in RCW 82.04.030.

27 (2) Subject to the conditions of this section, any county may levy,
28 by approval of its legislative body and a majority of the registered
29 voters of the county voting on the proposition at a general or special
30 election, additional excise taxes equal to (~~ten~~) twenty percent of
31 the statewide motor vehicle fuel tax rate under RCW 82.36.025 on each
32 gallon of motor vehicle fuel as defined in RCW 82.36.010 and on each
33 gallon of special fuel as defined in RCW 82.38.020 sold within the
34 boundaries of the county. Vehicles paying an annual license fee under
35 RCW 82.38.075 are exempt from the county fuel excise tax. An election
36 held under this section must be held not more than twelve months before
37 the date on which the proposed tax is to be levied. The ballot setting

1 forth the proposition shall state the tax rate that is proposed. The
2 county's authority to levy additional excise taxes under this section
3 includes the incorporated and unincorporated areas of the county. The
4 additional excise taxes are subject to the same exceptions and rights
5 of refund as applicable to other motor vehicle fuel and special fuel
6 excise taxes levied under chapters 82.36 and 82.38 RCW. The proposed
7 tax shall not be levied less than one month from the date the election
8 results are certified by the county election officer. The commencement
9 date for the levy of any tax under this section shall be the first day
10 of January, April, July, or October.

11 (3) The local option motor vehicle fuel tax on each gallon of motor
12 vehicle fuel and on each gallon of special fuel is imposed upon the
13 distributor of the fuel.

14 (4) A taxable event for the purposes of this section occurs upon
15 the first distribution of the fuel within the boundaries of a county to
16 a retail outlet, bulk fuel user, or ultimate user of the fuel.

17 (5) All administrative provisions in chapters 82.01, 82.03, and
18 82.32 RCW, insofar as they are applicable, apply to local option fuel
19 taxes imposed under this section.

20 (6) Before the effective date of the imposition of the fuel taxes
21 under this section, a county shall contract with the department of
22 revenue for the administration and collection of the taxes. The
23 contract must provide that a percentage amount, not to exceed one
24 percent of the taxes imposed under this section, will be deposited into
25 the local tax administration account created in the custody of the
26 state treasurer. The department of revenue may spend money from this
27 account, upon appropriation, for the administration of the local taxes
28 imposed under this section.

29 (7) The state treasurer shall distribute monthly to the levying
30 county and cities contained therein the proceeds of the additional
31 excise taxes collected under this section, after the deductions for
32 payments and expenditures as provided in RCW 46.68.090(1) (a) and (b)
33 and under the conditions and limitations provided in RCW 82.80.080.

34 (8) The proceeds of the additional excise taxes levied under this
35 section shall be used strictly for transportation purposes in
36 accordance with RCW 82.80.070.

37 (9) A county may not levy the tax under this section if they are

1 levying the tax in RCW 82.80.110 or if they are a member of a regional
2 transportation investment district levying the tax in RCW 82.80.120.

3 NEW SECTION. **Sec. 4.** The legislature of the state of Washington
4 finds:

5 (1) The maintenance and preservation of the streets and urban
6 transportation systems in urban areas is essential for the protection
7 of the public health and safety, particularly for residents and
8 businesses served within such areas. Providing for adequate, reliable
9 access for residents and business street users served by such streets
10 and transportation systems requires a means to preserve and maintain
11 such facilities and, where necessary, to rehabilitate and reconstruct
12 them.

13 (2) The adverse impacts of failing to keep up maintenance of
14 streets and transportation systems in urban areas are greatest upon the
15 street users located in such areas. These impacts include increased
16 traffic congestion, decreased air quality, vehicle damage, accident
17 frequency, and decreased street access service for residents and
18 businesses in such areas, as well as decreased access for such street
19 users to public transportation service and fire, police, and emergency
20 medical vehicles. Likewise, the advantages of well-maintained and
21 preserved streets and transportation system facilities in urban areas
22 accrue to people and businesses located in such areas by providing
23 better transportation system service access, lower insurance rates,
24 increased property values, and better fire, police, and emergency
25 medical vehicle access.

26 (3) Pavement surfaces and structure in urban areas are subjected to
27 much heavier use and higher maintenance needs than rural areas. When
28 pavement is not properly maintained, the deterioration process
29 accelerates exponentially and the expense and amount of work to restore
30 the pavement likewise increases, creating a downward spiral of
31 increasing pavement deterioration and higher costs to correct the
32 consequences. Absent proper street preservation and maintenance
33 practices, a point of no further maintenance is quickly reached, where
34 the pavement condition has deteriorated to the point that the expense
35 of restoration is no longer cost-effective.

36 (4) When streets are not properly preserved and maintained, it also
37 becomes less cost-effective to divert funds for more extensive repairs

1 because such funds would then not be available for less deteriorated
2 streets, causing those streets to slip into a higher repair cost
3 category, ultimately at a greater net cost to the system. These
4 problems are matters of great concern to the state legislature.

5 (5) Objective means based upon sound engineering principles are
6 available to identify pavement conditions and distressed pavement
7 areas. This is done through a pavement condition assessment process
8 that uses a pavement management scoring system. Scoring may be based
9 on factors such as in field examination, surface or subsurface
10 examinations, testing, and other measurements. A pavement assessment
11 condition score may be developed for given areas of pavement or entire
12 roadway sections, ranging from a value of 100 for new paving to 0 for
13 a completely deteriorated pavement structure. Alternative scoring
14 systems relying on an overall condition index may also be used, based
15 on sound engineering principles.

16 (6) Pavement assessment condition scoring identifies four general
17 categories of pavement maintenance and repair needs, based upon the
18 level of remedial work needed to restore the structure: Preventive
19 maintenance, resurfacing needed, pavement rehabilitation needed, and
20 full pavement reconstruction required. Each level requires a
21 progressively greater cost per mile to remedy. Each city or town
22 should formulate these levels and appropriate responses in accord with
23 differing local needs. The legislature finds this pavement management
24 system reliable and based on sound engineering principles.

25 (7) Residences and businesses accessing the right-of-way enjoy
26 different average levels of benefit from a transportation system. Such
27 benefits can be classified based on different property uses.
28 Residential and business street users likewise contribute differing
29 average burden levels and contribute to street deterioration, based on
30 property use classifications. A street utility mechanism considering
31 such differences to determine user fees offers a means to assess a fair
32 proportionate share of the cost of street maintenance and related
33 transportation facility needs.

34 (8) Other operational factors of transportation systems in urban
35 areas also contribute to enhanced pavement degradation. These include
36 the need to maintain properly maintained and placed traffic signals,
37 street lighting, traffic signs and markers, striping, street sweeping,

1 street ice and snow control, guardrails, barriers, roadway vegetation,
2 channelization devices, and parking enforcement to encourage reduced
3 congestion and better traffic circulation.

4 (9) Increasing deterioration and degradation of streets and related
5 transportation facilities in distressed or poorly maintained pavement
6 areas poses an immediate threat to the health, safety, and welfare of
7 the citizens of this state and its residents and businesses using those
8 streets.

9 NEW SECTION. **Sec. 5.** (1) The purpose of this act is to protect
10 the public health and safety by regulating urban streets and
11 transportation systems, to provide for a street utility service for
12 street preservation, maintenance, rehabilitation, and reconstruction
13 and related urban transportation system needs of residential and
14 business street users within a street utility service area, to provide
15 a means to identify such areas, and to provide for street utility
16 service charges reasonably proportionate to a street user's allocable
17 share of street utility services.

18 (2) Notwithstanding any other provision, nothing in this act or
19 action taken under its authority may be construed to create or increase
20 any municipal liability to any particular person or entity, or to
21 increase or enhance any municipal common law duty of care relating to
22 the public right-of-way or the maintenance and repair thereof.

23 NEW SECTION. **Sec. 6.** The definitions in this section apply
24 throughout sections 4 through 13 of this act unless the context clearly
25 requires otherwise.

26 (1) "Business" means any organization, including without limitation
27 private firms, proprietors, corporations, partnerships, for-profit and
28 nonprofit organizations, public sector organizations, and government.

29 (2) "Sound engineering principles" means principles or learning
30 reasonably accepted within the civil engineering or traffic engineering
31 profession, including the Washington state department of transportation
32 extended method in paving distress ratings, the Washington state
33 department of transportation pavement distress manual, the Washington
34 state department of transportation local agency pavement management
35 guide, materials developed by the Institute of Transportation
36 Engineers, including materials differentiating types of property uses

1 and correlating property use and the expected number of automobile and
2 pedestrian trips over a specified time interval generated by such use,
3 and other studies, manuals, or materials shown to be reliable and based
4 on good engineering practice as may be developed by professional
5 engineering staff or consultants.

6 (3) "Street" means the traveled portion of the street right-of-way
7 including bridges, gutters, curbs, shoulders, sidewalks, pedestrian
8 walkways, and bikeways. "Street" also includes barrier-free access
9 such as for wheelchairs and strollers and Americans with disabilities
10 act design features.

11 (4) "Street maintenance" means activities that keep streets in good
12 operating condition or that enhance public safety relating to street
13 use, including, but not limited to, preservation, resurfacing, pothole
14 filling, striping or restriping, street lights, traffic control
15 devices, vegetation maintenance, and proper drainage facilities.

16 (5) "Street utility" means a municipally owned and operated utility
17 service, created in accordance with sections 4 through 13 of this act.

18 (6) "Street utility service area" means an area in which street
19 utility services are provided and user fees are charged, established in
20 accord with the provisions of sections 4 through 13 of this act.
21 Sections 4 through 13 of this act create no authority for any city or
22 town to assess a street utility user fee outside its jurisdictional
23 limits.

24 (7) "Transportation system" means infrastructure of a city or town
25 used for public travel and the street user needs of residences and
26 businesses located within the street utility service area. It includes
27 streets, street lighting, traffic control devices and signals, traffic
28 signs and markers, striping, parking enforcement, and proper drainage
29 facilities associated with impervious paved surfaces.

30 (8) "User fees" means street utility user fees for street utility
31 services in accord with sections 4 through 13 of this act.

32 NEW SECTION. **Sec. 7.** The legislative authority of a city or town
33 may by ordinance create a street utility service area or areas up to
34 the entire limits of said city or town. A city or town may elect to
35 own, maintain, operate, and preserve its streets and urban
36 transportation system as a separate street utility, and may levy
37 periodic charges for use of the streets in an annual amount of up to

1 fifty percent of the actual costs for maintenance, operation, and
2 preservation of facilities as permitted by sections 4 through 13 of
3 this act. All street utility user fees shall be deposited in a special
4 fund or account dedicated to such permissible uses under sections 4
5 through 13 of this act.

6 NEW SECTION. **Sec. 8.** (1) The legislative body of a city or town
7 shall conduct a public hearing prior to the formation of a street
8 utility. Notice of the hearing shall include information about the
9 street utility service area or areas, a general operational plan for
10 services to be provided by the street utility, an initial proposed rate
11 structure, and any other items deemed pertinent. Said notice shall be
12 published at least five days before the hearing in a newspaper of
13 general circulation within the proposed street utility service area.
14 The hearing may be continued to other times, dates, and places
15 announced at the hearing without further publication. A record of the
16 hearing shall be maintained. At the hearing, the city or town
17 legislative body shall review the proposal and consider objections and
18 comments from any interested party and may modify the proposal in
19 response thereto, as well as any information, opinion polls, or other
20 material relevant to the question presented.

21 (2) After the hearing, the city or town legislative body may adopt
22 an ordinance creating a street utility service area or areas, together
23 with the utility user fees to support said utility, with findings in
24 accord with this section, and consistent with sections 4 through 13 of
25 this act.

26 (3) An ordinance creating a street utility shall include
27 substantially the following items, except where local needs may
28 require:

29 (a) A description of the condition of the pavement areas in the
30 street utility service area, based on field investigations, pavement
31 assessment condition scores, or other criteria;

32 (b) A general plan, as necessary, to preserve, maintain,
33 rehabilitate, or reconstruct the pavement area and to remediate poorly
34 maintained pavement areas, considering sound engineering principles,
35 and prevent the growth and development of such areas. The general plan
36 shall include a timetable and summary of the purposes of expenditures

1 or projects to be included, projected revenues from user fees, and
2 other sources;

3 (c) A description of the street utility service area;

4 (d) The establishment of a separate fund or account for all moneys
5 collected from user fees, which amounts shall be held solely and
6 separately to be used for the purposes listed in the ordinance;

7 (e) A user fee schedule consistent with section 9 of this act,
8 supported by sound engineering principles as reflected in the record,
9 setting forth amounts to be charged to residential and business street
10 users located in the street utility service area;

11 (f) A description of the proposed uses for the fees consistent with
12 section 9 of this act if not included in the general plan;

13 (g) Any other factors deemed relevant; and

14 (h) A finding that the creation of a street utility is in the
15 public interest.

16 (4) An ordinance establishing a street utility may include a
17 provision for a street utility advisory committee to advise the city or
18 town from time to time regarding questions about administration of the
19 street utility, guided by sound engineering principles. The street
20 utility advisory committee shall be appointed by the mayor and
21 confirmed by the city or town legislative body. Committee membership
22 may include paving contractors, civil engineers, citizens, and
23 professional traffic engineering staff and other persons with special
24 training or expertise relevant to the issues presented.

25 (5) Such ordinance shall further provide for a means of an
26 administrative appeal by interested persons of disputed billings or
27 user fee classifications or other matters deemed proper, including
28 appropriate procedures as the legislative body may determine. The
29 appealing party has the burden of proof. The judicial review standard
30 of such decisions is arbitrary and capricious.

31 (6) After formation, the legislative body determines what further
32 hearings are necessary in adopting or adjusting user fees, scope of
33 services, and other utility operations.

34 NEW SECTION. **Sec. 9.** (1) A city or town legislative body may
35 establish user fees within the street utility service area for
36 residential and business users located in such service area. User fees
37 shall be expressed as a dollar amount per household unit or type of

1 business. User fees may be assessed no more frequently than monthly,
2 nor less frequently than annually. Fees set for users other than
3 households shall be expressed in equivalents of household units or as
4 specified by ordinance.

5 (2) In classifying user fee rates, a city or town legislative body
6 may in its discretion consider the following factors:

7 (a) A cost component for the street utility's ongoing base level
8 operation and maintenance; variations in capacity access demands by
9 transportation system users within the street utility service area;

10 (b) The estimated average daily number of vehicle trips generated
11 by specific types of property occupancies or uses. In making this
12 estimation, the legislative body may consider a correlation between
13 each type of property use and the estimated number of automobile and
14 pedestrian trips that each use generates. Such correlation may include
15 use of trip generation data and information developed in accord with
16 sound engineering principles. Estimated vehicle trips by trucks
17 weighing over twenty-six thousand pounds shall not be factored into the
18 proposed fee schedule or the rate applied to a specific business;

19 (c) Location of users; differences in costs of service; the
20 proximity of a user fee class to arterial streets and relative benefits
21 derived therefrom; differences in costs of maintenance, operation,
22 repair, or reconstruction; different character of the service furnished
23 various users; times of use; the achievement of traffic reduction;
24 capital contributions made to the transportation system, including but
25 not limited to limited improvement district assessments; special
26 assessments for transportation system related improvements; and any
27 other matters which present a reasonable difference as a ground for
28 distinction. User fees shall not include any exemption or credit for
29 the payment of any tax;

30 (d) User fees may reflect a reduction or exemption for designated
31 classes consistent with Article VIII, section 7 of the state
32 Constitution;

33 (e) There may be provision for user fee reduction through
34 mitigation, which may include a ten percent reduction that may be
35 allowed for residential users participating in regular carpool or
36 vanpool arrangements or for commercial users offering carpool or
37 vanpool programs approved under such provisions as may be further
38 established by ordinance;

1 (f) Residents or businesses may apply for a user fee discount upon
2 a showing that they do not generate equivalent trips, on the average,
3 to abutting parcels. This might apply to where a residence or business
4 does not directly abut the right-of-way, or for other reasons;

5 (g) All user fees shall be uniform for the same class of persons
6 receiving services provided or imposing burdens on a transportation
7 system.

8 (3) User fees shall not be in excess of the amount authorized by
9 the ordinance. No fees shall be imposed on vacant parcels prior to
10 development for occupancy or use. A city or town may use connection or
11 consumption of other utility services such as water, sewer, or solid
12 waste collection as a basis to establish occupancy or use.

13 (4) Where a party demonstrates on an individual basis that it
14 neither enjoys a benefit from street use nor creates a burden on street
15 use, no street utility user fees shall be charged, but this shall not
16 prevent the legislative body from otherwise adopting a street utility
17 rate schedule in accord with sections 4 through 13 of this act.

18 (5) Refunds on collected user fees are not required for any period
19 before the time a written appeal is received from a party claiming by
20 the refund a city or town under procedures it may establish therefore.

21 (6) User fees may not be computed on the basis of an ad valorem
22 charge on the underlying real property or improvements. User fees
23 authorized under this section are not in lieu of impact or mitigation
24 fees otherwise permitted by law.

25 (7) Street user fees established pursuant to sections 4 through 13
26 of this act do not constitute taxes nor are they charges provided for
27 under RCW 82.02.050 through 82.02.090, growth impact fees, or RCW
28 39.92.010 through 39.92.901, transportation fees, or charges otherwise
29 prohibited by law.

30 (8) A city or town may provide or contract to provide billing and
31 collection services of the street utility user fees as a part of other
32 utility services provided.

33 NEW SECTION. **Sec. 10.** Street utility service user fee revenues
34 may fund only:

35 (1) Street maintenance, preservation, rehabilitation, or
36 reconstruction;

1 (2) Other operational factors of transportation systems in urban
2 areas including traffic signals placement and maintenance, street
3 lighting, traffic signs and markers, striping, street sweeping, street
4 ice and snow control, guardrails, barriers, roadway vegetation,
5 channelization devices, and parking enforcement to encourage reduced
6 congestion and better traffic circulation;

7 (3) Transportation system needs and expenses of doing business as
8 a utility, consistent with the adopted transportation and land use
9 plans of the jurisdiction expending the funds, and consistent with any
10 applicable and adopted regional transportation plan for metropolitan
11 planning areas;

12 (4) The preparation of a street utility operations and maintenance
13 plan, street arterial plan adopted under RCW 36.70A.070(6), or other
14 transportation planning process required or permitted by law to
15 protect, preserve, and rehabilitate public rights-of-way;

16 (5) The costs of monitoring permitted funding needs as may be
17 required or recommended for compliance with applicable standards and
18 rules;

19 (6) The costs of:

20 (a) Ongoing implementation of a plan or plans developed under
21 subsection (4) of this section;

22 (b) Enforcing compliance with standards and rules relating to the
23 quality and quantity of street, highway, or related pavement facility
24 construction and maintenance;

25 (7) Street maintenance practices to improve air quality and dust
26 control; and

27 (8) Creation of a prudent reserve fund for permissible uses and to
28 repay bonds or other evidences of indebtedness issued to pay costs for
29 which street utility service revenues may be used.

30 NEW SECTION. **Sec. 11.** (1) A city or town establishing a street
31 utility in accord with sections 4 through 13 of this act shall have a
32 lien for any delinquent user fees for street utility service, including
33 any delinquency charges or interest, which shall attach to the street
34 user's premises for which services were rendered, where at least two
35 months have passed since a user fee has been billed as delinquent or
36 past due to the premises served and at least two billing notices have

1 been mailed to the premises explaining that a lien may be placed for
2 any delinquencies.

3 (2) The lien may be foreclosed in the manner provided for sewerage
4 service in chapter 35.67 RCW together with any other utility services
5 provided by the city or town. Failure to record the lien does not
6 affect its validity, but no party without actual or constructive notice
7 shall be held responsible for payment thereof.

8 NEW SECTION. **Sec. 12.** The city or town legislative body may
9 dissolve a street utility by ordinance upon a finding that the
10 dissolution is in the public interest. In such event, all unexpended
11 funds shall be held in trust to be expended only for purposes permitted
12 under sections 4 through 13 of this act.

13 NEW SECTION. **Sec. 13.** (1) A city or town electing to establish a
14 street utility under sections 4 through 13 of this act may also finance
15 permitted street utility uses through any other means permitted by law,
16 which shall include local improvement districts, utility local
17 improvement districts, or with proceeds from general obligation bonds
18 and revenue bonds payable from the charges issued in accordance with
19 chapter 35.41, 35.92, or 39.46 RCW, or any combination thereof. The
20 city or town may use, in addition to the user fees authorized in this
21 act, funds from any other federal, state, or local public or private
22 sources.

23 (2) Nothing in sections 4 through 13 of this act or action taken
24 under its authority shall diminish any other general or specific
25 municipal regulatory or funding powers now or hereafter otherwise
26 permitted by law.

27 NEW SECTION. **Sec. 14.** The provisions of this act shall be
28 liberally construed to accomplish the intended purpose.

29 NEW SECTION. **Sec. 15.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

1 **Sec. 16.** RCW 82.80.070 and 2002 c 56 s 413 are each amended to
2 read as follows:

3 (1) The proceeds collected pursuant to the exercise of the local
4 option authority of RCW 82.80.010, 82.80.020, and 82.80.030(~~(, and~~
5 ~~82.80.050)~~) (hereafter called "local option transportation revenues")
6 shall be used for transportation purposes only, including but not
7 limited to the following: The operation and preservation of roads,
8 streets, and other transportation improvements; new construction,
9 reconstruction, and expansion of city streets, county roads, and state
10 highways and other transportation improvements; development and
11 implementation of public transportation and high-capacity transit
12 improvements and programs; and planning, design, and acquisition of
13 right of way and sites for such transportation purposes. The proceeds
14 collected from excise taxes on the sale, distribution, or use of motor
15 vehicle fuel and special fuel under RCW 82.80.010 shall be used
16 exclusively for "highway purposes" as that term is construed in Article
17 II, section 40 of the state Constitution.

18 (2) The local option transportation revenues shall be expended for
19 transportation uses consistent with the adopted transportation and land
20 use plans of the jurisdiction expending the funds and consistent with
21 any applicable and adopted regional transportation plan for
22 metropolitan planning areas.

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

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

30 (b) The program shall be based on an adopted transportation plan
31 for the geographic areas covered and shall identify the proposed
32 operation and construction of transportation improvements and services
33 in the designated plan area intended to be funded in whole or in part
34 by local option transportation revenues and shall identify the annual
35 costs applicable to the program.

36 (c) The program shall indicate how the local transportation plan is
37 coordinated with applicable transportation plans for the region and for
38 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

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

32 (6) It is the intent of the legislature that as a condition of
33 levying, receiving, and expending local option transportation revenues,
34 no local government agency use the revenues to replace, divert, or loan
35 any revenues currently being used for transportation purposes to
36 nontransportation purposes. The association of Washington cities and
37 the Washington state association of counties, in consultation with the
38 legislative transportation committee, shall study the issue of

1 nondiversion and make recommendations to the legislative transportation
2 committee for language implementing the intent of this section by
3 December 1, (~~1990~~) 2006.

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

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

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

17 NEW SECTION. **Sec. 17.** The following acts or parts of acts are
18 each repealed:

19 (1) RCW 82.80.040 (Street utility--Establishment) and 1991 c 141 s
20 1;

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

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

25 NEW SECTION. **Sec. 18.** Sections 4 through 13 of this act are each
26 added to chapter 35.77 RCW and codified with the subchapter heading of
27 "Street Utility."

28 NEW SECTION. **Sec. 19.** (1) Sections 1 through 3 of this act take
29 effect January 1, 2006.

30 (2) Sections 4 through 18 of this act take effect August 1, 2005.

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