
SUBSTITUTE SENATE BILL 5534

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Poulsen, Swecker, Kohl-Welles, Weinstein, Prentice, Kline, Esser, Fairley, Oke and Benson)

READ FIRST TIME 02/16/05.

1 AN ACT Relating to city monorail transportation authorities;
2 amending RCW 35.95A.050, 35.95A.110, 39.46.040, and 35.95A.030; adding
3 new sections to chapter 35.95A RCW; adding a new section to chapter
4 46.16 RCW; prescribing penalties; and declaring an emergency.

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

6 **Sec. 1.** RCW 35.95A.050 and 2002 c 248 s 5 are each amended to read
7 as follows:

8 Every authority has the following powers:

9 (1) To acquire by purchase, condemnation, gift, or grant and to
10 lease, construct, add to, improve, replace, repair, maintain, operate,
11 and regulate the use of public monorail transportation facilities,
12 including passenger terminal and parking facilities and properties, and
13 other facilities and properties as may be necessary for passenger and
14 vehicular access to and from public monorail transportation facilities,
15 together with all lands, rights of way, and property within or outside
16 the authority area, and together with equipment and accessories
17 necessary or appropriate for these facilities, except that property,
18 including but not limited to other types of public transportation
19 facilities, that is owned by the state or any city, county, county

1 transportation authority, public transportation benefit area,
2 metropolitan municipal corporation, or regional transit authority may
3 be acquired or used by an authority only with the consent of the public
4 entity owning the property. The entities are authorized to convey or
5 lease property to an authority or to contract for their joint use on
6 terms fixed by agreement between the entity and the authority. The
7 right of eminent domain must be exercised by the authority under a
8 resolution to the same extent, in the same manner, and by the same
9 procedure as is or may be provided by law for cities of the first
10 class, except insofar as those laws may be inconsistent with this
11 chapter. However, the authority may acquire by eminent domain only
12 such title or interest in the condemned property as is necessary to
13 accomplish all acts needed to build and operate a public monorail
14 transportation system;

15 (2) To fix rates, tolls, fares, and charges for the use of
16 facilities and to establish various routes and classes of service.
17 Rates, tolls, fares, or charges may be adjusted or eliminated for any
18 distinguishable class of users including, but not limited to, senior
19 citizens and ~~((handicapped))~~ persons with disabilities;

20 (3) To contract with the United States or any of its agencies, any
21 state or any of its agencies, any metropolitan municipal corporation,
22 and other ~~((country))~~ county, city, other political subdivision or
23 governmental instrumentality, or governmental agency, or any private
24 person, firm, or corporation for the purpose of receiving any gifts or
25 grants or securing loans or advances for preliminary planning and
26 feasibility studies~~((, or))~~;

27 (4) Notwithstanding the provisions of any law to the contrary, and
28 in addition to any other authority provided by law, to contract with
29 parties including but not limited to the United States or any of its
30 agencies, any state or any of its agencies, any metropolitan municipal
31 corporation, any other county, city, other political subdivision or
32 governmental instrumentality, or governmental agency, or any private
33 person, firm, or corporation for the design, construction, operation,
34 or maintenance of public monorail transportation facilities as follows:

35 (a) ~~((Notwithstanding the provisions of any law to the contrary,~~
36 ~~and in addition to any other authority provided by law,))~~ The governing
37 body of a city transportation authority may contract with one or more
38 ~~((vendors))~~ parties for the design, construction, operation, or

1 maintenance, or other service related to the development of a monorail
2 public transportation system including, but not limited to, monorail
3 trains, operating systems and control equipment, guideways, and pylons,
4 together with the necessary passenger stations, terminals, parking
5 facilities, and other related facilities necessary and appropriate for
6 passenger and vehicular access to and from the monorail train.

7 (b) If the governing body of the city transportation authority
8 decides to proceed with the consideration of qualifications or
9 proposals for services from qualified (~~vendors~~) parties, the
10 authority must publish notice of its requirements and request
11 submission of qualifications statements or proposals. The notice must
12 be published in the official newspaper of the city creating the
13 authority at least once a week for two weeks, not less than sixty days
14 before the final date for the submission of qualifications statements
15 or proposals. The notice must state in summary form: (i) The general
16 scope and nature of the design, construction, operation, maintenance,
17 or other services being sought related to the development of the
18 proposed monorail, tram, or trolley public transportation system; (ii)
19 the name and address of a representative of the city transportation
20 authority who can provide further details; (iii) the final date for the
21 submission of qualifications statements or proposals; (iv) an estimated
22 schedule for the consideration of qualifications statements or
23 proposals(~~, the~~) and selection (~~of vendors~~) among them, and the
24 negotiation of a contract or contracts for services; (v) the location
25 of which a copy of any requests for qualifications statements or
26 requests for proposals will be made available; and (vi) the selection
27 criteria established by the governing body of the authority (~~to select~~
28 ~~a vendor or vendors~~), which may include, but is not limited to, (~~the~~
29 ~~vendor's~~) prior experience, including design, construction, operation,
30 or maintenance of other similar public transportation facilities,
31 (~~respondent's~~) management capabilities, proposed project schedule,
32 availability and financial resources, costs of the services to be
33 provided, nature of facility design proposed (~~by the vendors~~), system
34 reliability, performance standards required for the facilities,
35 compatibility with existing public transportation facilities operated
36 by the authority or any other public body or other providers of similar
37 services to the public, project performance guarantees, penalties, and

1 other enforcement provisions, environmental protection measures to be
2 used (~~by the vendor~~), consistency with the applicable regional
3 transportation plans, and the proposed allocation of project risks.

4 (c) If the governing body of the city transportation authority
5 decides to proceed with the consideration of qualifications statements
6 or proposals submitted (~~by vendors~~), it may designate a
7 representative or representatives to evaluate the (~~vendors~~) parties
8 who submitted qualifications statements or proposals, request
9 clarifications, and conduct interviews and discussions regarding
10 qualifications or proposals with one or more (~~vendors~~) parties. The
11 governing body or its representative may request submission of
12 qualifications statements and may later request more detailed proposals
13 from one or more (~~vendors~~) parties who have submitted qualifications
14 statements, or may request detailed proposals without having first
15 received and evaluated qualifications statements. The governing body
16 or its representative will evaluate the qualifications or proposals, as
17 applicable. If two or more (~~vendors~~) parties submit qualifications
18 or proposals that meet the criteria established by the governing body
19 of the authority, (~~discussions and~~) interviews must be held with at
20 least two (~~vendors~~) parties. Any revisions to a request for
21 qualifications or request for proposals must be made available to all
22 (~~vendors~~) parties then under consideration by the governing body of
23 the authority and must be made available to any other person who has
24 requested receipt of that information.

25 (d) Based on the criteria established by the governing body of the
26 authority, the representative will recommend to the governing body a
27 (~~vendor or vendors~~) party or parties that are initially determined to
28 be the best qualified to provide one or more of the design,
29 construction, operation, or maintenance, or other service related to
30 the development of the proposed monorail public transportation system.

31 (e) The governing body of the authority or its representative may
32 attempt to negotiate a contract with the (~~vendor or vendors~~) party or
33 parties selected for one or more of the design, construction,
34 operation, or maintenance, or other service related to the development
35 of the proposed monorail public transportation system on terms that the
36 governing body of the authority determines to be fair and reasonable
37 and in the best interest of the authority. If the governing body, or
38 its representative, is unable to negotiate a contract with any one or

1 more of the ~~((venders))~~ parties, first selected on terms that it
2 determines to be fair and reasonable and in the best interest of the
3 authority, negotiations with any one or more of the ~~((venders))~~
4 parties, must be terminated or suspended and another qualified ~~((vender~~
5 ~~er-venders))~~ party or parties may be selected in accordance with the
6 procedures set forth in this section. If the governing body decides to
7 continue the process of selection, negotiations will continue with a
8 qualified ~~((vender or venders))~~ party or parties in accordance with
9 this section at the sole discretion of the governing body of the
10 authority until an agreement is reached with one or more qualified
11 ~~((venders))~~ parties, or the process is terminated by the governing
12 body. The process may be repeated until an agreement is reached.

13 (f) Prior to entering into a contract ~~((with a vendor))~~ under this
14 subsection (4), the governing body of the authority must make written
15 findings, after holding a public hearing on the proposal, that it is in
16 the public interest to enter into the contract, that the contract is
17 financially sound, and that it is advantageous for the governing body
18 of the authority to use this method for awarding contracts for one or
19 more of the design, construction, ~~((or))~~ operation, or maintenance of
20 the proposed monorail public transportation system as compared to all
21 other methods of awarding such contracts.

22 (g) Each contract under this subsection (4) must include a project
23 performance bond or bonds or other security by the vendor.

24 (h) The provisions of chapters 39.12 and 39.19 RCW apply to a
25 contract entered into under this ~~((section as if the public~~
26 ~~transportation systems and facilities were owned by a public body))~~
27 subsection (4).

28 (i) The ~~((vender))~~ selection process permitted by this ~~((section))~~
29 subsection (4) is ~~((supplemental))~~ alternative to and is not construed
30 as a repeal of or limitation on any other authority granted by
31 law~~((-))~~;

32 ~~((+))~~ (5) To contract~~((s))~~ for the construction of facilities,
33 other than contracts ~~((for facilities to be provided by the selected~~
34 ~~vendor,))~~ procured under subsection (4) of this section and contracts
35 with an estimated cost ~~((greater))~~ less than two hundred thousand
36 dollars ~~((must be awarded after))~~, through a competitive bid process
37 consistent with chapter 39.04 RCW or ~~((awarded))~~ through an alternative
38 public works contracting procedure consistent with chapter 39.10 RCW;

1 ~~((4))~~ (6) To contract with the United States or any of its
2 agencies, any state or any of its agencies, any metropolitan municipal
3 corporation, any other county, city, other political subdivision or
4 governmental instrumentality, any governmental agency, or any private
5 person, firm, or corporation for the use by either contracting party of
6 all or any part of the facilities, structures, lands, interests in
7 lands, air rights over lands, and rights of way of all kinds which are
8 owned, leased, or held by the other party and for the purpose of
9 planning, designing, constructing, operating any public transportation
10 facility, or performing any service related to transportation which the
11 authority is authorized to operate or perform, on terms as may be
12 agreed upon by the contracting parties;

13 ~~((5))~~ (7) To acquire any existing public transportation facility
14 by conveyance, sale, or lease. In any acquisition from a county, city,
15 or other political subdivision of the state, the authority will receive
16 credit from the county or city or other political subdivision for any
17 federal assistance and state matching assistance used by the county or
18 city or other political subdivision in acquiring any portion of the
19 public transportation facility. Upon acquisition, the authority must
20 assume and observe all existing labor contracts relating to the public
21 transportation facility and, to the extent necessary for operation of
22 the public transportation facility, all of the employees of the public
23 transportation facility whose duties are necessary to efficiently
24 operate the public transportation facility must be appointed to
25 comparable positions to those which they held at the time of the
26 transfer, and no employee or retired or pensioned employee of the
27 public transportation facility will be placed in any worse position
28 with respect to pension seniority, wages, sick leave, vacation, or
29 other benefits than he or she enjoyed as an employee of the public
30 transportation facility prior to the acquisition. Furthermore, the
31 authority must engage in collective bargaining with the duly appointed
32 representatives of any employee labor organization having existing
33 contracts with the acquired facility and may enter into labor contracts
34 with the employee labor organization;

35 ~~((6))~~ (8) To contract for, participate in, and support research,
36 demonstration, testing, and development of public monorail
37 transportation facilities, equipment, and use incentives, and have all
38 powers necessary to comply with any criteria, standards, and

1 regulations which may be adopted under state and federal law, and to
2 take all actions necessary to meet the requirements of those laws. The
3 authority has, in addition to these powers, the authority to prepare,
4 adopt, and carry out a comprehensive public monorail plan and to make
5 other plans and studies and to perform programs as the authority deems
6 necessary to implement and comply with those laws;

7 ~~((7))~~ (9) To establish local improvement districts within the
8 authority area to finance public monorail transportation facilities, to
9 levy special assessments on property specially benefited by those
10 facilities, and to issue local improvement bonds to be repaid by the
11 collection of local improvement assessments. The method of
12 establishment, levying, collection, enforcement, and all other matters
13 relating to the local improvement districts, assessments, collection,
14 and bonds are as provided in the statutes governing local improvement
15 districts of cities and towns. The duties devolving upon the city
16 treasurer in those statutes are imposed on the treasurer of the
17 authority;

18 ~~((8))~~ (10) To exercise all other powers necessary and appropriate
19 to carry out its responsibilities, including without limitation the
20 power to sue and be sued, to own, construct, purchase, lease, add to,
21 and maintain any real and personal property or property rights
22 necessary for the conduct of the affairs of the authority, to enter
23 into contracts, and to employ the persons as the authority deems
24 appropriate. An authority may also sell, lease, convey, or otherwise
25 dispose of any real or personal property no longer necessary for the
26 conduct of the affairs of the authority.

27 NEW SECTION. Sec. 2. A new section is added to chapter 35.95A RCW
28 to read as follows:

29 (1) An authority may establish, by resolution, a schedule of fines
30 and penalties for civil infractions established in section 3 of this
31 act. Fines established by a city transportation authority may not
32 exceed those imposed for class 1 civil infractions under RCW 7.80.120.

33 (2)(a) In order to monitor fare payment, an authority may designate
34 persons authorized to exercise all the powers of an enforcement
35 officer, defined in RCW 7.80.040. An authority may either employ
36 personnel to monitor fare payment, or contract for those services, or
37 both.

1 (b) In addition to the specific powers granted to enforcement
2 officers under RCW 7.80.050 and 7.80.060, persons designated to monitor
3 fare payment may also take the following actions:

4 (i) Request proof of payment from passengers;

5 (ii) Request personal identification from a passenger who does not
6 produce proof of payment when requested;

7 (iii) Issue a citation conforming to RCW 7.80.070; and

8 (iv) Request that a passenger leave the monorail train or station
9 when the passenger has not produced proof of payment after being asked
10 to do so by a person designated to monitor fare payment.

11 (3) City transportation authorities shall keep, or cause to be
12 kept, records of citations as prescribed by RCW 7.80.150. All civil
13 infractions under section 3 of this act must be heard and determined by
14 a district court for the county in which the infraction occurred as
15 provided in RCW 7.80.010 (1) and (4).

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.95A RCW
17 to read as follows:

18 (1) Persons traveling on monorail trains operated by an authority
19 shall pay the fare established by the authority. They shall produce
20 proof of payment when requested by a person designated to monitor fare
21 payment.

22 (2) The following are civil infractions punishable according to the
23 schedule of fines and penalties established by the authority under
24 section 2 of this act:

25 (a) Failure to pay or attempting to evade payment of the required
26 fare;

27 (b) Failure to display proof of payment when requested to do so by
28 a person designated to monitor fare payment; and

29 (c) Failure to leave the monorail train or station when requested
30 to do so by a person designated to monitor fare payment.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.95A RCW
32 to read as follows:

33 Nothing in section 2 or 3 of this act prevents law enforcement
34 authorities from prosecuting for theft, trespass, or other criminal
35 charge a person who:

- 1 (1) Fails to pay or attempts to evade payment of the required fare
- 2 on more than one occasion within a twelve-month period;
- 3 (2) Fails to sign a notice of civil infraction;
- 4 (3) Fails to leave the monorail train or station when requested to
- 5 do so by a person designated to monitor fare payment; or
- 6 (4) Acts or fails to act in violation of law.

7 **Sec. 5.** RCW 35.95A.110 and 2002 c 248 s 12 are each amended to
8 read as follows:

9 All taxes and fees levied and collected by an authority must be
10 used solely for the purpose of paying all or any part of the cost of
11 acquiring, designing, constructing, equipping, maintaining, or
12 operating public monorail transportation facilities or contracting for
13 the services thereof((~~7~~)); or to perform or pay or secure the
14 performance or payment of any obligation under any contract authorized
15 in this chapter; or to pay or secure the payment of all or part of the
16 principal of or interest on any general obligation bonds or revenue
17 bonds issued for authority purposes. Until expended, money accumulated
18 in the funds and accounts of an authority may be invested in the manner
19 authorized by the governing body of the authority, consistent with
20 state law.

21 If any of the revenue from any tax or fee authorized to be levied
22 by an authority has been pledged by the authority to secure the payment
23 of any bonds as ((~~herein~~)) authorized in this chapter, or if an
24 authority has entered into any contract authorized in this chapter
25 whose obligations directly or indirectly require the use of any of the
26 revenue from any tax or fee authorized to be levied by that authority,
27 then as long as that pledge or contract is in effect ((~~the legislature~~
28 ~~will not withdraw from the authority~~)), the authorization to levy and
29 collect the tax or fee will not be withdrawn from the authority, and if
30 the authority has agreed in any such contract to continue to levy and
31 collect any taxes or assessments to the extent necessary to fund its
32 obligations under that contract, then notwithstanding a negative vote
33 under RCW 35.95A.120, an authority shall continue to exist for the
34 purpose of continuing to levy and collect those taxes or assessments to
35 that extent.

1 **Sec. 6.** RCW 39.46.040 and 1983 c 167 s 4 are each amended to read
2 as follows:

3 A local government authorized to issue bonds shall determine for
4 the bond issue its amount, date or dates, terms not in excess of
5 (~~the~~) forty years or any shorter maximum term otherwise provided in
6 law, conditions, bond denominations, interest rate or rates, which may
7 be fixed or variable, interest payment dates, maturity or maturities,
8 redemption rights, registration privileges, manner of execution, price,
9 manner of sale, covenants, and form, including registration as to
10 principal and interest, registration as to principal only, or bearer.
11 Registration may be as provided in RCW 39.46.030.

12 NEW SECTION. **Sec. 7.** A new section is added to chapter 46.16 RCW
13 to read as follows:

14 (1) In order to obtain or renew a vehicle license, an applicant
15 must satisfy all special motor vehicle excise tax obligations with
16 respect to any taxing district in which the applicant primarily
17 resides. In the case of a business, the taxing district in which the
18 applicant primarily resides means the principal place in Washington
19 from which the trade or business of the registered owner is directed,
20 managed, or conducted. If the department or its agents and subagents
21 have information indicating that a vehicle registered at an address
22 outside any taxing district may be owned by a person whose primary
23 residence address is in that taxing district, then the renewal
24 application may be processed by the department or its agents only if
25 the applicant:

26 (a) Presents evidence reasonably satisfactory to the department or
27 its agents and subagents that the applicant's primary residence is not
28 in the taxing district;

29 (b) Tenders payment of the applicable special motor vehicle excise
30 tax for the registration year and files a change of address; or

31 (c) Establishes an exemption from providing the primary residence
32 address.

33 (2) If the department has information indicating that a vehicle
34 registered at an address outside the boundaries of any taxing district
35 may be owned by a person whose primary residence or business address is
36 in that taxing district, the department shall send to the person, with
37 or before the renewal notice, a statement to the vehicle owner that the

1 primary residence or business address must be verified to renew the
2 vehicle license. The notice must describe the acceptable documentation
3 and procedures to verify the primary residence or business address.

4 NEW SECTION. **Sec. 8.** A new section is added to chapter 35.95A RCW
5 to read as follows:

6 To assure appropriate monorail transportation system plan and
7 financial plan assumptions and to provide for review of monorail
8 transportation system plan results, an expert review panel shall be
9 appointed to provide independent technical review regarding development
10 of any proposed monorail transportation system plan which is to be
11 funded in whole or in part by the imposition of any voter-approved
12 local option funding sources enumerated in this chapter.

13 (1) The expert review panel shall consist of five to ten members
14 who are recognized experts in relevant fields, such as transit
15 operations, planning, emerging transportation technologies,
16 engineering, finance, law, the environment, geography, economics, and
17 political science.

18 (2) The expert review panel shall be selected cooperatively by the
19 chairs of the senate and house of representatives transportation
20 committees, the secretary of the department of transportation, and the
21 executive of the city in which a city transportation authority is
22 located.

23 (3) The chair of the expert review panel shall be designated by the
24 appointing authorities.

25 (4) The expert review panel shall serve without compensation, but
26 shall be reimbursed for expenses according to RCW 43.03.050 and
27 43.03.060. Reimbursement must be paid from within the existing
28 resources of a city transportation authority.

29 (5) The expert review panel shall carry out the duties set forth in
30 subsections (6) and (7) of this section until the date on which an
31 election is held to consider a monorail transportation system and
32 financing plan.

33 (6) The expert review panel shall review all reports and plans and
34 shall concentrate on costs, patronage, and financing evaluations.

35 (7) The expert review panel shall provide timely reviews and
36 comments on individual reports and study conclusions to the chairs of
37 the senate and house of representatives transportation committees, the

1 department of transportation, the executive of the city in which the
2 city transportation authority is located, and the city transportation
3 authority.

4 (8) The city transportation authority shall contract for consulting
5 services for expert review panels, within existing resources.

6 **Sec. 9.** RCW 35.95A.030 and 2002 c 248 s 3 are each amended to read
7 as follows:

8 (1) A city that undertakes to propose creation of an authority must
9 propose the authority by ordinance of the city legislative body. The
10 ordinance must:

11 (a) Propose the authority area and the size and method of selection
12 of the governing body of the authority, which governing body may be
13 appointed or elected, provided that officers or employees of any single
14 city government body may not compose a majority of the members of the
15 authority's governing body;

16 (b) Propose whether all or a specified portion of the public
17 monorail transportation function will be exercised by the authority;

18 (c) Propose an initial array of taxes to be voted upon by the
19 electors within the proposed authority area; and

20 (d) Provide for an interim governing body of the authority which
21 will govern the authority upon voter approval of formation of the
22 authority, until a permanent governing body is selected, but in no
23 event longer than fourteen months.

24 (2) An authority may also be proposed to be created by a petition
25 setting forth the matters described in subsection (1) of this section,
26 and signed by one percent of the qualified electors of the proposed
27 authority area.

28 (3) Upon approval by the qualified electors of the formation of the
29 city transportation authority and any proposed taxes, either by
30 ordinance or by petition as provided in this chapter, the governing
31 body of an authority, or interim governing body, as applicable, will
32 adopt bylaws determining, among other things, the authority's officers
33 and the method of their selection, and other matters the governing body
34 deems appropriate.

35 (4) Before an authority may issue bonds, the governing body of the
36 authority shall be composed entirely of members appointed by the
37 legislative body of the city in which the authority is located.

1 NEW SECTION. **Sec. 10.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately.

--- END ---