
SENATE BILL 6616

State of Washington

61st Legislature

2010 Regular Session

By Senators Jacobsen and Kohl-Welles

Read first time 01/19/10. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to the regulation and preservation of urban streets
2 through a local option street maintenance utility and allowing the
3 imposition of a charge; amending RCW 82.80.070; adding a new chapter to
4 Title 35 RCW; repealing RCW 82.80.040, 82.80.050, and 82.80.060; and
5 providing an effective date.

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

7 NEW SECTION. **Sec. 1.** FINDINGS--PURPOSE. The legislature finds
8 that:

9 (1) The maintenance, operation, and preservation of the streets and
10 the provision of street maintenance utility service in urban areas is
11 essential for the safety, protection, and convenience of residents,
12 businesses, and governmental entities receiving the service.
13 Inadequate and poorly maintained streets and poor street maintenance
14 utility service adversely affect the health, safety, and welfare of the
15 lives and property of residents and the success of businesses located
16 in these areas. Harmful impacts include slowing traffic, decreased
17 vehicle fuel efficiency, and a consequent severe adverse impact on air
18 quality. Further adverse impacts are traffic congestion, vehicle

1 damage, increased accident frequency and more serious accidents, and
2 decreased access to needed services and businesses.

3 (2) Residents and businesses in areas with poorly maintained
4 streets and poor street maintenance utility service have slowed and
5 decreased access to service and delivery vehicle support, including
6 decreased access to public transportation and taxi service, the
7 delivery of goods and services, and slower fire, police, and emergency
8 medical vehicle services.

9 (3) Poor street maintenance utility service in urban areas
10 accelerates deterioration of private vehicles, increases traffic
11 volumes, and exacerbates peak flow traffic problems for the residents
12 and businesses in affected areas. By authorizing the creation of
13 street maintenance utility areas, it is the intent of the legislature
14 to discourage unnecessary automobile use through pricing based on use.
15 Furthermore, it is also the intent of the legislature to provide
16 credits for demonstrable reductions in automobile traffic in order to
17 provide incentives to make better land use decisions and to encourage
18 behaviors that reduce needless wear on our transportation
19 infrastructures.

20 (4) The benefits for city residents and businesses in areas with
21 well-constructed and maintained streets and good street maintenance
22 utility service are the opposite of the burdens, and include improved
23 air quality, fuel efficiency, travel speed, travel safety, reduction of
24 damage and deterioration of vehicles, lower insurance rates, and better
25 public transportation, fire, police, and emergency medical vehicle
26 access.

27 (5) Access to and use of the street system and street maintenance
28 utility service is necessary for the use of all developed real
29 property.

30 (6) Maintenance, repair, and preservation of the streets and other
31 street maintenance utility service in urban areas has traditionally
32 been funded by general taxes without regard to the burdens placed upon
33 streets by different classes of users or the respective benefits
34 derived by them.

35 (7) Objective means are available to assess pavement conditions to
36 identify distressed areas of the streets in cities.

37 (8) Objective measures are available to assess the relative burdens

1 placed upon streets and street maintenance utility service users in
2 urban areas by different classes of users and the respective benefits
3 derived by them.

4 (9) Maintenance and preservation of streets and street maintenance
5 utility service in urban areas should be funded by rates charged to
6 users of the streets consistent with the burden placed on the streets
7 by various classes of users and the respective benefits derived by them
8 as maintenance utility supported users of the street system.

9 (10) A street maintenance utility provides a more equitable and
10 efficient means to monitor, regulate, and maintain the streets and to
11 provide street maintenance utility service than general tax funding.

12 (11) Since 1980, vehicle registration has increased by sixty
13 percent and vehicle miles traveled on municipal streets have increased
14 far in excess of the rate of population growth.

15 (12) Pavement surfaces in urban areas are subjected to much heavier
16 use and have much higher maintenance needs than pavement in rural
17 areas. When pavement is not properly maintained, the pavement
18 deterioration process, amount of work to restore the pavement, and
19 costs of restoration all accelerate exponentially. This creates a
20 downward spiral of increasing pavement deterioration and higher costs
21 to remediate the problem.

22 (13) The institute of transportation engineers is an international
23 educational and scientific professional association. It has developed
24 reports, which fairly measure the relative benefits of streets to
25 different classes of property use. The institute of transportation
26 engineers report is a nationally recognized and accredited manual that
27 provides a reasonable basis to apportion a part of the costs of street
28 maintenance utility service.

29 (14) A street maintenance utility created and governed by the
30 legislative authority of a city consistent with the requirements of
31 this chapter provides an appropriate and efficient means to monitor,
32 regulate, and maintain public streets.

33 (15) The preservation of streets through a maintenance utility
34 service program will directly serve and benefit those who pay street
35 maintenance utility rates by allocating street maintenance utility
36 revenues to those who perform maintenance within the street maintenance
37 utility service area.

1 (16) The purpose of this chapter is to authorize the creation of a
2 street maintenance utility by cities to serve the residents,
3 businesses, governmental entities, and all other like users in street
4 maintenance utility service areas through the preservation and
5 maintenance of streets for areas with an identified street maintenance
6 utility service. In order to reflect the relative burdens placed upon
7 the streets by different classes of users, street maintenance utility
8 rates are determined in proportion to the levels of use of different
9 classes of residents, businesses, governmental entities, and all other
10 like users who depend upon access to and use of the street system.

11 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
12 section apply throughout this chapter unless the context clearly
13 requires otherwise.

14 (1) "City" means an incorporated city or town.

15 (2) "Independent examiner" means an official appointed by a
16 majority vote of the legislative authority of the city and who is not
17 subject to discharge except for misfeasance or malfeasance in office.
18 The independent examiner considers ratepayer appeals of street
19 maintenance utility matters arising under section 7 of this act.
20 Alternatively, for cities with an administrative hearings examiner
21 system, independent examiner duties may be assigned to the hearings
22 examiner.

23 (3) "Maintenance" means maintaining or preserving existing public
24 street facilities, including meeting adopted municipal street
25 standards.

26 (4) "Sound engineering principles" means principles or learning
27 reasonably accepted within the civil engineering or traffic engineering
28 profession, including the department of transportation extended method
29 in determining paving distress ratings, the department of
30 transportation pavement distress manual, the department of
31 transportation local agency pavement management guide, materials
32 developed by the institute of transportation engineers, including
33 manuals or materials differentiating types of property uses and
34 correlating property use and the expected number of annual motor
35 vehicle and pedestrian trips generated by these uses, and other
36 studies, manuals, or materials that are reliable and based on

1 engineering practices as may be developed by professional engineering
2 staff or consultants according to generally accepted professional
3 standards.

4 (5) "Street" means a city's public right-of-way within the
5 boundaries of areas used for motor vehicle, bicycle, or pedestrian
6 traffic. "Street" includes bridges, gutters, curbs, and sidewalks.

7 (6) "Street maintenance utility" means a citywide utility service
8 offered by a city to provide street maintenance services in accordance
9 with this chapter. Street maintenance utility activities may further
10 be identified by ordinance consistent with this chapter.

11 (7) "Street maintenance utility rates" means street maintenance
12 utility user charges authorized under this chapter for street
13 maintenance utility services.

14 (8) "Street maintenance utility service" means actions by a city
15 established street maintenance utility to own, manage, operate,
16 maintain, and preserve to adopted municipal standards all or any
17 described portion of its existing streets and other existing
18 transportation systems. Street maintenance utility services may also
19 include (a) repayment of revenue or general obligation bonds repayable
20 from charges listed in section 6 of this act issued in accordance with
21 chapter 35.41, 35.92, or 39.46 RCW, or (b) other evidences of
22 indebtedness issued to pay costs for which street maintenance utility
23 service revenues may be used.

24 (9) "Street maintenance utility service area" means a citywide
25 area, excluding private streets, in which street maintenance utility
26 services are provided and street maintenance utility rates are charged,
27 as established under this chapter.

28 NEW SECTION. **Sec. 3.** LEGISLATIVE AUTHORITY ACTION. Subject to
29 section 4 of this act, the legislative authority of a city may
30 establish a street maintenance utility to provide street maintenance
31 utility service, with the authority to own and operate the street
32 maintenance utility. The legislative authority of the city is the
33 governing body of the street maintenance utility. The legislative
34 authority of the city may not assess a street maintenance utility user
35 rate outside its jurisdictional limits.

1 NEW SECTION. **Sec. 4.** FORMATION PROCESS. (1) The legislative
2 authority of a city shall conduct a public hearing prior to the
3 formation of a street maintenance utility. Notice of the hearing must
4 include an explanation of the proposal and the proposed street
5 maintenance utility service area. The notice may include a description
6 of the condition of the pavement areas for the proposed street
7 maintenance utility service area, summaries of pertinent studies, field
8 investigations, and pavement condition scores, including areas
9 classified, or at risk to be classified, for no further maintenance
10 without street maintenance utility support. The notice must include a
11 general proposed plan for street maintenance utility service to be
12 carried out with street maintenance utility rates, a summary of the
13 proposed street maintenance utility rates, a description of the
14 proposed area for utility service, and any other pertinent information.
15 The notice must be published once a week for two consecutive weeks in
16 a newspaper of general circulation within the proposed street
17 maintenance utility service area. Alternatively, there may be one
18 publication, combined with the presentation of the notice information
19 on a government cable television channel at least ten times in the two-
20 week period and prominently posting the required information on a
21 municipal web site.

22 (2) At the hearing, the city's legislative authority shall review
23 the proposal and consider comments from any interested party and may
24 modify the proposal in response to those comments, as well as any
25 information, opinion polls, or other material relevant to the question
26 presented. The hearing may be continued if necessary.

27 (3) Upon the conclusion of the hearing, the city's legislative
28 authority may adopt an ordinance creating a street maintenance utility,
29 together with the street maintenance utility rates to support the
30 maintenance utility, which must be supported by an evidentiary record
31 with findings in accordance with this section and consistent with the
32 findings and purposes of this chapter.

33 (4)(a) The street maintenance utility ordinance must include:

34 (i) A finding that the creation of a street maintenance utility is
35 in the interest of the public health and safety as supported by
36 findings from the hearing and any other basis;

37 (ii) A finding that the street maintenance utility will allocate

1 the relative burdens placed on the streets by various classes of users
2 and the benefits derived by the various classes of users;

3 (iii) A finding that the street maintenance utility rates are
4 intended to be adequate to provide revenues sufficient for the street
5 maintenance utility, including payment of the principal and interest on
6 such bonds or warrants and payments that the street maintenance utility
7 is obligated to set aside in any special fund or funds created for such
8 purposes;

9 (iv) A description of the street maintenance utility service area
10 and user rate schedule consistent with section 6 of this act setting
11 forth the amounts to be charged to residential users, business users,
12 governmental entities, and other like street users located in the
13 street maintenance utility service area; and

14 (v) A provision that a street maintenance utility advisory
15 committee must be established during utility formation to advise the
16 city from time to time regarding the street maintenance utility. The
17 street maintenance utility advisory committee must be appointed by the
18 mayor or mayor's designee and confirmed by the city's legislative
19 authority. Committee membership may not exceed seven members, a
20 majority of which must be city residents or business owners, and must
21 represent the different user classifications of the street maintenance
22 utility. Street maintenance utility advisory committee duties may
23 include, but are not limited to, the review of proposed maintenance
24 projects, rates, credits, or plan changes, or other matters assigned by
25 ordinance. Committee members must serve without compensation, but
26 city-approved committee expenses and staff support must be provided by
27 the city.

28 (b)(i) The street maintenance utility ordinance may include a
29 description or summary of the condition of the pavement in the street
30 maintenance utility service area, based on field investigations,
31 pavement condition scores, or other information. The description or
32 summary may include a proposed timetable for street maintenance utility
33 services, summary of the services, budget, including projected revenues
34 from street maintenance utility rates or other sources, and any other
35 factors deemed relevant.

36 (ii) In street maintenance utility service areas that include land
37 owned by port districts, street maintenance activity supporting freight
38 movement is an allowable use for utility revenue.

1 (c)(i) The street maintenance utility ordinance must include a
2 policy to address major plan changes that affect street maintenance
3 utility project delivery or ability to finance identified projects.
4 The policy must at least address material changes to cost, scope, and
5 schedule, and how the city will address those changes. At a minimum,
6 the city shall consult with the street maintenance utility advisory
7 committee and publish a public notice regarding how the plan change
8 should be resolved.

9 (ii)(A) A street maintenance utility shall issue an annual report
10 indicating the status of program revenues, annual revenues received,
11 and portion of revenues that are bonded, a summary of annual
12 expenditures on identified maintenance and preservation projects, and
13 programmed projected construction schedules for the next budget year.
14 The annual report must also provide a means of describing if rates and
15 revenues are sufficient to obtain and maintain the city's systemwide
16 pavement condition index standard and a comparison of the systemwide
17 pavement condition index data available for prior years since formation
18 of the street maintenance utility, the number of lane miles by street
19 classification within the utility, and the number of new lane miles by
20 street classification added or subtracted from the system during the
21 year.

22 (B) Where underlying public or private utilities are required by
23 city policy to make repairs to pavement structures for utility
24 trenches, the annual report must estimate the amount of contributed
25 restoration work performed for pavement restoration.

26 (C) Cities shall make available copies of the annual report to any
27 ratepayer upon request.

28 NEW SECTION. **Sec. 5.** REFERENDUM. A city first establishing a
29 street maintenance utility under this chapter shall provide for, in the
30 ordinance establishing the utility, a referendum procedure to apply to
31 the entire ordinance imposing the initial street maintenance utility
32 rate. Eligible voters are the ratepayers established under this
33 chapter, as determined by the city. Each business and governmental
34 entity that has been established as a ratepayer under this chapter may
35 designate a single representative for referendum purposes, and must
36 provide the city or filing officer with written confirmation of the
37 designated representative upon request. The legislative authority of

1 the city establishing a street maintenance utility shall prepare and
2 maintain a list of presumed eligible voters. This referendum procedure
3 must specify that a referendum petition may be filed within ten days of
4 passage of the ordinance with a filing officer, as identified in the
5 ordinance. Within ten days, the filing officer shall confer with the
6 petitioner concerning form and style of the petition, issue the
7 petition an identification number, and secure an accurate, concise, and
8 positive ballot title from the designated local official. The
9 petitioner has thirty days in which to secure the signatures of not
10 less than fifteen percent of the street maintenance utility ratepayers,
11 upon petition forms that contain the ballot title and the full text of
12 the measure to be referred. The filing officer shall verify the
13 sufficiency of the signatures on the petition and, if sufficient valid
14 signatures are properly submitted, certify the referendum measure to
15 the next election ballot within the city or at a special election
16 ballot as provided in RCW 29A.04.330 as determined by the county or
17 city legislative authority, which election may not take place later
18 than one hundred twenty days after the signed petition has been filed
19 with the filing officer. The city shall provide the appropriate
20 election officials a final list of eligible voters. The election
21 officials are not responsible for any errors on the list.

22 This referendum procedure is the exclusive means of referendum
23 action in all instances for any city ordinance establishing a street
24 maintenance utility or increasing the street maintenance utility rate
25 and supersedes the procedures provided under chapters 35.17 and 35A.11
26 RCW and all other statutory or charter provisions for initiative or
27 referendum that might otherwise apply.

28 NEW SECTION. **Sec. 6. RATES.** (1)(a) If a city creates a street
29 maintenance utility, the city may establish street maintenance utility
30 rates by appropriate legislative action not inconsistent with this
31 section.

32 (b) Street maintenance utility rates apply to residents,
33 businesses, governmental entities, and other users located in the
34 street maintenance utility service area. Once rates are established
35 using sound engineering principles and the factors identified in
36 subsection (2) of this section, rates may be expressed as a designated
37 dollar amount per trip generated, type of household unit, or type of

1 business. Rates may be collected no more frequently than monthly and
2 no less frequently than annually. Rates set for users other than
3 households may be expressed in equivalents of household units or as
4 specified by ordinance. A city may phase in rates on a reasonable
5 schedule as the city may determine.

6 (2)(a) In establishing street maintenance utility rates, the
7 following factors must be considered:

8 (i) The correlation between property uses and the estimated number
9 of vehicle trips from these uses; and

10 (ii) The institute of transportation engineers manual or other
11 resources of comparable acceptance or reliability.

12 (b) In establishing street maintenance utility rates, the following
13 factors may be considered:

14 (i) A cost component for the street maintenance utility's ongoing
15 base level operations. For the purposes of this subsection (2)(b)(i),
16 "base level operations" (A) means the threshold costs of operating the
17 utility per subscriber unit without regard for level of use or
18 intensity of service, and (B) refer to general systemwide costs. The
19 estimated number of vehicle trips generated by specific types of
20 property occupancies or uses may also be considered.

21 (ii)(A) User location;
22 (B) Differences in costs of service to different user classes;
23 (C) User proximity to arterial streets;
24 (D) Differences in costs or character of the service to users;
25 (E) Times of use;
26 (F) Number and type of vehicles associated with household units,
27 governmental entities, or businesses;

28 (G) Differences in the cost of maintenance, operation, repair, and
29 replacement of various parts of the street system, with consideration
30 to lowest life-cycle costing, by capital contributions made to the
31 system including, but not limited to, assessments, achievement of
32 traffic reduction, and air quality improvement goals;

33 (H) Capital contributions made to the system including, but not
34 limited to, assessments; and

35 (I) Special assessments, such as local improvement districts, for
36 streets and street-related improvements.

37 (iii) Any other matters that present a reasonable difference as a
38 grounds for distinction.

1 (3) Street maintenance utility rates may not:

2 (a) Include an exemption or credit for the payment of any tax;

3 (b) Be included for any reason on a user's property tax bill or
4 notice; or

5 (c) Be imposed on undeveloped premises.

6 (4)(a) A city may credit street maintenance utility rates on vacant
7 premises, provided that the owner produces proof of time of vacancy
8 under procedures set forth by the city.

9 (b) A city may reduce or credit rates on residential properties to
10 the extent of their occupancy by low-income senior citizens and other
11 low-income citizens as provided in RCW 74.38.070 and consistent with
12 Article VIII, section 7 of the state Constitution, or to the extent
13 determined proper for the necessary support of the poor and infirm, as
14 reasonably determined by the city in the street maintenance utility
15 ordinance.

16 (c) A city may reduce or credit rates on business or governmental
17 entities to the extent such business or governmental entities are
18 providing for streets, street-related improvements, and street
19 maintenance utility services within the street maintenance utility
20 service area, and based on a showing that the reduction or credit
21 granted is reasonably proportionate to the value contributed or cost
22 avoided by the street maintenance utility.

23 (d) A city may reduce or credit rates on residences, business
24 entities, or other users served by private streets to the extent they
25 are providing for streets, street-related improvements, and street
26 maintenance utility services, and based on a showing that the reduction
27 or credit granted is reasonably proportionate to the value contributed
28 or cost avoided by the street maintenance utility.

29 (5) If feasible, the ordinance must provide for mitigation for
30 incidental trips that are often combined with other trips, as compared
31 to destination trips that are associated with creating separate trip
32 burdens on the streets.

33 (6) The ordinance may provide for user rate reduction if there is
34 a showing of trip reduction, including reductions for residential users
35 participating in regular carpool or vanpool arrangements or for
36 commercial users offering carpool, vanpool, public transit passes, or
37 a trip reduction program approved under provisions as established by
38 ordinance.

1 (7) Street maintenance utility rates must be uniform for the same
2 class of ratepayers receiving services provided or imposing burdens on
3 a transportation system. Street maintenance utility rates collected by
4 a street maintenance utility must not be established in excess of the
5 amount authorized by the ordinance.

6 (8) Street maintenance utility rates may supplement any other
7 available resources for maintaining or preserving streets, but may not
8 duplicate or replace transportation impact fees authorized under growth
9 management laws designed to pay for increasing the capacity of the
10 street system to accommodate the needs for new growth and development
11 rather than street maintenance or remediation of existing deficiencies
12 in the street system.

13 (9) A city may provide or contract to provide billing and
14 collection services of the street maintenance utility rates as a part
15 of or separate from other maintenance utility services provided. The
16 ordinance may use the connection or consumption of other maintenance
17 utility services as a basis to establish occupancy or use.

18 (10) Street maintenance utility rates may not be computed based on
19 the ad valorem value of the underlying real property or its
20 improvements.

21 (11) The rates established under this section are not intended to
22 be regarded as tolls, but to the extent that the rates may be
23 determined to be tolls by a court of competent jurisdiction,
24 legislative approval is granted consistent with the requirements of
25 this chapter. Any amounts regarded as tolls must be computed in a like
26 manner as provided under this chapter for street maintenance utility
27 rates, subject to the same ratepayer protections.

28 (12) The rates established under this section are not intended to
29 be regarded as taxes, but to the extent that the rates may be
30 determined to be taxes by a court of competent jurisdiction,
31 legislative approval is granted consistent with the requirements of
32 this chapter.

33 (13) Street maintenance utility rates established under this
34 section do not constitute taxes or fees as provided under RCW 82.02.050
35 through 82.02.100 or chapter 39.92 RCW. A street maintenance utility
36 may be funded by rates or any other lawful revenue source.

37 (14) Prior to any rate change, the street maintenance utility shall

1 conduct a public hearing to review the condition of the street
2 infrastructure and future program needs based upon adopted standards.

3 (15) In the case of a legal challenge to any rates or rate
4 classification, it is the burden of the establishing government, by a
5 preponderance of the evidence, to show that the rates are not in excess
6 of the burden created by the ratepayer or rate class concerned.

7 NEW SECTION. **Sec. 7.** APPEALS. (1) The street maintenance utility
8 ordinance under section 6 of this act must include provision for a user
9 to appeal a rate or rate classification upon a showing that the user
10 does not generate equivalent trips, on the average, to other parcels in
11 the same rate class, that the appellant's rate has been improperly
12 calculated, or another good cause. An appeal may also request a review
13 of whether the base rate is adequate to cover ongoing base level
14 operations and whether base rate items are properly allocated to the
15 base rate for a given class of users. Refunds on collected rates are
16 not required for any period before the time a written appeal is
17 received under procedures established by ordinance. A reasonable
18 charge, not to exceed actual cost of the appeal, may be required to be
19 paid by an appealing ratepayer.

20 (2) Ratepayer appeals must be considered by an independent
21 examiner. The examiner shall receive and examine available
22 information, prepare a record of the information, and enter findings of
23 fact, conclusions based upon those facts, and a decision. The
24 jurisdiction of the independent examiner extends to appeals about the
25 base rate, rate classifications, and rates charged to an individual
26 user. The independent examiner's jurisdiction does not extend to any
27 other aspects of street maintenance utility operation, enforcement of
28 the street maintenance utility ordinance, or any management or control
29 of the city's streets. Appeals from decisions of the examiner acting
30 within its jurisdictional duties must be directly made to the superior
31 court. Additional provisions that govern appeals under this section
32 must be provided by ordinance.

33 NEW SECTION. **Sec. 8.** RATE COLLECTION. (1) A street maintenance
34 utility ordinance may include provision of a penalty for rates sixty
35 days past due, but not to exceed one percent per month thereafter on
36 the unpaid balance. All unpaid street maintenance utility rates may be

1 collected against the owner, tenant, or occupant in any manner as
2 provided by law, but for a tenant or occupant, rates collected may not
3 be outside the period of tenancy or occupancy.

4 (2) As a supplemental remedy, a street maintenance utility
5 ordinance may: (a) Provide that any unpaid rates and applicable
6 penalties are a lien against the real property for which the street
7 maintenance utility services were provided, which amounts may be
8 foreclosed in the manner of a lien for labor and materials furnished on
9 the subject premises. Each year, a lien may not exceed twelve months
10 of accrued and unpaid charges, plus any applicable penalties; or (b)
11 provide that unpaid street maintenance utility rates are a lien against
12 the property to which the services are provided, which may be enforced
13 in the same manner as rates and charges for the use of systems of
14 sewerage and storm drainage under chapter 35.67 RCW.

15 NEW SECTION. **Sec. 9.** USE OF REVENUES. (1) All street maintenance
16 utility rate revenues must be deposited in a special fund or account
17 dedicated to permissible street maintenance utility service and must be
18 used for those purposes only.

19 (2) Permitted purposes include any identified street maintenance
20 utility service.

21 NEW SECTION. **Sec. 10.** DISSOLUTION. The legislative authority of
22 a city may dissolve a street maintenance utility by ordinance upon a
23 finding that the dissolution is in the public interest, but any
24 unexpended funds must be held in trust to be expended for only those
25 permissible purposes as provided in section 9 of this act.

26 NEW SECTION. **Sec. 11.** BID LAWS. Cities that operate a street
27 maintenance utility under this chapter remain subject to public works
28 bid limits as described in RCW 35.22.620, 35.23.352, and 35A.40.210.

29 NEW SECTION. **Sec. 12.** INTERLOCAL AGREEMENTS. A city electing to
30 establish a street maintenance utility under this chapter may enter
31 into an interlocal agreement with other authorized parties pursuant to
32 chapter 39.34 RCW for the purposes of maximizing street maintenance
33 utility funding.

1 NEW SECTION. **Sec. 13.** OTHER RESOURCES. A city electing to
2 establish a street maintenance utility under this chapter may use any
3 other resources for street maintenance utility service otherwise
4 permitted by law, consistent with any limitations on the service.

5 NEW SECTION. **Sec. 14.** SCOPE. (1) This chapter or any action
6 taken under its authority does not diminish any other general or
7 specific municipal regulatory or funding powers otherwise permitted by
8 law.

9 (2) This chapter is not intended to create or enhance any duty upon
10 any city with respect to the maintenance and preservation of its
11 streets beyond that which now exists under the general law.

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

16 NEW SECTION. **Sec. 16.** REPEALER. The following acts or parts of
17 acts are each repealed:

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

20 (2) RCW 82.80.050 (Street utility--Charges, credits) and 2006 c 301
21 s 5, 2000 c 103 s 21, & 1991 c 141 s 2; and

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

24 **Sec. 17.** RCW 82.80.070 and 2005 c 319 s 139 are each amended to
25 read as follows:

26 (1) The proceeds collected pursuant to the exercise of the local
27 option authority of RCW 82.80.010((~~7~~)) and 82.80.030(~~(~~7~~ and 82.80.050)~~)
28 (hereafter called "local option transportation revenues") shall be used
29 for transportation purposes only, including but not limited to the
30 following: The operation and preservation of roads, streets, and other
31 transportation improvements; new construction, reconstruction, and
32 expansion of city streets, county roads, and state highways and other
33 transportation improvements; development and implementation of public
34 transportation and high capacity transit improvements and programs; and

1 planning, design, and acquisition of right-of-way and sites for such
2 transportation purposes. The proceeds collected from excise taxes on
3 the sale, distribution, or use of motor vehicle fuel and special fuel
4 under RCW 82.80.010 shall be used exclusively for "highway purposes" as
5 that term is construed in Article II, section 40 of the state
6 Constitution.

7 (2) The local option transportation revenues shall be expended for
8 transportation uses consistent with the adopted transportation and land
9 use plans of the jurisdiction expending the funds and consistent with
10 any applicable and adopted regional transportation plan for
11 metropolitan planning areas.

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

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

19 (b) The program shall be based on an adopted transportation plan
20 for the geographic areas covered and shall identify the proposed
21 operation and construction of transportation improvements and services
22 in the designated plan area intended to be funded in whole or in part
23 by local option transportation revenues and shall identify the annual
24 costs applicable to the program.

25 (c) The program shall indicate how the local transportation plan is
26 coordinated with applicable transportation plans for the region and for
27 adjacent jurisdictions.

28 (d) The program shall include at least a six-year funding plan,
29 updated annually, identifying the specific public and private sources
30 and amounts of revenue necessary to fund the program. The program
31 shall include a proposed schedule for construction of projects and
32 expenditure of revenues. The funding plan shall consider the
33 additional local tax revenue estimated to be generated by new
34 development within the plan area if all or a portion of the additional
35 revenue is proposed to be earmarked as future appropriations for
36 transportation improvements in the program.

37 (4) Local governments with a population greater than eight thousand
38 exercising the authority for local option transportation funds shall

1 periodically review and update their transportation program to ensure
2 that it is consistent with applicable local and regional transportation
3 and land use plans and within the means of estimated public and private
4 revenue available.

5 (5) In the case of expenditure for new or expanded transportation
6 facilities, improvements, and services, priorities in the use of local
7 option transportation revenues shall be identified in the
8 transportation program and expenditures shall be made based upon the
9 following criteria, which are stated in descending order of weight to
10 be attributed:

11 (a) First, the project serves a multijurisdictional function;

12 (b) Second, it is necessitated by existing or reasonably
13 foreseeable congestion;

14 (c) Third, it has the greatest person-carrying capacity;

15 (d) Fourth, it is partially funded by other government funds, such
16 as from the state transportation improvement board, or by private
17 sector contributions, such as those from the local transportation act,
18 chapter 39.92 RCW; and

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

21 (6) It is the intent of the legislature that as a condition of
22 levying, receiving, and expending local option transportation revenues,
23 no local government agency use the revenues to replace, divert, or loan
24 any revenues currently being used for transportation purposes to
25 nontransportation purposes.

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

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

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

1 NEW SECTION. **Sec. 18.** Sections 1 through 15 of this act
2 constitute a new chapter in Title 35 RCW.

3 NEW SECTION. **Sec. 19.** This act takes effect July 1, 2010.

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