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HOUSE BILL 1929

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State of Washington                      62nd Legislature                      2011 Regular Session

By Representatives Lias, Ladenburg, Clibborn, and Billig

Read first time 02/10/11. Referred to Committee on Transportation.

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, welfare, and  
15 property of residents and businesses located in these areas. Harmful  
16 impacts include traffic congestion, decreased vehicle fuel efficiency,  
17 and a consequent severe adverse impact on air quality. Further adverse  
18 impacts include vehicle damage, increased accident frequency, more

1 serious accidents, and decreased access to needed services and  
2 businesses.

3 (2) Residents and businesses in areas with poorly maintained  
4 streets and poor street maintenance utility service experience  
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 response times for fire,  
8 police, and emergency 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. Furthermore, it is also the intent  
13 of the legislature to provide credits for demonstrable reductions in  
14 automobile traffic in order to provide incentives to make better land  
15 use decisions and to encourage behaviors that reduce needless wear on  
16 our transportation infrastructures.

17 (4) The benefits for city residents and businesses in areas with  
18 well-constructed and maintained streets and good street maintenance  
19 utility service include improved air quality, fuel efficiency, travel  
20 speed, travel safety, reduction of damage and deterioration of  
21 vehicles, lower insurance rates, and better public transportation,  
22 fire, police, and emergency medical vehicle response times.

23 (5) Access to and use of the street system and street maintenance  
24 utility service is necessary to support the use of all developed real  
25 property.

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

31 (7) Objective means are available to assess pavement conditions to  
32 identify distressed areas of urban streets.

33 (8) Objective measures are available to assess the relative burdens  
34 placed upon streets and street maintenance utility service users in  
35 urban areas by different classes of users and the respective benefits  
36 derived by them.

37 (9) Maintenance and preservation of streets and street maintenance  
38 utility service in urban areas should be funded by rates charged to

1 users of the streets consistent with the burden placed on the streets  
2 by various classes of users and the respective benefits derived by them  
3 as maintenance utility supported users of the street system.

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

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

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

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

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

28 (15) The preservation of streets through a maintenance utility  
29 service program will directly serve and benefit those who pay street  
30 maintenance utility rates by allocating street maintenance utility  
31 revenues to those who perform maintenance within the street maintenance  
32 utility service area.

33 (16) The purpose of this chapter is to authorize the creation of a  
34 street maintenance utility by cities to serve the residents,  
35 businesses, governmental entities, and all other like users in street  
36 maintenance utility service areas through the preservation and  
37 maintenance of streets for areas with an identified street maintenance  
38 utility service. In order to reflect the relative burdens placed upon

1 the streets by different classes of users, street maintenance utility  
2 rates are determined in proportion to the levels of use of different  
3 classes of residents, businesses, governmental entities, and all other  
4 like users who depend upon access to and use of the street system.

5 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
6 section apply throughout this chapter unless the context clearly  
7 requires otherwise.

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

9 (2) "Independent examiner" means an official appointed by a  
10 majority vote of the legislative authority of the city and who is not  
11 subject to discharge except for misfeasance or malfeasance in office.  
12 The independent examiner considers ratepayer appeals of street  
13 maintenance utility matters arising under section 6 of this act.  
14 Alternatively, for cities with an administrative hearings examiner  
15 system, independent examiner duties may be assigned to the hearings  
16 examiner.

17 (3) "Maintenance" means maintaining or preserving existing public  
18 street facilities, including meeting adopted municipal street  
19 standards.

20 (4) "Sound engineering principles" means principles or practices  
21 reasonably accepted within the civil engineering or traffic engineering  
22 profession, including, but not limited to, the department of  
23 transportation extended method in determining paving distress ratings,  
24 the department of transportation pavement distress manual, the  
25 department of transportation local agency pavement management guide,  
26 materials developed by the institute of transportation engineers,  
27 including manuals or materials differentiating types of property uses  
28 and correlating property use and the expected number of annual motor  
29 vehicle and pedestrian trips generated by these uses, and other  
30 studies, manuals, or materials that are reliable and based on  
31 engineering practices as may be developed by professional engineering  
32 staff or consultants according to generally accepted professional  
33 standards.

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

1 (6) "Street maintenance utility" means a citywide utility service  
2 offered by a city to provide street maintenance services in accordance  
3 with this chapter. Street maintenance utility activities may further  
4 be identified by ordinance consistent with this chapter.

5 (7) "Street maintenance utility rates" means street maintenance  
6 utility user charges authorized under this chapter for street  
7 maintenance utility services.

8 (8) "Street maintenance utility service" means actions by a city  
9 established street maintenance utility to own, manage, operate,  
10 maintain, and preserve to adopted municipal standards all or any  
11 described portion of its existing streets and other existing  
12 transportation systems. Street maintenance utility services may also  
13 include (a) repayment of revenue or general obligation bonds repayable  
14 from charges listed in section 5 of this act issued in accordance with  
15 chapter 35.41, 35.92, or 39.46 RCW, or (b) other evidences of  
16 indebtedness issued to pay costs for which street maintenance utility  
17 service revenues may be used.

18 (9) "Street maintenance utility service area" means a citywide  
19 area, excluding private streets, in which street maintenance utility  
20 services are provided and street maintenance utility rates are charged,  
21 as established under this chapter.

22 NEW SECTION. **Sec. 3.** LEGISLATIVE AUTHORITY ACTION. (1) Subject  
23 to section 4 of this act, the legislative authority of a city may  
24 submit an authorizing proposition to the voters and, if approved,  
25 establish a street maintenance utility to provide street maintenance  
26 utility service, with the authority to own and operate the street  
27 maintenance utility. A street maintenance utility may only be  
28 established by a city if an authorizing proposition is approved by the  
29 voters of the city.

30 (2) The legislative authority of the city is the governing body of  
31 the street maintenance utility. The legislative authority of the city  
32 may not assess a street maintenance utility user rate outside its  
33 jurisdictional limits.

34 NEW SECTION. **Sec. 4.** FORMATION PROCESS. (1) The legislative  
35 authority of a city shall conduct a public hearing prior to submitting  
36 an authorizing proposition to the voters for the formation of a street

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

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

24 (3) Upon the conclusion of the hearing, the city's legislative  
25 authority may submit an authorizing proposition to the voters creating  
26 a street maintenance utility, together with the intended street  
27 maintenance utility rates to support the maintenance utility, which  
28 must be supported by an evidentiary record with findings in accordance  
29 with this section and consistent with the findings and purposes of this  
30 chapter.

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

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

35 (ii) A finding that the street maintenance utility will allocate  
36 the relative burdens placed on the streets by various classes of users  
37 and the benefits derived by the various classes of users;

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

7 (iv) A description of the street maintenance utility service area  
8 and user rate schedule consistent with section 5 of this act setting  
9 forth the amounts to be charged to residential users, business users,  
10 governmental entities, and other like street users located in the  
11 street maintenance utility service area; and

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

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

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

37 (c)(i) The street maintenance utility ordinance must include a  
38 policy to address major plan changes that affect street maintenance

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

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

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

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

26 NEW SECTION. **Sec. 5. RATES.** (1)(a) If a city creates a street  
27 maintenance utility, the city may establish street maintenance utility  
28 rates by appropriate legislative action not inconsistent with this  
29 section.

30 (b) Street maintenance utility rates apply to residents,  
31 businesses, governmental entities, and other users located in the  
32 street maintenance utility service area. Once rates are established  
33 using sound engineering principles and the factors identified in  
34 subsection (2) of this section, rates may be expressed as a designated  
35 dollar amount per trip generated, type of household unit, or type of  
36 business. Rates may be collected no more frequently than monthly and  
37 no less frequently than annually. Rates set for users other than



1 households may be expressed in equivalents of household units or as  
2 specified by ordinance. A city must phase in rates on a schedule of  
3 not less than four years, as the city may determine.

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

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

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

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

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

19 (ii)(A) User location;

20 (B) Differences in costs of service to different user classes;

21 (C) User proximity to arterial streets;

22 (D) Differences in costs or character of the service to users;

23 (E) Times of use;

24 (F) Number and type of vehicles associated with household units,  
25 governmental entities, or businesses;

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

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

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

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

37 (3) Street maintenance utility rates may not:

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

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

3 (c) Be imposed on undeveloped premises.

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

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

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

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

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

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

37 (7) Street maintenance utility rates must be uniform for the same  
38 class of ratepayers receiving services provided or imposing burdens on

1 a transportation system. Street maintenance utility rates collected by  
2 a street maintenance utility must not be established in excess of the  
3 amount authorized by the ordinance.

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

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

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

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

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

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

35 (14) Prior to any rate change, the street maintenance utility shall  
36 conduct a public hearing to review the condition of the street  
37 infrastructure and future program needs based upon adopted standards.

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

5 NEW SECTION. **Sec. 6.** APPEALS. (1) The street maintenance utility  
6 ordinance under section 5 of this act must include provision for a user  
7 to appeal a rate or rate classification upon a showing that the user  
8 does not generate equivalent trips, on the average, to other parcels in  
9 the same rate class, that the appellant's rate has been improperly  
10 calculated, or another good cause. An appeal may also request a review  
11 of whether the base rate is adequate to cover ongoing base level  
12 operations and whether base rate items are properly allocated to the  
13 base rate for a given class of users. Refunds on collected rates are  
14 not required for any period before the time a written appeal is  
15 received under procedures established by ordinance. A reasonable  
16 charge, not to exceed actual cost of the appeal, may be required to be  
17 paid by an appealing ratepayer.

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

31 NEW SECTION. **Sec. 7.** RATE COLLECTION. (1) A street maintenance  
32 utility ordinance may include provision of a penalty for rates sixty  
33 days past due, but not to exceed one percent per month thereafter on  
34 the unpaid balance. All unpaid street maintenance utility rates may be  
35 collected against the owner, tenant, or occupant in any manner as

1 provided by law, but for a tenant or occupant, rates collected may not  
2 be outside the period of tenancy or occupancy.

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

14 NEW SECTION. **Sec. 8.** USE OF REVENUES. (1) All street maintenance  
15 utility rate revenues must be deposited in a special fund or account  
16 dedicated to permissible street maintenance utility service and must be  
17 used for those purposes only.

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

20 NEW SECTION. **Sec. 9.** DISSOLUTION. The legislative authority of  
21 a city may dissolve a street maintenance utility by ordinance upon a  
22 finding that the dissolution is in the public interest, but any  
23 unexpended funds must be held in trust to be expended for only those  
24 permissible purposes as provided in section 8 of this act.

25 NEW SECTION. **Sec. 10.** BID LAWS. Cities that operate a street  
26 maintenance utility under this chapter remain subject to public works  
27 bid limits as described in RCW 35.22.620, 35.23.352, and 35A.40.210.

28 NEW SECTION. **Sec. 11.** INTERLOCAL AGREEMENTS. A city electing to  
29 establish a street maintenance utility under this chapter may enter  
30 into an interlocal agreement with other authorized parties pursuant to  
31 chapter 39.34 RCW for the purposes of maximizing street maintenance  
32 utility funding.

1        NEW SECTION.    **Sec. 12.**    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. 13.**    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. 14.**    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. 15.**    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. 16.**    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. 17.**    Sections 1 through 14 of this act  
2    constitute a new chapter in Title 35 RCW.

3        NEW SECTION.    **Sec. 18.**    This act takes effect August 1, 2011.

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