

# SENATE BILL REPORT

## SB 6623

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As Reported by Senate Committee On:  
Transportation, February 8, 2016

**Title:** An act relating to the rental or lease of transportation property.

**Brief Description:** Concerning the rental or lease of transportation property.

**Sponsors:** Senator King.

**Brief History:**

**Committee Activity:** Transportation: 2/03/16, 2/08/16 [DP, DNP].

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass.

Signed by Senators King, Chair; Fain, Vice Chair, Budget ; Hobbs, Ranking Minority Member; Ericksen, Litzow, Miloscia, Rivers, Sheldon and Takko.

**Minority Report:** Do not pass.

Signed by Senators Lias, Assistant Ranking Minority Member; Carlyle, Cleveland and Jayapal.

**Staff:** Kim Johnson (786-7472)

**Background:** The Washington State Department of Transportation (WSDOT) is authorized to rent or lease land, improvements, or air space above or below any lands it does not presently need but that are held for highway purposes. WSDOT adopted administrative rules to implement this authority, which include the method by which the value of the property interest being rented or leased is determined. Under the administrative rules, the consideration for air space being leased must be economic rent. Administrative rules for the rental rates for highway lands and improvements require that the rental rate be economic rent as determined by either a market data report of rentals or a written appraisal.

WSDOT, and other highway authorities of the state; including counties, cities, incorporated cities and towns, and municipal corporations that own or operate an urban public transportation system; may enter into cooperative agreements with each other or the federal government for the purpose of financing, planning, improving, constructing, using, or

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regulating limited-access facilities in their respective jurisdictions. There is no express property interest valuation method provided for these cooperative agreements.

In December 2015, the Sound Transit Board authorized the chief executive officer to execute a number of new agreements with WSDOT. Among these agreements were new cooperative agreements leasing certain WSDOT property interests. The new agreements must be based on fair market value, less the federal interest - federal monies used to acquire and improve the property.

**Summary of Bill:** The lease or rent for any lands, improvements, or airspace above or below any land held for highway purposes, that are not presently needed, must use the valuation method provided in WAC 468-30-060 and 468-30-110, as each existed on January 1, 2016, and must reflect all sources of funds used to acquire or construct the property.

Regional transit authorities are included as a type of governmental entity authorized to enter into cooperative agreements regarding limited-access facilities.

Cooperative agreements between WSDOT and other governmental entities for the lease or rent of lands, improvements, or airspace above or below any lands that are held for highway purposes must be valued using the method provided in WAC 468-30-060 and 468-30-110, as each existed on January 1, 2016, and must reflect all sources of funds used to acquire or construct the property.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:** PRO: The center roadway, for which the air space is to be leased, is really owned by everybody in the state and therefore to be fair to all citizens in Washington, it is necessary to have a fair market price for the lease of these property interests. Potentially billions of dollars are at stake. Simply eliminating the federal share is not fair to the 50 percent of state population that lives outside the Sound Transit (ST) area. Washington citizens tax dollars are part of the federal transportation dollars that are being waived here. This issue has been debated for years. The bill needs to strengthen the valuation formulas for the center roadways.

CON: ST has some concerns about the legislation because it would adversely impact ST and WSDOT's ability to continue to fund highway system improvements and also to expand the regional light rail system to Tacoma and to Everett using vacant WSDOT land that is not needed for a highway purpose. Over the last 16 years WSDOT and ST have entered into various land bank agreements and ST has provided to date \$292 million dollars to build HOV lanes, direct access ramps and improvements to state park and ride lots and other highway improvements. In exchanges WSDOT has leased land it does not need for highway purposes to ST for its fair market value. The leases provide that they can be terminated at any time

WSDOT determines it needs them for a highway purpose in the future. Our concern is that the bill would require ST to pay considerably higher rent than what is required under existing state law and federal law. The inclusion of the federal share will greatly increase the cost to bring light rail to Tacoma and Everett.

OTHER: The Washington Policy Center has concerns about cooperative agreements that allow ST to lease land and air rights from state taxpayers for 10 to 15 percent of its value. Any land held for highway purposes should be held in trust for drivers as the 18th Amendment to the Constitution requires. ST says that these lands are not needed for the foreseeable future, but these agreements will last until 2080, 65 years from now. The state citizens have been told that increases to the gas tax and other fees are necessary to cover the cost of maintaining our roads into the future. Before leasing state assets well below market rates, a thorough analysis should be done. The current agreements in place paid 100 percent of the fair market value. Ultimately the question is whether taxpayers across the state should have to subsidize ST's light rail expansion.

WSDOT has concerns with the impact this bill would have on the land bank agreement we have with ST. We do appreciate that the bill does make clear that ST qualifies to enter into cooperative agreements. The bill will restrict our ability to take advantage of a current leasing practice that is supported by the FHWA and used by other states. WSDOT's standard leasing practice is to accept payments equivalent to economic rent. The consideration may be cash or the lessee providing highway benefits to the motoring public. Federal law allows for right-of-ways to be made available without charge to publicly owned mass transit authorities. We have a policy that has been in place for over 13 years, to whenever possible have a joint use facility. In implementing that policy ST has contributed \$292 million dollars worth of highway improvements. These are properties that are on limited access facilities and are suitable only for a transportation use.

**Persons Testifying:** PRO: Bruce Nurse, Eastside Transportation Association.

CON: Desmond Brown, Sound Transit.

OTHER: Bob Pishue, Washington Policy Center; Allison Camden, WSDOT.

**Persons Signed In To Testify But Not Testifying:** No one.