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HOUSE BILL 1274

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives R. Fisher and Schmidt.

Read first time January 25, 1991.      Referred to Committee on  
Transportation.

1            AN ACT Relating to street utilities; reenacting and amending RCW  
2 82.80.040, 82.80.050, and 82.80.060; reenacting RCW 82.80.070; adding  
3 a new chapter to Title 35 RCW; recodifying RCW 82.80.040, 82.80.050,  
4 82.80.060, and 82.80.070; and declaring an emergency.

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

6            **Sec. 1.** RCW 82.80.040 and 1990 c 42 s 209 are each reenacted and  
7 amended to read as follows:

8            A city or town may elect by action of its legislative authority to  
9 own, construct, maintain, operate, and preserve all or any described  
10 portion of its streets as a separate enterprise and facility, known as  
11 a street utility, and from time to time add other existing or new  
12 streets to that street utility, with full power to own, construct,  
13 maintain, operate, and preserve such streets.      The legislative  
14 authority of the city or town may include as a part of the street  
15 utility, street lighting, traffic control devices, sidewalks, curbs,

1 gutters, parking facilities, and drainage facilities. The legislative  
2 authority of the city or town is the governing body of the street  
3 utility.

4 **Sec. 2.** RCW 82.80.050 and 1990 c 42 s 210 are each reenacted and  
5 amended to read as follows:

6 A city or town electing to own, construct, maintain, operate, and  
7 preserve its streets as a separate street utility may levy periodic  
8 charges for the use or availability of the streets in ~~((order to meet))~~  
9 a total annual amount of up to fifty percent of the actual costs for  
10 maintenance, operation, and preservation of facilities under the  
11 jurisdiction of the street utility. The rates charged for the use must  
12 be uniform for the same class of service and all ~~((classes of service))~~  
13 business and residential properties must be subject to the utility  
14 charge. Charges imposed on businesses shall be measured solely by the  
15 number of employees and shall not exceed the equivalent of two dollars  
16 per full-time equivalent employee per month. Charges imposed against  
17 owners or occupants of residential property shall not exceed two  
18 dollars per month per housing unit as defined in RCW 35.95.040.  
19 ~~((Charges against owners of))~~ Property that is exempt from property tax  
20 under chapter 84.36 RCW or leasehold tax under chapter 82.29A RCW shall  
21 be ~~((based solely on the number of employees of the tax exempt body~~  
22 ~~associated with the property. Provided that in recognition of the~~  
23 ~~benefits accruing to the city or town from the service provided by such~~  
24 ~~tax exempt entities, the charges authorized herein shall be paid by the~~  
25 ~~city or town))~~ exempt from such charges. The charges shall not be  
26 computed on the basis of an ad valorem charge on the underlying real  
27 property and improvements. This section shall not be used as a basis  
28 to directly or indirectly charge transportation impact fees or  
29 mitigation fees of any kind against new development. A city or town

1 may contract with any other utility or local government to provide for  
2 billing and collection of the street utility charges.

3 In classifying service furnished within the general categories of  
4 business, residential, and exempt properties, the city or town  
5 legislative authority may in its discretion consider any or all of the  
6 following factors: The difference in cost of service to the various  
7 users or traffic generators; location of the various users or traffic  
8 generators within the city or town; the difference in cost of  
9 maintenance, operation, construction, repair, and replacement of the  
10 various parts of the enterprise and facility; the different character  
11 of the service furnished to various users or traffic generators within  
12 the city or town; the size and quality of the street service furnished;  
13 the time of use or traffic generation; capital contributions made to  
14 the facility including but not limited to special assessments; and any  
15 other matters that present a reasonable difference as a ground for  
16 distinction, or the entire category of business, residential, or exempt  
17 may be established as a single class. The city or town may exempt any  
18 or all exempt property or uses of property from the charges. Pursuant  
19 to RCW 74.38.070(1), the city or town may reduce or exempt charges on  
20 residential properties to the extent of their occupancy by low-income  
21 senior citizens and low-income disabled citizens.

22 The charges shall be charges against the property and the use  
23 thereof and shall become liens and be enforced in the same manner as  
24 rates and charges for the use of systems of sewerage under chapter  
25 35.67 RCW.

26 Any city or town ordinance or resolution creating a street utility  
27 must contain a provision granting to any business a credit against any  
28 street utility charge the full amount of any commuter or employer tax  
29 paid for transportation purposes by that business.

1       **Sec. 3.** RCW 82.80.060 and 1990 c 42 s 211 are each reenacted and  
2 amended to read as follows:

3       The city or town electing to own, construct, maintain, operate, and  
4 preserve its streets and related facilities as a utility under this  
5 chapter may finance the construction, operation, maintenance, and  
6 preservation through local improvement districts, utility local  
7 improvement districts, or with proceeds from general obligation bonds  
8 and revenue bonds payable from the charges issued in accordance with  
9 chapter 35.41 ((~~or~~)), 35.92, or 39.46 RCW, or any combination thereof.  
10 The city or town may use, in addition to the charges authorized by RCW  
11 82.80.050, funds from general taxation, money received from the  
12 federal, state, or other local governments, and other funds made  
13 available to it. The proceeds of the charges authorized by RCW  
14 82.80.050 shall be used strictly for transportation purposes in  
15 accordance with this chapter and RCW 82.80.070.

16       **Sec. 4.** RCW 82.80.070 and 1990 c 42 s 212 are each reenacted to  
17 read as follows:

18       (1) The proceeds collected pursuant to the exercise of the local  
19 option authority of RCW 82.80.010, 82.80.020, 82.80.030, and 82.80.050  
20 (hereafter called "local option transportation revenues") shall be used  
21 for transportation purposes only, including but not limited to the  
22 following: The operation and preservation of roads, streets, and other  
23 transportation improvements; new construction, reconstruction, and  
24 expansion of city streets, county roads, and state highways and other  
25 transportation improvements; development and implementation of public  
26 transportation and high-capacity transit improvements and programs; and  
27 planning, design, and acquisition of right of way and sites for such  
28 transportation purposes. The proceeds collected from excise taxes on  
29 the sale, distribution, or use of motor vehicle fuel and special fuel

1 under RCW 82.80.010 shall be used exclusively for "highway purposes" as  
2 that term is construed in Article II, section 40 of the state  
3 Constitution.

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

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

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

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

22 (c) The program shall indicate how the local transportation plan is  
23 coordinated with applicable transportation plans for the region and for  
24 adjacent jurisdictions.

25 (d) The program shall include at least a six-year funding plan,  
26 updated annually, identifying the specific public and private sources  
27 and amounts of revenue necessary to fund the program. The program  
28 shall include a proposed schedule for construction of projects and  
29 expenditure of revenues. The funding plan shall consider the  
30 additional local tax revenue estimated to be generated by new

1 development within the plan area if all or a portion of the additional  
2 revenue is proposed to be earmarked as future appropriations for  
3 transportation improvements in the program.

4 (4) Local governments with a population greater than eight thousand  
5 exercising the authority for local option transportation funds shall  
6 periodically review and update their transportation program to ensure  
7 that it is consistent with applicable local and regional transportation  
8 and land use plans and within the means of estimated public and private  
9 revenue available.

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

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

17 (b) Second, it is necessitated by existing or reasonably  
18 foreseeable congestion;

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

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

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

26 (6) It is the intent of the legislature that as a condition of  
27 levying, receiving, and expending local option transportation revenues,  
28 no local government agency use the revenues to replace, divert, or loan  
29 any revenues currently being used for transportation purposes to  
30 nontransportation purposes. The association of Washington cities and

1 the Washington state association of counties, in consultation with the  
2 legislative transportation committee, shall study the issue of  
3 nondiversion and make recommendations to the legislative transportation  
4 committee for language implementing the intent of this section by  
5 December 1, 1990.

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

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

14 NEW SECTION. **Sec. 5.** RCW 82.80.040, 82.80.050, and 82.80.060  
15 as reenacted and amended by this act, and RCW 82.80.070 as reenacted by  
16 this act are each recodified as sections in a new chapter in Title 35  
17 RCW.

18 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of the  
20 state government and its existing public institutions, and shall take  
21 effect immediately.