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**SENATE BILL 5813**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Cleveland, Miloscia, Liias, Darneille, Hobbs, McAuliffe, and Habib

AN ACT Relating to local transportation options; amending RCW 36.73.065, 82.80.070, and 82.80.140; adding a new chapter to Title 35 RCW; adding a new chapter to Title 36 RCW; repealing RCW 82.80.040, 82.80.050, and 82.80.060; and providing an effective date.

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

NEW SECTION. **Sec.**  FINDINGS—TRANSPORTATION UTILITY PURPOSE. The legislature finds that:

(1) The maintenance, operation, and preservation of the streets and the provision of transportation utility service in urban areas is essential for the safety, protection, and convenience of residents, businesses, and governmental entities receiving the service. Inadequate and poorly maintained streets and poor transportation utility service adversely affect the health, safety, welfare, and property of residents and businesses located in these areas. Harmful impacts include traffic congestion, decreased vehicle fuel efficiency, and a consequent severe adverse impact on air quality. Further adverse impacts include vehicle damage, increased accident frequency, more serious accidents, and decreased access to needed services and businesses.

(2) Residents and businesses in areas with poorly maintained streets and poor transportation utility service experience decreased access to service and delivery vehicle support, including decreased access to public transportation and taxi service, the delivery of goods and services, and slower response times for fire, police, and emergency medical vehicle services.

(3) Poor transportation utility service in urban areas accelerates deterioration of private vehicles, increases traffic volumes, and exacerbates peak flow traffic problems for the residents and businesses in affected areas. Furthermore, it is also the intent of the legislature to provide credits for demonstrable reductions in automobile traffic in order to provide incentives to make better land use decisions and to encourage behaviors that reduce needless wear on our transportation infrastructures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) "Transportation utility" means a citywide utility service offered by a city to provide transportation services in accordance with this chapter. Transportation utility activities may further be identified by ordinance consistent with this chapter.

(7) "Transportation utility rates" means transportation utility user charges authorized under this chapter for transportation utility services.

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

(9) "Transportation utility service area" means a citywide area, excluding private streets, in which transportation utility services are provided and transportation utility rates are charged, as established under this chapter.

NEW SECTION. **Sec.**  ELIGIBILITY. (1) The authority to establish a transportation utility under this chapter applies to every city.

(2) A city that establishes a transportation utility under this chapter before January 1, 2018, is considered a pilot project and is required to submit a report to the house of representatives and senate transportation committees by December 31, 2018. The report must include, but not be limited to: A description on how the transportation utility was established, the creation of the rate system, and the establishment of its advisory committee; and a copy of the annual report required in section 5(4)(c)(ii)(A) of this act.

NEW SECTION. **Sec.**  LEGISLATIVE AUTHORITY ACTION. (1) Subject to section 5 of this act, the legislative authority of a city may submit an authorizing proposition to the voters and, if approved, establish a transportation utility to provide transportation utility service, with the authority to own and operate the transportation utility. A transportation utility may only be established by a city if an authorizing proposition is approved by the voters of the city.

(2) The legislative authority of the city is the governing body of the transportation utility. The legislative authority of the city may not assess a transportation utility user rate outside its jurisdictional limits.

NEW SECTION. **Sec.**  FORMATION PROCESS. (1) The legislative authority of a city shall conduct a public hearing prior to submitting an authorizing proposition to the voters for the formation of a transportation utility. Notice of the hearing must include an explanation of the proposal and the proposed transportation utility service area. The notice may include a description of the condition of the pavement areas for the proposed transportation utility service area, summaries of pertinent studies, field investigations, and pavement condition scores, including areas classified, or at risk to be classified, for no further maintenance without transportation utility support. The notice must include a general proposed plan for transportation utility service to be carried out with transportation utility rates, a summary of the proposed transportation utility rates, a description of the proposed area for utility service, and any other pertinent information. The notice must be published once a week for two consecutive weeks in a newspaper of general circulation within the proposed transportation utility service area. Alternatively, there may be one publication, combined with the presentation of the notice information on a government cable television channel at least ten times in the two-week period and prominently posting the required information on a municipal web site.

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

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

(4)(a) The transportation utility ordinance must include:

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  RATES. (1)(a) If a city creates a transportation utility, the city may establish transportation utility rates by appropriate legislative action not inconsistent with this section.

(b) Transportation utility rates apply to residents, businesses, governmental entities, and other users located in the transportation utility service area. Once rates are established using sound engineering principles and the factors identified in subsection (2) of this section, rates may be expressed as a designated dollar amount per trip generated, type of household unit, or type of business. Rates may be collected no more frequently than monthly and no less frequently than annually. Rates set for users other than households may be expressed in equivalents of household units or as specified by ordinance. A city must phase in rates on a schedule of not less than four years, as the city may determine.

(2)(a) In establishing transportation utility rates, the following factors must be considered:

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

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

(b) In establishing transportation utility rates, the following factors may be considered:

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

(ii)(A) User location;

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

(C) User proximity to arterial streets;

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

(E) Times of use;

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

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

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

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

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

(3) Transportation utility rates may not:

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

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

(c) Be imposed on undeveloped premises.

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

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

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

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

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

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

(7) Transportation utility rates must be uniform for the same class of ratepayers receiving services provided or imposing burdens on a transportation system. Transportation utility rates collected by a transportation utility must not be established in excess of the amount authorized by the ordinance.

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

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

(10) Transportation utility rates may not be computed based on the ad valorem value of the underlying real property or its improvements.

(11) Transportation utility rates established under this section do not constitute taxes or fees as provided under RCW 82.02.050 through 82.02.100 or chapter 39.92 RCW. A transportation utility may be funded by rates or any other lawful revenue source.

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

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

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

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

NEW SECTION. **Sec.**  RATE COLLECTION. (1) A transportation utility ordinance may include provision of a penalty for rates sixty days past due, but not to exceed one percent per month thereafter on the unpaid balance. All unpaid transportation utility rates may be collected against the owner, tenant, or occupant in any manner as provided by law, but for a tenant or occupant, rates collected may not be outside the period of tenancy or occupancy.

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

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

(2) Permitted purposes include any identified transportation utility service.

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

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

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

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

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

NEW SECTION. **Sec.**  Any city or county in which a transportation benefit district has been established pursuant to chapter 36.73 RCW with boundaries coterminous with the boundaries of the city or county may by ordinance or resolution of the city or county legislative authority assume the rights, powers, functions, and obligations of the transportation benefit district in accordance with this chapter.

NEW SECTION. **Sec.**  (1) The assumption of the rights, powers, functions, and obligations of a transportation benefit district may be initiated by the adoption of an ordinance or a resolution by the city or county legislative authority indicating its intention to conduct a hearing concerning the assumption of such rights, powers, functions, and obligations. If the city or county legislative authority adopts such an ordinance or a resolution of intention, the ordinance or resolution must set a time and place at which the city or county legislative authority will consider the proposed assumption of the rights, powers, functions, and obligations of the transportation benefit district, and must state that all persons interested may appear and be heard. The ordinance or resolution of intention must be published at least two times during the two weeks preceding the scheduled hearing in newspapers of daily general circulation printed or published in the city or county in which the transportation benefit district is to be located.

(2) At the time scheduled for the hearing in the ordinance or resolution of intention, the city or county legislative authority must consider the assumption of the rights, powers, functions, and obligations of the transportation benefit district and hear those appearing and all protests and objections to it. The city or county legislative authority may continue the hearing from time to time, not exceeding sixty days in all.

NEW SECTION. **Sec.**  (1) If, after receiving testimony, the city or county legislative authority determines that the public interest or welfare would be satisfied by the city or county assuming the rights, powers, immunities, functions, and obligations of the transportation benefit district, the city or county legislative authority may declare that to be its intent and assume such rights, powers, immunities, functions, and obligations by ordinance or resolution, providing that the city or county is vested with every right, power, immunity, function, and obligation currently granted to or possessed by the transportation benefit district.

(2) Upon assumption of the rights, powers, immunities, functions, and obligations of the transportation benefit district by the city or county, the governing body established pursuant to RCW 36.73.020 must be abolished and the city or county legislative authority is vested with all rights, powers, immunities, functions, and obligations otherwise vested by law in the governing board of the transportation benefit district.

NEW SECTION. **Sec.**  No transfer of any function made pursuant to this chapter may be construed to impair or alter any existing rights acquired under chapter 36.73 RCW or any other provision of law relating to transportation benefit districts, nor as impairing or altering any actions, activities, or proceedings validated thereunder, nor as impairing or altering any civil or criminal proceedings instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor any administrative action taken thereunder; and neither the assumption of control of any transportation benefit district function by a city or county, nor any transfer of rights, powers, functions, and obligations as provided in this chapter, may impair or alter the validity of any act performed by such transportation benefit district or division thereof or any officer thereof prior to the assumption of such rights, powers, functions, and obligations by any city or county as authorized under this chapter.

NEW SECTION. **Sec.**  (1) All rules and regulations and all pending business before the board of any transportation benefit district transferred pursuant to this chapter must be continued and acted upon by the city or county.

(2) All existing contracts and obligations of the transferred transportation benefit district remain in full force and effect and must be performed by the city or county. A transfer authorized in this chapter does not affect the validity of any official act performed by any official or employee prior to the transfer authorized pursuant to this chapter.

NEW SECTION. **Sec.**  (1) All reports, documents, surveys, books, records, files, papers, or other writings relating to the administration of the powers, duties, and functions transferred pursuant to this chapter and available to the transportation benefit district must be made available to the city or county.

(2) All funds, credits, or other assets held in connection with powers, duties, and functions transferred under this chapter must be assigned to the city or county.

(3) Any appropriations or federal grant made to the transportation benefit district for the purpose of carrying out the rights, powers, functions, and obligations authorized to be assumed by a city or county pursuant to this chapter, on the effective date of such transfer, must be credited to the city or county for the purpose of carrying out such transferred rights, powers, functions, and obligations.

NEW SECTION. **Sec.**  The city or county must assume and agree to provide for the payment of all of the indebtedness of the transportation benefit district, including the payment and retirement of outstanding general obligation and revenue bonds issued by the transportation benefit district.

**Sec.**  RCW 36.73.065 and 2012 c 152 s 3 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, taxes, fees, charges, and tolls may not be imposed by a district without approval of a majority of the voters in the district voting on a proposition at a general or special election. The proposition must include a specific description of: (a) The transportation improvement or improvements proposed by the district; (b) any rebate program proposed to be established under RCW 36.73.067; and (c) the proposed taxes, fees, charges, and the range of tolls imposed by the district to raise revenue to fund the improvement or improvements or rebate program, as applicable.

(2) Voter approval under this section must be accorded substantial weight regarding the validity of a transportation improvement as defined in RCW 36.73.015.

(3) A district may not increase any taxes, fees, charges, or range of tolls imposed or change a rebate program under this chapter once the taxes, fees, charges, tolls, or rebate program takes effect, unless authorized by the district voters pursuant to RCW 36.73.160, or up to fifty dollars of the vehicle fee authorized in RCW 82.80.140 by the governing board of the district or up to two-tenths of one percent of the sales and use tax authorized in RCW 82.14.0455 by the governing board of the district if the district is entirely outside the boundaries of a regional transit authority that includes a county with a population of one million or more.

(4)(a) A district that includes all the territory within the boundaries of the jurisdiction, or jurisdictions, establishing the district, but not including territory in which a fee is currently being collected under RCW 82.80.140, may impose by a majority vote of the governing board of the district the following fees, taxes, and charges:

(i) Up to ((~~twenty~~))fifty dollars of the vehicle fee authorized in RCW 82.80.140; ((~~or~~))

(ii) Up to two-tenths of one percent of the sales and use tax authorized in RCW 82.14.0455, if the district is entirely outside the boundaries of a regional transit authority that includes a county with a population of one million or more; or

(iii) A fee or charge in accordance with RCW 36.73.120.

(b) The vehicle fee authorized in (a) of this subsection may only be imposed for a passenger-only ferry transportation improvement if the vehicle fee is first approved by a majority of the voters within the jurisdiction of the district.

(c)(i) A district solely comprised of a city or cities ((~~shall~~))may not impose the fees or charges identified in (a) of this subsection within one hundred eighty days after July 22, 2007, unless the county in which the city or cities reside, by resolution, declares that it will not impose the fees or charges identified in (a) of this subsection within the one hundred eighty-day period; or

(ii) A district solely comprised of a city or cities identified in RCW 36.73.020(6)(b) may not impose the fees or charges until after May 22, 2008, unless the county in which the city or cities reside, by resolution, declares that it will not impose the fees or charges identified in (a) of this subsection through May 22, 2008.

(5) If the interlocal agreement in RCW 82.80.140(2)(a) cannot be reached, a district that includes only the unincorporated territory of a county may impose by a majority vote of the governing body of the district up to ((~~twenty~~))fifty dollars of the vehicle fee authorized in RCW 82.80.140 or up to two-tenths of one percent of the sales and use tax authorized in RCW 82.14.0455.

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

(1) The proceeds collected pursuant to the exercise of the local option authority of RCW 82.80.010((~~,~~))and 82.80.030((~~, and 82.80.050~~)) (hereafter called "local option transportation revenues") shall be used for transportation purposes only, including but not limited to the following: The operation and preservation of roads, streets, and other transportation improvements; new construction, reconstruction, and expansion of city streets, county roads, and state highways and other transportation improvements; development and implementation of public transportation and high capacity transit improvements and programs; and planning, design, and acquisition of right-of-way and sites for such transportation purposes. The proceeds collected from excise taxes on the sale, distribution, or use of motor vehicle fuel and special fuel under RCW 82.80.010 shall be used exclusively for "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 82.80.140 and 2010 c 161 s 917 are each amended to read as follows:

(1) Subject to the provisions of RCW 36.73.065, a transportation benefit district under chapter 36.73 RCW may fix and impose an annual vehicle fee, not to exceed one hundred dollars per vehicle registered in the district, for each vehicle subject to vehicle license fees under RCW 46.17.350(1) (a), (c), (d), (e), (g), (h), (j), or (n) through (q) and for each vehicle subject to gross weight license fees under RCW 46.17.355 with a scale weight of six thousand pounds or less.

(2)(a) A district that includes all the territory within the boundaries of the jurisdiction, or jurisdictions, establishing the district, but not including territory in which a fee is currently being collected under this section, may impose by a majority vote of the governing board of the district up to ((~~twenty~~))fifty dollars of the vehicle fee authorized in subsection (1) of this section.

(i) If the district is countywide, the revenues of the fee ((~~shall~~))must be distributed to each city within the ((~~county~~))district by interlocal agreement that must be effective prior to imposition of the fee. The interlocal agreement is effective when approved by the ((~~county~~))district and sixty percent of the cities representing seventy-five percent of the population of the cities within the ((~~county~~))district in which the countywide fee is collected.

(ii) If the district is less than countywide, the revenues of the fee must be distributed to each city within the district by interlocal agreement that must be effective prior to imposition of the fee.

(b) A district may not impose a fee under this subsection (2):

(i) For a passenger-only ferry transportation improvement unless the vehicle fee is first approved by a majority of the voters within the jurisdiction of the district; or

(ii) That, if combined with the fees previously imposed by another district within its boundaries under RCW 36.73.065(4)(a)(i), exceeds ((~~twenty~~))fifty dollars.

If a district imposes or increases a fee under this subsection (2) that, if combined with the fees previously imposed by another district within its boundaries, exceeds ((~~twenty~~))fifty dollars, the district shall provide a credit for the previously imposed fees so that the combined vehicle fee does not exceed ((~~twenty~~))fifty dollars.

(3) The department of licensing shall administer and collect the fee. The department shall deduct a percentage amount, as provided by contract, not to exceed one percent of the fees collected, for administration and collection expenses incurred by it. The department shall remit remaining proceeds to the custody of the state treasurer. The state treasurer shall distribute the proceeds to the district on a monthly basis.

(4) No fee under this section may be collected until six months after approval under RCW 36.73.065.

(5) The vehicle fee under this section applies only when renewing a vehicle registration, and is effective upon the registration renewal date as provided by the department of licensing.

(6) The following vehicles are exempt from the fee under this section:

(a) Campers, as defined in RCW 46.04.085;

(b) Farm tractors or farm vehicles, as defined in RCW 46.04.180 and 46.04.181;

(c) Mopeds, as defined in RCW 46.04.304;

(d) Off-road and nonhighway vehicles, as defined in RCW 46.04.365;

(e) Private use single-axle trailer, as defined in RCW 46.04.422;

(f) Snowmobiles, as defined in RCW 46.04.546; and

(g) Vehicles registered under chapter 46.87 RCW and the international registration plan.

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

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

(1)RCW 82.80.040 (Street utility—Establishment) and 1991 c 141 s 1;

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

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

NEW SECTION. **Sec.**  Sections 1 through 13 of this act constitute a new chapter in Title 35 RCW.

NEW SECTION. **Sec.**  Sections 14 through 20 of this act constitute a new chapter in Title 36 RCW.

NEW SECTION. **Sec.**  This act takes effect August 1, 2015.

**--- END ---**