
SUBSTITUTE HOUSE BILL 1929

State of Washington 62nd Legislature 2011 Regular Session

By House Transportation (originally sponsored by Representatives Lias, Ladenburg, Clibborn, and Billig)

READ FIRST TIME 02/25/11.

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 7 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 6 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.** ELIGIBILITY. (1) The authority to establish
23 a street maintenance utility under this chapter only applies to the
24 following cities, based on the population of the cities as of the
25 effective date of this section as determined by the United States
26 census:

27 (a) Cities between one hundred fifty thousand and three hundred
28 thousand in population;

29 (b) Cities within a county with a population of more than one
30 million five hundred that:

31 (i) Have a population between nine thousand and ten thousand;

32 (ii) Have a population between twenty thousand and twenty-one
33 thousand;

34 (iii) Have a population between forty-five thousand and forty-eight
35 thousand;

36 (iv) Have a population between fifty-four thousand and sixty
37 thousand;

1 (v) Have a population between one hundred ten thousand and one
2 hundred fifteen thousand;

3 (c) Cities within a county with a population between seven hundred
4 thousand and seven hundred fifty thousand that have a population
5 between forty thousand and fifty thousand; and

6 (d) A city that has a population of more than sixty thousand and is
7 within both a county with a population of more than one million five
8 hundred thousand and a county with a population between seven hundred
9 fifty thousand and nine hundred thousand.

10 (2) Any city in subsection (1) of this section that does not
11 receive voter approval pursuant to section 4 of this act before
12 December 31, 2017, may not establish a street maintenance utility.

13 (3) Cities that establish a street maintenance utility under this
14 chapter is considered a pilot project and are required to submit a
15 report to the house of representatives and senate transportation
16 committees by December 31, 2017. The report must include, but not be
17 limited to: A description on how the street maintenance utility was
18 established, the creation of the rate system, and the establishment of
19 its advisory committee; and a copy of the annual report required in
20 section 5(4)(c)(ii)(A) of this act.

21 NEW SECTION. **Sec. 4.** LEGISLATIVE AUTHORITY ACTION. (1) Subject
22 to section 5 of this act, the legislative authority of a city may
23 submit an authorizing proposition to the voters and, if approved,
24 establish a street maintenance utility to provide street maintenance
25 utility service, with the authority to own and operate the street
26 maintenance utility. A street maintenance utility may only be
27 established by a city if an authorizing proposition is approved by the
28 voters of the city.

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

33 NEW SECTION. **Sec. 5.** FORMATION PROCESS. (1) The legislative
34 authority of a city shall conduct a public hearing prior to submitting
35 an authorizing proposition to the voters for the formation of a street
36 maintenance utility. Notice of the hearing must include an explanation

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

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

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

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

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

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

37 (iii) A finding that the street maintenance utility rates are
38 intended to be adequate to provide revenues sufficient for the street

1 maintenance utility, including payment of the principal and interest on
2 such bonds or warrants and payments that the street maintenance utility
3 is obligated to set aside in any special fund or funds created for such
4 purposes;

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

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

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

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

35 (c)(i) The street maintenance utility ordinance must include a
36 policy to address major plan changes that affect street maintenance
37 utility project delivery or ability to finance identified projects.
38 The policy must at least address material changes to cost, scope, and

1 schedule, and how the city will address those changes. At a minimum,
2 the city shall consult with the street maintenance utility advisory
3 committee and publish a public notice regarding how the plan change
4 should be resolved.

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

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

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

24 NEW SECTION. **Sec. 6. RATES.** (1)(a) If a city creates a street
25 maintenance utility, the city may establish street maintenance utility
26 rates by appropriate legislative action not inconsistent with this
27 section.

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

1 specified by ordinance. A city must phase in rates on a schedule of
2 not less than four years, as the city may determine.

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

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

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

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

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

18 (ii)(A) User location;

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

20 (C) User proximity to arterial streets;

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

22 (E) Times of use;

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

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

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

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

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

36 (3) Street maintenance utility rates may not:

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

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

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

30 NEW SECTION. **Sec. 7. APPEALS.** (1) The street maintenance utility
31 ordinance under section 6 of this act must include provision for a user
32 to appeal a rate or rate classification upon a showing that the user
33 does not generate equivalent trips, on the average, to other parcels in
34 the same rate class, that the appellant's rate has been improperly
35 calculated, or another good cause. An appeal may also request a review
36 of whether the base rate is adequate to cover ongoing base level
37 operations and whether base rate items are properly allocated to the

1 base rate for a given class of users. Refunds on collected rates are
2 not required for any period before the time a written appeal is
3 received under procedures established by ordinance. A reasonable
4 charge, not to exceed actual cost of the appeal, may be required to be
5 paid by an appealing ratepayer.

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

19 NEW SECTION. **Sec. 8.** RATE COLLECTION. (1) A street maintenance
20 utility ordinance may include provision of a penalty for rates sixty
21 days past due, but not to exceed one percent per month thereafter on
22 the unpaid balance. All unpaid street maintenance utility rates may be
23 collected against the owner, tenant, or occupant in any manner as
24 provided by law, but for a tenant or occupant, rates collected may not
25 be outside the period of tenancy or occupancy.

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

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

5 (2) Permitted purposes include any identified street maintenance
6 utility service.

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

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

15 NEW SECTION. **Sec. 12.** OTHER RESOURCES. A city electing to
16 establish a street maintenance utility under this chapter may use any
17 other resources for street maintenance utility service otherwise
18 permitted by law, consistent with any limitations on the service.

19 NEW SECTION. **Sec. 13.** SCOPE. (1) This chapter or any action
20 taken under its authority does not diminish any other general or
21 specific municipal regulatory or funding powers otherwise permitted by
22 law.

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

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

30 NEW SECTION. **Sec. 15.** REPEALER. The following acts or parts of
31 acts are each repealed:

- 1 (1) RCW 82.80.040 (Street utility--Establishment) and 1991 c 141 s
2 1;
- 3 (2) RCW 82.80.050 (Street utility--Charges, credits) and 2006 c 301
4 s 5, 2000 c 103 s 21, & 1991 c 141 s 2; and
- 5 (3) RCW 82.80.060 (Use of other proceeds by utility) and 1991 c 141
6 s 3.

7 **Sec. 16.** RCW 82.80.070 and 2005 c 319 s 139 are each amended to
8 read as follows:

9 (1) The proceeds collected pursuant to the exercise of the local
10 option authority of RCW 82.80.010(~~(7)~~) and 82.80.030(~~(7, and 82.80.050)~~)
11 (hereafter called "local option transportation revenues") shall be used
12 for transportation purposes only, including but not limited to the
13 following: The operation and preservation of roads, streets, and other
14 transportation improvements; new construction, reconstruction, and
15 expansion of city streets, county roads, and state highways and other
16 transportation improvements; development and implementation of public
17 transportation and high capacity transit improvements and programs; and
18 planning, design, and acquisition of right-of-way and sites for such
19 transportation purposes. The proceeds collected from excise taxes on
20 the sale, distribution, or use of motor vehicle fuel and special fuel
21 under RCW 82.80.010 shall be used exclusively for "highway purposes" as
22 that term is construed in Article II, section 40 of the state
23 Constitution.

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

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

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

36 (b) The program shall be based on an adopted transportation plan
37 for the geographic areas covered and shall identify the proposed

1 operation and construction of transportation improvements and services
2 in the designated plan area intended to be funded in whole or in part
3 by local option transportation revenues and shall identify the annual
4 costs applicable to the program.

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

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

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

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

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

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

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

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

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

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

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

19 NEW SECTION. **Sec. 17.** Sections 1 through 14 of this act
20 constitute a new chapter in Title 35 RCW.

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

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