

HOUSE BILL REPORT

2SHB 1591

As Passed House:
February 13, 2010

Title: An act relating to the use of certain transportation benefit district funds.

Brief Description: Concerning the use of certain transportation benefit district funds.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Uptegrove, Clibborn, Simpson and Liias).

Brief History:

Committee Activity:

Transportation: 2/10/09, 2/18/09 [DPS]; 1/14/10, 1/19/10 [DP2S].

Floor Activity:

Passed House: 2/13/10, 56-38.

Brief Summary of Second Substitute Bill

- Provides that a transportation improvement project may be contained in the transportation plan of a city, county, or other eligible jurisdiction.
- Allows impact fees to be imposed for transportation improvements constructed by any entity, and removes the requirement that improvements be constructed by the transportation benefit district itself.
- Authorizes the imposition of voter-approved sales and use taxes beyond the 10-year limitation if the sales tax is initially imposed after July 1, 2010, and the revenues are dedicated to the repayment of general obligation bonds.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 15 members: Representatives Clibborn, Chair; Liias, Vice Chair; Dickerson, Eddy, Finn, Moeller, Morris, Rolfes, Sells, Simpson, Springer, Takko, Uptegrove, Williams and Wood.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 13 members: Representatives Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong, Campbell, Driscoll, Ericksen, Herrera, Johnson, Klippert, Kristiansen, Nealey, Shea and Wallace.

Staff: Kathryn Leathers (786-7114).

Background:

A transportation benefit district (TBD) is a quasi-municipal corporation and independent taxing authority that may be established by a county or city for the purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the district.

A "transportation improvement" means any project contained in the transportation plan of the state or regional transportation planning organization, and may include investments in city streets, county roads, new or existing highways of statewide significance, principal arterials of regional significance, high capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance, as well as the operation, preservation, and maintenance of these facilities or programs. The proposed improvement must also be consistent with any state, regional, and local transportation plan, and must be necessitated by existing or reasonably foreseeable congestion.

The legislative authorities proposing to establish a district, or to modify the boundaries of an existing district, must first issue public notice of that intent and then hold a public hearing. Following the public hearing, the district may be formed or modified if the legislative authorities find that such action is in the public interest and if an ordinance providing for such action is adopted. When establishing the district's area, the county or city proposing to create the TBD may only include other jurisdictions through interlocal agreements. The TBD may include areas within more than one county, city, port district, county transportation authority, or public transportation benefit area. A TBD may be comprised of less than the entire area within each participating jurisdiction.

A TBD is governed by the legislative authority of the jurisdiction proposing to create it, or by a governance structure prescribed in an interlocal agreement among multiple jurisdictions. If a TBD includes more than one jurisdiction, the governing body must have at least five members, including at least one elected official from each of the participating jurisdictions. Port districts and transit districts may participate in the establishment of a TBD but may not initiate TBD formation.

Certain issues require a TBD to take additional accountability steps. The governing body must develop a material change policy to address major plan changes that affect project delivery, cost, or scope, or the ability to finance the plan. If project costs exceed original costs by more than 20 percent, there must be a public hearing to solicit comment on how the cost change should be resolved. Revenue rates, once imposed, may not be increased unless authorized by voter approval. Any transportation improvement by a TBD is owned by the jurisdiction where the improvement is located or by the state if the improvement is a state highway. A TBD dissolves and ceases to exist 30 days after the financing or debt service on the improvement project is completed and paid. If there is no debt service on the project, the

TBD must dissolve within 30 days from the date construction of the improvement is completed.

Revenue Measures Generally.

Transportation benefit districts have independent taxing authority to implement the following revenue measures, all of which are subject to voter approval, except as otherwise noted:

- a local sales and use tax of up to 0.2 percent;
- a local annual vehicle fee of up to \$100 on vehicle license renewals, \$20 of which may be imposed without voter approval;
- excess property taxes, for a period of up to one year; and
- tolls, subject to legislative authorization and approval by the Transportation Commission if imposed on state routes.

Transportation benefits districts may impose the following revenue measures without voter approval:

- transportation impact fees on commercial and industrial development; and
- except for passenger-only ferry improvements, up to \$20 in local annual vehicle license renewals.

Unless approved by the voters, a sales tax may not be imposed for a period exceeding 10 years. In no event may a sales tax be imposed for more than 20 years. The TBDs may issue general obligation and revenue bonds. In addition, TBDs may form local improvement districts (LID) to provide transportation improvements, and may impose special assessments on all property specially benefitted by the improvements. The district may form a LID only if a petition process is used, which requires that property owners representing a majority of the area within the proposed LID initiate a petition process.

Transportation Impact Fees.

Transportation impact fees are charges imposed by local governments on new development projects for the purpose of mitigating off-site transportation impacts that are a direct result of the proposed development. A TBD is authorized to impose impact fees on the construction of commercial or industrial buildings, or the development of land for commercial purposes. The impact fees must be used exclusively for transportation improvements constructed by the district, and must be reasonably necessary as a result of the construction or development. If a county or city within the district is levying a fee for a transportation improvement, the fee shall be credited against the amount of the fee imposed by the district.

Summary of Second Substitute Bill:

It is clarified that a transportation improvement means, in addition to any project contained in the transportation plan of the state or regional transportation planning organization, any project contained in the transportation plan of a city, county, or any jurisdiction eligible to be included in a transportation benefit district (TBD).

It is clarified that TBDs are authorized to impose impact fees for transportation improvements within the district that are constructed by any entity, not only for those improvements constructed by the district itself.

Transportation benefit districts that initially impose a voter-approved sales and use tax after July 1, 2010, are authorized to impose the sales and use tax beyond the 10-year limitation if the tax revenues are dedicated to the repayment of general obligation bonds.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Local jurisdictions are challenged to maintain current investments in the transportation system and to expand those investments. This is a helpful local tool. Since 2009 approximately four or five new transportation benefit districts (TBD) have been established. Local jurisdictions are using this tool and still learning about it.

(In support with amendment) Spokane County is considering forming a regional TBD, but there are some issues that Spokane has struggled with. The changes in this bill are helpful, but there may be a need to change some of the governance statutes to allow for a unified, regional TBD. Currently, there is no nexus with the TBD governing body and the existing transportation bodies. It would be helpful to authorize local metropolitan planning organizations to govern a regional TBD, using interlocal agreements. This would combine transportation planning with funding, and provide more certainty with determining how to move forward. King County recently created a TBD in its unincorporated areas and supports the TBD tool and the provisions in this legislation. There are a few technical and other changes that King County would like to see made in this bill. Other non-technical concerns relate to governance and equal representation when a TBD is less than county-wide. In addition, King County is seeking clarification of what happens to the fees that are being collected when an area is annexed into a city.

(Opposed) None.

Persons Testifying: (In support) Representative Uptegrove, prime sponsor, and Ashley Probart, Association of Washington Cities.

(In support with amendment) Todd Mielke, Spokane County Commissioner; and Genessee Adkins and Doug Hodson, King County Department of Transportation.

Persons Signed In To Testify But Not Testifying: None.