

SENATE BILL REPORT

SB 5857

As Reported By Senate Committee On:
Transportation, February 17, 2000

Title: An act relating to alternative financing mechanisms for regional transit authorities.

Brief Description: Providing alternative financing mechanisms for regional transit authorities.

Sponsors: Senators Goings and Horn.

Brief History:

Committee Activity: Transportation: 2/8/2000, 2/17/2000 [DPS].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5857 be substituted therefor, and the substitute bill do pass.

Signed by Senators Haugen, Chair; Gardner, Vice Chair; Goings, Vice Chair; Costa, Eide, Heavey, Horn, Jacobsen, Johnson, Oke, Patterson, Prentice, T. Sheldon, Shin and Swecker.

Staff: Gene Baxstrom (786-7303)

Background: Federal law permits public transit agencies to transfer tax attributes of an asset to a private investor through a sale and lease-back arrangement. This process involves a public agency acquiring large capital assets, selling or leasing those assets to a private investor who can write off those investments for tax purposes, and lease those assets back to the public agency. The public agency receives an up front payment for the transaction. In the 1990s, leveraged leases have been used by many transit agencies throughout the United States.

As part of its Ten-Year Regional Transit System Plan, Sound Transit plans to acquire numerous assets over the next six years which would qualify for this leveraged lease program. These commuter rail, light rail, and bus equipment, rail facilities and rail line investments are anticipated to exceed \$1.3 billion.

Summary of Substitute Bill: Regional transit authorities are authorized to enter into sale and lease-back, lease-out and lease-back, and similar transactions with respect to equipment, facilities, and other real and personal property.

A payment undertaking agreement is defined as agreements or arrangements to which funds generated by a sale and lease-back or similar transaction are paid over to a financial institution which agrees to meet all or part of the obligations of a regional transit authority to make future rent, debt service or purchase installment payments in connection with the transaction.

These transactions must provide that: 1) the financial institution must have a credit rating in the top two grades; and 2) the set aside of funds for the regional transit authority, together with interest or earnings must pay for rent or debt service for the full term of the transaction plus purchase options. Parties to the agreements must agree that Washington State courts have jurisdiction.

Regional transit authorities may create a public corporation which may undertake activities of an authority, and an authority has powers and rights granted to any city, town or county under the public corporation statutes necessary to implement sale and lease-back transactions.

A sale, lease or transfer of property to or by the regional transit authority is exempt from real estate excise, leasehold excise, sales, use, business and occupation, and ad valorem, real and personal property taxes. These exemptions, however, do not apply to taxes, payable upon first acquisition or use by an authority.

A regional transit authority must report to the State Finance Committee and the Legislature details on sale and lease-back type transactions. No transactions may be initiated after June 30, 2007, but transactions in existence at that time are not affected; however, a transaction may be refinanced or replaced after that date.

Authority provided under this act is in addition to preexisting authority and does not limit other powers. Legislative intent is that additional funds and other benefits can be made available to regional transit authorities though facilitating entry into sale and lease-back, and that while authorities have necessary statutory authority, a clear statement of that authority and tax exemptions is helpful.

Substitute Bill Compared to Original Bill: Specific tax exemptions are set forth rather than being amended by reference. Powers extended to regional transit authorities with regard to public corporations are limited to those granted to cities and counties necessary to conduct sale and lease-back and similar transactions. Reference throughout the bill with respect to new powers or tax exemptions of the regional transit authority are limited to those necessary to carry out sale and lease-back type transactions.

The regional transit authority rather than the State Finance Committee is made responsible for initiating the report on sale lease-back transactions, and more detailed information is prescribed for the report. The sunset date for the authority to carry out these type of transactions is extended from June 30, 2006, to June 30, 2007.

Appropriation: None.

Fiscal Note: Requested on February 7, 2000.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Sound Transit will receive additional funds by utilizing the sale lease-back type transactions. This process has been used by numerous other transit agencies across the country to take advantage of federal tax provisions providing for the sale of the depreciation benefits associated with large capital purchases.

Testimony Against: None.

Testified: Brian McCartan, Sound Transit (pro).