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**SUBSTITUTE SENATE BILL 6649**

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**State of Washington 57th Legislature**

**2002 Regular Session**

**By** Senate Committee on Transportation (originally sponsored by Senators Haugen, Gardner, Jacobsen, Carlson and Winsley)

READ FIRST TIME 02/12/2002.

1 AN ACT Relating to local transportation by authorizing the  
2 establishment of municipal street utilities to maintain streets and  
3 providing local options for funding local transportation; amending RCW  
4 82.80.020; adding new sections to chapter 35.77 RCW; creating new  
5 sections; repealing RCW 82.80.040, 82.80.050, and 82.80.060; and  
6 providing an effective date.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.77 RCW  
9 to read as follows:

10 The legislature finds that:

11 (1) Cities or towns maintain their streets to provide maximum  
12 protection of the public's health, safety, and welfare; that well-  
13 maintained streets, free from the deteriorating effects of regular use  
14 and the encroachments of the adjacent landscape, ensure safe and  
15 efficient travel for the public and emergency vehicles, and minimize  
16 the likelihood of property damage, serious bodily injury, and death;

17 (2) Since 1980, vehicle registration has increased by sixty percent  
18 and vehicle miles traveled on municipal streets have increased far in  
19 excess of the rate of population growth;

1 (3) Municipal streets are deteriorating from heavy use and lack a  
2 reliable, dedicated funding source. Failure to provide ongoing  
3 maintenance accelerates right-of-way degradation and erodes the value  
4 and availability of this significant public asset;

5 (4) Residences and businesses contribute to the deteriorating  
6 effects on streets as a result of automobile and pedestrian traffic  
7 generated by different types of property uses;

8 (5) A street utility created and governed by the legislative  
9 authority of a city or town provides an appropriate and efficient means  
10 to monitor, regulate, and maintain public streets;

11 (6) It is appropriate for the legislative authorities of cities and  
12 towns to properly define a class or classes of street users responsible  
13 for burdens created or benefits enjoyed by these street users, in the  
14 exercise of their police power, in order to protect the public health,  
15 safety, and welfare;

16 (7) In order to provide safe and efficient travel on public  
17 streets, it is necessary for street utilities to impose appropriate  
18 street use charges on street users, identified by classifications such  
19 as residences and businesses, based upon the type of uses made of each  
20 property and the estimated impact that uses have on public streets,  
21 subject to the limitations in section 4 of this act, all of which is  
22 necessary to protect the public's welfare.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.77 RCW  
24 to read as follows:

25 For the purposes of sections 1 through 5 of this act, the following  
26 definitions apply unless the context clearly requires otherwise.

27 (1) "Street" means the traveled portion of the street right-of-way  
28 including gutters, curbs, and sidewalks, as well as street lights,  
29 traffic control devices, and proper drainage facilities.

30 (2) "Street maintenance" means activities that keep streets in good  
31 operating condition or that enhance public safety including, but not  
32 limited to, preservation, resurfacing, pothole filling, restriping,  
33 additional street lights, traffic control devices, sidewalks, proper  
34 drainage facilities, and related facilities as may be identified by  
35 local ordinance.

36 (3) "Street utility" means a separate utility generating a  
37 dedicated fund for street maintenance, created and governed by the

1 legislative body of a city or town, that may levy periodic charges,  
2 consistent with section 4 of this act, for the use of public streets.

3 (4) "Street user fees or charges" means a fee or charge against  
4 residences and businesses, based upon the expected trip generation from  
5 specific types of property uses.

6 (5) "Street user" means a person or business who resides within the  
7 boundaries of the street utility, identified by classification  
8 established by ordinance, who uses the streets, who receives the  
9 benefit of use of the streets, or who creates a burden or expense for  
10 maintaining the streets. There shall be no street user associated with  
11 a vacant parcel.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.77 RCW  
13 to read as follows:

14 A city or town may elect by action of its legislative authority to  
15 own, maintain, operate, and preserve all or any described portion of  
16 its streets as a separate enterprise and facility, known as a street  
17 utility, and from time to time add other existing or new streets to  
18 that street utility, with full power to own, maintain, operate, and  
19 preserve these streets. The legislative authority of the city or town  
20 may include as a part of the street utility street lighting, traffic  
21 control devices, sidewalks, curbs, gutters, parking facilities, and  
22 drainage facilities, and any other facilities, equipment, or service  
23 directly related to public streets as may be prescribed by ordinance.  
24 The legislative authority of the city or town is the governing body of  
25 the street utility.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.77 RCW  
27 to read as follows:

28 (1) A city or town electing to own, maintain, operate, and preserve  
29 its streets as a separate street utility may levy periodic charges upon  
30 street users identified by ordinance for the use of the streets in a  
31 total annual amount of up to fifty percent of the actual costs for  
32 maintenance, operation, and preservation of facilities under the  
33 jurisdiction of the street utility. These fees or charges shall be  
34 placed in a specific fund dedicated to street maintenance.

35 (2) Street utility fees and charges shall be expended only for  
36 street maintenance uses consistent with the adopted transportation and  
37 land use plans of the jurisdiction expending the funds and consistent

1 with any applicable and adopted regional transportation plan for  
2 metropolitan planning areas. Classification of street user charges  
3 shall be consistent with the following:

4 (a) Fees shall be based on the estimated number of vehicle trips  
5 generated by specific types of a street user's property uses. Cities  
6 or towns shall calculate vehicle trips using generally accepted traffic  
7 engineering principles or other data that demonstrate a correlation  
8 between each type of property use and the estimated number of  
9 automobile and pedestrian trips that each use generates;

10 (b) All charges shall be uniform for each class of street user;

11 (c) Street user charges shall not be computed on the basis of an ad  
12 valorem charge on real property or improvements. This section shall  
13 not be used as a basis to directly or indirectly charge transportation  
14 impact fees or mitigation fees of any kind against new development. A  
15 city or town may contract to provide billing and collection of the  
16 street utility charges;

17 (d) The city or town may reduce or exempt street user charges  
18 affecting residential low-income senior citizens, other low-income  
19 citizens as provided in RCW 74.38.070(1), and the otherwise needy or  
20 infirm as may be further defined by ordinance;

21 (e) Charges imposed pursuant to this chapter do not constitute  
22 taxes nor are they charges provided for under RCW 82.02.050 through  
23 82.02.090, growth impact fees, or transportation fees under chapter  
24 39.92 RCW;

25 (f) The city or town legislative authority shall create a means of  
26 administrative appeal by persons desiring to contest their  
27 classification or status as street users. Persons who are not street  
28 users as defined by this statute or local ordinance shall not be  
29 subject to street use fees or charges.

30 (3) The charges provided for in this section shall become liens and  
31 be enforced in the same manner as rates and charges for the use of  
32 systems of sewerage under chapter 35.67 RCW.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.77 RCW  
34 to read as follows:

35 The city or town electing to own, maintain, operate, and preserve  
36 its streets and related facilities as a utility under this chapter may  
37 finance the operation, maintenance, and preservation through local  
38 improvement districts, utility local improvement districts, or with

1 proceeds from general obligation bonds and revenue bonds payable from  
2 the charges issued in accordance with chapter 35.41, 35.92, or 39.46  
3 RCW, or any combination thereof. The city or town may use, in addition  
4 to the charges authorized, funds from general taxation, money received  
5 from the federal, state, or other local governments, and other funds  
6 made available to it. The proceeds of the charges authorized shall be  
7 used strictly for street maintenance purposes in accordance with this  
8 chapter.

9       **Sec. 6.** RCW 82.80.020 and 2001 c 64 s 15 are each amended to read  
10 as follows:

11       (1) The legislative authority of a county, or (~~subject to~~  
12 ~~subsection (7) of this section, a qualifying~~) a city or town located  
13 in a county that has not imposed (~~a fifteen-dollar~~) the maximum fee  
14 under this section, may fix and impose an additional fee, not to exceed  
15 (~~fifteen~~) fifty dollars per vehicle, for each vehicle that is subject  
16 to license fees under RCW 46.16.0621 and for each vehicle that is  
17 subject to RCW 46.16.070 with an unladen weight of six thousand pounds  
18 or less, and that is determined by the department of licensing to be  
19 registered within the boundaries of the county.

20       (2) The department of licensing shall administer and collect the  
21 fee. The department shall deduct a percentage amount, as provided by  
22 contract, not to exceed two percent of the taxes collected, for  
23 administration and collection expenses incurred by it. The remaining  
24 proceeds shall be remitted to the custody of the state treasurer for  
25 monthly distribution under RCW 82.80.080.

26       (3) The proceeds of this fee shall be used strictly for  
27 transportation purposes in accordance with RCW 82.80.070.

28       (4) A county (~~or qualifying~~) city, or town imposing this fee or  
29 initiating an exemption process shall delay the effective date at least  
30 six months from the date the ordinance is enacted to allow the  
31 department of licensing to implement administration and collection of  
32 or exemption from the fee.

33       (5) The legislative authority of a county (~~or qualifying~~) city,  
34 or town may develop and initiate an exemption process of the (~~fifteen~~  
35 ~~dollar~~) fee for the registered owners of vehicles residing within the  
36 boundaries of the county (~~or qualifying~~) city, or town: (a) Who are  
37 sixty-one years old or older at the time payment of the fee is due and  
38 whose household income for the previous calendar year is less than an

1 amount prescribed by the county (~~(or qualifying)~~), city, or town  
2 legislative authority; or (b) who have a physical disability.

3 (6) The legislative authority of a county (~~(or qualifying)~~), city,  
4 or town shall develop and initiate an exemption process of the  
5 (~~(fifteen-dollar)~~) fee for vehicles registered within the boundaries of  
6 the county that are licensed under RCW 46.16.374.

7 (7) (~~(For purposes of this section, a "qualifying city or town"~~  
8 ~~means a city or town residing within a county having a population of~~  
9 ~~greater than seventy five thousand in which is located all or part of~~  
10 ~~a national monument.)~~) A (~~(qualifying)~~) city or town may impose the  
11 fee authorized in subsection (1) of this section subject to the  
12 following conditions and limitations:

13 (a) The city or town may impose the fee only if authorized to do so  
14 by a majority of registered voters voting at a general or special  
15 election on a proposition for that purpose. (~~(At a minimum, the ballot~~  
16 ~~measure shall contain: (i) A description of the transportation project~~  
17 ~~proposed for funding, properly identified by mileposts or other~~  
18 ~~designations that specify the project parameters; (ii) the proposed~~  
19 ~~number of months or years necessary to fund the city or town's share of~~  
20 ~~the project cost; and (iii) the amount of fee to be imposed for the~~  
21 ~~project.)~~)

22 (b) The city or town may not impose a fee that, if combined with  
23 the county fee, exceeds (~~(fifteen)~~) fifty dollars. If a county imposes  
24 or increases a fee under this section that, if combined with the fee  
25 imposed by a city or town, exceeds (~~(fifteen)~~) fifty dollars, the city  
26 or town fee shall be reduced or eliminated as needed so that in no city  
27 or town does the combined fee exceed (~~(fifteen)~~) fifty dollars. All  
28 revenues from county-imposed fees shall be distributed as called for in  
29 RCW 82.80.080.

30 (~~(c) Any fee imposed by a city or town under this section shall~~  
31 ~~expire at the end of the term of months or years provided in the ballot~~  
32 ~~measure, or when the city or town's bonded indebtedness on the project~~  
33 ~~is retired, whichever is sooner.)~~)

34 (8) The fee imposed under subsection (7) of this section shall  
35 apply only to renewals and shall not apply to ownership transfer  
36 transactions.

37 NEW SECTION. Sec. 7. The following acts or parts of acts are each  
38 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 2000 c 103  
4 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 NEW SECTION. **Sec. 8.** If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 9.** The provisions of this act are remedial and  
12 supplemental. This act shall be construed liberally to accomplish its  
13 intended purpose. No authority extended to a city or town shall be  
14 construed to restrict or limit any authority previously extended or  
15 heretofore or hereafter existing.

16 NEW SECTION. **Sec. 10.** Any fee or tax increases provided in this  
17 act do not constitute new transportation revenue for the purposes of  
18 chapter 5, Laws of 2002.

19 NEW SECTION. **Sec. 11.** This act takes effect July 1, 2002.

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