

SENATE BILL REPORT

SB 6761

As Reported By Senate Committee On:
Transportation, February 6, 1996

Title: An act relating to city and town transportation financing.

Brief Description: Providing for city and town transportation financing.

Sponsors: Senators Thibaudeau, Owen and Prentice.

Brief History:

Committee Activity: Transportation: 2/6/96 [DPS, DNP].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 6761 be substituted therefor, and the substitute bill do pass.

Signed by Senators Owen, Chair; Oke, Prentice, Prince, Rasmussen, Sellar, Thibaudeau and Wood.

Minority Report: Do not pass.

Signed by Senators Goings and Schow.

Staff: Jennifer Joly (786-7305)

Background: In 1990, the Legislature created several local funding options for transportation. (1) a **fuel tax:** a countywide tax which, upon voter approval, may be imposed at up to 10 percent of the statewide gas tax rate (2.3); (2) a **vehicle license fee:** a countywide tax of up to \$15 per vehicle registered in the county, subject to referendum; (3) a **commercial parking tax:** either counties or cities may impose based upon the gross proceeds, or number of stalls, of a commercial parking business or as a charge to the customer, subject to referendum; and (4) a **city street utility charge:** cities may impose a residential street utility at no more than \$2 per month per housing unit, and a commercial street utility at no more than \$2 per month per employee.

To date, the following cities have enacted a city street utility charge: Enumclaw, Grandview, Kent, Mabton, Marcus, Medical Lake, Richland, Seattle, Snoqualmie, Soap Lake, Union Gap, Wenatchee, Walla Walla, and Wilkeson.

In November 1995, the State Supreme Court rejected the characterization of the residential street utility tax as a fee. Rather, the court held that the residential street utility charge was an unconstitutional property tax violating the uniformity requirement of Article 7, Section 1 of the state Constitution. Tax uniformity requires that the property tax rate of a taxing district be imposed uniformly throughout its boundaries. Here, the Seattle ordinance imposed a flat monthly fee of \$2 per homeowner, rather than assessing it according to the value of the property. The court noted, for example, that "the tax rate on a \$60,000 house

is 40 times higher than the rate on a \$2,400,000 mansion." As a result of this holding, the court also ordered the City of Seattle to refund the residential street utility charges collected since enacting the ordinance; this is estimated at more than \$12,000,000.

There are two limits on how high property tax rates can go.

- (1) **The 1 percent constitutional limit:** Article 7, Section 2 of the state Constitution provides that regular (i.e., non-voted) property tax levies cannot exceed 1 percent of assessed valuation (or \$10 per \$1,000).
- (2) **The 106 percent Lid:** RCW 84.55.010 provides that in any one year, an individual taxing district may not collect more than a 6 percent increase in its regular levy over the highest amount collected in any of the three previous years. However, excess levies approved by the voters, new construction, and annexations are not included in the 106 percent limit.

Rates limiting regular property tax levies of local governments that are within the overall 1 percent constitutional limit are set forth in statute. Specifically, the maximum total regular property tax rate paid by taxpayers for local government services is \$5.90 per \$1,000 of assessed value, with certain exceptions. For property taxpayers within incorporated cities or towns, the \$5.90 cap is allocated as follows: \$3.60 to the city (or \$3.375 in the absence of a city fire fighters' pension fund), \$1.80 to the county, and 50 cents to "junior" taxing districts (e.g. fire districts, rural library districts).

Most cities and towns, other than Seattle, contain or overlap with junior taxing districts that have active regular property tax levies. Thus, the 50 cents allocated to "junior" taxing districts within the \$5.90 statutory cap is unavailable. However, beyond the \$5.90 cap, but still under the 1 percent constitutional limit, there are currently several possible local levies that voters can approve, at up to 50 cents per \$1000 of assessed value. Namely, (1) counties can levy for conservation futures; (2) various types of districts can levy for emergency medical services; and (3) counties, cities, and towns can levy for affordable housing. In most cases, cities and towns are unlikely to ask their voters to use all of the available 50 cents capacity outside the \$5.90 cap for these already-authorized purposes.

If taxing districts need additional monies, they may ask the voters for authorization to impose a temporary levy for a specific dollar amount. These voter approved special levy rates are then added to regular levy rates.

Summary of Substitute Bill: The residential and commercial street utility fees are repealed. Instead, if approved by the voters, cities and towns are authorized to use portions of existing levy capacity both within the \$5.90 cap and outside the \$5.90 cap (but still under the 1 percent constitutional limit), for transportation purposes. The combined levy may not exceed 50 cents. The levy could be imposed for up to ten consecutive years.

The existing levy capacity may be used for transportation only to the extent that no other taxing district has its levy reduced as a result. Should the voters approve levies that result in the combination of levies exceeding statutory or constitutional limits, the transportation levy is reduced or eliminated.

Substitute Bill Compared to Original Bill: Rather than the standard 90 days after adjournment, an emergency clause is added so that the act takes effect immediately.

Appropriation: None.

Fiscal Note: Requested on February 5, 1996.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The recent state Supreme Court decision invalidating the residential street utility charge creates a crisis for those cities and towns that have imposed the charge. In Seattle, the loss of the street utility will result in an annual revenue loss of \$9,600,000. This bill will help cities help themselves by asking voters to authorize the use of existing property tax levy authority to address the unique transportation needs of each community.

Testimony Against: None.

Testified: PRO: Senator Thibaudeau, prime sponsor; Martha Choe, City of Seattle; Earl Tilly, Mayor of Wenatchee; Jill Monley, City of Richland; Maureen Morris, Assn. of Cities.