HOUSE BILL REPORT
ESHB 1858

As Passed House:
March 13, 2007

Title: An act relating to the imposition of fees by transportation benefit districts.

Brief Description: Regarding the imposition of fees by transportation benefit districts.

Sponsors: By House Committee on Transportation (originally sponsored by Representatives Fromhold, Curtis, Clibborn, Jarrett, Simpson, Springer and Moeller).

Brief History:

Committee Activity:

Transportation: 2/5/07, 3/2/07 [DPS].

Floor Activity:

Passed House: 3/13/07, 61-35.

Brief Summary of Engrossed Substitute Bill

- Permits transportation benefit districts (TBDs) that fully encompass a city or county to impose impact fees or up to $20.00 in vehicle fees without voter approval, if the fees or charges are approved by a majority of the TBD Board.
- Requires vehicle fee revenues be distributed only by interlocal agreement if the TBD is county-wide. If an interlocal agreement cannot be reached, permits the county-wide TBD to impose the vehicle fee only in the unincorporated area within its boundaries.
- Prohibits TBDs from imposing impact fees on residential development, with or without voter approval.
- Provides that the vehicle fee may be used for passenger-only ferry transportation improvements only if the fee is approved by a majority of the voters in the district's boundaries.

HOUSE COMMITTEE ON TRANSPORTATION

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Clibborn, Chair; Flannigan, Vice Chair; Jarrett, Ranking Minority Member; Appleton, Dickerson, Hankins, Hudgins, Lovick, Rolfes, Sells, Simpson, Springer, B. Sullivan, Takko, Upthegrove and Wood.

Minority Report: Do not pass. Signed by 8 members: Representatives Armstrong, Campbell, Eddy, Ericksen, Hailey, Kristiansen, Rodne and Wallace.

Staff: Kathryn Leathers (786-7114).

Background:

The Legislature has found that cooperation between the public and private sectors should be encouraged to address transportation needs caused by private sector development for the public good. Consistent with this objective, a county or city may establish one or more Transportation Benefit District (TBD or district) within its jurisdiction to fund improvements to city streets, county roads, and state highways. A TBD may not, however, be established in King, Pierce, or Snohomish Counties prior to December 1, 2007.

"Transportation improvement" means a project contained in the transportation plan of the state or a regional transportation planning organization. Such projects may include investment in 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 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 jurisdiction proposing to create the TBD may only include cities and other counties through interlocal agreements. In 2006, the Legislature removed the requirement that the boundaries of a TBD must include all territory within the boundaries of each participating jurisdiction, and, instead, a TBD may now 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 district formation.

Transportation benefit districts have independent taxing authority to implement the following revenue measures, all of which are subject to voter approval: (1) excess property taxes; (2)

general obligation bonds; (3) transportation impact fees; (4) border area motor vehicle fuel taxes; (5) a local option sales and use tax up to 0.2 percent, which must be voted on at least every 10 years; (6) a local option annual vehicle fee of up to $100 on vehicle license renewals; and (7) vehicle tolls.

They also have authority to issue general obligation and revenue bonds. In addition, TBDs may form local improvement districts to impose special assessments on property benefitted by the improvements and to issue special assessment bonds.

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

Summary of Engrossed Substitute Bill:

Transportation benefit districts (TBD) that fully encompass a city or county are permitted to impose impact fees or up to $20 in vehicle fees without voter approval, if the fees or charges are approved by a majority of the TBD Board. If more than one vehicle fee is imposed within a TBD's boundaries, total vehicle fees must be reduced such that no more than $20 in vehicle fees may be imposed without voter approval.

For TBDs comprised solely of a city or cities (city TBD), a city TBD's authority to impose the impact or vehicle fee is delayed for 180 days, providing time for a county-wide TBD to impose these fees first on a county-wide basis. A county may waive the 180-day waiting period by resolution.

If the TBD is county-wide, the vehicle fee revenues must be distributed by interlocal agreement. If an interlocal agreement cannot be reached, the county-wide TBD is authorized to impose the vehicle fee only in the unincorporated area within its boundaries. For an interlocal agreement to be effective, agreement must be reached between the county and 60 percent of the cities representing 75 percent of the incorporated population.

The vehicle fee may be used for passenger only ferry transportation improvements only if the fee is approved by a majority of the voters in the district's boundaries.

The authority of a TBD to impose impact fees, with or without voter approval, on residential development is removed.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) In many local communities, there are ongoing significant transportation needs that are not met. This bill would provide another option for local communities to fund transportation needs. The intent of the bill is to give authority to local jurisdictions to decide how to use these dedicated transportation funds, which may include transit.

As with most communities, the City of Vancouver has experienced significant growth in the last 10-15 years. It has struggled to keep up with growth and to avoid concurrency issues. Other taxes and fees have been imposed to try to address growing transportation needs. This bill gives cities another opportunity to help themselves in their efforts to maintain and construct transportation systems. The Legislature has been there for cities by providing them with funding options and direct funding like the Nickel and Partnership packages, but cities and counties are still grasping for additional local funding mechanisms to help fund transportation needs. This bill lends a hand to this situation. The use of the business and occupation tax can be a disincentive for some business communities.

The local funding tool provided for in this bill allows a jurisdiction to identify its own priorities, and to generate its own money to solve that problem. The transportation shortfall in the City of Kirkland is about $6 million per year. It is estimated that this mechanism could generate $750,000 to $900,000, which would help to chip away at some of the projects and make up for loss of the vehicle license fee. The City of Vancouver estimates that the funding mechanism in this bill would provide it with about $3.2 million against which it could bond. This bill would also help people who ride the bus and rely on it to go to work because a local jurisdiction could use the funds for transit needs.

The local funding tool provided for in this bill restores the local vehicle option fee that was available before Initiative 776 was passed. Although the uses of the funds are for transportation, the uses can be quite broad. Accountability in the use of these funds still exists: there must still be a plan, which is subject to the public process, and the plan must be consistent with the appropriate regional transportation planning organization plan. The fee amounts are reasonable. By statute, impact fees must be reasonable and they must be related to the service offered, and the bill makes clear that there can be no double imposition of impact fees. The license fees are limited to renewals for the purpose of trying to toggle onto the existing state system and to reduce administrative costs; otherwise county auditors would have to use a two-tiered system, which would be more difficult to manage.

(With concerns) There is a great need for more transit services, including additional bus lines, and the bill would be improved if the funds were dedicated to pay for transit services.

Some concerns with the bill have been partially addressed. The 180-day delay provision was included at the request of the counties to make sure that counties are first given the opportunity to establish a county-wide, more regional fee. Other concerns are more technical, including the concern that the bill as written does not apply the 180-day delay provision to King, Pierce, and Snohomish Counties. Also, some counties would like the option to waive the 180-day delay provision. The issue of greatest concern is the distribution scheme established in the bill, which permits revenue distribution to be based on where vehicles are registered. Counties do not have a a sense of what that impact would be, and they prefer a per capita distribution scheme, in part, because it more equitably distributes fees paid by businesses.

(Opposed) None.

Persons Testifying: (In support) Representative Fromhold, prime sponsor; Thayor Rorabaugh, City of Vancouver; Ginger Metcalf, Identity Clark County; Daryl Grigsby, City of Kirkland; and Ashley Probart, Washington Association of Cities.

(With concerns) George Adams; Heather Harper, ARC of Washington; and Julie Murray, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.