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**SUBSTITUTE SENATE BILL 5857**

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**State of Washington**

**56th Legislature**

**2000 Regular Session**

**By** Senate Committee on Transportation (originally sponsored by Senators Goings and Horn)

Read first time 02/21/2000.

1       AN ACT Relating to alternative financing mechanisms for regional  
2 transit authorities; amending RCW 82.45.010 and 35.21.755; reenacting  
3 and amending RCW 82.04.050; adding new sections to chapter 81.112 RCW;  
4 adding a new section to chapter 82.08 RCW; adding a new section to  
5 chapter 82.12 RCW; adding a new section to chapter 82.04 RCW; adding a  
6 new section to chapter 82.29A RCW; adding a new section to chapter  
7 84.36 RCW; adding a new section to chapter 35.21 RCW; and creating new  
8 sections.

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

10       NEW SECTION.   **Sec. 1.** The legislature finds that additional funds  
11 or other benefits can be made available to Washington regional transit  
12 authorities by facilitating their entry into sale and leaseback,  
13 leaseout and leaseback, and similar transactions that provide to  
14 private parties, in consideration for the funds or other benefits  
15 obtained by the regional transit authorities, tax benefits that are not  
16 otherwise available to regional transit authorities. The legislature  
17 further finds that such transactions have been encouraged by agencies  
18 of the federal government as ways to provide additional funds for  
19 public facilities. To facilitate such transactions for regional

1 transit authorities, the legislature has determined that while regional  
2 transit authorities may currently have the necessary statutory  
3 authority and may currently enjoy exemptions from Washington state  
4 taxes for such transactions, an explicit statement of statutory  
5 authority and exemption from Washington state taxes is necessary and  
6 helpful for the parties to such transactions. In recognition of the  
7 complexity of such transactions, the legislature desires that the  
8 authority and exemptions provided by this act be subject to certain  
9 limitations and be granted for a period as specified in section 14 of  
10 this act.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 81.112 RCW  
12 to read as follows:

13 (1) In order to enable regional transit authorities to acquire or  
14 finance equipment or facilities, or reduce the cost of equipment or  
15 facilities or to provide additional funding to regional transit  
16 authorities for any other lawful public purpose, regional transit  
17 authorities may enter into sale and leaseback, leaseout and leaseback,  
18 and other similar transactions with respect to equipment, facilities,  
19 and other real and personal property. In connection with any such  
20 transaction, a regional transit authority may execute, as it considers  
21 appropriate, contracts, agreements, notes, security agreements,  
22 conveyances, bills of sale, deeds, leases as lessee or lessor, and  
23 currency hedges, defeasance arrangements, interest rate, currency or  
24 other swap transactions, one or more payment undertaking agreements,  
25 and agreements relating to foreign and domestic currency. These  
26 agreements or instruments shall have terms, maturities, durations,  
27 provisions as to governing laws, grants of security interests, and  
28 other provisions that are approved by the board of the regional transit  
29 authority.

30 (2) "Payment undertaking agreement" means one or more agreements,  
31 undertakings or arrangements pursuant to which all or a portion of the  
32 funds generated by a sale and leaseback, leaseout and leaseback, or  
33 other similar transaction are directed or paid over to a financial  
34 institution, insurance company or other entity which agrees to meet or  
35 fulfill, in consideration for such funds, some or all of the  
36 obligations of the regional transit authority, or any public  
37 corporation or other entity created under section 4 of this act, to

1 make future rent, debt service, or purchase price installment payments  
2 in connection with such transaction.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 81.112 RCW  
4 to read as follows:

5 Transactions undertaken under section 2 of this act shall be  
6 subject to the following conditions:

7 (1) The financial institution, insurance company, or other entity  
8 which enters into a payment undertaking agreement with the regional  
9 transit authority or public development corporation or entity created  
10 pursuant to section 4 of this act as a counterparty must have a rating  
11 from at least two nationally recognized credit rating agencies, as of  
12 the date of execution of the payment undertaking agreement, that is  
13 within the two highest long-term investment grade rating categories,  
14 without regard to subcategories, or the obligations of such  
15 counterparty must be guaranteed by a financial institution, insurance  
16 company, or other entity with such credit rating. The payment  
17 undertaking agreement shall require that the obligations of the  
18 counterparty or the guarantor, as the case may be, shall be  
19 collateralized by collateral of a type and in an amount specified by  
20 the governing body of the regional transit authority in the event that  
21 the credit ratings of the counterparty or its guarantor fall below the  
22 level required by the foregoing provisions.

23 (2) The amount to be paid by the counterparties under payment  
24 undertaking agreements for a transaction pursuant to the terms of such  
25 agreements, when combined with the amount of securities, deposits, and  
26 investments set aside by the regional transit authority for payment in  
27 respect of such transactions, together with interest or other earnings  
28 on such securities, deposits, or investments, shall be sufficient to  
29 pay when due all amounts required to be paid by the regional transit  
30 authority, or public corporation or entity created pursuant to section  
31 4 of this act, as rent, debt service, or installments of purchase  
32 price, as the case may be, over the full term of the transaction plus  
33 any optional purchase price due under the transaction. A certification  
34 by an independent financial expert, banker, or certified public  
35 accountant, who is not an employee of the regional transit authority or  
36 public corporation or entity created pursuant to section 4 of this act,  
37 certifying compliance with this requirement constitutes conclusive

1 evidence that such arrangements, by their terms, comply with the  
2 requirement under this subsection on the sufficiency of the amount.

3 (3) The payment undertaking agreements, and all other basic and  
4 material agreements entered into in connection with such transactions,  
5 shall specify that the parties to such agreements consent to the  
6 jurisdiction of state courts of Washington for disputes arising out of  
7 such agreements and agree not to contest venue before such courts.  
8 Regardless of the choice of law specified in the foregoing agreements,  
9 such agreements shall acknowledge that the regional transit authority  
10 or public development corporation or entity created pursuant to section  
11 4 of this act which is a party to such agreements is an entity created  
12 under the laws of the state of Washington whose power and authority and  
13 limitations and restrictions on such power and authority are governed  
14 by the laws of the state of Washington.

15 Payment undertaking agreements that meet the foregoing requirement  
16 shall be treated for all relevant purposes as agreements pursuant to  
17 which future services are performed for a present payment and shall not  
18 be treated as payment agreements within the meaning of chapter 39.96  
19 RCW.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 81.112 RCW  
21 to read as follows:

22 To accomplish any of the activities under section 2 of this act, a  
23 regional transit authority may create a public corporation, commission,  
24 or authority under RCW 35.21.730 through 35.21.755, and authorize the  
25 corporation, commission, or authority to provide any of the facilities  
26 and services that a regional transit authority may provide including  
27 any activities under section 2 of this act. A regional transit  
28 authority shall have all the powers, authorities, and rights granted to  
29 any city, town, or county or their agents under the provisions of RCW  
30 35.21.730 through 35.21.755 for the purposes of entering into and  
31 implementing transactions under section 2 of this act.

32 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.08 RCW  
33 to read as follows:

34 The tax levied by RCW 82.08.020 does not apply to lease amounts  
35 paid by a seller/lessee to a lessor under a sale/leaseback agreement  
36 under section 2 of this act in respect to tangible personal property,  
37 used by the seller/lessee, or to the purchase amount paid by the lessee

1 pursuant to an option to purchase at the end of the lease term, but  
2 only if the seller/lessee previously paid any tax otherwise due under  
3 this chapter or chapter 82.12 RCW at the time of acquisition of the  
4 tangible personal property.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.12 RCW  
6 to read as follows:

7 The provisions of this chapter do not pay with respect to the use  
8 of tangible personal property by a seller/lessee to a lessor under a  
9 sale/leaseback agreement under section 2 of this act in respect to  
10 tangible personal property used by the seller/lessee, or to the  
11 purchase amount paid by the lessee pursuant to an option to purchase at  
12 the end of the lease term, but only if the seller/lessee previously  
13 paid any tax otherwise due under this chapter or chapter 82.08 RCW at  
14 the time of acquisition of the tangible personal property.

15 **Sec. 7.** RCW 82.04.050 and 1998 c 332 s 2, 1998 c 315 s 1, 1998 c  
16 308 s 1, and 1998 c 275 s 1 are each reenacted and amended to read as  
17 follows:

18 (1) "Sale at retail" or "retail sale" means every sale of tangible  
19 personal property (including articles produced, fabricated, or  
20 imprinted) to all persons irrespective of the nature of their business  
21 and including, among others, without limiting the scope hereof, persons  
22 who install, repair, clean, alter, improve, construct, or decorate real  
23 or personal property of or for consumers other than a sale to a person  
24 who presents a resale certificate under RCW 82.04.470 and who:

25 (a) Purchases for the purpose of resale as tangible personal  
26 property in the regular course of business without intervening use by  
27 such person, but a purchase for the purpose of resale by a regional  
28 transit authority under section 2 of this act is not a sale for resale;  
29 or

30 (b) Installs, repairs, cleans, alters, imprints, improves,  
31 constructs, or decorates real or personal property of or for consumers,  
32 if such tangible personal property becomes an ingredient or component  
33 of such real or personal property without intervening use by such  
34 person; or

35 (c) Purchases for the purpose of consuming the property purchased  
36 in producing for sale a new article of tangible personal property or  
37 substance, of which such property becomes an ingredient or component or

1 is a chemical used in processing, when the primary purpose of such  
2 chemical is to create a chemical reaction directly through contact with  
3 an ingredient of a new article being produced for sale; or

4 (d) Purchases for the purpose of consuming the property purchased  
5 in producing ferrosilicon which is subsequently used in producing  
6 magnesium for sale, if the primary purpose of such property is to  
7 create a chemical reaction directly through contact with an ingredient  
8 of ferrosilicon; or

9 (e) Purchases for the purpose of providing the property to  
10 consumers as part of competitive telephone service, as defined in RCW  
11 82.04.065. The term shall include every sale of tangible personal  
12 property which is used or consumed or to be used or consumed in the  
13 performance of any activity classified as a "sale at retail" or "retail  
14 sale" even though such property is resold or utilized as provided in  
15 (a), (b), (c), (d), or (e) of this subsection following such use. The  
16 term also means every sale of tangible personal property to persons  
17 engaged in any business which is taxable under RCW 82.04.280 (2) and  
18 (7) and 82.04.290.

19 (2) The term "sale at retail" or "retail sale" shall include the  
20 sale of or charge made for tangible personal property consumed and/or  
21 for labor and services rendered in respect to the following:

22 (a) The installing, repairing, cleaning, altering, imprinting, or  
23 improving of tangible personal property of or for consumers, including  
24 charges made for the mere use of facilities in respect thereto, but  
25 excluding charges made for the use of coin-operated laundry facilities  
26 when such facilities are situated in an apartment house, rooming house,  
27 or mobile home park for the exclusive use of the tenants thereof, and  
28 also excluding sales of laundry service to nonprofit health care  
29 facilities, and excluding services rendered in respect to live animals,  
30 birds and insects;

31 (b) The constructing, repairing, decorating, or improving of new or  
32 existing buildings or other structures under, upon, or above real  
33 property of or for consumers, including the installing or attaching of  
34 any article of tangible personal property therein or thereto, whether  
35 or not such personal property becomes a part of the realty by virtue of  
36 installation, and shall also include the sale of services or charges  
37 made for the clearing of land and the moving of earth excepting the  
38 mere leveling of land used in commercial farming or agriculture;

1 (c) The charge for labor and services rendered in respect to  
2 constructing, repairing, or improving any structure upon, above, or  
3 under any real property owned by an owner who conveys the property by  
4 title, possession, or any other means to the person performing such  
5 construction, repair, or improvement for the purpose of performing such  
6 construction, repair, or improvement and the property is then  
7 reconveyed by title, possession, or any other means to the original  
8 owner;

9 (d) The sale of or charge made for labor and services rendered in  
10 respect to the cleaning, fumigating, razing or moving of existing  
11 buildings or structures, but shall not include the charge made for  
12 janitorial services; and for purposes of this section the term  
13 "janitorial services" shall mean those cleaning and caretaking services  
14 ordinarily performed by commercial janitor service businesses  
15 including, but not limited to, wall and window washing, floor cleaning  
16 and waxing, and the cleaning in place of rugs, drapes and upholstery.  
17 The term "janitorial services" does not include painting, papering,  
18 repairing, furnace or septic tank cleaning, snow removal or  
19 sandblasting;

20 (e) The sale of or charge made for labor and services rendered in  
21 respect to automobile towing and similar automotive transportation  
22 services, but not in respect to those required to report and pay taxes  
23 under chapter 82.16 RCW;

24 (f) The sale of and charge made for the furnishing of lodging and  
25 all other services by a hotel, rooming house, tourist court, motel,  
26 trailer camp, and the granting of any similar license to use real  
27 property, as distinguished from the renting or leasing of real  
28 property, and it shall be presumed that the occupancy of real property  
29 for a continuous period of one month or more constitutes a rental or  
30 lease of real property and not a mere license to use or enjoy the same;

31 (g) The sale of or charge made for tangible personal property,  
32 labor and services to persons taxable under (a), (b), (c), (d), (e),  
33 and (f) of this subsection when such sales or charges are for property,  
34 labor and services which are used or consumed in whole or in part by  
35 such persons in the performance of any activity defined as a "sale at  
36 retail" or "retail sale" even though such property, labor and services  
37 may be resold after such use or consumption. Nothing contained in this  
38 subsection shall be construed to modify subsection (1) of this section

1 and nothing contained in subsection (1) of this section shall be  
2 construed to modify this subsection.

3 (3) The term "sale at retail" or "retail sale" shall include the  
4 sale of or charge made for personal, business, or professional services  
5 including amounts designated as interest, rents, fees, admission, and  
6 other service emoluments however designated, received by persons  
7 engaging in the following business activities:

8 (a) Amusement and recreation services including but not limited to  
9 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips  
10 for sightseeing purposes, and others, when provided to consumers;

11 (b) Abstract, title insurance, and escrow services;

12 (c) Credit bureau services;

13 (d) Automobile parking and storage garage services;

14 (e) Landscape maintenance and horticultural services but excluding  
15 (i) horticultural services provided to farmers and (ii) pruning,  
16 trimming, repairing, removing, and clearing of trees and brush near  
17 electric transmission or distribution lines or equipment, if performed  
18 by or at the direction of an electric utility;

19 (f) Service charges associated with tickets to professional  
20 sporting events; and

21 (g) The following personal services: Physical fitness services,  
22 tanning salon services, tattoo parlor services, steam bath services,  
23 turkish bath services, escort services, and dating services.

24 (4) The term shall also include the renting or leasing of tangible  
25 personal property to consumers and the rental of equipment with an  
26 operator.

27 (5) The term shall also include the providing of telephone service,  
28 as defined in RCW 82.04.065, to consumers.

29 (6) The term shall also include the sale of canned software other  
30 than a sale to a person who presents a resale certificate under RCW  
31 82.04.470, regardless of the method of delivery to the end user, but  
32 shall not include custom software or the customization of canned  
33 software.

34 (7) The term shall not include the sale of or charge made for labor  
35 and services rendered in respect to the building, repairing, or  
36 improving of any street, place, road, highway, easement, right of way,  
37 mass public transportation terminal or parking facility, bridge,  
38 tunnel, or trestle which is owned by a municipal corporation or  
39 political subdivision of the state or by the United States and which is



1 used or to be used primarily for foot or vehicular traffic including  
2 mass transportation vehicles of any kind.

3 (8) The term shall also not include sales of chemical sprays or  
4 washes to persons for the purpose of postharvest treatment of fruit for  
5 the prevention of scald, fungus, mold, or decay, nor shall it include  
6 sales of feed, seed, seedlings, fertilizer, agents for enhanced  
7 pollination including insects such as bees, and spray materials to:

8 (a) Persons who participate in the federal conservation reserve  
9 program, the environmental quality incentives program, the wetlands  
10 reserve program, and the wildlife habitat incentives program, or their  
11 successors administered by the United States department of agriculture;

12 (b) farmers for the purpose of producing for sale any agricultural  
13 product; and (c) farmers acting under cooperative habitat development  
14 or access contracts with an organization exempt from federal income tax  
15 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of  
16 fish and wildlife to produce or improve wildlife habitat on land that  
17 the farmer owns or leases.

18 (9) The term shall not include the sale of or charge made for labor  
19 and services rendered in respect to the constructing, repairing,  
20 decorating, or improving of new or existing buildings or other  
21 structures under, upon, or above real property of or for the United  
22 States, any instrumentality thereof, or a county or city housing  
23 authority created pursuant to chapter 35.82 RCW, including the  
24 installing, or attaching of any article of tangible personal property  
25 therein or thereto, whether or not such personal property becomes a  
26 part of the realty by virtue of installation. Nor shall the term  
27 include the sale of services or charges made for the clearing of land  
28 and the moving of earth of or for the United States, any  
29 instrumentality thereof, or a county or city housing authority. Nor  
30 shall the term include the sale of services or charges made for  
31 cleaning up for the United States, or its instrumentalities,  
32 radioactive waste and other byproducts of weapons production and  
33 nuclear research and development.

34 (10) Until July 1, 2003, the term shall not include the sale of or  
35 charge made for labor and services rendered for environmental remedial  
36 action as defined in RCW 82.04.2635(2).

37 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.04 RCW  
38 to read as follows:

1 This chapter does not apply to amounts received as lease payments  
2 paid by a seller/lessee to a lessor under a sale/leaseback agreement  
3 under section 2 of this act in respect to tangible personal property  
4 used by the seller/lessee, or to the purchase amount paid by the lessee  
5 pursuant to an option to purchase at the end of the lease term.

6 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.29A RCW  
7 to read as follows:

8 All leasehold interests in property of a regional transit authority  
9 or public corporation under section 4 of this act pursuant to an  
10 agreement under section 2 of this act are exempt from tax under this  
11 chapter.

12 **Sec. 10.** RCW 82.45.010 and 1999 c 209 s 2 are each amended to read  
13 as follows:

14 (1) As used in this chapter, the term "sale" shall have its  
15 ordinary meaning and shall include any conveyance, grant, assignment,  
16 quitclaim, or transfer of the ownership of or title to real property,  
17 including standing timber, or any estate or interest therein for a  
18 valuable consideration, and any contract for such conveyance, grant,  
19 assignment, quitclaim, or transfer, and any lease with an option to  
20 purchase real property, including standing timber, or any estate or  
21 interest therein or other contract under which possession of the  
22 property is given to the purchaser, or any other person at the  
23 purchaser's direction, and title to the property is retained by the  
24 vendor as security for the payment of the purchase price. The term  
25 also includes the grant, assignment, quitclaim, sale, or transfer of  
26 improvements constructed upon leased land.

27 (2) The term "sale" also includes the transfer or acquisition  
28 within any twelve-month period of a controlling interest in any entity  
29 with an interest in real property located in this state for a valuable  
30 consideration. For purposes of this subsection, all acquisitions of  
31 persons acting in concert shall be aggregated for purposes of  
32 determining whether a transfer or acquisition of a controlling interest  
33 has taken place. The department of revenue shall adopt standards by  
34 rule to determine when persons are acting in concert. In adopting a  
35 rule for this purpose, the department shall consider the following:

1 (a) Persons shall be treated as acting in concert when they have a  
2 relationship with each other such that one person influences or  
3 controls the actions of another through common ownership; and

4 (b) When persons are not commonly owned or controlled, they shall  
5 be treated as acting in concert only when the unity with which the  
6 purchasers have negotiated and will consummate the transfer of  
7 ownership interests supports a finding that they are acting as a single  
8 entity. If the acquisitions are completely independent, with each  
9 purchaser buying without regard to the identity of the other  
10 purchasers, then the acquisitions shall be considered separate  
11 acquisitions.

12 (3) The term "sale" shall not include:

13 (a) A transfer by gift, devise, or inheritance.

14 (b) A transfer of any leasehold interest other than of the type  
15 mentioned above.

16 (c) A cancellation or forfeiture of a vendee's interest in a  
17 contract for the sale of real property, whether or not such contract  
18 contains a forfeiture clause, or deed in lieu of foreclosure of a  
19 mortgage.

20 (d) The partition of property by tenants in common by agreement or  
21 as the result of a court decree.

22 (e) The assignment of property or interest in property from one  
23 spouse to the other in accordance with the terms of a decree of divorce  
24 or in fulfillment of a property settlement agreement.

25 (f) The assignment or other transfer of a vendor's interest in a  
26 contract for the sale of real property, even though accompanied by a  
27 conveyance of the vendor's interest in the real property involved.

28 (g) Transfers by appropriation or decree in condemnation  
29 proceedings brought by the United States, the state or any political  
30 subdivision thereof, or a municipal corporation.

31 (h) A mortgage or other transfer of an interest in real property  
32 merely to secure a debt, or the assignment thereof.

33 (i) Any transfer or conveyance made pursuant to a deed of trust or  
34 an order of sale by the court in any mortgage, deed of trust, or lien  
35 foreclosure proceeding or upon execution of a judgment, or deed in lieu  
36 of foreclosure to satisfy a mortgage or deed of trust.

37 (j) A conveyance to the federal housing administration or veterans  
38 administration by an authorized mortgagee made pursuant to a contract

1 of insurance or guaranty with the federal housing administration or  
2 veterans administration.

3 (k) A transfer in compliance with the terms of any lease or  
4 contract upon which the tax as imposed by this chapter has been paid or  
5 where the lease or contract was entered into prior to the date this tax  
6 was first imposed.

7 (l) The sale of any grave or lot in an established cemetery.

8 (m) A sale by the United States, this state or any political  
9 subdivision thereof, or a municipal corporation of this state.

10 (n) A sale to a regional transit authority or public corporation  
11 under section 4 of this act pursuant to a sale/leaseback agreement  
12 under section 2 of this act.

13 (o) A transfer of real property, however effected, if it consists  
14 of a mere change in identity or form of ownership of an entity where  
15 there is no change in the beneficial ownership. These include  
16 transfers to a corporation or partnership which is wholly owned by the  
17 transferor and/or the transferor's spouse or children: PROVIDED, That  
18 if thereafter such transferee corporation or partnership voluntarily  
19 transfers such real property, or such transferor, spouse, or children  
20 voluntarily transfer stock in the transferee corporation or interest in  
21 the transferee partnership capital, as the case may be, to other than  
22 (1) the transferor and/or the transferor's spouse or children, (2) a  
23 trust having the transferor and/or the transferor's spouse or children  
24 as the only beneficiaries at the time of the transfer to the trust, or  
25 (3) a corporation or partnership wholly owned by the original  
26 transferor and/or the transferor's spouse or children, within three  
27 years of the original transfer to which this exemption applies, and the  
28 tax on the subsequent transfer has not been paid within sixty days of  
29 becoming due, excise taxes shall become due and payable on the original  
30 transfer as otherwise provided by law.

31 ((+o+)) (p)(i) A transfer that for federal income tax purposes does  
32 not involve the recognition of gain or loss for entity formation,  
33 liquidation or dissolution, and reorganization, including but not  
34 limited to nonrecognition of gain or loss because of application of  
35 section 332, 337, 351, 368(a)(1), 721, or 731 of the Internal Revenue  
36 Code of 1986, as amended.

37 (ii) However, the transfer described in ((+o+)) (p)(i) of this  
38 subsection cannot be preceded or followed within a twelve-month period  
39 by another transfer or series of transfers, that, when combined with

1 the otherwise exempt transfer or transfers described in ~~((+o+))~~ (p)(i)  
2 of this subsection, results in the transfer of a controlling interest  
3 in the entity for valuable consideration, and in which one or more  
4 persons previously holding a controlling interest in the entity receive  
5 cash or property in exchange for any interest the person or persons  
6 acting in concert hold in the entity. This subsection ~~(3)((+o+))~~  
7 (p)(ii) does not apply to that part of the transfer involving property  
8 received that is the real property interest that the person or persons  
9 originally contributed to the entity or when one or more persons who  
10 did not contribute real property or belong to the entity at a time when  
11 real property was purchased receive cash or personal property in  
12 exchange for that person or persons' interest in the entity. The real  
13 estate excise tax under this subsection ~~(3)((+o+))~~ (p)(ii) is imposed  
14 upon the person or persons who previously held a controlling interest  
15 in the entity.

16 NEW SECTION. Sec. 11. A new section is added to chapter 84.36 RCW  
17 to read as follows:

18 All real and personal property subject to a sale/leaseback  
19 agreement under section 2 of this act is exempt from taxation.

20 NEW SECTION. Sec. 12. A new section is added to chapter 35.21 RCW  
21 to read as follows:

22 A city or town may not impose taxes on amounts received as lease  
23 payments paid by a seller/lessee to a lessor under a sale/leaseback  
24 agreement under section 2 of this act in respect to tangible personal  
25 property used by the seller/lessee, or to the purchase amount paid by  
26 the lessee pursuant to an option to purchase at the end of the lease  
27 term.

28 Sec. 13. RCW 35.21.755 and 1999 c 266 s 1 are each amended to read  
29 as follows:

30 (1) A public corporation, commission, or authority created pursuant  
31 to RCW 35.21.730 ~~((o+))~~, 35.21.660, or section 4 of this act shall  
32 receive the same immunity or exemption from taxation as that of the  
33 city, town, or county creating the same: PROVIDED, That, except for  
34 (a) any property within a special review district established by  
35 ordinance prior to January 1, 1976, or listed on or which is within a  
36 district listed on any federal or state register of historical sites or

1 (b) any property owned, operated, or controlled by a public corporation  
2 that is used primarily for low-income housing, or that is used as a  
3 convention center, performing arts center, public assembly hall, public  
4 meeting place, public esplanade, street, public way, public open space,  
5 park, public utility corridor, or view corridor for the general public  
6 or (c) any blighted property owned, operated, or controlled by a public  
7 corporation that was acquired for the purpose of remediation and  
8 redevelopment of the property in accordance with an agreement or plan  
9 approved by the city, town, or county in which the property is located,  
10 or (d) any property owned, operated, or controlled by a public  
11 corporation created under section 4 of this act, any such public  
12 corporation, commission, or authority shall pay to the county treasurer  
13 an annual excise tax equal to the amounts which would be paid upon real  
14 property and personal property devoted to the purposes of such public  
15 corporation, commission, or authority were it in private ownership, and  
16 such real property and personal property is acquired and/or operated  
17 under RCW 35.21.730 through 35.21.755, and the proceeds of such excise  
18 tax shall be allocated by the county treasurer to the various taxing  
19 authorities in which such property is situated, in the same manner as  
20 though the property were in private ownership: PROVIDED FURTHER, That  
21 the provisions of chapter 82.29A RCW shall not apply to property within  
22 a special review district established by ordinance prior to January 1,  
23 1976, or listed on or which is within a district listed on any federal  
24 or state register of historical sites and which is controlled by a  
25 public corporation, commission, or authority created pursuant to RCW  
26 35.21.730 or 35.21.660, which was in existence prior to January 1,  
27 1987: AND PROVIDED FURTHER, That property within a special review  
28 district established by ordinance prior to January 1, 1976, or property  
29 which is listed on any federal or state register of historical sites  
30 and controlled by a public corporation, commission, or authority  
31 created pursuant to RCW 35.21.730 or 35.21.660, which was in existence  
32 prior to January 1, 1976, shall receive the same immunity or exemption  
33 from taxation as if such property had been within a district listed on  
34 any such federal or state register of historical sites as of January 1,  
35 1976, and controlled by a public corporation, commission, or authority  
36 created pursuant to RCW 35.21.730 or 35.21.660 which was in existence  
37 prior to January 1, 1976.

38 (2) As used in this section:

1 (a) "Low-income" means a total annual income, adjusted for family  
2 size, not exceeding fifty percent of the area median income.

3 (b) "Area median income" means:

4 (i) For an area within a standard metropolitan statistical area,  
5 the area median income reported by the United States department of  
6 housing and urban development for that standard metropolitan  
7 statistical area; or

8 (ii) For an area not within a standard metropolitan statistical  
9 area, the county median income reported by the department of community,  
10 trade, and economic development.

11 (c) "Blighted property" means property that is contaminated with  
12 hazardous substances as defined under RCW 70.105D.020(7).

13 NEW SECTION. **Sec. 14.** A new section is added to chapter 81.112  
14 RCW to read as follows:

15 (1) Except as provided in subsection (3) of this section, no  
16 regional transit authority may initiate a transaction authorized under  
17 section 2 of this act after June 30, 2007.

18 (2) The termination of authority to enter into transactions after  
19 June 30, 2007, shall not affect the validity of any transactions  
20 entered into under section 2 of this act.

21 (3) A regional transit authority may enter into a transaction in  
22 accordance with section 2 of this act after June 30, 2007, to replace  
23 or refinance a transaction that relates to specific obligations entered  
24 into on or before that date and that has terminated, or is, pursuant to  
25 the terms of the replacement or refinance, to terminate, before the  
26 final stated term of that transaction. The exemptions from taxes  
27 provided by sections 5, 6, 8, 9, 11, and 12 of this act and RCW  
28 82.04.050, 82.45.010, and 35.21.755 shall apply to the replacement or  
29 refinance transactions.

30 (4) Any regional transit authority, or public corporation or entity  
31 created pursuant to section 4 of this act, which undertakes a  
32 transaction authorized by section 2 of this act, shall provide to the  
33 state finance committee, or its financial advisor, at the state finance  
34 committee's discretion, a copy of all material agreements executed in  
35 connection with the transaction within three months of the closing of  
36 the transaction and shall make a report to the state finance committee,  
37 the president of the senate, and the speaker of the house of  
38 representatives on transactions authorized by section 2 of this act.

1 The report shall include the amount of the transactions, the expected  
2 savings or losses resulting from the transactions, the transaction  
3 costs, including fees and detailed pricing information, the risks  
4 associated with the transaction, and any other information the regional  
5 transit authority determines relevant. The report shall be submitted  
6 within six months of the closing of each transaction.

7 NEW SECTION. **Sec. 15.** The authority granted by this act shall be  
8 in addition and supplemental to any authority previously granted and  
9 shall not limit or be limited by any other powers or authority  
10 previously granted to regional transit authorities or any public  
11 corporation, or restrictions on such powers or authority. Nothing in  
12 this act shall be construed as limiting other statutory authority  
13 previously granted to regional transit authorities or public  
14 corporations or other tax exemptions granted to regional transit  
15 authorities or public corporations. Nothing in this act shall be  
16 construed as limiting the authority of the state, any political  
17 subdivision thereof, or any other public or municipal corporation to  
18 undertake the activities described herein as expressly or impliedly  
19 authorized by other provisions of law. Nothing in this act shall be  
20 construed as an authorization to provide indemnification to the extent  
21 such indemnification is prohibited or restricted by other provisions of  
22 law or the Constitution of the state of Washington.

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