S-1420.1

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**SUBSTITUTE SENATE BILL 5104**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Transportation (originally sponsored by Senators Sheldon, Rolfes, Fortunato, Schoesler, and O'Ban)

AN ACT Relating to prohibiting local governments from imposing vehicle tolls; amending RCW 35.23.452, 35.74.010, 36.73.015, 36.73.040, 36.73.065, 36.73.067, 36.73.170, 36.120.050, 36.120.130, and 47.56.820; reenacting and amending RCW 36.120.020; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.01 RCW; and repealing RCW 35.74.050, 35.74.060, and 35.74.070.

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

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

No city or town may impose vehicle tolls.

**Sec.**  RCW 35.23.452 and 1965 c 7 s 35.24.300 are each amended to read as follows:

The city council of such city shall have power to purchase, lease, or otherwise acquire real estate and personal property necessary or proper for municipal purposes and to control, lease, sublease, convey or otherwise dispose of the same; to acquire and plat land for cemeteries and parks and provide for the regulation thereof, including but not limited to the right to lease any waterfront and other lands adjacent thereto owned by it for manufacturing, commercial or other business purposes; including but not limited to the right to lease for wharf, dock and other purposes of navigation and commerce such portions of its streets which bound upon or terminate in its waterfront or the navigable waters of such city, subject, however, to the written consent of the lessees of a majority of the square feet frontage of the harbor area abutting on any street proposed to be so leased. No lease of streets or waterfront shall be for longer than ten years and the rental therefor shall be fixed by the city council. Every such lease shall contain a clause that at intervals of every five years during the term thereof the rental to be paid by the lessee shall be readjusted between the lessee and the city by mutual agreement, or in default of such mutual agreement that the rental shall be fixed by arbitrators to be appointed one by the city council, one by the lessee and the third by the two thus appointed. No such lease shall be made until the city council has first caused notice thereof to be published in the official newspaper of such city at least fifteen days and in one issue thereof each week prior to the making of such lease, which notice shall describe the portion of the street proposed to be leased, to whom, for what purpose, and the rental to be charged therefor. The city may improve part of such waterfront or street extensions by building inclines, wharves, gridirons and other accommodations for shipping, commerce and navigation and may charge and collect for service and use thereof reasonable rates ((~~and tolls~~)).

**Sec.**  RCW 35.74.010 and 1965 c 7 s 35.74.010 are each amended to read as follows:

Every city and town may erect and maintain drawbridges across navigable streams that flow through or penetrate the boundaries thereof, when the public necessity requires it((~~, or it may grant franchises to persons or corporations to erect them and charge toll thereon~~)).

NEW SECTION. **Sec.**  A new section is added to chapter 35A.21 RCW to read as follows:

No code city may impose vehicle tolls.

NEW SECTION. **Sec.**  A new section is added to chapter 36.01 RCW to read as follows:

No county may impose vehicle tolls.

**Sec.**  RCW 36.73.015 and 2015 3rd sp.s. c 44 s 311 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "City" means a city or town.

(2) "District" means a transportation benefit district created under this chapter.

(3) "Low-income" means household income set by the district creating the rebate program that is at or below seventy-five percent of the median household income, adjusted for household size, for the district in which the fees((~~,~~)) or taxes((~~, or tolls~~)) were imposed.

(4) "Rebate program" means an optional program established by a transportation benefit district that includes a city with a population of five hundred thousand persons or more for the purpose of providing rebates to low‑income individuals for fees((~~,~~)) or taxes((~~, and/or tolls~~)) imposed by such transportation benefit district for: (a) Vehicle fees imposed under RCW 36.73.040(3)(b); and (b) sales and use taxes imposed under RCW 36.73.040(3)(a)((~~; and/or (c) tolls imposed under RCW 36.73.040(3)(d)~~)).

(5) "Supplemental transportation improvement" or "supplemental improvement" means any project, work, or undertaking to provide public transportation service, in addition to a district's existing or planned voter-approved transportation improvements, proposed by a participating city member of the district under RCW 36.73.180.

(6) "Transportation improvement" means a project contained in the transportation plan of the state, a regional transportation planning organization, city, county, or eligible jurisdiction as identified in RCW 36.73.020(2). A project 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 including transportation demand management. Projects may also include the operation, preservation, and maintenance of these facilities or programs.

**Sec.**  RCW 36.73.040 and 2008 c 122 s 17 are each amended to read as follows:

(1) A transportation benefit district is a quasi-municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(2) A transportation benefit district constitutes a body corporate and possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to acquire, hold, and dispose of real and personal property, and to sue and be sued. Public works contract limits applicable to the jurisdiction that established the district apply to the district.

(3) To carry out the purposes of this chapter, and subject to the provisions of RCW 36.73.065, a district is authorized to impose the following taxes, fees, and charges((~~, and tolls~~)):

(a) A sales and use tax in accordance with RCW 82.14.0455;

(b) A vehicle fee in accordance with RCW 82.80.140; and

(c) A fee or charge in accordance with RCW 36.73.120. However, if a county or city within the district area is levying a fee or charge for a transportation improvement, the fee or charge shall be credited against the amount of the fee or charge imposed by the district. Developments consisting of less than twenty residences are exempt from the fee or charge under RCW 36.73.120((~~; and~~

~~(d) Vehicle tolls on state routes, city streets, or county roads, within the boundaries of the district, unless otherwise prohibited by law. However, consistent with RCW 47.56.820, the vehicle toll must first be authorized by the legislature if the toll is imposed on a state route. The department of transportation shall administer the collection of vehicle tolls authorized on state routes, unless otherwise specified in law or by contract, and the state transportation commission, or its successor, may approve, set, and impose the tolls in amounts sufficient to implement the district's transportation improvement finance plan. The district shall administer the collection of vehicle tolls authorized on city streets or county roads, and shall set and impose the tolls in amounts sufficient to implement the district's transportation improvement plan. However, consistent with RCW 47.56.850, the vehicle toll, including any change in an existing toll rate, must first be reviewed and approved by the tolling authority designated in RCW 47.56.850 if the toll, or change in toll rate, would have a significant impact, as determined by the tolling authority, on the operation of any state facility~~)).

**Sec.**  RCW 36.73.065 and 2015 3rd sp.s. c 44 s 309 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, taxes, fees, and charges((~~, and tolls~~)) may not be imposed by a district without approval of a majority of the voters in the district voting on a proposition at a general or special election. The proposition must include a specific description of: (a) The transportation improvement or improvements proposed by the district; (b) any rebate program proposed to be established under RCW 36.73.067; and (c) the proposed taxes, fees, and charges((~~, and the range of tolls~~)) imposed by the district to raise revenue to fund the improvement or improvements or rebate program, as applicable.

(2) Voter approval under this section must be accorded substantial weight regarding the validity of a transportation improvement as defined in RCW 36.73.015.

(3) A district may not increase any taxes, fees, or charges((~~, or range of tolls~~)) imposed or change a rebate program under this chapter once the taxes, fees, charges, ((~~tolls,~~)) or rebate program takes effect, except:

(a) If authorized by the district voters pursuant to RCW 36.73.160;

(b) With respect to a change in a rebate program, a material change policy adopted pursuant to RCW 36.73.160 is followed and the change does not reduce the percentage level or rebate amount;

(c) For up to forty dollars of the vehicle fee authorized in RCW 82.80.140 by the governing board of the district if a vehicle fee of twenty dollars has been imposed for at least twenty-four months; or

(d) For up to fifty dollars of the vehicle fee authorized in RCW 82.80.140 by the governing board of the district if a vehicle fee of forty dollars has been imposed for at least twenty-four months and a district has met the requirements of subsection (6) of this section.

(4)(a) A district that includes all the territory within the boundaries of the jurisdiction, or jurisdictions, establishing the district may impose by a majority vote of the governing board of the district the following fees and charges:

(i) Up to twenty dollars of the vehicle fee authorized in RCW 82.80.140;

(ii) Up to forty dollars of the vehicle fee authorized in RCW 82.80.140 if a vehicle fee of twenty dollars has been imposed for at least twenty-four months;

(iii) Up to fifty dollars of the vehicle fee authorized in RCW 82.80.140 if a vehicle fee of forty dollars has been imposed for at least twenty-four months and a district has met the requirements of subsection (6) of this section; or

(iv) A fee or charge in accordance with RCW 36.73.120.

(b) The vehicle fee authorized in (a) of this subsection may only be imposed for a passenger-only ferry transportation improvement if the vehicle fee is first approved by a majority of the voters within the jurisdiction of the district.

(c)(i) A district solely comprised of a city or cities may not impose the fees or charges identified in (a) of this subsection within one hundred eighty days after July 22, 2007, unless the county in which the city or cities reside, by resolution, declares that it will not impose the fees or charges identified in (a) of this subsection within the one hundred eighty-day period; or

(ii) A district solely comprised of a city or cities identified in RCW 36.73.020(6)(b) may not impose the fees or charges until after May 22, 2008, unless the county in which the city or cities reside, by resolution, declares that it will not impose the fees or charges identified in (a) of this subsection through May 22, 2008.

(5) If the interlocal agreement in RCW 82.80.140(2)(a) cannot be reached, a district that includes only the unincorporated territory of a county may impose by a majority vote of the governing body of the district up to: (a) Twenty dollars of the vehicle fee authorized in RCW 82.80.140, (b) forty dollars of the vehicle fee authorized in RCW 82.80.140 if a fee of twenty dollars has been imposed for at least twenty-four months, or (c) fifty dollars of the vehicle fee authorized in RCW 82.80.140 if a vehicle fee of forty dollars has been imposed for at least twenty-four months and a district has met the requirements of subsection (6) of this section.

(6) If a district intends to impose a vehicle fee of more than forty dollars by a majority vote of the governing body of the district, the governing body must publish notice of this intention, in one or more newspapers of general circulation within the district, by April 1st of the year in which the vehicle fee is to be imposed. If within ninety days of the date of publication a petition is filed with the county auditor containing the signatures of eight percent of the number of voters registered and voting in the district for the office of the governor at the last preceding gubernatorial election, the county auditor must canvass the signatures in the same manner as prescribed in RCW 29A.72.230 and certify their sufficiency to the governing body within two weeks. The proposition to impose the vehicle fee must then be submitted to the voters of the district at a special election, called for this purpose, no later than the date on which a primary election would be held under RCW 29A.04.311. The vehicle fee may then be imposed only if approved by a majority of the voters of the district voting on the proposition.

**Sec.**  RCW 36.73.067 and 2012 c 152 s 2 are each amended to read as follows:

(1) A district that: (a) Includes a city with a population of five hundred thousand persons or more; and (b) imposes a vehicle fee under RCW 36.73.040(3)(b)((~~,~~)) or sales and use taxes under RCW 36.73.040(3)(a)((~~, or tolls under RCW 36.73.040(3)(d),~~)) may establish a rebate program for the purposes of providing rebates of up to forty percent of the actual fee((~~,~~)) or tax((~~, or toll~~)) paid by a low-income individual.

(2) Funds collected from a vehicle fee under RCW 36.73.040(3)(b)((~~,~~)) or sales and use tax under RCW 36.73.040(3)(a) ((~~or tolls under RCW 36.73.040(3)(d)~~)) may be used for a rebate program established under this section.

(3) A district that establishes a rebate program is responsible for the development and administration of the program and all functions and costs associated with the rebate program.

(4) A district that establishes a rebate program under this section must report back to the legislature two years after the program takes effect. The report must include, but is not limited to, a detailed description of the structure of the program, the average rebate, the total amount of rebates issued, and the number of people that received rebates.

**Sec.**  RCW 36.73.170 and 2005 c 336 s 19 are each amended to read as follows:

Within thirty days of the completion of the construction of the transportation improvement or series of improvements authorized by a district, the district shall terminate day-to-day operations and exist solely as a limited entity that oversees the collection of revenue and the payment of debt service or financing still in effect, if any and to carry out the requirements of RCW 36.73.160. The district shall accordingly adjust downward its employees, administration, and overhead expenses. Any taxes, fees, or charges((~~, or tolls~~)) imposed by the district terminate when the financing or debt service on the transportation improvement or series of improvements constructed is completed and paid and notice is provided to the departments administering the taxes. Any excess revenues collected must be disbursed to the participating jurisdictions of the district in proportion to their population, using population estimates prepared by the office of financial management. The district shall dissolve itself and cease to exist thirty days after the financing or debt service on the transportation improvement, or series of improvements, constructed is completed and paid. If there is no debt outstanding, then the district shall dissolve within thirty days from completion of construction of the transportation improvement or series of improvements authorized by the district. Notice of dissolution must be published in newspapers of general circulation within the district at least three times in a period of thirty days. Creditors must file claims for payment of claims due within thirty days of the last published notice or the claim is extinguished.

**Sec.**  RCW 36.120.020 and 2006 c 334 s 13 and 2006 c 311 s 4 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the governing body of a regional transportation investment district.

(2) "Department" means the Washington state department of transportation.

(3) "Highway of statewide significance" means an existing or proposed state route or federal interstate designated as a highway of statewide significance by the transportation commission, the department, or the legislature.

(4) "Lead agency" means a public agency that by law can plan, design, and build a transportation project and has been so designated by the district.

(5) "Regional transportation investment district" or "district" means a municipal corporation that has been created by county legislative authorities and a vote of the people under this chapter to implement a regional transportation investment plan.

(6) "Regional transportation investment district planning committee" or "planning committee" means the advisory committee created under RCW 36.120.030 to create and propose to county legislative authorities a regional transportation investment plan to develop, finance, and construct transportation projects.

(7) "Regional transportation investment plan" or "plan" means a plan to develop, construct, and finance a transportation project or projects.

(8) "Transportation project" means:

(a) A capital improvement or improvements to a highway that has been designated, in whole or in part, as a highway of statewide significance, including an extension, that:

(i) Adds a lane or new lanes to an existing state or federal highway; or

(ii) Repairs or replaces a lane or lanes damaged by an event declared an emergency by the governor before January 1, 2002.

(b) A capital improvement or improvements to all or a portion of a highway of statewide significance, including an extension, and may include the following associated multimodal capital improvements:

(i) Approaches to highways of statewide significance;

(ii) High occupancy vehicle lanes;

(iii) Flyover ramps;

(iv) Park and ride lots;

(v) Bus pullouts;

(vi) Vans for vanpools;

(vii) Buses; and

(viii) Signalization, ramp metering, and other transportation system management improvements.

(c) A capital improvement or improvements to all or a portion of a city street, county road, or existing highway or the creation of a new highway that intersects with a highway of statewide significance, if all of the following conditions are met:

(i) The project is included in a plan that makes highway improvement projects that add capacity to a highway or highways of statewide significance;

(ii) The secretary of transportation determines that the project would better relieve traffic congestion than investing that same money in adding capacity to a highway of statewide significance;

(iii) Matching money equal to fifteen percent of the total cost of the project is provided by local entities, including but not limited to a metropolitan planning organization, county, city, port, or private entity in which a county participating in a plan is located. Local entities may use federal grants to meet this matching requirement;

(iv) In no case may the cumulative regional transportation investment district contribution to all projects constructed under this subsection (8)(c) exceed ten percent of the revenues generated by the district;

(v) In no case may the cumulative regional transportation investment district contribution to all projects constructed under this subsection (8)(c) exceed one billion dollars; and

(vi) The specific projects are included within the plan and submitted as part of the plan to a vote of the people.

(d) ((~~Except as otherwise provided in this subsection,~~)) Operations, preservation, and maintenance are excluded from this definition and may not be included in a regional transportation investment plan. ((~~However, operations, preservation, and maintenance of tolled facilities where toll revenues have been pledged for the payment of contracts is expressly authorized and may be included in a regional transportation investment plan. The authority under this subsection includes operational expenses for toll enforcement.~~))

(e) Operational expenses for traffic mitigation provided solely for transportation project construction mitigation directly related to specific projects as outlined in the plan shall be included in a regional transportation investment plan. Construction mitigation strategies may include, but are not limited to, funding for increased transit service hours, trip reduction incentives, nonmotorized mode support, and ridematching services. Prior to construction of any project, corridor mitigation plans must be developed in conjunction with the department and partner transit agencies, including local transit agencies and the regional transit authority serving the counties, with the following goals: (i) Reducing drive alone trips in affected corridors; (ii) reducing delay per person and delay per unit of goods in affected corridors; and (iii) improving levels of service that improve system performance for all transportation users in affected corridors. The regional transportation commission established under section 2, chapter 311, Laws of 2006, or a successor regional governing entity, shall review transit investments according to these performance measures to determine whether to continue funding for successful and effective operations after the construction period is completed.

(9) "Weighted vote" means a vote that reflects the population each board or planning committee member represents relative to the population represented by the total membership of the board or planning committee. Population will be determined using the federal 2000 census or subsequent federal census data.

**Sec.**  RCW 36.120.050 and 2008 c 122 s 16 are each amended to read as follows:

(1) A regional transportation investment district planning committee may, as part of a regional transportation investment plan, recommend the imposition or authorization of some or all of the following revenue sources, which a regional transportation investment district may impose or authorize upon approval of the voters as provided in this chapter:

(a) A regional sales and use tax, as specified in RCW 82.14.430, of up to 0.1 percent of the selling price, in the case of a sales tax, or value of the article used, in the case of a use tax, upon the occurrence of any taxable event in the regional transportation investment district;

(b) A local option vehicle license fee, as specified under RCW 82.80.100, of up to one hundred dollars per vehicle registered in the district. As used in this subsection, "vehicle" means motor vehicle as defined in RCW 46.04.320. Certain classes of vehicles, as defined under chapter 46.04 RCW, may be exempted from this fee;

(c) A parking tax under RCW 82.80.030;

(d) A local motor vehicle excise tax under RCW 81.100.060;

(e) A local option fuel tax under RCW 82.80.120; and

(f) An employer excise tax under RCW 81.100.030((~~; and~~

~~(g) Vehicle tolls on new or reconstructed local or regional arterials or state routes within the boundaries of the district, if the following conditions are met:~~

~~(i) Consistent with RCW 47.56.820, the vehicle toll must first be authorized by the legislature if the toll is imposed on a state route;~~

~~(ii) Consistent with RCW 47.56.850, the vehicle toll, including any change in an existing toll rate, must first be reviewed and approved by the tolling authority designated in RCW 47.56.850 if the toll, or change in toll rate, would have a significant impact, as determined by the tolling authority, on the operation of any state facility;~~

~~(iii) The regional transportation investment plan must identify the facilities that may be tolled; and~~

~~(iv) Unless otherwise specified by law, the department shall administer the collection of vehicle tolls on designated facilities, and the state transportation commission, or its successor, shall be the tolling authority, and shall act in accordance with RCW 47.56.850~~)).

(2) Taxes((~~,~~)) and fees((~~, and tolls~~)) may not be imposed or authorized without an affirmative vote of the majority of the voters within the boundaries of the district voting on a ballot proposition as set forth in RCW 36.120.070. Revenues from these taxes and fees may be used only to implement the plan as set forth in this chapter. A district may contract with the state department of revenue or other appropriate entities for administration and collection of any of the taxes or fees authorized in this section.

(3) Existing statewide motor vehicle fuel and special fuel taxes, at the distribution rates in effect on January 1, 2001, are not intended to be altered by this chapter.

**Sec.**  RCW 36.120.130 and 2003 c 372 s 1 are each amended to read as follows:

(1)(a) Notwithstanding RCW 39.36.020(1), the district may at any time contract indebtedness or borrow money for district purposes and may issue general obligation bonds or other evidences of indebtedness, secured by the pledge of one or more of the taxes, ((~~tolls,~~)) charges, or fees authorized to be imposed by the district, in an amount not exceeding, together with any existing indebtedness of the district not authorized by the voters, one and one-half percent of the value of the taxable property within the boundaries of the district.

(b) With the assent of three-fifths of the voters voting at an election, a district may contract indebtedness or borrow money for district purposes and may issue general obligation bonds or other evidences of indebtedness as long as the total indebtedness of the district does not exceed five percent of the value of the taxable property within the district, including indebtedness authorized under (a) of this subsection. The bonds shall be issued and sold in accordance with chapter 39.46 RCW.

(2) The district may at any time issue revenue bonds or other evidences of indebtedness, secured by the pledge of one or more of the revenues authorized to be collected by the district, to provide funds to carry out its authorized functions without submitting the matter to the voters of the district. These obligations shall be issued and sold in accordance with chapter 39.46 RCW.

(3) The district may enter into agreements with the lead agencies or the state of Washington, when authorized by the plan, to pledge taxes or other revenues of the district for the purpose of paying in part or whole principal and interest on bonds issued by the lead agency or the state of Washington. The agreements pledging revenues and taxes shall be binding for their terms, but not to exceed thirty years, and no tax pledged by an agreement may be eliminated or modified if it would impair the pledge made in any agreement.

(4) Once construction of projects in the plan has been completed, revenues collected by the district may only be used for the following purposes: (a) Payment of principal and interest on outstanding indebtedness of the district; and (b) to make payments required under a pledging agreement((~~; and (c) to make payments for maintenance and operations of toll facilities as may be required by toll bond covenants~~)).

**Sec.**  RCW 47.56.820 and 2008 c 122 s 4 are each amended to read as follows:

(1) ((~~Unless otherwise delegated,~~)) Only the legislature may authorize the imposition of tolls on eligible toll facilities.

(2) All revenue from an eligible toll facility must be used only to construct, improve, preserve, maintain, manage, or operate the eligible toll facility on or in which the revenue is collected. Expenditures of toll revenues are subject to appropriation and must be made only:

(a) To cover the operating costs of the eligible toll facility, including necessary maintenance, preservation, administration, and toll enforcement by public law enforcement within the boundaries of the facility;

(b) To meet obligations for the repayment of debt and interest on the eligible toll facilities, and any other associated financing costs including, but not limited to, required reserves and insurance;

(c) To meet any other obligations to provide funding contributions for any projects or operations on the eligible toll facilities;

(d) To provide for the operations of conveyances of people or goods; or

(e) For any other improvements to the eligible toll facilities.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 35.74.050 (Authority to operate toll bridges—Toll rate review and approval by tolling authority) and 2008 c 122 s 15 & 1965 c 7 s 35.74.050;

(2)RCW 35.74.060 (Prerequisites of grant of franchise—Approval of bridge—Tolls) and 1965 c 7 s 35.74.060; and

(3)RCW 35.74.070 (License fees—Renewal of license) and 1965 c 7 s 35.74.070.

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