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**SUBSTITUTE SENATE BILL 5528**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senate Transportation (originally sponsored by Senators Pedersen, Liias, and Hawkins)

AN ACT Relating to the imposition of supplemental revenue sources within a regional transit authority area to finance high capacity transportation improvements, serving that area; amending RCW 81.104.160, 81.104.015, 81.104.100, 81.104.110, 81.104.140, 81.104.180, and 81.104.190; and adding new sections to chapter 81.104 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 81.104 RCW to read as follows:

(1) The board of a regional transit authority may establish one or more enhanced service zones within a portion of the boundaries of the authority in order to finance system improvements directly serving the respective enhanced service zone or zones. An enhanced service zone must lie entirely within the authority boundaries and must comprise no less than the entire portion of a city or town that lies within the authority boundaries. An enhanced service zone may also include one or more entire adjacent cities or towns and adjacent unincorporated areas, and must contain all or portions of one or more high capacity transportation projects included within an existing voter-approved regional transportation plan. There may also be multiple enhanced service zones encompassing the same city or town, and adjacent unincorporated area.

(2) Before an enhanced service zone may be established, it must first be recommended to the board of the regional transit authority by an advisory committee appointed by the regional transit authority board and composed of board members representing the subarea in which the proposed enhanced service zone is located. The advisory committee's recommendations must include proposed system improvements that benefit the enhanced service zone, to be financed by the excise taxes authorized in subsection (5) of this section, and constructed and operated by the regional transit authority. If the board establishes the recommended enhanced service zone, then the board must submit a ballot proposition to voters within the enhanced service zone at a general or special election for approval of the proposed system improvements and funding sources as provided in subsection (5) of this section. The funding sources may not be imposed without approval of a majority of the voters in the enhanced service zone voting on the proposition. The proposition must include a specific description of the proposed high capacity transportation system improvement or improvements, including speed, reliability, and safety enhancements to the improvements, and the funding sources to be imposed within the enhanced service zone to raise revenue to fund the improvement or improvements. Design and construction of the system improvements approved by the voters of an enhanced service zone shall not materially and unreasonably delay the estimated completion date of high capacity transportation system improvements contained in an existing voter-approved regional transit plan.

(3) The ballot proposition authorized by subsection (2) of this section may authorize improvements that are:

(a) Enhancements to one or more high capacity transportation systems contained in an existing voter-approved regional transit plan. Enhancements include modifications to an existing system's facilities that improve performance characteristics such as speed, reliability, potential for future expansion, and safety or the completion date of the system but do not change the mode or route alignment of the system previously approved by voters, and improvements to service, such as reducing headway times or adding interim bus service;

(b) New rail improvements on alignments that are not contained in an existing voter-approved regional transit plan and connect to the high capacity transportation system;

(c) High capacity transportation system planning for future system expansion within the enhanced service zone; or

(d) A combination of the improvements authorized by this subsection.

(4) Application of RCW 81.104.100 and 81.104.110 are suspended for any ballot proposition submitted to the voters of an enhanced service zone if the improvements only contain enhancements authorized by subsection (3)(a) and (c) of this section.

(5) A regional transit authority may levy and collect within the boundaries of an enhanced service zone one or more of the following voter-approved local option funding sources to finance the proposed improvements within the enhanced service zone:

(a) A supplemental motor vehicle excise tax as provided in RCW 81.104.160(1)(b); and

(b) A commercial parking tax under section 3 of this act.

(6) To the extent that system improvements include new fixed rail guideway components of the rail fixed guideway public transportation system within a city with a population of 500,000 or more, such guideway shall be in entirely exclusive rights-of-way and not contain any level traffic crossings with modes not part of the rail fixed guideway public transportation system.

(7) "System improvement or improvements," as used in this section, means additions to or alterations of a high capacity transportation system or rail fixed guideway public transportation system as both are defined in RCW 81.104.015.

**Sec.**  RCW 81.104.160 and 2015 3rd sp.s. c 44 s 319 are each amended to read as follows:

(1)(a) Regional transit authorities that include a county with a population of more than ((~~one million five hundred thousand~~)) 1,500,000 may submit an authorizing proposition to the voters, and if approved, may levy and collect an excise tax, at a rate approved by the voters, but not exceeding eight-tenths of one percent on the value, under chapter 82.44 RCW, of every motor vehicle owned by a resident of the taxing district, solely for the purpose of providing high capacity transportation service.

(b) In addition to the authority provided in (a) of this subsection, regional transit authorities described in (a) of this subsection may submit an authorizing proposition to the voters within the boundaries of an enhanced service zone described in section 1 of this act, and if approved, may levy and collect a supplemental excise tax within the enhanced service zone, at a rate approved by the voters, but not exceeding one and one-half percent on the value, under chapter 82.44 RCW, of every motor vehicle owned by a resident of the enhanced service zone, solely to raise revenue to fund the improvement or improvements described in section 1 of this act.

(c) The maximum tax ((~~rate~~)) rates under this subsection ((~~does~~)) (1) do not include a motor vehicle excise tax approved before July 15, 2015, if the tax will terminate on the date bond debt to which the tax is pledged is repaid. ((~~This tax does~~)) The taxes under this subsection (1) do not apply to vehicles licensed under RCW 46.16A.455 except vehicles with an unladen weight of ((~~six thousand~~)) 6,000 pounds or less, RCW 46.16A.425 or 46.17.335(2). Notwithstanding any other provision of this subsection (1) or chapter 82.44 RCW, a motor vehicle excise tax imposed by a regional transit authority before or after July 15, 2015, must comply with chapter 82.44 RCW as it existed on January 1, 1996, until December 31st of the year in which the regional transit authority repays bond debt to which a motor vehicle excise tax was pledged before July 15, 2015. Motor vehicle taxes collected by regional transit authorities after December 31st of the year in which a regional transit authority repays bond debt to which a motor vehicle excise tax was pledged before July 15, 2015, must comply with chapter 82.44 RCW as it existed on the date the tax was approved by voters.

(2) An agency and high capacity transportation corridor area may impose a sales and use tax solely for the purpose of providing high capacity transportation service, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the applicable jurisdiction that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax may not exceed 2.172 percent. The rate of tax imposed under this subsection must bear the same ratio of the 2.172 percent authorized that the rate imposed under subsection (1) of this section bears to the rate authorized under subsection (1) of this section. The base of the tax is the selling price in the case of a sales tax or the rental value of the vehicle used in the case of a use tax.

(3) Any motor vehicle excise tax previously imposed under the provisions of ((~~RCW 81.104.160(1)~~)) subsection (1)(a) of this section shall be repealed, terminated, and expire on December 5, 2002, except for a motor vehicle excise tax for which revenues have been contractually pledged to repay a bonded debt issued before December 5, 2002, as determined by *Pierce County et al. v. State*, 159 Wn.2d 16, 148 P.3d 1002 (2006). In the case of bonds that were previously issued, the motor vehicle excise tax must comply with chapter 82.44 RCW as it existed on January 1, 1996.

(4) If a regional transit authority imposes the tax authorized under subsection (1) of this section, the authority may not receive any state grant funds provided in an omnibus transportation appropriations act except transit coordination grants created in chapter 11, Laws of 2015 3rd sp. sess.

NEW SECTION. **Sec.**  A new section is added to chapter 81.104 RCW to read as follows:

(1) Subject to the conditions of this section, a regional transit authority may submit an authorizing proposition to the voters within the boundaries of an enhanced service zone described in section 1 of this act, and if approved, may fix and impose a parking tax on all persons engaged in a commercial parking business within the enhanced service zone.

(2) In lieu of the tax in subsection (1) of this section, a regional transit authority may submit an authorizing proposition to the voters within the boundaries of an enhanced service zone described in section 1 of this act, and if approved, may fix and impose a tax for the act or privilege of parking a motor vehicle in a facility operated by a commercial parking business within the enhanced service zone.

The regional transit authority may provide that:

(a) The tax is paid by the operator or owner of the motor vehicle;

(b) The tax applies to all parking for which a fee is paid, whether paid directly or indirectly through a lease, including parking supplied with a lease of nonresidential space, but the tax does not apply when an exclusive and individual residential parking stall is provided as an inseverable condition of a residential lease agreement for the duration of that lease agreement, or is charged separately from the residential rent payment, as long as the parking stall is in the same residential building in which the lessee resides;

(c) The tax is collected by the operator of the facility and remitted to the regional transit authority;

(d) The tax is a fee per vehicle or is measured by the parking charge;

(e) The tax rate varies with zoning or location of the facility, the duration of the parking, the time of entry or exit, the type or use of the vehicle, or other reasonable factors; or

(f) Carpools, vehicles with a disabled parking placard, or government vehicles are exempt from the tax.

(3) "Commercial parking business," as used in this section, means the ownership, lease, operation, or management of a commercial parking lot in which fees are charged, except that "commercial parking business" does not mean lease of parking in a residential building provided as an exclusive and inseverable condition of a residential lease agreement for the duration of that lease agreement. "Commercial parking lot" means a covered or uncovered area with stalls for the purpose of parking motor vehicles.

(4) The rate of the tax under subsection (1) of this section may be based either upon gross proceeds or the number of vehicle stalls available for commercial parking use. The rates charged must be uniform for the same class or type of commercial parking business.

(5) The regional transit authority levying the tax provided for in subsection (1) or (2) of this section may provide for its payment on a monthly, quarterly, or annual basis. A regional transit authority may develop by ordinance or resolution rules for administering the tax, including provisions for reporting by commercial parking businesses, collection, and enforcement.

(6) The proceeds of the commercial parking tax fixed and imposed by a regional transit authority under subsection (1) or (2) of this section must be used to raise revenue to fund the improvement or improvements described in section 1 of this act.

**Sec.**  RCW 81.104.015 and 2016 c 33 s 7 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Enhanced service zone" means an area within a regional transit authority district created pursuant to section 1 of this act.

(2) "High capacity transportation corridor area" means a quasi-municipal corporation and 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, created by a transit agency governing body.

((~~(2)~~)) (3) "High capacity transportation system" means a system of public transportation services within an urbanized region operating principally on exclusive rights‑of‑way, and the supporting services and facilities necessary to implement such a system, including interim express services and high occupancy vehicle lanes, which taken as a whole, provides a substantially higher level of passenger capacity, speed, and service frequency than traditional public transportation systems operating principally in general purpose roadways.

((~~(3)~~)) (4) "Rail fixed guideway public transportation system" means a rail fixed guideway system, but does not include a system that is not public transportation, such as seasonal, tourist, or intraterminal service.

((~~(4)~~)) (5) "Rail fixed guideway system" means a light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or other fixed rail guideway component of a high capacity transportation system that is not regulated by the federal railroad administration, or its successor. "Rail fixed guideway system" does not mean elevators, moving sidewalks or stairs, and vehicles suspended from aerial cables, unless they are an integral component of a station served by a rail fixed guideway system.

((~~(5)~~)) (6) "Regional transit system" means a high capacity transportation system under the jurisdiction of one or more transit agencies except where a regional transit authority created under chapter 81.112 RCW exists, in which case "regional transit system" means the high capacity transportation system under the jurisdiction of a regional transit authority.

((~~(6)~~)) (7) "Transit agency" means city-owned transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas.

**Sec.**  RCW 81.104.100 and 2011 c 127 s 1 are each amended to read as follows:

To assure development of an effective high capacity transportation system, local authorities shall follow the following planning process only if their system plan includes a rail fixed guideway system component or a bus rapid transit component that is planned by a regional transit authority:

(1) Regional, multimodal transportation planning is the ongoing urban transportation planning process conducted in each urbanized area by its regional transportation planning organization. During this process, regional transportation goals are identified, travel patterns are analyzed, and future land use and travel are projected. The process provides a comprehensive view of the region's transportation needs but does not select specified modes to serve those needs. The process shall identify a priority corridor or corridors for further study of high capacity transportation facilities if it is deemed feasible by local officials.

(2) High capacity transportation system planning is the detailed evaluation of a range of high capacity transportation system options, including: Do nothing, low capital, and ranges of higher capital facilities. To the extent possible this evaluation shall take into account the urban mass transportation administration's requirements identified in subsection (3) of this section.

High capacity transportation system planning shall proceed as follows:

(a) Organization and management. The responsible local transit agency or agencies shall define roles for various local agencies, review background information, provide for public involvement, and develop a detailed work plan for the system planning process.

(b) Development of options. Options to be studied shall be developed to ensure an appropriate range of technologies and service policies can be evaluated. A do-nothing option and a low capital option that maximizes the current system shall be developed. Several higher capital options that consider a range of capital expenditures for several candidate technologies shall be developed.

(c) Analysis methods. The local transit agency shall develop reports describing the analysis and assumptions for the estimation of capital costs, operating and maintenance costs, methods for travel forecasting, a financial plan and an evaluation methodology.

(d) The system plan submitted to the voters pursuant to RCW 81.104.140 shall address, but is not limited to the following issues:

(i) Identification of level and types of high capacity transportation services to be provided;

(ii) A plan of high occupancy vehicle lanes to be constructed;

(iii) Identification of route alignments and station locations with sufficient specificity to permit calculation of costs, ridership, and system impacts;

(iv) Performance characteristics of technologies in the system plan;

(v) Patronage forecasts;

(vi) A financing plan describing: Phasing of investments; capital and operating costs and expected revenues; cost-effectiveness represented by a total cost per system rider and new rider estimate; estimated ridership and the cost of service for each individual high capacity line; and identification of the operating revenue to operating expense ratio.

The financing plan shall specifically differentiate the proposed use of funds between high capacity transportation facilities and services, and high occupancy vehicle facilities;

(vii) Description of the relationship between the high capacity transportation system plan and adopted land use plans;

(viii) An assessment of social, economic, and environmental impacts; and

(ix) Mobility characteristics of the system presented, including but not limited to: Qualitative description of system/service philosophy and impacts; qualitative system reliability; travel time and number of transfers between selected residential, employment, and activity centers; and system and activity center mode splits.

(3) High capacity transportation project planning is the detailed identification of alignments, station locations, equipment and systems, construction schedules, environmental effects, and costs. High capacity transportation project planning shall proceed as follows: The local transit agency shall analyze and produce information needed for the preparation of environmental impact statements. The impact statements shall address the impact that development of such a system will have on abutting or nearby property owners. The process of identification of alignments and station locations shall include notification of affected property owners by normal legal publication. At minimum, such notification shall include notice on the same day for at least three weeks in at least two newspapers of general circulation in the county where such project is proposed. Special notice of hearings by the conspicuous posting of notice, in a manner designed to attract public attention, in the vicinity of areas identified for station locations or transfer sites shall also be provided.

In order to increase the likelihood of future federal funding, the project planning processes shall follow the urban mass transportation administration's requirements as described in "Procedures and Technical Methods for Transit Project Planning", published by the United States department of transportation, urban mass transportation administration, September 1986, or the most recent edition. Nothing in this subsection shall be construed to preclude detailed evaluation of more than one corridor in the planning process.

The department of transportation shall provide system and project planning review and monitoring in cooperation with the expert review panel identified in RCW 81.104.110. In addition, the local transit agency shall maintain a continuous public involvement program and seek involvement of other government agencies.

(4) This section does not apply to a ballot proposition submitted to voters of an enhanced service zone authorized in section 1(3) (a) and (c) of this act.

**Sec.**  RCW 81.104.110 and 2011 c 127 s 2 are each amended to read as follows:

(1) The legislature recognizes that the planning processes described in RCW 81.104.100 provide a recognized framework for guiding high capacity transportation studies. However, the process cannot guarantee appropriate decisions unless key study assumptions are reasonable.

(2) To assure appropriate system plan assumptions and to provide for review of system plan results, an expert review panel shall be appointed to provide independent technical review for development of any system plan which:

(a) Is to be funded in whole or in part by the imposition of any voter-approved local option funding sources enumerated in RCW 81.104.140; and

(b) Includes a rail fixed guideway system component or a bus rapid transit component that is planned by a regional transit authority.

(3) The expert review panel shall consist of five to ((~~ten~~)) 10 members who are recognized experts in relevant fields, such as transit operations, planning, emerging transportation technologies, engineering, finance, law, the environment, geography, economics, and political science.

(4) The expert review panel shall be selected cooperatively by the chairs of the senate and house transportation committees, the secretary of the department of transportation, and the governor to assure a balance of disciplines. In the case of counties adjoining another state or Canadian province the expert review panel membership shall be selected cooperatively with representatives of the adjoining state or Canadian province.

(5) The chair of the expert review panel shall be designated by the appointing authorities.

(6) The expert review panel shall serve without compensation but shall be reimbursed for expenses according to RCW 43.03.050 and 43.03.060. Reimbursement shall be paid from within the existing resources of the local authority planning under this chapter.

(7) The panel shall carry out the duties set forth in subsections (8) and (9) of this section until the date on which an election is held to consider the high capacity transportation system and financing plans.

(8) The expert panel shall review all reports required in RCW 81.104.100(2) and shall concentrate on service modes and concepts, costs, patronage and financing evaluations.

(9) The expert panel shall provide timely reviews and comments on individual reports and study conclusions to the department of transportation, the regional transportation planning organization, the joint regional policy committee, and the submitting lead transit agency. In the case of counties adjoining another state or Canadian province, the expert review panel shall provide its reviews, comments, and conclusions to the representatives of the adjoining state or Canadian province.

(10) The local authority planning under this chapter shall contract for consulting services for expert review panels. The amount of consultant support shall be negotiated with each expert review panel by the local authority and shall be paid from within the local authority's existing resources.

(11) This section does not apply to a ballot proposition submitted to voters of an enhanced service zone authorized in section 1(3) (a) and (c) of this act.

**Sec.**  RCW 81.104.140 and 2015 3rd sp.s. c 44 s 318 are each amended to read as follows:

(1) Agencies authorized to provide high capacity transportation service, including transit agencies and regional transit authorities, and regional transportation investment districts acting with the agreement of an agency, are hereby granted dedicated funding sources for such systems. These dedicated funding sources, as set forth in RCW 81.104.150, 81.104.160, 81.104.170, ((~~and~~)) 81.104.175, and section 3 of this act, are authorized only for agencies located in (a) each county with a population of ((~~two hundred ten thousand~~)) 210,000 or more and (b) each county with a population of from ((~~one hundred twenty-five thousand~~)) 125,000 to less than ((~~two hundred ten thousand~~)) 210,000 except for those counties that do not border a county with a population as described under (a) of this subsection. In any county with a population of ((~~one million~~)) 1,000,000 or more or in any county having a population of ((~~four hundred thousand~~)) 400,000 or more bordering a county with a population of ((~~one million~~)) 1,000,000 or more, these funding sources may be imposed only by a regional transit authority or a regional transportation investment district. Regional transportation investment districts may, with the approval of the regional transit authority within its boundaries, impose the taxes authorized under this chapter, but only upon approval of the voters and to the extent that the maximum amount of taxes authorized under this chapter have not been imposed.

(2) Agencies planning to construct and operate a high capacity transportation system should also seek other funds, including federal, state, local, and private sector assistance.

(3) Funding sources should satisfy each of the following criteria to the greatest extent possible:

(a) Acceptability;

(b) Ease of administration;

(c) Equity;

(d) Implementation feasibility;

(e) Revenue reliability; and

(f) Revenue yield.

(4)(a) Agencies participating in regional high capacity transportation system development are authorized to levy and collect the following voter-approved local option funding sources:

(i) Employer tax as provided in RCW 81.104.150, other than by regional transportation investment districts;

(ii) Special motor vehicle excise tax as provided in RCW 81.104.160;

(iii) Regular property tax as provided in RCW 81.104.175; ((~~and~~))

(iv) Sales and use tax as provided in RCW 81.104.170; and

(v) Parking tax as provided in section 3 of this act.

(b) Revenues from these taxes may be used only to support those purposes prescribed in subsection ((~~(10)~~)) (11) of this section. Before the date of an election authorizing an agency to impose any of the taxes enumerated in this section and authorized in RCW 81.104.150, 81.104.160, 81.104.170, and 81.104.175, the agency must comply with the process prescribed in RCW 81.104.100 (1) and (2) and 81.104.110, except as otherwise provided in section 1 of this act. No construction on exclusive right‑of‑way may occur before the requirements of RCW 81.104.100(3) are met, except as otherwise provided in section 1 of this act.

(5) Except for the regular property tax authorized in RCW 81.104.175, the authorization in subsection (4) of this section may not adversely affect the funding authority of transit agencies not provided for in this chapter. Local option funds may be used to support implementation of interlocal agreements with respect to the establishment of regional high capacity transportation service. Except when a regional transit authority exists, local jurisdictions must retain control over moneys generated within their boundaries, although funds may be commingled with those generated in other areas for planning, construction, and operation of high capacity transportation systems as set forth in the agreements.

(6) Except for the regular property tax authorized in RCW 81.104.175, agencies planning to construct and operate high capacity transportation systems may contract with the state for collection and transference of voter-approved local option revenue.

(7) Dedicated high capacity transportation funding sources authorized in RCW 81.104.150, 81.104.160, 81.104.170, and 81.104.175 are subject to voter approval by a simple majority. A single ballot proposition may seek approval for one or more of the authorized taxing sources. The ballot title must reference the document identified in subsection ((~~(8)~~)) (9) of this section.

(8) Dedicated enhanced service zone funding sources authorized in RCW 81.104.160(1)(b) and section 3 of this act are subject to voter approval by a simple majority of the enhanced service zone.

(9) Agencies must provide to the registered voters in the area a document describing the systems plan and the financing plan set forth in RCW 81.104.100, except as otherwise provided in section 1 of this act. It must also describe the relationship of the system to regional issues such as development density at station locations and activity centers, and the interrelationship of the system to adopted land use and transportation demand management goals within the region. This document must be provided to the voters at least twenty days prior to the date of the election.

((~~(9)~~)) (10) For any election in which voter approval is sought for a high capacity transportation system plan and financing plan pursuant to RCW 81.104.040, a local voters' pamphlet must be produced as provided in chapter 29A.32 RCW.

((~~(10)~~)) (11)(a) Agencies providing high capacity transportation service must retain responsibility for revenue encumbrance, disbursement, and bonding. Funds may be used for any purpose relating to planning, construction, and operation of high capacity transportation systems and commuter rail systems, personal rapid transit, busways, bus sets, and entrained and linked buses.

(b) A regional transit authority that imposes a motor vehicle excise tax after July 15, 2015, imposes a property tax, or increases a sales and use tax to more than nine-tenths of one percent must undertake a process in which the authority's board formally considers inclusion of the name, Scott White, in the naming convention associated with either the University of Washington or Roosevelt stations.

**Sec.**  RCW 81.104.180 and 2015 3rd sp.s. c 44 s 327 are each amended to read as follows:

Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, public transportation benefit areas, high capacity transportation corridor areas, and regional transit authorities are authorized to pledge revenues from the employer tax authorized by RCW 81.104.150, the taxes authorized by RCW 81.104.160, the sales and use tax authorized by RCW 81.104.170, ((~~and~~)) the property tax authorized by RCW 81.104.175, and the parking tax authorized by section 3 of this act, to retire bonds issued solely for the purpose of providing high capacity transportation service.

**Sec.**  RCW 81.104.190 and 2009 c 280 s 7 are each amended to read as follows:

Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, public transportation benefit areas, high capacity transportation corridor areas, and regional transit systems may contract with the state department of revenue or other appropriate entities for administration and collection of any tax authorized by RCW 81.104.150, 81.104.160, ((~~and~~)) 81.104.170, and section 3 of this act.

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