

Identity Clark County

LEGISLATIVE REPORT

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Local Transportation Options

HB 1858, sponsored by Rep. Bill Fromhold passed from the House Transportation Committee 15-8 this past week. This is the legislation that affords the option to Transportation Benefit Districts to impose a \$20 vehicle fee for transportation purposes. Rep. Wallace voted "no" and Representative Curtis was "excused" in the final vote in the Committee. The Bill now goes to the Rules Committee to be pulled to the floor for floor debate and hopefully, passage.

The bill also contains provisions allowing for councilmanic implementation of development fees for transportation. No double "dipping" of those fees may be imposed so if a city or county had already imposed those fees, they could not do it again.

SB 5767, the companion measure was not moved from the Senate Transportation Committee.

Commentary On Local Taxation

One of the most debated issues involving imposition of local government taxation is whether to allow local governments to impose taxation with or without a vote of their electorate. The legislature is the body responsible for authorizing all State and local government taxes under our Constitution. The record on legislative authorization and requiring a vote is all over the map, so to speak.

For example, when the Legislature authorized cities and counties to impose an additional half-cent sales tax in 1982, the Legislature did not require a vote of the people in every jurisdiction; rather they subjected a city or county decision on imposition to a referendum provision. That provision allowed for any group of citizens to bring forth a petition within 30 days of imposition and if sufficient signatures were gathered, depending on local charter requirements, the matter would be forced to a vote. It has been some time ago, but I cannot remember one instance where a petition drive was even brought forward. Needless to say, the sales tax is a very broad and pervasive form of taxation.

An example of local taxation dealt with differently by the Legislature are Business and Occupation and Utility taxes (only imposed inside cities). Interestingly, cities derived their powers of taxation in these instances from the ability to regulate business and utilities operating within their boundaries. It was not until 1983, that the Legislature imposed a lid on city B&O taxes (2 percent) as measured by gross receipts. A few years later, they put a limit on utility tax rates and if taxes were to exceed the limit, then a vote was required.

In more recent history, Legislative bodies have become more interested in requiring public votes on matters dealing with local government taxation. A part of this phenomenon is due to the activities of anti-tax guru, Tim Eyman who a few short years ago, brought a successful election to eliminate the old Motor Vehicle Excise Tax in the form of Initiative 695. Eyman's mantra during the campaign was vehicle fees should not be more than \$30 – the base fee for financing what then was part of the State Patrol and the Department of Licensing. That mantra caught on with a lot of people even though there was no correlation between the base \$30 fee and the old MVET tax.

The old MVET had lots of problems. It was not uncommon for a new car to cost its owner \$300 to \$500 in taxes. The depreciation schedule for calculating the tax in future years was terrible in that it held constant for the first two years after the vehicle was purchased, a fact anyone could figure out was inaccurate. Additionally, the money was shot gunned all over the State government budgets. When asked in a survey in the late 90's where citizens thought their MVET tax funds were spent, most thought on roads and highways. Not true. It was a recipe for disaster and the citizens turned the old MVET out to pasture. The Supreme Court held however, after all the hoopla was over that the local option MVET imposed by Sound Transit and a few other jurisdictions was still legal, in part because it was pledged to the repayment of transportation bonds.

One historical footnote to the I-695 election: A number of legislators were pressing then Governor Locke to hold a Special Session prior to the November vote to change the MVET tax. At the time, many citizens were saying, "give us an alternative" if the State needs the money and for what purposes. But, of course, that never happened. One of the alternative ideas was a flat \$100 or \$150 vehicle fee instead of a value-based tax.

Property taxes have always been subject to voter approval and have remained so since Statehood. Local regular and special levies, including school levies have always been subject to voter approval with exemption for senior citizens, non-profit organizations and other public properties. A debate this Session is whether or not to allow for simple majority votes for school levies – a lessening of the "super majority" requirement for passage of those levies.

Buoyed by the I-695 MVET victory, Eyman has run a series of other not-so-successful campaigns against other issues. With this more recent anti-tax mood growing, the Legislature began debating more in earnest the issue of requiring votes for imposition of local government taxation. For example, when the Transportation Benefit District legislation was passed two years ago, the prevailing feeling was that those revenue options would require a vote: up to a \$100 vehicle fee; sales taxes, property taxes, etc.

This Session, legislation is being debated to allow for the first \$20 of that "up to" \$100 vehicle fee to be imposed by councilmanic decision. Interestingly, the current TBD statutes require all manner of public hearings on imposition of TBD options, including a plan to

be set forth and definition of what these funds can be spent for – transportation improvements.

Often times, voters confuse the flat rate vehicle fee with the old MVET-value based tax, fearing they are one in the same. The Legislature with the passage of the Partnership Program (9 and ½ cent gas tax) also imposed a weight-based vehicle fee, used by other states as a form of transportation funding. That fee, which excludes heavy trucks above 14,000 lbs. is used in some states as a factor to determine road and highway life, depending on vehicle weight. Again, the fee is just that – a fee NOT a re-imposition of the old MVET.

In terms of tax equity, when comparing a Business and Occupation tax to a \$20 vehicle fee there is no contest. For a small start-up company, the B&O can wreck havoc. Washington is the only State in the country that imposes a gross receipts business tax with NO deductions. Whatever the bottom-line of the business is, that is the basis for calculating the tax. Not even close to an income tax with fair deductions, exemptions, etc. Worse, with no county authorization for imposition of a B&O tax, competitive differences geographically are a real issue. In terms of transportation, the Legislative philosophy has always been the user fee concept. Since all of us use the roads, everyone pays.

The Governor's Blue Ribbon Commission on Transportation in 2002 stated in their report that there is at least \$90 billion worth of transportation needs in the state – all modes, ferry system, freight rail, roads, highways, bridges, transit. We will never be able to grasp or pay for those kinds of numbers but we have at least begun to start dealing with critical needs.

So, the question is, do you trust your local officials to do the right thing, in the right manner, with appropriate public hearings, input and planning? Or, do you want the Legislature to dictate an automatic local vote? Those local jurisdictions that do everything right under a councilmanic decision process will receive the majority support of their voters. Those that do not will only gain their wrath.

LIFT & Economic Development Legislation – SB 5155/HB 1277

The "Lift" legislation (HB 2177) passed from the House Finance Committee. In the Senate, SB 5155 has already passed and is in the Rules Committee. One part of the House bill that is not acceptable is the prohibition of no more than any one LIFT project per county. On a positive note, project totals are increased from \$5 million to \$7.5 million for the next 2-year budget cycle. Two other bills, HB 1790 and SB 5762 which maintains the funding value that was included in the Job Development Fund are still alive as both are considered matters necessary for the budget.

Container Tax (SB 5207)

The container tax is dead for this Session. In its place will be an interim study of the entire issue. Recall, the tax was proposed on a container arriving or departing Public Ports. The study contains language holding several important Freight Rail projects

potentially hostage until a tax is found to fund Freight Rail projects. One of those projects is necessary for the alleviating rail congestion in Vancouver.

Columbia Crossing Resolution (SCR 8405)

The Senate Transportation Committee has passed Senate Concurrent Resolution 8405 that calls for a Washington-Oregon legislative committee to become more involved in the Columbia River Crossing project. The main purpose of the resolution to get legislative involvement in the project which is viewed as a positive development.

Transportation Budget

The House will start the biennial transportation budget first this Session and it is anticipated the House version will be readied by March 19th – the same day the Clark County Transportation Alliance meets in Olympia for a meeting with local area legislators and to spend time visiting legislator offices.