

Sound Transit Officials Give Public Money to Special Interest Groups

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Background

In 1996, voters in Pierce, King and Snohomish counties authorized Sound Transit to pursue the first phase of a regional transit system known as Sound Move. In the process, Sound Transit received the authority to impose a sales tax, rental car tax and an excise tax on motor vehicles. In 2007, the agency collected about \$353.4 million from taxpayers.¹ Sound Transit's mission is to, "plan, build and operate regional transit systems and services to improve mobility for Central Puget Sound."²

But some of Sound Transit's expenditures are not consistent with its mission and may violate state law. In response to public disclosure requests from Washington Policy Center, Sound Transit provided us a list of non-governmental interest groups that have received direct financial contributions from the agency since 1996.

Intent

Our public records requests and the recommendations we provide in this report are an effort to ensure transparency and accountability with spending transportation taxes in Washington State. In providing this information, it is not WPC's intention to hurt the reputation of Sound Transit or any group mentioned in this report. WPC is only interested in the proper role of government and how tax revenues are distributed pursuant to the Washington State Constitution and the legal authority granted to state agencies like Sound Transit.

Memberships & Annual Dues

Sound Transit has contributed public money to a special interest group in the form of annual membership dues.

Transportation Choices Coalition received \$156,000

Since 1999, Sound Transit has contributed a total of \$156,000 in public money to the Transportation Choices Coalition (TCC) in the form of annual membership dues. According to its website, TCC is an advocacy group that promotes modal choices in transportation.³ They perform a variety of political activities including lobbying, grassroots organizing, and issue

¹ Quarterly Financial Report, Fourth Quarter 2007, Sound Transit, December, 2007. Available online at: http://www.soundtransit.org/Documents/pdf/about/financial/2007/Q4_2007_Financial_Report.pdf.

² Sound Transit's Mission, Sound Transit. Available online at: <http://www.soundtransit.org/x1227.xml>.

³ Transportation Choices Coalition. Available on line at: <http://www.transportationchoices.org/>.

advocacy. The TCC also lobbied in support of Proposition 1 (Prop. 1) in 2007 and according to the Washington Public Disclosure Commission, TCC contributed money to *Keep WA Rolling*, which was the “Yes” campaign for Prop. 1.⁴

Fundraising Dinners and Auctions

In addition, Sound Transit has contributed public money to other interest groups by purchasing “sponsorships” at annual fundraising dinners and auctions.

Futurewise received \$2,500

In 2006 and 2008, Sound Transit contributed \$1,250 to the annual Dinner and Auction for Futurewise, a political advocacy group, formerly known as 1000 Friends of Washington. Futurewise was also a contributor to *Keep WA Rolling*, the “Yes” campaign for Prop. 1.⁵ Futurewise describes their event as a fundraiser:

“Springtime brings to mind a renewal of strength and all things green...the perfect backdrop for environmental advocacy. Don't miss our "Spring Into Action" silent and live auctions, Northwest wines, dinner and dessert, and a special fundraising opportunity to support Futurewise.”⁶

Cascade Land Conservancy received \$4,500

In 2006, 2007, and 2008, Sound Transit contributed \$1,500 toward the Cascade Land Conservancy's (CLC) annual Conservation Awards event. In 2007, the CLC defined their annual event in this way:

“CLC's fundraising goal for the *12th Annual Conservation Awards Breakfast* is \$600,000 in support for land conservation and stewardship, here in your community. Your sponsorship commitment would be an important part of meeting that goal.”⁷

Transportation Choices Coalition received \$1,050

In 2006, Sound Transit sponsored a table at the Transportation Choices Coalition's annual auction for \$600. And in 2007, the agency contributed \$450 to the TCC annual Dinner. In 2007, TCC defined their annual dinner this way:

“In addition to commemorating our success, this is also our biggest fundraiser of the year.”⁸

⁴ Public Disclosure Commission. A searchable database is available online at: <http://www.pdc.wa.gov/servlet/InitContServlet>.

⁵ Public Disclosure Commission. A searchable database is available online at: <http://www.pdc.wa.gov/servlet/InitContServlet>.

⁶ Spring Into Action, May 3rd, 2008, Futurewise. Available online at: <http://www.futurewise.org/action/SpringIntoActionAuction>.

⁷ 2007 Sponsor Packet, Cascade Land Conservancy. Available online at: <http://www.cascadeland.org/files/events-files/Sponsor%20PACKET.pdf/view?searchterm=conservation%20awards>.

⁸ You're invited to Transportation Choices Coalition's Annual Celebration, Invitation, Transportation Choices Coalition.

Giving away Public Money Violates the State Constitution

It is illegal to give away public money as a gift. Article 8, Section 7 of the Washington State Constitution says:

“No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm, or become directly or indirectly the owner of any stock in or bonds of any association, company or corporation.”

Generally known as the gifting of public funds, state law expressly prohibits public agencies from giving money to any organization unless a tangible good or service is provided in return.

This concept was applied in a 2005 compliance audit of the Port of Seattle. The Washington State Auditor’s Office (SAO) found the Port could not “demonstrate the appropriateness of certain expenditures,” made to outside organizations where no tangible good or service was received.⁹ The Port’s contributions were similar to Sound Transit’s. For example, the Port gave \$500 to the Seattle Art Museum in memory of a former Port Commissioner who passed away, and it also made two inappropriate contributions totaling \$18,000 to the King County Housing Alliance.¹⁰

The audit concluded:

“The Port sometimes assists other organizations in the community or otherwise participates in community events in ways that are outside of its authority. When Port revenues are used for unallowable purposes, taxpayers do not receive the full intended benefit of those revenues.”¹¹

The SAO also made several recommendations to the Port of Seattle including, “not making expenditures without ensuring those expenditures do not violate state constitutional restrictions against gifting public funds.”¹²

SAO Should Perform Compliance Audit of Sound Transit’s Expenditures

The Washington State Auditor’s Office should investigate whether Sound Transit officials are violating the State Constitution by making inappropriate expenditures without receiving a tangible good or service. Sound Transit must be able to show that public taxes are being used in a way consistent with the authority granted to them by voters and the legislature.

Using public funds to attend a conference hosted by an interest group is allowable, because the agency is receiving something specific in return; the attendees receive educational information on a particular topic and the registration fees only cover event expenses like food and meeting space. Clearly, there is a public benefit in this type of activity.

⁹ Schedule of Audit Findings, Port of Seattle King County, Audit Number 26966, September 2005, Washington State Auditor’s Office. Available online at: <http://www.sao.wa.gov/reports/findings/69759.pdf>.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

But using public funds to attend a fundraiser for a special interest group is inappropriate and likely illegal.

Sponsorship rates for a fundraiser are typically structured to include both event expenses and organizational support. While the money used to cover event expenses is allowable, the additional amount that goes to the organization becomes a direct financial contribution.

The Internal Revenue Service (IRS) defines these types of giving as “quid pro quo contributions.”¹³ The money used to cover event expenses is not tax deductible because a good or service is returned. The additional money beyond event expenses becomes a charitable contribution, which by IRS standards is tax deductible because no good or service is returned.

Furthermore, giving public money to interest groups that financially support the agency’s own ballot measure creates a conflict of interest on such a scale that should be obvious to the most casual taxpayer. Whether or not the public funds are separated from the lobbying and campaign activity, the mere appearance spoils all objectivity for both the interest group and the public agency.

It is difficult to solicit donations for non-profit activities when no direct good or service is returned to the consumer. To incentivize charitable giving, the federal government allows financial contributions made to non-profit organizations like Futurewise, the Cascade Land Conservancy and Transportation Choices Coalition to be tax deductible.

Sound Transit would have to demonstrate that a specific good or service was purchased. For example, when Sound Transit contracts with an advertising agency, they get something specific in return: a commercial, a marketing campaign, a billboard or a flyer. Membership dues or contributions given through a fundraiser do not provide anything specific in return. Sound Transit officials do not direct how the money is spent and the non-profit can use the money any way it chooses. In other words, Sound Transit is not buying anything at all.

While special interest groups are valuable and serve important roles in public policy, they should not be given public taxes when no tangible good or service is returned. The SAO should investigate Sound Transit’s financial transactions to ensure compliance with the Washington State Constitution and the taxing authority given to the agency by the voters.

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¹³ Charities and Non-Profits, Contributions, Internal Revenue Service. Available online at: <http://www.irs.gov/charities/article/0,,id=96102,00.html>.