

A review of bills that bring tax relief to people living in Sound Transit's taxing district

By Mariya Frost, Director, Coles Center for Transportation

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Key Findings

1. Washington Policy Center has long recommended that Sound Transit's governance structure change so that the board is directly elected and accountable to the public. The provisions in Senate Bill 5220 accomplish this needed reform.
2. Senate Bills 6108, 5043, and 5044 all give counties the choice to opt out of Sound Transit 3 taxes. Pierce County was the only county in the Sound Transit taxing district to oppose the Sound Transit 3 ballot measure in 2016, and overwhelmingly supported Initiative 976, which cut those same taxes. If Pierce County residents do not want light rail, it should not be forced upon them.
3. The bill could ultimately be a win-win for Pierce and King counties, as King County residents who want light rail are politically frustrated with opposition from outside counties who do not agree there is enough of a public benefit to support such measures.
4. Senate Bill 6606 and Senate Bill 5042 would provide necessary and long-overdue relief to those families who have been subject to an unfair valuation of their vehicles.
5. Senate Bill 6606 would replace the repealed depreciation schedule Sound Transit uses from the 1999 schedule, which overvalues cars and gets the agency maximum tax revenue, with the newer 2006 schedule in state law.
6. Senate Bill 6606 would also repeal Sound Transit-related sections of Initiative 976 and provide that if Initiative 976 is upheld in court– then those sections would be repealed anyway.
7. Senate Bill 5042 would establish a credit program that effectively assesses car tab taxes based on Kelley Blue Book or National Auto Dealer's fair market values, whichever is lower. It would apply a retroactive credit to overcharges that have been paid since 2017, a provision that should be a part of any car tab bill that seeks to bring relief to taxpayers.
8. As they deliberate these bills, lawmakers should prioritize protecting taxpayers, rather than Sound Transit.

Introduction

Sound Transit is a regional transit agency that imposes heavy taxes and builds and operates Link light rail, Sounder commuter rail, and express buses in parts of King, Pierce, and Snohomish counties.

The taxes Sound Transit officials impose include a motor vehicle excise tax (1.1 percent), sales and use tax (1.4 percent), and property tax (\$25 per \$100,000 of assessed value). Sound Transit officials sought and received their taxing authority from the state Legislature. They then pushed for tax increases through three ballot measures: Sound Move in 1996, Sound Transit 2 in 2008, and Sound Transit 3 in 2016.

The largest tax increase came in 2016 with the passage of the \$54-billion Sound Transit 3 (ST3). Agency officials secured a 0.8 percent motor vehicle excise tax increase on top of their existing 0.3 percent, bringing the total tax to 1.1 percent.

When taxpayers in these three counties started receiving car tab tax bills in the mail in 2017, they were shocked to find out their Sound

Transit-imposed car tab tax was far higher than what officials had led them to expect.

The public and lawmakers then learned that Sound Transit officials had failed to inform voters that the agency intended to collect maximum tax revenue on owners of cars that are less than 10 years old by using an outdated, repealed depreciation schedule in state law from 1999.

The flawed car-value schedule inflates the value of vehicles by taking their manufacturer's suggested retail price (MSRP) rather than their fair market value, and depreciating the vehicle at a rate that does not reflect its real value over time. As a result, the taxable amount is much larger and allows Sound Transit to collect maximum tax revenue from the public until 2028, when the 0.3 percent Sound Move car tab tax expires.

Although several bills were proposed in 2017, 2018 and 2019 to correct the unfair car tab overcharges and increase accountability at the transit agency, lawmakers were not able to come to an agreement.

The unresolved controversy over Sound Transit's unfair tax collection fueled the creation of Initiative 976 in 2019, which reduced various vehicle licensing taxes and fees, and conditionally repealed all of Sound Transit's 1.1 percent MVET levy.

Initiative 976 passed with 53 percent statewide approval. Immediately after its passage, the City of Seattle, King County, Garfield County Transportation Authority and others sued to overturn the initiative. A King County Superior Court Judge has temporarily blocked the measure from going into effect. So far, people are not receiving the tax relief they voted for.

Meanwhile, some lawmakers have proposed legislation that would implement Initiative 976 tax relief, make the Sound Transit Board directly elected and accountable to the public, and allow a county to opt out of the Sound Transit taxing district. This Legislative Memo explores these policy approaches to increasing fairness for taxpayers and accountability for Sound Transit, and

provides an analysis about whether these proposals represent good public policy.

Bill summaries

Holding the Sound Transit Board accountable to the public

Senate Bill 5220 would change the governance structure of the Sound Transit Board to “ensure that the single agency is accountable to the people.”¹

Sound Transit is currently governed by a board of 18 appointed members, including the Secretary of the Washington State Department of Transportation (WSDOT). Fourteen of these members are local elected officials who are hand-picked by just three people: the county executives of King, Pierce, and Snohomish counties. The majority (nine) of the board member appointments are controlled by one person - the King County Executive.

Senate Bill 5220 would change the existing board structure to provide for the direct election of 11 non-partisan members from districts each having a similar share of the population. The members could not hold any other elected position. A five-member districting commission from each of the five subareas, appointed by the governor, would define the boundaries of the 11 districts. The districting commission would then be reappointed every decade as new census data becomes available.

Allowing counties to opt out of Sound Transit 3 taxes

Senate Bill 6108 would nullify Sound Transit taxes passed after January 1, 2015 (Sound Transit 3) in any county with a population of less than one million and with a city that contains more than 200,000 people.² Under this definition, the bill would only affect Pierce County. It would leave residents with a

1 Senate Bill 5220, Washington State Legislature, reintroduced January 13, 2020, at <http://lawfilesex.leg.wa.gov/biennium/2019-20/Pdf/Bills/Senate%20Bills/5220.pdf?q=20200130205548>.

2 Senate Bill 6108, Washington State Legislature, introduced January 13, 2020, at <http://lawfilesex.leg.wa.gov/biennium/2019-20/Pdf/Bills/Senate%20Bills/6108.pdf?q=20200130212838>.

reduced 0.9 percent sales and use tax and 0.3 percent car tab tax, passed in previous Sound Transit ballot measures. Pierce County would not pay a property tax to Sound Transit, since the property tax was first passed in 2016 under Sound Transit 3.

Additionally, Sound Transit would have to defease, or repay, bond contracts that have been issued which would “impede implementing this section.” The taxes that have already been collected from the county in Sound Transit 3 could only be used to defease the bond contracts or issue refunds to taxpayers in the county.

The bill is being called “SoundTrexite”³ by its sponsor, Senator Steve O’Ban, inspired by Britain leaving the European Union (called Brexit). In light of Pierce County’s opposition to Sound Transit 3 in 2016 (55 percent⁴) and support of Initiative 976 three years later (65 percent⁵), the sponsor wants the people of Pierce County to be relieved of the higher taxes that will pay for light rail expansion.

Senate Bill 5043⁶ and Senate Bill 5044⁷ are somewhat similar to the previous bill because they would authorize counties in the taxing district to nullify Sound Transit 3 taxes, but only if voters in the county approve this through a separate referendum.

Giving taxpayers relief from Sound Transit’s car-tab tax overcharges

Senate Bill 5042 would establish a credit program that would effectively assess car tab taxes based on Kelley Blue Book or National Auto Dealer’s fair market values, whichever is lower.⁸

Unlike other car tab legislation, this program would provide a retroactive credit for tax overcharges already paid and would allow Sound Transit to contract with the Department of Licensing for the collection of the taxes only if Sound Transit implements the credit program.

Senate Bill 6606 would replace the repealed 1999 depreciation schedule Sound Transit now uses, which overvalues cars and gets the agency maximum tax revenue, with the newer 2006 schedule in state law.⁹ This would apply to the entire 1.1 percent motor vehicle excise tax (MVET). The bill would amend the schedule for older vehicles (in service years 12 through 15) to look more like the 1999 schedule. It would also allow people to pay the car tab tax bill in quarterly or monthly payments, and use an existing balance in their Good to Go! account to do so if they wish.

Additionally, although the court has temporarily blocked Initiative 976 and car tabs have not been reduced in practice, the bill would repeal the parts of the initiative that repeal the MVET schedule, as well as sections that repeal Sound Transit’s authority to impose an MVET. Because both of these elements of the legislation repeal a part of a voter-approved initiative, the bill would require a supermajority vote of the Legislature in order to pass. However, there is some question as to whether this language is necessary to pass this bill and bring car tab relief to taxpayers. If the bill does not amend the initiative, but only the MVET tax people are being charged today, a

3 “Lawmaker eyes Brexit-inspired plan to rescue Pierce County from car tabs, ST3 taxes,” by Hanna Scott, MYNorthwest, January 9, 2020, at <https://mynorthwest.com/1665050/pierce-county-trexite-sound-transit-steve-oban/>.

4 “November 8, 2016 General Election, Regional Transportation Authority Proposition No. 1 Light Rail, Commuter-Rail, and Bus Service Expansion,” King County, November 29, 2016, at <https://results.vote.wa.gov/results/20161108/king/Breakdown-113817.html>.

5 “November 5, 2019 General Election Results, Initiative Measure No. 976 – County Results,” Office of the Secretary of the State, November 26, 2019, at https://results.vote.wa.gov/results/current/State-Measures-Initiative-Measure-No-976_ByCounty.html.

6 Senate Bill 5043, Washington State Legislature, reintroduced January 13, 2020, at <http://lawfilesex.leg.wa.gov/biennium/2019-20/Pdf/Bills/Senate%20Bills/5043.pdf?q=20200130222703>.

7 Senate Bill 5044, Washington State Legislature, reintroduced January 13, 2020, at <http://lawfilesex.leg.wa.gov/biennium/2019-20/Pdf/Bills/Senate%20Bills/5044.pdf?q=20200130222818>.

8 Senate Bill 5042, Washington State Legislature, reintroduced January 13, 2020, at <http://lawfilesex.leg.wa.gov/biennium/2019-20/Pdf/Bills/Senate%20Bills/5042.pdf?q=20200131132717>.

9 Senate Bill 6606, Washington State Legislature, introduced January 24, 2020, at <http://lawfilesex.leg.wa.gov/biennium/2019-20/Pdf/Bills/Senate%20Bills/6606.pdf?q=20200131132818>.

simple majority vote in the Legislature would be enough.

Policy analysis of proposed bills

Senate Bill 5220 would increase accountability on the Sound Transit Board and give people in the Sound Transit taxing district a real voice. It would resolve conflicts of interest by providing that the board members would not be able to hold any other public office and would be elected from 11 districts with nearly equal population in accordance with the one person, one vote principle.

The arrangement would have the added benefit of allowing ordinary citizens to serve on the Sound Transit Board, which would facilitate a more collaborative approach to future decisions.

Residents would gain much-needed oversight of an agency that has shown a pattern of disrespect to voters by overpromising benefits, underestimating costs, and unilaterally reducing the scope of their services without a public vote. This level of accountability is especially important as the agency expands costly rail throughout the region over the next two decades.

Senate Bills 6108, 5043, and 5044 all touch on the same principle: giving counties the choice to opt out of Sound Transit 3 taxes. *Senate Bill 6108* is unique in that it nullifies Sound Transit 3 for Pierce County through legislation, rather than referendum. Pierce County was the only county in the Sound Transit taxing district to oppose the Sound Transit 3 ballot measure in 2016, and overwhelmingly supported Initiative 976, which cut those same taxes.

If Pierce County residents do not want light rail, the cost of the project should not be forced upon them. The bill could ultimately be a win-win for Pierce and King counties, because King County residents who want light rail are politically frustrated with opposition from other counties that do not agree there is enough of a public benefit to support such measures. Given King County's desire to "opt out" of the effects of measures like Initiative 976, which reduce funding for light rail, there should be an obvious consensus between the

two counties to allow Pierce County to opt out of Sound Transit 3.¹⁰

Senate Bill 5042 and Senate Bill 6606 both provide necessary and long-overdue tax relief to families that are subject to an unfair valuation of their vehicles, imposed by Sound Transit. However, *Senate Bill 5042* is the only car tab relief bill that would give a retroactive credit for tax overcharges that have been paid since 2017. A retroactive credit should be a part of any car tab bill designed to bring tax relief to taxpayers.

Additionally, this bill would give taxpayers greater tax relief than switching to a 2006 schedule, because it includes a reduced 0.5 percent car tab tax (rather than the 0.8 percent passed in Sound Transit 3) in its credit calculation.

Most notably, *Senate Bill 5042* does not include a perceived "poison pill" like the provision found in *Senate Bill 6606*, which would repeal Sound Transit-related parts of Initiative 976. *Senate Bill 6606* would repeal sections 9 through 13 and section 16 of Initiative 976, and would provide that if Initiative 976 is upheld in court, those sections would be repealed anyway. It is unclear whether this language is necessary, since the court has stopped the voter-approved initiative so its provisions are not in effect.

As currently written, lawmakers who support the bill to give people car tab relief would also have to support repealing parts of Initiative 976, which would provide even greater tax relief if the initiative is upheld in court. However, *Senate Bill 6606* states that if the initiative is upheld in court, those sections would be repealed anyway, so Sound Transit could still assess the full 1.1 percent MVET according to the updated 2006 schedule.

If the bill sponsors of SB 6606 are serious about advancing car tab relief and protecting taxpayers, rather than simply protecting Sound Transit, they should evaluate whether

¹⁰ "'The State of King': To achieve the mass transit dream, it's time for King County to go it alone," by Danny Westneat, *The Seattle Times*, November 8, 2019, at <https://www.seattletimes.com/seattle-news/politics/the-state-of-king-to-achieve-the-mass-transit-dream-its-time-for-king-county-to-go-it-alone/>.

amending the initiative in the same bill is legally necessary for its passage. Four years into the car tab debacle, the public now wants significant car tab relief, which is provided in Initiative 976.

Conclusion

People in the Puget Sound region have been asking for Sound Transit tax relief and accountability for years. Since Sound Transit officials refuse to provide it on their own, some lawmakers are stepping in on behalf of their constituents to find a solution.

Washington Policy Center has long-recommended that Sound Transit's governance structure change so that the board is directly elected and accountable to the public. The provisions in Senate Bill 5220, which would accomplish this needed reform, are more important now than ever.

We have also, year after year, recommended that Sound Transit stop overcharging taxpayers on car tabs, and that lawmakers provide retroactive tax relief in any car tab legislation so that families receive refunds for money they never should have had to pay in the first place. This approach – one that would provide complete car tab relief with refunds for past payments, and which does not seek to backfill Sound Transit's lost revenue – would demonstrate that lawmakers put people, and not Sound Transit or its bondholders, first.

Finding ways to send more public money back to the agency would only reward Sound Transit officials for their dishonest taxing practices. Senate Bill 5042 represents the better policy of the two bills by providing families with significant financial relief, while holding Sound Transit financially accountable for deceiving lawmakers and voters regarding the car tab increase.

As they consider these bills, including those that give counties the choice of opting out of ST3 taxes and services, lawmakers' greatest concern should be for overburdened taxpayers who are paying high, inaccurate tax bills, whether they use, benefit from, or will ever see Sound Transit's finished rail project within their lifetimes.

Mariya Frost is the Director of the Coles Center for Transportation at Washington Policy Center.

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