

SJR 8211: to protect any future Road Usage Charge money for highway spending only

By Mariya Frost, Director, Coles Center for Transportation

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Key Facts

1. Senate Joint Resolution 8211 would give voters the opportunity to support (ratify) or reject an amendment to Article II, Section 40 (18th Amendment) of the Washington State constitution.
2. The 18th Amendment protects vehicle license fees and state fuel tax for highway purposes only.
3. SJR 8211 would add to the list of protected revenue “any state revenue collected from a road usage charge (RUC), vehicle miles traveled fee, or other similar type of comparable charge,” which would also have to be used exclusively for highway purposes.
4. If the RUC is intended to replace the state gas tax, it should replicate the features of the gas tax.
5. If lawmakers support SJR 8211 out of the legislature, they should be careful to make sure that the language that ends up on the ballot is very clear that supporting 18th Amendment protection of a potential Road Usage Charge does not equate to supporting implementation of a RUC, which is a separate effort requiring a separate public debate that has yet to take place.
6. SJR 8211 would serve the public interest by ensuring that if a per-mile charge is ever imposed on drivers in the future, the revenue collected would be protected under the 18th Amendment to directly support the roads and bridges they depend on for mobility.

Background

If implemented, a Road Usage Charge (also called a per-mile charge, vehicle miles traveled tax, mileage tax, and mileage-based user fee) would require drivers to pay a tax to the state for every mile they drive, instead of paying a tax on every gallon of gas they purchase at the pump.

The Washington State Transportation Commission (WSTC) has led the effort to study, test and report back to the legislature on the feasibility of a Road Usage Charge in Washington state and voted in support of policy recommendations to be sent to the legislature. One of those recommendations is that “expenditures of RUC revenue should be made subject to Amendment 18.”¹ The Commission rightly reasons that if the RUC is intended to replace the state gas tax, it should replicate the features of the gas tax that protect it for funding public roads.

Although the WSTC voted for 18th Amendment protection of RUC revenue, it is up to lawmakers to decide on the policy parameters of any new vehicle use tax, and whether they want to constitutionally protect money to ensure the RUC remains a true user fee, as the gas tax is, rather than being diverted as a subsidy for other programs unrelated to supporting highway infrastructure for drivers.

Text of SJR 8211

Senate Joint Resolution 8211 would give voters the opportunity to support (ratify) or reject an amendment to Article II, Section 40 (the 18th Amendment) of the Washington State constitution.

1 “WA Transportation Commission votes for constitutional protection of per-mile tax, despite strong opposition from transit advocates,” by Mariya Frost, Washington Policy Center, December 17, 2019, at <https://www.washingtonpolicy.org/publications/detail/wa-transportation-commission-votes-for-constitutional-protection-of-per-mile-tax-despite-strong-opposition-from-transit-advocates>.

Article II, Section 40 currently protects “all fees collected by the State of Washington as license fees for motor vehicles and all excise taxes collected by the State of Washington on the sale, distribution or use of motor vehicle fuel and all other state revenue intended to be used for highway purposes.”² Vehicle license fees and state fuel tax are deposited into a special fund (the Motor Vehicle Fund) to be exclusively used for highway purposes, which include construction, maintenance, repair, and improvement of highways, county roads, bridges and city streets.

The proposed amendment would add to the list of protected revenue “any state revenue collected from a road usage charge, vehicle miles traveled fee, or other similar type of comparable charge,” which would also have to be used exclusively for highway purposes.

This reflects the recommendation of the WSTC.

Policy analysis

Along with the WSTC, businesses, associations and labor groups have also urged lawmakers to protect any Road Usage Charge under the 18th Amendment. In 2021, a coalition of these groups submitted a letter to House and Senate Transportation Committees, making the point that “the legislature has a long history of sweeping funds for other uses and the constitutional protection is the gold standard in ensuring drivers that those dollars are not at risk.”³ Signatories included the Association of Washington Business (AWB), Washington Trucking Association, AAA, United Parcel Service (UPS), Food Northwest, Washington Building Trades, Kemper Development, Spokane International Airport, and many others. Washington Policy Center signed on to the letter as well, as ensuring 18th Amendment protection for any potential RUC has been a long-standing recommendation of ours.

We have highlighted for over four years the importance of the 18th Amendment in making sure that any new road-use tax is a user fee as the state gas tax is. We have also warned of the political opposition lawmakers would face in trying to protect RUC money for roads alone. In 2019, several Seattle and King County transit and environmental advocates made their views on the 18th Amendment very clear, saying it should be discarded and asking that RUC revenue remain flexible for public officials to spend on transit and “foster better environmental outcomes.”⁴

If lawmakers insist the RUC is a gas tax replacement, and expect the public to trust them on that point, they must ensure the revenue cannot be diverted to other programs.

Policy recommendation

If lawmakers support SJR 8211 and vote it out of the legislature, they should make sure that the language that goes to the ballot is very clear, stating that supporting 18th Amendment protection of a potential Road Usage Charge does not equate to supporting implementation of a RUC. Enacting a RUC or per-mile tax is a separate policy issue, one requiring a separate public debate that has yet to take place. Revenue protection is only one element of that debate that should be decided before any effort to implement a RUC. If the public cannot trust state lawmakers to protect future RUC revenues, they are unlikely to trust lawmakers in imposing a RUC.

Conclusion

SJR 8211 would serve the public interest by ensuring that if a per-mile charge is ever imposed on drivers in the future, the revenue collected would be protected under the 18th Amendment to directly support the roads and bridges they depend on for mobility.

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Nothing here should be construed as an attempt to aid or hinder the passage of any legislation before any legislative body.

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² Washington State Constitution, Article II, Section 40, Washington State Legislature, at https://leg.wa.gov/CodeReviser/Pages/WACConstitution.aspx#Constitution_of_the_State_of_Washington.

³ “Businesses and labor groups urge support of 18th Amendment,” by Mariya Frost, Washington Policy Center, January 21, 2021, at <https://www.washingtonpolicy.org/publications/detail/businesses-and-labor-groups-urge-support-of-18th-amendment>.

⁴ “WA Transportation Commission votes for constitutional protection of per-mile tax, despite strong opposition from transit advocates,” by Mariya Frost, Washington Policy Center, December 17, 2019, at <https://www.washingtonpolicy.org/publications/detail/wa-transportation-commission-votes-for-constitutional-protection-of-per-mile-tax-despite-strong-opposition-from-transit-advocates>.