

## Sound Transit officials have their hands full this session - will they listen to the public?

By Mariya Frost, Director, Coles Center for Transportation

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### Key Findings:

1. **Sound Transit is a regional transit agency that imposes taxes and builds and operates services in parts of King, Pierce and Snohomish counties.**
2. **The largest tax increase was approved by voters in 2016; a 0.8 percent car tab tax increase on top of the existing 0.3 percent. The tax is assessed based on inflated vehicle values.**
3. **As people continue to receive car tab tax overcharges, they have asked their state and local officials for tax relief.**
4. **Solutions that would provide tax relief are being proposed at the Legislature, at the courts, and at the ballot box this year.**
5. **As families have endured two years of tax overcharges already, an honest car tab fix is badly needed and long overdue.**

### Introduction

The 2019 legislative session is starting, and it looks like Sound Transit's questionable integrity in securing additional taxing authority in 2016 will consume a good portion of the debate yet again.

Sound Transit is a regional transit agency that imposes taxes and builds and operates Link light rail, Sounder commuter rail, and express buses in parts of King, Pierce and Snohomish counties. The taxes include a large motor vehicle excise tax (1.1 percent), sales and use tax (1.4 percent), and a property tax (\$25 per \$100,000 of assessed value).

The largest tax increase was approved by voters in 2016; a 0.8 percent car tab tax increase on top of the existing 0.3 percent, bringing the total yearly car-value tax to 1.1 percent.

### Sound Transit uses an unfair vehicle valuation

When taxpayers started receiving car tab renewals in 2017, they were shocked to find out that the car tab tax Sound Transit imposed was significantly higher than what officials led them to expect. In securing additional taxing authority from lawmakers in 2015 and in promoting Sound Transit 3 (ST3) to voters during the 2016 election, officials quietly capitalized on an old, inflated and repealed vehicle valuation schedule so the agency could collect maximum tax revenue from families in the region.

Few people really understood this – except Sound Transit officials, who chose to keep this as obscure as possible in the authorizing legislation.<sup>1</sup>

1 “Did Sound Transit officials mislead lawmakers?” by Mariya Frost, Blog post, Washington Policy Center, September 28, 2017, at <https://www.washingtonpolicy.org/publications/detail/did-sound-transit-officials-mislead-lawmakers>.

Some lawmakers tried to hold the agency accountable and provide tax relief for their constituents in various ways – in 2017 and again in 2018. Both legislative sessions ended without any agreement among lawmakers on a solution.

This year, Sound Transit officials will be confronted by frustrated taxpayers yet again and on three fronts – at the Legislature, at the courts, and at the ballot box. Clearly, this unfair tax is a problem that cannot be ignored.

## Solutions at the Legislature

Here are the tax-relief and agency reform bills that have been proposed so far, many of which are re-introductions of bills from the previous two legislative sessions. Additional bills are likely to be introduced.

**Senate Bill 5037:** This bill would require Sound Transit to go back to voters for additional approval if costs exceed the ST3-approved \$54 billion, or if there are any changes to project scope that deviate from the system plan. This bill is similar to Senate Bill 5892 introduced during the 2017 legislative session, which would have required a re-vote if Sound Transit's capital costs exceeded its original budget by 100 percent or more.

**Senate Bill 5042:** This bill would establish a credit program similar to last year's Senate Bill 6303, which would effectively assess car tab taxes based on actual Kelley Blue Book or National Auto Dealer's fair market value, whichever is lower. The program would provide retroactive credit for tax overcharges car owners 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 5042 and Senate Bill 5044:** These bills would authorize the three counties in Sound Transit's taxing district to cancel ST3 taxes if voters in the county approve the cancellation through referendum.

Another bill, **Senate Bill 5220**, is an important reform to the Sound Transit Board's governance structure. The current political appointment structure of the Sound Transit

Board insulates members from accountability to the public.

Making the Sound Transit Board directly elected and accountable to voters, rather than being hand-picked by political county executives, has been a long-standing recommendation of the Washington Policy Center.

This is not an exhaustive list, and we will continue to track legislation as it is filed in both the Senate and House.

## Solutions at the courts

Seven taxpayers in King, Pierce and Snohomish counties filed a class action lawsuit in June 2018, saying Sound Transit officials have illegally overcharged them on their annual car tabs. This court case is different from legislative efforts to refund unfair car tabs because it is the only attempt being made to correct an unconstitutionally-drafted statute.

The first court hearing took place in September, with Pierce County Judge Kathryn Nelson concluding that legal arguments and policy issues presented were above her "pay grade," as she put it. She then promptly sided with Sound Transit and against taxpayers.<sup>2</sup>

Joel Ard, the lead attorney in the lawsuit, says he will file an appeal on behalf of the taxpayers. The appeal brief is due January 18th. Sound Transit and the state's response is due to the court about a month after that.

Within three months, the court will be fully briefed, and this case will be presented to Division 2 of the State Court of Appeals.

Washington Policy Center spoke with Mr. Ard, and he noted that, "Only through this litigation can the legislative error from 2015 be corrected by the courts and full refunds of improperly-collected car tabs can be issued."<sup>3</sup>

2 "Big defeat for taxpayers seeking car tab relief in wake of ST3," by Hanna Scott, *MYNorthwest*, September 7, 2018, at <http://mynorthwest.com/1105363/taxpayers-sound-transit-court-tabs/>.

3 Phone interview with author, January 7, 2019.

## Solutions at the ballot box

Tim Eyman has announced he has collected enough signatures to send proposed Initiative 976 to voters on the November 2019 ballot. The initiative would repeal all car tab taxes, leaving a single state-level \$30 flat fee on renewals. The repeal would include the entire Sound Transit car tab tax of 1.1 percent, as well as vehicle registration and weight fees.

Initiative 976 will first go to the Legislature. If lawmakers do not act on it, the initiative would go before voters in November. As reporting in *The Seattle Times* points out, while Puget Sound area voters approved the taxes, this initiative “would give voters statewide the ability to undo those taxes.”<sup>4</sup> This is a fair choice for the public to have, since Sound Transit officials misled both lawmakers and voters in authorizing legislation and in the Mass Transit Guide.<sup>5</sup>

## Conclusion

The proposed tax-relief bills, taxpayer class-action lawsuit, and the ballot initiative reflect people’s deep frustration with the Sound Transit Board’s dishonesty and persistent denial of any wrong-doing or error on their part.

It is also a reflection of the tremendous, growing tax burden the traveling public feels overall, with little in return in the way of greater mobility or real traffic congestion relief.

Public officials’ 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 in their lifetimes. As families have endured two years of tax overcharges already, an honest car tab fix is badly needed and long overdue.

*Mariya Frost is the director of Washington Policy Center’s Coles Center for Transportation.*

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Washington Policy Center will continue to track all of these efforts and provide updates throughout the legislative session.

4 “Tim Eyman says \$30 car-tab initiative will be on November ballot,” by David Gutman, *The Seattle Times*, January 3, 2019, at <https://www.seattletimes.com/seattle-news/transportation/tim-eyman-says-30-car-tab-initiative-will-be-on-november-ballot/>.

5 “Sound Transit officials over-value cars so they can get more money from taxpayers,” by Mariya Frost, Policy Notes, Washington Policy Center, April 2017, at <https://www.washingtonpolicy.org/library/doclib/Frost-Car-Tabs-4-10-17.pdf>.