

TRANSPORTATION UTILITY DISTRICTS

Transportation Utility District fees are paid to jurisdictions by property owners in those jurisdictions based on the amount of trips the property is estimated to generate. Funds raised are generally used for local streets such as street improvements and maintenance, complete streets projects (such as sidewalks, transit stops, bicycle facilities), and street operational improvements (signal timing, parking enforcement).

Authority

A transportation utility district is an area (which may include cities, counties, and unincorporated areas) where owners of property adjacent to roads, transit stops and sidewalks are required to pay a fee for the improvements, maintenance, and operation of those transportation facilities and services.

A utility district, under most state constitutions and laws, must charge fees based upon a direct measurable relationship between the fee and the benefits received. Legal challenges have mostly alleged that the fees charged were illegal because they were in reality taxes rather than fees. Utility districts, where the concept has been tested in law, have not been allowed to levy taxes.

Local governments in Washington may not impose taxes without statutory or constitutional authority. Fees can be levied if their primary purpose is to regulate and raise funds for a limited and specific purpose (i.e. a water district charges fees for supplying and maintaining water service and facilities), primarily to defray their costs to the local government. The fee levied must have a direct relationship with and benefit the fee payer.

Application outside of Washington

Thirty-three cities in the US currently have ordinances in place that allow transportation utility districts.

- All current districts are located in Oregon, Texas, Colorado, Kansas and Utah.
- All of the cities with transportation utility districts and fees have populations under 100,000 people, and nearly half have populations below 10,000.
- Other cities, including Seattle, have attempted to levy a form of similar fees but have been challenged and failed in courts which found them unconstitutional or illegal according to state legislation.
- State legislation is required for any Washington state county or city to have authority to create transportation utility districts. Under constitutional interpretations, any utility district legislation must be narrowly defined and fees directly beneficial to fee payers.

Uses of Fee Revenues

Most of the fees collected by transportation utility districts are used for street maintenance, road repair and operational improvements. It has been proposed that the proceeds of the revenue might also be used to subsidize transit operations or to fund complete streets capital and operational improvements including bus stops or bicycle lanes. It has also been suggested that these fees be combined with other sources of transportation funding to allow larger capital investments. For example, Corvallis Oregon has a Transportation Utility Fee that is applied to road maintenance, and an additional Transit Operations Fee that is used to subsidize the cost of free public transit.

Fee implementation

- Most districts base their charges on trips generated by parcels of property. Of the 33 functioning districts, 24 base fees charged on daily trip generation rates by particular land uses, and 18 of those specify that the *Institute of Transportation Engineers Trip Generation Manual* be used as the source of trip generation estimates.
- Less frequently, the utility fee has been based on numbers of dwelling units, linear footage of property frontage on roads and highways, or number of parking spaces provided on the parcel.

An Alternative: Transportation Benefit Districts

Existing Washington law allows creation of a Transportation Benefit Districts (TBD) that can provide a range of local transportation funding options. A TBD can be created to include part of a city, an entire city, or parts of one or more counties.

A TBD can charge an annual vehicle license fee of up to \$20 without public approval. With public approval in a referendum, a TBD also can propose and implement the following:

- Sales and use tax up to 2/10 of one percent
- Excess property tax levy
- Vehicle license fee up to \$100
- Tolls
- Transportation impact fees

Several TBDs currently operate in the Puget Sound region including Seattle's Proposition 1, approved by voters in 2014, which imposes a \$60 vehicle license fee and a 0.1% increase in sales tax to fund additional Metro service focused on the city.

Policy Considerations for Discussion by the Task Force

- Is the revenue generated by Transportation Utility District fees worth the effort required to enact legislation to grant cities and counties authority to levy them?
- Should TBDs be considered more actively as financing mechanisms in the PSRC regional planning effort?
- What uses of this funding mechanism are appropriate in the regional context?