

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

GARFIELD COUNTY
TRANSPORTATION AUTHORITY; et al,

Plaintiffs,

and

WASHINGTON ADAPT,

Intervenor-Plaintiff,

v.

STATE OF WASHINGTON,

Defendant.

and

CLINT DIDIER; PERMANENT
OFFENSE; TIMOTHY D. EYMAN;
MICHAEL FAGAN; JACK FAGAN; and
PIERCE COUNTY,

Intervenor-Defendants

CASE NO. 19-2-30171-6 SEA

INTERVENOR DIDIER'S CR 59/CR60
MOTION FOR RECONSIDERATION

COMES NOW, Clint Didier, by and through counsel or record Stephen Pidgeon, Attorney at
Law, P.S., and moves this court pursuant to CR 59(a), CR 59(a)(8), CR 60(b) and CR 60(b)(10) for

INTERVENOR DIDIER'S CR 59/60 MOTION FOR RECONSIDERATION - 1

STEPHEN W. PIDGEON
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1 reconsideration of paragraph J of the Court's Decision of February 12, 2020, denying Intervenor
2 Clint Didier's Motion for Summary Judgment regarding Article I, Section 12 of the Washington
3 Constitution and the application of Kelley Blue Book Valuations in Sections 8 and 9 of Initiative
4 976.

5 **ISSUES PRESENTED**

6 Whether the Court's decision on summary judgment should be amended to grant Intervenor
7 Clint Didier judgment as a matter of law and as a matter of fact, and

8 Whether the Court should find that Sections 8 and 9 of Initiative 976 do not violate Article I,
9 Section 12 of the Washington Constitution.

10 **REMEDY SOUGHT**

11 Movant Didier seeks reconsideration pursuant to CR 59 and CR 60 of paragraph J of the
12 Court's Decision of February 12, 2020, and moves this Court for an order granting summary
13 judgment in his favor pursuant to CR 56, on the basis that Sections 8 and 9 of Initiative 976 do not
14 violate Article I, Section 12 of the Washington Constitution; that there are no material issues of fact
15 in respect of Intervenor's motion on the Issues Presented; and that Intervenor is deserving of
16 judgment in his favor as a matter of law.

17 **EVIDENCE UPON WHICH INTERVENOR RELIES**

18 Intervenor relies on the following:

19 The Declaration of Clint Didier, together with the exhibits attached thereto;

20 The Declaration of Tim Eyman, together with the exhibits attached thereto; and
21
22

1 The records and files presented before the court on Intervenor's Motion for Summary
2 Judgment and the responses thereto.

3 The records and files herein.

4 POINTS AND AUTHORITES

5 This Court, upon substantial briefing and extensive oral argument denied without prejudice
6 Intervenor's motion for summary judgment on the singular issue regarding Article I, Section 12 of
7 the Washington Constitution and the use of Kelley Blue Book valuations.

8 Article I, Section 12 provides as follows:

9 No law shall be passed granting to any citizen, class of citizens, or corporation other than
10 municipal, privileges or immunities which upon the same terms shall not equally belong to
all citizens, or corporations.

11 Claims brought under article I, section 12 are analyzed using a two-step analysis. *Peterson v.*
12 *Dept. of Revenue*, 443 P. 3d 818, 825 (Wash: Court of Appeals, 1st Div. 2019), *citing Ockletree v.*
13 *Franciscan Health Sys.*, 179 Wash.2d 769, 776, 317 P.3d 1009 (2014). First, it is determined if the
14 law in question involves a privilege or immunity, and second, if so, whether the legislature had a
15 "reasonable ground" for granting the privilege or immunity. *Ockletree*, 179 Wash.2d at 776, 317
16 P.3d 1009.

17 The privileges and immunities clause is concerned both with avoiding favoritism and
18 preventing discrimination. *Am. Legion Post #149 v. Wash. State Dep't. of Health*, 164 Wash.2d 570,
19 606, 192 P.3d 306 (2008). But, "[a] privilege is not necessarily created every time a statute allows a
20 particular group to do or obtain something." *Am. Legion Post #149*, 164 Wash.2d at 606-07, 192
21 P.3d 306 (citation omitted). "Privileges and immunities `pertain alone to those fundamental rights
22

INTERVENOR DIDIER'S CR 59/60 MOTION FOR RECONSIDERATION - 3

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1 which belong to the citizens of this state by reason of such citizenship.” *Grant County Fire*
2 *Protection Dist. No. 5 v. City of Moses Lake*, 150 Wash.2d 791, 812-13, 83 P.3d 419 (2004) (quoting
3 *State v. Vance*, 29 Wash. 435, 458, 70 P. 34 (1902) (emphasis added).)

4 Where a party fails to identify a law and a fundamental right belonging to the citizens of this
5 state to which the privilege and immunities and clause applies, summary judgment and dismissal of
6 his claim under article I, section 12 of the Washington Constitution is appropriate. *Peterson v. Dept.*
7 *of Revenue*, 443 P. 3d 818, 826.

8 As the Court states in its decision, plaintiffs contend that “the State would be required to
9 enter into a single-source contract with KBB and Cox Enterprises.” Additionally, plaintiffs argue
10 that “the granting of a special contractual privilege to a corporation like KBB/Cox Enterprises under
11 such circumstances violates Article I, Section 12.”

12 However, as the Court of Appeals reasoned in *Peterson, supra*, “the plain language of article
13 I, section 12 applies to the passing of a ‘law.’” A claim based on contracts “are contracts, not laws
14 and thus, on its face article I, section 12 is not applicable.” *Peterson, op. cit*, at 826.

15 In addition, there is no language in Sections 8 or 9 mandating that the State enter into a
16 contract with KBB or Cox Enterprises.

17 Section 8 of I-976 provides as follows:

18 NEW SECTION. Sec. 8. A new section is added to chapter 82.44 RCW to read as follows:

19 (1) BASE VEHICLE TAXES USING KELLEY BLUE BOOK VALUE. Any motor
20 vehicle excise tax must be calculated in an honest and accurate way so the burden on vehicle
21 owners is not artificially inflated. For the purpose of determining a vehicle tax, a taxing
22 district imposing a vehicle tax must set a vehicle’s taxable value at the vehicle’s base model
Kelley Blue book value. This ensures an honest and accurate calculation of the tax and,

1 combined with the appeal process in RCW 82.44.065, ensures that vehicle owners are taxed
2 on their vehicle's market value.

3 (2) For the purpose of determining a tax under this chapter, the value of a truck-type power
4 or trailing unit, or motor vehicle, including a passenger vehicle, motorcycle, motor home,
5 sport utility vehicle, or light duty truck is the base model Kelley Blue book value of the
6 vehicle, excluding applicable federal excise taxes, state and local sales or use taxes,
7 transportation or shipping costs, or preparatory or delivery costs.

8 Sec. 9. RCW 82.44.065 and 2010 c 161 s 912 each amended to
9 read as follows:

10 If the department determines a value for a vehicle ((equivalent to a manufacturer's base
11 suggested retail price or the value of a truck or trailer under RCW 82.44.035)) under section
12 8 of this act, any person who pays a state or locally imposed tax for that vehicle may appeal
13 the valuation to the department under chapter 34.05 RCW. If the taxpayer is successful on
14 appeal, the department shall refund the excess tax in the manner provided in RCW 82.44.120.
15 Using Kelley Blue Book value ensures an honest and accurate calculation.

16 The language of the initiative is to be construed liberally, and ambiguities are to be construed
17 in favor of a constitutional reading. *Pierce County v. State*, 78 P. 3d 640, 649 (2003), *citing Wash.*
18 *Fed'n*, 127 Wash.2d at 555, 901 P.2d 1028.

19 Further, the language of Sections 8 and 9 are not exclusive. If a Kelley Blue Book value
20 could be found in any other source, such a value – or valuation formula – could be used. See, for
21 instance, proposed Senate Bill 6066, section 3(a) which uses the following language:

22 “The department shall determine a value using any information that may be available,
including any guidebook, report, or compendium of recognized standing in the automotive
industry or the selling price and year of sale of the vehicle.”

See Declaration of Clint Didier, Exhibit 1 thereto.

Further, the valuations of Kelley Blue Book can be determined by algorithm. See the MVET
Vehicle Valuation Comparison chart prepared by Danny Masterson in support of the proposed

INTERVENOR DIDIER’S CR 59/60 MOTION FOR RECONSIDERATION - 5

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1 Senate Bill 6066. The Senate has already prepared such a depreciation schedule comparing the SB
2 6066 Schedule, the 2006 Schedule, the 1999 Schedule, and Kelley Blue Book. See Declaration of
3 Clint Didier, Exhibit B thereto. Because such an algorithm is possible and in fact probable, the
4 application renders a constitutional interpretation of the language of Section 8 and Section 9, as an
5 easily predicted algorithm which is not protected under the copyright laws or other intellectual
6 property. A trade secret law does not offer protection against discovery by fair and honest means,
7 such as by independent invention, accidental disclosure, or by so-called reverse engineering, that is
8 by starting with the known product and working backward to divine the process which aided in its
9 development or manufacture. *Kewanee Oil Co. v. Bicron Corp.*, 416 US 470, 476 (Supreme Court
10 1974), *National Tube Co. v. Eastern Tube Co.*, 3 Ohio C. C. R. (n. s.) 459, 462 (1902), *aff'd*, 69 Ohio
11 St. 560, 70 N. E. 1127 (1903).

12 As a consequence, any ambiguity defers to constitutionality, and the possibility of lawful
13 reverse engineering of the algorithm which constitutes Kelley Blue Book valuation makes the
14 express language of I-976 lawful. Such a possibility also vitiates the claim that Section 8 and Section
15 9 violate Article I, Section 12.

16 Sections 8 and 9 of I-976 provides the direction to the legislature to use the valuation system
17 found within Kelley Blue Book, a valuation system which could be (and has been for legislative
18 purposes in this state) lawfully reversed engineered to determine the valuation schema. It does not
19 require the state to enter into any contract, or to deprive other citizens or corporations of the
20 opportunity to have their valuation systems reverse engineered for similar purposes.

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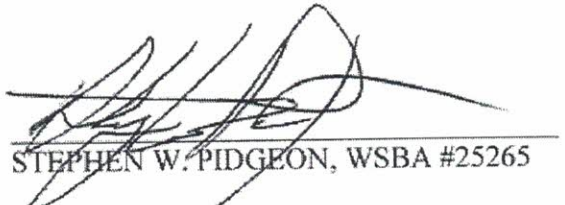
INTERVENOR DIDIER'S CR 59/60 MOTION FOR RECONSIDERATION - 6

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Everett, Washington 98208
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1 **PRAYER FOR RELIEF**

2 Plaintiff therefore prays for the following relief on the singular issue of whether Summary
3 Judgment should be granted to Intervenor Clint Didier in respect of the use of Kelley Blue Book
4 Valuations as set forth in Sections 8 and 9 of Initiative 976 because it does not violate Article I,
5 Section 12 of the Washington Constitution:

- 6 A. For a finding that Sections 8 and 9 of Initiative 976 does not violate Article I, Section 12
7 of the Constitution of the State of Washington;
- 8 B. For a finding that as to intervenor's motion for summary judgment, no material facts are
9 at issue;
- 10 C. For a finding that as to intervenor's motion for summary judgment, intervenor is
11 deserving of judgment as a matter of law;
- 12 D. For such other relief in law or equity that the Court deems proper on behalf of intervenor.
- 13 Respectfully submitted this 18th day of February 2020.

14
15 
16 STEPHEN W. PIDGEON, WSBA #25265
17 1523 – 132nd Street SE, Suite C-350
18 Everett, Washington 98208
19 (425)-299-9012
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6 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
IN AND FOR THE COUNTY OF KING

7
8 GARFIELD COUNTY TRANSPORTATION
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12 Intervenor-Plaintiff,

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15 Defendant,

16 and

17 CLINT DIDIER; PERMANENT OFFENSE.
TIMOTHY D. EYMAN, MICHAEL FAGAN;
JACK FAGAN; and PIERCE COUNTY,

18 Intervenor-Defendants.
19

CASE NO. 19-2-30171-6 SEA

DECLARATION OF TIM EYMAN
IN SUPPORT OF INTERVENOR'S
MOTION FOR RECONSIDERATION
PURSUANT TO CR 59 AND CR 60

20 I, Tim Eyman, being over 18 years of age and legally competent to testify to the matters set
21 forth herein, with personal knowledge of the same, now declare on oath subject to the laws of
22 perjury in this state of Washington as follows:

DECLARATION OF TIM EYMAN - 1

STEPHEN PIDGEON
Attorney at Law, P.S.
1523 132nd Street SE, Suite C350
Everett, Washington 98208
Stephen.pidgeon@comcast.net
425-347-7513

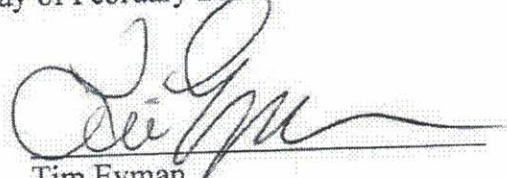
1 1. Senate Bill 6606 has been proposed in the 2019-2020 legislative session. A true and
2 accurate copy of this Senate Bill is attached hereto as Exhibit A, submitted pursuant to ER 803(a)(6).

3 2. A true and accurate copy of the Senate Bill Report SB 6606 is attached hereto as
4 Exhibit B, submitted pursuant to ER 803(a)(6).

5 3. A true and accurate copy of Danny Masterson's MVET Vehicle Valuation
6 Comparison chart submitted for the Senate in consideration of SB 6606 is attached hereto as Exhibit
7 C, submitted pursuant to ER 803(a)(6).


8 4. I have read SB 6606 and I provided public testimony on it during a public hearing. I
9 am one of the sponsors of and helped draft Initiative 976. I firmly believe that SB 6606 Section
10 3(a)'s method of valuing vehicles complies with the policies, purposes, and intent of section 8 of
11 Initiative 976.

12 Signed in Bellevue, Washington this 18th day of February 2020.

13
14 
15 Tim Eyman
Intervenor

16 **GR 17 Certification**

17 I, Stephen Pidgeon, have examined this document, determined that it consists of a stated
18 number of pages, including the affidavit page, and that it is complete and legible.

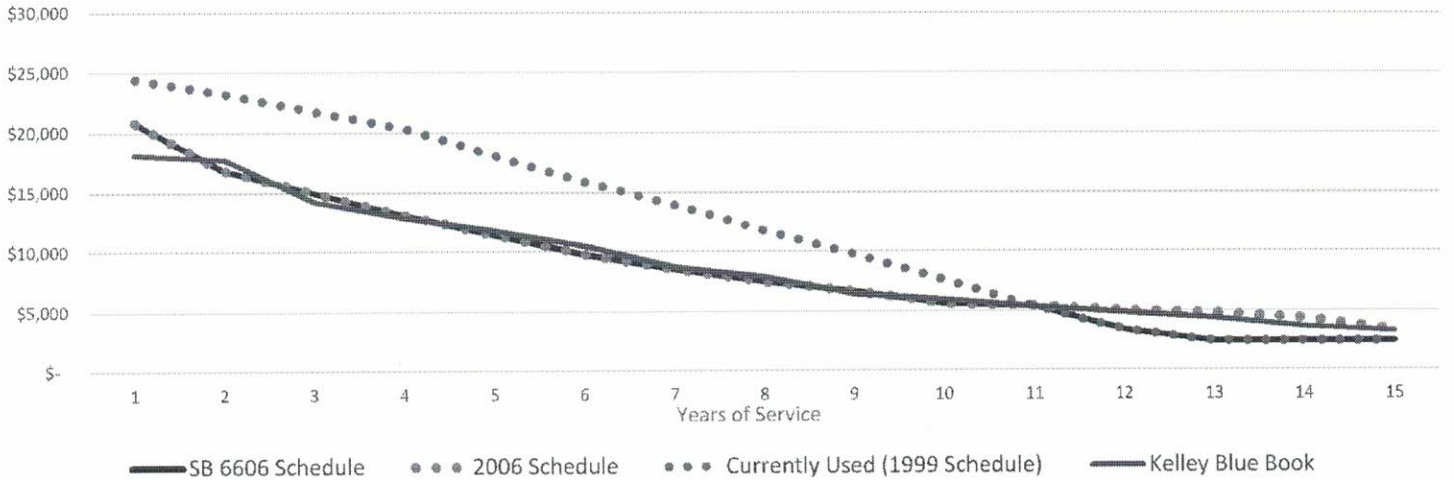
19
20 
21 STEPHEN W. PIDGEON, WSBA #25265
22 1523 - 132nd Street SE, Suite C-350
Everett, Washington 98208
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DECLARATION OF TIM EYMAN - 2

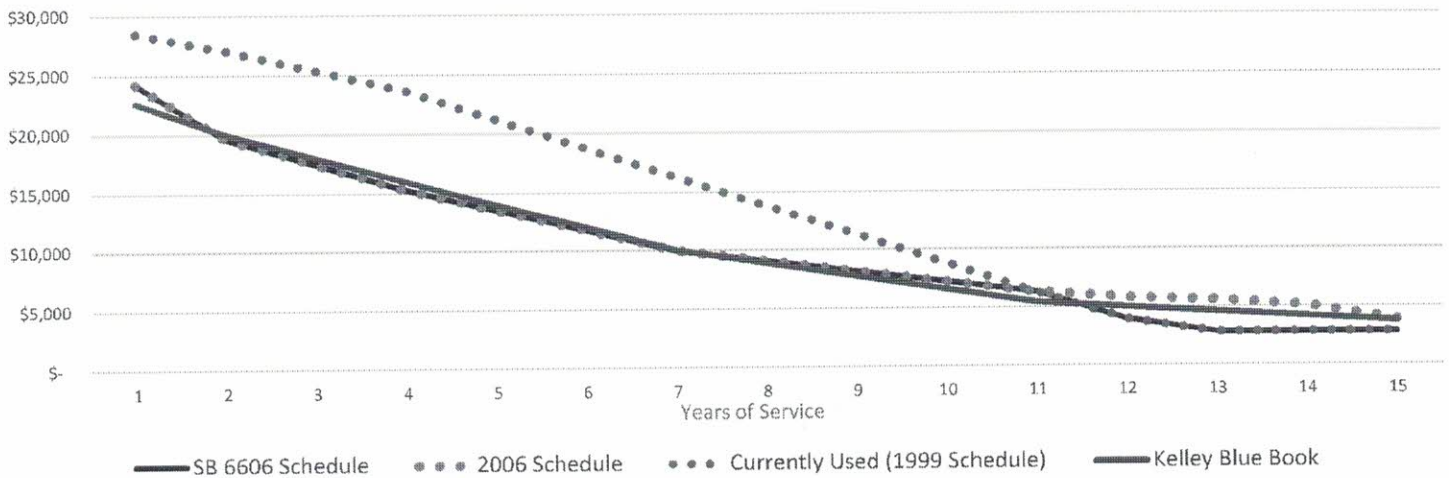
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MVET Vehicle Valuation Comparison

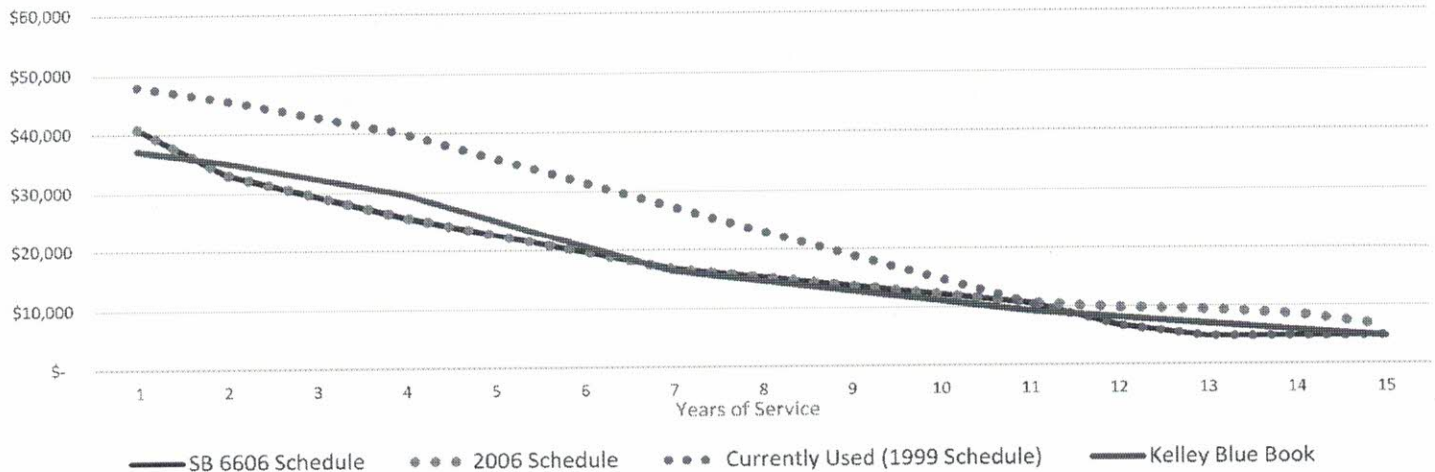
Depreciation Schedule Valuations vs Kelley Blue Book Toyota Camry



Depreciation Schedule Valuations vs Kelley Blue Book Ford F-150



Depreciation Schedule Valuations vs Kelley Blue Book Chevy Tahoe



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6 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
7 **IN AND FOR THE COUNTY OF KING**

8 GARFIELD COUNTY TRANSPORTION
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11 and

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14 v.

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16 Defendant,

17 and

18 CLINT DIDIER; PERMANENT OFFENSE,
19 TIMOTHY D. EYMAN, MICHAEL FAGAN;
JACK FAGAN; and PIERCE COUNTY,

Intervenor-Defendants.

CASE NO. 19-2-30171-6 SEA

**DECLARATION OF CLINT DIDIER
IN SUPPORT OF INTERVENOR'S
MOTION FOR RECONSIDERATION
PURSUANT TO CR 59 AND CR 60**

20 I, Clint Didier, being over 18 years of age and legally competent to testify to the matters set
21 forth herein, with personal knowledge of the same, now declare on oath subject to the laws of
22 perjury in this state of Washington as follows:

DECLARATION OF CLINT DIDIER - 1

STEPHEN PIDGEON
Attorney at Law, P.S.
1523 132nd Street SE, Suite C350
Everett, Washington 98208
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425-347-7513


1. Senate Bill 6606 has been proposed in the 2019-2020 legislative session. A true and accurate copy of this Senate Bill is attached hereto as Exhibit A, submitted pursuant to ER 803(a)(6).

2. A true and accurate copy of the Senate Bill Report SB 6606 is attached hereto as Exhibit B, submitted pursuant to ER 803(a)(6).

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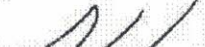
4. Further, I withdraw any request for further discovery in this matter.

Signed in Eltopia, Washington this 18th day of February 2020.


Clint Didier
Intervenor

GR 17 Certification

I, Stephen Pidgeon, have examined this document, determined that it consists of a stated number of pages, including the affidavit page, and that it is complete and legible.


STEPHEN W. PIDGEON, WSBA #25265
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SENATE BILL REPORT

SB 6606

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

As of February 7, 2020

Title: An act relating to regional transit authorities.

Brief Description: Concerning regional transit authorities.

Sponsors: Senators Liias, Mullet, Hobbs, Dhingra, Kuderer, Conway, Darneille, Keiser, Wilson, C., McCoy, Das, Billig, Saldaña and Stanford.

Brief History:

Committee Activity: Transportation: 2/04/20.

Brief Summary of Bill

- Requires a regional transit authority (RTA) that levies a motor vehicle excise tax (MVET) to use new depreciation schedules to determine the value of vehicles.
- Amends the new depreciation schedule for passenger vehicles and light trucks to reduce the value of vehicles with between 12 and 15 years of service for the purpose of calculating a MVET.
- Adds new requirements for lease agreements between the Washington State Department of Transportation, RTAs, and other public entities.
- Allows vehicle owners subject to a MVET levied by a RTA to pay the tax using a Good to Go! account and to enter into a quarterly or monthly payment plan.
- Repeals the parts of Initiative 976 related to RTA MVETs if the initiative is allowed to take effect.

SENATE COMMITTEE ON
TRANSPORTATION

Staff: Daniel Masterson (786-7454)

Background: Regional Transit Authority. An RTA is authorized to use its tax revenues to plan, construct, and operate high-capacity transportation, such as express bus services and light rail. There is currently one RTA—Sound Transit—which operates light rail, commuter rail, and express bus service in Puget Sound. Sound Transit currently imposes the following voter-approved taxes:

- 1.4 percent sales and use tax;
- 1.1 percent MVET;
- an annual \$0.25 per \$1,000 of assessed value property tax; and

- a rental car sales tax of 0.8 percent.

Motor Vehicle Excise Tax. An MVET is a tax paid on the value of a motor vehicle. Voter-approved Initiative 695 (2000) and Initiative 776 (2003) repealed statewide and local MVETs. Both initiatives were eventually ruled unconstitutional in whole or in part, but the Legislature repealed the statewide MVET in 2000. Certain local MVETs were retained, including those levied by Sound Transit and the Seattle Monorail. Sound Transit is the only local agency currently imposing an MVET to develop and operate a high capacity transit system.

Until 1990, vehicle valuation was determined by agency rules. In 1990, the Legislature adopted statutory valuation schedules to simplify MVET administration. Under the 1990 change, the tax base is the manufacturer's base suggested retail price when the vehicle is first offered for sale, multiplied by a depreciation schedule. The following vehicle valuation schedule for passenger cars and trucks is currently used by Department of Licensing (DOL) and Sound Transit:

MVET Valuation Schedule Currently in Use

Year	Schedule 1*	Schedule 2**
1	100%	100%
2	95%	90%
3	89%	83%
4	83%	75%
5	74%	67%
6	65%	59%
7	57%	52%
8	48%	44%
9	40%	36%
10	31%	28%
11	22%	21%
12	14%	13%
13 or older	10%	10%

*Schedule 1: Passenger vehicles, motorcycles, light-duty trucks, and small trailers. Base manufacturer's suggested retail price (MSRP) is used in the valuation.

**Schedule 2: Certain trucks with scale weight of over 6001 pounds.

The 2005 transportation budget directed the Joint Transportation Committee (JTC) to study the feasibility of developing a uniform MVET depreciation schedule that would more accurately reflect vehicle value and not hinder existing debt obligations. As a result of the study, in 2006 the Legislature passed SSB 6247, which enacted the following new valuation schedule.

2006 Valuation Schedule

Year	Schedule A*	Schedule B**
1	100%	100%
2	81%	81%
3	67%	72%
4	55%	63%
5	45%	55%
6	37%	47%
7	30%	41%
8	25%	36%
9	20%	32%
10	16%	27%
11	13%	26%
12	11%	24%
13	9%	23%
14	7%	21%
15	3%	16%
16 or older	0%	10%

*Schedule A: Heavy and medium trucks whose empty scale weights exceed 6000 pounds, including commercial and log use trucks. Valuation represents the average, annual national market depreciation for all vehicles in the class. The same method as provided in Schedule 2, MVET Valuation Schedule Currently in Use, is used.

** Schedule B: All other vehicles. The valuation represents average, annual western-region market depreciation for passenger vehicles and light trucks.

Base value for heavy and medium trucks is defined by latest purchase price (Schedule A). Base vehicle valuation is defined at 85 percent of MSRP for all taxable vehicle use classes other than heavy and medium trucks (Schedule B).

Current Regional Transit Authority Motor Vehicle Excise Tax. In 2015, the Legislature passed an omnibus transportation revenue bill that included authority for an RTA to increase their MVET collection by 0.8 percent with voter approval. The MVET authority provided in the revenue bill specified the vehicle valuation method for collection of the 0.8 percent MVET would be the MVET schedules as they were listed in statute in January 1996, until bonds issued against the original 0.3 percent MVET have been paid off. Bonds issued against the original 0.3 percent MVET are currently anticipated to be paid off in 2028, at which point the 0.3 percent MVET will cease being collected. MVET collected after December 31st in the year the 0.3 percent MVET bond debt is retired must use the valuation schedules enacted in 2006.

Department of Licensing Cost Recovery. Before beginning collection of a MVET, a local government, which includes Sound Transit, must contract with the DOL for the collection of the tax. DOL may charge a reasonable amount for administration costs.

Leases of Washington State Department of Transportation-Owned Lands. The Washington State Department of Transportation (DOT) is authorized to rent or lease land, improvements, or air space above or below any lands it does not presently need, but are held for highway purposes. DOT adopted administrative rules to implement this authority, which include the method by which the value of the property interest being rented or leased is determined. Under the administrative rules, the consideration for air space being leased must be economic rent. Administrative rules for rental rates of highway lands and improvements require the rental rate be economic rent as determined by either a market data report of rentals or a written appraisal.

Good to Go! Accounts. DOT uses a photo toll system that reads a vehicle license plate at toll facilities within the state. Motorists may open and use a Good To Go! account linked to their vehicle license plate to automatically pay tolls.

Initiative 976. In November 2019, voters approved Initiative 976. In December 2019, a King County Superior Court granted a motion for a preliminary injunction for the initiative, temporarily preventing it from taking effect while the court decides whether the initiative is constitutional. Among other provisions, Initiative 976 repeals and modifies the RTA MVET provisions in statute.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Part I: Regional Transit Authority Motor Vehicle Excise Tax. The bill requires an RTA levying an MVET to switch from using the valuation schedules listed in statute in 1996, to using the valuation schedules initially enacted in 2006 on January 1, 2021, instead of in 2028, when the bonds issued against the original 0.3 percent MVET are anticipated to be paid off.

The bill amends the valuation schedule for passenger vehicles and light trucks initially enacted in 2006 to reduce the value of vehicles with between 12 and 15 years of service when calculating an MVET.

DOL must receive full cost recovery from an RTA for collection of an MVET on its behalf, including the costs related to customer service and information technology.

Part II: Leasing of State Facilities to a Regional Transit Authority. In an agreement to lease lands, improvements, or air space above or below any lands held for highway purposes to a RTA, DOT must:

- value the lease at rental value, also known as economic value;
- allow rental or lease obligations accrued by an RTA to accrue using a land bank agreement;
- allow a negative balance in the land bank until January 1, 2042; and
- allow an RTA to enter into separate agreements with counties, incorporated cities and towns, and municipal corporations for the sublease or subrent of the lands, improvements, or airspace leased or rented from DOT.

The agreements between an RTA and counties, incorporated cities and towns, and municipal corporations may allow for cash payments to the RTA.

Rental or lease obligations accrued by an RTA through a land bank agreement with DOT will be allowed to be held as a negative balance in the land bank, with cash payments deferred, until January 1, 2042.

Part III: Payment of Motor Vehicle Excise Tax within a Regional Transit Authority. Beginning October 1, 2020, a vehicle owner paying for a renewal vehicle registration for a vehicle subject to an RTA MVET may:

- pay for a renewal vehicle registration with payment from an existing balance in a Good to Go! account linked to the registered vehicle; and
- enter into either a quarterly or monthly payment plan with DOL for all fees and taxes required by law for a renewal vehicle registration application if payments are made from an existing balance in a Good to Go! account linked to the registered vehicle.

DOT must allow DOL to accept payment for renewal vehicle registrations from balances in Good to Go! accounts linked to the registered vehicle. DOT may charge a fee of not more than 1 percent of each vehicle registration transaction to the Good to Go! account.

If a vehicle owner chooses to pay for a renewal vehicle registration with quarterly or monthly payments, each payment must be of an equal amount, except when the entire remaining amount of the motor vehicle excise tax due is paid along with any payment due. The first quarterly or monthly payment must be made with the application for a renewal vehicle registration. Payments made after the application for a renewal vehicle registration are not subject to additional service and technology fees.

DOL and an RTA levying an MVET must provide a report to the transportation committees of the Legislature by November 15, 2021, regarding the implementation of, and potential improvements to, the payment plan.

Part IV: Miscellaneous. The following sections of Initiative 976 are repealed if the initiative is allowed to take effect:

- sections 8 and 9, which require the use of Kelley Blue Book value to calculate an MVET;
- sections 10 and 11, which repeal the authority for an RTA to levy an MVET and the valuation schedule initially enacted in 2006;
- section 12, which requires an RTA to fully retire, defease, or refinance any outstanding bonds if an MVET is pledged to such bonds and the terms of the bond contract allow;
- section 13, which reduces the MVET rate an RTA is permitted to levy when the RTA does not retire, defease, or refinance bonds backed by an MVET before March 31, 2020; and
- section 16, which occurs when sections 10, 11, and 13 take effect.

DOL must provide written notice to affected parties, the Chief Clerk of the House of Representatives, the Secretary of the Senate, the Office of the Code Reviser, and others as deemed appropriate by DOL, when Initiative 976 has taken effect.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Proposed Substitute: PRO: I am a supporter of Sound Transit 3. I prime sponsored legislation in 2015 to authorize it and I spoke and supported it at the ballot box. I am excited that light rail is coming to Lynwood and to Everett. I also represent a district that voted for Sound Transit 3 but voted to repeal the MVET that ST3 depends on. We want the light rail, but we also want the tax system to be fair, and that is what SB 6606 endeavors to do. When I talk to my constituents, they do not want to be stuck in traffic, but they also want their cars to be valued fairly, not on inflated values. I do not support reducing the MVET because it will cancel light rail to constituents like mine. I want to address the unfair valuation of cars, which is what is driving a lot of this concern, and I want to address the way that people pay their tabs so they are not stuck with an over 500 dollar bill once a year.

CON: We remain, with my head-of-Sound-Transit hat on, committed to trying to work out issues and we appreciate the need to try to look at some revenue offsets. Sound Transit board strongly supports the work that legislators have been doing to adjust the depreciation schedule to provide some relief to taxpayers, but importantly it also calls for any adjustment to the schedule to protect our revenues and our financial capacity in order to preserve our ability to fully deliver all the transit investments that voters approved. Our analysis of the original bill estimated that it would drain \$1.024 billion in revenue from our plan triggering a total fiscal impact of \$2.91 billion after including higher debt service costs. Our initial review of the bill indicates that it would not provide any protection for our ability to complete voter-approved projects. We respectfully request continued work to ensure that any reductions to our revenues or financial capacity be equally offset through the allocation of other replacement revenues or by actions that reduce costs. Sound Transit is like the biggest bully on the playground. I have never seen a government that is able to wield such power. For them to do as Senator King pointed out come down here and say we want \$15 billion worth of authority, snooker you guys into giving him that much authority, and then them turning around and making it 54. Then going to voters and saying your car tabs will go about \$80 bucks but then everybody's getting bills where it's 300, 500, 800, 1,000 or more. The bill specifically over rules the initiative in the event that it is upheld. So it is like the overrule the people's vote act. This accessible voting machine just got built this weekend and was not in place during the election on I-976. So, I hear a lot about what your constituents want, but I think there's a lot of constituents' voices who are not being heard. Twenty-seven percent of the people in our state do not have a driver's license. I am one of those people. There are many of us for whom the system right now has failed and it is not just people without driver's licenses. There is a lot of people who have driver's licenses that can not afford to maintain a car or have a medical condition or are getting older and do not feel safe driving anymore. For all of us, the system has failed as well. It is failing communities that live along freeways. All the public health negative public health consequences you hear about, childhood cancer. It is failing us on so many levels. For almost 20 years my family and I have lived in Northeast Seattle's Pinehurst neighborhood, which is very close to Sound Transit's future 130th Street Station. For the last five years we have been part of the strong community support for this infill station. The local community members have been the primary advocates for the station. Thousands of people throughout the region will be able to get to work school and other places faster more efficiently and will have more time to spend with their

families or another activities rather than traveling on congested freeways. Cuts to Sound Transit funding threaten my community and the region at large. Thousands of people will continue to rely on driving, contributing to the horrible Seattle area traffic congestion. Wage analysis of climate reduction measures in Puget Sound region counties shows that local and regional projects to create clean and robust transit that reduces vehicle miles traveled is expected to have twice the impact on greenhouse gas emissions compared to a strong clean fuels program such as the one we hope will pass this session. We could basically undo the clean fuels work today, or a big chunk of it, by slowing down Sound Transit. We urge the committee not to pass this bill without adding a funding plan to keep transit projects moving for the sake of our kids. We have concerns with the outcomes this bill would create. We heard what Sound Transit said about the potential financial impacts that could put the timelines at risk. We did hear and we do understand the concerns around the MVET, but it is clear that there is support for the projects and timelines set up by Sound Transit and the desire for the agency to meet those. We can not support any bill that does not include a backfill, provides a new source of funding to offset the losses, or provides cost relief. For context, Seattle has seen almost a 9 percent drop in drive alone peak hour trips from 2010 to 2018. Tacoma has seen the second largest drop across the country at 8 percent. We represent over 450 businesses, public and private, throughout the region. That is everyone from aerospace, life sciences, health care, K-12, to higher education. You name it is us. What we see is a problem where no one is able to get to where they are going. You heard earlier council member Roberts say the average commute is 45 minutes to 2 hours if you are going from Everett to Seattle. It is simply not sustainable. We acknowledge that there is something that needs to be tweaked. We want to find something in between, to find some backfill. We are here today to say first and foremost our priority is to emphasize no cuts or changes without backfill funding or a plan to keep these projects on scope and track.

OTHER: The laudatory tax relief proposed by 6606 will be meaningless if the state supreme court rules that these statutes contain drafting errors acknowledged by Sound Transit and instead of tax relief, this body will be debating tax hikes for a Sound Transit bail out. Nothing will resurrect the statute. You will have to pass a new tax authorization. Sound Transit will have to get a new voter approval for new taxes to fill a up to \$18 billion hole in their budget to preserve their finances.

Persons Testifying: PRO: Senator Marko Liias, Prime Sponsor. CON: Paul Roberts, Sound Transit Board Member; Peter Rogoff, citizen; Anna Zivarts, Rooted in Rights; Kristen Toms, 130th St Station Community Advocate; Alice Lockhart, 350 Seattle; Bryce Yadon, Transportation Choices Coalition; Erik Ashlie-Vinke, Economic Alliance Snohomish County; Tim Eyman, citizen. OTHER: Joel Ard, Ard Law Group PLLC.

Persons Signed In To Testify But Not Testifying: No one.

SENATE BILL 6606

State of Washington

66th Legislature

2020 Regular Session

By Senators Lillas, Mullet, Hobbs, Dhingra, Kuderer, Conway, Darneille, Keiser, Wilson, C., McCoy, Das, Billig, Saldaña, and Stanford

Read first time 01/24/20. Referred to Committee on Transportation.

AN ACT Relating to regional transit authorities; amending RCW 82.44.135; reenacting and amending RCW 81.104.160 and 82.44.035; creating a new section; repealing RCW 82.44.038 and 81.112.800; repealing 2020 c 1 ss 9, 10, and 13; repealing 2020 c 1 ss 11 and 16 (uncodified); providing a contingent effective date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 81.104.160 and 2015 3rd sp.s. c 44 s 319 are each reenacted and amended to read as follows:

(1) Regional transit authorities that include a county with a population of more than one million five hundred thousand may submit an authorizing proposition to the voters, and if approved, may levy and collect an excise tax, at a rate approved by the voters, but not exceeding eight-tenths of one percent on the value, under chapter 82.44 RCW, of every motor vehicle owned by a resident of the taxing district, solely for the purpose of providing high capacity transportation service. The maximum tax rate under this subsection does not include a motor vehicle excise tax approved before July 15, 2015, if the tax will terminate on the date bond debt to which the tax is pledged is repaid. This tax does not apply to vehicles licensed under RCW 46.16A.455 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16A.425 or 46.17.335(2).

((Notwithstanding any other provision of this subsection or chapter 82.44 RCW, a motor vehicle excise tax imposed by a regional transit authority before or after July 15, 2015, must comply with chapter 82.44 RCW as it existed on January 1, 1996, until December 31st of the year in which the regional transit authority repays bond debt to which a motor vehicle excise tax was pledged before July 15, 2015. Motor vehicle taxes collected by regional transit authorities after December 31st of the year in which a regional transit authority repays bond debt to which a motor vehicle excise tax was pledged before July 15, 2015, must comply with chapter 82.44 RCW as it existed on the date the tax was approved by voters.)) The motor vehicle excise tax imposed under this subsection (1) must comply with RCW 82.44.035.

(2) An agency and high capacity transportation corridor area may impose a sales and use tax solely for the purpose of providing high capacity transportation service, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the applicable jurisdiction that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax may not exceed 2.172 percent. The rate of tax imposed under this subsection must bear the same ratio of the 2.172 percent authorized that the rate imposed under subsection (1) of this section bears to the rate authorized under subsection (1) of this section. The base of the tax is the selling price in the case of a sales tax or the rental value of the vehicle used in the case of a use tax.

(3) Any motor vehicle excise tax ((previously)) imposed under the provisions of ((RCW 81.104.160(1))) subsection (1) of this section before December 5, 2002, shall be repealed, terminated, and expire on December 5, 2002, except for a motor vehicle excise tax for which revenues have been contractually pledged to repay a bonded debt issued before December 5, 2002, as determined by Pierce County et al. v. State, 159 Wn.2d 16, 148 P.3d 1002 (2006). In the case of bonds that were ((previously)) issued before December 5, 2002, the motor vehicle excise tax must comply with ((chapter 82.44 RCW as it existed on January 1, 1996)) RCW 82.44.035.

(4) If a regional transit authority imposes the tax authorized under subsection (1) of this section, the authority may not receive any state grant funds provided in an omnibus transportation appropriations act except transit coordination grants created in chapter 11, Laws of 2015 3rd sp. sess.

Sec. 2. RCW 82.44.035 and 2010 c 161 s 910 are each reenacted and amended to read as follows:

(1) For the purpose of determining any locally imposed motor vehicle excise tax, the value of a truck or trailer shall be the latest purchase price of the vehicle, excluding applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs, multiplied by the following percentage based on year of service of the vehicle since last sale. The latest purchase year shall be considered the first year of service.

YEAR OF SERVICE

PERCENTAGE

1 100

2 81

3 67

4 55

5 45

6 37

7 30

8 25

9 20

10 16

11 13

12 11

13 9

14 7

15 3

16 or older 0

(2) The reissuance of a certificate of title and registration certificate for a truck or trailer because of the installation of body or special equipment shall be treated as a sale, and the value of the truck or trailer at that time, as determined by the department from such information as may be available, shall be considered the latest purchase price.

(3) For the purpose of determining any locally imposed motor vehicle excise tax, the value of a vehicle other than a truck or trailer shall be eighty-five percent of the manufacturer's base suggested retail price of the vehicle when first offered for sale as a new vehicle, excluding any optional equipment, applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs, multiplied by the applicable percentage listed in this subsection (3) based on year of service of the vehicle.

If the manufacturer's base suggested retail price is unavailable or otherwise unascertainable at the time of initial registration in this state, the department shall determine a value equivalent to a manufacturer's base suggested retail price as follows:

(a) The department shall determine a value using any information that may be available, including any guidebook, report, or compendium of recognized standing in the automotive industry or the selling price and year of sale of the vehicle. The department may use an appraisal by the county assessor. In valuing a vehicle for which the current

value or selling price is not indicative of the value of similar vehicles of the same year and model, the department shall establish a value that more closely represents the average value of similar vehicles of the same year and model. The value determined in this subsection (3)(a) shall be divided by the applicable percentage listed in (b) of this subsection (3) to establish a value equivalent to a manufacturer's base suggested retail price and this value shall be multiplied by eighty-five percent.

(b) The year the vehicle is offered for sale as a new vehicle shall be considered the first year of service.

YEAR OF SERVICE

PERCENTAGE

1	100
2	81
3	72
4	63
5	55
6	47
7	41
8	36
9	32
10	27
11	26
12	(24))16
13	((23))12
14	((21))12
15	((16))12
16 or older	10

(4) For purposes of this chapter, value shall exclude value attributable to modifications of a vehicle and equipment that are designed to facilitate the use or operation of the vehicle by a person with a disability.

Sec. 3. RCW 82.44.135 and 2006 c 318 s 9 are each amended to read as follows:

(1) Before a local government subject to this chapter may impose a motor vehicle excise tax, the local government must contract with the department for the collection of the tax. ((The))Except as otherwise provided in this section, the department may charge a reasonable amount, not to exceed one percent of tax collections, for the administration and collection of the tax.

(2) Any contract entered into with a regional transit authority for the collection of a motor vehicle excise tax must provide that the department receives full reimbursement for the administration and collection of the tax, including those costs related to customer service and information technology.

NEW SECTION. Sec. 4. The following acts or parts of acts are each repealed:

(1) RCW 82.44.038 (Valuation of vehicles—Use of Kelley Blue Book value) and 2020 c 1 s 8 (Initiative Measure No. 976);

(2) RCW 81.112.800 (Motor vehicle excise tax—Outstanding bonds—Retirement, defeasement, and refinancing) and 2020 c 1 s 12 (Initiative Measure No. 976);

(3) 2020 c 1 (Initiative Measure No. 976) s 9;

(4) 2020 c 1 (Initiative Measure No. 976) s 10;

(5) 2020 c 1 (Initiative Measure No. 976) s 11 (uncodified);

(6) 2020 c 1 (Initiative Measure No. 976) s 13; and

(7) 2020 c 1 (Initiative Measure No. 976) s 16 (uncodified).

NEW SECTION. Sec. 5. Section 4 of this act takes effect immediately upon a court of final jurisdiction holding that chapter 1 (Initiative Measure No. 976), Laws of 2020 is no longer enjoined from effectiveness.

NEW SECTION. Sec. 6. The department of revenue must provide written notice of the effective date of section 4 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

NEW SECTION. Sec. 7. Section 5 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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