

Executive Summary

In 2006, the legislature funded an analysis of expanding the Growth Management Act (GMA) transportation concurrency requirement to state highways and ferry routes. The analysis objective was to determine how to ensure jurisdictional divisions do not defeat GMA concurrency goals.¹ The Washington State Department of Transportation (WSDOT) conducted the analysis by defining concurrency within the context of statutory law and judicial decisions and examining how the law has been applied through administrative practice. This information, along with findings and a detailed comparison of policy concepts to address the findings, is included in the full text of the analysis. This summary provides a brief background of concurrency, describes the analysis approach, and highlights key points of the policy concepts presented.



Concurrency

Under the 1990 GMA, concurrency is one of 14 goals local governments must consider in land use planning. The concurrency goal is intended to ensure public facilities such as sewer, water, roads, parks, and schools are adequate to serve development at the time of occupancy without decreasing service levels below locally established minimum standards. In theory, concurrency encourages land use patterns that can be served efficiently by public infrastructure, provides appropriate infrastructure at the time of new development, and prevents new development from degrading locally agreed-upon service standards for the current users of existing infrastructure.

The GMA also defines a specific transportation concurrency requirement. Cities and counties must deny development that causes the level of service on a locally-owned transportation facility to decline below the adopted standard, unless improvements or strategies to accommodate the impacts of that development are completed within six years of development approval. State-owned transportation facilities and services of statewide significance are statutorily exempt from this concurrency requirement, except in Island and San Juan counties. Approximately half of the state's highways are designated to be of statewide significance. The GMA does not specifically address concurrency for state-owned transportation facilities that are not considered to be of statewide significance.

Because transportation concurrency has not consistently yielded optimal local land use patterns, capital facilities planning, or infrastructure funding practices, it has been a topic of frequent study, debate, and legislation at the state, regional, and local levels since its debut in 1990.

The original GMA did not specify how local governments should address state-owned transportation facilities in their plans and regulations. Recognizing the inconsistent and uncoordinated planning that resulted, the 1994 Legislature commissioned a study on the appropriate relationship between state transportation facilities and local comprehensive plans and concurrency regulations. Some of the study recommendations were adopted in the 1998 Level of Service Bill, which created new local planning requirements for state-owned transportation facilities and services.² It also implemented a new classification scheme for state-owned highways, granting the state responsibility for setting level of service standards on highways and ferry routes of statewide significance and giving the Regional Transportation Planning Organizations (RTPOs) responsibility for setting level of service standards on all other state-owned highways and ferry routes. The legislation exempted transportation facilities

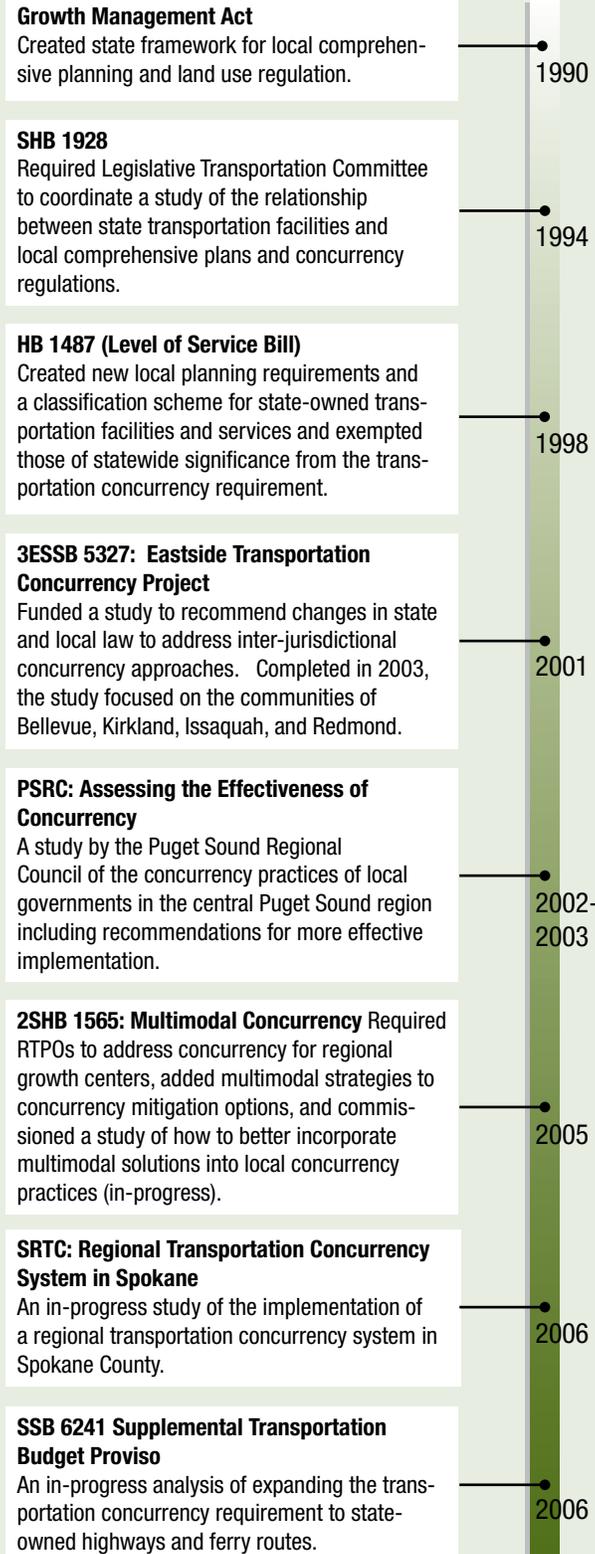
“What the GMA’s concurrency principle guarantees is “truth in planning.” That is: local governments must disclose the amount and quality of the services they will provide, how and where they will be provided, how much they will cost, and how they will be funded.”

BACC. v. Clark County,
04-2-0038c, WWGMHB (2005).

1. Washington. Chapter 370. 2006 Laws of 2006 Regular Session PV: 30-31.

2. Washington. “Level of Service Bill,” ch. 171, Laws of 1998

Concurrency Milestones



and services of statewide significance from the transportation concurrency requirement, except in Island and San Juan counties.

In 2001, the Washington State Legislature funded another concurrency study which was completed by the Washington State Transportation Center (TRAC) in 2003. The study explored different concurrency measurement methodologies and suggested ways to use roads less, increase funding for transit services, and encourage more coordination among jurisdictions.³ The study concluded that cities had sufficient flexibility under current law to adopt alternative concurrency methodologies independently or jointly.

In 2002, the Puget Sound Regional Council (PSRC) studied the effectiveness of concurrency as a step in implementing its long-range transportation plan for King, Kitsap, Pierce, and Snohomish counties. The study assessed local concurrency practices through a survey, case studies, and focus group discussions to determine how to better integrate concurrency with other GMA goals.⁴ The study recommended: addressing multimodal considerations, coordinating with other jurisdictions, adopting compatible and consistent methodologies, tailoring concurrency to planning subareas, developing common concurrency objectives, linking interagency planning and improvements, raising more revenues for facility improvements through concurrency, and authorizing concurrency exemptions for transit.

In 2005, the Legislature again amended concurrency requirements,⁵ specifically adding multimodal transportation improvements and strategies as acceptable ways to meet concurrency requirements, requiring RTPOs to address transportation concurrency for regional growth centers, and funding another concurrency study. PSRC is conducting the Multimodal Concurrency Study, due December 31, 2006, and will provide recommendations for further incorporating multimodal strategies into the concurrency requirement.

The Spokane Regional Transportation Council (SRTC) is expected to complete a regional concurrency study by the end of 2006. This study examines the legal, economic, land use, and social equity implications of adopting a regional concurrency system in Spokane County.

The present analysis, funded by the legislature in 2006, suggests how transportation and land use planning, funding, and concurrency might be changed to better preserve the investment and protect the function of state-owned highways and ferry routes.

3. Washington. Chapter 14, Laws of 2001, 2nd Special Session PV, Section 232(2).

4. Puget Sound Regional Council, "Assessing the Effectiveness of Concurrency: Final Report." July 2003, 1.

5. 2SHB 1565, Chapter 328, Laws of 2005.

The Concurrency Analysis Approach

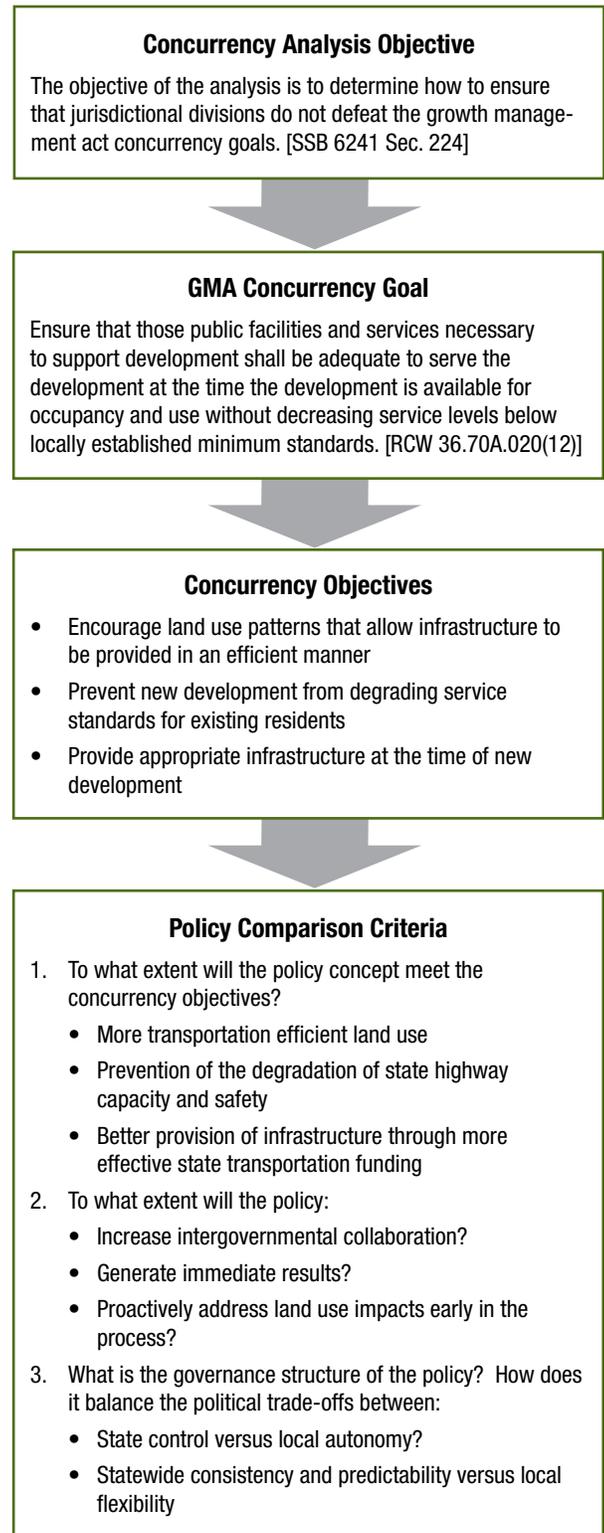
Early in the project, the oversight committee and WSDOT staff decided to examine concurrency within the broad context of all the planning, funding, and governance tools available to address the impacts of local land use decisions on the state transportation system. The analysis assesses the current legal framework for state, regional, and local transportation planning, concurrency, and development mitigation (Chapters 2 and 4). It evaluates how state, regional, and local agencies implement these laws (Chapters 3 and 5). It identifies gaps in law and practice that impede the achievement of the GMA concurrency goal (Chapter 6). Finally, it defines and compares ten policy concepts to address the gaps (Chapter 7).

The criteria developed to compare the policy concepts are based on the objective of the analysis—to determine how to ensure jurisdictional divisions do not defeat GMA concurrency goals. The goal of concurrency can be broken down into three primary objectives: encouraging land use patterns that allow infrastructure to be provided efficiently, preventing new development from degrading service standards for existing residents, and providing appropriate infrastructure at the time of new development.

The extent to which each policy concept meets these three concurrency objectives forms the first criterion. The ability of each policy concept to increase intergovernmental collaboration, generate immediate results, and proactively address land use impacts provides additional bases for comparison. The last criterion addresses the governance structure of the policy concepts. The current planning approach of the GMA is a “bottom up” style with local jurisdictions bearing the ultimate responsibility for land use planning and implementation. Some of the identified policy concepts would modify this approach, trading some degree of local autonomy and flexibility for greater state consistency and control.

The criteria were applied using sliding scales to describe the relative effectiveness of a policy compared to the other policy concepts within the analysis. The sliding scales are a useful way to compare policy concepts, but have limitations. First, the ratings only have meaning within the context of the analysis. A policy concept that rates well on the sliding scale may be the most effective option within the analysis for addressing a particular criterion, but may not rate as well in the broader realm of all possible policy options. Also, the relative importance of the criteria is not reflected by the sliding scales—you can’t sum the ratings to pick the best policy. Finally, the sliding scale ratings are subjective based on the best judgment of the analysis team.

In addition to the sliding scales, WSDOT staff and the oversight committee identified the pros and cons and relative resource requirements of each policy concept. This information is included in Chapter 7.



Policy Concepts:

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| Planning | A. Technical Assistance |
| | B. WSDOT Review of Local Comprehensive Plans |
| Governance | C. Local Incentives |
| | D. Mandatory Good Planning Practices |
| | E. Concurrency Expansion to State Highways and Ferry Routes |
| Funding | F. WSDOT Review of Development Proposals |
| | G. Mandatory Local Enforcement of State Requested Mitigation |
| | H. Mandatory Local Assessment of State Impact Fees |
| | I. State Assesses and Collects Mitigation |
| | J. System Charges |

Policy Concepts

Any one of the policy concepts identified in this analysis could improve the ability of the state to address the adverse impacts of local land use decisions on state transportation facilities. Alternatively, a number of policy options could be grouped to form a more comprehensive strategy for addressing the planning, funding, and governance gaps that exist in current law and practice.

Planning

The analysis found that state, regional, and local planning for state-owned transportation facilities lack the coordination and communication needed to make the existing GMA planning requirements meaningful. Two options for improving planning are providing better technical assistance to local governments and better state review of local comprehensive plans and development regulations, particularly by the Washington State Department of Transportation (WSDOT). These planning policy concepts require

minor administrative changes and a relatively small level of additional resources to implement. They do not, however, address the cities and counties that choose not to work collaboratively with the state to minimize the impacts of development on state transportation facilities.

Planning - Technical Assistance

Who: CTED, WSDOT and/or RTPs

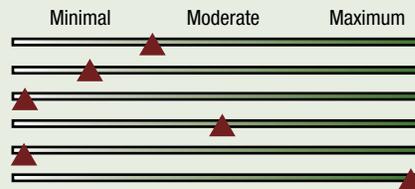
What: Increase technical assistance to cities and counties

Why: To provide local governments with the information and resources they need to make land use decisions that minimize adverse impacts on state highways and ferry routes

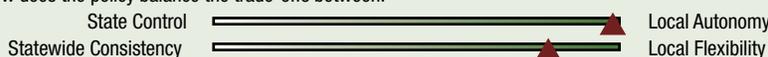
- How:**
- Develop updated guidance documents and administrative rules for local planning, access control, and development review for state highways and ferry routes
 - Devote additional staffing to provide individual and timely expert advice and analysis assistance to local governments
 - Periodically offer workshops across the state on best practice planning, access control and development review for state highways and ferry routes

To what extent will the policy:

- Result in more transportation efficient land use?
- Prevent the degradation of state highway capacity and safety?
- Provide for more effective state transportation funding?
- Increase intergovernmental collaboration?
- Generate immediate results?
- Proactively address land use impacts early in the process?



How does the policy balance the trade-offs between:



Increasing WSDOT participation in local land use processes is more effective than technical assistance alone because comments would be tailored to a particular legislative proposal and would receive wider public exposure through the local public involvement process.

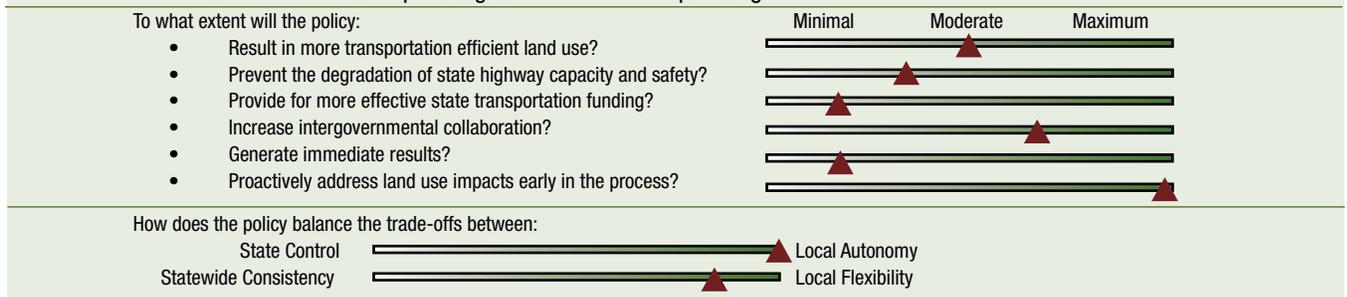
Planning - WSDOT Review of Local Comprehensive Plans

Who: WSDOT

What: Increase WSDOT participation in local land use processes

Why: To more effectively communicate the state's interest in protecting the capacity and safety of the highway and ferry systems so that local governments and the public are aware of the consequences of their decisions and so that the state is on record if an appeal is appropriate

- How:**
- Devote additional staffing to comprehensive plan and development regulation review and comment
 - Develop systematic policies and procedures for reviewing, commenting on, and tracking local comprehensive plans and development regulations and incorporating information from local plans into the state's transportation planning process
 - Develop productive and collaborative relationships with local planners and elected officials
 - More consistently track, report, and follow-up on local government responses to comments
 - Coordinate state corridor planning with local subarea planning



Governance

Three policy concepts, ranging from incentive-based to regulatory, suggest changes to the governance structure to provide the state with more influence over local land use decisions that impact the state transportation system. Creating incentives for or requiring local best practices in planning, mitigation, and access control involve relatively minor amendments to state law and a relatively small level of additional resources to implement. Implementation of either of these options should be preceded by the convention of local, regional, and state agency stakeholders to craft well-researched, professionally sound, and locally acceptable best practice standards.

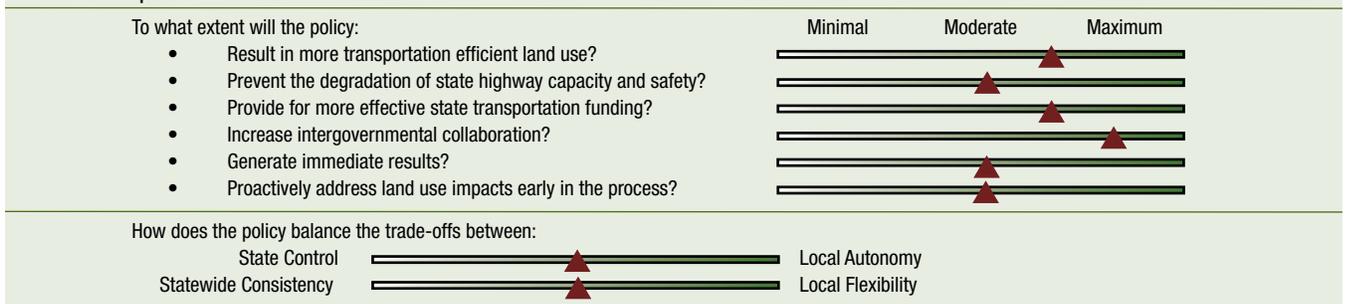
Governance - Local Incentives

Who: Legislature, WSDOT, CTED, RTPOs, CERB, CRAB, TIB, PWB, FMSIB

What: Provide incentives for local governments to adhere to best practices in planning, impact mitigation, and access control

Why: To encourage local governments to make land use choices that will protect the capacity and safety of the state highway and ferry systems

- How:**
- Allow local governments who have adopted best practices to permit limited concurrency exemptions for urban infill
 - Better coordinate state infrastructure funding programs to give higher priority to local governments that adhere to best practices



Amending state law to require local governments to adhere to best practices in planning and access control goes further than local incentives in ensuring state transportation resources are protected from local land use impacts because of its regulatory approach. Conversely, this policy imposes implementation costs on local governments and reduces their autonomy to a greater extent than local incentives. The legislature could implement changes to planning requirements incrementally, testing the effectiveness of best practice standards on communities that take advantage of local incentives and later requiring the planning standards that prove effective.

Governance - Mandatory Good Planning Practices

Who: CTED, RTPOs, Local Governments, WSDOT

What: Require local governments to adhere to best practices in planning and access control

Why: To ensure the protection of the capacity and safety of the state highway and ferry systems

How: Require better planning for state-owned transportation facilities in local comprehensive plans (including the transportation, land use, and capital facilities elements) by:

- Requiring confirmation from local agencies that they have adopted standards for access permitting on streets designated as state highways which meet or exceed WSDOT standards
- Amending the local planning requirements of the GMA
- Clarifying the Regional Transportation Planning Organization certification requirements, or
- Adding new WSDOT certification requirements

To what extent will the policy:

- Result in more transportation efficient land use?
- Prevent the degradation of state highway capacity and safety?
- Provide for more effective state transportation funding?
- Increase intergovernmental collaboration?
- Generate immediate results?
- Proactively address land use impacts early in the process?



How does the policy balance the trade-offs between:



The expansion of concurrency to state highways and ferry routes would involve significant changes to law and substantial investment of local and regional resources. This policy might not be the most cost-efficient or effective method of preventing

Governance - Concurrency Expansion to State Highways and Ferry Routes

Who: WSDOT, RTPOs, Local Governments

What: Expand the GMA transportation concurrency requirement to state-owned highways and ferry routes

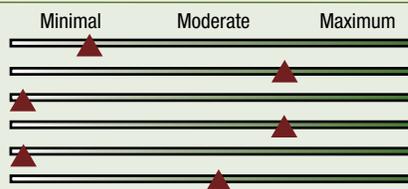
Why: To ensure that the state highways and ferry routes necessary to support development are adequate to serve the development at the time of occupancy and use without decreasing levels of service (LOS) below the adopted standards of the state or region

How:

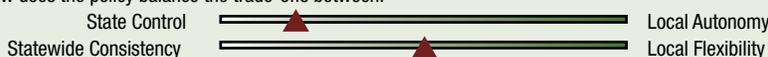
- Amend the GMA to require local governments to deny development if it causes the LOS on state-owned highways or ferry routes to fall below the adopted standard (may apply to HSS and/or non-HSS)
- Amend the GMA to require local governments to participate in a regional concurrency system that includes state-owned highways and ferry routes (may apply to HSS and/or non-HSS)

To what extent will the policy:

- Result in more transportation efficient land use?
- Prevent the degradation of state highway capacity and safety?
- Provide for more effective state transportation funding?
- Increase intergovernmental collaboration?
- Generate immediate results?
- Proactively address land use impacts early in the process?



How does the policy balance the trade-offs between:



the degradation of state highway capacity and safety. Concurrency works best when the government that decides to allow or deny development also controls the establishment of the performance standard (level of service) and the resources to fund improvements. A policy that divides these authorities between governments is not optimal because it divides accountability. Alternatively, the legislature could consider providing incentives for local governments to participate in regional concurrency systems that include state facilities and establishing funding mechanisms that regional governments can use for growth-related transportation improvements.

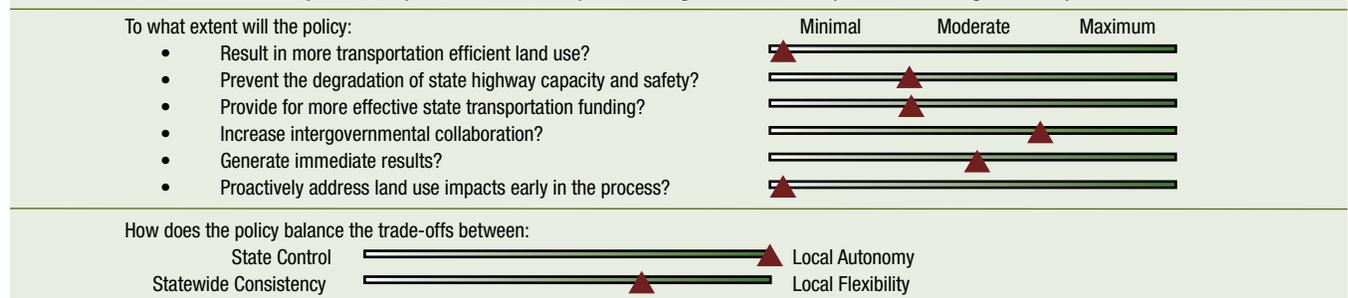
Funding

The remaining policy concepts address gaps in funding that diminish the ability of the state to secure adequate investment for growth-related state transportation improvements. None of the funding options would by themselves provide sufficient resources to address the state’s \$37.68 billion unfunded transportation needs.⁶ However, they could be combined with other transportation funding strategies (such as tolling or taxes) to provide a portion of the funding needed to address local development impacts on the state’s transportation system.

Improving WSDOT’s development review process would allow the state to more effectively fund growth-related transportation improvements with only minimal changes to administrative practices. However, the policy’s effectiveness is moderated because mitigation negotiation is unpredictable, time-consuming and costly; local governments may choose to reduce or disregard state requested mitigation; and statute limits the types of projects that can be funded.

Funding - WSDOT Review of Development Proposals

- Who:** WSDOT
- What:** Improve WSDOT development review processes
- Why:** To more consistently and fairly assess developments for their impacts on state highways and ferry routes and more effectively fund transportation capacity and safety improvements needed because of growth
- How:**
- Devote additional staffing to the review of development proposals and to the development of intergovernmental agreements with local governments for mitigation collection
 - Build on the existing development services manual by establishing more detailed standards for the review of development proposals (including requirements for private traffic analyses) and the assessment of appropriate mitigation
 - Establish standards for when local governments should submit development proposals to WSDOT for review and work with local governments to ensure they are implemented
 - More consistently track, report, and follow-up on local government responses to mitigation requests



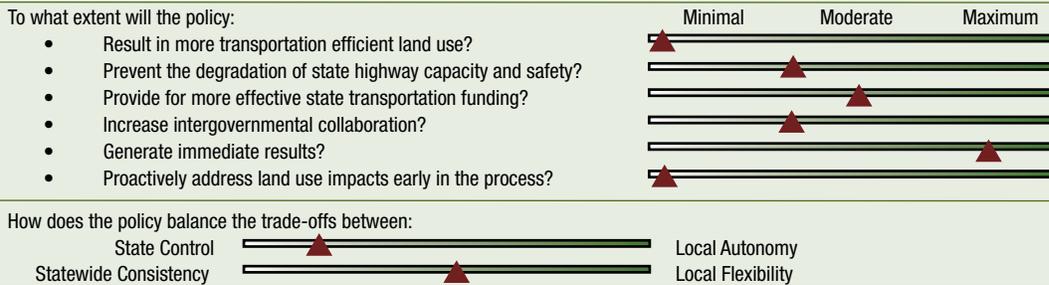
The other four funding policies require more significant statutory changes, more substantial resources, and additional legal and technical review. Requiring local governments to condition development approvals on WSDOT mitigation requests addresses one of the weaknesses of the current legal framework because local govern-

6. The Washington Transportation Plan, 2007-2026. Washington State Transportation Commission and Washington State Department of Transportation. November 14, 2006.

ments could not disregard development impacts on the state transportation system. The tradeoff is the fundamental alteration of the environmental review process—state transportation impacts would no longer be balanced with other identified impacts and it is unclear whether the state or local governments would bear the legal liability for appeals.

Funding - Mandatory Local Enforcement of State-Requested Mitigation

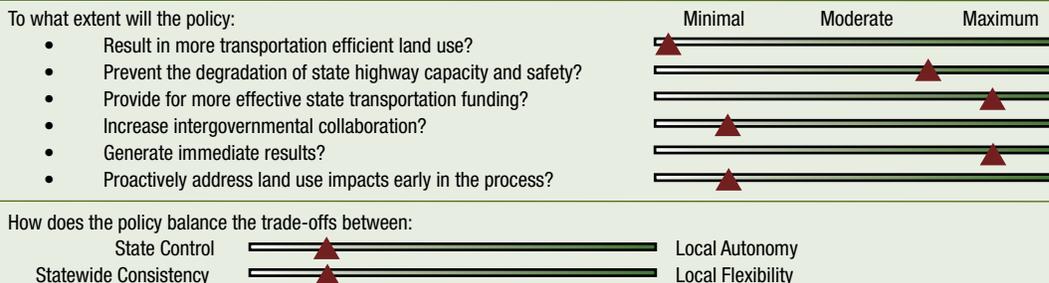
Who: WSDOT, Local Governments
What: Require local governments to condition development approvals on WSDOT mitigation requests
Why: To more consistently and fairly collect development mitigation and more effectively fund transportation capacity and system improvements needed because of growth
How: Amend the State Environmental Policy Act



Compared to the mitigation funding policies, requiring local governments to assess impact fees for state transportation improvements would provide more consistent revenue to WSDOT, a more predictable fee structure for developers, and a better mechanism for funding area-wide transportation improvements. The primary disadvantage of collecting impact fees for state transportation facilities is the technical difficulty and cost of setting up a fair fee schedule.

Funding - Mandatory Local Assessment of State Impact Fees

Who: WSDOT, Local Governments
What: Require local governments to assess impact fees for improvements to state-owned highways and ferry routes
Why: To more predictably assess development for growth impacts and more effectively fund state highway and ferry route capacity and safety improvements needed because of growth
How: Amend the Growth Management Act section on impact fees, the Local Transportation Act (LTA), and/or the Transportation Benefit District Act (TBD)



Authorizing WSDOT to independently assess and collect mitigation directly from the developer would produce a more consistent revenue stream for state transportation facilities and relieve local governments from the responsibility and potential liability of imposing development conditions on the state’s behalf. However, it would give the state a much more direct role in local land use decisions and alter the nature of the environmental review process—state mitigation would no longer be considered in a broader context that considers and balances all the potential impacts of a government action.

Funding - State Assesses and Collects Mitigation

Who: WSDOT

What: Authorize WSDOT to independently assess and collect mitigation directly from the developer

Why: To more consistently and fairly collect mitigation and more effectively fund transportation capacity and safety improvements needed because of growth

How: Amend the State Environmental Policy Act



To avoid the limitations of existing mitigation and impact fee rules, new legislation could be crafted to establish and collect regional system charges for area-wide state highway and ferry routes improvements needed because of growth. System charges could be implemented at the state or regional level and would provide a more predictable statewide revenue stream for regional improvements while relieving individual local governments from the responsibility and liability of imposing mitigation or fees for transportation improvements that have regional or statewide benefits. The imposition of system charges should be carefully studied and planned because the technical difficulty and cost of setting up a fair fee schedule are substantial.

System Charges

Who: WSDOT or RTPOs

What: Amend state law as appropriate to allow the state or regional transportation planning organizations to establish and collect regional system charges directly from the developer

Why: To more predictably assess development for growth impacts and more effectively fund regional capacity and safety improvements on state-owned highways and ferry routes needed because of growth

How: Enact new legislation



While WSDOT can measurably improve its participation in planning and development review, other actions may be necessary to adequately address the adverse impacts of local land use decisions on the function of the state transportation system. These potential actions range from incentive-based to regulatory approaches. Regulatory policies provide the greatest consistency and likelihood of achieving the concurrency goal, but diminish local government autonomy and flexibility. The particular action that should be taken is a policy choice that should consider these tradeoffs as well as the resources required for implementation. In the end, limited resources and political controversy may constrain the ability of policymakers to achieve an effective balance between infrastructure availability, affordable development, and the prevention of congestion and sprawl.



**Washington State
Department of Transportation**

For More Information:

Additional materials, background information and the full text of the analysis is available at:

www.wsdot.wa.gov/planning/concurrency

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