

**Chapter 39.92 RCW
LOCAL TRANSPORTATION ACT**

SECTIONS

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RCW 39.92.010
Purpose.

The legislature finds that there is an increasing need for local and regional transportation improvements as the result of both existing demands and the foreseeable future demands from economic growth and development within the state, including residential, commercial, and industrial development.

The legislature intends with this chapter to enable local governments to develop and adopt programs for the purpose of jointly funding, from public and private sources, transportation improvements necessitated in whole or in part by economic development and growth within their respective jurisdictions. The programs should provide a fair and predictable method for allocating the cost of necessary transportation improvements between the public and private sectors. The programs should include consideration of public transportation as a method of reducing off-site transportation impacts from development. The legislature finds that the private funds authorized to be collected pursuant to this chapter are for the purpose of mitigating the impacts of development and are not taxes. The state shall encourage and give priority to the state funding of local and regional transportation improvements that are funded in part by local, public, and private funds.

The authority provided by this chapter, RCW 35.43.182 through 35.43.188, and 36.88.072 through 36.88.078 for local governments to create and implement local transportation programs is intended to be supplemental, except as expressly provided in RCW 39.92.030(9), 82.02.020, and 36.73.120, to the existing authorities and responsibilities of local governments to regulate development and provide public facilities.

[1988 c 179 § 1.]

RCW 39.92.020

Definitions.

The definitions set forth in this section apply throughout this chapter.

- (1) “Developer” means an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other person undertaking development and their successors and assigns.
- (2) “Development” means the subdivision or short platting of land or the construction or reconstruction of residential, commercial, industrial, public, or any other building, building space, or land.
- (3) “Direct result of the proposed development” means those quantifiable transportation impacts that are caused by vehicles or pedestrians whose trip origin or destination is the proposed development.
- (4) “Local government” means all counties, cities, and towns in the state of Washington and transportation benefit districts created pursuant to chapter 36.73 RCW.
- (5) “Off-site transportation improvements” means those transportation capital improvements designated in the local plan adopted under this chapter that are authorized to be undertaken by local government and that serve the transportation needs of more than one development.
- (6) “Transportation impact fee” means a monetary charge imposed on new development for the purpose of mitigating off-site transportation impacts that are a direct result of the proposed development.
- (7) “Fair market value” means the price in terms of money that a property will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller each prudently knowledgeable, and assuming the price is not affected by undue stimulus, measured at the time of the dedication to local government of land or improved transportation facilities.

[1988 c 179 § 2.]

RCW 39.92.030

Local programs authorized.

Local governments may develop and adopt programs for the purpose of jointly funding, from public and private sources, transportation improvements necessitated in whole or in part by economic development and growth within their respective jurisdictions. Local governments shall adopt the programs by ordinance after notice and public hearing. Each program shall contain the elements described in this section.

- (1) The program shall identify the geographic boundaries of the entire area or areas generally benefited by the proposed off-site transportation improvements and within which transportation impact fees will be imposed under this chapter.
- (2) The program shall be based on an adopted comprehensive, long-term transportation plan identifying the proposed off-site transportation improvements reasonable and necessary to meet the future growth needs of the designated plan area and intended to be covered by this joint funding program, including acquisition of right of way, construction and reconstruction of all major and minor arterials and intersection improvements, and identifying design standards, levels of service, capacities, and costs applicable to the program. The program shall also indicate how

the transportation plan is coordinated with applicable transportation plans for the region and for adjacent jurisdictions. The program shall also indicate how public transportation and ride-sharing improvements and services will be used to reduce off-site transportation impacts from development.

- (3) The program shall include at least a six-year capital funding program, updated annually, identifying the specific public sources and amounts of revenue necessary to pay for that portion of the cost of all off-site transportation improvements contained in the transportation plan that will not foreseeably be funded by transportation impact fees. The program shall include a proposed schedule for construction and expenditures of funds. The funding plan shall consider the additional local tax revenue estimated to be generated by new development within the plan area if all or a portion of the additional revenue is proposed to be earmarked as future appropriations for such off-site transportation improvements.
- (4) The program shall authorize transportation impact fees to be imposed on new development within the plan area for the purpose of providing a portion of the funding for reasonable and necessary off-site transportation improvements to solve the cumulative impacts of planned growth and development in the plan area. Off-site transportation impacts shall be measured as a pro rata share of the capacity of the off-site transportation improvements being funded under the program. The fees shall not exceed the amount that the local government can demonstrate is reasonably necessary as a direct result of the proposed development.
- (5) The program shall provide that the funds collected as a result of a particular new development shall be used in substantial part to pay for improvements mitigating the impacts of the development or be refunded to the property owners of record. Fees paid toward more than one transportation improvement may be pooled and expended on any one of the improvements mitigating the impact of the development. The funds shall be expended in all cases within six years of collection by the local government or the unexpended funds shall be refunded.
- (6) The program shall also describe the formula, timing, security, credits, and other terms and conditions affecting the amount and method of payment of the transportation impact fees as further provided for in RCW 39.92.040. In calculating the amount of the fee, local government shall consider and give credit for the developer's participation in public transportation and ride-sharing improvements and services.
- (7) The administrative element of the program shall include: An opportunity for administrative appeal by the developer and hearing before an independent examiner of the amount of the transportation impact fee imposed; establishment of a designated account for the public and private funds appropriated or collected for the transportation improvements identified in the plan; methods to enforce collection of the public and private funds identified in the program; designation of the administrative departments or other entities responsible for administering the program, including determination of fee amounts, transportation planning, and construction; and provisions for future amendment of the program including the addition of other off-site transportation improvements. The program shall not be amended in a manner to relieve local government of any contractual obligations made to prior developers.
- (8) The program shall provide that private transportation impact fees shall not be collected for any off-site transportation improvement that is incapable of being reasonably carried out because of lack of public funds or other foreseeable impediment.

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- (9) The program shall provide that no transportation impact fee may be imposed on a development by local government pursuant to this program when mitigation of the same off-site transportation impacts for the development is being required by any government agency pursuant to any other local, state, or federal law.

[1988 c 179 § 3.]

RCW 39.92.040

Transportation impact fee.

The program shall describe the formula or method for calculating the amount of the transportation impact fees to be imposed on new development within the plan area. The program may require developers to pay a transportation impact fee for off-site transportation improvements not yet constructed and for those jointly-funded improvements constructed since the commencement of the program.

The program shall define the event in the development approval process that triggers a determination of the amount of the transportation impact fees and the event that triggers the obligation to make actual payment of the fees. However, the payment obligation shall not commence before the date the developer has obtained a building permit for the new development or, in the case of residential subdivisions or short plats, at the time of final plat approval, at the developer's option. If the developer of a residential subdivision or short plat elects to pay the fee at the date a building permit has been obtained, the option to pay the transportation impact fee by installments as authorized by this section is deemed to have been waived by the developer. The developer shall be given the option to pay the transportation impact fee in a lump sum, without interest, or by installment with reasonable interest over a period of five years or more as specified by the local government.

The local government shall require security for the obligation to pay the transportation impact fee, in the form of a recorded agreement, deed of trust, letter of credit, or other instrument determined satisfactory by the local government. The developer shall also be given credit against its obligations for the transportation impact fee, for the fair market value of off-site land and/or the cost of constructing off-site transportation improvements dedicated to the local government. If the value of the dedication exceeds the amount of transportation impact fee obligation, the developer is entitled to reimbursement from transportation impact fees attributable to the dedicated improvements and paid by subsequent developers within the plan area.

Payment of the transportation impact fee entitles the developer and its successors and assigns to credit against any other fee, local improvement district assessment, or other monetary imposition made specifically for the designated off-site transportation improvements intended to be covered by the transportation impact fee imposed pursuant to this program. The program shall also define the criteria for establishing periodic fee increases attributable to construction and related cost increases for the improvements designated in the program.

[1989 c 296 § 1; 1988 c 179 § 4.]

RCW 39.92.050

Interlocal cooperation -- Consistency and assistance.

Local governments are authorized and encouraged to enter into interlocal agreements to jointly develop and adopt with other local governments the transportation programs authorized by this chapter for the purpose of accomplishing regional transportation planning and development. Local governments shall also seek, to the greatest degree practicable, consistency among jurisdictions in the terms and conditions of their programs for the purpose of increasing fairness and predictability on a regional basis. Local governments shall seek comment, in the development of their programs, from other affected local governments, state agencies, and governments authorized to perform public transportation functions. Local governments are also encouraged to enter into interlocal agreements to provide technical assistance to each other, in return for reasonable reimbursement, for the purpose of developing and implementing such transportation programs.

[1988 c 179 § 5.]

RCW 39.92.900

Severability -- Prospective application -- 1988 c 179.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. This act is intended to be prospective, not retroactive, in its application.

[1988 c 179 § 17.]

RCW 39.92.901

Section captions -- 1988 c 179.

Section captions used in this act do not constitute any part of the law.

[1988 c 179 § 18.]

