

**SOUND TRANSIT**

**MOTION NO. M98-76**

**1999 State Legislative Program  
BACKGROUND AND COMMENTS**

<b>Meeting:</b>	<b>Date:</b>	<b>Type of Action:</b>	<b>Staff Contact:</b>	<b>Phone:</b>
Public and Government Affairs Committee	10/2/98	Discussion/Possible Action to Recommend Board Approval	Sheila Dezarn, Government Relations Manager	(206) 684 1730
Board of Directors	10/22/98	Action	Patrice Hardy, Government Relations Specialist	(206) 689-4928

**ACTION:**

Adoption of the Sound Transit 1999 State Legislative Program, directing staff to continue evaluating issues for possible inclusion in the adopted legislative program and regularly report status and seek policy guidance on issues as they develop.

**BACKGROUND:**

In preparation for the 1999 State legislative session, the PGA Committee on June 5<sup>th</sup>, reviewed six legislative issues that staff identified as potential issues for the 1999 State session and directed staff to undertake discussions with stakeholders, legislators, and state legislative committee staff. Boardmembers and staff have recently concluded discussions with the Washington Association of Prosecuting Attorney's, the Associated General Contractors, the Washington Council of Police and Sheriffs, the Washington State Association of Counties, the State Treasurer's office, King County Superior Court Judges, several key legislators and the Governor. Response to this effort has been very positive and these discussions seem to generate greater understanding and support.

Based upon boardmember and staff discussions, we are recommending three issues be adopted for the 1999 session (Proof of Payment, Exemptions from the Public Funds Depository Act and Public Disclosure Exemptions for Transit Riders). We are also recommending that one issue undergo further development (Owner Controlled Insurance Programs) and two of the proposed issues should be withdrawn from the agenda (Expedited Trial for Eminent Domain Proceedings and Design Build). In addition, staff has identified a new issue for your consideration that would also require additional discussions with stakeholders and legislators before a recommendation can be made regarding inclusion in the adopted legislative program. (See attached proposed legislative issues brief).

## **RELEVANT BOARD POLICIES AND PREVIOUS ACTIONS TAKEN:**

Public and Government Affairs Committee discussion, June 5, 1998.  
Sound Move - the Ten-Year Regional Transit System Plan, May 31, 1996.

## **KEY FEATURES:**

- ◆ Advocate adopted state legislative issues regarding Proof of Payment, Exemptions from the Public Funds Depository Act for Lease – Purchase Transactions and Public Disclosure Exemptions for Transit Riders.
  - ◆ Proof of Payment permits Sound Transit to implement a barrier free method of passenger fare payment to expedite boardings on Sounder and Link. Sound Transit would be seeking authority to cite and fine as a civil infraction for failure to demonstrate proof of payment. (Once legislative authority is secured, the Sound Transit Board would then have to adopt policies regarding how to implement.)
  - ◆ Exemptions from the Public Funds Depository Act would permit Sound Transit to undertake Lease Purchase transactions with out of state and off-shore institutions.
  - ◆ Public Disclosure Exemptions for Transit Riders authorizes an exemption from public disclosure statutes regarding personally identifiable information maintained by public transit agencies for persons who participate in public transportation programs.
- ◆ Monitor and respond to any legislation introduced that directly affects Central Puget Sound transit programs or which would affect Sound Transit.

**FUNDING: N/A**

## **ALTERNATIVES:**

Board members may have amendments or revisions to the proposed state program.

## **CONSEQUENCES OF DELAY:**

Sound Transit needs to be prepared to represent its interests to the Washington State Legislature when the session gets underway.

## **LEGAL REVIEW:**

Upon review of the background and comments and the motion, the Legal Department finds both to be legally acceptable.

**SOUND TRANSIT**

**MOTION NO. M98-76**

A motion of the Board of the Central Puget Sound Regional Transit Authority adopting the 1999 State Legislative Program.

**Background:**

To provide policy guidance to Sound Transit staff in Olympia, the Board annually adopts a State Legislative Program and directs staff to regularly report on activities affecting the agency prior to and during the legislative session.

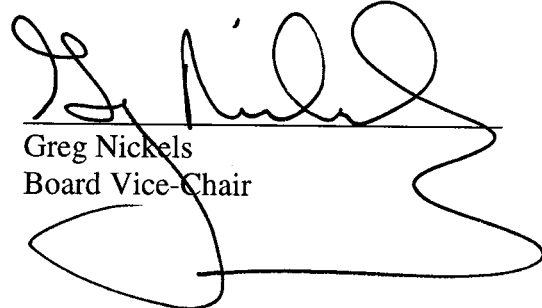
**Motion:**

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the attached 1999 State Legislative Program be adopted.

Approved by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof on the 22 day of October, 1998.

ATTEST:

Marcia Walker  
Marcia Walker  
Board Administrator

  
Greg Nickels  
Board Vice-Chair

## **I. Issues Proposed for 1999 State Legislative Program**

### **Legislative Issue #1 – Proof of Payment**

#### **Summary of Issue:**

Sound Transit staff has recommended that a zone-based, proof of payment, barrier-free method of passenger fare payment be implemented to expedite boardings on Sounder and Link. Proof of payment requires riders to have proof of payment in their possession at all times in the form of a pass or a valid ticket. Riders are monitored on a random basis by fare inspectors and conductors. Failure to demonstrate proof of payment results in a citation and fine. Sound Transit would be seeking authorization for fare inspectors and conductors to cite and fine fare evaders.

#### **Stakeholder Discussions:**

During the interim, staff has surveyed five transit systems throughout the nation and obtained their respective legislation with regard to proof of payment. Staff has also prepared draft legislation which has been reviewed by the state Law and Justice Committee staff. Meetings have concluded with the Washington Association of Prosecuting Attorneys, the Washington Council of Police and Sheriff, Counties, several Legislators and the Governor. Thus far, we have encountered no opposition to the issue.

**Staff Recommendation:** Draft amendments to RCW 7.80 giving regional transit authorities the ability to cite and fine a civil infraction for failure to demonstrate proof of payment.

**Next Steps:** Draft amendments and have them reviewed by State Law and Justice Committee staff. Conclude meetings with Chairs of Law and Justice Committees. Conclude meetings with stakeholders. Seek sponsorship of legislation.

## **Legislative Issue #2 – Exemptions from the Public Funds Depository Act for Lease Purchase Transactions**

### **Summary of Issue:**

Currently Sound Transit is authorized to undertake lease-lease purchase transactions with Washington State lending institutions. We would be seeking an exemption from the Public Funds Depository Act, which would allow the agency to pursue these transactions with out-of-state and off-shore institutions. We would also be seeking an exemptions from state and local sales and use tax for these transactions in order to make them financially feasible.

### **Stakeholder Discussions:**

During the interim we have met with one of Sound Transit's financial advisors, to review and simplify the presentation and materials regarding lease-lease purchase transactions and to participate in stakeholder discussions. We have also met with the Department of Revenue regarding the state and local sales tax exemptions and the State Treasurer's office to provide an overview of lease-lease purchase transactions and summarize last year's legislation. Staff has established additional briefing dates with the State Treasurer for a mid-October staff briefing of proposed legislation and a formal briefing for the State Treasurer, in late October. Legislation is being drafted in preparation for that meeting, along with additional materials regarding the mechanics of the transaction. We have also briefed several legislators on this issue.

**Recommendation:** Continue to work with state and local agencies to develop legislation which creates an exemption for Sound Transit under the Public Funds Depository Act and provides exemptions from state and local sales and use tax for these transactions.

**Next Steps:** We have scheduled two meetings with the State Treasurers office for mid- and late October. We will be providing them with a redraft of last year's proposal, as well as a briefing on the lease-lease purchase transaction. Continue to work with legislators to simplify the issue.

### **Legislative Issue #3 Public Disclosure Exemptions for Transit Riders.**

#### **Summary of Issue:**

Sound Transit would be seeking an exemption from the public disclosure statutes. Specifically we are seeking an exemption from public inspection and copying of the names and other personally identifiable information maintained by public transit agencies regarding persons who participate in public transportation. Information regarding participants of vanpool, carpool or ride-share programs, transit pass purchasers, users of paratransit services and persons who apply for or participate in other public transportation programs administered by the agency would be exempted from public disclosure. This issue is critical to central Puget Sound transit systems and the Smart Card program because disclosure of personally identifiable information can serve as a disincentive to the customers who enroll in these programs.

#### **Stakeholder Discussions:**

Significant work on this issue was originally delayed until a decision could be reached as to whether the central Puget Sound transit systems would retain a lobbyist for a unified state package that included this issue. It has been decided that lobbyists representing the various transit agencies will work as a coalition to secure this legislative proposal. Subsequent to that discussion, staff has initiated conversations with key legislators on Senate Transportation Committee to request a hearing on this issue prior to the legislative session.

**Recommendation:** Work within a coalition of central Puget Sound Transit systems to re-introduce legislation providing public disclosure exemptions for transit riders. Work with the transit association to make this a priority issue in their adopted legislative program.

**Next Steps:** Continue to work towards securing a pre-session hearing. Meet with House Transportation Committee members to familiarize them with issue. Obtain sponsorship of bill.

## **II. Legislative Issue Requiring Further Development**

### **Legislative Issue #4 Owner Controlled Insurance Program**

#### **Summary of Issue:**

Sound Transit would be seeking authority to use an Owner Controlled Insurance Program for large construction projects. OCIP is a single insurance program which would be purchased by the agency, covering casualty and property construction exposures at the project site. The agency would purchase a single insurance program which would provide coverage to all projects.

#### **Stakeholder Discussions.**

Staff has met with Associated General Contractors. The AGC indicated that perhaps they would remain neutral on OCIP issue if the bill was limited to Sound Transit, detailed specific projects for which OCIP would be utilized and specified that Sound Transit would be responsible for all industrial insurance claims for all parties working at the site.

**Recommendation:** This issue was brought forward in mid-summer and still needs considerable work before a recommendation can be made.

**Next Steps:** Staff will be meeting with Chair of House Financial Institutions Committee. Since similar legislation was introduced last year we will want to ascertain the likelihood of a re-introduction for the 1999 session. Additionally, we will need to assess the AGC proposed criteria for OCIP legislation. In particular we will need to understand the fiscal impact in obtaining industrial insurance for all parties at the work site

### **III. Issues Withdrawn from State Legislative Program**

#### **Legislative Issue #5 Expedited Trial for Eminent Domain Proceedings**

##### **Summary of Issue:**

Sound Transit proposed changes to Eminent Domain statutes to permit the agency to secure an accelerated trial date for eminent domain proceedings similar to language authorized for the state.

##### **Stakeholder Discussion:**

Staff met with the King County presiding judge who indicated that the judges would not look favorably upon an amendment that affects the court calendars and they would likely oppose the legislation. In addition, the judge indicated we would likely receive an expedited trial if requested and that this was an unnecessary change to state statute. Staff also met with House Government Operations Committee staff who thought we would benefit more from the authority we currently have regarding eminent domain for first-class cities. House committee staff indicated that the state has a greater burden in achieving an accelerated trial date since the court proceedings necessary to acquire property shall take precedence over all other causes not involving the public interest, whereas city authority for eminent domain proceedings has precedence of all cases in court except criminal cases.

**Recommendation:** Withdraw issue from the proposed legislative agenda. Since it is clear the judges would oppose a legislative amendment but are willing to work with the agency to secure accelerated trial dates, the agency would be better off working the issue internally



## **Legislative Issue #6 Design Build**

### **Summary of Issue:**

Sound Transit is seeking the use of alternative public contracting procedures referred to as design build. Design build authorizes the award of a contract to a single entity to both design and build a project. At issue for the agency was whether we currently have ability through our enabling statutes to pursue design build or whether we need to seek additional authority through the State Alternative Public Works Oversight Committee.

### **Stakeholder Discussions:**

Staff has met with a member of the Alternative Public Works Oversight Committee who recommended that the agency seek additional approval/authority to pursue design build. Legislators were generally supportive of design build procedures. Additionally, a roundtable discussion has also occurred within the agency to discuss the benefits of using design build on public works projects. The Alternative Public Works Oversight Committee reviews the use of alternative contracting procedures. By consensus, they review proposals and draft legislation for the State Legislative session. Legal Counsel for Sound Transit has recently confirmed that the agency has sufficient authority within its enabling statutes to proceed with design build projects and will be preparing a design build policy for discussion with the Board.

**Recommendations:** Withdraw issue from the legislative program.

## **IV. Recently Proposed State Legislative Issue.**

### **Legislative Issue #7 – Amending Sound Transit Annexation Authority**

#### **Issue**

Sound Transit enabling statute RCW 81.112.050 permits the agency to add areas contiguous to the authority boundaries through an election that may include a single ballot proposition providing for annexation to the authority boundaries and imposition of taxes at rates already imposed within the authority boundaries. Staff has concluded that providing additional options for annexing areas to the Sound Transit boundary similar to annexation procedures available to cities would benefit the agency.

#### **Background**

RCW 35A.14 regarding annexations by code cities, authorizes the city to annex unincorporated areas that lie contiguous to the city by resolution for election or direct petition. If the city opts to annex by resolution for election the legislative body through resolution calls for an election to be held to submit to the voter the proposal for annexation. An alternative method for annexations is referred to as direct petition. Direct petition may be commenced by the filing of a petition of the property owners of the area proposed to be annexed.

Public Transit Benefit Areas (PTBA's) also have a menu of options available to initiate annexation into the service area. First and foremost, when a component city currently served by the PTBA annexes unincorporated area, the annexed area automatically becomes part of the PTBA boundary and is subject to all taxes and liabilities of the PTBA. Conversely, if a city outside the PTBA boundary annexes area within the PTBA boundary, the annexed area is excluded from the boundary. PTBA statute RCW 36.57A also grants additional authority for annexation. An election to authorize the annexation of territory contiguous to a PTBA may be called within the area to be annexed through resolution or petition. Annexation through resolution is granted to PTBA when it determines that the best interests and general welfare of the PTBA would be served. The PTBA is required to consider the question of annexation areas at least once every two years. PTBA's can also annex by petition, which requires at least four percent of the qualified voters residing within the area to be annexed.

Both the cities and PTBA's are given several options for achieving annexations to their boundaries. Sound Transits statute provides limited authority to proceed with annexation. In light of rapid growth within the Puget Sound Region and particularly in areas contiguous to the Sound Transit boundary, seeking additional authority with respect to annexations may increase the agency's ability to respond increasing transportation demands.

**Recommendation:** Seek amendments which provide Sound Transit with expanded options for achieving annexation in the agency's service area.

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