#36.54 3/9/73

Memorandum 73-32

Subject: Study 36.54 - Condemnation (Assessment for Benefits)

Some of the members of the Commission have indicated interest in the possibility of devising a scheme whereby the public could recapture some of the increased land values that accrue to the private sector when public facilities are built or improved near their property.

Attached is a staff report, prepared for the Subcommittee on Finance of the Legislative Transportation Committee for the State of Washington. The staff report is accompanied by legislation which provides a system for assessing those persons who directly benefit from the expenditure of public funds for a transportation facility. I think you will find the report interesting and suggest you read the entire report.

The Commission's staff does not consider it likely that the Legislature would approve an assessment for benefits scheme even if it were limited to transportation facilities. Nevertheless, this possibility has been suggested on a number of occasions, and we thought that you would want to have an opportunity to read the attached report and discuss the matter at a Commission meeting. If it were determined that the idea has merit, we believe that we should adopt the limited approach--limited to transportation facilities--taken in the Washington study. If a statute could be enacted which proved workable in operation, it could be extended to additional types of improvements as the need and practicability for such extension became apparent.

Respectfully submitted,

John H. DeMoully
Executive Secretary

RECOUPING LAND VALUE INCREASES CAUSED BY TRANSPORTATION FACILITIES

A STAFF REPORT

Subcommittee on Finance

Senator Nat Washington, Subcommittee Chairman

Legislative Transportation Committee

LEGISLATIVE TRANSPORTATION COMMITTEE

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SEN. AL HENRY, CHAIRMAN • REP. DUANE BERENTSON, VICE CHAIRMAN • REP. C. W. BECK, SECRETA

May, 1972

TO: Members of the Subcommittee on Finance

FROM: Senator Nat Washington, Chairman

One of the assignments Senator Henry gave the Subcommittee on Finance for study during the 1971-73 interim period was to assess the possibility of devising a program by which the public could recapture some of the increased land values that accrue to the private sector when transportation facilities are built or improved near their property. The 1971 Legislature requested that the Legislative Transportation Committee study this matter and report its findings to the 1973 session. (Section 7 (24), Chapter 195, Laws of 1971, Ex. Sess.)

I introduced legislation during the 1972 special session designed to achieve this purpose. We had one hearing in the Senate Transportation Committee on the subject, and the idea met with considerable interest from several of the members. I recognize the complexity of the subject, but I think that we should give serious consideration to this kind of legislation before the next session.

Attached is a staff report that describes what happens to property values when new transportation facilities are built in an area. It shows that the value of property near such facilities often increases greatly, and that the increase is directly related to its proximity to the transportation facility.

I would recommend your review of this report and the accompanying legislation in preparation for an early meeting of the subcommittee.

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1. The Problem

The cost of building highways and public transportation facilities has increased tremendously over the past two decades. Part of this increase is caused by the general rise in the cost of materials, labor, and right-of-way acquisition. But there is an added element caused by a growing awareness of how directly such facilities affect the lives of people in the area. As a result, more detailed federal requirements have to be met; citizen groups must be consulted; costs of expensive litigation must be paid.

This trend will undoubtedly continue, and the legislature will be called on to provide revenues to meet the need for more modern, more efficient, and probably more expensive transportation systems.

The sole source of revenue for the construction of highways is the gas tax revenue. Already Washington state has one of the highest gas tax rates in the nation. Efforts to expand these revenues for broader purposes have been discussed in the legislature frequently over the past few years. Another measure,[1] an initiative that would reduce the present 9¢ gas tax to 6¢ would, if passed, have a very sizeable effect on the highway construction program.

Under existing statutes, the only way to finance public transportation programs is through the property tax, or by using part of the automobile excise taxes available as state matching

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1. Initiative No. 274.

funds for locally generated revenues.[2] Another method is through the imposition of a 3/10 of one percent sales tax within a class AA county.[3] This tax will be imposed in King County if authorized by a vote of the people in September, 1972.

The financing procedures at the federal level are currently undergoing serious review and possible revision. Several bills introduced in the 92nd Congress have proposed that the Highway Trust Fund be expanded to permit support for public transportation facilities as well as for highways. With the growing pressure for change in the existing policy both at the federal and state levels, policy makers charged with developing revenues for transportation facilities will be more and more constrained in the years ahead to look for new methods of financing all kinds of transportation facilities.

This report proposes an additional method of financing these facilities. It would be an assessment imposed on the sale of property when the value of such property was deemed to have been significantly increased by reason of the transportation facility which served it. This specific assessment has not been tried anywhere in the country, and there are some problems connected with it that will be discussed later in this report. The general concept, however, has been even more broadly applied in Great Britain, and adaptations have been made in other countries.

The Land Commission Act of 1967, passed by the English Parliament, was designed to recoup for the public the entire incremental value of land being developed. Although the English

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2. Chapter 255, RCW 82.44.150, and Laws of 1969, Ex. Sess.
3. Chapter 296, Laws of 1971, Ex. Sess.

precedent is not directly applicable to the American situation, the underlying philosophy of the Act, as expressed by the Minister of Land and Natural Resources in a hearing before a committee of the House of Commons, focuses the question.

> I am sure that most people will agree with the view of the Government that there is something special about development value which justifies special treatment. The reasons for taking a share in development value are not merely that it provides a convenient source of revenue or that there is a need to achieve fairness between one taxpayer and another, or that purchasing power must be mopped up in order to prevent inflation. This value is more than any other value created by the community rather than by the efforts of the landowner, and it is morally unjustifiable that he should be able to profit from it at the expense of the community. The community is therefore entitled to a claim upon the development value, and the amount that should be taken is limited by practical grounds and not by the economic factors that govern the level of ordinary taxes.[4]

There is a certain equity in the levy of such an assessment that has been noted by economists and administrators for some time. The assessment would lessen the profits realized by real-estate speculators and property owners, who, often by reason of advanced

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4. Desmond Heap, Introducing the Land Commission Act 1967 (London, 1967), p. 8.

information as to where such facilities might be constructed, have been able to purchase property at a rather low price, then sell it later to commercial interests and others who depend for their business on accessability to freeways, subways, or other permanent transportation facilities.

The theory underlining the proposal is that, since the value of such property is considerably increased by reason of the public investment being made in the transportation facility, the public should be able to recoup some of that value. The potential applicability of the theory to other public works projects is obvious, although this report and proposed legislation addresses the problem only as it relates to the financing of transportation facilities.

There are several other reasons why a proposal of this type should be carefully considered. One of these is the precedent established several years ago in the Martin case.[5] That decision held that, when there is damage, even though no actual physical intrusion to land near an airport, compensation must be paid. Although the decision by the Washington Supreme Court does not directly address the problem of damages caused by noise and pollution near highway facilities, there has been at least one effort in the legislature to enact a statute that would do precisely that.[6] The fiscal impact of such a bill would probably be substantial. However, the provision may already be a constitutional requirement in the event that the Martin precedent were to

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5. Martin v. Port of Seattle, 64 Wash. 2d 309 (1964).

6. House Bill No. 97, By Representatives Hurley, Julin, Bottiger (By Legislative Council request), 1972 session.

be extended to include similar cases of inverse condemnation in highway cases. If it is not a constitutional requirement, there will undoubtedly be more and more pressure from the public for compensation when property is adversely affected by public installations.

However, the other side of that same coin should be considered. If a person deserves to be compensated for adverse effects brought about by the construction of a highway or other public facility, it seems reasonable to assess economic benefits brought about by the same facility.

Another reason for serious consideration of such a measure would be the support such a plan would probably give to future bond issues requiring popular support for public transportation facilities. In May, 1970, the second effort to pass a rapid transit bond issue in Seattle failed. Later, the staff of Metro did an analysis of the reasons for the failure of that bond issue, and one of the reasons suggested by the staff was that:

> Voters had difficulty indentifying with the proposed system and had the feeling that the only area getting real improvement and benefit was the downtown business community.[7]

Considerably more public appeal would probably attach to a proposed transit system if the public had the assurance that the people who stood to benefit most from the system (downtown merchants and owners of downtown office buildings) really contributed something

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7. Coffman, Larry L., Metro Transit-Planning Staff Report. August 1968 - May 1970, p. 15.

substantial to the funding of the system. If the entire cost is to be borne by the property tax payers who reside in the whole Metro district, the possibility of ever getting approval for the bond issue seems highly remote.

These would seem to be the principal reasons in favor of enacting the bills presented in this report. In the following pages, further information relating to alternative possibilities will be presented and discussed. The need to devise a more equitable means of supporting transportation systems seems clear, and it is hoped that the method presented here will generate some discussion to assist members of the Legislature in making a determination as to what procedure would be most useful to the people of the state.

2. Land Values around Freeway Interchanges

What happens to property in an area when rumors begin that a new freeway or a highway might be built near it?

Most of us are generally familiar with the fact that real estate values in the area begin to climb. This has always been true, but in a time of general inflation, the effect is even more pronounced.

Several studies have been done by the Right of Way division of the Department of Highways, which show this trend and give some helpful insight as to the magnitude of these increases.

The Nisqually interchange on I-5 has generated the development of a commercial park in the area. Three oil companies have already built gas stations there, two of which lease the land from the owners for an undisclosed portion of the gross income. The gross income estimates are Standard Oil, $22,000 per month; Mobile Oil, $25,000 per month. Phillips Oil Co., through a subsidiary, bought a parcel of land for $88,000. A VIP Restaurant leases land for about $6,150 per year. A tavern is leased for $450 per month. A drive-in restaurant leases two lots for an undisclosed amount. There has also been discussion of one more service station and a motel in the area.

The entire southwest quadrant of the freeway interchange is owned by one party, and the economic benefit he has derived from the construction of the freeway adjacent to his property is clear.

The Lathrop Road Interchange is seven miles south of Olympia on I-5. Formerly heavily wooded area, there were two real estate

transactions there in anticipation of the freeway which was opened in July, 1968. Each parcel sold for $25,000, one in 1965, another in 1967, and are awaiting commercial development.

The Grand Mound Interchange, seventeen miles south of Olympia, was opened for public use in October, 1963, and serves both as a stop-over on I-5, and a major turn off to the ocean beaches. One parcel sold in 1966 in collection of a $64,260 debt. In 1970, a commercial development firm paid $180,000 for the property, an increase of nearly 300 per cent in four years. Two service stations, Texaco and ARCO, and a Burgermaster Drive-In have leased property in the area on terms that were unavailable, except that the lessor seems to receive a percentage of the gross income of the lessee.

Just north of Centralia, the Borst Park Interchange on I-5 is a major commercial development; six gas stations, two restaurants, and three motels have opened since the freeway was opened in 1953. One tract, which now contains a Union 76 Service Station and an A & W Drive-In Restaurant was sold for $23,000 in 1953. Another lot, now housing a motel, was sold for $10,000 in December, 1956. After construction of the 20-unit motel, the property and motel sold for $194,000 in May, 1959. Standard Oil leases another parcel at unspecified terms; Texaco does the same. An A & W Drive In pays $250 per month for the land on which it is built. A Union 76 Station pays 2¢ per gallon on a reported 40,000 gallon per month volume, or $800 per month, for its property.

Walt's Restaurant, constructed in 1956, pays 5% of the gross receipts for its property. Although the exact receipts were

not available, it is estimated that about 2,000 persons per day use the restaurant.

The Trosper Road Interchange, near Tumwater, is an even more commercially developed interchange, with nine service stations, three restaurants, two motels, and a shopping center in the immediate vicinity of the interchange.

One party bought two sections of land in the northwest quadrant, where a Standard Station now stands. One lot was bought for $4,700 in 1956, another lot for $2,000 in 1958. In 1967, these two lots were sold for $6,000. Three years later, they sold for $170,000, and twenty days later a warranty deed of $10 was transacted with Standard Oil. Apparently, Standard Oil was operating through earlier purchasers to acquire the land.

At a hearing of the Subcommittee on Finance in Seattle last year, Director of Highways George Andrews observed that in the area of Tukwila interchange, which connects I-5 and I-405, land values increased 813% after construction of the freeway and, according to the tax assessor's rolls, the assessed valuation of adjacent properties increased 4131%.

Examples of this kind of economic activity around an interchange could be repeated over and over. We have mentioned a few just to give some idea of the value conferred on real estate by the fact that it is, independent of its inherent value, closely located to a major highway. There is no question that property

takes on added value by reason of its close access to a major highway facility. Without a major highway, gas stations, motels, and restaurants could certainly not liquidate their considerable investment.

And yet, the investment in these highways has been made entirely by the public sector, which does not in turn receive anything back from it.

This phenomenon has been noted for some time. In an address to the American Right of Way Association in 1956,[1] Mr. Frank Balfour, of the California Division of Highways, noted that "special benefits" were the neglected stepchild of the highway appraisers' kit of tools. He urged, in that year when Congress was just launching its multi-billion dollar interstate program, that highway appraisers become more aware of the problem, or needlessly lose millions of dollars of public money in the process.

He admitted that it was easier to assess damages to property. In fact, this is one of the major costs of right-of-way acquisition. But he chided his colleagues, "<u>How</u> [the appraiser] can <u>be so confident</u> that <u>damages occur</u> and are <u>calculable</u>, whereas benefits are speculative and imaginative, is a puzzling phenomenon apparently characteristic of our appraisal profession."[2]

Mr. Balfour then described what was happening to property values around the Eastshore Freeway, running from the Oakland

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1. Balfour, Frank C., "Special Benefits;" An address to the American Right of Way Association, Olympia, Wash., September 14, 1956. Mimeographed copy.

2. Balfour, p. 5. (Emphasis by Mr. Balfour)

Bridge to San Jose. In 1941, before the freeway was discussed, property values in the area just south of Oakland sold for $500 to $750 per acre.

By 1947, parcels of land in this same area were being sold at $2,000 per acre. By 1951, during the construction period of the freeway, prices ran to $7,000 an acre.

By the time of Mr. Balfour's speech, in 1956, prices averaged $15,000 an acre, and in some cases had risen to $32,000 an acre.

As the speaker noted in concluding his remarks, these are not isolated examples. It is, in fact, the usual way real estate prices around freeways react to the announcement or actual construction of a freeway.

3. Land Values around Rapid Transit Stations

A second aspect of the same phenomenon is the value added to property adjacent to or in close proximity to subway systems, commuter railroad stations, and even, to a lesser degree, rubber-tired bus stations. This aspect may, in fact, be of more interest to legislators who were concerned about the effort to pass bond issues for a rapid transit system in Seattle over the past several years. Although no immediate plans for another rapid rail system are under consideration, there is a good probability that eventually some kind of public transportation system will be constructed in Seattle, and a statutory method of recapturing some of the increased benefits for the public might have a significant impact in eliciting voter approval for these plans.

That property near subway stations increases tremendously in value with the anticipation of or actual construction of a rapid transit system is obvious to anyone who has seen a picture of Yonge Street in Toronto before and after the construction of the subway. High rise apartments and office buildings grow up as soon as the public commitment is made. In San Francisco, estimates ranged up to more than one billion dollars in private investments in new buildings which are accessible within five minutes of the Market Street Stations.

It is even more difficult to estimate the precise amount of private benefits directly attributable to the public investment in the subway system, since that commitment usually generates considerable auxiliary benefits that may not be directly related

to the construction of the rapid transit system. Also, access to a business or office may not be provided solely by the transportation facility, as is frequently the case with new highways, but it is certainly vastly improved.

Over the past decade, several cities in the country have had studies prepared by transportation consultants to assess the advisability of investing many millions of dollars in a proposed rail transit system. Some of these have been approved; others, like Seattle's, have not.

One of the arguments frequently used to promote transit systems is that the investment costs would be gradually regained through increased property taxes of land near subway stations. In the DeLeuw, Cather report, prepared for Metro in 1970, the consultants describe what they think will happen to property around Metro stations.

> An increase in trips between Seattle's developed centers will lead to an increased demand at those locations for goods and services which are complementary with trips. The most important complement to trips is the use of land and structures near activity centers. As trips between centers increase, additional residential units, more professional and retail services, and consequently, more office and commercial space will be demanded. An increased demand for land and structures near developed centers will increase their value. All residents of Metro will benefit indirectly, since the increased value of land and existing structures represents a growth in the property tax base, enabling the

local government to provide the same level of services at lower property tax rates.[1]

The argument is correct, but it perhaps does not go quite far enough. There is a general benefit to be gained by the public whenever part of the transportation complex is improved, and these benefits are partly economic, partly non-economic. There are economic benefits for anyone who might wish to use the transportation system, and the expense of these benefits should, in equity, be borne by the public in general. But the specific benefit that a commuter, or a person who uses the system only rarely, gains from using the facilities, is normally purchased by the person using the facility. It would seem legitimate, then, to expand the more traditional concept of benefit to require that business and professional property-owners, whose business volume is considerably increased by the availability of public transportation systems, contribute something extra to the support of the system.

The fact that transit systems affect property values considerably is well known among real estate appraisers. One of these, G. Warren Heenan, Director of the Toronto and the Canadian Association of Real Estate Boards, wrote an article recently in which he points this out rather cogently. He notes that:

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1. DeLeuw, Cather and Co., The Rapid Transit Plan for the Metropolitan Seattle Area, Technical Appendix, p. 11-5.

> If an urban rapid transit system never earned a dime, it would pay for itself many times over through its beneficial impact on real estate values and increased assessments.[2]

The facts Mr. Heenan gathered together about the Yonge Street line in Toronto gives some indication of the magnitude of these changes, and show dramatically the effect such a public investment can have.

> Construction began on a two-track route from Union Station to Eglinton Avenue in September, 1949, and on March 30, 1954, Yonge Street Subway was opened. The total length is 4.5 miles, of which approximately three miles is underground. The total cost of this subway including right of way, rails, electrical distribution system, signal system, and rolling stock was $67,000,000.
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> This small investment in a subway system ignited a $10 billion development explosion along the route from Front and York Streets to the northern terminal, Eglinton Avenue. The appraised value of all the land and facilities in metropolitan Toronto is now $50 billion. An appreciation of $15 billion on physical value has been added in the last ten years; and of this, two-thirds is attributable to the existence of the Yonge Street subway.

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2. G. Warren Heenan, "The Economic Effect of Rapid Transit on Real Estate Development," The Appraisal Journal, XXXVI (April, 1968), p. 213.

Properties along the subway route doubled and tripled, sometimes increasing as much as ten times their original value. Land sales at $125 to $150 per square foot near the downtown stations became common. Between 1952 and 1962, the increase in tax assessment in districts contiguous to the Yonge Street subway line was 40% in the downtown area and 107% from College Street to Eglinton Avenue. The assessment increase for the rest of the city during the same period averaged 25%.[3]

Not only has the effect of the subway been considerable in the downtown area of Toronto. Access to the system has become so valuable that, in the five year period between 1959 and 1963, nearly half of the high-rise apartment development in Toronto and 90% of all office construction occured in areas within a five minute walk from the Yonge Street Subway.[4]

The article continues, and makes a strong point of which public officials ought to be aware:

> Hundreds of large residential lots, 175 feet and 200 feet in depth, were rezoned to accomodate high-density apartment buildings. The apartment land boom brought as much as $4,000 per suite to speculators. Rates offered to homeowners were $1,000 to $2,000 per front foot. Many families who bought modest homes at $15,000 to $25,000 sold them to developers for $50,000 to $75,000.

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3. Ibid., p. 215--6.

4. Ibid., p. 218.

> Downtown land is selling at up to $200 per square foot, or at the rate of $8.7 million per acre.[5]

From these comments, it should be fairly clear that private developers and speculators seem to realize the benefits of this land boom more than the public sector. If the increases were caused by factors other than the public investment, the public would perhaps not be deserving of recompense. But when the increase is clearly and directly related to results brought about by public policy, the public should be able to recapture some of the fruit of its effort.

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5. Ibid.

4. Legal Considerations Relating to a Tax on Incremental Value

In an effort to devise means of decreasing the cost of right-of-way acquisition for public facilities, legislatures have experimented with several, somewhat similar, procedures. Since each of these is steeped in considerable case law, the precise limits of constitutional permissibility cannot always be anticipated. However, it should be noted at the outset that the constitutional restrictions of both the federal and state constitution relate to the purchase of property through the exercise of eminent domain; the tax being proposed in these bills is not being levied as a function of eminent domain and no purchase of property is involved.

The three methods most commonly used in Washington state and other states around the country are 1) advance acquisition; 2) excess land condemnation; and 3) recoupment purchase. All three of these methods are directed principally at cutting the cost to the public agency for the purchase of land needed for transportation facilities. In each of them, the public agency is given, by statute, an advantage through extending the customary authority of eminent domain.

1. Advance Acquisition.

Advance acquisition means that land that will be needed in the future for public purposes may be purchased before construction actually begins. It has been upheld by the U. S. Supreme Court as a reasonable exercise of eminent domain authority [1]

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1. Rindge Co. v. Los Angeles County, 262 U. S. 700 (1923).

and the Washington statute has also been upheld by the State Supreme Court.[2]

The earlier statute in Washington state was expanded somewhat by the 1969 legislature when it enacted legislation allowing the Highway Commission to purchase property up to seven years in advance of actual construction. The bill appropriated $5,000,000 for an "advance right of way revolving fund", to be reimbursed from project allocations when construction actually begins.[3] This concept has been used in many other states around the country to permit public agencies to diminish costs of buying land which will probably be needed for a public purpose, but which will not be acually built for some period in the future.

Wisconsin has allowed a more liberal approach in permitting a public agency to file an "official map" which precludes new construction or alterations in a designated area other than normal or emergency repairs. If an owner intends to improve his property, the state must either buy the property or give permission to build within sixty days.[4]

2. Excess Land Acquisition.

Excess land acquisition allows the state or public agency to purchase more land than is strictly necessary for the completion of the public work. In Hawaii, which has the most permissive statutory authority for excess land acquisition, this privilege

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2. State ex. rel. Hunter v. Super. Ct. for Snohomish County, 34 Wash 2d 214 (1949).

3. Chapter 197, Laws of 1969, Ex. Sess.

4. Wis. Stats., Section 84-295 (1965).

is related to the power to sell land back or lease it if it is later determined that it is not required for the public purpose.

Hawaii's statute gives considerable latitude to the public agency in making a determination as to how much land is required to bring about a public purpose. The only statutory restriction seems to be its compatibility with "public policy."

> Public property may be taken for public use. Private property may also be taken by the Territory or any County in excess of that needed for such cases where small remnants would otherwise be left or where justifiable cause necessitates such taking to protect and preserve the contemplated improvement, or public policy demands such taking in connection with such improvement, in which case the condemning authority may sell or lease such excess property, with such restrictions as may be dictated by considerations of public policy in order to protect and preserve such improvements.[5]

3. Recoupment Purchase

The theory of recoupment purchase is that the public agency could condemn more land than was needed for the public project, and later sell off some of the land. which would bring a higher price by reason of the public improvement. The profit realized by the public agency would be used to pay some of the cost of the public improvement.

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5. Revised Laws of Hawaii, Section 8-2 (1965).

This procedure is of questionable constitutionality. Case law relating to eminent domain consistently requires that private property be taken only for a public use, and thus taking land merely to make a profit from it would seem to violate that provision of the U. S. Constitution.[6]

However, there may be some possibility that with the expansion of the concept of public use, practices similar to recoupment purchase may be more and more tolerated, though possibly under color of excess land acquistion or advance acquisition. California, for example, has authorized state, county and city agencies, when they are acquiring land for "public places", to acquire land "in excess of the land actually needed or used for public purposes."[7]

The bills being proposed in this report do not enter into the arena of eminent domain, since, as was said above, there is no question either of "condemnation" or "purchase" of property.

The only constitutional prohibition that might be involved would be the "uniform taxation" principle.[8] The language in question is the following sentence: "All taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax and shall be levied, and collected for public purposes only."

However, the tax being considered in these bills is not a

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6. U. S. Constitution, Amndt. 5. Cf. Robert E. Capron, "Excess Condemnation in California -- A Further Expansion of the Right to Take," 20 Hastings Law Journal 592 (1969).

7. Cal. Gov't. Code, Section 191

8. Washington State Constitution, Art. 7, section 1.

property tax, as are those in Article 7. It is an excise tax on the sale or lease of property rather than on the value of the property itself, although the rate of tax is related to the value of the property. There is a precedent for this tax in RCW 28.45, the Tax on Real Estate Sales. There the tax is a local option tax on the sale of real estate, and since the rate is permitted to be up to one-percent of the sales price, the actual tax will differ. The Supreme Court recognized the distinction between the real estate sales tax and property taxes when this law was appealed, and judged that the constitutional provisions relative to property tax were not applicable.[9]

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9. Mahler v. Tremper, 40 Wash 2d 405 (1952).

5. Proposed Legislation

A. Public Transportation Facilities

AN ACT Relating to financing of public transportation facilities; and adding new sections to chapter 39.95 RCW.

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

NEW SECTION. Section 1. The legislature of the state of Washington finds that the public cost of constructing and improving transportation facilities in this state has become considerably greater over the last decade. It further finds that substantial economic benefits are often conferred on given persons and business entities owning property in the vicinity of such facilities by virtue of the expenditure of public funds in the development thereof, and that such economic benefits often bear a widely disproportionate relationship to the proportionate costs contributed by said persons and business entities to the development and construction of said facilities. Therefore, it shall be the policy of the state of Washington as established in this act, that the general public, through the state, be allowed to regain and share a portion of the private economic benefits which are conferred on adjacent property owners by the expenditures of public moneys for the construction and improvement of transportation facilities within the state.

NEW SECTION. Sec. 2. As used in this act, the following words and phrases shall have the following meanings:

(1) "Base price" means the last price paid for a given parcel of land prior to the payment of the final price, or the

last valuation assigned by the county assessor prior to the payment of the final price, whichever is greater;

(2) "Decision to develop" means that point in time which is three years prior to the decision by the public agency, or prior to the vote of the people when appropriate, to commit funds to the construction of the subject transportation facility;

(3) "Final price" means the last price paid for a given parcel of land after the decision to develop but before twenty years after the decision to develop;

(4) "General increase" means that increase, if any, in the value of a given parcel of land which is exclusive of any increase attributable in any manner to the development of the subject transportation facility. It shall be determined by a consideration of similar parcels of land in similar localities which have not been affected by the development of such a facility;

(5) "Increased value" means:

(a) The difference between the base price and the final price paid for a given parcel of land, discounted by the general increase of the parcel; or

(b) The difference between the loan value of a given parcel of land after the decision to develop and the greater of the two following values, discounted by the general increase: the last price paid for said parcel or the last valuation assigned thereto by the county assessor prior to the decision to develop: PROVIDED, That the method of computing increased value as set forth in this item (b) shall apply only to those situations wherein the person owning said parcel at the time of the decision to develop retains

ownership thereof and subsequently leases or rents said parcel, and said parcel is thereafter developed in a manner reasonably calculated to derive some economic benefit from the construction of the transportation facility in question;

(6) "Price paid for a given parcel" means:

(a) The whole price paid if said parcel constitutes the whole consideration for said price: or

(b) If said parcel constitutes only a portion of said consideration, then that portion of the whole price which reasonably reflects the value said parcel constitutes in proportion to the whole consideration given for said price;

(7) "Public agency" means the agency responsible for the development, construction, and improvement of a public transportation facility.

NEW SECTION. Sec. 3. The underlying policies of this act are:

(1) That the public agencies responsible for the development, construction, and improvement of fixed public transportation facility shall assess those persons who directly benefit from the expenditure of public funds for such facility;

(2) That the assessment made by these public agencies shall be, as nearly as possible, an equitable fraction of the economic benefits conferred on the property holder by the investment of public moneys for said transportation facility;

(3) That the moneys generated by this assessment shall accrue to the public agency and shall be available for the redemption of bonding obligations incurred by said public agency as well as for the operation and maintenance of such facilities.

NEW SECTION. Sec. 4. Whenever a fixed transportation system, whether a rail system or otherwise, is constructed for the improvement of public transportation, the public agency responsible for the development and construction of the same shall, for the purposes of this act, designate each station thereof as either a primary station or a secondary station. This designation shall be based upon the relative volume projected for the given station against the whole volume of the system. Moderate to heavy volumes shall constitute primary stations, and light volumes shall constitute secondary stations. Said agency shall determine the line of demarcation between the two classifications, and each land parcel shall be subject only to the highest applicable tax rate.

NEW SECTION. Sec. 5. Whenever a public agency shall utilize funds generated in whole or in part by public taxation for the purpose of developing, constructing, or improving a fixed transportation system, then there shall be levied in the manner prescribed in this section an excise tax upon all real estate transactions subsequent to that agency's decision to develop the system in question. The excise tax so collected shall be for the exclusive use of said agency and shall be utilized by said agency solely to fund said development, construction, improvement, or operations.

The excise tax provided in this section shall be levied in the following manner:

(1) If any part of the land parcel whose ownership is being transferred lies within five hundred feet of an entrance to a fixed station, a percentage, as described below, of the increased value of the land shall be paid to the public agency:

(a) If said station is a primary station, sixty percent of

the increased value of the land:

(b) If said station is a secondary station, fifty percent of the increased value of the land.

(2) If any part of the land parcel whose ownership is being transferred lies within one thousand feet but more than five hundred feet of an entrance to a fixed station, a percentage, as described below, of the increased value of the land shall be paid to the public agency:

(a) If said station is a primary station, forty percent of the increased value:

(b) If said station is a secondary station, thirty percent of the increased value.

(3) If any part of the land parcel whose ownership is being transferred lies within two thousand feet but more than one thousand feet of an entrance to a fixed station, a percentage, as described below, of the increased value of the land shall be paid to the public agency:

(a) If said station is a primary station, twenty percent of the increased value of the land;

(b) If said station is a secondary station, thirteen percent of the increased value of the land.

For the purposes of this section, the execution of any lease, sublease, or rental agreement shall be deemed a real estate transaction: PROVIDED, That the renewal of any lease, sublease, or rental agreement, or the execution of any new lease, sublease, or rental agreement for consideration not exceeding one hundred and twenty percent of any lease, sublease, or rental agreement existing prior to the decision to develop and covering the same parcel, shall be excluded from the provisions of this section.

NEW SECTION. Sec. 6. Any person or business entity who purchases an option to buy a given parcel of land after the decision to develop, any portion of which parcel lies within two thousand feet of a fixed station, and who subsequently sells said option before twenty years after the decision to develop, shall pay an excise tax on said sale in the amount of fifty percent of the difference between the purchase price and the sale price of said option. The excise tax so collected shall be for the exclusive use of the agency responsible for the development, construction, improvement, or operations of the system of which the given fixed station is a part, and said funds shall be used solely to fund said development, construction, improvement, or operations.

NEW SECTION. Sec. 7. Any person required by the provisions of this act to pay an excise tax upon a real estate transaction or option, may be entitled, upon petition to the public agency in question, to pay said excise tax upon an installment basis over such period as may be set by said agency, but in no event over a period greater than seven years: PROVIDED, That the provisions of this section shall apply only to avoid an unreasonable hardship on the petitioner.

NEW SECTION. Sec. 8. This act shall be subject to the provisions of chapter 82.32 RCW except where inconsistent with specific provisions of this act.

NEW SECTION. Sec. 9. 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 shall not be affected.

B. Highways

AN ACT Relating to financing of public transportation facilities; and adding new sections to chapter 39.95 RCW.

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

NEW SECTION. Section 1. The legislature of the state of Washington finds that the public cost of constructing and improving highways in this state has become considerably greater over the last decade. It further finds that substantial economic benefits are often conferred on given persons and business entities owning property in the vicinity of such highways, and especially near interchanges thereof, by virtue of the expenditure of public funds in the development thereof, and that such economic benefits often bear a widely disproportionate relationship to the proportionate costs contributed by said persons and business entities to the development and construction of said highways. Therefore, it shall be the policy of the state of Washington as established in this act, that the general public, through the state, be allowed to regain and share a portion of the private economic benefits which are conferred on adjacent property owners by the expenditures of public moneys for the construction and improvement of highways within the state.

NEW SECTION. Sec. 2. As used in this act, the following words and phrases shall have the following meanings:

(1) "Base price" means the last price paid for a given parcel of land prior to the payment of the final price, or the last valuation assigned by the county assessor prior to the payment of the final price, whichever is greater;

(2) "Decision to develop" means that point in time which is three years prior to the decision by the highway commission to

commit funds to the construction of the subject highway;

(3) "Final price" means the last price paid for a given parcel of land after the decision to develop but before twenty years after the decision to develop;

(4) "General increase" means that increase, if any, in the value of a given parcel of land which is exclusive of any increase attributable in any manner to the development of the subject highway. It shall be determined by a consideration of similar parcels of land in similar localities which have not been affected by the development of such a highway;

(5) "Increased value" means:

(a) The difference between the base price and the final price paid for a given parcel of land, discounted by the general increase of that parcel; or

(b) The difference between the loan value of a given parcel of land after the decision to develop and the greater of the two following values, discounted by the general increase: the last price paid for said parcel or the last valuation assigned thereto by the county assessor prior to the decision to develop: PROVIDED, That the method of computing increased value as set forth in this item (b) shall apply only to those situations wherein the person owning said parcel at the time of the decision to develop retains ownership thereof and subsequently leases or rents said parcel, and said parcel is thereafter developed in a manner reasonably calculated to derive some economic benefit from the construction of the highway in question;

(6) "Price paid for a given parcel" means:

(a) The whole price paid if said parcel constitutes the

whole consideration for said price; or

(b) If said parcel constitutes only a portion of said consideration, then that portion of the whole price which reasonably reflects the value said parcel constitutes in proportion to the whole consideration given for said price;

(7) "Centerpoint of the highway interchange" means the point at which the center lines of the intersecting highways meet or cross if at the same grade or level, or the point at which the center lines of highways which cross or meet at different grades or levels would meet or cross if they intersected at the same grade or level. Two interchanges whose centerpoints are five hundred feet or less apart measured along the center line of a limited access highway may be considered for the purposes of this act as a single interchange, if the centerpoint lies halfway between the centerpoints of the two interchanges.

NEW SECTION. Sec. 3. The underlying policies of this act are:

(1) That the highway commission shall assess those persons who directly benefit from the expenditure of public funds for highways;

(2) That the assessment made by the highway commission shall be, as nearly as possible, an equitable fraction of the economic benefits conferred on the property holder by the investment of public moneys for said highways;

(3) That the moneys generated by this assessment shall accrue to the highway commission and shall be available for any transportation purpose, subject to legislative appropriation.

NEW SECTION. Sec. 4. Whenever a state highway is being

planned for construction the highway commission shall designate each interchange thereof, for the purposes of this act, as either an "A" interchange, a "B" interchange, or a "C" interchange. Such designations shall be applied according to the following criteria:

An "A" interchange shall be those interchanges which are primarily designed to provide access to downtown business activity, major shopping centers in suburban areas, or traffic generators of major importance, such as major universities or civic centers:

A "B" interchange shall be those interchanges which are primarily designed to provide access to residential areas of more than average density, intermediate shopping centers, as well as to traffic generators of similar magnitude;

A "C" interchange shall be any other interchange.

NEW SECTION. Sec. 5. Whenever the highway commission shall utilize funds generated in whole or in part by public taxation for the purpose of developing, constructing, or improving a highway, then there shall be levied in the manner prescribed in this section an excise tax upon all real estate transactions subsequent to that commission's decision to develop the highway in question. The excise tax so collected shall be for the exclusive use of the commission and shall be utilized for any transportation purpose, subject to legislative appropriation.

The excise tax provided in this section shall be levied in the following manner:

(1) If any part of the land parcel whose ownership is being transferred lies within five hundred feet of a point of controlled access, a percentage, as described below, of the increased value of

the land shall be paid to the county auditor who shall assign it to the highway commission:

(a) If said interchange is an "A" interchange, forty percent of the increased value of the land;

(b) If said interchange is a "B" interchange, thirty-two percent of the increased value of the land;

(c) If said interchange is a "C" interchange, twenty-eight percent of the increased value of the land.

(2) If any part of the land parcel whose ownership is being transferred lies within one thousand feet but more than five hundred feet of a point of controlled access, a percentage, as described below, of the increased value of the land shall be paid to the public agency:

(a) If said interchange is an "A" interchange, thirty-five percent of the increased value;

(b) If said interchange is a "B" interchange, thirty percent of the increased value;

(c) If said interchange is a "C" interchange, twenty-seven percent of the increased value.

(3) If any part of the land parcel whose ownership is being transferred lies within two thousand feet but more than one thousand feet of a point of controlled access, a percentage, as described below, of the increased value of the land shall be paid to the public agency:

(a) If said interchange is an "A" interchange, thirty-two percent of the increased value of the land;

(b) If said interchange is a "B" interchange, twenty-eight percent of the increased value of the land;

(c) If said interchange is a "C" interchange, twenty-five percent of the increased value of the land.

For the purposes of this section, the execution of any lease, sublease, or rental agreement shall be deemed a real estate transaction: PROVIDED, That the renewal of any lease, sublease, or rental agreement, or the execution of any new lease, sublease, or rental agreement for consideration not exceeding one hundred and twenty percent of any lease, sublease, or rental agreement existing prior to the decision to develop and covering the same parcel, shall be excluded from the provisions of this section.

NEW SECTION. Sec. 6. Any person or business entity who purchases an option to buy a given parcel of land after the decision to develop, any portion of which parcel lies within two thousand feet of a fixed station, and who subsequently sells said option before twenty years after the decision to develop, shall pay an excise tax on said sale in the amount of fifty percent of the difference between the purchase price and the sale price of said option. The excise tax so collected shall be for the exclusive use of the highway commission, and said funds shall be used solely to fund the development, construction, or improvement in question.

NEW SECTION. Sec. 7. Any person required by the provisions of this act to pay an excise tax upon a real estate transaction or option, may be entitled, upon petition to the highway commission, to pay said excise tax upon an installment basis over such period as may be set by said agency, but in no event over a period greater than seven years: PROVIDED, That the provisions of this section shall apply only to avoid an unreasonable hardship on the petitioner.

NEW SECTION. Sec. 8. This act shall be subject to the

provisions of chapter 82.32 RCW except where inconsistent with specific provisions of this act.

NEW SECTION. Sec. 9. 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 shall not be affected.