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SUPREME COURT OF THE STATE OF WASHINGTON

KEMPER FREEMAN, JIM HORN,  
STEVE STIVALA, KEN COLLINS,  
MICHAEL DUNMIRE, SARAH  
RINLAUB, AL DEATLEY, JIM  
COLES, BRIAN BOEHM, EMORY  
BUNDY, ROGER BELL and  
EASTSIDE TRANSPORTATION  
ASSOCIATION, a Washington  
nonprofit corporation, and MARK  
ANDERSON,

Appellants,

v.

STATE OF WASHINGTON,  
CHRISTINE O. GREGOIRE,  
Governor, PAULA J. HAMMOND,  
Secretary, Department of  
Transportation, CENTRAL PUGET  
SOUND REGIONAL TRANSIT  
AUTHORITY,

Respondents.

**SOUND TRANSIT'S  
STATEMENT OF  
ADDITIONAL  
AUTHORITIES**

Respondent Sound Transit hereby submits the following authorities  
pertaining to questions raised in the course of oral argument:

1. Laws of 1961, ch. 13 (attached) (showing text of former RCW 47.48.010 prior to addition of provision regarding public transit)
2. Laws of 1967, ch. 108 (attached) (showing adoption of public transit provision of former RCW 47.48.010)
3. Umbrella Agreement (par. 4.2, Commencement of Lease Terms), CP 1383.
4. Umbrella Agreement (par. 5.1.1, Sound Transit's Funding Obligation), CP 1384.
5. Umbrella Agreement (Exhibits B-C, R8A Project Description, Funding) CP1394-95.

RESPECTFULLY SUBMITTED this 5<sup>th</sup> day of March, 2013.

PACIFICA LAW GROUP LLP

By   
Matthew J. Segal, WSBA #29797  
Jessica A. Skelton, WSBA #36748  
Attorneys for Respondent  
Central Puget Sound Regional  
Transit Authority

# LAWS OF 1961

Explanatory note.

- 46.82.250 Source—[1957 c 87 § 25.]  
"act" to "chapter".
  - 46.82.260 Source—[1957 c 87 § 26.]  
"this shall not" to "This chapter shall not"; word changed for clarification, the intention being evidenced by sentence in section.
  - 46.82.270 Source—[1957 c 87 § 27.]  
"act" to "chapter".
- Chapter 46.83 Traffic Schools
- 46.83.010 Source—[1959 c 182 § 1.]  
"act" to "chapter". 1959 c 182 is codified in its entirety in 46.83, which contains no other session law sections.
  - 46.83.020 Source—[1959 c 182 § 2.]  
"act" to "chapter".
  - 46.83.030 Source—[1959 c 182 § 3.]
  - 46.83.040 Source—[1959 c 182 § 4.]
  - 46.83.050 Source—[1959 c 182 § 5.]
  - 46.83.060 Source—[1959 c 182 § 6.]  
"act" to "chapter".

Chapter 46.84 Highway User Tax Structure

- 46.84.010 Source—[1955 c 381 § 1.]
- 46.84.020 Source—[1957 c 273 § 22; 1955 c 381 § 2.]
- 46.84.030 Source—[1955 c 381 § 3.]
- 46.84.040 Source—[1955 c 381 § 4.]  
"act" to "chapter". 1955 c 381, as amended, is codified in its entirety in 46.84, which contains no other session law sections.
- 46.84.050 Source—[1957 c 273 § 23; 1955 c 381 § 5.]
- 46.84.060 Source—[1955 c 381 § 5.]
- 46.84.070 Source—[1955 c 381 § 7.]
- 46.84.080 Source—[1955 c 381 § 8.]
- 46.84.090 Source—[1955 c 381 § 9.]
- 46.84.100 Source—[1955 c 381 § 16.]  
"act" to "chapter".

Chapter 46.98 Construction

- 46.98.010 This section has been added to preserve continuity with laws which this bill reenacts.
- 46.98.020 See Part I of these notes.
- 46.98.030 Provides that chapter, etc., headings are not part of law.
- 46.98.040 Severability.
- 46.98.050 Repeals and saving.  
The laws set forth in the schedule of repeals were either repealed previously or are substantially reenacted by this bill. Omitted from reenactment without comment are certain emergency and effective date sections, obsolete appropriations and other obsolete or temporary sections heretofore uncoded. A list of said sections is permanently filed in the reviser's office. Rights acquired under the repealed acts are preserved by the last paragraph of this section.
- 46.98.060 Emergency clause.

CHAPTER 13.  
[H. B. 3.]

PUBLIC HIGHWAYS—TITLE 47 RCW REENACTMENT.

Act relating to public highways, streets, bridges, ferries, tunnels, and related means of transportation; providing for the acquisition, construction, maintenance, operation, regulation and financing thereof; enacting Title 47 of the Revised Code of Washington; providing penalties; repealing certain acts and parts of acts; and declaring an emergency.

Enacted by the Legislature of the State of Washington:

TITLE 47  
PUBLIC HIGHWAYS

Chapter 47.01

HIGHWAY COMMISSION

**47.01.010 Legislative declaration.** The administration of highway affairs has become a matter of major public importance involving vast sums of money, the development of commerce and resources, the employment of great numbers of persons, the promotion of recreation and the welfare of every citizen of the state. It demands the highest order of business and technical administration, accompanied by continuity of sound long-range highway policies, freedom from political interference and changes of personnel, and an organization attracting the services of qualified talented administrators and meriting the confidence of the people.

**47.01.020 Commission created — Appointment of members — Terms.** There is hereby created a state highway commission consisting of five members, all of whom shall be residents of this state and who shall be appointed by the governor with the consent of the senate for terms of office as herein provided, and with the qualifications herein specified. Within ninety days after March 19, 1951, the governor shall appoint the first members of said state highway commission: One member to serve two years; one member to serve three years; one member to serve four years; one member to serve five years; and one member to serve six years from the first day of July, 1951. Upon expiration of said original terms subsequent appointments shall be for six years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term in which the vacancy has occurred.

**47.01.030 Members—Qualifications—Removal.** No member of said state highway commission shall at the time of ap-

Any permit granted may be canceled at any time and any facilities remaining upon the right of way of such state highway after thirty days written notice of such cancellation shall be an unlawful obstruction and may be removed in the manner provided by law.

**47.44.060 Penalty.** Any person, firm or corporation who shall construct or maintain on, over, across or along any state highway any water pipe, flume, gas pipe, telegraph, telephone, electric light or power lines, or tram or railway, or any other such facilities, without having first obtained and having at all times in full force and effect a franchise or permit to do so in the manner provided by law shall be guilty of a misdemeanor and each day of violation shall be a separate and distinct offense.

**Chapter 47.48**

**CLOSING HIGHWAYS AND RESTRICTING TRAFFIC**

**47.48.010 Closure authorized.** Whenever the condition of any state highway, county road or city street, either newly or previously constructed, altered, repaired or improved, or any part thereof is such that for any reason its use or continued use by vehicles or by any class of vehicles will greatly damage such state highway, county road or city street or will be dangerous to traffic thereon or the same is being constructed, altered, repaired, improved or maintained in such a manner as to require that such state highway, county road or city street or any portion thereof be closed to travel by all vehicles or by any class of vehicles for any period of time, the highway commission if it be a state highway, the county commissioners if it be a county road, or the governing body of any city or town if it be a city street, is authorized to close such state highway, county road or city street, as the case may be, to travel by all vehicles or by any class of vehicles for such a definite period as they shall determine: *Provided*, That nothing in the law of this state shall prevent the highway commission, county commissioners, or governing body of any city or town from classifying vehicles according to gross weight, axle weight, height, width, length, braking area, performance, or tire equipment for the purposes of this section.

**47.48.020 Notice of closure—Emergency closure.** Before any state highway, county road or city street is closed to all vehicles or any class of vehicles, a notice of the date on and after which the state highway, county road or city street or any part thereof shall be closed and the definite period of such closing and whether it shall be closed to all vehicles or to vehicles of a particular class or classes shall be published in one issue of a newspaper of general circulation in the county or city or town in which such state highway,

county road or city street or any portion thereof to be closed is located; and a like notice shall be posted on or prior to the date of publication of such notice in a conspicuous place at each end of the state highway, county road or city street or portion thereof to be closed: *Provided*, That no such state highway, county road or city street or portion thereof shall be closed sooner than three days after the publication and the posting of the notice herein provided for: *Provided, however*, That in cases of emergency the proper officers may, without publication or delay, close state highways, county roads and city streets temporarily by posting notices at each end of the closed portion thereof and at all intersecting state highways if the closing be of a portion of a state highway, at all intersecting state highways and county roads if the closing be a portion of a county road, and at all intersecting city streets if the closing be of a city street. In all emergency cases, as herein provided, the orders of the proper authorities shall be immediately effective.

**47.48.040 Penalty.** When any state highway, county road or city street or portion thereof shall have been closed, as by law provided, any person, firm or corporation disregarding such closing and using such state highway, county road or city street or portion thereof with any vehicle or any class of vehicle, as the case may be, to which said state highway, county road or city street or portion thereof is closed by any notice or emergency notice, shall be guilty of a misdemeanor, and shall in addition to any penalty for violation of the provisions of this section, be liable in any civil action instituted in the name of the state of Washington or the county or city or town having jurisdiction for any damages occasioned to such state highway, county road, or city street, as the case may be, as the result of disregarding such closing and using such state highway, county road, or city street, or portion thereof with any vehicle or any class of vehicle to which the same is closed.

**Chapter 47.52**

**LIMITED ACCESS FACILITIES**

**47.52.001 Declaration of policy.** Unrestricted access to and from public highways has resulted in congestion and peril for the traveler. It has caused undue slowing of all traffic in many areas. The investment of the public in highway facilities has been impaired and highway facilities costing vast sums of money will have to be relocated and reconstructed. It is the declared policy of this state to limit access to the highway facilities of this state in the interest of highway safety and for the preservation of the investment of the public in such facilities.

toll bridge authority. Satisfactory proof of service with previous employer shall be furnished the state employees' retirement board by employee.

**47.65.080 Employer's contribution for former service.** Any employer's contribution required to establish employees' credit for former service under RCW 47.65.060, shall be paid by the Washington toll bridge authority in such amount as will entitle the employee to all rights, benefits and privileges that he would have been entitled to had he been a member of the state employees' retirement system from the beginning of his employment with the authority on or after June 1, 1951. Such contributions for former service shall be payable at the rate of seventy-five thousand dollars in each calendar year and shall continue at such rate until such payments are equal to the then outstanding liability for former service credits.

**47.65.091 Appropriation — 1959 Act.** There is appropriated from the Puget Sound transportation stabilization fund to the Washington toll bridge authority for the biennium beginning July 1, 1959, and ending June 30, 1961, the sum of five hundred thousand dollars or so much thereof as is necessary to carry out the provisions of chapter 47.65.

**47.65.110 Chapter expires June 30, 1961.** Chapter 271, Laws of 1957 and RCW 47.65.010 through 47.65.110 shall expire on June 30, 1961.

Note: See also section 25, chapter 7, Laws of 1961 extraordinary session.

**Chapter 47.98**

**CONSTRUCTION**

**47.98.010 Continuation of existing law.** The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. Nothing in this 1961 reenactment of this title shall be construed as authorizing any new bond issues or new or additional appropriations of moneys but the bond issue authorizations herein contained shall be construed only as continuations of bond issues authorized by prior laws herein repealed and re-enacted, and the appropriations of moneys herein contained are continued herein for historical purposes only and this act shall not be construed as a reappropriation thereof and no appropriation contained herein shall be deemed to be extended or revived hereby and such appropriation shall lapse or shall have lapsed in accordance with the original enactment: *Provided*, That this act shall not

operate to terminate, extend, or otherwise affect any appropriation for the biennium commencing July 1, 1959 and ending June 30, 1961.

**47.98.020 Provisions to be construed in pari materia.** The provisions of this title shall be construed in pari materia even though as a matter of prior legislative history they were not originally enacted in the same statute. The provisions of this title shall also be construed in pari materia with the provisions of Title 46 RCW, and with other laws relating to highways, roads, streets, bridges, ferries and vehicles. This section shall not operate retroactively.

**47.98.030 Title, chapter, section headings not part of law.** Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law.

**47.98.040 Invalidity of part of title not to affect remainder.** If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected.

**47.98.050 Repeals and saving.** The following acts or parts of acts are repealed:

- (1) Chapter 56, Laws of 1913;
- (2) Chapter 65, Laws of 1913;
- (3) Chapter 29, Laws of 1915;
- (4) Chapter 164, Laws of 1915;
- (5) Chapter 76, Laws of 1917;
- (6) Chapter 77, Laws of 1917;
- (7) Chapter 78, Laws of 1917;
- (8) Chapter 118, Laws of 1917;
- (9) Chapter 56, Laws of 1919;
- (10) Chapter 146, Laws of 1919;
- (11) Chapter 21, Laws of 1921;
- (12) Chapter 89, Laws of 1921;
- (13) Chapter 95, Laws of 1921;
- (14) Chapter 41, Laws of 1923;
- (15) Chapter 102, Laws of 1923;
- (16) Chapter 129, Laws of 1923;
- (17) Chapter 185, Laws of 1923;
- (18) Chapter 4, Laws of 1925;
- (19) Chapter 24, Laws of 1925;
- (20) Chapter 26, Laws of 1925;
- (21) Chapter 59, Laws of 1925 extraordinary session;
- (22) Chapter 131, Laws of 1925 extraordinary session;
- (23) Chapter 214, Laws of 1927;

- (24) Chapter 232, Laws of 1927;
- (25) Chapter 242, Laws of 1927;
- (26) Chapter 88, Laws of 1929;
- (27) Chapter 116, Laws of 1929.
- (28) Chapter 146, Laws of 1929;
- (29) Chapter 171, Laws of 1929;
- (30) Chapter 214, Laws of 1929;
- (31) Chapter 29, Laws of 1931;
- (32) Chapter 30, Laws of 1931;
- (33) Chapter 31, Laws of 1931;
- (34) Chapter 36, Laws of 1931;
- (35) Chapter 37, Laws of 1931;
- (36) Chapter 38, Laws of 1931;
- (37) Chapter 117, Laws of 1931;
- (38) Chapter 118, Laws of 1931;
- (39) Chapter 129, Laws of 1931;
- (40) Chapter 133, Laws of 1933;
- (41) Chapter 144, Laws of 1935;
- (42) Sections 1 through 3, and 5 through 107, chapter 53, Laws of 1937;
- (43) Chapter 113, Laws of 1937;
- (44) Chapter 173, Laws of 1937;
- (45) Chapter 185, Laws of 1937;
- (46) Sections 59, 60, 61, 63 and 65, chapter 187, Laws of 1937;
- (47) Chapter 190, Laws of 1937;
- (48) Chapter 207, Laws of 1937;
- (49) Chapter 5, Laws of 1939;
- (50) Chapter 81, Laws of 1939;
- (51) Sections 7 and 8, chapter 181, Laws of 1939;
- (52) Chapter 9, Laws of 1941;
- (53) Chapter 136, Laws of 1941;
- (54) Sections 9 through 11, chapter 82, Laws of 1943;
- (55) Chapter 132, Laws of 1943;
- (56) Chapter 135, Laws of 1943;
- (57) Chapter 147, Laws of 1943;
- (58) Chapter 212, Laws of 1943;
- (59) Chapter 239, Laws of 1943;
- (60) Chapter 253, Laws of 1943;
- (61) Chapter 265, Laws of 1943;
- (62) Chapter 266, Laws of 1943;
- (63) Chapter 27, Laws of 1945;
- (64) Chapter 127, Laws of 1945;
- (65) Chapter 146, Laws of 1945;
- (66) Chapter 176, Laws of 1945;
- (67) Chapter 178, Laws of 1945;

- (68) Chapter 248, Laws of 1945;
- (69) Chapter 250, Laws of 1945;
- (70) Chapter 266, Laws of 1945;
- (71) Chapter 4, Laws of 1947;
- (72) Chapter 96, Laws of 1947;
- (73) Chapter 201, Laws of 1947;
- (74) Chapter 202, Laws of 1947;
- (75) Chapter 206, Laws of 1947;
- (76) Chapter 232, Laws of 1947;
- (77) Chapter 64, Laws of 1949;
- (78) Chapter 70, Laws of 1949;
- (79) Section 1, chapter 75, Laws of 1949;
- (80) Chapter 148, Laws of 1949;
- (81) Chapter 162, Laws of 1949;
- (82) Chapter 179, Laws of 1949;
- (83) Section 13, chapter 196, Laws of 1949;
- (84) Sections 1 through 6, 14 and 15, chapter 220, Laws of 1949;
- (85) Chapter 225, Laws of 1949;
- (86) Chapter 8, Laws of 1951;
- (87) Chapter 54, Laws of 1951;
- (88) Chapter 82, Laws of 1951;
- (89) Chapter 121, Laws of 1951;
- (90) Chapter 167, Laws of 1951;
- (91) Chapter 188, Laws of 1951;
- (92) Chapter 199, Laws of 1951;
- (93) Sections 1 through 15, chapter 247, Laws of 1951;
- (94) Chapter 259, Laws of 1951;
- (95) Sections 1 through 23, 25 through 28, and 30, chapter 273, Laws of 1951;
- (96) Chapter 28, Laws of 1953;
- (97) Chapter 29, Laws of 1953;
- (98) Chapter 30, Laws of 1953;
- (99) Chapter 32, Laws of 1953;
- (100) Chapter 33, Laws of 1953;
- (101) Chapter 42, Laws of 1953;
- (102) Chapter 53, Laws of 1953;
- (103) Chapter 54, Laws of 1953;
- (104) Chapter 55, Laws of 1953;
- (105) Chapter 59, Laws of 1953;
- (106) Chapter 78, Laws of 1953;
- (107) Chapter 79, Laws of 1953;
- (108) Chapter 82, Laws of 1953;
- (109) Chapter 100, Laws of 1953;
- (110) Chapter 131, Laws of 1953;
- (111) Chapter 132, Laws of 1953;

- (112) Chapter 154, Laws of 1953;
- (113) Chapter 159, Laws of 1953;
- (114) Chapter 183, Laws of 1953;
- (115) Chapter 192, Laws of 1953;
- (116) Chapter 193, Laws of 1953;
- (117) Chapter 211, Laws of 1953;
- (118) Chapter 220, Laws of 1953;
- (119) Section 1, chapter 254, Laws of 1953;
- (120) Sections 1 through 28 and 30, chapter 280, Laws of 1953;
- (121) Chapter 285, Laws of 1953;
- (122) Chapter 17, Laws of 1955;
- (123) Chapter 21, Laws of 1955;
- (124) Chapter 22, Laws of 1955;
- (125) Chapter 49, Laws of 1955;
- (126) Chapter 54, Laws of 1955;
- (127) Chapter 63, Laws of 1955;
- (128) Chapter 75, Laws of 1955;
- (129) Chapter 83, Laws of 1955;
- (130) Chapter 84, Laws of 1955;
- (131) Chapter 117, Laws of 1955;
- (132) Section 6, chapter 146, Laws of 1955;
- (133) Chapter 147, Laws of 1955;
- (134) Chapter 152, Laws of 1955;
- (135) Chapter 161, Laws of 1955;
- (136) Chapter 166, Laws of 1955;
- (137) Chapter 178, Laws of 1955;
- (138) Chapter 179, Laws of 1955;
- (139) Chapter 203, Laws of 1955;
- (140) Chapter 208, Laws of 1955;
- (141) Section 20, chapter 285, Laws of 1955;
- (142) Sections 7 and 8, chapter 310, Laws of 1955;
- (143) Chapter 311, Laws of 1955;
- (144) Chapter 383, Laws of 1955;
- (145) Sections 8 and 12 through 14, chapter 384, Laws of 1955;
- (146) Chapter 83, Laws of 1957;
- (147) Chapter 95, Laws of 1957;
- (148) Chapter 141, Laws of 1957;
- (149) Chapter 142, Laws of 1957;
- (150) Chapter 152, Laws of 1957;
- (151) Sections 1 through 36 and 38 through 60, chapter 172, Laws of 1957;
- (152) Chapter 189, Laws of 1957;
- (153) Chapter 204, Laws of 1957;
- (154) Chapter 206, Laws of 1957;
- (155) Chapter 230, Laws of 1957;

- (156) Chapter 235, Laws of 1957;
- (157) Chapter 266, Laws of 1957;
- (158) Chapter 270, Laws of 1957;
- (159) Sections 1 and 2 and 5 through 12, chapter 271, Laws of 1957;
- (160) Chapter 144, Laws of 1959;
- (161) Chapter 160, Laws of 1959;
- (162) Chapter 162, Laws of 1959;
- (163) Chapter 167, Laws of 1959;
- (164) Chapter 184, Laws of 1959;
- (165) Chapter 198, Laws of 1959;
- (166) Chapter 199, Laws of 1959;
- (167) Chapter 242, Laws of 1959;
- (168) Sections 1 through 5 and 7, chapter 292, Laws of 1959;
- (169) Sections 1 through 19, and 33 through 35, chapter 319, Laws of 1959;
- (170) Section 3, chapter 326, Laws of 1959;
- (171) Chapter 330, Laws of 1959;
- (172) Section 2, chapter 4, Laws of 1959 first extraordinary session; and
- (173) RCW 43.27.020 through 43.27.200 (recodified herein as chapter 47.01).

Such repeals shall not be construed as affecting any existing right acquired under the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder, nor the term of office or appointment or employment of any person appointed or employed thereunder.

Such repeals shall not affect the adoption by reference in sections 47.16.140, 47.16.190 and 47.20.380 of the highway routes established respectively by sections 5, 4, and 38, chapter 383, Laws of 1955.

**47.98.060 Emergency.** This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing institutions and shall take effect immediately: *Provided*, That the effective date of sections 47.16.160, 47.20.110, and 47.20.380 shall be July 1, 1961.

TITLE 47

Explanatory  
note.

STATE HIGHWAYS AND TOLL BRIDGES

EXPLANATORY NOTE

- 1. Introductory.
- 2. General.

In the course of its current program to restore session law language to the Revised Code of Washington, the reviser's office and the codifications subcommittee of the Statute Law Committee have carefully examined the provisions of Title 47 relating to state highways and toll bridges and of Title 46 relating to motor vehicles. Pursuant to such

# LAWS OF 1967

Public indebtedness—  
Limitation—  
Taxing districts.

taxable property in such counties, cities or towns without the assent of three-fifths of the voters therein voting at an election to be held for that purpose. In cases requiring such assent counties, cities and towns are limited to five percent on the value of the taxable property therein (being twice the assessed valuation) as ascertained by the last completed and balanced tax rolls of such counties, cities or towns for county, city or town purposes.

(3) No part of the indebtedness allowed in this chapter shall be incurred for any purpose other than strictly county, city, town, school district, township, port district, metropolitan park district, or other municipal purposes: *Provided*, That a city or town, with such assent, may become indebted to a larger amount, but not exceeding five percent additional, determined as herein provided, for supplying such city or town with water, artificial light, and sewers, when the works for supplying such water, light, and sewers shall be owned and controlled by the city or town: *Provided further*, That any school district may become indebted to a larger amount but not exceeding five percent additional for capital outlays.

RCW 39.44.070 amended.

Sec. 5. Section 5, chapter 151, Laws of 1923 and RCW 39.44.070 are each amended to read as follows:

Public indebtedness—Bonds—  
Life of bonds.

Notwithstanding the provisions of any charter to the contrary, bonds issued under RCW 39.44.010 through 39.44.080 may be issued to run for a period up to forty years from the date of the issue and shall, as near as practicable, be issued for a period which shall not exceed the life of the improvement to be acquired by the use of the bonds.

Repeal.

Sec. 6. Section 35.37.080, chapter 7, Laws of 1965 and RCW 35.37.080 are each repealed.

Passed the Senate February 18, 1967.

Passed the House March 7, 1967.

Approved by the Governor March 21, 1967.

CHAPTER 108.

[Senate Bill No. 390.]

HIGHWAYS—URBAN PUBLIC TRANSPORTATION SYSTEMS.

AN ACT relating to transportation; authorizing and regulating public highways, streets, bridges, ferries, tunnels, urban public transportation systems and related means of transportation; amending section 47.08.070, chapter 13, Laws of 1961 and RCW 47.08.070; amending section 47.12.010, chapter 13, Laws of 1961 and RCW 47.12.010; amending section 62, chapter 170, Laws of 1965 extraordinary session and RCW 47.12.250; amending section 47.28.140, chapter 13, Laws of 1961 and RCW 47.28.140; amending section 47.44.010, chapter 13, Laws of 1961 as last amended by section 1, chapter 70, Laws of 1963, and RCW 47.44.010; amending section 47.44.040, chapter 13, Laws of 1961 and RCW 47.44.040; amending section 47.48.010, chapter 13, Laws of 1961 and RCW 47.48.010; amending section 47.52.010, chapter 13, Laws of 1961 and RCW 47.52.010; amending section 47.52.090, chapter 13, Laws of 1961 and RCW 47.52.090; amending section 5, chapter 257, Laws of 1961 and RCW 47.56.256; amending section 63, chapter 170, Laws of 1965 extraordinary session and RCW 47.04.081.

*Be it enacted by the Legislature of the State of Washington:*

Section 1. As used in this act the term "urban public transportation system" shall mean a system for the public transportation of persons or property by buses, street cars, trains, electric trolley coaches, other public transit vehicles, or any combination thereof operating in or through predominantly urban areas and owned and operated by the state, any city or county or any municipal corporation of the state, including all structures, facilities, vehicles and other property rights and interests forming a part of such a system.

Highways—  
Urban public transportation systems—  
Defined.

Sec. 2. The separate and uncoordinated development of public highways and urban public transportation systems is wasteful of this state's natural and financial resources. It is the public policy of this state to encourage wherever feasible the joint plan-

Public highway purpose.

Urban public transportation systems.

ning, construction and maintenance of public highways and urban public transportation systems serving common geographical areas as joint use facilities. To this end the legislature declares it to be a highway purpose to use motor vehicle funds, city and town street funds or county roads funds to pay the full proportionate highway, street or road share of the costs of design, right of way acquisition, construction and maintenance of any highway, street or road to be used jointly with an urban public transportation system.

RCW 47.08.070 amended.

Sec. 3. Section 47.08.070, chapter 13, Laws of 1961 and RCW 47.08.070 are each amended to read as follows:

Highways—Cooperation in public works projects.

When in the opinion of the highway commission it appears that any state highway will be benefited or improved by the construction of any public works project, including any urban public transportation system, within the state of Washington by any of the departments of the state of Washington, by the federal government, or by any agency, instrumentality or municipal corporation of either the state of Washington or the United States, the highway commission is hereby authorized to enter into cooperative agreements with any such state department, with the United States, or with any agency, instrumentality or municipal corporation of either the state of Washington or the United States, wherein the state of Washington, acting through its highway commission, will participate in the cost of the public works project in such amount as may be determined by the highway commission to be the value of the benefits or improvements to the particular state highway derived from the construction of said public works project. Under any such agreement the highway commission may contribute to the cost of the public works project by making direct payment to the particular state department, federal govern-

ment or to any agency, instrumentality or municipal corporation of either the state or the United States, or any thereof, which may be involved in said project, from any funds appropriated to the highway commission and available for highway purposes, or by doing a portion of the project either by day labor or by contract, or in any other manner as may be deemed advisable and necessary by the highway commission.

Sec. 4. Section 47.12.010, chapter 13, Laws of 1961 and RCW 47.12.010 are each amended to read as follows:

RCW 47.12.010 amended.

Whenever it is necessary to secure any lands or interests in land for a right of way for any state highway, or for the drainage thereof or construction of a protection therefor or so as to afford unobstructed vision therefor toward any railroad crossing or another public highway crossing or any point of danger to public travel or to provide a visual or sound buffer between highways and adjacent properties or for the purpose of acquiring sand pits, gravel pits, borrow pits, stone quarries or any other land for the extraction of materials for construction or maintenance or both, or for any site for the erection upon and use as a maintenance camp, of any state highway, or any site for other necessary structures or for structures for the health and accommodation of persons traveling or stopping upon the state highways of this state, or any site for the construction and maintenance of structures and facilities adjacent to, under, upon, within, or above the right of way of any state highway for exclusive or nonexclusive use by an urban public transportation system, or for any other highway purpose, together with right of way to reach such property and gain access thereto, the highway commission is authorized to acquire such lands or interests in land in behalf of the state by gift, purchase or condemna-

Highways—Acquisition and disposition of state highway property—Authorized—Condemnation actions—Costs.

Highways.

tion. In case of condemnation to secure such lands or interests in land, the action shall be brought in the name of the state of Washington in the manner provided for the acquiring of property for the public uses of the state, and in such action the selection of the lands or interests in land by the highway commission shall, in the absence of bad faith, arbitrary, capricious or fraudulent action, be conclusive upon the court and judge before which the action is brought that said lands or interests in land are necessary for public use for the purposes sought. The cost and expense of such lands or interests in land may be paid as a part of the cost of the state highway for which such right of way, drainage, unobstructed vision, sand pits, gravel pits, borrow pits, stone quarries, maintenance camp sites and structure sites or other lands are acquired.

RCW 47.12.250 amended.

Sec. 5. Section 62, chapter 170, Laws of 1965 extraordinary session and RCW 47.12.250 are each amended to read as follows:

Highways—Acquisition for beauty, historic sites, sound buffers, viewpoint or safety rest areas.

The state highway commission is authorized to acquire by purchase, lease, condemnation, gift, devise, bequest, grant or exchange, title to or any interests or rights in real property adjacent to state highways for the preservation of natural beauty, historic sites or viewpoints or for safety rest areas or to provide a visual or sound buffer between highways and adjacent properties: *Provided*, That the state highway commission shall not acquire, by condemnation, less than an owner's entire interest for providing a visual or sound buffer between highways and adjacent properties under sections 4 and 5 of this act if said owner objects to the taking of said lesser interest or right.

RCW 47.28.140 amended.

Sec. 6. Section 47.28.140, chapter 13, Laws of 1961 and RCW 47.28.140 are each amended to read as follows:

Highways—Agreements to benefit or improve highways, roads or streets—Labor—Costs.

When in the opinion of the governing authorities representing the state department of highways and any agency, instrumentality, municipal corporation or political subdivision of the state of Washington, any highway, road or street will be benefited or improved by constructing, reconstructing, locating, relocating, laying out, repairing, surveying, altering, improving or maintaining, or by the establishment adjacent to, under, upon, within or above any portion of any such highway, road or street of an urban public transportation system, by either the said highway department or any agency, instrumentality, municipal corporation or political subdivision of the state, and it is in the public interest to do so, the authorities may enter into cooperative agreements wherein either agrees to perform the work and furnish the materials necessary and pay the cost thereof, including necessary engineering assistance, which costs and expenses shall be reimbursed by the party whose responsibility it was to do or perform such work or improvement in the first instance. Said work may be done by either day labor or contract, and the cooperative agreement between the parties shall provide for the method of reimbursement. In the case of some special benefit or improvement to a state highway derived from the construction of any public works project, including any urban public transportation system, the department of highways may contribute to the cost thereof by making direct payment to the particular state department, agency, instrumentality, municipal corporation or political subdivision on the basis of benefits received, but such payment shall be made only after a cooperative agreement has been entered into for a specified amount or on an actual cost basis prior to the commencement of said particular public works project.

RCW 47.44.010 amended.

Sec. 7. Section 47.44.010, chapter 13, Laws of 1961, as last amended by section 1, chapter 70, Laws of 1963, and RCW 47.44.010 are each amended to read as follows:

Highways—  
Franchises on  
state highways  
—Application  
—Notice—  
Hearing.

The highway commission shall have the power to grant franchises to persons, associations, private or municipal corporations, the United States government or any agency thereof, to use any state highway for the construction and maintenance of water pipes, flume, gas pipes, telephone, telegraph and electric light and power lines and conduits, trams or railways, and any structures or facilities which are part of an urban public transportation system owned or operated by a municipal corporation, agency or department of the state of Washington other than the highway commission, and any other such facilities. All applications for such franchise shall be made in writing and subscribed by the applicant, and shall describe the state highway or portion thereof over which franchise is desired and the nature of the franchise. Upon the filing of any such application a time and place for hearing the same shall be fixed and a notice thereof shall be given in the county or counties in which any portion of the state highway upon which such franchise is applied for is located, at the expense of the applicant, by posting written or printed notices in three public places at the county seat of such county or counties for at least twenty days before the day fixed for such hearing, and by publishing a like notice in three successive weekly issues of a newspaper having a general circulation in such county or counties, the last publication to be at least five days before the day fixed for the hearing; which notice shall state the name or names of the applicant or applicants, a description of the state highway or part thereof over which the franchise is applied for, and the time and place of such hearing. It shall be the

duty of the county auditor of the respective counties to cause such notices to be posted and published and to file proof of such posting and publication with the highway commission.

Sufficient copies of the notice required by this section shall be sent directly to the county auditor of the respective counties at least forty-five days prior to the date fixed for the hearing.

Sec. 8. Section 47.44.040, chapter 13, Laws of 1961 and RCW 47.44.040 are each amended to read as follows:

RCW 47.44.040 amended.

Whenever any bridge shall exist on the route of any state highway and crosses any stream, body of water, gulch, navigable water, swamp or other topographical formation constituting the boundary of a county, city or town of this state or the boundary of this state and the same is owned or operated by this state jointly with any such county, city or town or with any municipal corporation of this state, or with such other state or with any county, city or town of such other state, the highway commission is empowered to join with the proper officials of such county, city or town or such municipal corporation of this state or of such other state or of such county, city or town of such other state in granting franchises to persons or private or municipal corporations for the construction and maintenance thereon of water pipes, flumes, gas pipes, telephone, telegraph and electric light and power lines and conduits, trams and railways, and any structures or facilities which are part of an urban public transportation system owned or operated by a municipal corporation, agency or department of the state of Washington other than the highway commission, or any other such facilities. All such franchises shall be granted in the same manner as provided for the granting of like franchises on state highways. Any revenue accruing to the state of Washington from such fran-

Franchises to  
use toll facility  
property.

chises shall be paid to the state treasurer and by him deposited to the credit of the fund from which this state's share of the cost of joint operation of such bridge is paid.

RCW 47.48.010 amended.

Sec. 9. Section 47.48.010, chapter 13, Laws of 1961 and RCW 47.48.010 are each amended to read as follows:

Highways—  
closing and re-  
stricting  
traffic.

Whenever the condition of any state highway, county road or city street, either newly or previously constructed, altered, repaired or improved, or any part thereof is such that for any reason its use or continued use by vehicles or by any class of vehicles will greatly damage such state highway, county road or city street or will be dangerous to traffic thereon or the same is being constructed, altered, repaired, improved or maintained in such a manner as to require that such state highway, county road or city street or any portion thereof be closed to travel by all vehicles or by any class of vehicles for any period of time, the highway commission if it be a state highway, the county commissioners if it be a county road, or the governing body of any city or town if it be a city street, is authorized to close such state highway, county road or city street, as the case may be, to travel by all vehicles or by any class of vehicles for such a definite period as they shall determine: *Provided*, That nothing in the law of this state shall prevent the highway commission, county commissioners, or governing body of any city or town from classifying vehicles according to gross weight, axle weight, height, width, length, braking area, performance, or tire equipment for the purposes of this section, or from restricting the use of any portion of any public highway within the jurisdiction and control of any such commission or governing body to its use by an urban public transportation system.

Sec. 10. Section 47.52.010, chapter 13, Laws of 1961 and RCW 47.52.010 are each amended to read as follows:

RCW 47.52.010 amended.

For the purposes of this chapter, a "limited access facility" is defined as a highway or street especially designed or designated for through traffic, and over, from, or to which owners or occupants of abutting land, or other persons, have no right or easement, or only a limited right or easement of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility, or for any other reason to accomplish the purpose of a limited access facility. Such highways or streets may be parkways, from which vehicles forming part of an urban public transportation system, trucks, buses, or other commercial vehicles may be excluded; or they may be freeways open to use by all customary forms of street and highway traffic, including vehicles forming a part of an urban public transportation system.

Limited access  
facilities. De-  
fined.

Sec. 11. Section 47.52.090, chapter 13, Laws of 1961 and RCW 47.52.090 are each amended to read as follows:

RCW 47.52.090 amended.

The highway authorities of the state, counties, incorporated cities and towns, and municipal corporations owning or operating an urban public transportation system are authorized to enter into agreements with each other, or with the federal government, respecting the financing, planning, establishment, improvement, construction, maintenance, use, regulation, or vacation of limited access facilities in their respective jurisdictions to facilitate the purposes of this chapter. Any such agreement may provide for the exclusive or nonexclusive use of a portion of such facility by street cars, trains or other vehicles forming a part of an urban public transportation system and for the erection, construction and maintenance thereon of structures and facilities of

Highways.  
Limited access  
facilities.  
Cooperative  
agreements  
for use.

Highways.  
Limited access  
facilities.  
Cooperative  
agreements  
for use.

such a system including facilities for the receipt and discharge of passengers: *Provided*, That within incorporated cities and towns the title to such limited access facility, after purchase and construction by the state alone, shall vest in the state, and the Washington state highway commission shall exercise full jurisdiction, responsibility and control to, and over, such facility: *Provided, further*, That:

(1) Cities and towns shall regulate all traffic restrictions on such facilities except as provided in RCW 46.48.041 and all regulations adopted shall be subject to approval of the state highway commission before becoming effective. Nothing herein shall preclude the state patrol, any county, or city or town from enforcing any traffic regulations and restrictions prescribed by state law, county resolution, or municipal ordinance.

(2) The city or town or franchise holder shall at its own expense maintain its underground facilities beneath the surface across the highway and shall have the right to construct such additional facilities underground or beneath the surface of the facility or necessary overcrossings of power lines and other utilities as may be necessary insofar as such facilities do not interfere with the use of the right of way for limited access highway purposes, and the city or town shall have the right to maintain any municipal utility and the right to open the surface of such highway, and the construction, maintenance until permanent repair is made, and permanent repair of such facilities shall be done in a time and manner authorized by permit to be issued by the state highway commission or its authorized representative, except to meet emergency conditions for which no permit will be required, but any damage occasioned thereby shall promptly be repaired by the city or town itself, or at its direction. Where a city or town is required to relocate overhead facilities within the

corporate limits of a city or town as a result of the construction of a limited access facility, the cost of such relocation shall be paid by the state.

(3) Cities and towns shall have the right to grant utility franchises crossing the facility underground and beneath its surface insofar as such franchises are not inconsistent with the use of the right of way for limited access facility purposes: *Provided*, That such franchises are not in conflict with state laws: *Provided further*, That the state highway commission shall be authorized to enforce, in an action brought in the name of the state, any condition of any franchise which a city or town shall have granted: *And provided further*, That no franchise for transportation of passengers in motor vehicles shall be granted on such highways without the approval of the state highway commission, except cities and towns shall not be required to obtain a franchise for the operation of municipal vehicles or vehicles operating under franchises from the city or town operating within the corporate limits of a city or town and within a radius not to exceed eight miles outside of such corporate limits for public transportation on such facilities, but such vehicles may not stop on the limited access portion of such facility to receive or to discharge passengers unless appropriate special lanes or deceleration, stopping and acceleration space is provided for such vehicles.

Every franchise or permit granted any person by a city or town for use of any portion of a limited access facility shall require the grantee or permittee to restore, permanently repair and replace to its original condition any portion of the highway damaged or injured by it. Except to meet emergency conditions, the construction and permanent repair of any limited access facility by the grantee of a franchise shall be in a time and manner authorized by

Highways.  
Limited access  
facilities.  
Cooperative  
agreements  
for use.

permit to be issued by the state highway commission, or its authorized representative.

(4) The state highway commission shall have the right to utilize all storm sewers which are adequate and available for the additional quantity of run-off proposed to be passed through such storm sewers.

(5) The construction and maintenance of city streets over and under crossings and surface intersections of the limited access facility shall be in accordance with the governing policy entered into between the state highway commission and the association of Washington cities on June 21, 1956, or as such policy may be amended by agreement between the Washington state highway commission and the association of Washington cities.

RCW 47.56.256  
amended.

Sec. 12. Section 5, chapter 257, Laws of 1961 and RCW 47.56.256 are each amended to read as follows:

Toll bridges,  
tunnels,  
ferries. Franchises on.

If the Washington state highway commission deems it not inconsistent with the use and operation of any facility of the toll bridge authority, the commission may grant franchises to persons, associations, private or municipal corporations, the United States government or any agency thereof, to use any portion of the property of any toll bridge, toll road, toll tunnel or the Washington state ferry system, including approaches thereto, for the construction and maintenance of water pipes, flume, gas pipes, telephone, telegraph and electric light and power lines and conduits, trams or railways, any structures or facilities which are part of an urban public transportation system owned or operated by a municipal corporation, agency or department of the state of Washington other than the state highway commission, and any other such facilities in the manner of granting franchises on state highways.

RCW 47.04.081  
amended.

Sec. 13. Section 63, chapter 170, Laws of 1965 extraordinary session and RCW 47.04.081 are each amended to read as follows:

The highway commission is empowered to join financially or otherwise with any public agency or any county, city or town in the state of Washington or any other state, or with the federal government or any agency thereof, or with any or all thereof for the planning, development and establishment of urban public transportation systems in conjunction with new or existing highway facilities.

State partici-  
pation in  
urban public  
transportation  
systems  
development.

Sec. 14. If any provision of this act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Severability.

Passed the Senate March 9, 1967.

Passed the House March 8, 1967.

Approved by the Governor March 21, 1967.

## OFFICE RECEPTIONIST, CLERK

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**To:** Dawn Taylor  
**Cc:** phil@tal-fitzlaw.com; george@kargianislaw.com; scrane@cranedunham.com; bryceb@atg.wa.gov; lisabelden@aol.com; Paul Lawrence; Matthew Segal; Jessica Skelton; Bill Hill  
**Subject:** RE: Freeman et al. v. State of Washington: Cause No. 87267-8: Sound Transit's Statement of Additional Authorities

Rec'd 3-5-13

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

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**Subject:** Freeman et al. v. State of Washington: Cause No. 87267-8: Sound Transit's Statement of Additional Authorities

Good afternoon.

Attached, please find Sound Transit's Statement of Additional Authorities to be filed in the above-referenced matter.

If you have any difficulties with the attachments, please do not hesitate to contact me.

Thank you.

Dawn M. Taylor  
Assistant to Paul J. Lawrence;  
Matthew J. Segal; Sarah C. Johnson;  
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