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Introduced by: PETE VON REICHBAUER
Proposed by: 94 - 332

ORDINANCE NO. **11661**

AN ORDINANCE relating to public transportation; reallocating a portion of the proceeds from the levy of the sales and use tax to transit operations; and amending Resolutions 3776, Section 4, and 4937, Section 5.3, adopted by the former council of the Municipality of Metropolitan Seattle.

PREAMBLE:

By public vote and in accordance with the provisions of chapter 36.56 RCW, the county assumed, effective January 1, 1994, the rights, powers, functions and obligations of the former Municipality of Metropolitan Seattle ("Metro"), including the operation of the metropolitan transportation function.

By Resolution 3776 adopted on October 15, 1981, the Metro Council authorized the levy of an additional retail sales and use tax which had been approved by the qualified electorate on November 4, 1980. In Section 4 of Resolution 3776, the Metro Council established the policy that amounts of such tax (in excess of amounts required for debt service payments) should be used exclusively for capital purposes. The major capital projects to be financed from such tax revenues at the time this policy was established, such as park and ride lots, operating bases and the Downtown Seattle Transit Project, have been completed.

A change in this policy would necessitate a corresponding change in Resolution 4937, which sets forth how the policy is specifically implemented. Resolution 4937, Section 9.1, permits an amendment of such resolution without the consent of bondowners if such change would not adversely affect the rights of bondowners and such change is required for the purpose of correcting an ambiguity or defective or inconsistent provision necessary or desirable to correct. The county has been advised by its bond counsel that the preconditions to such amendment have been met and that appropriate amendments to Resolutions 3776 and 4937 reallocating a portion of the proceeds from the levy of the sales and use tax for transit operations purposes would not materially and adversely affect the rights of bondowners.

In order to support the transit demands which arise from such laws as the federal Americans with Disabilities Act, and the Washington State Growth Management and Commute Trip Reduction Acts, and to encourage the use of buses and other high-occupancy vehicles in lieu of single-occupancy vehicles, it is necessary to increase transit service. These new requirements and demands make it prudent to change the policy adopted by the Metro Council in 1981 by making a portion of the sales tax revenues available for transit operations.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

1 SECTION 1. Resolution 3776, Section 4, of the former
2 Municipality of Metropolitan Seattle is amended to read as
3 follows:

4 The proceeds from the levy of an additional two-tenths of
5 one percent sales and use tax shall be used as follows:
6 seventy-five percent (75%) thereof shall be used for capital
7 purposes ((only)) and twenty-five percent (25%) thereof shall be
8 used for operations. ((Such)) The proceeds available for
9 capital purposes shall be placed in a capital account subject
10 only to annual appropriations by the Council.

11 SECTION 2. Resolution 4937, Section 5.3, of the former
12 Municipality of Metropolitan Seattle is amended to read as
13 follows:

14 Bond Fund.

15 (a) The special fund of the Municipality created by
16 Resolution 1913 and designated the "Municipality of Metropolitan
17 Seattle General Obligation Bond Fund" is hereby closed. There
18 is hereby created and established a special fund of the
19 Municipality of Metropolitan Seattle Limited Sales Tax General
20 Obligation Bond Fund (hereinafter referred to as the "Bond
21 Fund") to be held and administered by the Municipality so long
22 as any of the Bonds are Outstanding. The Bond Fund and the
23 moneys credited thereto shall, except as otherwise provided in
24 subsection (c)(iv) or (f) of this Section 5.3, be used solely
25 for the purpose of paying principal of, premium, if any, and
26 interest on the Bonds and of retiring the Bonds prior to
27 maturity in the manner provided herein. The Bond Fund shall
28 consist of three accounts: the Interest Account, Serial Bond
29 Principal Account and Term Bond Principal Account.

30 (b) As long as any Bonds remain Outstanding, the
31 Municipality hereby irrevocably obligates and binds itself to
32 set aside and pay any Assessment Income into the Bond Fund for
33 payment of the principal of, premium, if any, and interest on
34 the Bonds without allocation to any particular Series of Bonds
35 payable from the Bond Fund. Assessment Income, if any, shall be

1 deposited into the various accounts in the Bond Fund, as
2 received, according to the order of priority established by
3 subsection (c) of this Section 5.3.

4 (c) On the same business day that any Two-tenths Sales
5 Tax Revenues are transmitted to the Treasurer and deposited into
6 the Receiving Fund as required by Section 5.2(b) hereof, the
7 Treasurer shall withdraw from the Receiving Fund and (to the
8 extent not otherwise provided) deposit into the various accounts
9 in the Bond Fund amounts as follows and in the following order
10 of priority. Any Two-tenths Sales Tax Revenues remaining in the
11 Receiving Fund after the following transfers shall be
12 transferred on the same business day as follows: (x) an amount
13 equal to the twenty-five percent (25%) of the Two-tenths Sales
14 Tax Revenues to the Revenue Fund to be used for operations and
15 the payment of the Bonds; and (y) the remainder thereof to the
16 Construction Fund to be used only for capital purposes, includ-
17 ing the payment of Bonds.

18 (i) Interest Account. The Treasurer shall pay into
19 the Bond Fund for credit to the Interest Account, to the extent
20 available in the Receiving Fund, an amount that together with
21 Assessment Income and other moneys on hand and available in such
22 account is equal to all installments of interests falling due on
23 all Outstanding Bonds in the next succeeding six calendar
24 months.

25 (ii) Serial Bond Principal Account. The Treasurer
26 shall pay into the Bond Fund for credit to the Serial Bond
27 Principal Account, to the extent available in the Receiving
28 Fund, an amount that together with Assessment Income and other
29 moneys on hand and available in such account is equal to all
30 installments of principal falling due on all Outstanding Bonds
31 in the next succeeding twelve calendar months.

32 (iii) Term Bond Principal Account.

33 (A) The Treasurer shall pay into the Bond Fund for
34 credit to the Term Bond Principal Account, to the extent
35 available in the Receiving Fund, an amount that together with

1 Assessment Income and other moneys on hand and available in such
2 account is equal to the ((any)) Sinking Fund Installment falling
3 due on any Series of Outstanding Bonds in the next succeeding
4 twelve calendar months.

5 (B) The Municipality shall apply the moneys credited
6 to the Term Bond Principal Account as Sinking Fund Installments
7 to the retirement of the Term Bonds of such Series by redemption
8 in accordance with the Supplemental Resolution providing for the
9 issuance of such Series of Bonds (I) on each date upon which a
10 Sinking Fund Installment is due with respect to a particular
11 Series of Bonds, or (II) on the first day of any month prior to
12 such due date, in the respective principal amounts credited to
13 the Term Bond Principal Account on such dates for such Term
14 Bonds, so that the aggregate amounts so applied will equal the
15 respective principal amounts required to be credited to the Term
16 Bond Principal Account on such Sinking Fund Installment date by
17 such Supplemental Resolution providing for their issuance;
18 provided, however, that if the last Sinking Fund Installment for
19 such Term Bonds falls due on the stated maturity date thereof,
20 the amount of such Installment shall not be applied to the
21 redemption of such Term Bonds but shall be applied to the
22 payment thereof at such maturity date in the same manner as
23 amounts are applied from the Serial Bond Principal Account for
24 the payment of Serial Bonds at maturity. In addition, the
25 Municipality may apply the moneys credited to the Term Bond
26 Principal Account as Sinking Fund Installments for the
27 retirement of the Term Bonds of a particular Series to the
28 purchase of such Bonds, at a purchase price (including accrued
29 interest and any brokerage or other charge) not to exceed the
30 redemption price then applicable upon the redemption of such
31 Bonds from Sinking Fund Installments, plus accrued interest, in
32 which event the principal amount of such Bonds required to be
33 redeemed on the next respective Sinking Fund Installment date
34 shall be reduced by the principal amount of the Bonds so pur-
35 chased; provided, however, that no Bonds of such Series shall be

1 purchased during the interval between the date on which notice
2 of redemption of such Bonds from Sinking Fund Installments is
3 given and the date of redemption set forth in such notice,
4 unless the Bonds so purchased are Bonds called for redemption in
5 such notice or are purchased from moneys other than those
6 credited to the Term Bond Principal Account with respect to such
7 Sinking Fund Installments.

8 (C) Moneys in the Term Bond Principal Account, other
9 than moneys credited thereto as Sinking Fund Installments
10 pursuant to this Resolution, may be applied to the purchase or
11 redemption of a Series of Bonds. The price payable on any such
12 purchase shall not exceed the highest redemption price
13 applicable at the time or any time thereafter with respect to
14 such Series of Bonds.

15 (D) In the event of the purchase or redemption of
16 Term Bonds of a particular Series pursuant to this section
17 (c)(iii) or otherwise, except from moneys credited to the Term
18 Bond Principal Account as Sinking Fund Installments, the
19 principal amount of Term Bonds of such Series so purchased or
20 redeemed shall be credited to future Sinking Fund Installments
21 with respect to Term Bonds of such Series in such manner as the
22 Municipality shall determine.

23 (E) Any purchase of Bonds pursuant to this
24 subsection (c)(iii) may be made with or without tenders of Bonds
25 and at either public or private sale, as shall be determined by
26 the Municipality. All Bonds purchased, redeemed or retired
27 pursuant to this subsection (c)(iii) shall be cancelled and
28 shall not be issued. The accrued interest to be paid on the
29 purchase or redemption of such Bonds shall be paid from the
30 Interest Account.

31 (d) Moneys on deposit in the Bond Fund shall be
32 transmitted to the Paying Agents at such times and in such
33 amounts as shall be necessary prior to the date upon which any
34 installment of interest or principal is due on the Bonds to pay
35 the principal of, premium, if any, and interest on the Bonds

1 when due (either at the maturity date thereof or redemption date
2 prior to maturity).

3 (e) Moneys set aside from time to time with the Paying
4 Agents for the purpose of paying the principal, premium, if any,
5 and interest on the Bonds shall be held in trust for the Owners
6 of the Bonds in respect of which the same shall have been so set
7 aside. Until so set aside, all moneys in the Bond Fund shall be
8 held in trust for the benefit of the Owners of all Bonds at the
9 time Outstanding, equally and ratably.

10 (f) Notwithstanding any provision of this Resolution
11 requiring the deposit of any earnings or other money in the Bond
12 Fund, any such earnings that are subject to any rebate or other
13 payment requirement pursuant to applicable provisions of the
14 Code and applicable regulations thereunder may be withdrawn from
15 the Bond Fund for deposit into a separate fund or account
16 created for that purpose. Any amounts required at any time to
17 be withdrawn from the Bond Fund in order to preserve the tax-
18 exempt status of the Bonds shall be withdrawn and deposited in
19 the Revenue Fund.

20 SECTION 3. All terms and conditions of Resolution 3376 and
21 Resolution 4937 of the former Municipality of Metropolitan
22 Seattle which are not amended by this ordinance are hereby
23 ratified and confirmed.

