

FILED
Court of Appeals
Division II
State of Washington
2/19/2019 4:56 PM
NO. 52664-6-II

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

TAYLOR BLACK, ANNE BLACK, JERRY KING, RENE KING,
ROGER STRUTHERS, MARY LOUISE STRUTHERS, and FRANK
MAIETTO, individually and on behalf of a class of all persons similarly
situated,

Appellants,

v.

CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, and
STATE OF WASHINGTON

Respondents.

BRIEF OF RESPONDENT STATE OF WASHINGTON

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I. INTRODUCTION

Respondent State of Washington (State) joins Central Puget Sound Transit Authority's (Sound Transit) arguments that enactment of RCW 81.104.160(1)¹ did not violate Article II, section 37 of the Washington State Constitution.

II. STATEMENT OF FACTS

The State of Washington Department of Licensing (Department) collects the Motor Vehicle Excise Tax (MVET) imposed on non-exempt vehicles registered within the Puget Sound Transit district. The Department collects the MVET pursuant to its contract with Sound Transit. Clerk's Papers (CP) 315-375; RCW 81.104.190. Up until March 2017, the Department collected 0.3% MVET and remitted that revenue monthly to Sound Transit. Since on or about March 1, 2017, the Department has collected an additional 0.8% MVET and remits the total 1.1% MVET revenue monthly to Sound Transit. In determining the amount of MVET to collect upon a vehicle's initial or annual renewal registration, the vehicle's value² is multiplied by the depreciation percentage which varies by the age and type of vehicle. RCW 81.104.160(1), (3); Former RCW 82.44.041, *repealed* by Laws of 2003, ch. 1, § 5. As directed by RCW 81.104.160(1),

¹ Section 319(1) of ESSB 5987, Laws of 2015, 3d Spec. Sess., ch. 44, § 319(1).

² The vehicle's value is the manufacturers' retail price (MSRP), purchase price, or an equivalent value determined by the Department using "any information that may be available, including any guidebook, report, or compendium...or the selling price and year of sale of the vehicle." Former RCW 82.44.041, *repealed* by Laws of 2003, ch. 1, § 5.

the Department currently uses the depreciation schedule that existed on January 1, 1996, which is located in former RCW 82.44.041, to calculate the 1.1% MVET for all non-exempt vehicles with Sound Transit's district.

III. ARGUMENT

The State adopts the three primary arguments presented by Sound Transit that RCW 81.104.160(1) does not violate Article II, section 37 of the Washington State Constitution. First, RCW 81.104.160(1) is a complete act that fully sets forth all elements necessary to determine Sound Transit's MVET authority thus satisfying the first prong of the Article II, section 37 test. Second, the use of "notwithstanding" demonstrates that the legislature was aware of RCW 81.104.160's impact on existing laws and that the second prong of the Article II, section 37 test is satisfied. And third, RCW 81.104.160(1)'s reference to the 1996 valuation schedule does not render RCW 81.104.160(1) unconstitutional under Article II, section 37.

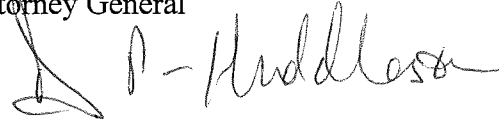
IV. CONCLUSION

RCW 81.104.160(1) as enacted explains how the MVET will be calculated using the 1996 version of 82.44 RCW until such time as Sound Transit's bond debt is paid and how it will be calculated thereafter. Consequently, all information needed to impose and implement the MVET can be determined by reading RCW 81.104.160(1). The statute is a complete act, and does not render a straightforward determination of the scope of rights or duties under current statutes erroneous.

The superior court's order granting summary judgment in favor of Sound Transit should be affirmed.

RESPECTFULLY SUBMITTED this 19th day of February, 2019.

ROBERT W. FERGUSON
Attorney General

A handwritten signature in black ink, appearing to read "Dionne Padilla-Huddleston". The signature is written in a cursive style with a large initial "D".

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PROOF OF SERVICE

I, Jennifer Bancroft, hereby state and declare as follows:

1. That I am a citizen of the United States of America, a resident of the State of Washington, over the age of eighteen (18) years, and not a party to the above-entitled action.

2. That on the 19th day of February 2019, I caused to be served a true and correct copy of **Brief of Respondent State of Washington**, as follows:

Email as per the stipulation for electronic service

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 19th day of February 2019, in Seattle, Washington.



JENNIFER BANCROFT, Legal Assistant

AGO/LICENSING AND ADMINISTRATIVE LAW DIV

February 19, 2019 - 4:56 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 52664-6
Appellate Court Case Title: Taylor Black et al, Appellants v. Central Puget Sound Regional Transit Authority, Respondent
Superior Court Case Number: 18-2-08733-9

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