

**RCW 47.64.090 Other party operating ferry by rent, lease, or charter—Passenger-only ferry service.** (1) Except as provided in RCW 47.60.656 and subsections (2) and (4) of this section, or as provided in RCW 36.54.130 and subsection (3) of this section, if any party assumes the operation and maintenance of any ferry or ferry system by rent, lease, or charter from the department of transportation, such party shall assume and be bound by all the provisions herein and any agreement or contract for such operation of any ferry or ferry system entered into by the department shall provide that the wages to be paid, hours of employment, working conditions, and seniority rights of employees will be established by the commission in accordance with the terms and provisions of this chapter and it shall further provide that all labor disputes shall be adjudicated in accordance with chapter 47.64 RCW.

(2) If a public transportation benefit area meeting the requirements of RCW 36.57A.200 has voter approval to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase passenger-only vessels, related equipment, or terminal space for purposes of loading and unloading the passenger-only ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A benefit area or subcontractor of that benefit area that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer. A determination through a cross-check process may be made upon a showing of interest submitted in support of the exclusive bargaining representative by more than fifty percent of the employees.

(3) If a ferry district is formed under RCW 36.54.110 to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase vessels, related equipment, or terminal space for purposes of loading and unloading the ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A ferry district or subcontractor of that district that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining

representatives of its or its subcontractors' employees under chapter 41.56 RCW or the national labor relations act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(4) The department of transportation shall make its terminal, dock, and pier space available to private operators of passenger-only ferries if the space can be made available without limiting the operation of car ferries operated by the department. These private operators are not bound by the provisions of subsection (1) of this section. Charges for the equipment and space must be fair market value taking into account the public benefit derived from the passenger-only ferry service. [2019 c 230 s 19; 2011 1st sp.s. c 16 s 25. Prior: 2003 c 373 s 3; 2003 c 91 s 1; 2003 c 83 s 205; 1983 c 15 s 27; 1961 c 13 s 47.64.090; prior: 1949 c 148 s 8; Rem. Supp. 1949 s 6524-29.]

**Effective date—2011 1st sp.s. c 16 ss 16-25:** See note following RCW 41.58.060.

**Transfer of powers, duties, and functions—2011 1st sp.s. c 16:** See note following RCW 41.58.060.

**Findings—Intent—2003 c 373:** "The legislature finds that the Washington state department of transportation should focus on its core ferry mission of moving automobiles on Washington state's marine highways. The legislature finds that current statutes impose barriers to entities other than the state operating passenger-only ferries. The legislature intends to lift those barriers to allow entities other than the state to provide passenger-only ferry service. The legislature finds that the provision of this service and the improvement in the mobility of the citizens of Washington state is legally adequate consideration for the use of state facilities in conjunction with the provision of the service, and the legislature finds that allowing the operators of passenger-only ferries to use state facilities on the basis of legally adequate consideration does not evince donative intent on the part of the legislature." [2003 c 373 s 1.]

**Contingent effective date—2003 c 91:** "Sections 1 and 2 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [April 23, 2003], but only if Engrossed Substitute House Bill No. 1853 has become law. If Engrossed Substitute House Bill No. 1853 has not become law by June 30, 2003, sections 1 and 2 of this act are null and void." [2003 c 91

s 4.] Engrossed Substitute House Bill No. 1853 became law as 2003 c 83, effective April 23, 2003.

**Findings—Intent—Captions, part headings not law—Severability—Effective date—2003 c 83:** See notes following RCW 36.57A.200.