
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5862

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Rockefeller, Poulsen, Kohl-Welles and Kline)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to passenger-only ferry service; amending RCW
2 36.57A.220, 47.01.350, 47.60.662, 36.54.110, 47.60.658, 82.08.0255, and
3 82.12.0256; amending 2006 c 332 s 2 (uncodified); reenacting and
4 amending RCW 47.60.120; providing an effective date; and declaring an
5 emergency.

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

7 **Sec. 1.** RCW 36.57A.220 and 2006 c 332 s 8 are each amended to read
8 as follows:

9 A public transportation benefit area seeking grant funding as
10 described in RCW 47.01.350 for a passenger-only ferry route between
11 Kingston and Seattle shall first receive approval from the governor
12 after submitting a complete business plan to the governor and the
13 legislature by November 1, ((2006)) 2007. The business plan must, at
14 a minimum, include hours of operation, vessel needs, labor needs,
15 proposed routes, passenger terminal facilities, passenger rates,
16 anticipated federal and local funding, coordination with the Washington
17 state ferry system, coordination with existing transit providers, long-
18 term operation and maintenance needs, and a long-term financial plan.

1 **Sec. 2.** RCW 47.01.350 and 2006 c 332 s 4 are each amended to read
2 as follows:

3 (1) The department of transportation shall establish a ferry grant
4 program subject to availability of amounts appropriated for this
5 specific purpose. The purpose of the grant program is to provide
6 operating or capital grants for ferry systems as provided in chapters
7 36.54 and 36.57A RCW to operate passenger-only ferry service.

8 (2) In providing grants under this section, the department may
9 enter into multiple year contracts with the stipulation that future
10 year allocations are subject to the availability of funding as provided
11 by legislative appropriation.

12 (~~(3) Priority shall be given to grant applications that provide
13 continuity of existing passenger-only service and the provision of
14 local or federal matching funds.~~)

15 **Sec. 3.** RCW 47.60.662 and 2006 c 332 s 5 are each amended to read
16 as follows:

17 The Washington state ferry system shall collaborate with new and
18 potential passenger-only ferry service providers, as described in (~~RCW
19 36.54.110(5)~~) chapters 36.54 and 36.57A RCW, for terminal operations
20 at its existing terminal facilities.

21 **Sec. 4.** 2006 c 332 s 2 (uncodified) is amended to read as follows:

22 (~~By October 31, 2006, the department of transportation shall have
23 an independent appraisal of the market value of the Washington state
24 ferries Snohomish and Chinook and present it to the transportation
25 committees of the legislature and the governor by November 1, 2006.~~)
26 The department of transportation shall (~~sell or otherwise dispose of~~)
27 make available for sale the Washington state ferries Snohomish and
28 Chinook (~~for~~) at market value (~~and deposit the proceeds of the sales
29 into the passenger ferry account created in RCW 47.60.645 as soon as
30 practicable upon approval by the governor of the business plan
31 described in RCW 36.54.110(5)~~) by June 1, 2007. Proceeds from the
32 sale must be deposited into the passenger ferry account created in RCW
33 47.60.645.

34 **Sec. 5.** RCW 36.54.110 and 2006 c 332 s 7 are each amended to read
35 as follows:

1 (1) The legislative authority of a county may adopt an ordinance
2 creating a ferry district in all or a portion of the area of the
3 county, including the area within the corporate limits of any city or
4 town within the county. The ordinance may be adopted only after a
5 public hearing has been held on the creation of a ferry district, and
6 the county legislative authority makes a finding that it is in the
7 public interest to create the district.

8 (2) A ferry district is a municipal corporation, an independent
9 taxing "authority" within the meaning of Article VII, section 1 of the
10 state Constitution, and a "taxing district" within the meaning of
11 Article VII, section 2 of the state Constitution.

12 (3) A ferry district is a body corporate and possesses all the
13 usual powers of a corporation for public purposes as well as all other
14 powers that may now or hereafter be specifically conferred by statute,
15 including, but not limited to, the authority to hire employees, staff,
16 and services, to enter into contracts, and to sue and be sued.

17 (4) The members of the county legislative authority, acting ex
18 officio and independently, shall compose the governing body of any
19 ferry district that is created within the county. The voters of a
20 ferry district must be registered voters residing within the boundaries
21 of the district.

22 (5) A county with a population greater than one million persons and
23 having a boundary on Puget Sound, or a county to the west of Puget
24 Sound with a population greater than two hundred thirty thousand but
25 less than three hundred thousand persons, proposing to create a ferry
26 district to assume a passenger-only ferry route between Vashon and
27 Seattle, including an expansion of that route to include Southworth,
28 shall first receive approval from the governor after submitting a
29 complete business plan to the governor and the legislature by November
30 1, ~~((2006))~~ 2007. The business plan must, at a minimum, include hours
31 of operation, vessel needs, labor needs, proposed routes, passenger
32 terminal facilities, passenger rates, anticipated federal and local
33 funding, coordination with Washington state ferry system, coordination
34 with existing transit providers, long-term operation and maintenance
35 needs, and long-term financial plan. The business plan must not
36 include contracting for operations with state employees or agencies.
37 The business plan may include provisions regarding coordination with an
38 appropriate county to participate in a joint ferry under RCW 36.54.030

1 through 36.54.070. In order to be considered for assuming the route,
2 the ferry district shall ensure that the route will be operated only by
3 the ferry district and not contracted out to a private entity, all
4 existing labor agreements will be honored, and operations will begin no
5 later than July 1, ~~((2007))~~ 2008. If the route is to be expanded to
6 include serving Southworth, the ferry district shall enter into an
7 interlocal agreement with the public transportation benefit area
8 serving the Southworth ferry terminal within thirty days of beginning
9 Southworth ferry service. For the purposes of this subsection, Puget
10 Sound is considered as extending north to Admiralty Inlet.

11 **Sec. 6.** RCW 47.60.120 and 2003 c 373 s 2 and 2003 c 83 s 204 are
12 each reenacted and amended to read as follows:

13 ~~((1))~~ If the department acquires or constructs, maintains, and
14 operates any ferry crossings upon ~~((or toll bridges over))~~ Puget Sound
15 or any of its tributary or connecting waters, there shall not be
16 constructed, operated, or maintained any other ferry crossing upon ~~((or~~
17 ~~bridge over))~~ any such waters ~~((within ten miles of any such crossing~~
18 ~~or bridge operated or maintained))~~ in a manner that would interfere
19 with the safe operation of ferries by the department ~~((excepting~~
20 ~~such)),~~ except for bridges or ferry crossings in existence~~((7))~~ and
21 being operated and maintained ~~((under a))~~ lawfully ~~((issued franchise))~~
22 at the time of the location of the ferry crossing ~~((or construction of~~
23 ~~the toll bridge))~~ by the department.

24 ~~((2) The ten-mile distance in subsection (1) of this section means~~
25 ~~ten statute miles measured by airline distance. The ten-mile~~
26 ~~restriction shall be applied by comparing the two end points (termini)~~
27 ~~of a state ferry crossing to those of a private ferry crossing.~~

28 ~~(3) The Washington utilities and transportation commission may,~~
29 ~~upon written petition of a commercial ferry operator certificated or~~
30 ~~applying for certification under chapter 81.84 RCW, and upon notice and~~
31 ~~hearing, grant a waiver from the ten-mile restriction. The waiver must~~
32 ~~not be detrimental to the public interest. In making a decision to~~
33 ~~waive the ten-mile restriction, the commission shall consider, but is~~
34 ~~not limited to, the impact of the waiver on transportation congestion~~
35 ~~mitigation, air quality improvement, and the overall impact on the~~
36 ~~Washington state ferry system. The commission shall act upon a request~~
37 ~~for a waiver within ninety days after the conclusion of the hearing.~~

1 ~~A waiver is effective for a period of five years from the date of~~
2 ~~issuance. At the end of five years the waiver becomes permanent unless~~
3 ~~appealed within thirty days by the commission on its own motion, the~~
4 ~~department, or an interested party.~~

5 ~~(4) The department shall not maintain and operate any ferry~~
6 ~~crossing or toll bridge over Puget Sound or any of its tributary or~~
7 ~~connecting waters that would infringe upon any franchise lawfully~~
8 ~~issued by the state and in existence and being exercised at the time of~~
9 ~~the location of the ferry crossing or toll bridge by the department,~~
10 ~~without first acquiring the rights granted to such franchise holder~~
11 ~~under the franchise.~~

12 ~~(5) This section does not apply to the operation of passenger-only~~
13 ~~ferry service by public transportation benefit areas meeting the~~
14 ~~requirements of RCW 36.57A.200 or to the operation of passenger-only~~
15 ~~ferry service by ferry districts.)~~

16 **Sec. 7.** RCW 47.60.658 and 2006 c 332 s 3 are each amended to read
17 as follows:

18 The department shall maintain the level of service existing on
19 January 1, 2006, for the Vashon to Seattle passenger-only ferry route
20 until such time as the ~~((legislature approves a county ferry district's~~
21 ~~assumption of the route, as authorized under RCW 36.54.110(5))~~ route
22 is assumed by another entity, providing a level of service at or
23 exceeding the state level.

24 **Sec. 8.** RCW 82.08.0255 and 2005 c 443 s 5 are each amended to read
25 as follows:

26 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
27 motor vehicle and special fuel if:

28 (a) The fuel is purchased for the purpose of public transportation
29 and the purchaser is entitled to a refund or an exemption under RCW
30 82.36.275 or 82.38.080(3); or

31 (b) The fuel is purchased by a private, nonprofit transportation
32 provider certified under chapter 81.66 RCW and the purchaser is
33 entitled to a refund or an exemption under RCW 82.36.285 or
34 82.38.080(1)(h); or

35 (c) The fuel is purchased by a public transportation benefit area

1 created under chapter 36.57A RCW or a county-owned ferry or county
2 ferry district created under chapter 36.54 RCW for use in passenger-
3 only ferry vessels; or

4 (d) The fuel is taxable under chapter 82.36 or 82.38 RCW.

5 (2) Any person who has paid the tax imposed by RCW 82.08.020 on the
6 sale of special fuel delivered in this state shall be entitled to a
7 credit or refund of such tax with respect to fuel subsequently
8 established to have been actually transported and used outside this
9 state by persons engaged in interstate commerce. The tax shall be
10 claimed as a credit or refunded through the tax reports required under
11 RCW 82.38.150.

12 **Sec. 9.** RCW 82.12.0256 and 2005 c 443 s 6 are each amended to read
13 as follows:

14 The provisions of this chapter shall not apply in respect to the
15 use of:

16 (1) Special fuel purchased in this state upon which a refund is
17 obtained as provided in RCW 82.38.180(2); and

18 (2) Motor vehicle and special fuel if:

19 (a) The fuel is used for the purpose of public transportation and
20 the purchaser is entitled to a refund or an exemption under RCW
21 82.36.275 or 82.38.080(3); or

22 (b) The fuel is purchased by a private, nonprofit transportation
23 provider certified under chapter 81.66 RCW and the purchaser is
24 entitled to a refund or an exemption under RCW 82.36.285 or
25 82.38.080(1)(h); or

26 (c) The fuel is purchased by a public transportation benefit area
27 created under chapter 36.57A RCW or a county-owned ferry or county
28 ferry district created under chapter 36.54 RCW for use in passenger-
29 only ferry vessels; or

30 (d) The fuel is taxable under chapter 82.36 or 82.38 RCW:
31 PROVIDED, That the use of motor vehicle and special fuel upon which a
32 refund of the applicable fuel tax is obtained shall not be exempt under
33 this subsection (2)((+e)) (d), and the director of licensing shall
34 deduct from the amount of such tax to be refunded the amount of tax due
35 under this chapter and remit the same each month to the department of
36 revenue.

1 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately, except for section 6 of this act which takes effect July
5 1, 2008.

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