

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1853**

Chapter 83, Laws of 2003

58th Legislature  
2003 Regular Session

FERRY SERVICE

EFFECTIVE DATE: 4/23/03

Passed by the House March 31, 2003  
Yeas 96 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate April 15, 2003  
Yeas 46 Nays 0

BRAD OWEN

**President of the Senate**

Approved April 23, 2003.

GARY F. LOCKE

**Governor of the State of Washington**

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1853** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

**Chief Clerk**

FILED

April 23, 2003 - 4:37 p.m.

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE HOUSE BILL 1853

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Passed Legislature - 2003 Regular Session

**State of Washington                      58th Legislature                      2003 Regular Session**

**By** House Committee on Transportation (originally sponsored by Representatives Rockefeller, Woods, Haigh, Morris, Quall and Lantz)

READ FIRST TIME 03/15/03.

1            AN ACT Relating to improvement of passenger ferry service; amending  
2 RCW 47.60.120, 47.64.090, 82.14.050, 36.57A.010, 36.57A.100, 81.84.010,  
3 81.84.020, 81.84.060, and 84.52.043; reenacting and amending RCW  
4 84.52.010 and 84.52.052; adding new sections to chapter 36.57A RCW;  
5 adding a new section to chapter 47.52 RCW; adding a new section to  
6 chapter 82.80 RCW; adding a new section to chapter 82.14 RCW; adding  
7 new sections to chapter 36.54 RCW; creating new sections; and declaring  
8 an emergency.

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

10                                      **PART I**  
11                                      **GENERAL**

12            NEW SECTION.    **Sec. 101.** INTENT.    The legislature finds that  
13 passenger-only ferry service is a key element to the state's  
14 transportation system and that it is in the interest of the state to  
15 ensure provision of such services.    The legislature further finds that  
16 diminished state transportation resources require that regional and  
17 local authorities be authorized to develop, operate, and fund needed  
18 services.

1 The legislature recognizes that if the state eliminates passenger-  
2 only ferry service on one or more routes, it should provide an  
3 opportunity for locally sponsored service and the department of  
4 transportation should assist in this effort.

5 It is the intent of the legislature to encourage interlocal  
6 agreements to ensure passenger-only ferry service is reinstated on  
7 routes that the Washington state ferry system eliminates.

8 **PART II**

9 **PTBA PASSENGER-ONLY FERRY SERVICE**

10 NEW SECTION. **Sec. 201.** A new section is added to chapter 36.57A  
11 RCW to read as follows:

12 PTBA AUTHORIZATION FOR PASSENGER-ONLY FERRY SERVICE. A public  
13 transportation benefit area having a boundary located on Puget Sound  
14 may provide passenger-only ferry service. For the purposes of this  
15 chapter and sections 206 and 207 of this act, Puget Sound is considered  
16 as extending north as far as the Canadian border and west as far as  
17 Port Angeles. Before a benefit area may provide passenger-only ferry  
18 service, it must develop a passenger-only ferry investment plan  
19 including elements to operate or contract for the operation of  
20 passenger-only ferry services, purchase, lease, or rental of ferry  
21 vessels and dock facilities for the provision of transit service, and  
22 identify other activities necessary to implement the plan. The plan  
23 must set forth terminal locations to be served, projected costs of  
24 providing services, and revenues to be generated from tolls, locally  
25 collected tax revenues, and other revenue sources. The plan must  
26 ensure that services provided under the plan are for the benefit of the  
27 residents of the benefit area. The benefit area may use any of its  
28 powers to carry out this purpose, unless otherwise prohibited by law.  
29 In addition, the public transportation benefit area may enter into  
30 contracts and agreements to operate passenger-only ferry service and  
31 public-private partnerships and design-build, general  
32 contractor/construction management, or other alternative procurement  
33 process substantially consistent with chapter 39.10 RCW.

34 NEW SECTION. **Sec. 202.** A new section is added to chapter 36.57A  
35 RCW to read as follows:

1 TAXES, FEES, AND TOLLS. (1) A public transportation benefit area  
2 may, as part of a passenger-only ferry investment plan, recommend some  
3 or all of the following revenue sources as provided in this chapter:

4 (a) A motor vehicle excise tax, as provided in section 206 of this  
5 act;

6 (b) A sales and use tax, as provided in section 207 of this act;

7 (c) Tolls for passengers and packages and, where applicable,  
8 parking; and

9 (d) Charges or licensing fees for advertising, leasing space for  
10 services to ferry passengers, and other revenue-generating activities.

11 (2) Taxes may not be imposed without an affirmative vote of the  
12 majority of the voters within the boundaries of the area voting on a  
13 single ballot proposition to both approve a passenger-only ferry  
14 investment plan and to approve taxes to implement the plan. Revenues  
15 from these taxes and fees may be used only to implement the plan and  
16 must be used for the benefit of the residents of the benefit area. A  
17 district may contract with the state department of revenue or other  
18 appropriate entities for administration and collection of any of the  
19 taxes or charges authorized in this section.

20 NEW SECTION. **Sec. 203.** A new section is added to chapter 47.52  
21 RCW to read as follows:

22 CONVEYANCE OF FERRY VESSELS. The department of transportation may  
23 enter into contracts with public transportation benefit areas meeting  
24 the requirements of section 201 of this act or county ferry districts  
25 to convey passenger-only ferry vessels and other properties associated  
26 with passenger-only ferry service that serve to provide passenger-only  
27 ferry service, as full or part consideration for the benefit area or  
28 ferry district assuming all future maintenance and operation  
29 obligations and costs required to maintain and operate the vessel and  
30 facilities. The conveyances must provide that the vessels or  
31 properties revert to the department if the vessels are not used for  
32 providing passenger-only ferry service.

33 **Sec. 204.** RCW 47.60.120 and 1993 c 427 s 1 are each amended to  
34 read as follows:

35 TEN-MILE RULE EXEMPTION. (1) If the department acquires or  
36 constructs, maintains, and operates any ferry crossings upon or toll

1 bridges over Puget Sound or any of its tributary or connecting waters,  
2 there shall not be constructed, operated, or maintained any other ferry  
3 crossing upon or bridge over any such waters within ten miles of any  
4 such crossing or bridge operated or maintained by the department  
5 excepting such bridges or ferry crossings in existence, and being  
6 operated and maintained under a lawfully issued franchise at the time  
7 of the location of the ferry crossing or construction of the toll  
8 bridge by the department.

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

13 (3) The Washington utilities and transportation commission may,  
14 upon written petition of a commercial ferry operator certificated or  
15 applying for certification under chapter 81.84 RCW, and upon notice and  
16 hearing, grant a waiver from the ten-mile restriction. The waiver must  
17 not be detrimental to the public interest. In making a decision to  
18 waive the ten-mile restriction, the commission shall consider, but is  
19 not limited to, the impact of the waiver on transportation congestion  
20 mitigation, air quality improvement, and the overall impact on the  
21 Washington state ferry system. The commission shall act upon a request  
22 for a waiver within ninety days after the conclusion of the hearing.  
23 A waiver is effective for a period of five years from the date of  
24 issuance. At the end of five years the waiver becomes permanent unless  
25 appealed within thirty days by the commission on its own motion, the  
26 department, or an interested party.

27 (4) The department shall not maintain and operate any ferry  
28 crossing or toll bridge over Puget Sound or any of its tributary or  
29 connecting waters that would infringe upon any franchise lawfully  
30 issued by the state and in existence and being exercised at the time of  
31 the location of the ferry crossing or toll bridge by the department,  
32 without first acquiring the rights granted to such franchise holder  
33 under the franchise.

34 (5) This section does not apply to the operation of passenger-only  
35 ferry service by public transportation benefit areas meeting the  
36 requirements of section 201 of this act or to the operation of  
37 passenger-only ferry service by ferry districts.

1       **Sec. 205.** RCW 47.64.090 and 1983 c 15 s 27 are each amended to  
2 read as follows:

3       USE OF STATE FERRY FACILITIES. (1) Except as provided in section  
4 203 of this act and subsection (2) of this section, or as provided in  
5 section 303 of this act and subsection (3) of this section, if any  
6 party assumes the operation and maintenance of any ferry or ferry  
7 system by rent, lease, or charter from the department of  
8 transportation, such party shall assume and be bound by all the  
9 provisions herein and any agreement or contract for such operation of  
10 any ferry or ferry system entered into by the department shall provide  
11 that the wages to be paid, hours of employment, working conditions, and  
12 seniority rights of employees will be established by the marine  
13 employees' commission in accordance with the terms and provisions of  
14 this chapter and it shall further provide that all labor disputes shall  
15 be adjudicated in accordance with chapter 47.64 RCW.

16       (2) If a public transportation benefit area meeting the  
17 requirements of section 201 of this act has voter approval to operate  
18 passenger-only ferry service, it may enter into an agreement with  
19 Washington State Ferries to rent, lease, or purchase passenger-only  
20 vessels, related equipment, or terminal space for purposes of loading  
21 and unloading the passenger-only ferry. A benefit area or  
22 subcontractor of that benefit area that qualifies under this subsection  
23 is not subject to the restrictions of subsection (1) of this section,  
24 but is subject to the terms of those collective bargaining agreements  
25 that it or its subcontractors negotiate with the exclusive bargaining  
26 representatives of its or its subcontractors employees under chapter  
27 41.56 RCW or the National Labor Relations Act, as applicable.

28       (3) If a ferry district is formed under section 301 of this act to  
29 operate passenger-only ferry service, it may enter into an agreement  
30 with Washington State Ferries to rent, lease, or purchase vessels,  
31 related equipment, or terminal space for purposes of loading and  
32 unloading the ferry. Charges for the vessels, equipment, and space  
33 must be fair market value taking into account the public benefit  
34 derived from the ferry service. A ferry district or subcontractor of  
35 that district that qualifies under this subsection is not subject to  
36 the restrictions of subsection (1) of this section, but is:

37       (a) Subject to the terms of those collective bargaining agreements

1 that it or its subcontractors negotiate with the exclusive bargaining  
2 representatives of its or its subcontractors employees under chapter  
3 41.56 RCW or the National Labor Relations Act, as applicable;

4 (b) Subject to a requirement, to be included by the ferry district  
5 in any contract with the district's subcontractor, to give preferential  
6 hiring to former employees of the department of transportation who  
7 separated from employment with the department because of termination of  
8 the ferry service by the state of Washington; and

9 (c) Subject to a requirement, to be included by the ferry district  
10 in any contract with the district's subcontractor, that any questions  
11 concerning representation of employees for collective bargaining  
12 purposes may be determined by conducting a cross-check comparing an  
13 employee organization's membership records or bargaining authorization  
14 cards against the employment records of the employer.

15 NEW SECTION. Sec. 206. A new section is added to chapter 82.80  
16 RCW to read as follows:

17 MOTOR VEHICLE EXCISE TAX AUTHORIZED. (1) Public transportation  
18 benefit areas authorized to implement passenger-only ferry service  
19 under section 201 of this act whose boundaries (a) are on the Puget  
20 Sound, but (b) do not include an area where a regional transit  
21 authority has been formed, may submit an authorizing proposition to the  
22 voters and, if approved, may levy and collect an excise tax, at a rate  
23 approved by the voters, but not exceeding four-tenths of one percent on  
24 the value of every motor vehicle owned by a resident of the taxing  
25 district, solely for the purpose of providing passenger-only ferry  
26 service. The tax must be collected only at the time of vehicle license  
27 renewal under chapter 46.16 RCW. The tax will be imposed on vehicles  
28 previously registered in another state or nation when they are  
29 initially registered in this state. The tax will not be imposed at the  
30 time of sale by a licensed vehicle dealer. In a county imposing a  
31 motor vehicle excise tax surcharge under RCW 81.100.060, the maximum  
32 tax rate under this section must be reduced to a rate equal to four-  
33 tenths of one percent on the value less the equivalent motor vehicle  
34 excise tax rate of the surcharge imposed under RCW 81.100.060. This  
35 rate does not apply to vehicles licensed under RCW 46.16.070 with an  
36 unladen weight more than six thousand pounds, or to vehicles licensed  
37 under RCW 46.16.079, 46.16.085, or 46.16.090.

1 (2) The department of licensing shall administer and collect the  
2 tax. The department shall deduct a percentage amount, as provided by  
3 contract, not to exceed two percent of the taxes collected, for  
4 administration and collection expenses incurred by it. The remaining  
5 proceeds must be remitted to the custody of the state treasurer for  
6 monthly distribution to the public transportation benefit area.

7 (3) The public transportation benefit area imposing this tax shall  
8 delay the effective date at least six months from the date the fee is  
9 approved by the qualified voters of the authority area to allow the  
10 department of licensing to implement administration and collection of  
11 the tax.

12 (4) Before an authority may impose a tax authorized under this  
13 section, the authorization for imposition of the tax must be approved  
14 by a majority of the qualified electors of the authority area voting on  
15 that issue.

16 NEW SECTION. **Sec. 207.** A new section is added to chapter 82.14  
17 RCW to read as follows:

18 SALES AND USE TAX AUTHORIZATION. Public transportation benefit  
19 areas providing passenger-only ferry service as provided in section 201  
20 of this act whose boundaries (1) are on the Puget Sound, but (2) do not  
21 include an area where a regional transit authority has been formed, may  
22 submit an authorizing proposition to the voters and, if approved by a  
23 majority of persons voting, fix and impose a sales and use tax in  
24 accordance with the terms of this chapter, solely for the purpose of  
25 providing passenger-only ferry service.

26 The tax authorized by this section is in addition to other taxes  
27 authorized by law and must be collected from those persons who are  
28 taxable by the state under chapters 82.08 and 82.12 RCW upon the  
29 occurrence of a taxable event within the taxing district. The maximum  
30 rate of the tax must be approved by the voters and may not exceed four-  
31 tenths of one percent of the selling price in the case of a sales tax  
32 or value of the article used in the case of a use tax.

33 **Sec. 208.** RCW 82.14.050 and 2002 c 56 s 406 are each amended to  
34 read as follows:

35 ADMINISTRATION AND COLLECTION--LOCAL SALES AND USE TAX ACCOUNT.  
36 The counties, cities, and transportation authorities under RCW



1 82.14.045, public facilities districts under chapters 36.100 and 35.57  
2 RCW, public transportation benefit areas under section 207 of this act,  
3 and regional transportation investment districts shall contract, prior  
4 to the effective date of a resolution or ordinance imposing a sales and  
5 use tax, the administration and collection to the state department of  
6 revenue, which shall deduct a percentage amount, as provided by  
7 contract, not to exceed two percent of the taxes collected for  
8 administration and collection expenses incurred by the department. The  
9 remainder of any portion of any tax authorized by this chapter that is  
10 collected by the department of revenue shall be deposited by the state  
11 department of revenue in the local sales and use tax account hereby  
12 created in the state treasury. Moneys in the local sales and use tax  
13 account may be spent only for distribution to counties, cities,  
14 transportation authorities, public facilities districts, public  
15 transportation benefit areas, and regional transportation investment  
16 districts imposing a sales and use tax. All administrative provisions  
17 in chapters 82.03, 82.08, 82.12, and 82.32 RCW, as they now exist or  
18 may hereafter be amended, shall, insofar as they are applicable to  
19 state sales and use taxes, be applicable to taxes imposed pursuant to  
20 this chapter. Except as provided in RCW 43.08.190, all earnings of  
21 investments of balances in the local sales and use tax account shall be  
22 credited to the local sales and use tax account and distributed to the  
23 counties, cities, transportation authorities, public facilities  
24 districts, public transportation benefit areas, and regional  
25 transportation investment districts monthly.

26 **Sec. 209.** RCW 36.57A.010 and 1983 c 65 s 1 are each amended to  
27 read as follows:

28 The definitions set forth in this section apply throughout this  
29 chapter unless the context clearly requires otherwise.

30 (1) "Public transportation benefit area" means a municipal  
31 corporation of the state of Washington created pursuant to this  
32 chapter.

33 (2) "Public transportation benefit area authority" or "authority"  
34 means the legislative body of a public transportation benefit area.

35 (3) "City" means an incorporated city or town.

36 (4) "Component city" means an incorporated city or town within a  
37 public transportation benefit area.

1 (5) "City council" means the legislative body of any city or town.

2 (6) "County legislative authority" means the board of county  
3 commissioners or the county council.

4 (7) "Population" means the number of residents as shown by the  
5 figures released for the most recent official state, federal, or county  
6 census, or population determination made by the office of financial  
7 management.

8 (8) "Public transportation service" means the transportation of  
9 packages, passengers, and their incidental baggage by means other than  
10 by chartered bus, sight-seeing bus, together with the necessary  
11 passenger terminals and parking facilities or other properties  
12 necessary for passenger and vehicular access to and from such people  
13 moving systems: PROVIDED, That nothing shall prohibit an authority  
14 from leasing its buses to private certified carriers or prohibit the  
15 authority from providing school bus service. "Public transportation  
16 service" includes passenger-only ferry service for those public  
17 transportation benefit areas eligible to provide passenger-only ferry  
18 service under section 201 of this act.

19 (9) "Public transportation improvement conference" or "conference"  
20 means the body established pursuant to RCW 36.57A.020 which shall be  
21 authorized to establish, subject to the provisions of RCW 36.57A.030,  
22 a public transportation benefit area pursuant to the provisions of this  
23 chapter.

24 **Sec. 210.** RCW 36.57A.100 and 1977 ex.s. c 44 s 4 are each amended  
25 to read as follows:

26 Except in accordance with an agreement made as provided in this  
27 section or in accordance with the provisions of RCW 36.57A.090(3) as  
28 now or hereafter amended, upon the effective date on which the public  
29 transportation benefit area commences to perform the public  
30 transportation service, no person or private corporation shall operate  
31 a local public passenger transportation service, including passenger-  
32 only ferry service, within the public transportation benefit area with  
33 the exception of taxis, buses owned or operated by a school district or  
34 private school, and buses owned or operated by any corporation or  
35 organization solely for the purposes of the corporation or organization  
36 and for the use of which no fee or fare is charged.

1 An agreement may be entered into between the public transportation  
2 benefit area authority and any person or corporation legally operating  
3 a local public passenger transportation service, including passenger-  
4 only ferry service, wholly within or partly within and partly without  
5 the public transportation benefit area and on said effective date under  
6 which such person or corporation may continue to operate such service  
7 or any part thereof for such time and upon such terms and conditions as  
8 provided in such agreement. Such agreement shall provide for a  
9 periodic review of the terms and conditions contained therein. Where  
10 any such local public passenger transportation service, including  
11 passenger-only ferry service, will be required to cease to operate  
12 within the public transportation benefit area, the public  
13 transportation benefit area authority may agree with the owner of such  
14 service to purchase the assets used in providing such service, or if no  
15 agreement can be reached, the public transportation benefit area  
16 authority shall condemn such assets in the manner and by the same  
17 procedure as is or may be provided by law for the condemnation of other  
18 properties for cities of the first class, except insofar as such laws  
19 may be inconsistent with the provisions of this chapter.

20 Wherever a privately owned public carrier operates wholly or partly  
21 within a public transportation benefit area, the Washington utilities  
22 and transportation commission shall continue to exercise jurisdiction  
23 over such operation as provided by law.

24 **Sec. 211.** RCW 81.84.010 and 1993 c 427 s 2 are each amended to  
25 read as follows:

26 (1) No commercial ferry may hereafter operate any vessel or ferry  
27 for the public use for hire between fixed termini or over a regular  
28 route upon the waters within this state, including the rivers and lakes  
29 and Puget Sound, without first applying for and obtaining from the  
30 commission a certificate declaring that public convenience and  
31 necessity require such operation. Service authorized by certificates  
32 issued before or after July 25, 1993, to a commercial ferry operator  
33 shall be exercised by the operator in a manner consistent with the  
34 conditions established in the certificate or tariffs: PROVIDED, That  
35 no certificate shall be required for a vessel primarily engaged in  
36 transporting freight other than vehicles, whose gross earnings from the  
37 transportation of passengers and/or vehicles, are not more than ten

1 percent of the total gross annual earnings of such vessel: PROVIDED,  
2 That nothing herein shall be construed to affect the right of any  
3 county public transportation benefit area or other public agency within  
4 this state to construct, condemn, purchase, operate, or maintain,  
5 itself or by contract, agreement, or lease, with any person, firm, or  
6 corporation, ferries or boats across or wharfs at or upon the waters  
7 within this state, including rivers and lakes and Puget Sound, provided  
8 such operation is not over the same route or between the same  
9 districts, being served by a certificate holder without first acquiring  
10 the rights granted to the certificate holder under the certificate, nor  
11 shall this chapter be construed to affect, amend, or invalidate any  
12 contract entered into prior to January 15, 1927, for the operation of  
13 ferries or boats upon the waters within this state, which was entered  
14 into in good faith by any county with any person, firm, or corporation,  
15 except that in case of the operation or maintenance by any county,  
16 city, town, port district, or other political subdivision by contract,  
17 agreement, or lease with any person, firm, or corporation, of ferries  
18 or boats across or wharfs at or upon the waters within this state,  
19 including rivers and lakes and Puget Sound, the commission shall have  
20 power and authority to regulate rates and services of such operation or  
21 maintenance of ferries, boats, or wharfs, to make, fix, alter, or amend  
22 said rates, and to regulate service and safety of operations thereof,  
23 in the manner and to the same extent as it is empowered to regulate a  
24 commercial ferry, notwithstanding the provisions of any act or parts of  
25 acts inconsistent herewith.

26 (2) The holder of a certificate of public convenience and necessity  
27 granted under this chapter must initiate service within five years of  
28 obtaining the certificate, except that the holder of a certificate of  
29 public convenience and necessity for passenger-only ferry service in  
30 Puget Sound must initiate service within twenty months of obtaining the  
31 certificate. The certificate holder shall report to the commission  
32 every six months after the certificate is granted on the progress of  
33 the certificated route. The reports shall include, but not be limited  
34 to, the progress of environmental impact, parking, local government  
35 land use, docking, and financing considerations. ((However)) Except in  
36 the case of passenger-only ferry service in Puget Sound, if service has  
37 not been initiated within five years of obtaining the certificate, the

1 commission may extend the certificate on a twelve-month basis for up to  
2 three years if the six-month progress reports indicate there is  
3 significant advancement toward initiating service.

4 (3) The commission shall review certificates in existence as of  
5 July 25, 1993, where service is not being provided on all or any  
6 portion of the route or routes certificated. Based on progress reports  
7 required under subsection (2) of this section, the commission may grant  
8 an extension beyond that provided in subsection (2) of this section.  
9 Such additional extension may not exceed a total of two years.

10 **Sec. 212.** RCW 81.84.020 and 1993 c 427 s 3 are each amended to  
11 read as follows:

12 (1) Upon the filing of an application the commission shall give  
13 reasonable notice to the department, affected cities (~~and~~),<sup>1</sup> counties,  
14 and public transportation benefit areas and any common carrier which  
15 might be adversely affected, of the time and place for hearing on such  
16 application. The commission shall have power after hearing, to issue  
17 the certificate as prayed for, or to refuse to issue it, or to issue it  
18 for the partial exercise only of the privilege sought, and may attach  
19 to the exercise of the rights granted by said certificate such terms  
20 and conditions as in its judgment the public convenience and necessity  
21 may require; but the commission shall not have power to grant a  
22 certificate to operate between districts and/or into any territory  
23 prohibited by RCW 47.60.120 or already served by an existing  
24 certificate holder, unless such existing certificate holder has failed  
25 or refused to furnish reasonable and adequate service or has failed to  
26 provide the service described in its certificate or tariffs after the  
27 time period allowed to initiate service has elapsed: PROVIDED, A  
28 certificate shall be granted when it shall appear to the satisfaction  
29 of the commission that the commercial ferry was actually operating in  
30 good faith over the route for which such certificate shall be sought,  
31 on January 15, 1927: PROVIDED, FURTHER, That in case two or more  
32 commercial ferries shall upon said date have been operating vessels  
33 upon the same route, or between the same districts the commission shall  
34 determine after public hearing whether one or more certificates shall  
35 issue, and in determining to whom a certificate or certificates shall  
36 be issued, the commission shall consider all material facts and  
37 circumstances including the prior operation, schedules, and services

1 rendered by either of the ferries, and in case more than one  
2 certificate shall issue, the commission shall fix and determine the  
3 schedules and services of the ferries to which the certificates are  
4 issued to the end that duplication of service be eliminated and public  
5 convenience be furthered.

6 (2) Before issuing a certificate, the commission shall determine  
7 that the applicant has the financial resources to operate the proposed  
8 service for at least twelve months, based upon the submission by the  
9 applicant of a pro forma financial statement of operations. Issuance  
10 of a certificate shall be determined upon, but not limited to, the  
11 following factors: Ridership and revenue forecasts; the cost of  
12 service for the proposed operation; an estimate of the cost of the  
13 assets to be used in providing the service; a statement of the total  
14 assets on hand of the applicant that will be expended on the proposed  
15 operation; and a statement of prior experience, if any, in such field  
16 by the applicant. The documentation required of the applicant under  
17 this section shall comply with the provisions of RCW 9A.72.085.

18 (3) Subsection (2) of this section does not apply to an application  
19 for a certificate that is pending as of July 25, 1993.

20 (4) In granting a certificate for passenger-only ferries and  
21 determining what conditions to place on the certificate, the commission  
22 shall consider and give substantial weight to the effect of its  
23 decisions on public agencies operating, or eligible to operate,  
24 passenger-only ferry service.

25 (5) Until March 1, 2005, the commission shall not consider an  
26 application for passenger-only ferry service serving any county in  
27 Puget Sound, unless the public transportation benefit area authority or  
28 ferry district serving that county, by resolution, agrees to the  
29 application.

30 **Sec. 213.** RCW 81.84.060 and 1993 c 427 s 7 are each amended to  
31 read as follows:

32 The commission, upon complaint by an interested party, or upon its  
33 own motion after notice and opportunity for hearing, may cancel,  
34 revoke, suspend, alter, or amend a certificate issued under this  
35 chapter on any of the following grounds:

36 (1) Failure of the certificate holder to initiate service by the  
37 conclusion of the fifth year after the certificate has been granted or

1 by the conclusion of an extension granted under RCW 81.84.010 (2) or  
2 (3), if the commission has considered the progress report information  
3 required under RCW 81.84.010 (2) or (3);

4 (2) Failure of a certificate holder for passenger-only ferry  
5 service in Puget Sound to initiate service by the conclusion of the  
6 twentieth month after the certificate has been granted;

7 (3) Failure of the certificate holder to file an annual report;

8 ~~((3))~~ (4) The filing by a certificate holder of an annual report  
9 that shows no revenue in the previous twelve-month period after service  
10 has been initiated;

11 ~~((4))~~ (5) The violation of any provision of this chapter;

12 ~~((5))~~ (6) The violation of or failure to observe the provisions  
13 or conditions of the certificate or tariffs;

14 ~~((6))~~ (7) The violation of an order, decision, rule, regulation,  
15 or requirement established by the commission under this chapter;

16 ~~((7))~~ (8) Failure of a certificate holder to maintain the  
17 required insurance coverage in full force and effect; or

18 ~~((8))~~ (9) Failure or refusal to furnish reasonable and adequate  
19 service after initiating service.

20 The commission shall take appropriate action within thirty days  
21 upon a complaint by an interested party or of its own finding that a  
22 provision of this section has been violated.

### 23 PART III

### 24 COUNTY FERRY DISTRICTS

25 NEW SECTION. Sec. 301. A new section is added to chapter 36.54  
26 RCW to read as follows:

27 (1) The legislative authority of a county with a population over  
28 one million persons and having a boundary on Puget Sound may adopt an  
29 ordinance creating a ferry district in all or a portion of the area of  
30 the county, including the area within the corporate limits of any city  
31 or town within the county. The ordinance may be adopted only after a  
32 public hearing has been held on the creation of a ferry district, and  
33 the county legislative authority makes a finding that it is in the  
34 public interest to create the district. A ferry district is limited to  
35 providing passenger-only ferry service.

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

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

10 (4) The members of the county legislative authority, acting ex  
11 officio and independently, shall compose the governing body of any  
12 ferry district that is created within the county. The voters of a  
13 ferry district must be registered voters residing within the boundaries  
14 of the district.

15 (5) For the purposes of this section, Puget Sound is considered as  
16 extending north as far as the Canadian border and west as far as Port  
17 Angeles.

18 NEW SECTION. **Sec. 302.** A new section is added to chapter 36.54  
19 RCW to read as follows:

20 A ferry district may construct, purchase, operate, and maintain  
21 passenger-only ferries or wharves at any unfordable stream, lake,  
22 estuary, or bay within or bordering the ferry district, or between  
23 portions of the ferry district, or between the ferry district and other  
24 ferry districts, together with all the necessary boats, grounds, roads,  
25 approaches, and landings appertaining thereto under the direction and  
26 control of the governing body of the ferry district, free or for toll  
27 as the governing body determines by resolution.

28 NEW SECTION. **Sec. 303.** A new section is added to chapter 36.54  
29 RCW to read as follows:

30 (1) To carry out the purposes for which ferry districts are  
31 created, the governing body of a ferry district may levy each year an  
32 ad valorem tax on all taxable property located in the district not to  
33 exceed seventy-five cents per thousand dollars of assessed value. The  
34 levy must be sufficient for the provision of ferry services as shown to  
35 be required by the budget prepared by the governing body of the ferry  
36 district.



1 (2) A tax imposed under this section may be used only for providing  
2 passenger-only ferry services, including the purchase, lease, or rental  
3 of passenger-only ferry vessels and dock facilities, the operation and  
4 maintenance of passenger-only ferry vessels and dock facilities, and  
5 related personnel costs.

6 NEW SECTION. **Sec. 304.** A new section is added to chapter 36.54  
7 RCW to read as follows:

8 A ferry district may impose excess levies upon the property  
9 included within the district for a one-year period to be used for  
10 operating or capital purposes whenever authorized by the electors of  
11 the district under RCW 84.52.052 and Article VII, section 2(a) of the  
12 state Constitution.

13 NEW SECTION. **Sec. 305.** A new section is added to chapter 36.54  
14 RCW to read as follows:

15 The governing body of the ferry district shall annually prepare a  
16 budget of the requirements of each district fund.

17 NEW SECTION. **Sec. 306.** A new section is added to chapter 36.54  
18 RCW to read as follows:

19 At the time of making general tax levies in each year, the county  
20 legislative authority of the county in which a ferry district is  
21 located shall make the required levies for district purposes against  
22 the real and personal property in the district. The tax levies must be  
23 a part of the general tax roll and be collected as a part of the  
24 general taxes against the property in the district.

25 NEW SECTION. **Sec. 307.** A new section is added to chapter 36.54  
26 RCW to read as follows:

27 (1) The treasurer of the county in which a ferry district is  
28 located shall be treasurer of the district. The county treasurer shall  
29 receive and disburse ferry district revenues, collect taxes authorized  
30 and levied under this chapter, and credit district revenues to the  
31 proper fund.

32 (2) The county treasurer shall establish a ferry district fund,  
33 into which must be paid all district revenues, and the county treasurer  
34 shall also maintain such special funds as may be created by the

1 governing body of a ferry district, into which the county treasurer  
2 shall place all money as the governing body of the district may, by  
3 resolution, direct.

4 (3) The county treasurer shall pay out money received for the  
5 account of the ferry district on warrants issued by the county auditor  
6 against the proper funds of the district.

7 (4) All district funds must be deposited with the county  
8 depositaries under the same restrictions, contracts, and security as  
9 provided for county depositaries.

10 (5) All interest collected on ferry district funds belongs to the  
11 district and must be deposited to its credit in the proper district  
12 funds.

13 NEW SECTION. **Sec. 308.** A new section is added to chapter 36.54  
14 RCW to read as follows:

15 A ferry district is exempt from the provisions of Title 81 RCW and  
16 is not subject to the control of the Washington utilities and  
17 transportation commission. It is not necessary for a ferry district to  
18 apply for a certificate of public convenience and necessity.

19 NEW SECTION. **Sec. 309.** A new section is added to chapter 36.54  
20 RCW to read as follows:

21 A ferry district formed under this chapter may be dissolved in the  
22 manner provided in chapter 53.48 RCW, relating to port districts.

23 **Sec. 310.** RCW 84.52.010 and 2002 c 248 s 15 and 2002 c 88 s 7 are  
24 each reenacted and amended to read as follows:

25 Except as is permitted under RCW 84.55.050, all taxes shall be  
26 levied or voted in specific amounts.

27 The rate percent of all taxes for state and county purposes, and  
28 purposes of taxing districts coextensive with the county, shall be  
29 determined, calculated and fixed by the county assessors of the  
30 respective counties, within the limitations provided by law, upon the  
31 assessed valuation of the property of the county, as shown by the  
32 completed tax rolls of the county, and the rate percent of all taxes  
33 levied for purposes of taxing districts within any county shall be  
34 determined, calculated and fixed by the county assessors of the

1 respective counties, within the limitations provided by law, upon the  
2 assessed valuation of the property of the taxing districts  
3 respectively.

4 When a county assessor finds that the aggregate rate of tax levy on  
5 any property, that is subject to the limitations set forth in RCW  
6 84.52.043 or 84.52.050, exceeds the limitations provided in either of  
7 these sections, the assessor shall recompute and establish a  
8 consolidated levy in the following manner:

9 (1) The full certified rates of tax levy for state, county, county  
10 road district, and city or town purposes shall be extended on the tax  
11 rolls in amounts not exceeding the limitations established by law;  
12 however any state levy shall take precedence over all other levies and  
13 shall not be reduced for any purpose other than that required by RCW  
14 84.55.010. If, as a result of the levies imposed under section 303 of  
15 this act, RCW 84.52.069, 84.34.230, the portion of the levy by a  
16 metropolitan park district that was protected under RCW 84.52.120, and  
17 84.52.105, the combined rate of regular property tax levies that are  
18 subject to the one percent limitation exceeds one percent of the true  
19 and fair value of any property, then these levies shall be reduced as  
20 follows: (a) The levy imposed by a ferry district under section 303 of  
21 this act must be reduced until the combined rate no longer exceeds one  
22 percent of the true and fair value of any property or must be  
23 eliminated; (b) if the combined rate of regular property tax levies  
24 that are subject to the one percent limitation still exceeds one  
25 percent of the true and fair value of any property, the portion of the  
26 levy by a metropolitan park district that is protected under RCW  
27 84.52.120 shall be reduced until the combined rate no longer exceeds  
28 one percent of the true and fair value of any property or shall be  
29 eliminated; ~~((b))~~ (c) if the combined rate of regular property tax  
30 levies that are subject to the one percent limitation still exceeds one  
31 percent of the true and fair value of any property, then the levies  
32 imposed under RCW 84.34.230, 84.52.105, and any portion of the levy  
33 imposed under RCW 84.52.069 that is in excess of thirty cents per  
34 thousand dollars of assessed value, shall be reduced on a pro rata  
35 basis until the combined rate no longer exceeds one percent of the true  
36 and fair value of any property or shall be eliminated; and ~~((c))~~ (d)  
37 if the combined rate of regular property tax levies that are subject to  
38 the one percent limitation still exceeds one percent of the true and

1 fair value of any property, then the thirty cents per thousand dollars  
2 of assessed value of tax levy imposed under RCW 84.52.069 shall be  
3 reduced until the combined rate no longer exceeds one percent of the  
4 true and fair value of any property or eliminated.

5 (2) The certified rates of tax levy subject to these limitations by  
6 all junior taxing districts imposing taxes on such property shall be  
7 reduced or eliminated as follows to bring the consolidated levy of  
8 taxes on such property within the provisions of these limitations:

9 (a) First, the certified property tax levy rates of those junior  
10 taxing districts authorized under RCW 36.68.525, 36.69.145, 35.95A.100,  
11 and 67.38.130 shall be reduced on a pro rata basis or eliminated;

12 (b) Second, if the consolidated tax levy rate still exceeds these  
13 limitations, the certified property tax levy rates of flood control  
14 zone districts shall be reduced on a pro rata basis or eliminated;

15 (c) Third, if the consolidated tax levy rate still exceeds these  
16 limitations, the certified property tax levy rates of all other junior  
17 taxing districts, other than fire protection districts, library  
18 districts, the first fifty cent per thousand dollars of assessed  
19 valuation levies for metropolitan park districts, and the first fifty  
20 cent per thousand dollars of assessed valuation levies for public  
21 hospital districts, shall be reduced on a pro rata basis or eliminated;

22 (d) Fourth, if the consolidated tax levy rate still exceeds these  
23 limitations, the first fifty cent per thousand dollars of assessed  
24 valuation levies for metropolitan park districts created on or after  
25 January 1, 2002, shall be reduced on a pro rata basis or eliminated;

26 (e) Fifth, if the consolidated tax levy rate still exceeds these  
27 limitations, the certified property tax levy rates authorized to fire  
28 protection districts under RCW 52.16.140 and 52.16.160 shall be reduced  
29 on a pro rata basis or eliminated; and

30 (f) Sixth, if the consolidated tax levy rate still exceeds these  
31 limitations, the certified property tax levy rates authorized for fire  
32 protection districts under RCW 52.16.130, library districts,  
33 metropolitan park districts created before January 1, 2002, under their  
34 first fifty cent per thousand dollars of assessed valuation levy, and  
35 public hospital districts under their first fifty cent per thousand  
36 dollars of assessed valuation levy, shall be reduced on a pro rata  
37 basis or eliminated.

1 In determining whether the aggregate rate of tax levy on any  
2 property, that is subject to the limitations set forth in RCW  
3 84.52.050, exceeds the limitations provided in that section, the  
4 assessor shall use the hypothetical state levy, as apportioned to the  
5 county under RCW 84.48.080, that was computed under RCW 84.48.080  
6 without regard to the reduction under RCW 84.55.012.

7 **Sec. 311.** RCW 84.52.043 and 1995 c 99 s 3 are each amended to read  
8 as follows:

9 Within and subject to the limitations imposed by RCW 84.52.050 as  
10 amended, the regular ad valorem tax levies upon real and personal  
11 property by the taxing districts hereafter named shall be as follows:

12 (1) Levies of the senior taxing districts shall be as follows: (a)  
13 The levy by the state shall not exceed three dollars and sixty cents  
14 per thousand dollars of assessed value adjusted to the state equalized  
15 value in accordance with the indicated ratio fixed by the state  
16 department of revenue to be used exclusively for the support of the  
17 common schools; (b) the levy by any county shall not exceed one dollar  
18 and eighty cents per thousand dollars of assessed value; (c) the levy  
19 by any road district shall not exceed two dollars and twenty-five cents  
20 per thousand dollars of assessed value; and (d) the levy by any city or  
21 town shall not exceed three dollars and thirty-seven and one-half cents  
22 per thousand dollars of assessed value. However any county is hereby  
23 authorized to increase its levy from one dollar and eighty cents to a  
24 rate not to exceed two dollars and forty-seven and one-half cents per  
25 thousand dollars of assessed value for general county purposes if the  
26 total levies for both the county and any road district within the  
27 county do not exceed four dollars and five cents per thousand dollars  
28 of assessed value, and no other taxing district has its levy reduced as  
29 a result of the increased county levy.

30 (2) The aggregate levies of junior taxing districts and senior  
31 taxing districts, other than the state, shall not exceed five dollars  
32 and ninety cents per thousand dollars of assessed valuation. The term  
33 "junior taxing districts" includes all taxing districts other than the  
34 state, counties, road districts, cities, towns, port districts, and  
35 public utility districts. The limitations provided in this subsection  
36 shall not apply to: (a) Levies at the rates provided by existing law  
37 by or for any port or public utility district; (b) excess property tax

1 levies authorized in Article VII, section 2 of the state Constitution;  
2 (c) levies for acquiring conservation futures as authorized under RCW  
3 84.34.230; (d) levies for emergency medical care or emergency medical  
4 services imposed under RCW 84.52.069; (e) levies to finance affordable  
5 housing for very low-income housing imposed under RCW 84.52.105;  
6 (~~and~~) (f) the portions of levies by metropolitan park districts that  
7 are protected under RCW 84.52.120; and (g) levies imposed by ferry  
8 districts under section 303 of this act.

9       **Sec. 312.** RCW 84.52.052 and 2002 c 248 s 16 and 2002 c 180 s 1 are  
10 each reenacted and amended to read as follows:

11       The limitations imposed by RCW 84.52.050 through 84.52.056, and RCW  
12 84.52.043 shall not prevent the levy of additional taxes by any taxing  
13 district except school districts in which a larger levy is necessary in  
14 order to prevent the impairment of the obligation of contracts. As  
15 used in this section, the term "taxing district" means any county,  
16 metropolitan park district, park and recreation service area, park and  
17 recreation district, water-sewer district, solid waste disposal  
18 district, public facilities district, flood control zone district,  
19 county rail district, service district, public hospital district, road  
20 district, rural county library district, island library district, rural  
21 partial-county library district, intercounty rural library district,  
22 fire protection district, cemetery district, city, town, transportation  
23 benefit district, emergency medical service district with a population  
24 density of less than one thousand per square mile, cultural arts,  
25 stadium, and convention district, ferry district, or city  
26 transportation authority.

27       Any such taxing district may levy taxes at a rate in excess of the  
28 rate specified in RCW 84.52.050 through 84.52.056 and 84.52.043, or  
29 84.55.010 through 84.55.050, when authorized so to do by the voters of  
30 such taxing district in the manner set forth in Article VII, section  
31 2(a) of the Constitution of this state at a special or general election  
32 to be held in the year in which the levy is made.

33       A special election may be called and the time therefor fixed by the  
34 county legislative authority, or council, board of commissioners, or  
35 other governing body of any such taxing district, by giving notice  
36 thereof by publication in the manner provided by law for giving notices  
37 of general elections, at which special election the proposition

1 authorizing such excess levy shall be submitted in such form as to  
2 enable the voters favoring the proposition to vote "yes" and those  
3 opposed thereto to vote "no."

4 **PART IV**  
5 **MISCELLANEOUS**

6 NEW SECTION. **Sec. 401.** CAPTIONS AND PART HEADINGS NOT LAW.  
7 Captions and part headings used in this act are not part of the law.

8 NEW SECTION. **Sec. 402.** SEVERABILITY. If any provision of this  
9 act or its application to any person or circumstance is held invalid,  
10 the remainder of the act or the application of the provision to other  
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 403.** This act is necessary for the immediate  
13 preservation of the public peace, health, or safety, or support of the  
14 state government and its existing public institutions, and takes effect  
15 immediately.

Passed by the House March 31, 2003.

Passed by the Senate April 15, 2003.

Approved by the Governor April 23, 2003.

Filed in Office of Secretary of State April 23, 2003.