

SB 5742 - S AMD 155

By Senators Ranker, Haugen, Ericksen, King

PULLED 03/04/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 47.60.530 and 1979 c 27 s 4 are each amended to read
4 as follows:

5 ~~((There is hereby created in the motor vehicle fund))~~ (1) The Puget
6 Sound ferry operations account ((to the credit of which shall be
7 deposited all moneys directed by law to be deposited therein. All
8 moneys deposited in this account shall be expended pursuant to
9 appropriations only for reimbursement of the motor vehicle fund for any
10 state moneys, other than insurance proceeds, expended therefrom for
11 alternate transportation services instituted as a result of the
12 destruction of the Hood Canal bridge, and)) is created in the motor
13 vehicle fund.

14 (2) The following funds must be deposited into the account:

15 (a) All moneys directed by law;

16 (b) All revenues generated from ferry fares; and

17 (c) All revenues generated from commercial advertising,
18 concessions, parking, and leases as allowed under RCW 47.60.140.

19 (3) Moneys in the account may be spent only after appropriation.

20 (4) Expenditures from the account may be used only for the
21 maintenance and operation of the Washington state ferries ((including
22 the Hood Canal bridge, supplementing as required the revenues available
23 from the Washington state ferry system)).

24 NEW SECTION. Sec. 2. A new section is added to chapter 47.60 RCW
25 to read as follows:

26 (1) The capital vessel replacement account is created in the motor
27 vehicle fund. All revenues generated from the vessel replacement
28 surcharge under RCW 47.60.315(7) must be deposited into the account.

1 Moneys in the account may be spent only after appropriation.
2 Expenditures from the account may be used only for the construction or
3 purchase of ferry vessels.

4 (2) The state treasurer shall not transfer any moneys from the
5 capital vessel replacement account.

6 **Sec. 3.** RCW 47.60.315 and 2007 c 512 s 6 are each amended to read
7 as follows:

8 (1) The commission shall adopt fares and pricing policies by rule,
9 under chapter 34.05 RCW, according to the following schedule:

10 (a) Each year the department shall provide the commission a report
11 of its review of fares and pricing policies, with recommendations for
12 the revision of fares and pricing policies for the ensuing year;

13 (b) By September 1st of each year, beginning in 2008, the
14 commission shall adopt by rule fares and pricing policies for the
15 ensuing year.

16 (2) The commission may adopt by rule fares that are effective for
17 more or less than one year for the purposes of transitioning to the
18 fare schedule in subsection (1) of this section.

19 (3) The commission may increase ferry fares included in the
20 schedule of charges adopted under this section by a percentage that
21 exceeds the fiscal growth factor.

22 (4) The chief executive officer of the ferry system may authorize
23 the use of promotional, discounted, and special event fares to the
24 general public and commercial enterprises for the purpose of maximizing
25 capacity use and the revenues collected by the ferry system. The
26 department shall report to the commission a summary of the promotional,
27 discounted, and special event fares offered during each fiscal year and
28 the financial results from these activities.

29 (5) Fare revenues and other revenues deposited in the Puget Sound
30 ferry operations account created in RCW 47.60.530 may not be used to
31 support the Puget Sound capital construction account created in RCW
32 47.60.505, unless the support for capital is separately identified in
33 the fare.

34 (6) The commission may not raise fares until the fare rules contain
35 pricing policies developed under RCW 47.60.290, or September 1, 2009,
36 whichever is later.

1 (7) The commission shall impose a vessel replacement surcharge of
2 twenty-five cents on every ferry fare sold, including multiride and
3 monthly pass fares. This surcharge must be clearly indicated to ferry
4 passengers and drivers and, if possible, on the fare media itself.

5 **Sec. 4.** RCW 82.08.0255 and 2007 c 223 s 9 are each amended to read
6 as follows:

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

9 (a) The fuel is purchased for the purpose of public transportation
10 and the purchaser is entitled to a refund or an exemption under RCW
11 82.36.275 or 82.38.080(3); or

12 (b) The fuel is purchased by a private, nonprofit transportation
13 provider certified under chapter 81.66 RCW and the purchaser is
14 entitled to a refund or an exemption under RCW 82.36.285 or
15 82.38.080(1)(h); or

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

20 (d) The fuel is purchased by the Washington state ferry system for
21 use in a state-owned ferry after June 30, 2013; or

22 (e) The fuel is purchased by a county-owned ferry for use in ferry
23 vessels; or

24 (f) The fuel is taxable under chapter 82.36 or 82.38 RCW.

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

32 **Sec. 5.** RCW 82.12.0256 and 2007 c 223 s 10 are each amended to
33 read as follows:

34 The provisions of this chapter shall not apply in respect to the
35 use of:

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

3 (2) Motor vehicle and special fuel if:

4 (a) The fuel is used for the purpose of public transportation and
5 the purchaser is entitled to a refund or an exemption under RCW
6 82.36.275 or 82.38.080(3); or

7 (b) The fuel is purchased by a private, nonprofit transportation
8 provider certified under chapter 81.66 RCW and the purchaser is
9 entitled to a refund or an exemption under RCW 82.36.285 or
10 82.38.080(1)(h); or

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

15 (d) The fuel is taxable under chapter 82.36 or 82.38 RCW:
16 PROVIDED, That the use of motor vehicle and special fuel upon which a
17 refund of the applicable fuel tax is obtained shall not be exempt under
18 this subsection (2)(d), and the director of licensing shall deduct from
19 the amount of such tax to be refunded the amount of tax due under this
20 chapter and remit the same each month to the department of revenue; or

21 (e) The fuel is purchased by a county-owned ferry for use in ferry
22 vessels; or

23 (f) The fuel is purchased by the Washington state ferry system for
24 use in a state-owned ferry after June 30, 2013.

25 **Sec. 6.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp.s.
26 c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145
27 s 11 are each reenacted and amended to read as follows:

28 (1) All earnings of investments of surplus balances in the state
29 treasury shall be deposited to the treasury income account, which
30 account is hereby established in the state treasury.

31 (2) The treasury income account shall be utilized to pay or receive
32 funds associated with federal programs as required by the federal cash
33 management improvement act of 1990. The treasury income account is
34 subject in all respects to chapter 43.88 RCW, but no appropriation is
35 required for refunds or allocations of interest earnings required by
36 the cash management improvement act. Refunds of interest to the
37 federal treasury required under the cash management improvement act

1 fall under RCW 43.88.180 and shall not require appropriation. The
2 office of financial management shall determine the amounts due to or
3 from the federal government pursuant to the cash management improvement
4 act. The office of financial management may direct transfers of funds
5 between accounts as deemed necessary to implement the provisions of the
6 cash management improvement act, and this subsection. Refunds or
7 allocations shall occur prior to the distributions of earnings set
8 forth in subsection (4) of this section.

9 (3) Except for the provisions of RCW 43.84.160, the treasury income
10 account may be utilized for the payment of purchased banking services
11 on behalf of treasury funds including, but not limited to, depository,
12 safekeeping, and disbursement functions for the state treasury and
13 affected state agencies. The treasury income account is subject in all
14 respects to chapter 43.88 RCW, but no appropriation is required for
15 payments to financial institutions. Payments shall occur prior to
16 distribution of earnings set forth in subsection (4) of this section.

17 (4) Monthly, the state treasurer shall distribute the earnings
18 credited to the treasury income account. The state treasurer shall
19 credit the general fund with all the earnings credited to the treasury
20 income account except:

21 (a) The following accounts and funds shall receive their
22 proportionate share of earnings based upon each account's and fund's
23 average daily balance for the period: The aeronautics account, the
24 aircraft search and rescue account, the budget stabilization account,
25 the capital vessel replacement account, the capitol building
26 construction account, the Cedar River channel construction and
27 operation account, the Central Washington University capital projects
28 account, the charitable, educational, penal and reformatory
29 institutions account, the cleanup settlement account, the Columbia
30 river basin water supply development account, the common school
31 construction fund, the county arterial preservation account, the county
32 criminal justice assistance account, the county sales and use tax
33 equalization account, the deferred compensation administrative account,
34 the deferred compensation principal account, the department of
35 licensing services account, the department of retirement systems
36 expense account, the developmental disabilities community trust
37 account, the drinking water assistance account, the drinking water
38 assistance administrative account, the drinking water assistance

1 repayment account, the Eastern Washington University capital projects
2 account, the education construction fund, the education legacy trust
3 account, the election account, the energy freedom account, the energy
4 recovery act account, the essential rail assistance account, The
5 Evergreen State College capital projects account, the federal forest
6 revolving account, the ferry bond retirement fund, the freight
7 congestion relief account, the freight mobility investment account, the
8 freight mobility multimodal account, the grade crossing protective
9 fund, the public health services account, the health system capacity
10 account, the high capacity transportation account, the state higher
11 education construction account, the higher education construction
12 account, the highway bond retirement fund, the highway infrastructure
13 account, the highway safety account, the high occupancy toll lanes
14 operations account, the hospital safety net assessment fund, the
15 industrial insurance premium refund account, the judges' retirement
16 account, the judicial retirement administrative account, the judicial
17 retirement principal account, the local leasehold excise tax account,
18 the local real estate excise tax account, the local sales and use tax
19 account, the marine resources stewardship trust account, the medical
20 aid account, the mobile home park relocation fund, the motor vehicle
21 fund, the motorcycle safety education account, the multiagency
22 permitting team account, the multimodal transportation account, the
23 municipal criminal justice assistance account, the municipal sales and
24 use tax equalization account, the natural resources deposit account,
25 the oyster reserve land account, the pension funding stabilization
26 account, the perpetual surveillance and maintenance account, the public
27 employees' retirement system plan 1 account, the public employees'
28 retirement system combined plan 2 and plan 3 account, the public
29 facilities construction loan revolving account beginning July 1, 2004,
30 the public health supplemental account, the public transportation
31 systems account, the public works assistance account, the Puget Sound
32 capital construction account, the Puget Sound ferry operations account,
33 the Puyallup tribal settlement account, the real estate appraiser
34 commission account, the recreational vehicle account, the regional
35 mobility grant program account, the resource management cost account,
36 the rural arterial trust account, the rural Washington loan fund, the
37 site closure account, the small city pavement and sidewalk account, the
38 special category C account, the special wildlife account, the state

1 employees' insurance account, the state employees' insurance reserve
2 account, the state investment board expense account, the state
3 investment board commingled trust fund accounts, the state patrol
4 highway account, the state route number 520 civil penalties account,
5 the state route number 520 corridor account, the supplemental pension
6 account, the Tacoma Narrows toll bridge account, the teachers'
7 retirement system plan 1 account, the teachers' retirement system
8 combined plan 2 and plan 3 account, the tobacco prevention and control
9 account, the tobacco settlement account, the transportation 2003
10 account (nickel account), the transportation equipment fund, the
11 transportation fund, the transportation improvement account, the
12 transportation improvement board bond retirement account, the
13 transportation infrastructure account, the transportation partnership
14 account, the traumatic brain injury account, the tuition recovery trust
15 fund, the University of Washington bond retirement fund, the University
16 of Washington building account, the urban arterial trust account, the
17 volunteer firefighters' and reserve officers' relief and pension
18 principal fund, the volunteer firefighters' and reserve officers'
19 administrative fund, the Washington judicial retirement system account,
20 the Washington law enforcement officers' and firefighters' system plan
21 1 retirement account, the Washington law enforcement officers' and
22 firefighters' system plan 2 retirement account, the Washington public
23 safety employees' plan 2 retirement account, the Washington school
24 employees' retirement system combined plan 2 and 3 account, the
25 Washington state health insurance pool account, the Washington state
26 patrol retirement account, the Washington State University building
27 account, the Washington State University bond retirement fund, the
28 water pollution control revolving fund, and the Western Washington
29 University capital projects account. Earnings derived from investing
30 balances of the agricultural permanent fund, the normal school
31 permanent fund, the permanent common school fund, the scientific
32 permanent fund, and the state university permanent fund shall be
33 allocated to their respective beneficiary accounts.

34 (b) Any state agency that has independent authority over accounts
35 or funds not statutorily required to be held in the state treasury that
36 deposits funds into a fund or account in the state treasury pursuant to
37 an agreement with the office of the state treasurer shall receive its

1 proportionate share of earnings based upon each account's or fund's
2 average daily balance for the period.

3 (5) In conformance with Article II, section 37 of the state
4 Constitution, no treasury accounts or funds shall be allocated earnings
5 without the specific affirmative directive of this section.

6 **Sec. 7.** RCW 47.64.011 and 2006 c 164 s 1 are each amended to read
7 as follows:

8 As used in this chapter, unless the context otherwise requires, the
9 definitions in this section shall apply.

10 (1) "Collective bargaining representative" means the persons
11 designated by the governor and employee organizations to be the
12 exclusive representatives during collective bargaining negotiations.

13 (2) "Commission" means the (~~(marine employees)~~) public employment
14 relations commission created in RCW (~~(47.64.280)~~) 41.58.010.

15 (3) "Department of transportation" means the department as defined
16 in RCW 47.01.021.

17 (4) "Employer" means the state of Washington.

18 (5) "Ferry employee" means any employee of the marine
19 transportation division of the department of transportation who is a
20 member of a collective bargaining unit represented by a ferry employee
21 organization and does not include an exempt employee pursuant to RCW
22 41.06.079.

23 (6) "Ferry employee organization" means any labor organization
24 recognized to represent a collective bargaining unit of ferry
25 employees.

26 (7) "Lockout" means the refusal of the employer to furnish work to
27 ferry employees in an effort to get ferry employee organizations to
28 make concessions during collective bargaining, grievance, or other
29 labor relation negotiations. Curtailment of employment of ferry
30 employees due to lack of work resulting from a strike or work stoppage
31 shall not be considered a lockout.

32 (8) "Office of financial management" means the office as created in
33 RCW 43.41.050.

34 (9) "Strike or work stoppage" means a ferry employee's refusal, in
35 concerted action with others, to report to duty, or his or her willful
36 absence from his or her position, or his or her stoppage or slowdown of
37 work, or his or her abstinence in whole or in part from the full,

1 faithful, and proper performance of the duties of employment, for the
2 purpose of inducing, influencing, or coercing a change in conditions,
3 compensation, rights, privileges, or obligations of his, her, or any
4 other ferry employee's employment. A refusal, in good faith, to work
5 under conditions which pose an endangerment to the health and safety of
6 ferry employees or the public, as determined by the master of the
7 vessel, shall not be considered a strike for the purposes of this
8 chapter.

9 **Sec. 8.** RCW 47.64.210 and 2007 c 160 s 2 are each amended to read
10 as follows:

11 In the (~~absence of an impasse~~) event there is no agreement
12 between the parties (~~or the failure of either party to utilize its~~
13 ~~procedures~~) by August 1st in the even-numbered year preceding the
14 biennium, either party may request the commission to appoint an
15 impartial and disinterested person to act as mediator. It is the
16 function of the mediator to bring the parties together to effectuate a
17 settlement of the dispute, but the mediator shall not compel the
18 parties to agree.

19 **Sec. 9.** RCW 47.64.090 and 2003 c 373 s 3 and 2003 c 91 s 1 are
20 each reenacted and amended to read as follows:

21 (1) Except as provided in RCW 47.60.656 and subsections (2) and (4)
22 of this section, or as provided in RCW 36.54.130 and subsection (3) of
23 this section, if any party assumes the operation and maintenance of any
24 ferry or ferry system by rent, lease, or charter from the department of
25 transportation, such party shall assume and be bound by all the
26 provisions herein and any agreement or contract for such operation of
27 any ferry or ferry system entered into by the department shall provide
28 that the wages to be paid, hours of employment, working conditions, and
29 seniority rights of employees will be established by the (~~marine~~
30 ~~employees~~) commission in accordance with the terms and provisions of
31 this chapter and it shall further provide that all labor disputes shall
32 be adjudicated in accordance with chapter 47.64 RCW.

33 (2) If a public transportation benefit area meeting the
34 requirements of RCW 36.57A.200 has voter approval to operate passenger-
35 only ferry service, it may enter into an agreement with Washington
36 State Ferries to rent, lease, or purchase passenger-only vessels,

1 related equipment, or terminal space for purposes of loading and
2 unloading the passenger-only ferry. Charges for the vessels,
3 equipment, and space must be fair market value taking into account the
4 public benefit derived from the ferry service. A benefit area or
5 subcontractor of that benefit area that qualifies under this subsection
6 is not subject to the restrictions of subsection (1) of this section,
7 but is subject to:

8 (a) The terms of those collective bargaining agreements that it or
9 its subcontractors negotiate with the exclusive bargaining
10 representatives of its or its subcontractors' employees under chapter
11 41.56 RCW or the National Labor Relations Act, as applicable;

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

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

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

34 (a) The terms of those collective bargaining agreements that it or
35 its subcontractors negotiate with the exclusive bargaining
36 representatives of its or its subcontractors' employees under chapter
37 41.56 RCW or the National Labor Relations Act, as applicable;

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

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

14 (4) The department of transportation shall make its terminal, dock,
15 and pier space available to private operators of passenger-only ferries
16 if the space can be made available without limiting the operation of
17 car ferries operated by the department. These private operators are
18 not bound by the provisions of subsection (1) of this section. Charges
19 for the equipment and space must be fair market value taking into
20 account the public benefit derived from the passenger-only ferry
21 service.

22 **Sec. 10.** RCW 47.64.150 and 1983 c 15 s 6 are each amended to read
23 as follows:

24 An agreement with a ferry employee organization that is the
25 exclusive representative of ferry employees in an appropriate unit may
26 provide procedures for the consideration of ferry employee grievances
27 and of disputes over the interpretation and application of agreements.
28 Negotiated procedures may provide for binding arbitration of ferry
29 employee grievances and of disputes over the interpretation and
30 application of existing agreements. An arbitrator's decision on a
31 grievance shall not change or amend the terms, conditions, or
32 applications of the collective bargaining agreement. The procedures
33 shall provide for the invoking of arbitration only (~~with the~~
34 ~~approval~~) by mutual agreement of the employee organization and
35 management. The costs of arbitrators shall be shared equally by the
36 parties.

1 Ferry system employees shall follow ((either)) the grievance
2 procedures provided in a collective bargaining agreement(~~(, or if no~~
3 ~~such procedures are so provided, shall submit the grievances to the~~
4 ~~marine employees' commission as provided in RCW 47.64.280)~~).

5 **Sec. 11.** RCW 41.58.060 and 1983 c 15 s 22 are each amended to read
6 as follows:

7 For any matter concerning the state ferry system and employee
8 relations, collective bargaining, or labor disputes or stoppages, the
9 provisions of chapter 47.64 RCW and this chapter shall govern.
10 However, if a conflict exists between the provisions of chapter 47.64
11 RCW and this chapter, the provisions of chapter 47.64 RCW shall govern.

12 **Sec. 12.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and
13 2010 c 1 s 1 are each reenacted and amended to read as follows:

14 (1) The provisions of this chapter do not apply to:

15 (a) The members of the legislature or to any employee of, or
16 position in, the legislative branch of the state government including
17 members, officers, and employees of the legislative council, joint
18 legislative audit and review committee, statute law committee, and any
19 interim committee of the legislature;

20 (b) The justices of the supreme court, judges of the court of
21 appeals, judges of the superior courts or of the inferior courts, or to
22 any employee of, or position in the judicial branch of state
23 government;

24 (c) Officers, academic personnel, and employees of technical
25 colleges;

26 (d) The officers of the Washington state patrol;

27 (e) Elective officers of the state;

28 (f) The chief executive officer of each agency;

29 (g) In the departments of employment security and social and health
30 services, the director and the director's confidential secretary; in
31 all other departments, the executive head of which is an individual
32 appointed by the governor, the director, his or her confidential
33 secretary, and his or her statutory assistant directors;

34 (h) In the case of a multimember board, commission, or committee,
35 whether the members thereof are elected, appointed by the governor or
36 other authority, serve ex officio, or are otherwise chosen:

1 (i) All members of such boards, commissions, or committees;
2 (ii) If the members of the board, commission, or committee serve on
3 a part-time basis and there is a statutory executive officer: The
4 secretary of the board, commission, or committee; the chief executive
5 officer of the board, commission, or committee; and the confidential
6 secretary of the chief executive officer of the board, commission, or
7 committee;
8 (iii) If the members of the board, commission, or committee serve
9 on a full-time basis: The chief executive officer or administrative
10 officer as designated by the board, commission, or committee; and a
11 confidential secretary to the chair of the board, commission, or
12 committee;
13 (iv) If all members of the board, commission, or committee serve ex
14 officio: The chief executive officer; and the confidential secretary
15 of such chief executive officer;
16 (i) The confidential secretaries and administrative assistants in
17 the immediate offices of the elective officers of the state;
18 (j) Assistant attorneys general;
19 (k) Commissioned and enlisted personnel in the military service of
20 the state;
21 (l) Inmate, student, part-time, or temporary employees, and part-
22 time professional consultants, as defined by the Washington personnel
23 resources board;
24 (m) The public printer or to any employees of or positions in the
25 state printing plant;
26 (n) Officers and employees of the Washington state fruit
27 commission;
28 (o) Officers and employees of the Washington apple commission;
29 (p) Officers and employees of the Washington state dairy products
30 commission;
31 (q) Officers and employees of the Washington tree fruit research
32 commission;
33 (r) Officers and employees of the Washington state beef commission;
34 (s) Officers and employees of the Washington grain commission;
35 (t) Officers and employees of any commission formed under chapter
36 15.66 RCW;
37 (u) Officers and employees of agricultural commissions formed under
38 chapter 15.65 RCW;

1 (v) Officers and employees of the nonprofit corporation formed
2 under chapter 67.40 RCW;

3 (w) Executive assistants for personnel administration and labor
4 relations in all state agencies employing such executive assistants
5 including but not limited to all departments, offices, commissions,
6 committees, boards, or other bodies subject to the provisions of this
7 chapter and this subsection shall prevail over any provision of law
8 inconsistent herewith unless specific exception is made in such law;

9 (x) In each agency with fifty or more employees: Deputy agency
10 heads, assistant directors or division directors, and not more than
11 three principal policy assistants who report directly to the agency
12 head or deputy agency heads;

13 (~~(y) ((All employees of the marine employees' commission;~~
14 ~~(z))~~) Staff employed by the department of commerce to administer
15 energy policy functions;

16 (~~((aa))~~) (z) The manager of the energy facility site evaluation
17 council;

18 (~~((bb))~~) (aa) A maximum of ten staff employed by the department of
19 commerce to administer innovation and policy functions, including the
20 three principal policy assistants exempted under (x) of this
21 subsection;

22 (~~((cc))~~) (bb) Staff employed by Washington State University to
23 administer energy education, applied research, and technology transfer
24 programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

25 (2) The following classifications, positions, and employees of
26 institutions of higher education and related boards are hereby exempted
27 from coverage of this chapter:

28 (a) Members of the governing board of each institution of higher
29 education and related boards, all presidents, vice presidents, and
30 their confidential secretaries, administrative, and personal
31 assistants; deans, directors, and chairs; academic personnel; and
32 executive heads of major administrative or academic divisions employed
33 by institutions of higher education; principal assistants to executive
34 heads of major administrative or academic divisions; other managerial
35 or professional employees in an institution or related board having
36 substantial responsibility for directing or controlling program
37 operations and accountable for allocation of resources and program
38 results, or for the formulation of institutional policy, or for

1 carrying out personnel administration or labor relations functions,
2 legislative relations, public information, development, senior computer
3 systems and network programming, or internal audits and investigations;
4 and any employee of a community college district whose place of work is
5 one which is physically located outside the state of Washington and who
6 is employed pursuant to RCW 28B.50.092 and assigned to an educational
7 program operating outside of the state of Washington;

8 (b) The governing board of each institution, and related boards,
9 may also exempt from this chapter classifications involving research
10 activities, counseling of students, extension or continuing education
11 activities, graphic arts or publications activities requiring
12 prescribed academic preparation or special training as determined by
13 the board: PROVIDED, That no nonacademic employee engaged in office,
14 clerical, maintenance, or food and trade services may be exempted by
15 the board under this provision;

16 (c) Printing craft employees in the department of printing at the
17 University of Washington.

18 (3) In addition to the exemptions specifically provided by this
19 chapter, the director of personnel may provide for further exemptions
20 pursuant to the following procedures. The governor or other
21 appropriate elected official may submit requests for exemption to the
22 director of personnel stating the reasons for requesting such
23 exemptions. The director of personnel shall hold a public hearing,
24 after proper notice, on requests submitted pursuant to this subsection.
25 If the director determines that the position for which exemption is
26 requested is one involving substantial responsibility for the
27 formulation of basic agency or executive policy or one involving
28 directing and controlling program operations of an agency or a major
29 administrative division thereof, the director of personnel shall grant
30 the request and such determination shall be final as to any decision
31 made before July 1, 1993. The total number of additional exemptions
32 permitted under this subsection shall not exceed one percent of the
33 number of employees in the classified service not including employees
34 of institutions of higher education and related boards for those
35 agencies not directly under the authority of any elected public
36 official other than the governor, and shall not exceed a total of
37 twenty-five for all agencies under the authority of elected public
38 officials other than the governor.

1 The salary and fringe benefits of all positions presently or
2 hereafter exempted except for the chief executive officer of each
3 agency, full-time members of boards and commissions, administrative
4 assistants and confidential secretaries in the immediate office of an
5 elected state official, and the personnel listed in subsections (1)(j)
6 through (v) (~~and (y)~~) and (2) of this section, shall be determined by
7 the director of personnel. Changes to the classification plan
8 affecting exempt salaries must meet the same provisions for classified
9 salary increases resulting from adjustments to the classification plan
10 as outlined in RCW 41.06.152.

11 From February 18, 2009, through June 30, 2011, a salary or wage
12 increase shall not be granted to any position exempt from
13 classification under this chapter, except that a salary or wage
14 increase may be granted to employees pursuant to collective bargaining
15 agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW,
16 or negotiated by the nonprofit corporation formed under chapter 67.40
17 RCW, and except that increases may be granted for positions for which
18 the employer has demonstrated difficulty retaining qualified employees
19 if the following conditions are met:

- 20 (a) The salary increase can be paid within existing resources; and
- 21 (b) The salary increase will not adversely impact the provision of
22 client services.

23 Any agency granting a salary increase from February 15, 2010,
24 through June 30, 2011, to a position exempt from classification under
25 this chapter shall submit a report to the fiscal committees of the
26 legislature no later than July 31, 2011, detailing the positions for
27 which salary increases were granted, the size of the increases, and the
28 reasons for giving the increases.

29 Any person holding a classified position subject to the provisions
30 of this chapter shall, when and if such position is subsequently
31 exempted from the application of this chapter, be afforded the
32 following rights: If such person previously held permanent status in
33 another classified position, such person shall have a right of
34 reversion to the highest class of position previously held, or to a
35 position of similar nature and salary.

36 Any classified employee having civil service status in a classified
37 position who accepts an appointment in an exempt position shall have

1 the right of reversion to the highest class of position previously
2 held, or to a position of similar nature and salary.

3 A person occupying an exempt position who is terminated from the
4 position for gross misconduct or malfeasance does not have the right of
5 reversion to a classified position as provided for in this section.

6 From February 15, 2010, until June 30, 2011, no monetary
7 performance-based awards or incentives may be granted by the director
8 or employers to employees covered by rules adopted under this section.
9 This subsection does not prohibit the payment of awards provided for in
10 chapter 41.60 RCW.

11 NEW SECTION. **Sec. 13.** (1) The marine employees' commission is
12 hereby abolished and its powers, duties, and functions are hereby
13 transferred to the public employment relations commission.

14 (2)(a) All reports, documents, surveys, books, records, files,
15 papers, or written material in the possession of the marine employees'
16 commission shall be delivered to the custody of the public employment
17 relations commission. All cabinets, furniture, office equipment, motor
18 vehicles, and other tangible property employed by the marine employees'
19 commission shall be made available to the public employment relations
20 commission. All funds, credits, or other assets held by the marine
21 employees' commission shall be assigned to the public employment
22 relations commission.

23 (b) If any question arises as to the transfer of any funds, books,
24 documents, records, papers, files, equipment, or other tangible
25 property used or held in the exercise of the powers and the performance
26 of the duties and functions transferred, the director of financial
27 management shall make a determination as to the proper allocation and
28 certify the same to the state agencies concerned.

29 (3) All rules and all pending business before the marine employees'
30 commission shall be continued and acted upon by the public employment
31 relations commission. All existing contracts and obligations shall
32 remain in full force and shall be performed by the public employment
33 relations commission.

34 (4) The transfer of the powers, duties, and functions of the marine
35 employees' commission shall not affect the validity of any act
36 performed before the effective date of this section.

1 (5) If apportionments of budgeted funds are required because of the
2 transfers directed by this section, the director of financial
3 management shall certify the apportionments to the agencies affected,
4 the state auditor, and the state treasurer. Each of these shall make
5 the appropriate transfer and adjustments in funds and appropriation
6 accounts and equipment records in accordance with the certification.

7 NEW SECTION. **Sec. 14.** RCW 47.64.280 (Marine employees'
8 commission) and 2010 c 283 s 14, 2006 c 164 s 18, 1984 c 287 s 95, &
9 1983 c 15 s 19 are each repealed.

10 **Sec. 15.** RCW 39.04.320 and 2009 c 197 s 1 are each amended to read
11 as follows:

12 (1)(a) Except as provided in (b) through (d) of this subsection,
13 from January 1, 2005, and thereafter, for all public works estimated to
14 cost one million dollars or more, all specifications shall require that
15 no less than fifteen percent of the labor hours be performed by
16 apprentices.

17 (b)(i) This section does not apply to contracts advertised for bid
18 before July 1, 2007, for any public works by the department of
19 transportation.

20 (ii) For contracts advertised for bid on or after July 1, 2007, and
21 before July 1, 2008, for all public works by the department of
22 transportation estimated to cost five million dollars or more, all
23 specifications shall require that no less than ten percent of the labor
24 hours be performed by apprentices.

25 (iii) For contracts advertised for bid on or after July 1, 2008,
26 and before July 1, 2009, for all public works by the department of
27 transportation estimated to cost three million dollars or more, all
28 specifications shall require that no less than twelve percent of the
29 labor hours be performed by apprentices.

30 (iv) For contracts advertised for bid on or after July 1, 2009, for
31 all public works by the department of transportation estimated to cost
32 two million dollars or more and for all public works by the Washington
33 state ferries estimated to cost five million dollars or more, all
34 specifications shall require that no less than fifteen percent of the
35 labor hours be performed by apprentices.

1 (c)(i) This section does not apply to contracts advertised for bid
2 before January 1, 2008, for any public works by a school district, or
3 to any project funded in whole or in part by bond issues approved
4 before July 1, 2007.

5 (ii) For contracts advertised for bid on or after January 1, 2008,
6 for all public works by a school district estimated to cost three
7 million dollars or more, all specifications shall require that no less
8 than ten percent of the labor hours be performed by apprentices.

9 (iii) For contracts advertised for bid on or after January 1, 2009,
10 for all public works by a school district estimated to cost two million
11 dollars or more, all specifications shall require that no less than
12 twelve percent of the labor hours be performed by apprentices.

13 (iv) For contracts advertised for bid on or after January 1, 2010,
14 for all public works by a school district estimated to cost one million
15 dollars or more, all specifications shall require that no less than
16 fifteen percent of the labor hours be performed by apprentices.

17 (d)(i) For contracts advertised for bid on or after January 1,
18 2010, for all public works by a four-year institution of higher
19 education estimated to cost three million dollars or more, all
20 specifications must require that no less than ten percent of the labor
21 hours be performed by apprentices.

22 (ii) For contracts advertised for bid on or after January 1, 2011,
23 for all public works by a four-year institution of higher education
24 estimated to cost two million dollars or more, all specifications must
25 require that no less than twelve percent of the labor hours be
26 performed by apprentices.

27 (iii) For contracts advertised for bid on or after January 1, 2012,
28 for all public works by a four-year institution of higher education
29 estimated to cost one million dollars or more, all specifications must
30 require that no less than fifteen percent of the labor hours be
31 performed by apprentices.

32 (2) Awarding entities may adjust the requirements of this section
33 for a specific project for the following reasons:

34 (a) The demonstrated lack of availability of apprentices in
35 specific geographic areas;

36 (b) A disproportionately high ratio of material costs to labor
37 hours, which does not make feasible the required minimum levels of
38 apprentice participation;

1 (c) Participating contractors have demonstrated a good faith effort
2 to comply with the requirements of RCW 39.04.300 and 39.04.310 and this
3 section; or

4 (d) Other criteria the awarding entity deems appropriate, which are
5 subject to review by the office of the governor.

6 (3) The secretary of the department of transportation shall adjust
7 the requirements of this section for a specific project for the
8 following reasons:

9 (a) The demonstrated lack of availability of apprentices in
10 specific geographic areas; or

11 (b) A disproportionately high ratio of material costs to labor
12 hours, which does not make feasible the required minimum levels of
13 apprentice participation.

14 (4) This section applies to public works contracts awarded by the
15 state, to public works contracts awarded by school districts, and to
16 public works contracts awarded by state four-year institutions of
17 higher education. However, this section does not apply to contracts
18 awarded by state agencies headed by a separately elected public
19 official.

20 (5)(a) The department of general administration must provide
21 information and technical assistance to affected agencies and collect
22 the following data from affected agencies for each project covered by
23 this section:

24 (i) The name of each apprentice and apprentice registration number;

25 (ii) The name of each project;

26 (iii) The dollar value of each project;

27 (iv) The date of the contractor's notice to proceed;

28 (v) The number of apprentices and labor hours worked by them,
29 categorized by trade or craft;

30 (vi) The number of journey level workers and labor hours worked by
31 them, categorized by trade or craft; and

32 (vii) The number, type, and rationale for the exceptions granted
33 under subsection (2) of this section.

34 (b) The department of labor and industries shall assist the
35 department of general administration in providing information and
36 technical assistance.

37 (6) The secretary of transportation shall establish an
38 apprenticeship utilization advisory committee, which shall include

1 statewide geographic representation and consist of equal numbers of
2 representatives of contractors and labor. The committee must include
3 at least one member representing contractor businesses with less than
4 thirty-five employees. The advisory committee shall meet regularly
5 with the secretary of transportation to discuss implementation of this
6 section by the department of transportation, including development of
7 the process to be used to adjust the requirements of this section for
8 a specific project. The committee shall provide a report to the
9 legislature by January 1, 2008, on the effects of the apprentice labor
10 requirement on transportation projects and on the availability of
11 apprentice labor and programs statewide.

12 (7) At the request of the senate labor, commerce, research and
13 development committee, the house of representatives commerce and labor
14 committee, or their successor committees, and the governor, the
15 department of general administration and the department of labor and
16 industries shall compile and summarize the agency data and provide a
17 joint report to both committees. The report shall include
18 recommendations on modifications or improvements to the apprentice
19 utilization program and information on skill shortages in each trade or
20 craft."

SB 5742 - S AMD

By Senators Ranker, Haugen, Ericksen, King

PULLED 03/04/2011

21 On page 1, line 1 of the title, after "Relating to" strike the
22 remainder of the title and insert "providing funding and cost saving
23 measures for the Washington state ferry system; amending RCW 47.60.530,
24 47.60.315, 82.08.0255, 82.12.0256, 47.64.011, 47.64.210, 47.64.150,
25 41.58.060, and 39.04.320; reenacting and amending RCW 43.84.092,
26 47.64.090, and 41.06.070; adding a new section to chapter 47.60 RCW;
27 creating a new section; and repealing RCW 47.64.280."

EFFECT: Exempts from the state sales and use tax fuel purchased by

a county-owned ferry for use in ferry vessels.

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