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SENATE BILL 5945

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State of Washington                      52nd Legislature                      1991 Regular Session

By Senators Patterson, McMullen, Conner and Metcalf.

Read first time March 15, 1991.                      Referred to Committee on  
Transportation.

1            AN ACT Relating to state government organization; amending RCW  
2 43.17.010, 43.17.020, 47.01.081, 47.64.011, 88.16.010, 47.60.010,  
3 47.60.013, 47.60.040, 47.60.060, 47.60.113, 47.60.114, 47.60.120,  
4 47.60.130, 47.60.140, 47.60.145, 47.60.150, 47.60.310, 47.60.326,  
5 47.60.440, 47.60.450, 47.60.470, 47.60.505, 47.60.530, and 47.60.760;  
6 adding a new section to chapter 41.06 RCW; adding a new chapter to  
7 Title 47 RCW; creating new sections; and repealing RCW 47.64.290.

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

9            NEW SECTION.    **Sec. 1.**    The legislature recognizes the unique needs  
10 of the citizens of the state who live and are employed around Puget  
11 Sound, the businesses who must cross Puget Sound as part of conducting  
12 business, and the tourists who visit the area.    The legislature also  
13 recognizes the part played by the Washington state ferry system in  
14 meeting these needs.    The governor, as head of the executive branch,  
15 should have direct control over the Washington state ferry system.    The

1 legislature therefore finds and declares that a separate agency in  
2 state government should be created to service those requirements.

3 NEW SECTION. **Sec. 2.** As used in this chapter, unless the context  
4 indicates otherwise:

5 (1) "Department" means the department of marine transportation; and

6 (2) "Secretary" means the secretary of marine transportation.

7 NEW SECTION. **Sec. 3.** (1) There is created a department of state  
8 government to be known as the department of marine transportation.

9 (2) All powers, duties, and functions vested by law in the  
10 department of transportation, the transportation commission, and the  
11 secretary of transportation, related to the Washington state ferry  
12 system, are transferred to the jurisdiction of the department, except  
13 those powers, duties, and functions which are expressly directed  
14 elsewhere by law.

15 (3) The board of pilotage commissioners is transferred to the  
16 jurisdiction of the department for its staff support and  
17 administration. Nothing in this section shall be construed as  
18 transferring any policy-making powers of the board of pilotage  
19 commissioners to the department of marine transportation.

20 NEW SECTION. **Sec. 4.** The department shall submit an annual  
21 report no later than December 20th of each year to the governor and  
22 chairs of the transportation committees of the senate and house of  
23 representatives with a copy to the staff of each of the committees,  
24 including but not limited to operational and construction activities of  
25 the preceding fiscal period as the department deems important and  
26 recommendations for future operations of the department.

1        NEW SECTION.    **Sec. 5.**    The executive head and appointing authority  
2 of the department shall be the secretary.    The secretary shall be  
3 appointed by the governor, with the consent of the senate, and shall  
4 serve at the pleasure of the governor.    The secretary shall be paid a  
5 salary to be fixed by the governor in accordance with RCW 43.03.040 but  
6 in no event shall that salary be less than the salary paid to the  
7 secretary of the department of transportation.    If a vacancy occurs in  
8 the position while the senate is not in session, the governor shall  
9 make a temporary appointment until the next meeting of the senate.    A  
10 temporary secretary shall not serve more than one year.

11        NEW SECTION.    **Sec. 6.**    It is the intent of the legislature  
12 wherever possible to place the internal affairs of the department under  
13 the control of the secretary in order that the secretary may institute  
14 therein the flexible, alert, and intelligent management of its business  
15 that changing contemporary circumstances require.    Therefore, whenever  
16 the secretary's authority is not specifically limited by law, the  
17 secretary shall have complete charge and supervisory powers over the  
18 department.    The secretary may create such administrative structures as  
19 the secretary considers appropriate, except as otherwise specified by  
20 law.    The secretary may employ such assistants and personnel as may be  
21 necessary for the general administration of the department.    This  
22 employment shall be in accordance with the state civil service law,  
23 chapter 41.06 RCW, except as otherwise provided.

24        NEW SECTION.    **Sec. 7.**    The department may be subdivided into  
25 divisions.    Except as otherwise specified or as federal requirements  
26 may differently require, these divisions shall be established and  
27 organized in accordance with plans to be prepared by the secretary and  
28 approved by the governor.    In preparing such plans, the secretary shall

1 endeavor to promote efficient public management, to improve programs,  
2 and to take full advantage of the economies, both fiscal and  
3 administrative, to be gained from the consolidation of functions and  
4 agencies under this chapter.

5 NEW SECTION. **Sec. 8.** The secretary shall appoint a deputy  
6 secretary, and such assistant secretaries as may be needed to  
7 administer the department. The deputy secretary shall have charge and  
8 general supervision of the department in the absence or disability of  
9 the secretary and, in case of a vacancy in the office of secretary,  
10 shall continue in charge of the department until a successor is  
11 appointed and qualified, or until the governor appoints an acting  
12 secretary.

13 NEW SECTION. **Sec. 9.** Any power or duty vested in or transferred  
14 to the secretary by law, or executive order, may be delegated by the  
15 secretary to the deputy secretary or to any other assistant or  
16 subordinate; but the secretary shall be responsible for the official  
17 acts of the officers and employees of the department.

18 NEW SECTION. **Sec. 10.** The secretary may appoint such advisory  
19 committees or councils as may be required by any federal legislation as  
20 a condition to the receipt of federal funds by the department. The  
21 secretary may also appoint state-wide committees or councils on such  
22 subject matters as are or come within the department's  
23 responsibilities. The state-wide committees and councils shall have  
24 representation from both major political parties and shall have  
25 substantial consumer representation. The committees or councils shall  
26 be constituted as required by federal law or as the secretary may  
27 determine. The members of the committees or councils shall hold office

1 as follows: One-third to serve one year; one-third to serve two years;  
2 and one-third to serve three years. Upon expiration of the original  
3 terms, subsequent appointments shall be for three years except in the  
4 case of a vacancy, in which event appointment shall be only for the  
5 remainder of the unexpired term for which the vacancy occurs. No  
6 member may serve more than two consecutive terms.

7 Members of such state advisory committees or councils may be paid  
8 their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

9 NEW SECTION. **Sec. 11.** In furtherance of the policy of the  
10 state to cooperate with the federal government in all of the programs  
11 under the jurisdiction of the department, such rules as may become  
12 necessary to entitle the state to participate in federal funds may be  
13 adopted, unless expressly prohibited by law. Any internal  
14 reorganization carried out under the terms of this chapter shall meet  
15 federal requirements which are a necessary condition to state receipt  
16 of federal funds. Any section or provision of law dealing with the  
17 department which may be susceptible to more than one construction shall  
18 be interpreted in favor of the construction most likely to comply with  
19 federal laws entitling this state to receive federal funds for the  
20 various programs of the department. If any law dealing with the  
21 department is ruled to be in conflict with federal requirements which  
22 are a prescribed condition of the allocation of federal funds to the  
23 state, or to any departments or agencies thereof, the conflicting part  
24 is declared to be inoperative solely to the extent of the conflict.

25 NEW SECTION. **Sec. 12.** A new section is added to chapter 41.06 RCW  
26 to read as follows:

27 In addition to the exemptions under RCW 41.06.070, the provisions  
28 of this chapter shall not apply in the department of marine

1 transportation to the secretary, the secretary's personal secretary,  
2 the deputy secretary, all assistant secretaries, and one confidential  
3 secretary for each of these officers.

4 NEW SECTION. **Sec. 13.** All powers, duties, and functions of  
5 the department of transportation pertaining to marine transportation  
6 are transferred to the department of marine transportation. All  
7 references to the secretary of transportation or department of  
8 transportation as they pertain to marine transportation in the Revised  
9 Code of Washington shall be construed to mean the secretary of marine  
10 transportation or department of marine transportation when referring to  
11 the functions transferred in this section.

12 NEW SECTION. **Sec. 14.** All reports, documents, surveys, books,  
13 records, files, papers, or written material in the possession of the  
14 department of transportation pertaining to the powers, functions, and  
15 duties transferred shall be delivered to the custody of the department  
16 of marine transportation. All cabinets, furniture, office equipment,  
17 motor vehicles, and other tangible property employed in connection with  
18 the powers, duties, and functions transferred shall be made available  
19 to the department of marine transportation. All funds, credits, or  
20 other assets held in connection with the powers, duties, and functions  
21 transferred shall be assigned to the department of marine  
22 transportation.

23 Any appropriations made in connection with the powers, duties, and  
24 functions transferred shall, on the effective date of this section, be  
25 transferred and credited to the department of marine transportation.

26 Whenever any question arises as to the transfer of any personnel,  
27 funds, books, documents, records, papers, files, equipment, or other  
28 tangible property used or held in the exercise of the powers and the

1 performance of the duties and functions transferred, or as to the  
2 powers, duties, and functions transferred, the director of financial  
3 management shall make a determination as to the proper allocation and  
4 certify the same to the state agencies concerned.

5 NEW SECTION. **Sec. 15.** All classified employees employed in  
6 connection with the powers, duties, and functions transferred are  
7 transferred to the jurisdiction of the department of marine  
8 transportation. All employees classified under chapter 41.06 RCW, the  
9 state civil service law, are assigned to the department of marine  
10 transportation to perform their usual duties upon the same terms as  
11 formerly, without any loss of rights, subject to any action that may be  
12 appropriate thereafter in accordance with the laws and rules governing  
13 state civil service.

14 NEW SECTION. **Sec. 16.** All rules and all pending business  
15 before any agency of state government pertaining to the powers, duties,  
16 and functions transferred shall be continued and acted upon by the  
17 department of marine transportation. All existing contracts and  
18 obligations shall remain in full force and shall be performed by the  
19 department of marine transportation.

20 NEW SECTION. **Sec. 17.** The transfer of the powers, duties,  
21 functions, and personnel shall not affect the validity of any act  
22 performed by such employee before the effective date of this section.

23 NEW SECTION. **Sec. 18.** If apportionments of budgeted funds are  
24 required because of the transfers directed by sections 14 through 17 of  
25 this act, the director of financial management shall certify the  
26 apportionments to the agencies affected, the state auditor, and the

1 state treasurer. Each of these shall make the appropriate transfer and  
2 adjustments in funds and appropriation accounts and equipment records  
3 in accordance with the certification.

4 NEW SECTION. **Sec. 19.** Nothing contained in sections 14  
5 through 18 of this act may be construed to alter any existing  
6 collective bargaining unit or the provisions of any existing collective  
7 bargaining agreement until the agreement has expired or until the  
8 bargaining unit has been modified by action of the personnel board as  
9 provided by law.

10 **Sec. 20.** RCW 43.17.010 and 1989 1st ex.s. c 9 s 810 are each  
11 amended to read as follows:

12 There shall be departments of the state government which shall be  
13 known as (1) the department of social and health services, (2) the  
14 department of ecology, (3) the department of labor and industries, (4)  
15 the department of agriculture, (5) the department of fisheries, (6) the  
16 department of wildlife, (7) the department of transportation, (8) the  
17 department of licensing, (9) the department of general administration,  
18 (10) the department of trade and economic development, (11) the  
19 department of veterans affairs, (12) the department of revenue, (13)  
20 the department of retirement systems, (14) the department of  
21 corrections, (15) the department of community development, (~~and~~) (16)  
22 the department of health, and (17) the department of marine  
23 transportation, which shall be charged with the execution, enforcement,  
24 and administration of such laws, and invested with such powers and  
25 required to perform such duties, as the legislature may provide.

26 **Sec. 21.** RCW 43.17.020 and 1989 1st ex.s. c 9 s 811 are each  
27 amended to read as follows:



1       There shall be a chief executive officer of each department to be  
2 known as: (1) The secretary of social and health services, (2) the  
3 director of ecology, (3) the director of labor and industries, (4) the  
4 director of agriculture, (5) the director of fisheries, (6) the  
5 director of wildlife, (7) the secretary of transportation, (8) the  
6 director of licensing, (9) the director of general administration, (10)  
7 the director of trade and economic development, (11) the director of  
8 veterans affairs, (12) the director of revenue, (13) the director of  
9 retirement systems, (14) the secretary of corrections, (15) the  
10 director of community development, (~~and~~) (16) the secretary of  
11 health, and (17) the secretary of marine transportation.

12       Such officers, except the secretary of transportation, shall be  
13 appointed by the governor, with the consent of the senate, and hold  
14 office at the pleasure of the governor. The director of wildlife,  
15 however, shall be appointed according to the provisions of RCW  
16 77.04.080. If a vacancy occurs while the senate is not in session, the  
17 governor shall make a temporary appointment until the next meeting of  
18 the senate. A temporary director of wildlife or of marine  
19 transportation shall not serve more than one year. The secretary of  
20 transportation shall be appointed by the transportation commission as  
21 prescribed by RCW 47.01.041.

22       **Sec. 22.** RCW 47.01.081 and 1984 c 48 s 1 are each amended to read  
23 as follows:

24       (1) Initially the department shall be organized into divisions,  
25 including the division of highways, the division of public  
26 transportation, the division of aeronautics, (~~the division of marine~~  
27 ~~transportation,~~) and the division of transportation planning and  
28 budget.

1 (2) The secretary may reorganize divisions in order to attain the  
2 maximum possible efficiency in the operation of the department. Each  
3 division shall be headed by an assistant secretary to be appointed by  
4 the secretary. The secretary may also appoint a deputy secretary as  
5 may be needed for the performance of the duties and functions vested in  
6 the department and may also appoint up to twelve ferry system  
7 management positions as defined in RCW 47.64.011. The secretary may  
8 delegate to officers within the several divisions of the department  
9 authority to employ personnel necessary to discharge the  
10 responsibilities of the department.

11 (3) The officers appointed under this section shall be exempt from  
12 the provisions of the state civil service law and shall be paid  
13 salaries to be fixed by the governor in accordance with the procedure  
14 established by law for the fixing of salaries for officers exempt from  
15 the operation of the state civil service law.

16 **Sec. 23.** RCW 47.64.011 and 1983 c 15 s 2 are each amended to read  
17 as follows:

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

20 (1) "Arbitration" means the procedure whereby the parties involved  
21 in an impasse submit their differences to a third party for a final and  
22 binding decision or as provided in this chapter.

23 (2) "Arbitrator" means either a single arbitrator or a panel of  
24 three arbitrators as provided in RCW 47.64.240.

25 (3) "Collective bargaining representative" means the persons  
26 designated by the (~~secretary of transportation~~) governor and employee  
27 organizations to be the exclusive representatives during collective  
28 bargaining negotiations.

1 (4) "Department of marine transportation" means the department as  
2 defined in ((~~RCW 47.01.021~~)) section 2 of this act.

3 (5) "Ferry employee" means any employee of the department of marine  
4 transportation ((~~division of the department of transportation~~)) who is  
5 a member of a collective bargaining unit represented by a ferry  
6 employee organization and does not include an exempt employee pursuant  
7 to RCW 41.06.079.

8 (6) "Ferry employee organization" means any labor organization  
9 recognized to represent a collective bargaining unit of ferry  
10 employees.

11 (7) "Ferry system management" means those management personnel of  
12 the department of marine transportation ((~~division of the department of~~  
13 ~~transportation~~)) who have been vested with the day-to-day management  
14 responsibilities of the Washington state ferry system by the secretary  
15 of marine transportation ((~~commission~~)) and who are not members of a  
16 collective bargaining unit represented by a ferry employee  
17 organization.

18 (8) "Lockout" means the refusal of ferry system management to  
19 furnish work to ferry employees in an effort to get ferry employee  
20 organizations to make concessions during collective bargaining,  
21 grievance, or other labor relation negotiations. Curtailment of  
22 employment of ferry employees due to lack of work resulting from a  
23 strike or work stoppage, as defined in subsection (11) of this section,  
24 shall not be considered a lockout.

25 (9) "Marine employees' commission" means the commission created in  
26 RCW 47.64.280.

27 (10) "Office of financial management" means the office as created  
28 in RCW 43.41.050.

29 (11) "Strike or work stoppage" means a ferry employee's refusal, in  
30 concerted action with others, to report to duty, or his or her willful

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

11 ~~((12) "Transportation commission" means the commission as defined~~  
12 ~~in RCW 47.01.021.))~~

13 **Sec. 24.** RCW 88.16.010 and 1987 c 485 s 1 are each amended to read  
14 as follows:

15 (1) The board of pilotage commissioners of the state of Washington  
16 is hereby created and shall consist of the ~~((assistant))~~ secretary of  
17 marine transportation ~~((of the department of transportation))~~ of the  
18 state of Washington, or the ~~((assistant))~~ secretary's designee who  
19 shall be an employee of the department of marine ~~((division))~~  
20 transportation, who shall be chairperson, and six members appointed by  
21 the governor and confirmed by the senate. Each of said appointed  
22 commissioners shall be appointed for a term of four years from the date  
23 of said member's commission. No person shall be eligible for  
24 appointment to said board unless that person is at the time of  
25 appointment eighteen years of age or over and a citizen of the United  
26 States and of the state of Washington. Two of said appointed  
27 commissioners shall be pilots licensed under this chapter and actively  
28 engaged in piloting upon the waters covered by this chapter for at  
29 least three years immediately preceding the time of appointment and

1 while serving on the board. One pilot shall be from the Puget Sound  
2 pilotage district and one shall be from the Grays Harbor pilotage  
3 district. Two of said appointed commissioners shall be actively  
4 engaged in the ownership, operation, or management of deep sea cargo  
5 and/or passenger carrying vessels for at least three years immediately  
6 preceding the time of appointment and while serving on the board. One  
7 of said shipping commissioners shall be a representative of American  
8 and one of foreign shipping. The remaining commissioners shall be  
9 persons interested in and concerned with pilotage, maritime safety, and  
10 marine affairs, with broad experience related to the maritime industry  
11 exclusive of experience as either a state licensed pilot or as a  
12 shipping representative.

13 (2) Any vacancy in an appointed position on the board shall be  
14 filled by the governor for the remainder of the unfilled term, subject  
15 to confirmation by the senate.

16 (3) Four members of the board shall constitute a quorum. At least  
17 one pilot, one shipping representative, and one public member must be  
18 present at every meeting. All commissioners and the chairperson shall  
19 have a vote.

20 **Sec. 25.** RCW 47.60.010 and 1984 c 18 s 1 are each amended to read  
21 as follows:

22 The department is authorized to acquire by lease, charter,  
23 contract, purchase, condemnation, or construction, and partly by any or  
24 all of such means, and to thereafter operate, improve, and extend, a  
25 system of ferries on and crossing Puget Sound and any of its tributary  
26 waters and connections thereof, and connecting with the public streets  
27 and highways in the state. The system of ferries shall include such  
28 boats, vessels, wharves, docks, approaches, landings, franchises,  
29 licenses, and appurtenances as shall be determined by the department to

1 be necessary or desirable for efficient operation of the ferry system  
2 and best serve the public. (~~The department may in like manner acquire~~  
3 ~~by purchase, condemnation, or construction and include in the ferry~~  
4 ~~system such toll bridges, approaches, and connecting roadways as may be~~  
5 ~~deemed by the department advantageous in channeling traffic to points~~  
6 ~~served by the ferry system.)) In addition to the powers of acquisition~~

7 granted by this section, the department is empowered to enter into any  
8 contracts, agreements, or leases with any person, firm, or corporation  
9 and to thereby provide, on such terms and conditions as it shall  
10 determine, for the operation of any ferry or ferries or system thereof,  
11 whether acquired by the department or not.

12 The authority of the department to sell and lease back any state  
13 ferry, for federal tax purposes only, as authorized by 26 U.S.C., Sec.  
14 168(f)(8) is confirmed. Legal title and all incidents of legal title  
15 to any ferry sold and leased back (except for the federal tax benefits  
16 attributable to the ownership thereof) shall remain in the state of  
17 Washington.

18 **Sec. 26.** RCW 47.60.013 and 1981 c 341 s 1 are each amended to read  
19 as follows:

20 The governor is authorized to take such actions as may be necessary  
21 to insure the continued operation of the Puget Sound ferry (~~and toll~~  
22 ~~bridge~~) system under any emergency circumstances which threaten the  
23 continued operation of the system. In the event of such an emergency,  
24 the governor may assume all the powers granted by law to the  
25 (~~transportation commission and~~) department of marine transportation  
26 with respect to the ferry system. In addition, notwithstanding the  
27 provisions of chapters 47.60 and 47.64 RCW, the governor may contract  
28 with any qualified persons for the operation of the Washington state  
29 ferry system, or any part thereof, or for ferry service to be provided

1 by privately owned vessels. Administrative costs to the office of the  
2 governor incurred in the exercise of this authority shall be reimbursed  
3 by the department.

4 **Sec. 27.** RCW 47.60.040 and 1984 c 7 s 300 are each amended to read  
5 as follows:

6 For the purpose of obtaining information for the consideration of  
7 the department upon the acquisition of any ferries or ferry facilities  
8 (~~((or the construction of any toll bridge under this chapter))~~), the  
9 department shall make any examination, investigation, survey, or  
10 reconnaissance for the determination of material facts pertaining  
11 thereto.

12 The cost of any such examination, investigation, survey, or  
13 reconnaissance, and all preliminary expenses leading up to and  
14 resulting in the issuance of any revenue bonds including, but not being  
15 limited to expenses in making surveys and appraisals and the drafting,  
16 printing, issuance, and sale of bonds under this chapter shall be borne  
17 by the department out of the (~~(motor vehicle fund. All such costs and  
18 expenses as well as any thereof heretofore incurred shall be reimbursed  
19 to the motor vehicle fund out of any proceeds derived from the sale of  
20 bonds or out of tolls and revenues to be derived by the department  
21 through its operations hereunder))~~ Puget Sound capital construction  
22 account).

23 **Sec. 28.** RCW 47.60.060 and 1984 c 7 s 302 are each amended to read  
24 as follows:

25 For the purpose of paying the cost of acquiring by lease, charter,  
26 contract, purchase, condemnation, or construction all or any part of  
27 such Puget Sound ferry system, (~~((including toll bridges, approaches,  
28 and roadways incidental thereto,))~~) and for rehabilitating, rebuilding,

1 enlarging, or improving all or any part of the system, the department  
2 is authorized by resolution to issue its revenue bonds which shall  
3 constitute obligations only of the department and shall be payable  
4 solely and only from all or such part of the revenues from the  
5 operation of the system as may be provided in and by the resolution.

6 Each revenue bond shall contain a recital that payment or  
7 redemption of the bond and payment of the interest thereon is secured  
8 by a direct charge and lien upon the tolls and revenues pledged for  
9 that purpose and that the bond does not constitute an indebtedness of  
10 the state of Washington.

11 The department is empowered to include in any resolution  
12 authorizing the issuance of the bonds such covenants, stipulations, and  
13 conditions as may be deemed necessary with respect to the continued use  
14 and application of the income and revenues from the undertaking.

15 The revenue bonds may bear such date or dates, may mature at such  
16 time or times as the department determines, may bear interest at such  
17 rate or rates, may be in such denomination or denominations, may be in  
18 such form, either coupon or registered, may carry such registration and  
19 conversion privileges, may be made subject to such terms of redemption  
20 with or without premium, and may contain such other terms and covenants  
21 not inconsistent with this chapter as may be provided in the  
22 resolution. Notwithstanding the form or tenor thereof, and in the  
23 absence of an express recital on the face thereof that the bond is  
24 nonnegotiable, each such revenue bond shall at all times be and shall  
25 be treated as a negotiable instrument for all purposes. All such bonds  
26 shall be signed by the state treasurer and countersigned by the  
27 governor, and any interest coupons appertaining thereto shall bear the  
28 signature of the state treasurer. The countersignature of the governor  
29 on the bonds and the signature of the state treasurer on the coupons  
30 may be their printed or lithographed facsimile signatures.



1 Pending the issuance of definitive bonds, temporary or interim  
2 bonds, certificates, or receipts of any denomination and with or  
3 without coupons attached may be issued as may be provided by the  
4 resolution.

5 **Sec. 29.** RCW 47.60.113 and 1984 c 7 s 305 are each amended to read  
6 as follows:

7 The department is authorized to refund, at the maturity thereof, or  
8 before the maturity thereof if they are subject to call prior to  
9 maturity or if all of the holders thereof consent thereto, upon such  
10 terms and conditions as it deems best, any or all of its revenue bonds  
11 now or hereafter outstanding, issued for the purpose of acquiring,  
12 constructing, or reconstructing (~~((any toll bridge, toll road, toll  
13 tunnel,))~~) the ferry system, (~~((or any other toll facility of any sort,))~~)  
14 or issued for the purpose of refunding such bonds, which revenue bonds  
15 are payable out of all or part of the revenues of the (~~((toll facility))~~)  
16 ferry system. Refunding bonds may be issued hereunder in a sufficient  
17 amount to provide additional funds for acquiring, constructing,  
18 reconstructing, rehabilitating, rebuilding, enlarging, or improving  
19 (~~((any toll bridge, toll road, toll tunnel,))~~) the ferry system, (~~((or any  
20 other toll facility of any sort,))~~) and to pay all refunding costs and  
21 expenses and to provide adequate reserves (~~((for the toll facility and))~~)  
22 for any such refunding bonds. Various issues and series of such  
23 outstanding bonds, including refunding bonds, may be combined and  
24 refunded by a single issue of refunding bonds. The refunding bonds  
25 shall bear interest at such rates and mature at such times, without  
26 limitation by the interest rates or maturity of the bonds being  
27 refunded, and shall contain such other covenants and conditions as the  
28 department determines by resolution.

1       **Sec. 30.** RCW 47.60.114 and 1984 c 7 s 306 are each amended to read  
2 as follows:

3       Any refunding bonds authorized by this chapter constitute  
4 obligations of the department only and not of the state of Washington.  
5 They shall be payable solely out of all or such part of the revenues  
6 derived from the operation of the ((~~toll bridge, toll road, toll~~  
7 ~~tunnel,~~)) ferry system((~~, or any other toll facility,~~)) as shall be  
8 provided in the resolution authorizing the issuance of the refunding  
9 bonds.

10       **Sec. 31.** RCW 47.60.120 and 1984 c 7 s 307 are each amended to read  
11 as follows:

12       If the ((~~department~~)) state acquires or constructs, maintains, and  
13 operates any ferry crossings upon or toll bridges over Puget Sound or  
14 any of its tributary or connecting waters there shall not be  
15 constructed, operated, or maintained any other ferry crossing upon or  
16 bridge over any such waters within ten miles of any such crossing or  
17 bridge operated or maintained by the ((~~department~~)) state excepting  
18 such bridges or ferry crossings in existence, and being operated and  
19 maintained under a lawfully issued franchise at the time of the  
20 location of the ferry crossing or construction of the toll bridge by  
21 the ((~~department~~)) state. The ((~~department~~)) state shall not maintain  
22 and operate any ferry crossing or toll bridge over Puget Sound or any  
23 of its tributary or connecting waters that would infringe upon any  
24 franchise lawfully issued by the state and in existence and being  
25 exercised at the time of the location of the ferry crossing or toll  
26 bridge by the ((~~department~~)) state, without first acquiring the rights  
27 granted to such franchise holder under the franchise.

28       While any revenue bonds issued by the ((~~department~~)) state under  
29 the provisions of this chapter are outstanding no additional bonds may

1 be issued for the purposes of acquiring, constructing, operating, or  
2 maintaining any ferries or toll bridges within the aforesaid ten mile  
3 distance by the ((department)) state unless the revenues of any such  
4 additional ferries or toll bridges are pledged to the bonds then  
5 outstanding to the extent provided by the resolution authorizing the  
6 issue of the outstanding bonds. The provisions of this section are  
7 binding upon the state, and all of its departments, agencies, and  
8 instrumentalities, as well as any and all private, political,  
9 municipal, and public corporations and subdivisions, including cities,  
10 towns, counties, and other political subdivisions, and the prohibitions  
11 of this section shall restrict and limit the powers of the legislature  
12 of the state in respect to the matters herein mentioned so long as any  
13 of such bonds are outstanding and unpaid and shall be deemed to  
14 constitute a contract to that effect for the benefit of the holders of  
15 all such bonds.

16 **Sec. 32.** RCW 47.60.130 and 1979 ex.s. c 189 s 6 are each amended  
17 to read as follows:

18 ((Such ferry system, including any toll bridges, approaches, and  
19 roadways incidental thereto, may be financed and operated in  
20 combination or separately as one or more units as the department of  
21 transportation may determine, and such ferry system together with any  
22 toll bridge hereafter constructed by the department upon or across the  
23 waters of Puget Sound or Hood Canal, or any part of either, replacing  
24 one or more presently operated ferry routes, is declared to be a  
25 continuous project within the meaning of RCW 47.56.070.)) The  
26 department is empowered to rent, lease, or charter any property  
27 acquired under this chapter. If the department determines that any  
28 real property (including lands, improvements thereon, and any interests  
29 or estates) originally acquired for the ferry system is no longer

1 required for the purposes of the ferry system, the department shall  
2 offer it for sale in the manner and with the authority authorized to  
3 the department by RCW 47.12.063 or 47.12.283. The secretary of marine  
4 transportation may adopt rules further implementing this section. The  
5 proceeds of all such sales shall be paid into the separate trust fund  
6 of the state treasury established pursuant to RCW 47.60.150.

7 **Sec. 33.** RCW 47.60.140 and 1987 c 69 s 1 are each amended to read  
8 as follows:

9 (1) The department is empowered to operate such ferry system,  
10 including all operations, whether intrastate or international, upon any  
11 route or routes, (~~and toll bridges~~) as a revenue-producing and self-  
12 liquidating undertaking. The department has full charge of the  
13 construction, rehabilitation, rebuilding, enlarging, improving,  
14 operation, and maintenance of the ferry system, (~~including toll~~  
15 ~~bridges, approaches, and roadways incidental thereto that may be~~  
16 ~~authorized by the department,~~) including the collection of tolls and  
17 other charges for the services and facilities of the undertaking. The  
18 department has the exclusive right to enter into leases and contracts  
19 for use and occupancy by other parties of the concessions and space  
20 located on the ferries, wharves, docks, approaches, and landings, but,  
21 except as provided in subsection (2) of this section, no such leases or  
22 contracts may be entered into for more than five years, nor without  
23 public advertisement for bids as may be prescribed by the department.  
24 However, except as provided in subsection (2) of this section, the  
25 Colman Dock facilities may be leased for a period not to exceed ten  
26 years.

27 (2) As part of a joint development agreement under which a public  
28 or private developer constructs improvements on ferry system property,  
29 the department may lease such property and improvements to such

1 developers for that period of time, not to exceed fifty-five years, or  
2 not to exceed thirty years for those areas located within harbor areas,  
3 which the department determines is necessary to allow the developer to  
4 make reasonable recovery on its initial investment. Any lease entered  
5 into as provided for in this subsection that involves state aquatic  
6 lands shall conform with the Washington state Constitution and  
7 applicable statutory requirements as determined by the department of  
8 natural resources. That portion of the lease rate attributable to the  
9 state aquatic lands shall be distributed in the same manner as other  
10 lease revenues derived from state aquatic lands as provided in RCW  
11 79.24.580.

12 **Sec. 34.** RCW 47.60.145 and 1982 c 210 s 1 are each amended to read  
13 as follows:

14 (1) An "historic ferry" is any vessel in the Washington state  
15 ferries fleet which has been listed in the Washington state register of  
16 historic places.

17 (2) When the department of marine transportation determines that an  
18 historic ferry is surplus to the needs of Washington state ferries, the  
19 department shall call for proposals from persons who wish to acquire  
20 the historic ferry. Proposals for the acquisition of an historic ferry  
21 shall be accepted only from persons or organizations that (a) are a  
22 governmental entity or a nonprofit corporation or association dedicated  
23 to the preservation of historic properties; (b) agree to a contract  
24 approved by the state historic preservation officer, which requires the  
25 preservation and maintenance of the historic ferry and provides that  
26 title to the ferry reverts to the state if the secretary of marine  
27 transportation determines that the contract has been violated; and (c)  
28 demonstrate the administrative and financial ability successfully to  
29 comply with the contract.

1 (3) The department shall evaluate the qualifying proposals and  
2 shall select the proposal which is most advantageous to the state.  
3 Factors to be considered in making the selection shall include but not  
4 be limited to:

- 5 (a) Extent and quality of restoration;
- 6 (b) Retention of original design and use;
- 7 (c) Public access to the vessel;
- 8 (d) Provisions for historical interpretation;
- 9 (e) Monetary return to the state.

10 (4) If there are no qualifying proposals, an historic ferry shall  
11 be disposed of in the manner provided by state law.

12 **Sec. 35.** RCW 47.60.150 and 1990 c 42 s 405 are each amended to  
13 read as follows:

14 Subject to the provisions of RCW 47.60.326, the schedule of charges  
15 for the services and facilities of the system shall be fixed and  
16 revised from time to time by the (~~commission~~) governor so that the  
17 tolls and revenues collected together with any moneys in the Puget  
18 Sound ferry operations account transferred to the ferry system  
19 revolving account for maintenance and operation, and all moneys in the  
20 Puget Sound capital construction account available for debt service  
21 will yield annual revenue and income sufficient, after allowance for  
22 all operating, maintenance, and repair expenses to pay the interest and  
23 principal and sinking fund charges for all outstanding revenue bonds,  
24 and to create and maintain a fund for ordinary renewals and  
25 replacements: PROVIDED, That if provision is made by any resolution  
26 for the issuance of revenue bonds for the creation and maintenance of  
27 a special fund for rehabilitating, rebuilding, enlarging, or improving  
28 all or any part of the ferry system then such schedule of tolls and

1 rates of charges shall be fixed and revised so that the revenue and  
2 income will also be sufficient to comply with such provision.

3 All income and revenues as collected shall be paid to the state  
4 treasurer for the account of the department as a separate trust fund  
5 and to be segregated and disbursed upon order of the department:  
6 PROVIDED, That the fund so segregated and set apart for the payment of  
7 the revenue bonds may be remitted to and held by a designated trustee  
8 in such manner and with such collateral as may be provided in the  
9 resolution authorizing the issuance of said bonds. No expenditure may  
10 be made from the revenue fund established under this section and the  
11 bond resolution without an appropriation by law. (~~Nothing in this~~  
12 ~~section requires tolls on the Hood Canal bridge except as may be~~  
13 ~~required by any bond covenants.))~~

14 **Sec. 36.** RCW 47.60.310 and 1988 c 100 s 1 are each amended to read  
15 as follows:

16 (1) The department is further directed to conduct such review by  
17 soliciting and obtaining expressions from local community groups in  
18 order to be properly informed as to problems being experienced within  
19 the area served by the Washington state ferries. In order that local  
20 representation may be established, the department shall give prior  
21 notice of the review to the ferry advisory committees.

22 (2) The legislative authorities of San Juan, Skagit, Clallam, and  
23 Jefferson counties shall each appoint a committee to consist of five  
24 members to serve as an advisory committee to the department or its  
25 designated representative in such review. The legislative authorities  
26 of other counties that contain ferry terminals shall appoint ferry  
27 advisory committees consisting of three members for each terminal area  
28 in each county, except for Vashon Island, which shall have one  
29 committee, and its members shall be appointed by the Vashon/Maury

1 Island community council. At least one person appointed to each ferry  
2 advisory committee shall be representative of an established ferry user  
3 group or of frequent users of the ferry system. Each member shall  
4 reside in the vicinity of the terminal that the advisory committee  
5 represents.

6 (3) The members of the San Juan, Clallam, and Jefferson county  
7 ferry advisory committees shall be appointed for four-year terms. The  
8 initial terms shall commence on July 1, 1982, and end on June 30, 1986.  
9 Any vacancy shall be filled for the remainder of the unexpired term by  
10 the appointing authority. At least one person appointed to the  
11 advisory committee shall be representative of an established ferry-user  
12 group or of frequent users of the ferry system, at least one shall be  
13 representative of persons or firms using or depending upon the ferry  
14 system for commerce, and one member shall be representative of a local  
15 government planning body or its staff. Every member shall be a  
16 resident of the county upon whose advisory committee he or she sits,  
17 and not more than three members shall at the time of their appointment  
18 be members of the same major political party.

19 (4) The members of each terminal area committee shall be appointed  
20 for four-year terms. The initial terms of the members of each terminal  
21 area committee shall be staggered as follows: All terms shall commence  
22 September 1, 1988, with one member's term expiring August 31, 1990, one  
23 member's term expiring August 31, 1991, and the remaining member's term  
24 expiring August 31, 1992. Any vacancy shall be filled for the  
25 remainder of the unexpired term by the appointing authority. Not more  
26 than two members of any terminal-area committee may be from the same  
27 political party at the time of their appointment, and in a county  
28 having more than one committee, the overall party representation shall  
29 be as nearly equal as possible.



1 (5) The chairmen of the several committees constitute an executive  
2 committee of the Washington state ferry users. The executive committee  
3 shall meet twice each year with representatives of the department of  
4 marine (~~((division of the department))~~) transportation to review ferry  
5 system issues.

6 (6) The committees to be appointed by the county legislative  
7 authorities shall serve without fee or compensation.

8 **Sec. 37.** RCW 47.60.326 and 1990 c 42 s 406 are each amended to  
9 read as follows:

10 (1) In order to maintain an adequate, fair, and economically sound  
11 schedule of charges for the transportation of passengers, vehicles, and  
12 commodities on the Washington state ferries, the department of marine  
13 transportation each year shall conduct a full review of such charges.

14 (2) Prior to February 1st of each odd-numbered year the department  
15 shall transmit to the (~~((transportation commission))~~) governor a report  
16 of its review together with its recommendations for the revision of a  
17 schedule of charges for the ensuing biennium. The (~~((commission))~~)  
18 governor on or before July 1st of that year shall adopt as a rule, in  
19 the manner provided by the Washington administrative procedure act, a  
20 schedule of charges for the Washington state ferries for the ensuing  
21 biennium commencing July 1st. The schedule may initially be adopted as  
22 an emergency rule if necessary to take effect on, or as near as  
23 possible to, July 1st.

24 (3) The department in making its review and formulating  
25 recommendations and the (~~((commission))~~) governor in adopting a schedule  
26 of charges may consider any of the following factors:

27 (a) The amount of subsidy available to the ferry system for  
28 maintenance and operation;

29 (b) The time and distance of ferry runs;

1 (c) The maintenance and operation costs for ferry runs with a  
2 proper adjustment for higher costs of operating outmoded or less  
3 efficient equipment;

4 (d) The efficient distribution of traffic between cross-sound  
5 routes;

6 (e) The desirability of reasonable commutation rates for persons  
7 using the ferry system to commute daily to work;

8 (f) The effect of proposed fares in increasing walk-on and  
9 vehicular passenger use;

10 (g) The effect of proposed fares in promoting all types of ferry  
11 use during nonpeak periods;

12 (h) Such other factors as prudent managers of a major ferry system  
13 would consider.

14 (4) If at any time during the biennium it appears that projected  
15 toll revenues from the ferry system, together with the transfer from  
16 the Puget Sound ferry operations account to the ferry system revolving  
17 account and any other operating subsidy available to the Washington  
18 state ferries, will be less than the projected total cost of  
19 maintenance and operation of the Washington state ferries for the  
20 biennium, the department shall forthwith undertake a review of its  
21 schedule of charges to ascertain whether or not the schedule of charges  
22 should be revised. The department shall, upon completion of its review  
23 report, submit its recommendation to the ~~((transportation commission~~  
24 ~~which))~~ governor who may ~~((in its sound discretion))~~ revise the  
25 schedule of charges as required to meet necessary maintenance and  
26 operation expenditures of the ferry system for the biennium or may  
27 defer action until the regular annual review and revision of ferry  
28 charges as provided in subsection (2) of this section.

1 (5) The provisions of RCW 47.60.330 relating to public  
2 participation shall apply to the process of revising ferry tolls under  
3 this section.

4 **Sec. 38.** RCW 47.60.440 and 1990 c 42 s 408 are each amended to  
5 read as follows:

6 The Washington state ferry system shall be efficiently managed,  
7 operated, and maintained as a revenue-producing undertaking. Subject  
8 to the provisions of RCW 47.60.326 the (~~commission~~) governor shall  
9 maintain and revise from time to time as necessary a schedule of tolls  
10 and charges on said ferry system (~~and, if necessary to comply with~~  
11 ~~bond covenants, on the Hood Canal bridge which~~) together with any  
12 moneys in the Puget Sound ferry operations account transferred to the  
13 ferry system revolving account for maintenance and operation and all  
14 moneys in the Puget Sound capital construction account available for  
15 debt service will produce net revenue available for debt service, in  
16 each fiscal year, in an amount at least equal to minimum annual debt  
17 service requirements as hereinafter provided. Minimum annual debt  
18 service requirements as used in this section shall include required  
19 payments of principal and interest, sinking fund requirements, and  
20 payments into reserves on all outstanding revenue bonds authorized by  
21 RCW 47.60.400 through 47.60.470.

22 The provisions of law relating to the revision of tolls and charges  
23 to meet minimum annual debt service requirements from net revenues as  
24 required by this section shall be binding upon the (~~commission~~)  
25 governor but shall not be deemed to constitute a contract to that  
26 effect for the benefit of the holders of such bonds.

27 **Sec. 39.** RCW 47.60.450 and 1986 c 66 s 7 are each amended to read  
28 as follows:

1 If the net revenue together with all moneys in the Puget Sound  
2 capital construction account available for debt service in any fiscal  
3 year fail to meet minimum annual debt service for the year, as defined  
4 in RCW 47.60.440, the (~~commission~~) governor shall promptly revise the  
5 tolls and charges after considering supporting data and recommendations  
6 therefor which shall be furnished by a nationally recognized traffic  
7 engineering firm retained by the (~~commission~~) governor in the manner  
8 provided in the bond proceedings.

9 Tolls and charges shall not be increased in any case when in the  
10 opinion of the engineering firm the increase would so reduce traffic  
11 that no net gain in revenue would result. This section is a covenant  
12 for the benefit of the holders of the bonds.

13 **Sec. 40.** RCW 47.60.470 and 1987 c 505 s 52 are each amended to  
14 read as follows:

15 The department shall periodically report to the chairs of the  
16 transportation committees of the senate and house of representatives,  
17 including one copy to the staff of each of the committees, its plans  
18 and progress relating to the financing and refinancing of the  
19 Washington state ferries (~~and Hood Canal bridge~~), including the  
20 issuance of bonds authorized by RCW 47.60.400 through 47.60.470, to the  
21 end that the committee may be informed of plans which may affect its  
22 recommendations to the legislature.

23 **Sec. 41.** RCW 47.60.505 and 1986 c 66 s 9 are each amended to read  
24 as follows:

25 There is hereby created in the motor vehicle fund the Puget Sound  
26 capital construction account. All moneys hereafter deposited in said  
27 account shall be used by the department of marine transportation for:

1 (1) Reimbursing the motor vehicle fund for all transfers therefrom  
2 made in accordance with RCW 47.60.620; and

3 (2) Improving the Washington state ferry system including, but not  
4 limited to, vessel acquisition, vessel construction, major and minor  
5 vessel improvements, terminal construction and improvements, (~~and~~  
6 ~~reconstruction or replacement of, and improvements to, the Hood Canal~~  
7 ~~bridge, reimbursement of the motor vehicle fund for any state funds,~~  
8 ~~other than insurance proceeds, expended therefrom for reconstruction or~~  
9 ~~replacement of and improvements to the Hood Canal bridge,~~) pursuant to  
10 proper appropriations(~~(: PROVIDED, That)~~). Any funds accruing to the  
11 Puget Sound capital construction account after June 30, 1979, which are  
12 not required to reimburse the motor vehicle fund pursuant to RCW  
13 47.60.620 as such obligations come due nor are required for capital  
14 improvements of the Washington state ferries pursuant to appropriations  
15 therefor shall from time to time as shall be determined by the  
16 department of marine transportation be transferred by the state  
17 treasurer to the Puget Sound ferry operations account in the motor  
18 vehicle fund.

19 (3) The department may pledge any moneys in the Puget Sound capital  
20 construction account or to be deposited in that account to guarantee  
21 the payment of principal or interest on bonds issued to refund the  
22 outstanding 1955 Washington state ferry system refunding bonds (~~and~~  
23 ~~the 1957 ferry and Hood Canal bridge revenue bonds~~).

24 The department may further pledge moneys in the Puget Sound capital  
25 construction account to meet any sinking fund requirements or reserves  
26 established by the department with respect to any bond issues provided  
27 for in this section.

28 To the extent of any pledge authorized in this section, the  
29 department shall use the first moneys available in the Puget Sound  
30 capital construction account to meet such obligations as they arise,

1 and shall maintain a balance of not less than one million dollars in  
2 the account for this purpose.

3 (4) The treasurer shall never transfer any moneys from the Puget  
4 Sound capital construction account for use by the department for state  
5 highway purposes so long as there is due and unpaid any obligations for  
6 payment of principal, interest, sinking funds, or reserves as required  
7 by any pledge of the Puget Sound capital construction account.  
8 Whenever the department has pledged any moneys in the account for the  
9 purposes authorized in this section, the state agrees to continue to  
10 deposit in the Puget Sound capital construction account the motor  
11 vehicle fuel taxes and special fuel taxes as provided in RCW 82.36.020  
12 and 82.38.290 and further agrees that, so long as there exists any  
13 outstanding obligations pursuant to such pledge, to continue to impose  
14 such taxes.

15 (5) Funds in the Puget Sound capital construction account of the  
16 motor vehicle fund that are not required by the department for payment  
17 of principal or interest on bond issues or for any of the other  
18 purposes authorized in this chapter may be invested by the department  
19 in bonds and obligations of the nature eligible for the investment of  
20 current state funds as provided in RCW 43.84.080.

21 **Sec. 42.** RCW 47.60.530 and 1979 c 27 s 4 are each amended to read  
22 as follows:

23 There is hereby created in the motor vehicle fund the Puget Sound  
24 ferry operations account to the credit of which shall be deposited all  
25 moneys directed by law to be deposited therein. All moneys deposited  
26 in this account shall be expended pursuant to appropriations only for  
27 ~~((reimbursement of the motor vehicle fund for any state moneys, other~~  
28 ~~than insurance proceeds, expended therefrom for alternate~~  
29 ~~transportation services instituted as a result of the destruction of~~

1 ~~the Hood Canal bridge, and for))~~ maintenance and operation of the  
2 Washington state ferries ~~((including the Hood Canal bridge)),~~  
3 supplementing as required the revenues available from the Washington  
4 state ferry system.

5 **Sec. 43.** RCW 47.60.760 and 1983 c 133 s 9 are each amended to read  
6 as follows:

7 The department of marine transportation shall not be required to  
8 make available for public inspection and copying financial information  
9 supplied by any person, firm, or corporation for the purpose of  
10 qualifying to submit a bid or proposal for a ferry system construction  
11 or repair contract as required by RCW 47.60.680 through 47.60.750.

12 NEW SECTION. **Sec. 44.** The legislature finds that the state of  
13 Washington is greatly benefitted by its diverse marine transportation  
14 resources. The Washington state ferry system is but one of the many  
15 marine resources that make Washington a desirable place to live and  
16 work. The legislature finds that coordination and consolidation of all  
17 state governmental services relating to marine resources under the  
18 purview of the department of marine transportation is desirable. The  
19 legislature further finds that creation of a commission composed of  
20 persons with technical and policy expertise in the areas of marine  
21 transportation and environmental protection to advise the governor and  
22 the department is desirable.

23 The department of marine transportation is directed to study all  
24 facets of marine transportation, including but not limited to, the  
25 ferry system, commercial fishing, oil and hazardous substance spill  
26 prevention and cleanup, private marine transportation systems, vessel  
27 dealer, taxation, and registration programs, pilotage, and ports. The  
28 department is to involve representatives from all facets of marine

1 transportation and the environmental protection community, both public  
2 and private. The department is directed to make recommendations to the  
3 legislature regarding the consolidation of all state governmental  
4 services relating to marine transportation and marine environmental  
5 protection into the department of marine transportation on or before  
6 January 15, 1992.

7 NEW SECTION. **Sec. 45.** All legislation relating to marine  
8 transportation and to marine transportation related environmental  
9 protection, whether of a fiscal or policy nature, is required to be  
10 referred to the standing committees on transportation of both the house  
11 of representatives and the senate.

12 NEW SECTION. **Sec. 46.** RCW 47.64.290 and 1984 c 48 s 2 are  
13 each repealed.

14 NEW SECTION. **Sec. 47.** Sections 1 through 11 of this act shall  
15 constitute a new chapter in Title 47 RCW.