

2 SHB 1931 - S COMM AMD  
3 By Committee on Transportation

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 47.60.120 and 1984 c 7 s 307 are each amended to read  
8 as follows:

9 (1) If the department acquires or constructs, maintains, and  
10 operates any ferry crossings upon or toll bridges over Puget Sound or  
11 any of its tributary or connecting waters, there shall not be  
12 constructed, operated, or maintained any other ferry crossing upon or  
13 bridge over any such waters within ten miles of any such crossing or  
14 bridge operated or maintained by the department excepting such bridges  
15 or ferry crossings in existence, and being operated and maintained  
16 under a lawfully issued franchise at the time of the location of the  
17 ferry crossing or construction of the toll bridge by the department.

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

32 (3) The department shall not maintain and operate any ferry  
33 crossing or toll bridge over Puget Sound or any of its tributary or  
34 connecting waters that would infringe upon any franchise lawfully  
35 issued by the state and in existence and being exercised at the time of  
36 the location of the ferry crossing or toll bridge by the department,

1 without first acquiring the rights granted to such franchise holder  
2 under the franchise.

3 ~~((While any revenue bonds issued by the department under the  
4 provisions of this chapter are outstanding no additional bonds may be  
5 issued for the purposes of acquiring, constructing, operating, or  
6 maintaining any ferries or toll bridges within the aforesaid ten mile  
7 distance by the department unless the revenues of any such additional  
8 ferries or toll bridges are pledged to the bonds then outstanding to  
9 the extent provided by the resolution authorizing the issue of the  
10 outstanding bonds. The provisions of this section are binding upon the  
11 state, and all of its departments, agencies, and instrumentalities, as  
12 well as any and all private, political, municipal, and public  
13 corporations and subdivisions, including cities, towns, counties, and  
14 other political subdivisions, and the prohibitions of this section  
15 shall restrict and limit the powers of the legislature of the state in  
16 respect to the matters herein mentioned so long as any of such bonds  
17 are outstanding and unpaid and shall be deemed to constitute a contract  
18 to that effect for the benefit of the holders of all such bonds.))~~

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.60 RCW  
20 to read as follows:

21 The ten-mile distance in RCW 47.60.120 means ten statute miles  
22 measured by airline distance. The ten-mile restriction shall be  
23 applied by comparing the two end points (termini) of a state ferry  
24 crossing to those of a private ferry crossing.

25 **Sec. 3.** RCW 81.84.010 and 1961 c 14 s 81.84.010 are each amended  
26 to read as follows:

27 (1) No ((steamboat company shall)) commercial ferry may hereafter  
28 operate any vessel or ferry for the public use for hire between fixed  
29 termini or over a regular route upon the waters within this state,  
30 including the rivers and lakes and Puget Sound, without first applying  
31 for and obtaining from the commission a certificate declaring that  
32 public convenience and necessity require such operation. Service  
33 authorized by certificates issued before or after the effective date of  
34 this act to a commercial ferry operator shall be exercised by the  
35 operator in a manner consistent with the conditions established in the  
36 certificate or tariffs: PROVIDED, That no certificate shall be  
37 required for a vessel primarily engaged in transporting freight other

1 than vehicles, whose gross earnings from the transportation of  
2 passengers and/or vehicles, are not more than ten percent of the total  
3 gross annual earnings of such vessel: PROVIDED, That nothing herein  
4 shall be construed to affect the right of any county within this state  
5 to construct, condemn, purchase, operate, or maintain, itself or by  
6 contract, agreement, or lease, with any person, firm, or corporation,  
7 ferries or boats across or wharfs at or upon the waters within this  
8 state, including rivers and lakes and Puget Sound, provided such  
9 operation is not over the same route or between the same districts,  
10 being served by a certificate carrier, nor shall this chapter be  
11 construed to affect, amend, or invalidate any contract entered into  
12 prior to January 15, 1927, for the operation of ferries or boats upon  
13 the waters within this state, which was entered into in good faith by  
14 any county with any person, firm, or corporation, except that in case  
15 of the operation or maintenance by any county, city, town, port  
16 district, or other political subdivision by contract, agreement, or  
17 lease with any person, firm, or corporation, of ferries or boats across  
18 or wharfs at or upon the waters within this state, including rivers and  
19 lakes and Puget Sound, the commission shall have power and authority to  
20 regulate rates and services of such operation or maintenance of  
21 ferries, boats, or wharfs, to make, fix, alter, or amend said rates,  
22 and to regulate service and safety of operations thereof, in the manner  
23 and to the same extent as it is empowered to regulate a ((~~steamboat~~  
24 ~~company~~)) commercial ferry, notwithstanding the provisions of any act  
25 or parts of acts inconsistent herewith.

26 (2) The holder of a certificate of public convenience and necessity  
27 granted under this chapter must initiate service within five years of  
28 obtaining the certificate. The certificate holder shall report to the  
29 commission every six months after the certificate is granted on the  
30 progress of the certificated route. The reports shall include, but not  
31 be limited to, the progress of environmental impact, parking, local  
32 government land use, docking, and financing considerations. However,  
33 if service has not been initiated within five years of obtaining the  
34 certificate, the commission may extend the certificate on a twelve-  
35 month basis for up to three years if the six-month progress reports  
36 indicate there is significant advancement toward initiating service.

37 (3) The commission shall review certificates in existence as of the  
38 effective date of this act, where service is not being provided on all  
39 or any portion of the route or routes certificated. Based on progress

1 reports required under subsection (2) of this section, the commission  
2 may grant an extension beyond that provided in subsection (2) of this  
3 section. Such additional extension may not exceed a total of two  
4 years.

5 **Sec. 4.** RCW 81.84.020 and 1961 c 14 s 81.84.020 are each amended  
6 to read as follows:

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

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

13       (3) Subsection (2) of this section does not apply to an application  
14 for a certificate that is pending as of the effective date of this act.

15       NEW SECTION. Sec. 5. A new section is added to chapter 81.84 RCW  
16 to read as follows:

17       The commission, in granting a certificate to operate as a  
18 commercial ferry, shall require the operator to first obtain liability  
19 and property damage insurance from a company licensed to write  
20 liability insurance in the state or a surety bond of a company licensed  
21 to write surety bonds in the state, on each vessel or ferry to be used,  
22 in the amount of not less than one hundred thousand dollars for any  
23 recovery for personal injury by one person, and not less than one  
24 million dollars and in such additional amount as the commission shall  
25 determine, for all persons receiving personal injury and property  
26 damage by reason of one act of negligence, and not less than fifty  
27 thousand dollars for damage to property of any person other than the  
28 insured; or combined bodily injury and property damage liability  
29 insurance of not less than one million dollars, and to maintain such  
30 liability and property damage insurance or surety bond in force on each  
31 vessel or ferry while so used. Each policy for liability or property  
32 damage insurance or surety bond required by this section must be filed  
33 with the commission and kept in full force and effect, and failure to  
34 do so is cause for revocation of the operator's certificate.

35       Sec. 6. RCW 81.84.030 and 1961 c 14 s 81.84.030 are each amended  
36 to read as follows:

1 No certificate or any right or privilege thereunder held, owned, or  
2 obtained under the provisions of this chapter shall be sold, assigned,  
3 leased, mortgaged, or in any manner transferred, either by the act of  
4 the parties or by operation of law, except upon authorization by the  
5 commission first obtained. (~~The commission may at any time by its  
6 order duly entered after hearing had upon notice to the holder of any  
7 certificate hereunder and an opportunity to such holder to be heard,  
8 suspend, revoke, alter, or amend any certificate issued under the  
9 provisions of this chapter, if the holder thereof wilfully violates or  
10 fails to observe the provisions or conditions of the certificate, or  
11 the orders, rules or regulations of the commission, or the provisions  
12 of this title.~~)

13 **Sec. 7.** RCW 81.84.050 and 1961 c 14 s 81.84.050 are each amended  
14 to read as follows:

15 Every (~~steamboat company~~) commercial ferry and every officer,  
16 agent, or employee of any (~~steamboat company~~) commercial ferry who  
17 violates or who procures, aids, or abets in the violation of any  
18 provision of this title, or any order, rule, regulation, or decision of  
19 the commission shall incur a penalty of one hundred dollars for every  
20 such violation. Each and every such violation shall be a separate and  
21 distinct offense, and in case of a continuing violation every day's  
22 continuance shall be and be deemed to be a separate and distinct  
23 violation. Every act of commission or omission which procures, aids,  
24 or abets in the violation shall be considered a violation under the  
25 provisions of this section and subject to the penalty herein provided  
26 for.

27 The penalty herein provided for shall become due and payable when  
28 the person incurring the same receives a notice in writing from the  
29 commission describing such violation with reasonable particularity and  
30 advising such person that the penalty is due.

31 The commission may, upon written application therefor, received  
32 within fifteen days, remit or mitigate any penalty provided for in this  
33 section or discontinue any prosecution to recover the same upon such  
34 terms as it in its discretion shall deem proper, and shall have  
35 authority to ascertain the facts upon all such applications in such  
36 manner and under such regulations as it may deem proper.

37 If the amount of such penalty is not paid to the commission within  
38 fifteen days after receipt of notice imposing the same or, if

1 application for remission or mitigation has not been made, within  
2 fifteen days after the violator has received notice of the disposition  
3 of such application, the attorney general shall bring an action to  
4 recover the penalty in the name of the state of Washington in the  
5 superior court of Thurston county or of some other county in which such  
6 violator may do business. In all such actions the procedure and rules  
7 of evidence shall be the same as in ordinary civil actions except as  
8 otherwise herein provided. All penalties recovered by the state under  
9 this chapter shall be paid into the state treasury and credited to the  
10 public service revolving fund.

11 NEW SECTION. **Sec. 8.** A new section is added to chapter 81.84 RCW  
12 to read as follows:

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

17 (1) Failure of the certificate holder to initiate service by the  
18 conclusion of the fifth year after the certificate has been granted or  
19 by the conclusion of an extension granted under RCW 81.84.010 (2) or  
20 (3), if the commission has considered the progress report information  
21 required under RCW 81.84.010 (2) or (3);

22 (2) Failure of the certificate holder to file an annual report;

23 (3) The filing by a certificate holder of an annual report that  
24 shows no revenue in the previous twelve-month period after service has  
25 been initiated;

26 (4) The violation of any provision of this chapter;

27 (5) The violation of or failure to observe the provisions or  
28 conditions of the certificate or tariffs;

29 (6) The violation of an order, decision, rule, regulation, or  
30 requirement established by the commission under this chapter;

31 (7) Failure of a certificate holder to maintain the required  
32 insurance coverage in full force and effect; or

33 (8) Failure or refusal to furnish reasonable and adequate service  
34 after initiating service.

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

1        NEW SECTION.    **Sec. 9.**    A new section is added to chapter 81.84 RCW  
2 to read as follows:

3        The commission may, with or without a hearing, issue temporary  
4 certificates to operate under this chapter, but only after it finds  
5 that the issuance of the temporary certificate is necessary due to an  
6 immediate and urgent need and is otherwise consistent with the public  
7 interest.    The certificate may be issued for a period of up to one  
8 hundred eighty days.    The commission may prescribe such special rules  
9 and impose special terms and conditions on the granting of the  
10 certificate as in its judgment are reasonable and necessary in carrying  
11 out this chapter.    The commission shall collect a filing fee, not to  
12 exceed two hundred dollars, for each application for a temporary  
13 certificate.    The commission shall not issue a temporary certificate to  
14 operate on a route for which a certificate has been issued or for which  
15 an application by another commercial ferry operator is pending.

16        **Sec. 10.**    RCW 81.04.010 and 1991 c 272 s 3 are each amended to read  
17 as follows:

18        As used in this title, unless specially defined otherwise or unless  
19 the context indicates otherwise:

20        "Commission" means the utilities and transportation commission.

21        "Commissioner" means one of the members of such commission.

22        "Corporation" includes a corporation, company, association, or  
23 joint stock association.

24        "Low-level radioactive waste site operating company" includes every  
25 corporation, company, association, joint stock association,  
26 partnership, and person, their lessees, trustees, or receivers  
27 appointed by any court whatsoever, owning, operating, controlling, or  
28 managing a low-level radioactive waste disposal site or sites located  
29 within the state of Washington.

30        "Low-level radioactive waste" means low-level waste as defined by  
31 RCW 43.145.010.

32        "Person" includes an individual, a firm, or copartnership.

33        "Street railroad" includes every railroad by whatsoever power  
34 operated, or any extension or extensions, branch or branches thereof,  
35 for public use in the conveyance of persons or property for hire, being  
36 mainly upon, along, above, or below any street, avenue, road, highway,  
37 bridge, or public place within any one city or town, and includes all  
38 equipment, switches, spurs, tracks, bridges, right of trackage,



1 subways, tunnels, stations, terminals, and terminal facilities of every  
2 kind used, operated, controlled, or owned by or in connection with any  
3 such street railroad, within this state.

4 "Street railroad company" includes every corporation, company,  
5 association, joint stock association, partnership, and person, their  
6 lessees, trustees, or receivers appointed by any court whatsoever, and  
7 every city or town, owning, controlling, operating, or managing any  
8 street railroad or any cars or other equipment used thereon or in  
9 connection therewith within this state.

10 "Railroad" includes every railroad, other than street railroad, by  
11 whatsoever power operated for public use in the conveyance of persons  
12 or property for hire, with all bridges, ferries, tunnels, equipment,  
13 switches, spurs, tracks, stations, and terminal facilities of every  
14 kind used, operated, controlled, or owned by or in connection with any  
15 such railroad.

16 "Railroad company" includes every corporation, company,  
17 association, joint stock association, partnership, or person, their  
18 lessees, trustees, or receivers appointed by any court whatsoever,  
19 owning, operating, controlling, or managing any railroad or any cars or  
20 other equipment used thereon or in connection therewith within this  
21 state.

22 "Express company" includes every corporation, company, association,  
23 joint stock association, partnership, and person, their lessees,  
24 trustees, or receivers appointed by any court whatsoever, who shall  
25 engage in or transact the business of carrying any freight,  
26 merchandise, or property for hire on the line of any common carrier  
27 operated in this state.

28 "Common carrier" includes all railroads, railroad companies, street  
29 railroads, street railroad companies, (~~steamboat companies~~)  
30 commercial ferries, express companies, car companies, sleeping car  
31 companies, freight companies, freight line companies, and every  
32 corporation, company, association, joint stock association,  
33 partnership, and person, their lessees, trustees, or receivers  
34 appointed by any court whatsoever, and every city or town, owning,  
35 operating, managing, or controlling any such agency for public use in  
36 the conveyance of persons or property for hire within this state.

37 "Vessel" includes every species of watercraft, by whatsoever power  
38 operated, for public use in the conveyance of persons or property for  
39 hire over and upon the waters within this state, excepting all

1 towboats, tugs, scows, barges, and lighters, and excepting rowboats and  
2 sailing boats under twenty gross tons burden, open steam launches of  
3 five tons gross and under, and vessels under five tons gross propelled  
4 by gas, fluid, naphtha, or electric motors.

5 "~~((Steamboat—company))~~ Commercial ferry" includes every  
6 corporation, company, association, joint stock association,  
7 partnership, and person, their lessees, trustees, or receivers,  
8 appointed by any court whatsoever, owning, controlling, leasing,  
9 operating, or managing any vessel over and upon the waters of this  
10 state.

11 "Transportation of property" includes any service in connection  
12 with the receiving, delivery, elevation, transfer in transit,  
13 ventilation, refrigeration, icing, storage, and handling of the  
14 property transported, and the transmission of credit.

15 "Transportation of persons" includes any service in connection with  
16 the receiving, carriage, and delivery of the person transported and his  
17 baggage and all facilities used, or necessary to be used in connection  
18 with the safety, comfort, and convenience of the person transported.

19 "Public service company" includes every common carrier.

20 The term "service" is used in this title in its broadest and most  
21 inclusive sense.

22 **Sec. 11.** RCW 81.24.030 and 1981 c 13 s 5 are each amended to read  
23 as follows:

24 Every ~~((steamboat—company))~~ commercial ferry shall, on or before  
25 the first day of April of each year, file with the commission a  
26 statement on oath showing its gross operating revenue from intrastate  
27 operations for the preceding calendar year, or portion thereof, and pay  
28 to the commission a fee of two-fifths of one percent of the amount of  
29 gross operating revenue: PROVIDED, That the fee so paid shall in no  
30 case be less than five dollars. The percentage rate of gross operating  
31 revenue to be paid in any year may be decreased by the commission by  
32 general order entered before March 1st of such year."

1 **SHB 1931** - S COMM AMD  
2 By Committee on Transportation

3  
4 In line 1 of the title, after "operators;" strike the remainder of  
5 the title and insert "amending RCW 47.60.120, 81.84.010, 81.84.020,  
6 81.84.030, 81.84.050, 81.04.010, and 81.24.030; adding a new section to  
7 chapter 47.60 RCW; adding new sections to chapter 81.84 RCW; and  
8 prescribing penalties."

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