

SENATE BILL REPORT

ESHB 1853

As Reported By Senate Committee On:
Highways & Transportation, April 7, 2003

Title: An act relating to improvement of passenger ferry service.

Brief Description: Providing passenger ferry service.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Rockefeller, Woods, Haigh, Morris, Quall and Lantz).

Brief History:

Committee Activity: Highways & Transportation: 4/3/03, 4/7/03 [DP].

SENATE COMMITTEE ON HIGHWAYS & TRANSPORTATION

Majority Report: Do pass.

Signed by Senators Horn, Chair; Swecker, Vice Chair; Esser, Haugen, Jacobsen, Kastama, Oke, Prentice and Spanel.

Staff: Tami Neilson (786-7452)

Background: Public transportation benefit areas (PTBAs) are organized to provide public transit services. PTBAs may include a portion of a county, an entire county, or more than one county. To provide its transit services, PTBAs may impose the following taxes: (1) a sales and use tax up to .9 percent; (2) a business and occupation tax; and (3) a \$1 per month housing unit excise tax.

Currently passenger-only ferry (POF) service from Seattle to Bremerton and Seattle to Vashon is provided by the Washington State Ferry System (WSF). However, the WSF has proposed elimination of this POF service.

Ferries, other than those operated by the WSF, are prohibited from crossing the Puget Sound or any of its tributary or connecting waters within 10 miles of a route served by the WSF, but the Washington Utilities and Transportation Commission (WUTC) may grant a waiver from this restriction. Also, private operators of ferry service must first obtain a certificate of public convenience and necessity from the WUTC before operating such service.

Additionally, if any party assumes the operation and maintenance of any ferry or ferry system by rent, lease, or charter, from the Washington State Department of Transportation (WSDOT), it is bound by WSDOT's contractual obligations, including existing labor contracts.

Summary of Bill: PTBAs and Funding Sources. PTBAs with a boundary on the Puget Sound may operate POFs. Eligible PTBAs proposing services must first develop a passenger ferry investment plan, which identifies terminal locations served, projected costs of providing

services, revenues generated from tolls, locally collected tax revenues, and other revenue sources.

A PTBA may, as part of its POF investment plan, recommend some or all of the following revenue sources: (1) A sales and use tax of up to 0.4 percent and a motor vehicle excise tax of up to 0.4 percent; (2) tolls for passengers and parking; and (3) charges or license fees for advertising or leasing space for services to ferry passengers. Voter approval of the passenger ferry investment plan, including proposed taxes, is required.

Ferry Districts and Funding Sources. In addition to PTBAs, ferry districts may be created to provide POF service by the legislative authority of a county with: (1) a population over one million persons; and (2) a boundary on the Puget Sound. The county legislative authority serves as the district's governing body. The governing body may impose a property tax of up to \$.75 per \$1,000 of assessed valuation for ferry district purposes. A ferry district may also impose excess levies for a one-year period if authorized by voters of the district.

Transferring or Utilizing WSF Properties. WSDOT may enter into contracts with the PTBAs and county ferry districts to transfer passenger ferry vessels and associated properties, in exchange for those agencies assuming all future maintenance and operation costs of the vessels and facilities. The contract must provide that the vessels and properties revert to the WSDOT if they are not properly maintained or used for providing POF service.

PTBAs and ferry districts that operate POF service may rent, lease, or purchase passenger-only vessels, related equipment, or terminal space from WSF for loading and unloading ferries. Fair market value must be charged to ferry districts.

Labor. PTBAs are not subject to the WSF's contractual labor obligations. However, a PTBA is subject to the terms of the contracts it negotiates with the bargaining representatives of its employees under the Public Employees Relations Commission or the National Labor Relations Act, as applicable.

County ferry districts are subject to those same labor requirements, and they must also give preferential hiring to former employees of WSDOT who were displaced when state POF service was terminated. Additionally, any questions concerning representation of employees for collective bargaining purposes may be determined by conducting a card cross-check, comparing an employee organization's membership records against the employment records of the employer.

Ten Mile Rule Exemption. PTBAs and ferry districts authorized to operate POF service are not bound by the 10 mile restriction and therefore do not need to apply for a waiver from the WUTC.

Granting Certificates of Public Convenience and Necessity for Private Ferry Operators. The WUTC is to take into account public agencies operating or eligible to operate POF services when granting certificates of public convenience and necessity for private ferry operators. The WUTC is prohibited, until March 1, 2005, from granting new passenger-only certificates to private ferry operators where PTBAs or county ferry districts are authorized to operate POF service. Affected PTBAs may waive that prohibition, in which case the WUTC may grant certificates. The WUTC may revoke a certificate if the private operator has not initiated service within 20 months after being granted the certificate.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: This bill would allow public-private partnerships to have priority in terms of obtaining Certificates of Public Convenience and Necessity. This is a realistic alternative to the Washington State Ferry System providing passenger-only ferry service. Southworth and Kingston have been promised direct passenger-only ferry service to downtown Seattle for years, and this bill provides the necessary tools to provide that service. Voters within the boundaries of Kitsap Transit are likely to approve a proposition authorized in this legislation.

Testimony Against: Passenger-only ferries should be retained within the Washington State Ferry System. It is difficult to determine fair market value and public benefit.

Testified: PRO: Representative Rockefeller; Representative Woods; Dick Hayes, Kitsap Transit; Ian McGowan, Vashon Island Save Our Ships; Sam Kuntz, Washington State Ferries; Concerns: Jim Boldt, Washington State Auto Dealers and Victoria Clipper; Gordon Baxter, Inland Boatman's Union and Masters, Mates, and Pilots.