
HOUSE BILL 2097

State of Washington 58th Legislature 2003 Regular Session

By Representatives Murray and Rockefeller

Read first time 02/25/2003. Referred to Committee on Transportation.

1 AN ACT Relating to the exercise of sound business practices to
2 enhance revenues for Washington State Ferries; and amending RCW
3 47.60.135, 47.60.140, 47.60.150, 47.60.326, and 47.60.330.

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

5 **Sec. 1.** RCW 47.60.135 and 1997 c 323 s 2 are each amended to read
6 as follows:

7 (1) The charter use of Washington State Ferry vessels when
8 established route operations and normal user requirements are not
9 disrupted is permissible.

10 (2) Consistent with the policy as established in subsection (1) of
11 this section, the (~~general manager~~) chief executive officer of the
12 Washington State Ferries may approve agreements for the chartering of
13 Washington State Ferry vessels to groups or individuals, including
14 hazardous material transporters, in accordance with the following:

15 (a) Vessels may be committed to charter only when established route
16 operation and normal user requirements are not disrupted or
17 inconvenienced. If a vessel is engaged in the transport of hazardous
18 materials, the transporter shall pay for all legs necessary to complete

1 the charter, even if the vessel is simultaneously engaged in an
2 operational voyage on behalf of Washington State Ferries.

3 (b) Charter rates for vessels must be established at actual vessel
4 operating costs plus (~~(fifty percent of such actual costs rounded to~~
5 ~~the nearest fifty dollars)) a market-rate profit margin. Actual vessel
6 operating costs include, but are not limited to, all labor, fuel, and
7 vessel maintenance costs incurred due to the charter agreement,
8 including deadheading and standby.~~

9 (~~(c) ((Recognizing the need for stabilized charter rates in order to~~
10 ~~encourage use of vessels, rates must be established and revised July~~
11 ~~1st of each year and must remain fixed for a one year period unless~~
12 ~~actual vessel operating costs increase five percent or more within that~~
13 ~~year, in which case the charter rates must be revised in accordance~~
14 ~~with (b) of this subsection.~~

15 (~~(d)~~) All charter agreements must be in writing and substantially
16 in the form of (~~(e)~~) (d) of this subsection and available, with
17 calculations, for inspection by the legislature and the public.

18 (~~(e)~~) (d) Parties chartering Washington State Ferry vessels shall
19 comply with all applicable laws, rules, and regulations during the
20 charter voyage, and failure to so comply is cause for immediate
21 termination of the charter voyage.

22 "CHARTER CRUISE AGREEMENT

23 On this day of,, Washington State Ferries
24 (WSF) and, hereinafter called Lessee, enter into this
25 agreement for rental of a ferry vessel for the purpose of a charter
26 voyage to be held on, the parties agree as follows:

27 1. WSF agrees to supply the vessel (subject to change)
28 for the use of the Lessee from the period from to
29 on (date).

30 2. The maximum number of passengers; or in the case of hazardous
31 materials transports, trucks and trailers; that will be accommodated on
32 the assigned vessel is This number MAY NOT be exceeded.

33 3. The voyage will originate at, and the route of travel
34 during the voyage will be as follows:

35

1 4. The charge for the above voyage is dollars (\$. . .)
2 plus a property damage deposit of \$350 for a total price of \$,
3 to be paid by cashier's check three working days before the date of the
4 voyage at the offices of the WSF at Seattle Ferry Terminal, Pier 52,
5 Seattle, Washington 98104. The Lessee remains responsible for property
6 damage in excess of \$350.

7 5. WSF is responsible only for the navigational operation of the
8 chartered ferry and in no way is responsible for directing voyage
9 activities, providing equipment, or any food service.

10 6. (~~Other than for hazardous materials transport, the voyage~~
11 ~~activities must be conducted exclusively on the passenger decks of the~~
12 ~~assigned ferry.)) Voyage patrons will not be permitted to enter the
13 pilot house or the engine room(~~, nor shall the vehicle decks be used~~
14 ~~for any purpose other than loading or unloading of voyage patrons or~~
15 ~~hazardous materials)).~~~~

16 7. If the Lessee or any of the voyage patrons will possess or
17 consume alcoholic beverages aboard the vessel, the Lessee must obtain
18 the appropriate licenses or permits from the Washington State Liquor
19 Control Board. The Lessee must furnish copies of any necessary
20 licenses or permits to WSF at the same time payment for the voyage is
21 made. Failure to comply with applicable laws, rules, and regulations
22 of appropriate State and Federal agencies is cause for immediate
23 termination of the voyage, and WSF shall retain all payments made as
24 liquidated damages.

25 8. WSF is not obligated to provide shoreside parking for the
26 vehicles belonging to voyage patrons.

27 9. The Lessee recognizes that the primary function of the WSF is
28 for the cross-Sound transportation of the public and the maintaining of
29 the existing schedule. The Lessee recognizes therefore the right of
30 WSF to cancel a voyage commitment without liability to the Lessee due
31 to unforeseen circumstances or events that require the use of the
32 chartered vessel on its scheduled route operations. In the event of
33 such a cancellation, WSF agrees to refund the entire amount of the
34 charter fee to the Lessee.

35 10. The Lessee agrees to hold WSF harmless from, and shall process
36 and defend at its own expense, all claims, demands, or suits at law or

1 equity, of whatever nature brought against WSF arising in whole or in
2 part from the performance of provisions of this agreement. This
3 indemnity provision does not require the Lessee to defend or indemnify
4 WSF against any action based solely on the alleged negligence of WSF.

5 11. This writing is the full agreement between the parties.

6 WASHINGTON STATE FERRIES
7 Lessee

8
9 By: By:
10 ((General Manager))
11 Chief Executive Officer"

12 **Sec. 2.** RCW 47.60.140 and 1995 1st sp.s. c 4 s 2 are each amended
13 to read as follows:

14 (1) The department is empowered to operate such ferry system,
15 including all operations, whether intrastate or international, upon any
16 route or routes, and toll bridges as a revenue-producing and self-
17 liquidating undertaking. The department has full charge of the
18 construction, rehabilitation, rebuilding, enlarging, improving,
19 operation, and maintenance of the ferry system, including toll bridges,
20 approaches, and roadways incidental thereto that may be authorized by
21 the department, including the collection of tolls and other charges for
22 the services and facilities of the undertaking. The department has the
23 exclusive right to enter into leases and contracts for use and
24 occupancy by other parties of the concessions and space located on the
25 ferries, wharves, docks, approaches, parking lots, and landings,
26 including the selling of commercial advertising space and licenses to
27 use the Washington State Ferries trademarks, but, except as provided in
28 subsection (2) of this section, no such leases or contracts may be
29 entered into for more than ten years, nor without a competitive
30 contract process, except as otherwise provided in this section. The
31 competitive process shall be either an invitation for bids in
32 accordance with the process established by chapter 43.19 RCW, or a
33 request for proposals in accordance with the process established by RCW
34 47.56.030. All revenues from commercial advertising, concessions,
35 parking, leases, and contracts must be deposited in the Puget Sound
36 ferry operations account in accordance with RCW 47.60.150.

1 (2) As part of a joint development agreement under which a public
2 or private developer constructs or installs improvements on ferry
3 system property, the department may lease all or part of such property
4 and improvements to such developers for that period of time, not to
5 exceed fifty-five years, or not to exceed thirty years for those areas
6 located within harbor areas, which the department determines is
7 necessary to allow the developer to make reasonable recovery on its
8 initial investment. Any lease entered into as provided for in this
9 subsection that involves state aquatic lands shall conform with the
10 Washington state Constitution and applicable statutory requirements as
11 determined by the department of natural resources. That portion of the
12 lease rate attributable to the state aquatic lands shall be distributed
13 in the same manner as other lease revenues derived from state aquatic
14 lands as provided in RCW 79.24.580.

15 **Sec. 3.** RCW 47.60.150 and 1999 c 94 s 26 are each amended to read
16 as follows:

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

33 All income and revenues as collected by the ferry system from any
34 source shall be paid to the state treasurer for the account of the
35 department and deposited into the Puget Sound ferry operations account.
36 Nothing in this section requires tolls on the Hood Canal bridge except
37 as may be required by any bond covenants.

1 **Sec. 4.** RCW 47.60.326 and 2001 1st sp.s. c 1 s 1 are each amended
2 to read as follows:

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

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

16 (3) The department in making its review and formulating
17 recommendations and the commission in adopting a schedule of charges
18 may consider any of the following factors:

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

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

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

25 (d) The efficient distribution of traffic between cross-sound
26 routes;

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

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

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

33 (h) The estimated revenues that are projected to be earned by the
34 ferry system from commercial advertisements, parking, contracts,
35 leases, and other sources;

36 (i) Such other factors as prudent managers of a major ferry system
37 would consider.

1 (4) If at any time during the biennium it appears that projected
2 revenues from the Puget Sound ferry operations account and any other
3 operating subsidy available to the Washington state ferries will be
4 less than the projected total cost of maintenance and operation of the
5 Washington state ferries for the biennium, the department shall
6 forthwith undertake a review of its schedule of charges to ascertain
7 whether or not the schedule of charges should be revised. The
8 department shall, upon completion of its review report, submit its
9 recommendation to the transportation commission which may in its sound
10 discretion revise the schedule of charges as required to meet necessary
11 maintenance and operation expenditures of the ferry system for the
12 biennium or may defer action until the regular annual review and
13 revision of ferry charges as provided in subsection (2) of this
14 section.

15 (5) The provisions of RCW 47.60.330 relating to public
16 participation shall apply to the process of revising ferry tolls under
17 this section.

18 (6) Under RCW 43.135.055, the transportation commission may
19 increase ferry tolls included in the schedule of charges adopted under
20 this section by a percentage that exceeds the fiscal growth factor.

21 (7) Notwithstanding the provisions of this section and chapter
22 81.28 RCW, and using sound business judgment, the chief executive
23 officer of the ferry system may authorize the use of promotional,
24 discounted, and special event fares to the general public and
25 commercial enterprises for the purpose of maximizing capacity use and
26 the revenues collected by the ferry system. The department shall
27 report to the transportation commission a summary of the promotional,
28 discounted, and special event fares offered during each fiscal year and
29 the financial results from these activities.

30 **Sec. 5.** RCW 47.60.330 and 1983 c 15 s 26 are each amended to read
31 as follows:

32 (1) Before a substantial expansion or curtailment in the level of
33 service provided to ferry users, or a revision in the schedule of ferry
34 tolls or charges, the department of transportation shall consult with
35 affected ferry users. The consultation shall be: (a) By public
36 hearing in affected local communities; (b) by review with the affected
37 ferry advisory committees pursuant to RCW 47.60.310; (c) by conducting

1 a survey of affected ferry users; or (d) by any combination of (a)
2 through (c). Promotional, discount, and special event fares that are
3 not part of the published schedule of ferry charges or tolls are
4 exempt. The department shall report an accounting of all exempt
5 revenues to the transportation commission each fiscal year.

6 (2) There is created a ferry system productivity council consisting
7 of a representative of each ferry advisory committee empanelled under
8 RCW 47.60.310, elected by the members thereof, and two representatives
9 of employees of the ferry system appointed by mutual agreement of all
10 of the unions representing ferry employees, which shall meet from time
11 to time with ferry system management to discuss means of improving
12 ferry system productivity.

13 (3) Before increasing ferry tolls the department of transportation
14 shall consider all possible cost reductions with full public
15 participation as provided in subsection (1) of this section and,
16 consistent with public policy, shall consider adapting service levels
17 equitably on a route-by-route basis to reflect trends in and forecasts
18 of traffic usage. Forecasts of traffic levels shall be developed by
19 the bond covenant traffic engineering firm appointed under the
20 provisions of RCW 47.60.450. Provisions of this section shall not
21 alter obligations under RCW 47.60.450. Before including any toll
22 increase in a budget proposal by the commission, the department of
23 transportation shall consult with affected ferry users in the manner
24 prescribed in (1)(b) of this section plus the procedure of either (1)
25 (a) or (c) of this section.

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