
SENATE BILL 5296

State of Washington

58th Legislature

2003 Regular Session

By Senators Horn, Haugen, Kline and Esser

Read first time 01/22/2003. Referred to Committee on Highways & Transportation.

1 AN ACT Relating to removing barriers to transportation services;
2 and amending RCW 36.57A.100, 47.60.120, 81.84.020, and 47.64.090.

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

4 **Sec. 1.** RCW 36.57A.100 and 1977 ex.s. c 44 s 4 are each amended to
5 read as follows:

6 ~~((Except in accordance with an agreement made as provided in this~~
7 ~~section or in accordance with the provisions of RCW 36.57A.090(3) as~~
8 ~~now or hereafter amended, upon the effective date on which the public~~
9 ~~transportation benefit area commences to perform the public~~
10 ~~transportation service, no)) A person or private corporation ((shall))
11 may operate a local public passenger transportation service within
12 ((the)) a public transportation benefit area ~~((with the exception of~~
13 ~~taxis, buses owned or operated by a school district or private school,~~
14 ~~and buses owned or operated by any corporation or organization solely~~
15 ~~for the purposes of the corporation or organization and for the use of~~
16 ~~which no fee or fare is charged.~~~~

17 ~~An agreement may be entered into between the public transportation~~
18 ~~benefit area authority and any person or corporation legally operating~~
19 ~~a local public passenger transportation service wholly within or partly~~

1 ~~within and partly without the public transportation benefit area and on~~
2 ~~said effective date under which such person or corporation may continue~~
3 ~~to operate such service or any part thereof for such time and upon such~~
4 ~~terms and conditions as provided in such agreement. Such agreement~~
5 ~~shall provide for a periodic review of the terms and conditions~~
6 ~~contained therein. Where any such local public passenger~~
7 ~~transportation service will be required to cease to operate within the~~
8 ~~public transportation benefit area, the public transportation benefit~~
9 ~~area authority may agree with the owner of such service to purchase the~~
10 ~~assets used in providing such service, or if no agreement can be~~
11 ~~reached, the public transportation benefit area authority shall condemn~~
12 ~~such assets in the manner and by the same procedure as is or may be~~
13 ~~provided by law for the condemnation of other properties for cities of~~
14 ~~the first class, except insofar as such laws may be inconsistent with~~
15 ~~the provisions of this chapter)).~~

16 Wherever a privately owned public carrier operates wholly or partly
17 within a public transportation benefit area, the Washington utilities
18 and transportation commission shall continue to exercise jurisdiction
19 over such operation as provided by law.

20 **Sec. 2.** RCW 47.60.120 and 1993 c 427 s 1 are each amended to read
21 as follows:

22 (1) If the department acquires or constructs, maintains, and
23 operates any ~~((ferry crossings upon or))~~ toll bridges over Puget Sound
24 or any of its tributary or connecting waters, there shall not be
25 constructed, operated, or maintained any other ~~((ferry crossing upon~~
26 ~~or))~~ bridge over any such waters within ten miles of any such crossing
27 or bridge operated or maintained by the department excepting such
28 bridges ~~((or ferry crossings))~~ in existence, and being operated and
29 maintained under a lawfully issued franchise at the time of the
30 ~~((location of the ferry crossing or))~~ construction of the toll bridge
31 by the department.

32 (2) The ten-mile distance in subsection (1) of this section means
33 ten statute miles measured by airline distance. ~~((The ten-mile~~
34 ~~restriction shall be applied by comparing the two end points (termini)~~
35 ~~of a state ferry crossing to those of a private ferry crossing.))~~

36 (3) ~~((The Washington utilities and transportation commission may,~~
37 ~~upon written petition of a commercial ferry operator certificated or~~

1 ~~applying for certification under chapter 81.84 RCW, and upon notice and~~
2 ~~hearing, grant a waiver from the ten mile restriction. The waiver must~~
3 ~~not be detrimental to the public interest. In making a decision to~~
4 ~~waive the ten mile restriction, the commission shall consider, but is~~
5 ~~not limited to, the impact of the waiver on transportation congestion~~
6 ~~mitigation, air quality improvement, and the overall impact on the~~
7 ~~Washington state ferry system. The commission shall act upon a request~~
8 ~~for a waiver within ninety days after the conclusion of the hearing.~~
9 ~~A waiver is effective for a period of five years from the date of~~
10 ~~issuance. At the end of five years the waiver becomes permanent unless~~
11 ~~appealed within thirty days by the commission on its own motion, the~~
12 ~~department, or an interested party.~~

13 ~~(4))~~ The department shall not maintain and operate any ~~((ferry~~
14 ~~crossing or))~~ toll bridge over Puget Sound or any of its tributary or
15 connecting waters that would infringe upon any franchise lawfully
16 issued by the state and in existence and being exercised at the time of
17 the ~~((location of the ferry crossing or))~~ construction of the toll
18 bridge by the department, without first acquiring the rights granted to
19 such franchise holder under the franchise.

20 **Sec. 3.** RCW 81.84.020 and 1993 c 427 s 3 are each amended to read
21 as follows:

22 (1) Upon the filing of an application the commission shall give
23 reasonable notice to the department, affected cities and counties, and
24 any common carrier which might be adversely affected, of the time and
25 place for hearing on such application. The commission shall have power
26 after hearing, to issue the certificate as prayed for, or to refuse to
27 issue it, or to issue it for the partial exercise only of the privilege
28 sought, and may attach to the exercise of the rights granted by said
29 certificate such terms and conditions as in its judgment the public
30 convenience and necessity may require; but the commission shall not
31 have power to grant a certificate to operate between districts and/or
32 into any territory ~~((prohibited by RCW 47.60.120 or))~~ already served by
33 an existing certificate holder, unless such existing certificate holder
34 has failed or refused to furnish reasonable and adequate service or has
35 failed to provide the service described in its certificate or tariffs
36 after the time period allowed to initiate service has elapsed:
37 PROVIDED, A certificate shall be granted when it shall appear to the

1 satisfaction of the commission that the commercial ferry was actually
2 operating in good faith over the route for which such certificate shall
3 be sought, on January 15, 1927: PROVIDED, FURTHER, That in case two or
4 more commercial ferries shall upon said date have been operating
5 vessels upon the same route, or between the same districts the
6 commission shall determine after public hearing whether one or more
7 certificates shall issue, and in determining to whom a certificate or
8 certificates shall be issued, the commission shall consider all
9 material facts and circumstances including the prior operation,
10 schedules, and services rendered by either of the ferries, and in case
11 more than one certificate shall issue, the commission shall fix and
12 determine the schedules and services of the ferries to which the
13 certificates are issued to the end that duplication of service be
14 eliminated and public convenience be furthered.

15 (2) Before issuing a certificate, the commission shall determine
16 that the applicant has the financial resources to operate the proposed
17 service for at least twelve months, based upon the submission by the
18 applicant of a pro forma financial statement of operations. Issuance
19 of a certificate shall be determined upon, but not limited to, the
20 following factors: Ridership and revenue forecasts; the cost of
21 service for the proposed operation; an estimate of the cost of the
22 assets to be used in providing the service; a statement of the total
23 assets on hand of the applicant that will be expended on the proposed
24 operation; and a statement of prior experience, if any, in such field
25 by the applicant. The documentation required of the applicant under
26 this section shall comply with the provisions of RCW 9A.72.085.

27 (3) Subsection (2) of this section does not apply to an application
28 for a certificate that is pending as of July 25, 1993.

29 **Sec. 4.** RCW 47.64.090 and 1983 c 15 s 27 are each amended to read
30 as follows:

31 If any party assumes the operation and maintenance of any ferry or
32 ferry system by rent, lease, or charter from the department of
33 transportation, such party shall not assume (~~and~~) nor be bound by
34 (~~all the provisions herein and any~~) this chapter. An agreement or
35 contract for such operation of any ferry or ferry system entered into
36 by the department (~~shall~~) may provide that the wages to be paid,
37 hours of employment, working conditions, and seniority rights of

1 employees will (~~be established by the marine employees' commission in~~
2 ~~accordance with the terms and provisions of~~) differ from agreements or
3 contracts covered by this chapter (~~and it shall further provide that~~
4 ~~all labor disputes shall be adjudicated in accordance with chapter~~
5 ~~47.64 RCW~~)).

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