
SUBSTITUTE SENATE BILL 5850

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Highways & Transportation (originally sponsored by Senators Oke, B. Sheldon, T. Sheldon, Poulsen, Kohl-Welles and McAuliffe)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to the provision of passenger ferry service;
2 amending RCW 47.60.120, 47.64.090, and 82.14.050; adding new sections
3 to chapter 36.57A RCW; adding a new section to chapter 47.52 RCW;
4 adding a new section to chapter 82.80 RCW; adding a new section to
5 chapter 82.14 RCW; creating new sections; providing an effective date;
6 and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that
9 passenger-only ferry service is a key element to the state's
10 transportation system and that it is in the interest of the state to
11 ensure provision of such services. The legislature further finds that
12 diminished state transportation resources require that regional and
13 local authorities be authorized to develop, operate, and fund needed
14 services.

15 It is the intent of the legislature that the state provide for a
16 transition from state-provided to local service and that the department
17 of transportation provide resources to assist in this effort.

18 It is the intent of the legislature to encourage interlocal

1 agreements to ensure passenger-only ferry service is maintained on
2 routes that the Washington state ferry system eliminates.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.57A RCW
4 to read as follows:

5 PTBA AUTHORIZATION FOR PASSENGER-ONLY FERRIES. A public
6 transportation benefit area having a boundary located on Puget Sound
7 may implement a passenger ferry service. For the purposes of this
8 chapter and sections 7 and 8 of this act, Puget Sound is considered as
9 extending north as far as the Canadian border and west as far as Port
10 Angeles. The benefit area must develop a passenger ferry investment
11 plan including elements to operate or contract for the operation of
12 passenger ferry services, purchase, lease, or rental of ferry vessels
13 and dock facilities for the provision of transit service, and identify
14 other activities necessary to implement the plan. The plan must set
15 forth terminal locations to be served, projected costs of providing
16 services, and revenues to be generated from tolls, locally collected
17 tax revenues, and other revenue sources. The benefit area may use any
18 of its powers to carry out this purpose, unless otherwise prohibited by
19 law. In addition, the public transportation benefit area may enter
20 into contracts and agreements to operate passenger-only ferry service
21 and public-private partnerships and design-build, general
22 contractor/construction management, or other alternative procurement
23 process substantially consistent with chapter 39.10 RCW.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.57A RCW
25 to read as follows:

26 TAXES, FEES, AND TOLLS. (1) A public transportation benefit area
27 may, as part of a passenger ferry investment plan, recommend some or
28 all of the following revenue sources as provided in this chapter:

29 (a) A motor vehicle excise tax, as provided in section 7 of this
30 act;

31 (b) A sales and use tax, as provided in section 8 of this act;

32 (c) Tolls for passengers and packages and, where applicable,
33 parking; and

34 (d) Charges or licensing fees for advertising, leasing space for
35 services to ferry passengers, and other revenue-generating activities.

1 (2) Taxes may not be imposed without an affirmative vote of the
2 majority of the voters within the boundaries of the area voting on a
3 single ballot proposition to both approve a passenger ferry investment
4 plan and to approve taxes to implement the plan. Revenues from these
5 taxes and fees may be used only to implement the plan. A district may
6 contract with the state department of revenue or other appropriate
7 entities for administration and collection of any of the taxes or
8 charges authorized in this section.

9 NEW SECTION. **Sec. 4.** A new section is added to chapter 47.52 RCW
10 to read as follows:

11 CONVEYANCE OF FERRY VESSELS. The department of transportation may
12 enter into contracts with public transportation benefit areas meeting
13 the requirements of section 2 of this act to convey passenger ferry
14 vessels and other properties associated with passenger-only ferry
15 service that serve to provide passenger ferry service, as full or part
16 consideration for the benefit area assuming all future maintenance and
17 operation obligations and costs required to maintain and operate the
18 vessel and facilities. The conveyances must provide that the vessels
19 or properties revert to the department if the vessels are not used for
20 providing passenger ferry service.

21 **Sec. 5.** RCW 47.60.120 and 1993 c 427 s 1 are each amended to read
22 as follows:

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

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

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

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

22 (5) This section does not apply to the operation of passenger-only
23 ferry service operated by public transportation benefit areas meeting
24 the requirements of section 2 of this act.

25 **Sec. 6.** RCW 47.64.090 and 1983 c 15 s 27 are each amended to read
26 as follows:

27 USE OF STATE FERRY FACILITIES. (1) Except as provided in section
28 4 of this act and subsection (2) of this section, if any party assumes
29 the operation and maintenance of any ferry or ferry system by rent,
30 lease, or charter from the department of transportation, such party
31 shall assume and be bound by all the provisions herein and any
32 agreement or contract for such operation of any ferry or ferry system
33 entered into by the department shall provide that the wages to be paid,
34 hours of employment, working conditions, and seniority rights of
35 employees will be established by the marine employees' commission in
36 accordance with the terms and provisions of this chapter and it shall

1 further provide that all labor disputes shall be adjudicated in
2 accordance with chapter 47.64 RCW.

3 (2) If a public transportation benefit area meeting the
4 requirements of section 2 of this act has voter approval to operate
5 passenger-only ferry service, it may enter into an agreement with
6 Washington State Ferries to rent, lease, or purchase passenger-only
7 vessels, related equipment, or terminal space for purposes of loading
8 and unloading the passenger-only ferry. A benefit area or
9 subcontractor of that benefit area that qualifies under this subsection
10 is not subject to the restrictions of subsection (1) of this section,
11 but is subject to the terms of those agreements and contracts that it
12 or its subcontractor negotiates with its labor groups. These labor
13 contracts will be conducted in accordance with the provisions of the
14 public employment relations commission, as provided for in chapter
15 41.58 RCW, or the National Labor Relations Act, as appropriate.

16 NEW SECTION. Sec. 7. A new section is added to chapter 82.80 RCW
17 to read as follows:

18 MOTOR VEHICLE EXCISE TAX AUTHORIZED. (1) Public transportation
19 benefit areas authorized to implement passenger ferry service under
20 section 2 of this act whose boundaries (a) are on the Puget Sound, but
21 (b) do not include an area where a regional transit authority has been
22 formed, may submit an authorizing proposition to the voters and, if
23 approved, may levy and collect an excise tax, at a rate approved by the
24 voters, but not exceeding eighty one-hundredths of one percent on the
25 value, under chapter 82.44 RCW, of every motor vehicle owned by a
26 resident of the taxing district, solely for the purpose of providing
27 passenger ferry service. The tax may be collected only at the time of
28 vehicle license renewal under chapter 46.16 RCW. The tax will be
29 imposed on vehicles previously registered in another state or nation
30 when they are initially registered in this state. In a county imposing
31 a motor vehicle excise tax surcharge under RCW 81.100.060, the maximum
32 tax rate under this section must be reduced to a rate equal to eighty
33 one-hundredths of one percent on the value less the equivalent motor
34 vehicle excise tax rate of the surcharge imposed under RCW 81.100.060.
35 This rate does not apply to vehicles licensed under RCW 46.16.070 with
36 an unladen weight more than six thousand pounds, or to vehicles
37 licensed under RCW 46.16.079, 46.16.085, or 46.16.090.

1 (2) The department of licensing shall administer and collect the
2 tax. The department shall deduct a percentage amount, as provided by
3 contract, not to exceed two percent of the taxes collected, for
4 administration and collection expenses incurred by it. The remaining
5 proceeds must be remitted to the custody of the state treasurer for
6 monthly distribution to the public transportation benefit area.

7 (3) The public transportation benefit area imposing this tax shall
8 delay the effective date at least six months from the date the fee is
9 approved by the qualified voters of the authority area to allow the
10 department of licensing to implement administration and collection of
11 the tax.

12 (4) Before an authority may impose a tax authorized under this
13 section, the authorization for imposition of the tax must be approved
14 by a majority of the qualified electors of the authority area voting on
15 that issue.

16 (5) An authority imposing a tax under subsection (1) of this
17 section may also impose a sales and use tax solely for the purpose of
18 providing passenger ferry service, in addition to the tax authorized by
19 RCW 82.14.030, upon retail car rentals within the authority's
20 jurisdiction that are taxable by the state under chapters 82.08 and
21 82.12 RCW. The rate of tax may not exceed 2.172 percent. The rate of
22 tax imposed under this subsection must bear the same ratio to the 2.172
23 percent rate authorized that the rate imposed under subsection (1) of
24 this section bears to the rate authorized under subsection (1) of this
25 section. The base of the tax is the selling price in the case of a
26 sales tax or the rental value of the vehicle used in the case of a use
27 tax. The revenue collected under this subsection must be used in the
28 same manner as excise taxes under subsection (1) of this section.

29 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.14 RCW
30 to read as follows:

31 SALES AND USE TAX AUTHORIZATION. Public transportation benefit
32 areas providing passenger ferry service as provided in section 2 of
33 this act whose boundaries (1) are on the Puget Sound, but (2) do not
34 include an area where a regional transit authority has been formed, may
35 submit an authorizing proposition to the voters and, if approved by a
36 majority of persons voting, fix and impose a sales and use tax in

1 accordance with the terms of this chapter, solely for the purpose of
2 providing passenger ferry service.

3 The tax authorized by this section is in addition to the tax
4 authorized by RCW 82.14.030 and must be collected from those persons
5 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
6 the occurrence of a taxable event within the taxing district. The
7 maximum rate of the tax must be approved by the voters and may not
8 exceed one percent of the selling price in the case of a sales tax or
9 value of the article used in the case of a use tax. The maximum rate
10 of the tax that may be imposed may not exceed nine-tenths of one
11 percent in a county that imposes a tax under RCW 82.14.340. The
12 exemptions in RCW 82.08.820 and 82.12.820 are for the state portion of
13 the sales and use tax and do not extend to the tax authorized in this
14 section.

15 **Sec. 9.** RCW 82.14.050 and 2002 c 56 s 406 are each amended to read
16 as follows:

17 ADMINISTRATION AND COLLECTION--LOCAL SALES AND USE TAX ACCOUNT.

18 The counties, cities, and transportation authorities under RCW
19 82.14.045, public facilities districts under chapters 36.100 and 35.57
20 RCW, public transportation benefit areas under section 8 of this act,
21 and regional transportation investment districts shall contract, prior
22 to the effective date of a resolution or ordinance imposing a sales and
23 use tax, the administration and collection to the state department of
24 revenue, which shall deduct a percentage amount, as provided by
25 contract, not to exceed two percent of the taxes collected for
26 administration and collection expenses incurred by the department. The
27 remainder of any portion of any tax authorized by this chapter that is
28 collected by the department of revenue shall be deposited by the state
29 department of revenue in the local sales and use tax account hereby
30 created in the state treasury. Moneys in the local sales and use tax
31 account may be spent only for distribution to counties, cities,
32 transportation authorities, public facilities districts, public
33 transportation benefit areas, and regional transportation investment
34 districts imposing a sales and use tax. All administrative provisions
35 in chapters 82.03, 82.08, 82.12, and 82.32 RCW, as they now exist or
36 may hereafter be amended, shall, insofar as they are applicable to
37 state sales and use taxes, be applicable to taxes imposed pursuant to

1 this chapter. Except as provided in RCW 43.08.190, all earnings of
2 investments of balances in the local sales and use tax account shall be
3 credited to the local sales and use tax account and distributed to the
4 counties, cities, transportation authorities, public facilities
5 districts, public transportation benefit areas, and regional
6 transportation investment districts monthly.

7 NEW SECTION. **Sec. 10.** CAPTIONS NOT LAW. Captions used in this
8 act are not part of the law.

9 NEW SECTION. **Sec. 11.** SEVERABILITY. If any provision of this act
10 or its application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 July 1, 2003.

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