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SENATE BILL 5850

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State of Washington

58th Legislature

2003 Regular Session

By Senators Oke, B. Sheldon, T. Sheldon, Poulsen, Kohl-Welles and McAuliffe

Read first time 02/17/2003. Referred to Committee on Highways & Transportation.

1 AN ACT Relating to the provision of passenger ferry service;  
2 amending RCW 47.60.120, 47.64.090, and 81.104.140; 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 81.104 RCW; creating new sections;  
5 providing an effective date; and declaring an emergency.

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

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

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

17 It is the intent of the legislature to encourage interlocal  
18 agreements to ensure passenger-only ferry service is maintained on  
19 routes that the Washington state ferry system eliminates.

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

3        PTBA AUTHORIZATION FOR PASSENGER-ONLY FERRIES.        A public  
4 transportation benefit area, having a boundary located on Puget Sound,  
5 may implement a passenger ferry service. The benefit area must develop  
6 a passenger ferry investment plan including elements to operate or  
7 contract for the operation of passenger ferry services, purchase,  
8 lease, or rental of ferry vessels and dock facilities for the provision  
9 of transit service, and identify other activities necessary to  
10 implement the plan. The plan must set forth terminal locations to be  
11 served, projected costs of providing services, and revenues to be  
12 generated from tolls, locally collected tax revenues, and other revenue  
13 sources. The benefit area may use any of its powers to carry out this  
14 purpose, unless otherwise prohibited by law.

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

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

20        (a) Those taxes authorized for high-capacity transportation for the  
21 purpose of passenger-only ferries in chapter 81.104 RCW. However, the  
22 motor vehicle excise tax may only be collected at the time of vehicle  
23 license renewal under chapter 46.16 RCW. The motor vehicle excise tax  
24 will be imposed on vehicles previously registered in another state when  
25 they are initially registered in this state;

26        (b) Tolls for passengers and packages and, where applicable,  
27 parking; and

28        (c) Charges or licensing fees for advertising, leasing space for  
29 services to ferry passengers, and other revenue-generating activities.

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

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

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

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

15        TEN-MILE RULE EXEMPTION.    (1) If the department acquires or  
16 constructs, maintains, and operates any ferry crossings upon or toll  
17 bridges over Puget Sound or any of its tributary or connecting waters,  
18 there shall not be constructed, operated, or maintained any other ferry  
19 crossing upon or bridge over any such waters within ten miles of any  
20 such crossing or bridge operated or maintained by the department  
21 excepting such bridges or ferry crossings in existence, and being  
22 operated and maintained under a lawfully issued franchise at the time  
23 of the location of the ferry crossing or construction of the toll  
24 bridge by the department.

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

29        (3) The Washington utilities and transportation commission may,  
30 upon written petition of a commercial ferry operator certificated or  
31 applying for certification under chapter 81.84 RCW, and upon notice and  
32 hearing, grant a waiver from the ten-mile restriction.    The waiver must  
33 not be detrimental to the public interest.    In making a decision to  
34 waive the ten-mile restriction, the commission shall consider, but is  
35 not limited to, the impact of the waiver on transportation congestion  
36 mitigation, air quality improvement, and the overall impact on the  
37 Washington state ferry system.    The commission shall act upon a request

1 for a waiver within ninety days after the conclusion of the hearing.  
2 A waiver is effective for a period of five years from the date of  
3 issuance. At the end of five years the waiver becomes permanent unless  
4 appealed within thirty days by the commission on its own motion, the  
5 department, or an interested party.

6 (4) The department shall not maintain and operate any ferry  
7 crossing or toll bridge over Puget Sound or any of its tributary or  
8 connecting waters that would infringe upon any franchise lawfully  
9 issued by the state and in existence and being exercised at the time of  
10 the location of the ferry crossing or toll bridge by the department,  
11 without first acquiring the rights granted to such franchise holder  
12 under the franchise.

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

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

18 USE OF STATE FERRY FACILITIES. (1) Except as provided in section  
19 4 of this act and subsection (2) of this section, if any party assumes  
20 the operation and maintenance of any ferry or ferry system by rent,  
21 lease, or charter from the department of transportation, such party  
22 shall assume and be bound by all the provisions herein and any  
23 agreement or contract for such operation of any ferry or ferry system  
24 entered into by the department shall provide that the wages to be paid,  
25 hours of employment, working conditions, and seniority rights of  
26 employees will be established by the marine employees' commission in  
27 accordance with the terms and provisions of this chapter and it shall  
28 further provide that all labor disputes shall be adjudicated in  
29 accordance with chapter 47.64 RCW.

30 (2) If a public transportation benefit area meeting the  
31 requirements of section 2 of this act has voter approval to operate  
32 passenger-only ferry service, it may enter into an agreement with  
33 Washington State Ferries to rent, lease, or purchase passenger-only  
34 vessels, related equipment, or terminal space for purposes of loading  
35 and unloading the passenger-only ferry. A benefit area that qualifies  
36 under this subsection is not subject to the restrictions of subsection

1 (1) of this section, but is subject to the terms of those agreements  
2 and contracts that it negotiates with its labor groups.

3 NEW SECTION. Sec. 7. A new section is added to chapter 81.104 RCW  
4 to read as follows:

5 PASSENGER-ONLY FERRIES AS HIGH-CAPACITY TRANSIT. (1) A public  
6 transportation benefit area, having a boundary located on Puget Sound,  
7 and meeting the requirements of section 2 of this act may implement  
8 high-capacity transportation systems to operate passenger-only ferry  
9 service. This includes responsibility for system implementation and  
10 may include contracts and agreements to operate passenger-only ferry  
11 service and public-private partnerships and design-build or other  
12 approved purchasing methods.

13 (2) For the purposes of this chapter, high-capacity transportation  
14 system includes passenger-only ferry service.

15 (3) The requirements of RCW 81.104.030, 81.104.070, 81.104.080,  
16 81.104.100, and 81.104.110 do not apply to the public transportation  
17 benefit areas operating under this section. However, those agencies  
18 must comply with the requirements of section 2 of this act.

19 **Sec. 8.** RCW 81.104.140 and 2002 c 56 s 202 are each amended to  
20 read as follows:

21 PTBA PASSENGER-ONLY FERRY--HIGH-CAPACITY TRANSIT TAX AUTHORIZATION.

22 (1) Agencies authorized to provide high capacity transportation  
23 service, including transit agencies and regional transit authorities,  
24 and regional transportation investment districts acting with the  
25 agreement of an agency, are hereby granted dedicated funding sources  
26 for such systems. These dedicated funding sources, as set forth in RCW  
27 81.104.150, 81.104.160, and 81.104.170, are authorized only for  
28 agencies located in (a) each county with a population of two hundred  
29 ten thousand or more (~~and~~), (b) each county with a population of from  
30 one hundred twenty-five thousand to less than two hundred ten thousand  
31 except for those counties that do not border a county with a population  
32 as described under (a) of this subsection, and (c) for the purposes of  
33 implementing passenger-only ferry service, public transportation  
34 benefit areas whose boundaries (i) are on Puget Sound but (ii) do not  
35 include an area where a regional transit authority has been formed. In  
36 any county with a population of one million or more or in any county

1 having a population of four hundred thousand or more bordering a county  
2 with a population of one million or more, these funding sources may be  
3 imposed only by a regional transit authority or a regional  
4 transportation investment district. Regional transportation investment  
5 districts may, with the approval of the regional transit authority  
6 within its boundaries, impose the taxes authorized under this chapter,  
7 but only upon approval of the voters and to the extent that the maximum  
8 amount of taxes authorized under this chapter have not been imposed.

9 (2) Agencies planning to construct and operate a high capacity  
10 transportation system should also seek other funds, including federal,  
11 state, local, and private sector assistance.

12 (3) Funding sources should satisfy each of the following criteria  
13 to the greatest extent possible:

- 14 (a) Acceptability;
- 15 (b) Ease of administration;
- 16 (c) Equity;
- 17 (d) Implementation feasibility;
- 18 (e) Revenue reliability; and
- 19 (f) Revenue yield.

20 (4) Agencies participating in regional high capacity transportation  
21 system development are authorized to levy and collect the following  
22 voter-approved local option funding sources:

23 (a) Employer tax as provided in RCW 81.104.150, other than by  
24 regional transportation investment districts;

25 (b) Special motor vehicle excise tax as provided in RCW 81.104.160;  
26 and

27 (c) Sales and use tax as provided in RCW 81.104.170.

28 Revenues from these taxes may be used only to support those  
29 purposes prescribed in subsection (10) of this section. Before the  
30 date of an election authorizing an agency to impose any of the taxes  
31 enumerated in this section and authorized in RCW 81.104.150,  
32 81.104.160, and 81.104.170, the agency must comply with the process  
33 prescribed in RCW 81.104.100 (1) and (2) and 81.104.110. No  
34 construction on exclusive right of way may occur before the  
35 requirements of RCW 81.104.100(3) are met.

36 (5) Authorization in subsection (4) of this section shall not  
37 adversely affect the funding authority of transit agencies not provided  
38 for in this chapter. Local option funds may be used to support

1 implementation of interlocal agreements with respect to the  
2 establishment of regional high capacity transportation service. Except  
3 when a regional transit authority exists, local jurisdictions shall  
4 retain control over moneys generated within their boundaries, although  
5 funds may be commingled with those generated in other areas for  
6 planning, construction, and operation of high capacity transportation  
7 systems as set forth in the agreements.

8 (6) Agencies planning to construct and operate high capacity  
9 transportation systems may contract with the state for collection and  
10 transference of voter-approved local option revenue.

11 (7) Dedicated high capacity transportation funding sources  
12 authorized in RCW 81.104.150, 81.104.160, and 81.104.170 shall be  
13 subject to voter approval by a simple majority. A single ballot  
14 proposition may seek approval for one or more of the authorized taxing  
15 sources. The ballot title shall reference the document identified in  
16 subsection (8) of this section.

17 (8) Agencies shall provide to the registered voters in the area a  
18 document describing the systems plan and the financing plan set forth  
19 in RCW 81.104.100. It shall also describe the relationship of the  
20 system to regional issues such as development density at station  
21 locations and activity centers, and the interrelationship of the system  
22 to adopted land use and transportation demand management goals within  
23 the region. This document shall be provided to the voters at least  
24 twenty days prior to the date of the election.

25 (9) For any election in which voter approval is sought for a high  
26 capacity transportation system plan and financing plan pursuant to RCW  
27 81.104.040, a local voter's pamphlet shall be produced as provided in  
28 chapter 29.81A RCW.

29 (10) Agencies providing high capacity transportation service shall  
30 retain responsibility for revenue encumbrance, disbursement, and  
31 bonding. Funds may be used for any purpose relating to planning,  
32 construction, and operation of high capacity transportation systems and  
33 commuter rail systems, personal rapid transit, busways, bus sets, and  
34 entrained and linked buses.

35 NEW SECTION. **Sec. 9.** CAPTIONS NOT LAW. Captions used in this act  
36 are not part of the law.

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

5        NEW SECTION.   **Sec. 11.**   This act is necessary for the immediate  
6   preservation of the public peace, health, or safety, or support of the  
7   state government and its existing public institutions, and takes effect  
8   July 1, 2003.

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