

SENATE BILL REPORT

SSB 5212

AS PASSED SENATE, MARCH 15, 1993

Brief Description: Permitting waiver of the ten-mile ferry and toll bridge restriction.

SPONSORS: Senate Committee on Transportation (originally sponsored by Senator Haugen)

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5212 be substituted therefor, and the substitute bill do pass.

Signed by Senators Vognild, Chairman; Loveland, Vice Chairman; Skratek, Vice Chairman; Barr, Drew, Haugen, Nelson, Oke, Prentice, Prince, M. Rasmussen, Sheldon, von Reichbauer, and Winsley.

Staff: Vicki Fabre (786-7313)

Hearing Dates: February 23, 1993; March 3, 1993

BACKGROUND:

Commercial ferries operating between fixed termini over regular routes on Washington waters are regulated by the Washington Utilities and Transportation Commission (WUTC) as steamboat companies. The entry standard for certification by the WUTC is "public convenience and necessity" (PC&N).

Two types of private ferry service exist: private passenger and freight ferries, and launch service which provides ship-to-shore transportation of freight and a ship's crew for large ships anchored in Washington waters. To date, the WUTC has granted 19 steamboat certificates.

In addition to determining whether an applicant meets the PC&N test, the WUTC must consider whether the proposed passenger ferry service violates the requirements of RCW 47.60.120 which prohibits the construction and operation of private, commercial ferry crossings within ten miles of a state ferry crossing -- commonly referred to as the "ten-mile rule." According to a 1990 Attorney General Opinion interpreting the ten-mile rule, the ten-mile distance is ten statute miles measured by airline distance. The rule is applied by comparing the state ferry crossing to the private commercial ferry crossing. A crossing consists of two end-points or termini of the run. If the two end points or termini of the private, commercial ferry crossing are within ten miles of the two-end points of termini of the state ferry crossing, the commercial ferry crossing is prohibited.

Throughout the years, Washington State Ferries has issued bonds to finance its operations and has adopted bond resolutions providing for the issuance of such bonds and guaranteeing the terms and conditions of their issuance. Each bond resolution, which is a contract between the state, the bond trustee, and the bond holders contains a provision guaranteeing the security of bond payments. The ten-mile rule was enacted to protect repayment of ferry and bridge bonds by insuring that private ferry competition would not reduce state ferry revenue dedicated for state ferry operations and maintenance.

Legislation introduced in the 1993 legislative session (SB 5166) authorizes the sale of up to \$15 million in bonds to retire the 1963 bond issue. While this action eliminates the ten-mile rule covenant contained in this bond issue, legislative action is required to delete the statutory requirement barring competing private ferry operations within ten miles of state ferry operations.

SUMMARY:

The WUTC is authorized, upon written petition of a certificated, commercial ferry operator (or an applicant for certification) and upon notice and hearing, to grant a waiver from the ten-mile restriction. The decision to grant a waiver must be based on consideration of the impact of the waiver on transportation congestion mitigation, air quality improvement, and the overall impact on the state ferry system. The waiver is effective for five years and becomes permanent at the end of that period unless appealed by the WUTC, the Department of Transportation, or the operator to whom the waiver is granted.

The WUTC's authority to waive the ten-mile restriction is conditioned on the passage of legislation authorizing the sale of bonds to retire the 1963 ferry and toll bridge refunding bond issue.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

Although, in most cases, the ten-mile restriction prohibiting private, commercial ferry service from competing with state ferry service protects the public interest, strict application of the rule can result in prohibitions on private ferry service that appear to be unjust and unreasonable. A process which allows the WUTC to grant a waiver from the ten-mile rule in those cases where private ferry service does not impact state ferry service within the ten-mile limit, and where there is a benefit to the traveling public, is appropriate.

TESTIMONY AGAINST: None

TESTIFIED: Senator Haugen, prime sponsor; Marty Behr, Mosquito Fleet (pro); Terry McCarthy, DOT (pro w/concerns)