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HOUSE BILL 2866

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State of Washington

56th Legislature

2000 Regular Session

By Representatives Fisher, Mitchell, Cooper, O'Brien, Rockefeller and Morris

Read first time 01/21/2000. Referred to Committee on Transportation.

1 AN ACT Relating to operation of ferries in Washington state;  
2 amending RCW 47.60.326 and 47.60.326; creating new sections; providing  
3 an effective date; providing an expiration date; and declaring an  
4 emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The joint task force on ferries is  
7 created, to be composed of:

8 (a) Eight members of the legislature selected as follows:

9 (i) Four members of the senate, two from each of the major  
10 caucuses, to be appointed by the president of the senate;

11 (ii) Four members of the house of representatives, two from each of  
12 the major caucuses, to be appointed by the speaker of the house of  
13 representatives; and

14 (iii) The members appointed from each major caucus of the senate  
15 and the house of representatives must include one member from a  
16 legislative district that encompasses a terminus of a Washington state  
17 ferry route and one from a legislative district that does not include  
18 a terminus of a Washington state ferry route;

1 (b) At least one person designated by the cochairs representing  
2 each of the following:

- 3 (i) Ferry advisory committees;
- 4 (ii) Persons who do not use ferries;
- 5 (iii) Labor organizations representing ferry workers;
- 6 (iv) Washington State Ferries;
- 7 (v) Transit operators;
- 8 (vi) The office of financial management; and
- 9 (vii) Other groups as deemed appropriate by the cochairs of the  
10 task force.

11 (2) The transportation committees shall provide staff support as  
12 mutually agreed by the cochairs of the joint select committee. The  
13 speaker of the house of representatives and the president of the senate  
14 shall designate the cochairs.

15 (3) The legislative transportation committee shall pay the expenses  
16 of the legislative committee members.

17 NEW SECTION. **Sec. 2.** The joint task force on ferries shall report  
18 to the full legislature at the beginning of the 2001 legislative  
19 session. The report must include, but not be limited to, analysis and  
20 recommendations on the following:

- 21 (1) Ferry fare equity between ferry routes of different lengths;
- 22 (2) Establishment of a target for recovery of operating costs from  
23 fare revenue that recognizes that the operation of the ferries is the  
24 proprietary provision of a service for a fee;
- 25 (3) Options for further cuts in ferry service or full or partial  
26 restoration of ferry service cuts;
- 27 (4) Feasibility of full or partial privatization of the ferry  
28 system, public-private partnerships, or state and local partnerships;  
29 and
- 30 (5) Establishing the short-term and long-term capital needs of the  
31 Washington state ferry system, recognizing that the ferry system is  
32 part of the state's highway system and that it is appropriate that the  
33 public pay for the capital needs of the ferry system as an extension of  
34 the land-based highway system.

35 **Sec. 3.** RCW 47.60.326 and 1990 c 42 s 406 are each amended to read  
36 as follows:

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

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

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

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

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

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

23 (d) The efficient distribution of traffic between cross-sound  
24 routes;

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

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

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

31 (h) Such other factors as prudent managers of a major ferry system  
32 would consider.

33 (4) If at any time during the biennium it appears that projected  
34 toll revenues from the ferry system, together with the transfer from  
35 the Puget Sound ferry operations account to the ferry system revolving  
36 account and any other operating subsidy available to the Washington  
37 state ferries, will be less than the projected total cost of  
38 maintenance and operation of the Washington state ferries for the  
39 biennium, the department shall forthwith undertake a review of its

1 schedule of charges to ascertain whether or not the schedule of charges  
2 should be revised. The department shall, upon completion of its review  
3 report, submit its recommendation to the transportation commission  
4 which may in its sound discretion revise the schedule of charges as  
5 required to meet necessary maintenance and operation expenditures of  
6 the ferry system for the biennium or may defer action until the regular  
7 annual review and revision of ferry charges as provided in subsection  
8 (2) of this section.

9 (5) The provisions of RCW 47.60.330 relating to public  
10 participation shall apply to the process of revising ferry tolls under  
11 this section.

12 (6) The legislature finds that maintaining a ferry system and  
13 providing regular ferry service for a fee requires the Washington state  
14 ferry system to function in both a governmental capacity and a  
15 proprietary capacity. The ferry routes maintained by the Washington  
16 state ferry system are a part of the state highway system as identified  
17 in chapter 47.17 RCW. When the Washington state ferry system provides  
18 for the capital needs of the system it is acting in a governmental  
19 capacity to build and preserve the state highway system. In operating  
20 the system and providing passage for people and goods for a fee, the  
21 ferry system is operating as a common carrier as identified in RCW  
22 47.60.220. When the Washington state ferry system operates the ferry  
23 system on a day-to-day basis it is acting in a proprietary capacity by  
24 engaging in a business-like venture to provide a service for a fee.

25 Because ferry tolls are charged directly to customers in exchange  
26 for passage at a prescribed time and place, and because fare revenue is  
27 dedicated to paying for the operating costs of the system under RCW  
28 47.60.530 rather than the capital costs under RCW 47.60.505, ferry  
29 tolls are charged and collected by the Washington state ferry system in  
30 its proprietary capacity. The legislature finds that ferry tolls are  
31 not a tax within the meaning of RCW 43.135.090. Consistent with this  
32 finding, the transportation commission shall proceed to adjust fares as  
33 authorized under this section. Under RCW 43.135.055, the  
34 transportation commission may increase ferry tolls by a percentage that  
35 exceeds the fiscal growth factor.

36 **Sec. 4.** RCW 47.60.326 and 1999 c 94 s 27 are each amended to read  
37 as follows:

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

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

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

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

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

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

23 (d) The efficient distribution of traffic between cross-sound  
24 routes;

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

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

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

31 (h) Such other factors as prudent managers of a major ferry system  
32 would consider.

33 (4) If at any time during the biennium it appears that projected  
34 revenues from the Puget Sound ferry operations account and any other  
35 operating subsidy available to the Washington state ferries will be  
36 less than the projected total cost of maintenance and operation of the  
37 Washington state ferries for the biennium, the department shall  
38 forthwith undertake a review of its schedule of charges to ascertain  
39 whether or not the schedule of charges should be revised. The

1 department shall, upon completion of its review report, submit its  
2 recommendation to the transportation commission which may in its sound  
3 discretion revise the schedule of charges as required to meet necessary  
4 maintenance and operation expenditures of the ferry system for the  
5 biennium or may defer action until the regular annual review and  
6 revision of ferry charges as provided in subsection (2) of this  
7 section.

8 (5) The provisions of RCW 47.60.330 relating to public  
9 participation shall apply to the process of revising ferry tolls under  
10 this section.

11 (6) The legislature finds that maintaining a ferry system and  
12 providing regular ferry service for a fee requires the Washington state  
13 ferry system to function in both a governmental capacity and a  
14 proprietary capacity. The ferry routes maintained by the Washington  
15 state ferry system are a part of the state highway system as identified  
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20 ferry system is operating as a common carrier as identified in RCW  
21 47.60.220. When the Washington state ferry system operates the ferry  
22 system on a day-to-day basis it is acting in a proprietary capacity by  
23 engaging in a business-like venture to provide a service for a fee.

24 Because ferry tolls are charged directly to customers in exchange  
25 for passage at a prescribed time and place, and because fare revenue is  
26 dedicated to paying for the operating costs of the system under RCW  
27 47.60.530 rather than the capital costs under RCW 47.60.505, ferry  
28 tolls are charged and collected by the Washington state ferry system in  
29 its proprietary capacity. The legislature finds that ferry tolls are  
30 not a tax within the meaning of RCW 43.135.090. Consistent with this  
31 finding, the transportation commission shall proceed to adjust fares as  
32 authorized under this section. Under RCW 43.135.055, the  
33 transportation commission may increase ferry tolls by a percentage that  
34 exceeds the fiscal growth factor.

35 NEW SECTION. Sec. 5. Section 3 of this act expires July 1, 2000.

36 NEW SECTION. Sec. 6. (1) Sections 1 through 3 of this act are  
37 necessary for the immediate preservation of the public peace, health,

1 or safety, or support of the state government and its existing public  
2 institutions, and take effect immediately.

3 (2) Section 4 of this act takes effect July 1, 2000.

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