
HOUSE BILL 2950

State of Washington

56th Legislature

2000 Regular Session

By Representative Dunn

Read first time 01/24/2000. Referred to Committee on Transportation.

1 AN ACT Relating to terminating state operation of the Washington
2 state ferry system and authorizing local government operation of a
3 ferry system; amending RCW 47.06.050, 36.57A.010, 36.57A.060,
4 36.57A.090, 81.104.015, 47.56.030, 47.56.032, 47.60.013, 47.60.015,
5 47.60.040, 47.60.280, 47.60.282, 47.60.290, 47.60.300, 47.60.310,
6 47.60.326, 47.60.330, 47.60.140, 47.06.140, 47.04.140, 47.60.220,
7 47.60.230, 47.60.260, 47.60.649, 47.80.030, 47.60.010, 47.60.130,
8 47.12.023, 47.12.026, 47.56.050, 47.56.253, 47.60.145, 47.60.550,
9 47.64.005, 47.64.090, and 36.57A.120; adding a new section to chapter
10 47.64 RCW; creating new sections; repealing RCW 47.60.017, 47.60.020,
11 47.60.120, 47.60.122, 47.60.283, 47.60.652, 47.60.654, 47.60.680,
12 47.60.690, 47.60.700, 47.60.710, 47.60.720, 47.60.730, 47.60.740,
13 47.60.750, 47.60.760, 47.60.770, 47.60.772, 47.60.774, 47.60.776,
14 47.60.778, 47.60.780, and 47.64.006; and providing for submission of
15 this act to a vote of the people.

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

17 NEW SECTION. **Sec. 1.** The legislature intends to authorize local
18 governments to operate ferries on the navigable waters of Washington
19 state. While the state and federal governments will continue to

1 regulate ferry traffic for purposes of assuring the health and safety
2 of riders and the general public, the operation of ferries should be
3 the responsibility of the communities that primarily benefit from the
4 service. To implement this purpose, the legislature is requiring the
5 phase-out of the state operation of ferries on Puget Sound. The phase-
6 out does not require divestment of capital assets. The phase-out will
7 commence with the effective date of this act and be completed no later
8 than July 1, 2006. After that date, the state will no longer operate
9 ferries on Puget Sound. The legislature is further authorizing public
10 transportation benefit areas formed under chapter 36.57A RCW to provide
11 ferry service on the navigable waters of Washington state when it is in
12 the best interests of the citizens served by the public transportation
13 benefit area.

14

PART I: GOVERNANCE

15 **Sec. 2.** RCW 47.06.050 and 1993 c 446 s 5 are each amended to read
16 as follows:

17 The state-owned facilities component of the state-wide
18 transportation plan shall consist of:

19 (1) The state highway system plan, which identifies program and
20 financing needs and recommends specific and financially realistic
21 improvements to preserve the structural integrity of the state highway
22 system, ensure acceptable operating conditions, and provide for
23 enhanced access to scenic, recreational, and cultural resources. The
24 state highway system plan shall contain the following elements:

25 (a) A system preservation element, which shall establish structural
26 preservation objectives for the state highway system including bridges,
27 identify current and future structural deficiencies based upon analysis
28 of current conditions and projected future deterioration, and recommend
29 program funding levels and specific actions necessary to preserve the
30 structural integrity of the state highway system consistent with
31 adopted objectives. This element shall serve as the basis for the
32 preservation component of the six-year highway program and the two-year
33 biennial budget request to the legislature;

34 (b) A capacity and operational improvement element, which shall
35 establish operational objectives, including safety considerations, for
36 moving people and goods on the state highway system, identify current
37 and future capacity, operational, and safety deficiencies, and

1 recommend program funding levels and specific improvements and
2 strategies necessary to achieve the operational objectives. In
3 developing capacity and operational improvement plans the department
4 shall first assess strategies to enhance the operational efficiency of
5 the existing system before recommending system expansion. Strategies
6 to enhance the operational efficiencies include but are not limited to
7 access management, transportation system management, demand management,
8 and high-occupancy vehicle facilities. The capacity and operational
9 improvement element must conform to the state implementation plan for
10 air quality and be consistent with regional transportation plans
11 adopted under chapter 47.80 RCW, and shall serve as the basis for the
12 capacity and operational improvement portions of the six-year highway
13 program and the two-year biennial budget request to the legislature;

14 (c) A scenic and recreational highways element, which shall
15 identify and recommend designation of scenic and recreational highways,
16 provide for enhanced access to scenic, recreational, and cultural
17 resources associated with designated routes, and recommend a variety of
18 management strategies to protect, preserve, and enhance these
19 resources. The department, affected counties, cities, and towns,
20 regional transportation planning organizations, and other state or
21 federal agencies shall jointly develop this element;

22 (d) A paths and trails element, which shall identify the needs of
23 nonmotorized transportation modes on the state transportation systems
24 and provide the basis for the investment of state transportation funds
25 in paths and trails, including funding provided under chapter 47.30
26 RCW.

27 (2) The state ferry system plan, which shall guide capital and
28 operating investments in the state ferry system. The plan shall
29 include a schedule for the termination of state operation of the
30 Washington state ferry system no later than July 1, 2006. The plan
31 shall (~~establish service objectives for state ferry routes,~~) forecast
32 travel demand for the various markets served in the system(~~(,)~~) and
33 develop strategies for ferry system investment that consider regional
34 and state-wide vehicle and passenger needs(~~(, support local land use~~
35 ~~plans, and assure that ferry services are fully integrated with other~~
36 ~~transportation services)~~). The plan shall (~~assess the role of private~~
37 ~~ferries operating under the authority of the utilities and~~
38 ~~transportation commission and shall~~) coordinate ferry system capital
39 and operational plans consistent with (~~these private operations~~) use

1 of ferry system assets and operation of selected ferry routes by public
2 transportation benefit areas. The ferry system plan must ((be
3 ~~consistent with the regional transportation plans for areas served by~~
4 ~~the state ferry system, and shall be developed in conjunction with the~~
5 ~~ferry advisory committees)) provide for public comment and involvement
6 prior to adoption of the final plan.~~

7 **Sec. 3.** RCW 36.57A.010 and 1983 c 65 s 1 are each amended to read
8 as follows:

9 The definitions set forth in this section apply throughout this
10 chapter unless the context clearly requires otherwise.

11 (1) "Public transportation benefit area" means a municipal
12 corporation of the state of Washington created pursuant to this
13 chapter.

14 (2) "Public transportation benefit area authority" or "authority"
15 means the legislative body of a public transportation benefit area.

16 (3) "City" means an incorporated city or town.

17 (4) "Component city" means an incorporated city or town within a
18 public transportation benefit area.

19 (5) "City council" means the legislative body of any city or town.

20 (6) "County legislative authority" means the board of county
21 commissioners or the county council.

22 (7) "Population" means the number of residents as shown by the
23 figures released for the most recent official state, federal, or county
24 census, or population determination made by the office of financial
25 management.

26 (8) "Public transportation service" means the transportation of
27 packages, passengers, and their incidental baggage by means other than
28 by chartered bus, sight-seeing bus, together with the necessary
29 passenger terminals and parking facilities or other properties
30 necessary for passenger and vehicular access to and from such people
31 moving systems: PROVIDED, That nothing shall prohibit an authority
32 from leasing its buses to private certified carriers or prohibit the
33 authority from providing school bus service.

34 "Public transportation service" also means the transportation of
35 packages, vehicles, and passengers and their incidental baggage by a
36 system of ferries.

37 (9) "Public transportation improvement conference" or "conference"
38 means the body established pursuant to RCW 36.57A.020 which shall be

1 authorized to establish, subject to the provisions of RCW 36.57A.030,
2 a public transportation benefit area pursuant to the provisions of this
3 chapter.

4 **Sec. 4.** RCW 36.57A.060 and 1975 1st ex.s. c 270 s 16 are each
5 amended to read as follows:

6 The public transportation benefit area authority authorized
7 pursuant to RCW 36.57A.050 shall develop a comprehensive transit plan
8 for the area. Such plan shall include, but not be limited to the
9 following elements:

10 (1) The levels of transit service and ferry service that can be
11 reasonably provided for various portions of the benefit area.

12 (2) The funding requirements, including local tax sources, state
13 and federal funds, necessary to provide various levels of service
14 within the area.

15 (3) The impact of such a transportation program on other transit
16 systems operating within that county or adjacent counties.

17 (4) The future enlargement of the benefit area or the consolidation
18 of such benefit area with other transit systems.

19 **Sec. 5.** RCW 36.57A.090 and 1981 c 25 s 4 are each amended to read
20 as follows:

21 A public transportation benefit area authority shall have the
22 following powers in addition to the general powers granted by this
23 chapter:

24 (1) To prepare, adopt, and carry out a general comprehensive plan
25 for public transportation service which will best serve the residents
26 of the public transportation benefit area and to amend said plan from
27 time to time to meet changed conditions and requirements.

28 (2) To acquire by purchase, condemnation, gift, or grant and to
29 lease, construct, add to, improve, replace, repair, maintain, operate,
30 and regulate the use of transportation facilities and properties within
31 or without the public transportation benefit area or the state,
32 including systems of surface, underground, or overhead railways,
33 tramways, buses, or any other means of local transportation except
34 taxis, and including escalators, moving sidewalks, or other people-
35 moving systems, passenger terminal and parking facilities and
36 properties, and such other facilities and properties as may be
37 necessary for passenger and vehicular access to and from such people-

1 moving systems, terminal and parking facilities and properties,
2 together with all lands, rights of way, property, equipment, and
3 accessories necessary for such systems and facilities. Public
4 transportation facilities and properties which are owned by any city
5 may be acquired or used by the public transportation benefit area
6 authority only with the consent of the city council of the city owning
7 such facilities. Cities are hereby authorized to convey or lease such
8 facilities to a public transportation benefit area authority or to
9 contract for their joint use on such terms as may be fixed by agreement
10 between the city council of such city and the public transportation
11 benefit area authority, without submitting the matter to the voters of
12 such city.

13 The facilities and properties of a public transportation benefit
14 area system whose vehicles will operate primarily within the rights of
15 way of public streets, roads, or highways, may be acquired, developed,
16 and operated without the corridor and design hearings which are
17 required by RCW 35.58.273, as now or hereafter amended, for mass
18 transit facilities operating on a separate right of way.

19 (3) To fix rates, tolls, fares, and charges for the use of such
20 facilities and to establish various routes and classes of service.
21 Fares or charges may be adjusted or eliminated for any distinguishable
22 class of users including, but not limited to, senior citizens,
23 handicapped persons, and students.

24 In the event any person holding a certificate of public convenience
25 and necessity from the Washington utilities and transportation
26 commission under RCW 81.68.040 has operated under such certificate for
27 a continuous period of one year prior to the date of certification and
28 is offering service within the public transportation benefit area on
29 the date of the certification by the county canvassing board that a
30 majority of votes cast authorize a tax to be levied and collected by
31 the public transportation benefit area authority, such authority may by
32 purchase or condemnation acquire at the fair market value, from the
33 person holding the existing certificate for providing the services,
34 that portion of the operating authority and equipment representing the
35 services within the area of public operation. The person holding such
36 existing certificate may require the public transportation benefit area
37 authority to initiate such purchase of those assets of such person,
38 existing as of the date of the county canvassing board certification,
39 within sixty days after the date of such certification.

1 (4) To authorize acquisition by lease, charter, contract, purchase,
2 condemnation, or construction, and partly by any or all of such means,
3 and to thereafter operate, improve, and extend, a system of ferries at
4 any unfordable stream, lake, estuary, or bay, and connecting with the
5 public streets and highways within the boundaries of the public
6 transportation benefit area. The system of ferries shall include any
7 boats, vessels, wharves, docks, approaches, landings, franchises,
8 licenses, and appurtenances as determined by the public transportation
9 benefit area to be necessary or desirable for efficient operation of a
10 ferry run or runs and best serve the public. The public transportation
11 benefit area may in like manner acquire by purchase, condemnation, or
12 construction and include in the ferry system any toll bridges,
13 approaches, and connecting roadways as may be deemed by the public
14 transportation benefit area advantageous in channeling traffic to
15 points served by the ferry system. In addition to the powers of
16 acquisition granted by this section, the public transportation benefit
17 area is empowered to enter into any contracts, agreements, or leases
18 with any person, firm, or corporation and to provide terms and
19 conditions as it shall determine, for the operation of any ferry or
20 ferries or system, whether acquired by the public transportation
21 benefit area or not.

22 **Sec. 6.** RCW 81.104.015 and 1999 c 202 s 9 are each amended to read
23 as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

26 (1) "High-capacity transportation system" means a system of public
27 transportation services within an urbanized region operating
28 principally on exclusive rights of way, and the supporting services and
29 facilities necessary to implement such a system, including interim
30 express services, ferries, and high occupancy vehicle lanes, which
31 taken as a whole, provides a substantially higher level of passenger
32 capacity, speed, and service frequency than traditional public
33 transportation systems operating principally in general purpose
34 roadways.

35 (2) "Rail fixed guideway system" means a light, heavy, or rapid
36 rail system, monorail, inclined plane, funicular, trolley, or other
37 fixed rail guideway component of a high-capacity transportation system
38 that is not regulated by the Federal Railroad Administration, or its

1 successor. "Rail fixed guideway system" does not mean elevators,
2 moving sidewalks or stairs, and vehicles suspended from aerial cables,
3 unless they are an integral component of a station served by a rail
4 fixed guideway system.

5 (3) "Regional transit system" means a high-capacity transportation
6 system under the jurisdiction of one or more transit agencies except
7 where a regional transit authority created under chapter 81.112 RCW
8 exists, in which case "regional transit system" means the high-capacity
9 transportation system under the jurisdiction of a regional transit
10 authority.

11 (4) "Transit agency" means city-owned transit systems, county
12 transportation authorities, metropolitan municipal corporations, and
13 public transportation benefit areas.

14 **Sec. 7.** RCW 47.56.030 and 1995 1st sp.s. c 4 s 1 are each amended
15 to read as follows:

16 (1) Except as provided in subsection (3) of this section:

17 (a) The department of transportation shall have full charge of the
18 construction of all toll bridges and other toll facilities including
19 the Washington state ferries, and the operation and maintenance
20 thereof.

21 (b) The transportation commission shall determine and establish the
22 tolls and charges thereon, and shall perform all duties and exercise
23 all powers relating to the financing, refinancing, and fiscal
24 management of all toll bridges and other toll facilities including the
25 Washington state ferries, and bonded indebtedness in the manner
26 provided by law.

27 (c) The department shall have full charge of design of all toll
28 facilities. The department shall proceed with the construction of such
29 toll bridges and other facilities and the approaches thereto by
30 contract in the manner of state highway construction immediately upon
31 there being made available funds for such work and shall prosecute such
32 work to completion as rapidly as practicable.

33 (d) The department is authorized to negotiate contracts for any
34 amount without bid in order to make repairs to ferries or ferry
35 terminal facilities or removal of such facilities whenever continued
36 use of ferries or ferry terminal facilities constitutes a real or
37 immediate danger to the traveling public or precludes prudent use of
38 such ferries or facilities.

1 (2) Except as provided in subsection (3) of this section, the
2 department shall proceed with the procurement of materials, supplies,
3 services, and equipment needed for the support, maintenance, and use of
4 a ferry, ferry terminal, or other facility operated by Washington state
5 ferries, in accordance with chapter 43.19 RCW except as follows:

6 ~~((1))~~ (a) When the secretary of the department of transportation
7 determines in writing that the use of invitation for bid is either not
8 practicable or not advantageous to the state and it may be necessary to
9 make competitive evaluations, including technical or performance
10 evaluations among acceptable proposals to complete the contract award,
11 a contract may be entered into by use of a competitive sealed proposals
12 method, and a formal request for proposals solicitation. Such formal
13 request for proposals solicitation shall include a functional
14 description of the needs and requirements of the state and the
15 significant factors.

16 ~~((2))~~ (b) When purchases are made through a formal request for
17 proposals solicitation the contract shall be awarded to the responsible
18 proposer whose competitive sealed proposal is determined in writing to
19 be the most advantageous to the state taking into consideration price
20 and other evaluation factors set forth in the request for proposals.
21 No significant factors may be used in evaluating a proposal that are
22 not specified in the request for proposals. Factors that may be
23 considered in evaluating proposals include but are not limited to:
24 Price maintainability; reliability; commonality; performance levels;
25 life cycle cost if applicable under this section; cost of
26 transportation or delivery; delivery schedule offered; installation
27 cost; cost of spare parts; availability of parts and service offered;
28 and the following:

29 ~~((a))~~ (i) The ability, capacity, and skill of the proposer to
30 perform the contract or provide the service required;

31 ~~((b))~~ (ii) The character, integrity, reputation, judgment,
32 experience, and efficiency of the proposer;

33 ~~((c))~~ (iii) Whether the proposer can perform the contract within
34 the time specified;

35 ~~((d))~~ (iv) The quality of performance of previous contracts or
36 services;

37 ~~((e))~~ (v) The previous and existing compliance by the proposer
38 with laws relating to the contract or services;

1 (~~(f)~~) (vi) Objective, measurable criteria defined in the request
2 for proposal. These criteria may include but are not limited to items
3 such as discounts, delivery costs, maintenance services costs,
4 installation costs, and transportation costs; and

5 (~~(g)~~) (vii) Such other information as may be secured having a
6 bearing on the decision to award the contract.

7 When purchases are made through a request for proposal process,
8 proposals received shall be evaluated based on the evaluation factors
9 set forth in the request for proposal. When a life cycle cost analysis
10 is used, the life cycle cost of a proposal shall be given at least the
11 same relative importance as the initial price element specified in the
12 request of proposal documents. The department may reject any and all
13 proposals received. If the proposals are not rejected, the award shall
14 be made to the proposer whose proposal is most advantageous to the
15 department, considering price and the other evaluation factors set
16 forth in the request for proposal.

17 (3) (~~The legislative transportation committee shall review the~~
18 ~~secretary's use of the request for proposals solicitation for~~
19 ~~Washington state ferries projects to determine if the process~~
20 ~~established under chapter 4, Laws of 1995 1st sp. sess. is appropriate.~~
21 ~~The results of the review, including recommendations for modification~~
22 ~~of the request for proposal process, shall be reported to the house of~~
23 ~~representatives and senate transportation committees by January 1,~~
24 ~~1997)) All powers vested in the department or commission over the
25 operation of ferries shall terminate on a route-by-route basis as
26 authority to operate ferries on existing and new routes is transferred
27 to public transportation benefit areas under chapter . . . , Laws of
28 2000 (this act).~~

29 **Sec. 8.** RCW 47.56.032 and 1984 c 7 s 247 are each amended to read
30 as follows:

31 (1) Except as provided in subsection (2) of this section, all
32 powers vested in the toll bridge authority as of September 21, 1977,
33 relating to the acquiring, operating, extending, designing,
34 constructing, repairing, and maintenance of the Washington state
35 ferries or any part thereof and the collecting of tolls and charges for
36 use of its facilities, shall be performed by the department. Except as
37 provided in subsection (2) of this section, the commission shall
38 determine all fares, tolls, and other charges for its facilities and

1 shall directly perform all duties and exercise all powers relating to
2 financing, refinancing, and fiscal management of the system's bonded
3 indebtedness in the manner provided by law.

4 (2) All powers vested in the department or commission over the
5 operation of ferries shall terminate on a route-by-route basis as
6 authority to operate ferries on existing and new routes is transferred
7 to public transportation benefit areas under chapter . . . , Laws of
8 2000 (this act).

9 **Sec. 9.** RCW 47.60.013 and 1981 c 341 s 1 are each amended to read
10 as follows:

11 ~~((The governor is authorized to take such actions as may be~~
12 ~~necessary to insure the continued operation of the Puget Sound ferry~~
13 ~~and toll bridge system under any emergency circumstances which threaten~~
14 ~~the continued operation of the system. In the event of such an~~
15 ~~emergency, the governor may assume all the powers granted by law to the~~
16 ~~transportation commission and department of transportation with respect~~
17 ~~to the ferry system. In addition,))~~ Notwithstanding the provisions of
18 chapters 47.60 and 47.64 RCW, the governor may contract with any
19 qualified persons for the operation of ((the Washington state ferry
20 system, or any part thereof, or for)) ferry service to be provided by
21 privately owned vessels or vessels owned or leased by public
22 transportation benefit areas. Administrative costs to the office of
23 the governor incurred in the exercise of this authority shall be
24 reimbursed by the department.

25 **Sec. 10.** RCW 47.60.015 and 1984 c 7 s 297 are each amended to read
26 as follows:

27 Until July 1, 2006, the department is authorized to operate its
28 ferry system under the name: "Washington State Ferries."

29 **Sec. 11.** RCW 47.60.040 and 1984 c 7 s 300 are each amended to read
30 as follows:

31 For the purpose of obtaining information for the consideration of
32 the department upon the ~~((acquisition of any ferries or ferry~~
33 ~~facilities or the))~~ construction of any toll bridge under this chapter,
34 the department shall make any examination, investigation, survey, or
35 reconnaissance for the determination of material facts pertaining
36 thereto.

1 The cost of any such examination, investigation, survey, or
2 reconnaissance, and all preliminary expenses leading up to and
3 resulting in the issuance of any revenue bonds including, but not being
4 limited to expenses in making surveys and appraisals and the drafting,
5 printing, issuance, and sale of bonds under this chapter shall be borne
6 by the department out of the motor vehicle fund. All such costs and
7 expenses as well as any thereof heretofore incurred shall be reimbursed
8 to the motor vehicle fund out of any proceeds derived from the sale of
9 bonds or out of tolls and revenues to be derived by the department
10 through its operations hereunder.

11 **Sec. 12.** RCW 47.60.280 and 1984 c 7 s 322 are each amended to read
12 as follows:

13 (1) Except as provided in subsection (2) of this section, the
14 department is authorized and directed to establish and operate a ferry
15 service from a suitable point on Lummi Island in Whatcom county to a
16 suitable point on Orcas Island in San Juan county by the most feasible
17 route if and when Whatcom county constructs a bridge from Gooseberry
18 Point on the mainland to Lummi Island. The actual operation of the
19 ferry service shall not begin until Whatcom county has completed the
20 construction of such bridge.

21 (2) The department's authority to provide the ferry service
22 authorized under this section shall terminate upon the transfer of the
23 route as authorized under chapter . . . , Laws of 2000 (this act) or in
24 any case no later than July 1, 2006.

25 **Sec. 13.** RCW 47.60.282 and 1984 c 7 s 323 are each amended to read
26 as follows:

27 (1) Subject to the limitations of subsection (2) of this section,
28 the department is authorized to operate a ferry service between Port
29 Townsend and Keystone on Admiralty Inlet if the certificate of
30 convenience and necessity for the ferry operation is theretofore
31 surrendered, rights thereunder are abandoned, and the ferry service is
32 discontinued. In no event may the department undertake such a ferry
33 service preceding events as set forth herein or before April 1, 1973.

34 (2) The department's authority to provide the ferry service
35 authorized under this section shall terminate upon the transfer of the
36 route as authorized under chapter . . . , Laws of 2000 (this act) or in
37 any case no later than July 1, 2006.

1 **Sec. 14.** RCW 47.60.290 and 1983 c 3 s 136 are each amended to read
2 as follows:

3 Subject to the provisions of RCW 47.60.326, the department is
4 hereby authorized and directed to review tariffs and charges as
5 applicable to the operation of the Washington state ferries for the
6 purpose of:

7 (1) Establishing a more fair and equitable tariff to be charged
8 passengers, vehicles, and commodities on the routes of the Washington
9 state ferries; and

10 (2) Facilitating the transfer of the operation of all or part of
11 the state ferry system to public transportation benefit areas as
12 directed by chapter . . ., Laws of 2000 (this act).

13 **Sec. 15.** RCW 47.60.300 and 1984 c 7 s 325 are each amended to read
14 as follows:

15 The review required under RCW 47.60.290 shall:

16 (1) Include, but not be limited to, tariffs for automobiles,
17 passengers, trucks, commutation rates, and volume discounts~~((The~~
18 ~~review shall))~~);

19 (2) Give proper consideration to time of travel, distance of
20 travel, operating costs, maintenance and repair expenses, and the
21 resultant effect any change in tariff might have on the debt service
22 requirements of the department as specifically provided in existing
23 financing programs~~((The review shall also))~~);

24 (3) Plan for and facilitate the transfer of the operation of the
25 ferry system consistent with the provisions of chapter . . ., Laws of
26 2000 (this act);

27 (4) Include the allocation of vessels to particular runs, the
28 scheduling of particular runs, the adequacy and arrangements of docks
29 and dock facilities, and any other subject deemed by the department to
30 be properly within the scope of the review. The department is further
31 authorized and directed to make a like review ~~((within every three year~~
32 ~~period))~~ by July 1, 2004.

33 **Sec. 16.** RCW 47.60.310 and 1988 c 100 s 1 are each amended to read
34 as follows:

35 (1) The department is further directed to conduct such review by
36 soliciting and obtaining expressions from local community groups in
37 order to be properly informed as to problems being experienced within

1 the area served by the Washington state ferries. In order that local
2 representation may be established, the department shall give prior
3 notice of the review to the ferry advisory committees.

4 (2) The legislative authorities of San Juan, Skagit, Clallam, and
5 Jefferson counties shall each appoint a committee to consist of five
6 members to serve as an advisory committee to the department or its
7 designated representative in such review. The legislative authorities
8 of other counties that contain ferry terminals shall appoint ferry
9 advisory committees consisting of three members for each terminal area
10 in each county, except for Vashon Island, which shall have one
11 committee, and its members shall be appointed by the Vashon/Maury
12 Island community council. At least one person appointed to each ferry
13 advisory committee shall be representative of an established ferry user
14 group or of frequent users of the ferry system. Each member shall
15 reside in the vicinity of the terminal that the advisory committee
16 represents.

17 (3) The members of the San Juan, Clallam, and Jefferson county
18 ferry advisory committees shall be appointed for four-year terms. The
19 initial terms shall commence on July 1, 1982, and end on June 30, 1986.
20 Any vacancy shall be filled for the remainder of the unexpired term by
21 the appointing authority. At least one person appointed to the
22 advisory committee shall be representative of an established ferry-user
23 group or of frequent users of the ferry system, at least one shall be
24 representative of persons or firms using or depending upon the ferry
25 system for commerce, and one member shall be representative of a local
26 government planning body or its staff. Every member shall be a
27 resident of the county upon whose advisory committee he or she sits,
28 and not more than three members shall at the time of their appointment
29 be members of the same major political party.

30 (4) The members of each terminal area committee shall be appointed
31 for four-year terms. The initial terms of the members of each terminal
32 area committee shall be staggered as follows: All terms shall commence
33 September 1, 1988, with one member's term expiring August 31, 1990, one
34 member's term expiring August 31, 1991, and the remaining member's term
35 expiring August 31, 1992. Any vacancy shall be filled for the
36 remainder of the unexpired term by the appointing authority. Not more
37 than two members of any terminal-area committee may be from the same
38 political party at the time of their appointment, and in a county

1 having more than one committee, the overall party representation shall
2 be as nearly equal as possible.

3 (5) The chairmen of the several committees constitute an executive
4 committee of the Washington state ferry users. The executive committee
5 shall meet twice each year with representatives of the marine division
6 of the department to review ferry system issues.

7 (6) The committees to be appointed by the county legislative
8 authorities shall serve without fee or compensation.

9 (7) The advisory committee requirements of this section only apply
10 with respect to ferry terminals which are operated solely by the
11 department. When the department transfers operation under chapter
12 . . . , Laws of 2000 (this act) of the terminal that an advisory
13 committee represents, that advisory committee shall no longer be
14 authorized under this section.

15 **Sec. 17.** RCW 47.60.326 and 1999 c 94 s 27 are each amended to read
16 as follows:

17 (1) In order to maintain an adequate, fair, and economically sound
18 schedule of charges for the transportation of passengers, vehicles, and
19 commodities on the Washington state ferries operated by the state, and
20 to facilitate the transfer of ferry operations to public transportation
21 benefit areas, the department of transportation each year shall conduct
22 a full review of such charges.

23 (2)(a) Prior to February 1st of each odd-numbered year through July
24 1, 2006, the department shall transmit to the transportation commission
25 a report of its review together with its recommendations for the
26 revision of a schedule of charges for ferry runs operated by the state
27 for the ensuing biennium.

28 (i) The department's recommendation for revision of the schedule of
29 charges must meet the following funding goals: (A) By July 1, 2002,
30 revenue from fares must be sufficient to pay at least seventy percent
31 of the cost of operating the ferry system; (B) by July 1, 2004, revenue
32 from fares must be sufficient to pay at least eighty percent of the
33 cost of operating the ferry system; (C) by July 1, 2006, revenue from
34 fares must be sufficient to pay at least one hundred percent of the
35 cost of operating the ferry system. As used in this section, "cost of
36 operating" does not include capital costs.

1 (ii) Any changes to the schedule of charges must facilitate the
2 transfer of ferry operations to public transportation benefit areas
3 under chapter . . . , Laws of 2000 (this act).

4 (b) The commission on or before July 1st of that year shall adopt
5 as a rule, in the manner provided by the Washington administrative
6 procedure act, a schedule of charges for the Washington state ferries
7 for the ensuing biennium commencing July 1st. The schedule may
8 initially be adopted as an emergency rule if necessary to take effect
9 on, or as near as possible to, July 1st.

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

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

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

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

19 (d) The efficient distribution of traffic between cross-sound
20 routes;

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

23 ~~(f) The effect of proposed fares in increasing walk-on and~~
24 ~~vehicular passenger use;~~

25 ~~(g) The effect of proposed fares in promoting all types of ferry~~
26 ~~use during nonpeak periods;~~

27 ~~(h) Such))~~ Any other factors as prudent managers of a major ferry
28 system would consider.

29 (4) If at any time during the biennium it appears that projected
30 revenues from the Puget Sound ferry operations account and any other
31 operating subsidy available to the Washington state ferries will be
32 less than the projected total cost of maintenance and operation of the
33 Washington state ferries for the biennium, the department shall
34 forthwith undertake a review of its schedule of charges to ascertain
35 whether or not the schedule of charges should be revised. The
36 department shall, upon completion of its review report, submit its
37 recommendation to the transportation commission which may in its sound
38 discretion revise the schedule of charges as required to meet necessary
39 maintenance and operation expenditures of the ferry system for the

1 biennium or may defer action until the regular annual review and
2 revision of ferry charges as provided in subsection (2) of this
3 section.

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

7 (6) The commission is authorized to increase Washington state ferry
8 tariffs in excess of the fiscal growth factor established under chapter
9 43.135 RCW.

10 **Sec. 18.** RCW 47.60.330 and 1983 c 15 s 26 are each amended to read
11 as follows:

12 (1) Before a substantial expansion or curtailment in the level of
13 service provided to ferry users, or a revision in the schedule of ferry
14 tolls or charges, the department of transportation shall consult with
15 affected ferry users. The consultation shall be: (a) By public
16 hearing in affected local communities; (b) by review with the affected
17 ferry advisory committees pursuant to RCW 47.60.310; (c) by conducting
18 a survey of affected ferry users; or (d) by any combination of (a)
19 through (c) of this subsection.

20 (2) There is created a ferry system productivity council consisting
21 of a representative of each ferry advisory committee empanelled under
22 RCW 47.60.310, elected by the members thereof, and two representatives
23 of employees of the ferry system appointed by mutual agreement of all
24 of the unions representing ferry employees, which shall meet from time
25 to time with ferry system management to discuss means of improving
26 ferry system productivity.

27 (3) Before increasing ferry tolls the department of transportation
28 shall consider all possible cost reductions with full public
29 participation as provided in subsection (1) of this section and,
30 consistent with public policy, shall consider adapting service levels
31 equitably on a route-by-route basis to reflect trends in and forecasts
32 of traffic usage. Forecasts of traffic levels shall be developed by
33 the bond covenant traffic engineering firm appointed under the
34 provisions of RCW 47.60.450. Provisions of this section shall not
35 alter obligations under RCW 47.60.450. Before including any toll
36 increase in a budget proposal by the commission, the department of
37 transportation shall consult with affected ferry users in the manner

1 prescribed in subsection (1)(b) of this section plus the procedure of
2 either subsection (1)(a) or (c) of this section.

3 (4) The public participation requirements of this section do not
4 apply to the transfer of ferry runs or assets to public transportation
5 benefit authorities, nor to the subsequent operation of ferry traffic
6 by a successor entity.

7 **Sec. 19.** RCW 47.60.140 and 1995 1st sp.s. c 4 s 2 are each amended
8 to read as follows:

9 (1) Except as provided in subsection (2) of this section, the
10 department is empowered to operate such ferry system, including all
11 operations, whether intrastate or international, upon any route or
12 routes, and toll bridges as a revenue-producing and self-liquidating
13 undertaking. The department has full charge of the ~~((construction,))~~
14 rehabilitation, rebuilding, ~~((enlarging, improving,))~~ operation, and
15 maintenance of the ferry system, including toll bridges, approaches,
16 and roadways incidental thereto that may be authorized by the
17 department, including the collection of tolls and other charges for the
18 services and facilities of the undertaking. The department ~~((has the~~
19 ~~exclusive right to))~~ may enter into leases and contracts for use and
20 occupancy by other parties of the concessions and space located on the
21 ferries, wharves, docks, approaches, and landings ~~((, but, except as~~
22 ~~provided in subsection (2) of this section, no such))~~ that it owns.
23 All leases or contracts ((may be entered into for more than ten years,
24 nor without)) must expire no later than July 1, 2006, and must be
25 negotiated using a competitive contract process, except as otherwise
26 provided in this section. The competitive process shall be either an
27 invitation for bids in accordance with the process established by
28 chapter 43.19 RCW, or a request for proposals in accordance with the
29 process established by RCW 47.56.030.

30 (2) ~~((As part of a joint development agreement under which a public~~
31 ~~or private developer constructs or installs improvements on ferry~~
32 ~~system property, the department may lease all or part of such property~~
33 ~~and improvements to such developers for that period of time, not to~~
34 ~~exceed fifty five years, or not to exceed thirty years for those areas~~
35 ~~located within harbor areas, which the department determines is~~
36 ~~necessary to allow the developer to make reasonable recovery on its~~
37 ~~initial investment. Any lease entered into as provided for in this~~
38 ~~subsection that involves state aquatic lands shall conform with the~~

1 Washington state Constitution and applicable statutory requirements as
2 determined by the department of natural resources. That portion of the
3 lease rate attributable to the state aquatic lands shall be distributed
4 in the same manner as other lease revenues derived from state aquatic
5 lands as provided in RCW 79.24.580)) All powers vested in the
6 department or commission over the operation of ferries shall terminate
7 on a route-by-route basis as the operation of ferries on existing and
8 new routes is transferred under chapter . . . , Laws of 2000 (this act).

9 **Sec. 20.** RCW 47.06.140 and 1998 c 171 s 7 are each amended to read
10 as follows:

11 The legislature declares the following transportation facilities
12 and services to be of state-wide significance: The interstate highway
13 system, interregional state principal arterials (~~including ferry~~
14 ~~connections~~)) that serve state-wide travel, intercity passenger rail
15 services, intercity high-speed ground transportation, major passenger
16 intermodal terminals excluding all airport facilities and services, the
17 freight railroad system, the Columbia/Snake navigable river system,
18 marine port facilities and services that are related solely to marine
19 activities affecting international and interstate trade, and high-
20 capacity transportation systems serving regions as defined in RCW
21 81.104.015. The department, in cooperation with regional
22 transportation planning organizations, counties, cities, transit
23 agencies, public ports, private railroad operators, and private
24 transportation providers, as appropriate, shall plan for improvements
25 to transportation facilities and services of state-wide significance in
26 the state-wide multimodal plan. Improvements to facilities and
27 services of state-wide significance identified in the state-wide
28 multimodal plan are essential state public facilities under RCW
29 36.70A.200.

30 The department of transportation, in consultation with local
31 governments, shall set level of service standards for state highways
32 (~~and state ferry routes~~) of state-wide significance. Although the
33 department shall consult with local governments when setting level of
34 service standards, the department retains authority to make final
35 decisions regarding level of service standards for state highways (~~and~~
36 ~~state ferry routes~~) of state-wide significance. In establishing level
37 of service standards for state highways (~~and state ferry routes~~) of
38 state-wide significance, the department shall consider the necessary

1 balance between providing for the free interjurisdictional movement of
2 people and goods and the needs of local communities using these
3 facilities.

4 **Sec. 21.** RCW 47.04.140 and 1989 c 62 s 1 are each amended to read
5 as follows:

6 Whenever a county that operates or proposes to operate ferries
7 obtains federal aid for the construction, reconstruction, or
8 modification of any ferry boat or approaches thereto under Title 23,
9 United States Code, the following provisions apply to the county's
10 operation of its ferries:

11 (1) The county shall obtain from the ((department)) utilities and
12 transportation commission a franchise authorizing the ferry operations.
13 The county's application for a franchise or amended franchise shall
14 designate all ferry routes it proposes to operate. The ((department))
15 commission shall issue the franchise or amended franchise for the
16 operation of each route that it finds is not otherwise served by
17 adequate transportation facilities. A county may terminate any ferry
18 route without approval of the ((department)) commission.

19 (2) At least ninety days before applying for federal aid for the
20 construction, reconstruction, or modification of any of its ferries or
21 approaches thereto, and thereafter whenever new tolls or charges are
22 proposed for use of its ferries, the county shall file with the
23 ((department)) commission, the current or proposed schedule of tolls
24 and charges for use of its ferries. Such tolls and charges shall be
25 deemed approved by the ((department)) commission unless it finds that
26 the aggregate revenues to be derived from the county's ferry operations
27 will exceed the amount required to pay the actual and necessary costs
28 of operation, maintenance, administration, and repair of the county's
29 ferries and their appurtenances.

30 **Sec. 22.** RCW 47.60.220 and 1984 c 7 s 316 are each amended to read
31 as follows:

32 Through July 1, 2006, the department has all the obligations,
33 duties, and rights of a common carrier of persons and property in its
34 operation of ferries, terminals, or other facilities used in its ferry
35 operations, including the right to participate in joint rates and
36 through routes, agreements, and divisions of through and joint rates
37 with railroads and other common carriers and the right to make any

1 filings with the interstate commerce commission, the United States
2 maritime commission, or any other state or federal regulatory or
3 governmental body and to comply with the lawful rules and regulations
4 or requirements of any such body, and is subject to laws relating to
5 carrier's liability for loss or damage to property transported, and for
6 personal injury or death of persons transported.

7 **Sec. 23.** RCW 47.60.230 and 1984 c 7 s 317 are each amended to read
8 as follows:

9 In case of property loss or damage or personal injuries or death
10 resulting from the operation of any ferry or terminal by the
11 department, any person or the personal representative of any person,
12 subject to and to the extent hereinafter provided, has a right of
13 action against the department for the damage, loss, injury, or death.
14 This section does not authorize an action against a private or public
15 successor entity that purchases, leases, or otherwise operates vessels
16 or equipment formerly owned or operated by the department or operates
17 a ferry run formerly operated by the department.

18 **Sec. 24.** RCW 47.60.260 and 1984 c 7 s 320 are each amended to read
19 as follows:

20 The department may upon such terms and conditions as it may impose
21 and under such rules as it may adopt, pay claims arising under its
22 operation of ferries or terminals or compromise or settle the claims.
23 No claim may be paid by the department or any settlement or compromise
24 of it be made except from the operating revenues of the department
25 derived from its operation of ferries or terminals or from the proceeds
26 of insurance recoveries. The department is not authorized to pay
27 claims arising from an action against a private or public successor
28 entity that purchases, leases, or otherwise operates vessels or
29 equipment formerly owned or operated by the department or operates a
30 ferry run formerly operated by the department.

31 **Sec. 25.** RCW 47.60.649 and 1998 c 166 s 1 are each amended to read
32 as follows:

33 The legislature finds and declares that ~~((there is a compelling~~
34 ~~need for the construction of additional state ferry))~~ passenger-only
35 vessels and corresponding terminal improvements ((in order to provide
36 more capacity and frequent service to meet the forecasted travel

1 demands of citizens traveling on Puget Sound ferry routes. The vessel
2 technology required must provide additional travel options for high
3 growth ferry routes through increased passenger-only ferry service.

4 The 1989 west corridor study evaluated cross-sound travel through
5 the year 2020 and identified the Southworth to Seattle and the Kingston
6 to Seattle passenger-only ferry routes as promising based on criteria
7 evaluating cost-effectiveness, time savings, physical constraints to
8 operation, nonduplication of current service, and ability to relieve
9 congestion.

10 Furthermore, as a result of legislative direction provided in the
11 1991-93 transportation budget to the state transportation commission to
12 evaluate and determine the location of new passenger-only ferry routes,
13 the commission reviewed several service alternatives, determined that
14 the Southworth to Seattle and Kingston to Seattle routes ranked
15 highest, and directed the Washington state ferries to proceed with the
16 design and permitting processes for passenger-only terminals at both
17 Southworth and Kingston)) should only be provided if a private entity,
18 local government, or public/private partnership between a private
19 entity and a local government determines that it can provide service
20 without state funding. Beginning on the effective date of this act,
21 the department shall no longer provide passenger-only ferry service.
22 The department shall cooperate with and facilitate the sale or lease of
23 department assets and the transfer of ferry runs previously used to
24 provide passenger-only service.

25 **Sec. 26.** RCW 47.80.030 and 1998 c 171 s 9 are each amended to read
26 as follows:

27 (1) Each regional transportation planning organization shall
28 develop in cooperation with the department of transportation, providers
29 of public transportation and high capacity transportation, ports, and
30 local governments within the region, adopt, and periodically update a
31 regional transportation plan that:

32 (a) Is based on a least cost planning methodology that identifies
33 the most cost-effective facilities, services, and programs;

34 (b) Identifies existing or planned transportation facilities,
35 services, and programs, including but not limited to major roadways
36 including state highways and regional arterials, transit and
37 nonmotorized services and facilities, multimodal and intermodal
38 facilities, marine ports and airports, railroads, and noncapital

1 programs including transportation demand management that should
2 function as an integrated regional transportation system, giving
3 emphasis to those facilities, services, and programs that exhibit one
4 or more of the following characteristics:

5 (i) Crosses member county lines;

6 (ii) Is or will be used by a significant number of people who live
7 or work outside the county in which the facility, service, or project
8 is located;

9 (iii) Significant impacts are expected to be felt in more than one
10 county;

11 (iv) Potentially adverse impacts of the facility, service, program,
12 or project can be better avoided or mitigated through adherence to
13 regional policies;

14 (v) Transportation needs addressed by a project have been
15 identified by the regional transportation planning process and the
16 remedy is deemed to have regional significance; and

17 (vi) Provides for system continuity;

18 (c) Establishes level of service standards for state highways (~~and~~
19 ~~state ferry routes~~)), with the exception of transportation facilities
20 of state-wide significance as defined in RCW 47.06.140. These
21 regionally established level of service standards for state highways
22 (~~and state ferries~~) shall be developed jointly with the department of
23 transportation, to encourage consistency across jurisdictions. In
24 establishing level of service standards for state highways (~~and state~~
25 ~~ferries~~)), consideration shall be given for the necessary balance
26 between providing for the free interjurisdictional movement of people
27 and goods and the needs of local commuters using state facilities;

28 (d) Includes a financial plan demonstrating how the regional
29 transportation plan can be implemented, indicating resources from
30 public and private sources that are reasonably expected to be made
31 available to carry out the plan, and recommending any innovative
32 financing techniques to finance needed facilities, services, and
33 programs;

34 (e) Assesses regional development patterns, capital investment and
35 other measures necessary to:

36 (i) Ensure the preservation of the existing regional transportation
37 system, including requirements for operational improvements,
38 resurfacing, restoration, and rehabilitation of existing and future
39 major roadways, as well as operations, maintenance, modernization, and

1 rehabilitation of existing and future transit, railroad systems and
2 corridors, and nonmotorized facilities; and

3 (ii) Make the most efficient use of existing transportation
4 facilities to relieve vehicular congestion and maximize the mobility of
5 people and goods;

6 (f) Sets forth a proposed regional transportation approach,
7 including capital investments, service improvements, programs, and
8 transportation demand management measures to guide the development of
9 the integrated, multimodal regional transportation system; and

10 (g) Where appropriate, sets forth the relationship of high capacity
11 transportation providers and other public transit providers with regard
12 to responsibility for, and the coordination between, services and
13 facilities.

14 (2) The organization shall review the regional transportation plan
15 biennially for currency and forward the adopted plan along with
16 documentation of the biennial review to the state department of
17 transportation.

18 (3) All transportation projects, programs, and transportation
19 demand management measures within the region that have an impact upon
20 regional facilities or services must be consistent with the plan and
21 with the adopted regional growth and transportation strategies.

22 **PART II: FERRY SYSTEM ASSETS**

23 **Sec. 27.** RCW 47.60.010 and 1984 c 18 s 1 are each amended to read
24 as follows:

25 (1) Except as provided in subsection (2) of this section, the
26 department is authorized to acquire by lease, charter, contract,
27 purchase, condemnation, or construction, and partly by any or all of
28 such means, and to thereafter operate, improve, and extend, a system of
29 ferries on and crossing Puget Sound and any of its tributary waters and
30 connections thereof, and connecting with the public streets and
31 highways in the state. The system of ferries shall include such boats,
32 vessels, wharves, docks, approaches, landings, franchises, licenses,
33 and appurtenances as shall be determined by the department to be
34 necessary or desirable for efficient operation of the ferry system and
35 best serve the public. The department may in like manner acquire by
36 purchase, condemnation, or construction and include in the ferry system
37 such toll bridges, approaches, and connecting roadways as may be deemed

1 by the department advantageous in channeling traffic to points served
2 by the ferry system. In addition to the powers of acquisition granted
3 by this section, the department is empowered to enter into any
4 contracts, agreements, or leases with any person, firm, or corporation
5 and to thereby provide, on such terms and conditions as it shall
6 determine, for the operation of any ferry or ferries or system thereof,
7 whether acquired by the department or not.

8 The authority of the department to sell and lease back any state
9 ferry, for federal tax purposes only, as authorized by 26 U.S.C., Sec.
10 168(f)(8) is confirmed. Legal title and all incidents of legal title
11 to any ferry sold and leased back (except for the federal tax benefits
12 attributable to the ownership thereof) shall remain in the state of
13 Washington.

14 (2) Beginning on the effective date of this act, the department may
15 not acquire any additional vessels or real property to aid in the state
16 operation of a ferry system.

17 (3) In order to facilitate the utilization of Washington state
18 ferry system assets by public transportation benefit authorities to
19 provide ferry service on ferry routes with a terminus within the
20 geographic boundaries of the public transportation benefit authority,
21 the department shall sell, lease, or grant ferry system vessels,
22 terminals, and other real or other property necessary to accomplish the
23 transfer of operations of a ferry route from the department to a public
24 transportation benefit authority.

25 **Sec. 28.** RCW 47.60.130 and 1979 ex.s. c 189 s 6 are each amended
26 to read as follows:

27 Such ferry system, including any toll bridges, approaches, and
28 roadways incidental thereto, may be financed and operated in
29 combination or separately as one or more units as the department of
30 transportation may determine, and such ferry system together with any
31 toll bridge hereafter constructed by the department upon or across the
32 waters of Puget Sound or Hood Canal, or any part of either, replacing
33 one or more presently operated ferry routes, is declared to be a
34 continuous project within the meaning of RCW 47.56.070. The department
35 is empowered to rent, lease, or charter any property acquired under
36 this chapter. If the department determines that any real property
37 (including lands, improvements thereon, and any interests or estates)
38 originally acquired for the state ferry system is no longer required

1 for the purposes of the state ferry system, the department shall offer
2 it for sale or lease to a public transportation benefit authority on
3 the condition that the authority continue the full or partial operation
4 of the ferry run or runs associated with the property. If no public
5 transportation benefit authority entity has entered into negotiations
6 to purchase the property by July 1, 2006, or if such negotiations
7 terminate after that date without resulting in a sale of the property,
8 the department shall offer it for sale in the manner and with the
9 authority authorized to the department by RCW 47.12.063 or 47.12.283.
10 The secretary of transportation may adopt rules further implementing
11 this section. The proceeds of all such sales shall be paid into the
12 separate trust fund of the state treasury established pursuant to RCW
13 47.60.150.

14 **Sec. 29.** RCW 47.12.023 and 1984 c 7 s 115 are each amended to read
15 as follows:

16 (1) Except as provided in RCW 47.12.026 and 47.12.029, whenever it
17 is necessary to secure any lands or interests in lands for any highway
18 purpose mentioned in RCW 47.12.010, or for the construction of any toll
19 facility (~~or ferry terminal or docking facility~~), the title to which
20 is in the state of Washington and under the jurisdiction of the
21 department of natural resources, the department of transportation may
22 acquire jurisdiction over the lands or interests in lands, or acquire
23 rights to remove materials from the lands in the manner set forth in
24 this section.

25 (2) At any time after the final adoption of a right of way plan or
26 other plan requiring the acquisition of lands or interests in lands for
27 any purpose as authorized in subsection (1) of this section, the
28 department of transportation may file with the department of natural
29 resources a notice setting forth its intent to acquire jurisdiction of
30 the lands or interests in lands under the jurisdiction of the
31 department of natural resources required for right of way or other
32 highway purposes related to the construction or improvement of such
33 state highway(~~()~~) or toll facility(~~(or ferry terminal or docking~~
34 ~~facility)~~)).

35 (3) The department of transportation at the time of filing its
36 notice of intent as provided in subsection (2) of this section shall
37 file therewith a written statement showing the total amount of just
38 compensation to be paid for the property in the event of settlement.

1 The offer shall be based upon the department of transportation approved
2 appraisal of the fair market value of the property to be acquired. In
3 no event may the offer of settlement be referred to or used during any
4 arbitration proceeding or trial conducted for the purpose of
5 determining the amount of just compensation.

6 (4) Just compensation and/or fair market value for the purposes of
7 this section shall be determined in accordance with applicable federal
8 and state constitutional, statutory, and case law relating to the
9 condemnation of private and public property for public purposes.

10 (5) If the department of natural resources does not accept the
11 offer of the department of transportation, the department of
12 transportation may nonetheless pay to the department of natural
13 resources the amount of its offer and obtain immediate possession and
14 use of the property pending the determination of just compensation in
15 the manner hereinafter provided.

16 (6) If the amount of just compensation is not agreed to, either the
17 department of natural resources or the department of transportation may
18 request in writing the appointment of an arbitrator for the purpose of
19 determining the amount of compensation to be paid by the department of
20 transportation for the acquisition of jurisdiction over the lands or
21 interests in lands or rights therein. In that event the department of
22 natural resources and the department of transportation may jointly
23 agree on an arbitrator to determine the compensation, and his
24 determination shall be final and conclusive upon both departments. The
25 costs of the arbitrator shall be borne equally by the parties. If the
26 department of natural resources and the department of transportation
27 are unable to agree on the selection of an arbitrator within thirty
28 days after a request therefor is made, either the department of
29 transportation or the department of natural resources may file a
30 petition with the superior court for Thurston county for the purpose of
31 determining the amount of just compensation to be paid. The matter
32 shall be tried by the court pursuant to the procedures set forth in RCW
33 8.04.080.

34 (7) Whenever the department of transportation has acquired
35 immediate possession and use of property by payment of the amount of
36 its offer to the department of natural resources, and the arbitration
37 award or judgment of the court for the acquisition exceeds the payment
38 for immediate possession and use, the department of transportation
39 shall forthwith pay the amount of such excess to the department of

1 natural resources with interest thereon from the date it obtained
2 immediate possession. If the arbitration or court award is less than
3 the amount previously paid by the department of transportation for
4 immediate possession and use, the department of natural resources shall
5 forthwith pay the amount of the difference to the department of
6 transportation.

7 (8) Upon the payment of just compensation, as agreed to by the
8 department of transportation and the department of natural resources,
9 or as determined by arbitration or by judgment of the court, and other
10 costs or fees as provided by statute, the department of natural
11 resources shall cause to be executed and delivered to the department of
12 transportation an instrument transferring jurisdiction over the lands
13 or interests in lands, or rights to remove material from the lands, to
14 the department of transportation.

15 (9) Except as provided in RCW 47.12.026, whenever the department of
16 transportation ceases to use any lands or interests in lands acquired
17 in the manner set forth in this section for the purposes mentioned
18 herein, the department of natural resources may reacquire jurisdiction
19 over the lands or interests in land by paying the fair market value
20 thereof to the department of transportation. If the two departments
21 are unable to agree on the fair market value of the lands or interests
22 in lands, the market value shall be determined and the interests
23 therein shall be transferred in accordance with the provisions and
24 procedures set forth in subsections (4) through (8) of this section.

25 **Sec. 30.** RCW 47.12.026 and 1984 c 7 s 116 are each amended to read
26 as follows:

27 (1) The department of transportation may acquire an easement for
28 highway or toll facilities right of way (~~(or for ferry terminal or~~
29 ~~docking facilities)~~), including the right to make necessary fills, on,
30 over, or across the beds of navigable waters which are under the
31 jurisdiction of the department of natural resources, in accordance with
32 the provisions of RCW 47.12.023, except that no charge may be made to
33 the department of transportation for such an easement.

34 (2) The department of transportation may obtain an easement for
35 highway or toll facilities purposes (~~(or for ferry terminal or docking~~
36 ~~facilities)~~) on, over, or across harbor areas in accordance with RCW
37 47.12.023 but only when the areas are approved by the harbor line
38 commission as a public place for public landings, wharves, or other

1 public conveniences of commerce or navigation. No charge may be made
2 to the department of transportation for such an easement.

3 (3) Upon the selection by the department of transportation of an
4 easement for highway or toll facilities right of way (~~or for ferry~~
5 ~~terminal or docking facilities~~)), as authorized in subsections (1) and
6 (2) of this section, the department of natural resources shall cause to
7 be executed and delivered to the department of transportation an
8 instrument transferring the easement. Whenever the state no longer
9 requires the easement for highway or toll facilities right of way (~~or~~
10 ~~for ferry terminal or docking facilities~~)), the easement shall
11 automatically terminate and the department of transportation shall,
12 upon request, cause to be executed an instrument relinquishing to the
13 department of natural resources all of its interest in the lands.

14 (4) The department of transportation, pursuant to the procedures
15 set forth in RCW 47.12.023, may remove sand and gravel and borrow
16 materials and stone from the beds of navigable waters under the
17 jurisdiction of the department of natural resources which lie below the
18 line of ordinary high water upon the payment of fair market value per
19 cubic yard for such materials to be determined in the manner set forth
20 in RCW 47.12.023.

21 (5) The department of transportation may acquire full jurisdiction
22 over lands under the jurisdiction of the department of natural
23 resources including the beds of navigable waters that are required for
24 the relocation of the operating tracks of any railroad that will be
25 displaced by the acquisition of such railroad property for state
26 highway purposes. The department of transportation may exchange lands
27 so acquired in consideration or partial consideration for the land or
28 property rights needed for highway purposes and may cause to be
29 executed a conveyance of the lands in the manner prescribed in RCW
30 47.12.150. In that event the department of transportation shall pay to
31 the department of natural resources, as just compensation for the
32 acquisition, the fair market value of the property, including the beds
33 of any navigable waters, to be determined in accordance with procedures
34 set forth in RCW 47.12.023.

35 **Sec. 31.** RCW 47.56.050 and 1984 c 7 s 250 are each amended to read
36 as follows:

37 (1) The department, whenever it is considered necessary or
38 advantageous and practicable, is empowered to provide for the

1 acquisition by purchase of, and to acquire by purchase (a) any bridge
2 or bridges (~~(or ferries)~~) which connect with or may be connected with
3 the public highways of this state (b) together with approaches thereto.

4 (2) In connection with the acquisition by purchase of any bridge or
5 bridges (~~(or ferries)~~) under subsection (1) of this section, the
6 department, the state treasurer, any city, county, or other political
7 subdivision of this state, and all of their officers:

8 (a) Are empowered and required to do all acts and things provided
9 for in this chapter to establish and construct toll bridges and
10 operate, finance, and maintain such bridges insofar as the powers and
11 requirements are applicable to the purchase of any bridge or bridges
12 (~~(or ferries)~~) and their operation, financing, and maintenance; and

13 (b) In purchasing, operating, financing, and maintaining any bridge
14 or bridges (~~(or ferries)~~) acquired or to be acquired by purchase under
15 this section, shall act in the same manner and under the same
16 procedures as are provided in this chapter to establish, construct,
17 operate, finance, and maintain toll bridges insofar as such manner and
18 procedure are applicable to the purchase of any bridge or bridges (~~(or~~
19 ~~ferries)~~) and their operation, financing, and maintenance.

20 (3) Without limiting the generality of the provisions contained in
21 subsections (1) and (2) of this section, the department is empowered:

22 (a) To cause surveys to be made for the purpose of investigating the
23 propriety of acquiring by purchase any such bridge or bridges (~~(or~~
24 ~~ferries)~~) and the right of way necessary or proper for that bridge or
25 bridges (~~(or ferries)~~), and other facilities necessary to carry out the
26 provisions of this chapter; (b) to issue, sell, and redeem bonds, and
27 to deposit and pay out the proceeds of the bonds for the financing
28 thereof; (c) to collect, deposit, and expend tolls therefrom; (d) to
29 secure and remit financial and other assistance in the purchase
30 thereof; and (e) to carry insurance thereon.

31 (4) The provisions of RCW 47.56.220 apply when any bridge or
32 bridges (~~(or ferries)~~) are acquired by purchase pursuant to this
33 section.

34 **Sec. 32.** RCW 47.56.253 and 1984 c 7 s 270 are each amended to read
35 as follows:

36 If the department deems it in the public interest and not
37 inconsistent with the use and operation of the toll facility involved,
38 the department may on application therefor issue a permit, lease, or

1 license to the state, or to any city, county, port district, or other
2 political subdivision or municipal corporation of the state or private
3 entity to use any portion of the property of any toll bridge, toll
4 road, toll tunnel, or ((Washington state)) ferry system upon such terms
5 and conditions as the department may prescribe.

6 **Sec. 33.** RCW 47.60.145 and 1982 c 210 s 1 are each amended to read
7 as follows:

8 (1) An "historic ferry" is any vessel in the Washington state
9 ferries fleet which has been listed in the Washington state register of
10 historic places.

11 (2) When the department of transportation determines that an
12 historic ferry is surplus to the needs of Washington state ferries, the
13 department shall promptly call for proposals from persons who wish to
14 acquire the historic ferry. Proposals for the acquisition of an
15 historic ferry shall be accepted only from persons or organizations
16 that (a) are a governmental entity or a nonprofit corporation or
17 association dedicated to the preservation of historic properties; (b)
18 agree to a contract approved by the state historic preservation
19 officer, which requires the preservation and maintenance of the
20 historic ferry and provides that title to the ferry reverts to the
21 state if the secretary of transportation determines that the contract
22 has been violated; and (c) demonstrate the administrative and financial
23 ability successfully to comply with the contract.

24 (3) The department shall evaluate the qualifying proposals and
25 shall select the proposal which is most advantageous to the state.
26 Factors to be considered in making the selection shall include but not
27 be limited to:

- 28 (a) Extent and quality of restoration;
- 29 (b) Retention of original design and use;
- 30 (c) Public access to the vessel;
- 31 (d) Provisions for historical interpretation;
- 32 (e) Monetary return to the state.

33 (4) If there are no qualifying proposals, an historic ferry shall
34 be disposed of in the manner provided by state law.

35 **Sec. 34.** RCW 47.60.550 and 1986 c 66 s 10 are each amended to read
36 as follows:

1 (1) Whenever a county, city, or other municipal corporation
2 acquires or constructs a facility to be used in whole or in part for
3 off-street parking of motor vehicles which is in the immediate vicinity
4 of an existing or planned ferry terminal, the department or a successor
5 entity operating a ferry utilizing the terminal may enter into an
6 agreement with the local governmental body providing for the use in
7 part or at specified times of the facility as a holding area for
8 traffic waiting to board a ferry or for parking by ferry patrons. When
9 the department transfers a ferry run to a public transportation benefit
10 authority, the department's authority to enter into or perpetuate such
11 agreements with respect to the terminal served by that run terminates.

12 (2) As a part of an agreement authorized by subsection (1) of this
13 section, the department, subject to the limitations contained in RCW
14 47.60.505, may pledge any moneys in the Puget Sound capital
15 construction account in the motor vehicle fund, or to be deposited in
16 the account, to guarantee the payment of principal and interest on
17 bonds issued by a county, city, or other municipal corporation to
18 finance the acquisition or construction of the parking facility. In
19 making the pledge, the department shall reserve the right to issue its
20 own bonds for the purpose of paying the costs of acquiring ferry
21 vessels with the provision that the bonds shall rank on parity with the
22 bonds authorized by this section as a lien upon moneys in or to be
23 deposited in the Puget Sound capital construction account.

24 The department shall also reserve the right to pledge moneys in the
25 Puget Sound capital construction account to guarantee subsequent bonds
26 issued by any county, city, or other municipal corporation to finance
27 parking facilities as authorized in subsection (1) of this section with
28 the provision that the subsequent bonds shall rank on parity with prior
29 bonds guaranteed pursuant to this section as a lien upon moneys in or
30 to be deposited in the Puget Sound capital construction account. To
31 the extent of any pledge herein authorized, the department shall use
32 the first moneys available in the Puget Sound capital construction
33 account to meet the obligations as they arise.

34 **PART III: MARINE EMPLOYEES**

35 NEW SECTION. Sec. 35. A new section is added to chapter 47.64 RCW
36 to read as follows:

1 The provisions of this chapter do not apply to employees working on
2 vessels, terminals, or ferry route runs formerly operated by the
3 Washington state ferry system after such vessels, terminals, or ferry
4 routes are transferred to a public transportation benefit authority
5 under chapter . . . , Laws of 2000 (this act).

6 **Sec. 36.** RCW 47.64.005 and 1961 c 13 s 47.64.005 are each amended
7 to read as follows:

8 The state of Washington, as a public policy, declares that sound
9 labor relations are essential to the development of a state ferry and
10 bridge system which will best serve the interests of the people of the
11 state.

12 **Sec. 37.** RCW 47.64.090 and 1983 c 15 s 27 are each amended to read
13 as follows:

14 If any party, other than a public transportation benefit authority
15 established under chapter 36.57A RCW, assumes the operation and
16 maintenance of any ferry or ferry system by rent, lease, or charter
17 from the department of transportation, such party shall assume and be
18 bound by all the provisions herein and any agreement or contract for
19 such operation of any ferry or ferry system entered into by the
20 department shall provide that the wages to be paid, hours of
21 employment, working conditions and seniority rights of employees will
22 be established by the marine employees' commission in accordance with
23 the terms and provisions of this chapter and it shall further provide
24 that all labor disputes shall be adjudicated in accordance with chapter
25 47.64 RCW.

26 **Sec. 38.** RCW 36.57A.120 and 1975 1st ex.s. c 270 s 22 are each
27 amended to read as follows:

28 Except for the acquisition of a ferry or ferry system, if a public
29 transportation benefit area ((shall)) acquires any existing
30 transportation system, it shall assume and observe all existing labor
31 contracts relating to such system and, to the extent necessary for
32 operation of facilities, all of the employees of such acquired
33 transportation system whose duties are necessary to operate efficiently
34 the facilities acquired shall be appointed to comparable positions to
35 those which they held at the time of such transfer, and no employee or
36 retired or pensioned employee of such systems shall be placed in any

1 worse position with respect to pension seniority, wages, sick leave,
2 vacation or other benefits that he enjoyed as an employee of such
3 system prior to such acquisition. The public transportation benefit
4 area authority shall engage in collective bargaining with the duly
5 appointed representatives of any employee labor organization having
6 existing contracts with the acquired transportation system and may
7 enter into labor contracts with such employee labor organization.

8 **PART IV: FUNDING**

9 NEW SECTION. **Sec. 39.** During the interim period between the 2000
10 legislative session and the 2001 legislative session, the department of
11 transportation shall work with affected stakeholders, including the
12 transportation committees of the Washington state legislature, to
13 develop a proposal for retiring, transferring, or otherwise disposing
14 of any outstanding indebtedness of the state with respect to Washington
15 state ferry system assets that are sold under chapter . . . , Laws of
16 2000 (this act). The department shall present any legislation
17 necessary to accomplish this goal to the transportation committees of
18 the legislature by December 1, 2000.

19 **PART V: MISCELLANEOUS**

20 NEW SECTION. **Sec. 40.** The following acts or parts of acts are
21 each repealed:

22 (1) RCW 47.60.017 (State ferry system a public mass transportation
23 system) and 1974 ex.s. c 105 s 1;

24 (2) RCW 47.60.020 (Eminent domain--Condemnation proceedings) and
25 1984 c 7 s 298 & 1961 c 13 s 47.60.020;

26 (3) RCW 47.60.120 (Other crossings--Infringement of existing
27 franchises--Waivers) and 1993 c 427 s 1, 1984 c 7 s 307, & 1961 c 13 s
28 47.60.120;

29 (4) RCW 47.60.122 (Ferries, terminal facilities--Interim revenue
30 warrants authorized) and 1984 c 7 s 308 & 1961 c 13 s 47.60.122;

31 (5) RCW 47.60.283 (Ferry service between Port Townsend and
32 Keystone--Purpose) and 1984 c 7 s 324 & 1972 ex.s. c 44 s 2;

33 (6) RCW 47.60.652 (Passenger-only ferry service--Vessel and
34 terminal acquisition, procurement, and construction) and 1998 c 166 s
35 2;

1 (7) RCW 47.60.654 (Passenger-only ferry service--Contingency) and
2 1998 c 166 s 3;
3 (8) RCW 47.60.680 (Prequalification of contractors required) and
4 1983 c 133 s 1;
5 (9) RCW 47.60.690 (Qualifications of contractor--Rules to assure)
6 and 1983 c 133 s 2;
7 (10) RCW 47.60.700 (Application for prequalification--Form) and
8 1983 c 133 s 3;
9 (11) RCW 47.60.710 (Department authority to obtain information) and
10 1983 c 133 s 4;
11 (12) RCW 47.60.720 (Additional investigation--Terms of
12 prequalification--Notice of nonqualification) and 1983 c 133 s 5;
13 (13) RCW 47.60.730 (Renewal of prequalification--Nonrenewal or
14 revocation, notice) and 1983 c 133 s 6;
15 (14) RCW 47.60.740 (Rejection of bid despite prequalification--
16 Unqualified bidder) and 1983 c 133 s 7;
17 (15) RCW 47.60.750 (Appeal of refusal, modification, or revocation
18 of prequalification) and 1983 c 133 s 8;
19 (16) RCW 47.60.760 (Financial information regarding qualifying not
20 public) and 1983 c 133 s 9;
21 (17) RCW 47.60.770 (Jumbo ferry construction--Notice) and 1993 c
22 493 s 1;
23 (18) RCW 47.60.772 (Jumbo ferry construction--Bidding documents)
24 and 1993 c 493 s 2;
25 (19) RCW 47.60.774 (Jumbo ferry construction--Procedure on
26 conclusion of evaluation) and 1993 c 493 s 4;
27 (20) RCW 47.60.776 (Jumbo ferry construction--Contract) and 1993 c
28 493 s 5;
29 (21) RCW 47.60.778 (Jumbo ferry construction--Bid deposits--Low
30 bidder claiming error) and 1996 c 18 s 9 & 1993 c 493 s 6;
31 (22) RCW 47.60.780 (Jumbo ferry construction--Propulsion system
32 acquisition) and 1994 c 181 s 2; and
33 (23) RCW 47.64.006 (Public policy) and 1989 c 327 s 1 & 1983 c 15
34 s 1.

35 NEW SECTION. **Sec. 41.** The secretary of state shall submit this
36 act to the people for their adoption and ratification, or rejection, at
37 the next general election to be held in this state, in accordance with

1 Article II, section 1 of the state Constitution and the laws adopted to
2 facilitate its operation.

3 NEW SECTION. **Sec. 42.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

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