
HOUSE BILL 2122

State of Washington 57th Legislature 2001 Regular Session

By Representatives Mitchell and Edwards

Read first time 02/15/2001. Referred to Committee on Transportation.

1 AN ACT Relating to Washington state ferries; amending RCW
2 43.17.020, 47.01.081, 47.64.011, 88.16.010, 47.56.030, 47.60.010,
3 47.60.013, 47.60.040, 47.60.060, 47.60.113, 47.60.114, 47.60.120,
4 47.60.130, 47.60.135, 47.60.140, 47.60.145, 47.60.150, 47.60.310,
5 47.60.326, 47.60.440, 47.60.450, 47.60.505, 47.60.530, 47.60.760, and
6 47.64.120; reenacting and amending RCW 43.17.010 and 46.68.090; adding
7 a new section to chapter 41.06 RCW; adding a new chapter to Title 47
8 RCW; creating a new section; and repealing RCW 47.60.330 and 47.64.290.

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

10 NEW SECTION. **Sec. 1.** The legislature recognizes the unique needs
11 of the citizens of the state who live and are employed around Puget
12 Sound, the businesses who must cross Puget Sound as part of conducting
13 business, and the tourists who visit the area. The legislature also
14 recognizes the part played by the Washington state ferry system in
15 meeting these needs. The governor, as head of the executive branch,
16 should have direct control over the Washington state ferry system. The
17 legislature therefore finds and declares that a separate agency in
18 state government should be created to service those requirements.

1 NEW SECTION. **Sec. 2.** As used in this chapter, unless the context
2 indicates otherwise:

3 (1) "Department" means the Washington state ferries department.

4 (2) "Director" means the director of Washington state ferries.

5 NEW SECTION. **Sec. 3.** (1) A department of state government to be
6 known as the Washington state ferries department is created.

7 (2) All powers, duties, and functions vested by law in the
8 department of transportation, the transportation commission, and the
9 secretary of transportation, related to the Washington state ferry
10 system, are transferred to the jurisdiction of the department, except
11 those powers, duties, and functions that are expressly directed
12 elsewhere by law.

13 (3) The board of pilotage commissioners is transferred to the
14 jurisdiction of the department for its staff support and
15 administration. Nothing in this section transfers policy-making powers
16 of the board of pilotage commissioners to the Washington state ferries
17 department.

18 (4) All references to the secretary of transportation or department
19 of transportation as they pertain to Washington state ferries in the
20 Revised Code of Washington mean the director of Washington state
21 ferries or the Washington state ferries department when referring to
22 the functions transferred in this section.

23 NEW SECTION. **Sec. 4.** (1) The department shall submit an annual
24 report no later than December 20th of each year to the governor and
25 chairs of the transportation committees of the senate and house of
26 representatives with a copy to the staff of each of the committees,
27 including but not limited to operational and construction activities of
28 the preceding fiscal period as the department deems important and
29 recommendations for future operations of the department.

30 (2) The department shall report at least annually to the
31 transportation accountability board regarding:

32 (a) Progress towards meeting benchmarks set by the transportation
33 accountability board;

34 (b) Short-term and long-term capital and operational needs and
35 plans to meet those needs; and

36 (c) Analysis of how budget proposals made by the department further
37 progress towards benchmarks and related transportation policies.

1 NEW SECTION. **Sec. 5.** The director is the executive head and
2 appointing authority of the department. The governor shall appoint the
3 director, with the consent of the legislative transportation committee,
4 and the director serves at the pleasure of the governor. If a vacancy
5 occurs in the position while the senate is not in session, the governor
6 shall make a temporary appointment until the next meeting of the
7 senate. A temporary director may not serve more than one year.

8 NEW SECTION. **Sec. 6.** It is the intent of the legislature wherever
9 possible to place the internal affairs of the department under the
10 control of the director in order that the director may institute the
11 flexible, alert, and intelligent management of department business that
12 changing contemporary circumstances require. Therefore, whenever the
13 director's authority is not specifically limited by law, the director
14 has complete charge and supervisory powers over the department. The
15 director may create such administrative structures as the director
16 considers appropriate, except as otherwise specified by law. The
17 director may employ such assistants and personnel as may be necessary
18 for the general administration of the department. This employment must
19 be in accordance with the state civil service law, chapter 41.06 RCW,
20 except as otherwise provided.

21 NEW SECTION. **Sec. 7.** The department may be subdivided into
22 divisions. Except as otherwise specified or as federal requirements
23 may differently require, these divisions must be established and
24 organized in accordance with plans to be prepared by the director and
25 approved by the governor. In preparing the plans, the director shall
26 endeavor to promote efficient public management, to improve programs,
27 and to take full advantage of the economies, both fiscal and
28 administrative, to be gained from the consolidation of functions and
29 agencies under this chapter.

30 NEW SECTION. **Sec. 8.** The director shall appoint a deputy
31 director, and such assistant directors as may be needed to administer
32 the department. The deputy director has charge and general supervision
33 of the department in the absence or disability of the director and, in
34 case of a vacancy in the office of director, will continue in charge of
35 the department until a successor is appointed and qualified, or until
36 the governor appoints an acting director.

1 NEW SECTION. **Sec. 9.** The director may delegate any power or duty
2 vested in or transferred to the director by law or executive order to
3 the deputy director or to any other assistant or subordinate; but the
4 director remains responsible for the official acts of the officers and
5 employees of the department.

6 NEW SECTION. **Sec. 10.** The director may appoint such advisory
7 committees or councils as may be required by federal legislation as a
8 condition to the receipt of federal funds by the department. The
9 director may also appoint statewide committees or councils on subject
10 matters that are or come within the department's responsibilities. The
11 statewide committees and councils must have representation from both
12 major political parties and substantial consumer representation. The
13 committees or councils must be constituted as required by federal law
14 or as the director determines.

15 Members of the state advisory committees or councils may be
16 reimbursed for their travel expenses in accordance with RCW 43.03.050
17 and 43.03.060.

18 NEW SECTION. **Sec. 11.** In furtherance of the policy of the state
19 to cooperate with the federal government in all programs under the
20 jurisdiction of the department, the director shall adopt rules that
21 become necessary to entitle the state to participate in federal funds,
22 unless expressly prohibited by law. Any internal reorganization
23 carried out under the terms of this chapter must meet federal
24 requirements that are a necessary condition for state receipt of
25 federal funds. Any section or provision of law dealing with the
26 department that may be susceptible to more than one construction must
27 be interpreted in favor of the construction most likely to comply with
28 federal laws entitling this state to receive federal funds for the
29 various programs of the department. If any law dealing with the
30 department is ruled to be in conflict with federal requirements that
31 are a prescribed condition of the allocation of federal funds to the
32 state, or to any departments or agencies thereof, the conflicting part
33 is declared to be inoperative solely to the extent of the conflict.

34 NEW SECTION. **Sec. 12.** A new section is added to chapter 41.06 RCW
35 to read as follows:

1 In addition to the exemptions under RCW 41.06.070, this chapter
2 does not apply in the Washington state ferries department to the
3 director, the director's personal secretary, the deputy director, all
4 assistant directors, and one confidential secretary for each of these
5 officers.

6 NEW SECTION. **Sec. 13.** All reports, documents, surveys, books,
7 records, files, papers, or written material in the possession of the
8 department of transportation pertaining to the powers, functions, and
9 duties transferred must be delivered to the custody of the Washington
10 state ferries department. All cabinets, furniture, office equipment,
11 motor vehicles, and other tangible property employed in connection with
12 the powers, duties, and functions transferred must be made available to
13 the Washington state ferries department. All funds, credits, or other
14 assets held in connection with the powers, duties, and functions
15 transferred must be assigned to the Washington state ferries
16 department.

17 Any appropriations made in connection with the powers, duties, and
18 functions transferred are, on the effective date of this act,
19 transferred and credited to the Washington state ferries department.

20 Whenever any question arises as to the transfer of any personnel,
21 funds, books, documents, records, papers, files, equipment, or other
22 tangible property used or held in the exercise of the powers and the
23 performance of the duties and functions transferred, or as to the
24 powers, duties, and functions transferred, the director of financial
25 management shall make a determination as to the proper allocation and
26 certify the determination to the state agencies concerned.

27 NEW SECTION. **Sec. 14.** All classified employees employed in
28 connection with the powers, duties, and functions transferred are
29 transferred to the jurisdiction of the Washington state ferries
30 department. All employees classified under chapter 41.06 RCW, the
31 state civil service law, are assigned to the Washington state ferries
32 department to perform their usual duties upon the same terms as
33 formerly, without any loss of rights, subject to any action that may be
34 appropriate after the assignment in accordance with the laws and rules
35 governing state civil service.

1 NEW SECTION. **Sec. 15.** All rules and all pending business before
2 any agency of state government pertaining to the powers, duties, and
3 functions transferred must be continued and acted upon by the
4 Washington state ferries department. All existing contracts and
5 obligations remain in full force and must be performed by the
6 Washington state ferries department.

7 NEW SECTION. **Sec. 16.** The transfer of the powers, duties,
8 functions, and personnel does not affect the validity of any act
9 performed by the employee before the effective date of this act.

10 NEW SECTION. **Sec. 17.** If apportionments of budgeted funds are
11 required because of the transfers directed by sections 13 through 16 of
12 this act, the director of financial management shall certify the
13 apportionments to the agencies affected, the state auditor, and the
14 state treasurer. Each of these shall make the appropriate transfer and
15 adjustments in funds and appropriation accounts and equipment records
16 in accordance with the certification.

17 NEW SECTION. **Sec. 18.** Nothing contained in sections 13 through 16
18 of this act alters any existing collective bargaining unit or the
19 provisions of any existing collective bargaining agreement until the
20 agreement has expired or until the bargaining unit has been modified by
21 action of the personnel board as provided by law.

22 **Sec. 19.** RCW 43.17.010 and 1993 sp.s. c 2 s 16, 1993 c 472 s 17,
23 and 1993 c 280 s 18 are each reenacted and amended to read as follows:

24 There shall be departments of the state government which shall be
25 known as (1) the department of social and health services, (2) the
26 department of ecology, (3) the department of labor and industries, (4)
27 the department of agriculture, (5) the department of fish and wildlife,
28 (6) the department of transportation, (7) the department of licensing,
29 (8) the department of general administration, (9) the department of
30 community, trade, and economic development, (10) the department of
31 veterans affairs, (11) the department of revenue, (12) the department
32 of retirement systems, (13) the department of corrections, (~~and~~) (14)
33 the department of health, (~~and~~) (15) the department of financial
34 institutions, and (16) the Washington state ferries department, which
35 shall be charged with the execution, enforcement, and administration of

1 such laws, and invested with such powers and required to perform such
2 duties, as the legislature may provide.

3 **Sec. 20.** RCW 43.17.020 and 1995 1st sp.s. c 2 s 2 are each amended
4 to read as follows:

5 There shall be a chief executive officer of each department to be
6 known as: (1) The secretary of social and health services, (2) the
7 director of ecology, (3) the director of labor and industries, (4) the
8 director of agriculture, (5) the director of fish and wildlife, (6) the
9 secretary of transportation, (7) the director of licensing, (8) the
10 director of general administration, (9) the director of community,
11 trade, and economic development, (10) the director of veterans affairs,
12 (11) the director of revenue, (12) the director of retirement systems,
13 (13) the secretary of corrections, ((and)) (14) the secretary of
14 health, ((and)) (15) the director of financial institutions, and (16)
15 the director of Washington state ferries.

16 Such officers, except the secretary of transportation, the director
17 of Washington state ferries, and the director of fish and wildlife,
18 shall be appointed by the governor, with the consent of the senate, and
19 hold office at the pleasure of the governor. The secretary of
20 transportation shall be appointed by the transportation commission as
21 prescribed by RCW 47.01.041. The director of fish and wildlife shall
22 be appointed by the fish and wildlife commission as prescribed by RCW
23 77.04.055. The governor shall appoint the director of Washington state
24 ferries with the consent of the legislative transportation committee,
25 to hold office at the pleasure of the governor.

26 **Sec. 21.** RCW 46.68.090 and 1999 c 269 s 2 and 1999 c 94 s 6 are
27 each reenacted and amended to read as follows:

28 (1) All moneys that have accrued or may accrue to the motor vehicle
29 fund from the motor vehicle fuel tax and special fuel tax shall be
30 first expended for purposes enumerated in (a) and (b) of this
31 subsection. The remaining net tax amount shall be distributed monthly
32 by the state treasurer in the proportions set forth in (c) through (l)
33 of this subsection.

34 (a) For payment of refunds of motor vehicle fuel tax and special
35 fuel tax that has been paid and is refundable as provided by law;

36 (b) For payment of amounts to be expended pursuant to
37 appropriations for the administrative expenses of the offices of state

1 treasurer, state auditor, and the department of licensing of the state
2 of Washington in the administration of the motor vehicle fuel tax and
3 the special fuel tax, which sums shall be distributed monthly;

4 (c) For distribution to the motor vehicle fund an amount equal to
5 ((~~44.387~~)) 28.5602 percent to be expended for highway purposes of the
6 state as defined in RCW 46.68.130;

7 (d) For distribution to the special category C account, hereby
8 created in the motor vehicle fund, an amount equal to 3.2609 percent to
9 be expended for special category C projects. Special category C
10 projects are category C projects that, due to high cost only, will
11 require bond financing to complete construction.

12 The following criteria, listed in order of priority, shall be used
13 in determining which special category C projects have the highest
14 priority:

15 (i) Accident experience;

16 (ii) Fatal accident experience;

17 (iii) Capacity to move people and goods safely and at reasonable
18 speeds without undue congestion; and

19 (iv) Continuity of development of the highway transportation
20 network.

21 Moneys deposited in the special category C account in the motor
22 vehicle fund may be used for payment of debt service on bonds the
23 proceeds of which are used to finance special category C projects under
24 this subsection (1)(d);

25 (e) For distribution to the Puget Sound ferry operations account in
26 the motor vehicle fund an amount equal to ((~~2.3283~~)) 5.1116 percent;

27 (f) For distribution to the Puget Sound capital construction
28 account in the motor vehicle fund an amount equal to ((~~2.3726~~)) 15.4161
29 percent;

30 (g) For distribution to the urban arterial trust account in the
31 motor vehicle fund an amount equal to 7.5597 percent;

32 (h) For distribution to the transportation improvement account in
33 the motor vehicle fund an amount equal to 5.6739 percent and expended
34 in accordance with RCW 47.26.086;

35 (i) For distribution to the cities and towns from the motor vehicle
36 fund an amount equal to 10.6961 percent in accordance with RCW
37 46.68.110;

38 (j) For distribution to the counties from the motor vehicle fund an
39 amount equal to 19.2287 percent: (i) Out of which there shall be

1 distributed from time to time, as directed by the department of
2 transportation, those sums as may be necessary to carry out the
3 provisions of RCW 47.56.725; and (ii) less any amounts appropriated to
4 the county road administration board to implement the provisions of RCW
5 47.56.725(4), with the balance of such county share to be distributed
6 monthly as the same accrues for distribution in accordance with RCW
7 46.68.120;

8 (k) For distribution to the county arterial preservation account,
9 hereby created in the motor vehicle fund an amount equal to 1.9565
10 percent. These funds shall be distributed by the county road
11 administration board to counties in proportions corresponding to the
12 number of paved arterial lane miles in the unincorporated area of each
13 county and shall be used for improvements to sustain the structural,
14 safety, and operational integrity of county arterials. The county road
15 administration board shall adopt reasonable rules and develop policies
16 to implement this program and to assure that a pavement management
17 system is used;

18 (l) For distribution to the rural arterial trust account in the
19 motor vehicle fund an amount equal to 2.5363 percent and expended in
20 accordance with RCW 36.79.020.

21 (2) Nothing in this section or in RCW 46.68.130 may be construed so
22 as to violate any terms or conditions contained in any highway
23 construction bond issues now or hereafter authorized by statute and
24 whose payment is by such statute pledged to be paid from any excise
25 taxes on motor vehicle fuel and special fuels.

26 **Sec. 22.** RCW 47.01.081 and 1984 c 48 s 1 are each amended to read
27 as follows:

28 (1) Initially the department shall be organized into divisions,
29 including the division of highways, the division of public
30 transportation, the division of aeronautics, (~~the division of marine~~
31 ~~transportation,~~) and the division of transportation planning and
32 budget.

33 (2) The secretary may reorganize divisions in order to attain the
34 maximum possible efficiency in the operation of the department. Each
35 division shall be headed by an assistant secretary to be appointed by
36 the secretary. The secretary may also appoint a deputy secretary as
37 may be needed for the performance of the duties and functions vested in
38 the department and may also appoint up to twelve ferry system

1 management positions as defined in RCW 47.64.011. The secretary may
2 delegate to officers within the several divisions of the department
3 authority to employ personnel necessary to discharge the
4 responsibilities of the department.

5 (3) The officers appointed under this section shall be exempt from
6 the provisions of the state civil service law and shall be paid
7 salaries to be fixed by the governor in accordance with the procedure
8 established by law for the fixing of salaries for officers exempt from
9 the operation of the state civil service law.

10 **Sec. 23.** RCW 47.64.011 and 1983 c 15 s 2 are each amended to read
11 as follows:

12 As used in this chapter, unless the context otherwise requires, the
13 definitions in this section shall apply.

14 (1) "Arbitration" means the procedure whereby the parties involved
15 in an impasse submit their differences to a third party for a final and
16 binding decision or as provided in this chapter.

17 (2) "Arbitrator" means either a single arbitrator or a panel of
18 three arbitrators as provided in RCW 47.64.240.

19 (3) "Collective bargaining representative" means the persons
20 designated by the (~~secretary of transportation~~) governor and employee
21 organizations to be the exclusive representatives during collective
22 bargaining negotiations.

23 (4) (~~"Department of transportation" means the department as~~
24 ~~defined in RCW 47.01.021.~~

25 ~~(5))~~ "Ferry employee" means any employee of the (~~marine~~
26 ~~transportation division of the department of transportation~~)
27 Washington state ferries department who is a member of a collective
28 bargaining unit represented by a ferry employee organization and does
29 not include an exempt employee pursuant to RCW 41.06.079.

30 (~~(6))~~ (5) "Ferry employee organization" means any labor
31 organization recognized to represent a collective bargaining unit of
32 ferry employees.

33 (~~(7))~~ (6) "Ferry system management" means those management
34 personnel of the (~~marine transportation division of the department of~~
35 ~~transportation~~) Washington state ferries department who have been
36 vested with the day-to-day management responsibilities of the
37 Washington state ferry system by the (~~transportation commission~~)
38 director of Washington state ferries and who are not members of a

1 collective bargaining unit represented by a ferry employee
2 organization.

3 ~~((+8))~~ (7) "Lockout" means the refusal of ferry system management
4 to furnish work to ferry employees in an effort to get ferry employee
5 organizations to make concessions during collective bargaining,
6 grievance, or other labor relation negotiations. Curtailment of
7 employment of ferry employees due to lack of work resulting from a
8 strike or work stoppage, as defined in subsection (11) of this section,
9 shall not be considered a lockout.

10 ~~((+9))~~ (8) "Marine employees' commission" means the commission
11 created in RCW 47.64.280.

12 ~~((+10))~~ (9) "Office of financial management" means the office as
13 created in RCW 43.41.050.

14 ~~((+11))~~ (10) "Strike or work stoppage" means a ferry employee's
15 refusal, in concerted action with others, to report to duty, or his or
16 her willful absence from his or her position, or his or her stoppage or
17 slowdown of work, or his or her abstinence in whole or in part from the
18 full, faithful, and proper performance of the duties of employment, for
19 the purpose of inducing, influencing, or coercing a change in
20 conditions, compensation, rights, privileges, or obligations of his,
21 her, or any other ferry employee's employment. A refusal, in good
22 faith, to work under conditions which pose an endangerment to the
23 health and safety of ferry employees or the public, as determined by
24 the master of the vessel, shall not be considered a strike for the
25 purposes of this chapter.

26 ~~((+12) "Transportation commission" means the commission as defined
27 in RCW 47.01.021.)~~

28 (11) "Washington state ferries department" means the department as
29 defined in section 2 of this act.

30 **Sec. 24.** RCW 88.16.010 and 1991 c 200 s 1001 are each amended to
31 read as follows:

32 (1) The board of pilotage commissioners of the state of Washington
33 is ~~((hereby))~~ created ~~((and shall consist of the assistant secretary of~~
34 ~~marine transportation of the department of transportation of the~~
35 ~~state))~~, consisting of the director of Washington state ferries, or the
36 ~~((assistant secretary's))~~ director's designee, who ~~((shall))~~ must be an
37 employee of the ~~((marine division))~~ Washington state ferries
38 department, who shall be chairperson, the administrator of the ~~((office~~

1 ~~of marine safety~~) integrated oil spill prevention and response
2 program, or the administrator's designee, and seven members appointed
3 by the governor and confirmed by the senate. Each of the appointed
4 commissioners shall be appointed for a term of four years from the date
5 of the member's commission. No person shall be eligible for
6 appointment to the board unless that person is at the time of
7 appointment eighteen years of age or over and a citizen of the United
8 States and of the state of Washington. Two of the appointed
9 commissioners shall be pilots licensed under this chapter and actively
10 engaged in piloting upon the waters covered by this chapter for at
11 least three years immediately preceding the time of appointment and
12 while serving on the board. One pilot shall be from the Puget Sound
13 pilotage district and one shall be from the Grays Harbor pilotage
14 district. Two of the appointed commissioners shall be actively engaged
15 in the ownership, operation, or management of deep sea cargo and/or
16 passenger carrying vessels for at least three years immediately
17 preceding the time of appointment and while serving on the board. One
18 of said shipping commissioners shall be a representative of American
19 and one of foreign shipping. One of the commissioners shall be a
20 representative from a recognized environmental organization concerned
21 with marine waters. The remaining commissioners shall be persons
22 interested in and concerned with pilotage, maritime safety, and marine
23 affairs, with broad experience related to the maritime industry
24 exclusive of experience as either a state licensed pilot or as a
25 shipping representative.

26 (2) Any vacancy in an appointed position on the board shall be
27 filled by the governor for the remainder of the unfilled term, subject
28 to confirmation by the senate.

29 (3) Five members of the board shall constitute a quorum. At least
30 one pilot, one shipping representative, and one public member must be
31 present at every meeting. All commissioners and the chairperson shall
32 have a vote.

33 **Sec. 25.** RCW 47.56.030 and 1995 1st sp.s. c 4 s 1 are each amended
34 to read as follows:

35 (1) The department of transportation shall have full charge of the
36 construction of all toll bridges and other toll facilities including
37 the Washington state ferries, and the operation and maintenance
38 thereof. The transportation commission shall determine and establish

1 the tolls and charges thereon, and shall perform all duties and
2 exercise all powers relating to the financing, refinancing, and fiscal
3 management of all toll bridges and other toll facilities including the
4 Washington state ferries, and bonded indebtedness in the manner
5 provided by law. The department shall have full charge of design of
6 all toll facilities. Except as provided in this section, the
7 department shall proceed with the construction of such toll bridges and
8 other facilities and the approaches thereto by contract in the manner
9 of state highway construction immediately upon there being made
10 available funds for such work and shall prosecute such work to
11 completion as rapidly as practicable. The department is authorized to
12 negotiate contracts for any amount without bid under (a) and (b) of
13 this subsection:

14 (a) Emergency contracts, in order to make repairs to ferries or
15 ferry terminal facilities or removal of such facilities whenever
16 continued use of ferries or ferry terminal facilities constitutes a
17 real or immediate danger to the traveling public or precludes prudent
18 use of such ferries or facilities; and

19 (b) Single source contracts for vessel dry dockings, when there is
20 clearly and legitimately only one available dry dock facility to
21 conduct dry dock-related work for a specific class or classes of
22 vessels. The contracts may be entered into for a single vessel dry
23 docking or for multiple vessel dry dockings for a period not to exceed
24 two years.

25 (2) The department shall proceed with the procurement of materials,
26 supplies, services, and equipment needed for the support, maintenance,
27 and use of a ferry, ferry terminal, or other facility operated by
28 Washington state ferries, in accordance with chapter 43.19 RCW except
29 as follows:

30 ~~((1))~~ (a) When the secretary of the department of transportation
31 determines in writing that the use of invitation for bid is either not
32 practicable or not advantageous to the state and it may be necessary to
33 make competitive evaluations, including technical or performance
34 evaluations among acceptable proposals to complete the contract award,
35 a contract may be entered into by use of a competitive sealed proposals
36 method, and a formal request for proposals solicitation. Such formal
37 request for proposals solicitation shall include a functional
38 description of the needs and requirements of the state and the
39 significant factors.

1 (~~(2)~~) (b) When purchases are made through a formal request for
2 proposals solicitation the contract shall be awarded to the responsible
3 proposer whose competitive sealed proposal is determined in writing to
4 be the most advantageous to the state taking into consideration price
5 and other evaluation factors set forth in the request for proposals.
6 No significant factors may be used in evaluating a proposal that are
7 not specified in the request for proposals. Factors that may be
8 considered in evaluating proposals include but are not limited to:
9 Price; maintainability; reliability; commonality; performance levels;
10 life cycle cost if applicable under this section; cost of
11 transportation or delivery; delivery schedule offered; installation
12 cost; cost of spare parts; availability of parts and service offered;
13 and the following:

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

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

18 (~~(c)~~) (iii) Whether the proposer can perform the contract within
19 the time specified;

20 (~~(d)~~) (iv) The quality of performance of previous contracts or
21 services;

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

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

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

30 (c) When purchases are made through a request for proposal process,
31 proposals received shall be evaluated based on the evaluation factors
32 set forth in the request for proposal. When a life cycle cost analysis
33 is used, the life cycle cost of a proposal shall be given at least the
34 same relative importance as the initial price element specified in the
35 request of proposal documents. The department may reject any and all
36 proposals received. If the proposals are not rejected, the award shall
37 be made to the proposer whose proposal is most advantageous to the
38 department, considering price and the other evaluation factors set
39 forth in the request for proposal.

1 (3) (~~The legislative transportation committee shall review the~~
2 ~~secretary's use of the request for proposals solicitation for~~
3 ~~Washington state ferries projects to determine if the process~~
4 ~~established under chapter 4, Laws of 1995 1st sp. sess. is appropriate.~~
5 ~~The results of the review, including recommendations for modification~~
6 ~~of the request for proposal process, shall be reported to the house of~~
7 ~~representatives and senate transportation committees by January 1,~~
8 ~~1997.)) The department shall proceed with the procurement of large
9 equipment and systems (e.g., electrical, propulsion) needed for the
10 support, maintenance, and use of a ferry operated by Washington state
11 ferries, as follows:~~

12 (a) A contract must be entered into by use of a formal request for
13 proposals solicitation including competitive sealed proposals. The
14 formal request for proposals solicitation must include a functional
15 description of the needs and requirements of the state and the
16 significant factors for proposal evaluation.

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

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

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

32 (iii) Whether the proposer can perform the contract within the time
33 specified;

34 (iv) The quality of performance of previous contracts or services;

35 (v) The previous and existing compliance by the proposer with laws
36 relating to the contract or services;

37 (vi) Objective, measurable criteria defined in the request for
38 proposals. These criteria may include but are not limited to items

1 such as discounts, delivery costs, maintenance services costs,
2 installation costs, and transportation costs; and

3 (vii) Such other information as may be secured having a bearing on
4 the decision to award the contract.

5 (c) Proposals received must be evaluated based on the evaluation
6 factors set forth in the request for proposals.

7 (d) When a life cycle cost analysis is used, the life cycle cost of
8 a proposal must be given at least the same relative importance as the
9 initial price element specified in the request for proposals. The
10 department may reject any or all proposals received. If the proposals
11 are not rejected, the award must be made to the proposer whose proposal
12 is most advantageous to the department, considering price and the other
13 evaluation factors set forth in the request for proposals.

14 **Sec. 26.** RCW 47.60.010 and 1984 c 18 s 1 are each amended to read
15 as follows:

16 The department is authorized to acquire by lease, charter,
17 contract, purchase, condemnation, or construction, and partly by any or
18 all of such means, and to thereafter operate, improve, and extend, a
19 system of ferries on and crossing Puget Sound and any of its tributary
20 waters and connections thereof, and connecting with the public streets
21 and highways in the state. The system of ferries shall include such
22 boats, vessels, wharves, docks, approaches, landings, franchises,
23 licenses, and appurtenances as shall be determined by the department to
24 be necessary or desirable for efficient operation of the ferry system
25 and best serve the public. (~~The department may in like manner acquire~~
26 ~~by purchase, condemnation, or construction and include in the ferry~~
27 ~~system such toll bridges, approaches, and connecting roadways as may be~~
28 ~~deemed by the department advantageous in channeling traffic to points~~
29 ~~served by the ferry system.)) In addition to the powers of acquisition
30 granted by this section, the department is empowered to enter into any
31 contracts, agreements, or leases with any person, firm, or corporation
32 and to thereby provide, on such terms and conditions as it shall
33 determine, for the operation of any ferry or ferries or system thereof,
34 whether acquired by the department or not.~~

35 The authority of the department to sell and lease back any state
36 ferry, for federal tax purposes only, as authorized by 26 U.S.C., Sec.
37 168(f)(8) is confirmed. Legal title and all incidents of legal title
38 to any ferry sold and leased back (except for the federal tax benefits

1 attributable to the ownership thereof) shall remain in the state of
2 Washington.

3 **Sec. 27.** RCW 47.60.013 and 1981 c 341 s 1 are each amended to read
4 as follows:

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

18 **Sec. 28.** RCW 47.60.040 and 1984 c 7 s 300 are each amended to read
19 as follows:

20 For the purpose of obtaining information for the consideration of
21 the department upon the acquisition of any ferries or ferry facilities
22 (~~or the construction of any toll bridge under this chapter~~), the
23 department shall make any examination, investigation, survey, or
24 reconnaissance for the determination of material facts pertaining
25 thereto.

26 The cost of any such examination, investigation, survey, or
27 reconnaissance, and all preliminary expenses leading up to and
28 resulting in the issuance of any revenue bonds including, but not being
29 limited to expenses in making surveys and appraisals and the drafting,
30 printing, issuance, and sale of bonds under this chapter shall be borne
31 by the department out of the (~~motor vehicle fund. All such costs and~~
32 ~~expenses as well as any thereof heretofore incurred shall be reimbursed~~
33 ~~to the motor vehicle fund out of any proceeds derived from the sale of~~
34 ~~bonds or out of tolls and revenues to be derived by the department~~
35 ~~through its operations hereunder~~) Puget Sound capital construction
36 account.

1 **Sec. 29.** RCW 47.60.060 and 1984 c 7 s 302 are each amended to read
2 as follows:

3 For the purpose of paying the cost of acquiring by lease, charter,
4 contract, purchase, condemnation, or construction all or any part of
5 such Puget Sound ferry system, (~~including toll bridges, approaches,~~
6 ~~and roadways incidental thereto,~~) and for rehabilitating, rebuilding,
7 enlarging, or improving all or any part of the system, the department
8 is authorized by resolution to issue its revenue bonds which shall
9 constitute obligations only of the department and shall be payable
10 solely and only from all or such part of the revenues from the
11 operation of the system as may be provided in and by the resolution.

12 Each revenue bond shall contain a recital that payment or
13 redemption of the bond and payment of the interest thereon is secured
14 by a direct charge and lien upon the tolls and revenues pledged for
15 that purpose and that the bond does not constitute an indebtedness of
16 the state of Washington.

17 The department is empowered to include in any resolution
18 authorizing the issuance of the bonds such covenants, stipulations, and
19 conditions as may be deemed necessary with respect to the continued use
20 and application of the income and revenues from the undertaking.

21 The revenue bonds may bear such date or dates, may mature at such
22 time or times as the department determines, may bear interest at such
23 rate or rates, may be in such denomination or denominations, may be in
24 such form, either coupon or registered, may carry such registration and
25 conversion privileges, may be made subject to such terms of redemption
26 with or without premium, and may contain such other terms and covenants
27 not inconsistent with this chapter as may be provided in the
28 resolution. Notwithstanding the form or tenor thereof, and in the
29 absence of an express recital on the face thereof that the bond is
30 nonnegotiable, each such revenue bond shall at all times be and shall
31 be treated as a negotiable instrument for all purposes. All such bonds
32 shall be signed by the state treasurer and countersigned by the
33 governor, and any interest coupons appertaining thereto shall bear the
34 signature of the state treasurer. The countersignature of the governor
35 on the bonds and the signature of the state treasurer on the coupons
36 may be their printed or lithographed facsimile signatures.

37 Pending the issuance of definitive bonds, temporary or interim
38 bonds, certificates, or receipts of any denomination and with or

1 without coupons attached may be issued as may be provided by the
2 resolution.

3 **Sec. 30.** RCW 47.60.113 and 1984 c 7 s 305 are each amended to read
4 as follows:

5 The department is authorized to refund, at the maturity thereof, or
6 before the maturity thereof if they are subject to call prior to
7 maturity or if all of the holders thereof consent thereto, upon such
8 terms and conditions as it deems best, any or all of its revenue bonds
9 now or hereafter outstanding, issued for the purpose of acquiring,
10 constructing, or reconstructing (~~((any toll bridge, toll road, toll
11 tunnel,))~~) the ferry system, (~~((or any other toll facility of any sort,))~~)
12 or issued for the purpose of refunding such bonds, which revenue bonds
13 are payable out of all or part of the revenues of the (~~((toll facility))~~)
14 ferry system. Refunding bonds may be issued hereunder in a sufficient
15 amount to provide additional funds for acquiring, constructing,
16 reconstructing, rehabilitating, rebuilding, enlarging, or improving
17 (~~((any toll bridge, toll road, toll tunnel,))~~) the ferry system, (~~((or any
18 other toll facility of any sort,))~~) and to pay all refunding costs and
19 expenses and to provide adequate reserves (~~((for the toll facility and))~~)
20 for any such refunding bonds. Various issues and series of such
21 outstanding bonds, including refunding bonds, may be combined and
22 refunded by a single issue of refunding bonds. The refunding bonds
23 shall bear interest at such rates and mature at such times, without
24 limitation by the interest rates or maturity of the bonds being
25 refunded, and shall contain such other covenants and conditions as the
26 department determines by resolution.

27 **Sec. 31.** RCW 47.60.114 and 1984 c 7 s 306 are each amended to read
28 as follows:

29 Any refunding bonds authorized by this chapter constitute
30 obligations of the department only and not of the state of Washington.
31 They shall be payable solely out of all or such part of the revenues
32 derived from the operation of the (~~((toll bridge, toll road, toll
33 tunnel,))~~) ferry system(~~((, or any other toll facility,))~~) as shall be
34 provided in the resolution authorizing the issuance of the refunding
35 bonds.

1 **Sec. 32.** RCW 47.60.120 and 1993 c 427 s 1 are each amended to read
2 as follows:

3 (1) If the ((department)) state acquires or constructs, maintains,
4 and operates any ferry crossings upon or toll bridges over Puget Sound
5 or any of its tributary or connecting waters, there shall not be
6 constructed, operated, or maintained any other ferry crossing upon or
7 bridge over any such waters within ten miles of any such crossing or
8 bridge operated or maintained by the ((department)) state excepting
9 such bridges or ferry crossings in existence, and being operated and
10 maintained under a lawfully issued franchise at the time of the
11 location of the ferry crossing or construction of the toll bridge by
12 the department.

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

17 (3) The Washington utilities and transportation commission may,
18 upon written petition of a commercial ferry operator certificated or
19 applying for certification under chapter 81.84 RCW, and upon notice and
20 hearing, grant a waiver from the ten-mile restriction. The waiver must
21 not be detrimental to the public interest. In making a decision to
22 waive the ten-mile restriction, the commission shall consider, but is
23 not limited to, the impact of the waiver on transportation congestion
24 mitigation, air quality improvement, and the overall impact on the
25 Washington state ferry system. The commission shall act upon a request
26 for a waiver within ninety days after the conclusion of the hearing.
27 A waiver is effective for a period of five years from the date of
28 issuance. At the end of five years the waiver becomes permanent unless
29 appealed within thirty days by the commission on its own motion, the
30 ((department)) state, or an interested party.

31 (4) The ((department)) state shall not maintain and operate any
32 ferry crossing or toll bridge over Puget Sound or any of its tributary
33 or connecting waters that would infringe upon any franchise lawfully
34 issued by the state and in existence and being exercised at the time of
35 the location of the ferry crossing or toll bridge by the ((department))
36 state, without first acquiring the rights granted to such franchise
37 holder under the franchise.

1 **Sec. 33.** RCW 47.60.130 and 1979 ex.s. c 189 s 6 are each amended
2 to read as follows:

3 (~~Such ferry system, including any toll bridges, approaches, and~~
4 ~~roadways incidental thereto, may be financed and operated in~~
5 ~~combination or separately as one or more units as the department of~~
6 ~~transportation may determine, and such ferry system together with any~~
7 ~~toll bridge hereafter constructed by the department upon or across the~~
8 ~~waters of Puget Sound or Hood Canal, or any part of either, replacing~~
9 ~~one or more presently operated ferry routes, is declared to be a~~
10 ~~continuous project within the meaning of RCW 47.56.070.)) The
11 department (~~is empowered to~~) may rent, lease, or charter any property
12 acquired under this chapter. If the department determines that any
13 real property (including lands, improvements thereon, and any interests
14 or estates) originally acquired for the ferry system is no longer
15 required for the purposes of the ferry system, the department shall
16 offer it for sale in the manner and with the authority authorized to
17 the department by RCW 47.12.063 or 47.12.283. The (~~secretary of~~
18 ~~transportation~~) director may adopt rules further implementing this
19 section. The proceeds of all such sales shall be paid into the
20 separate trust fund of the state treasury established pursuant to RCW
21 47.60.150.~~

22 **Sec. 34.** RCW 47.60.135 and 1997 c 323 s 2 are each amended to read
23 as follows:

24 (1) The charter use of Washington State Ferry vessels when
25 established route operations and normal user requirements are not
26 disrupted is permissible.

27 (2) Consistent with the policy as established in subsection (1) of
28 this section, the (~~general manager~~) director of the Washington State
29 Ferries may approve agreements for the chartering of Washington State
30 Ferry vessels to groups or individuals, including hazardous material
31 transporters, in accordance with the following:

32 (a) Vessels may be committed to charter only when established route
33 operation and normal user requirements are not disrupted or
34 inconvenienced. If a vessel is engaged in the transport of hazardous
35 materials, the transporter shall pay for all legs necessary to complete
36 the charter, even if the vessel is simultaneously engaged in an
37 operational voyage on behalf of Washington State Ferries.

1 (b) Charter rates for vessels must be established at actual vessel
2 operating costs plus fifty percent of such actual costs rounded to the
3 nearest fifty dollars. Actual vessel operating costs include, but are
4 not limited to, all labor, fuel, and vessel maintenance costs incurred
5 due to the charter agreement, including deadheading and standby.

6 (c) Recognizing the need for stabilized charter rates in order to
7 encourage use of vessels, rates must be established and revised July
8 1st of each year and must remain fixed for a one-year period unless
9 actual vessel operating costs increase five percent or more within that
10 year, in which case the charter rates must be revised in accordance
11 with (b) of this subsection.

12 (d) All charter agreements must be in writing and substantially in
13 the form of (e) of this subsection and available, with calculations,
14 for inspection by the legislature and the public.

15 (e) Parties chartering Washington State Ferry vessels shall comply
16 with all applicable laws, rules, and regulations during the charter
17 voyage, and failure to so comply is cause for immediate termination of
18 the charter voyage.

19 "CHARTER CRUISE AGREEMENT

20 On this day of,, Washington State Ferries
21 (WSF) and, hereinafter called Lessee, enter into this
22 agreement for rental of a ferry vessel for the purpose of a charter
23 voyage to be held on, the parties agree as follows:

24 1. WSF agrees to supply the vessel (subject to change)
25 for the use of the Lessee from the period from to
26 on (date).

27 2. The maximum number of passengers; or in the case of hazardous
28 materials transports, trucks and trailers; that will be accommodated on
29 the assigned vessel is This number MAY NOT be exceeded.

30 3. The voyage will originate at, and the route of travel
31 during the voyage will be as follows:
32

33 4. The charge for the above voyage is dollars (\$. . .)
34 plus a property damage deposit of \$350 for a total price of \$,
35 to be paid by cashier's check three working days before the date of the
36 voyage at the offices of the WSF at Seattle Ferry Terminal, Pier 52,

1 Seattle, Washington 98104. The Lessee remains responsible for property
2 damage in excess of \$350.

3 5. WSF is responsible only for the navigational operation of the
4 chartered ferry and in no way is responsible for directing voyage
5 activities, providing equipment, or any food service.

6 6. Other than for hazardous materials transport, the voyage
7 activities must be conducted exclusively on the passenger decks of the
8 assigned ferry. Voyage patrons will not be permitted to enter the
9 pilot house or the engine room, nor shall the vehicle decks be used for
10 any purpose other than loading or unloading of voyage patrons or
11 hazardous materials.

12 7. If the Lessee or any of the voyage patrons will possess or
13 consume alcoholic beverages aboard the vessel, the Lessee must obtain
14 the appropriate licenses or permits from the Washington State Liquor
15 Control Board. The Lessee must furnish copies of any necessary
16 licenses or permits to WSF at the same time payment for the voyage is
17 made. Failure to comply with applicable laws, rules, and regulations
18 of appropriate State and Federal agencies is cause for immediate
19 termination of the voyage, and WSF shall retain all payments made as
20 liquidated damages.

21 8. WSF is not obligated to provide shoreside parking for the
22 vehicles belonging to voyage patrons.

23 9. The Lessee recognizes that the primary function of the WSF is
24 for the cross-Sound transportation of the public and the maintaining of
25 the existing schedule. The Lessee recognizes therefore the right of
26 WSF to cancel a voyage commitment without liability to the Lessee due
27 to unforeseen circumstances or events that require the use of the
28 chartered vessel on its scheduled route operations. In the event of
29 such a cancellation, WSF agrees to refund the entire amount of the
30 charter fee to the Lessee.

31 10. The Lessee agrees to hold WSF harmless from, and shall process
32 and defend at its own expense, all claims, demands, or suits at law or
33 equity, of whatever nature brought against WSF arising in whole or in
34 part from the performance of provisions of this agreement. This
35 indemnity provision does not require the Lessee to defend or indemnify
36 WSF against any action based solely on the alleged negligence of WSF.

1 11. This writing is the full agreement between the parties.

2 WASHINGTON STATE FERRIES

3 Lessee

4 By: By:

5 ((General Manager))

6 Director or Director's designee"

7 **Sec. 35.** RCW 47.60.140 and 1995 1st sp.s. c 4 s 2 are each amended
8 to read as follows:

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

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

1 determined by the department of natural resources. That portion of the
2 lease rate attributable to the state aquatic lands shall be distributed
3 in the same manner as other lease revenues derived from state aquatic
4 lands as provided in RCW 79.24.580.

5 **Sec. 36.** RCW 47.60.145 and 1982 c 210 s 1 are each amended to read
6 as follows:

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

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

24 (3) The Washington state ferries department shall evaluate the
25 qualifying proposals and shall select the proposal which is most
26 advantageous to the state. Factors to be considered in making the
27 selection shall include but not 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. 37.** RCW 47.60.150 and 1999 c 94 s 26 are each amended to read
36 as follows:

1 Subject to the provisions of RCW 47.60.326, the schedule of charges
2 for the services and facilities of the system shall be fixed and
3 revised from time to time by the (~~commission~~) director of Washington
4 state ferries so that the tolls and other revenues deposited in the
5 Puget Sound ferry operations account for maintenance and operation, and
6 all moneys in the Puget Sound capital construction account available
7 for debt service will yield annual revenue and income sufficient, after
8 allowance for all operating, maintenance, and repair expenses to pay
9 the interest and principal and sinking fund charges for all outstanding
10 revenue bonds, and to create and maintain a fund for ordinary renewals
11 and replacements: PROVIDED, That if provision is made by any
12 resolution for the issuance of revenue bonds for the creation and
13 maintenance of a special fund for rehabilitating, rebuilding,
14 enlarging, or improving all or any part of the ferry system then such
15 schedule of tolls and rates of charges shall be fixed and revised so
16 that the revenue and income will also be sufficient to comply with such
17 provision.

18 All income and revenues as collected shall be paid to the state
19 treasurer for the account of the department and deposited into the
20 Puget Sound ferry operations account. (~~Nothing in this section~~
21 ~~requires tolls on the Hood Canal bridge except as may be required by~~
22 ~~any bond covenants.))~~)

23 **Sec. 38.** RCW 47.60.310 and 1988 c 100 s 1 are each amended to read
24 as follows:

25 (1) The department is further directed to conduct such review by
26 soliciting and obtaining expressions from local community groups in
27 order to be properly informed as to problems being experienced within
28 the area served by the Washington state ferries. (~~In order that local~~
29 ~~representation may be established, the department shall give prior~~
30 ~~notice of the review to the ferry advisory committees.))~~)

31 (2) (~~The legislative authorities of San Juan, Skagit, Clallam, and~~
32 ~~Jefferson counties shall each appoint a committee to consist of five~~
33 ~~members to serve as an advisory committee to the department or its~~
34 ~~designated representative in such review. The legislative authorities~~
35 ~~of other counties that contain ferry terminals shall appoint ferry~~
36 ~~advisory committees consisting of three members for each terminal area~~
37 ~~in each county, except for Vashon Island, which shall have one~~
38 ~~committee, and its members shall be appointed by the Vashon/Maury~~)

1 ~~Island community council. At least one person appointed to each ferry~~
2 ~~advisory committee shall be representative of an established ferry user~~
3 ~~group or of frequent users of the ferry system. Each member shall~~
4 ~~reside in the vicinity of the terminal that the advisory committee~~
5 ~~represents.)) A ferry advisory committee must be assembled to provide~~
6 ~~citizen input to the Washington state ferries department regarding the~~
7 ~~operation of the ferry system. The ferry advisory committee members~~
8 ~~will be comprised of:~~

9 (a) One member from San Juan county, to be appointed by the San
10 Juan county legislative authority;

11 (b) One member from Skagit county, to be appointed by the Skagit
12 county legislative authority;

13 (c) One member from Island county, to be appointed by the Island
14 county legislative authority;

15 (d) Two members from Kitsap county, to be appointed by the Kitsap
16 county legislative authority;

17 (e) One member from Vashon Island, to be appointed by the
18 Vashon/Maury Island community council.

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

32 ~~(4))~~ The members of ((each terminal area)) the ferry advisory
33 committee shall be appointed for four-year terms. The initial terms of
34 the members of each terminal area committee shall be staggered as
35 follows: All terms shall commence September 1, ((1988)) 2001, with
36 ((one)) two member's terms expiring August 31, ((1990)) 2003, ((one))
37 two member's terms expiring August 31, ((1991)) 2004, and the remaining
38 member's terms expiring August 31, ((1992)) 2005. Any vacancy shall be
39 filled for the remainder of the unexpired term by the appointing

1 authority. (~~Not more than two members of any terminal-area committee~~
2 ~~may be from the same political party at the time of their appointment,~~
3 ~~and in a county having more than one committee,~~) The overall political
4 party representation shall be as nearly equal as possible.

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

9 ~~(6))~~ (4) The committee (~~s to be appointed by the county~~
10 ~~legislative authorities~~) members shall serve without fee or
11 compensation. Committee members are entitled to reimbursement of
12 expenses as allowed under RCW 43.03.220, 43.03.050, and 43.03.060.

13 **Sec. 39.** RCW 47.60.326 and 1999 c 94 s 27 are each amended to read
14 as follows:

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

20 (2) (~~Prior to~~) Before February 1st of each (~~odd-numbered~~) year
21 the department shall transmit (~~to the transportation~~) a report of its
22 review together with its recommendations for the revision of a schedule
23 of charges for the ensuing biennium to the ferry advisory committee.
24 (~~The commission on or before July 1st of that year shall adopt as a~~
25 ~~rule, in the manner provided by the Washington administrative procedure~~
26 ~~act, a schedule of charges for the Washington state ferries for the~~
27 ~~ensuing biennium commencing July 1st.~~) If, after consultation with the
28 ferry advisory committee, the director of Washington state ferries
29 determines that an adjustment in the schedule of charges is
30 appropriate, the director shall adopt a new schedule of charges.

31 (a) The schedule of charges must be adopted as a rule under the
32 Washington Administrative Procedure Act, chapter 34.05 RCW.

33 (b) The schedule may initially be adopted as an emergency rule if
34 necessary (~~to take effect on, or as near as possible to, July 1st~~).

35 (3) The department in making its review and formulating
36 recommendations (~~and the commission in adopting a schedule of~~
37 ~~charges~~) may consider any of the following factors:

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

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

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

7 (d) The efficient distribution of traffic between cross-sound
8 routes;

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

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

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

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

17 (4) If at any time during the biennium it appears that projected
18 revenues from the Puget Sound ferry operations account and any other
19 operating subsidy available to the Washington state ferries will be
20 less than the projected total cost of maintenance and operation of the
21 Washington state ferries for the biennium, the department shall
22 forthwith undertake a review of its schedule of charges to ascertain
23 whether or not the schedule of charges should be revised. The
24 department shall, upon completion of its review report, submit its
25 recommendation to the ~~((transportation commission which))~~ ferry
26 advisory committee. After consultation with the ferry advisory
27 committee, the department may in its sound discretion revise the
28 schedule of charges as required to meet necessary maintenance and
29 operation expenditures of the ferry system for the biennium or may
30 defer action until the regular annual review and revision of ferry
31 charges as provided in subsection (2) of this section.

32 (5) ~~((The provisions of RCW 47.60.330 relating to public~~
33 ~~participation shall apply to the process of revising ferry tolls under~~
34 ~~this section.))~~ Before a revision in the schedule of ferry tolls or
35 charges, the department shall consult with affected ferry users.

36 **Sec. 40.** RCW 47.60.440 and 1999 c 94 s 28 are each amended to read
37 as follows:

1 The Washington state ferry system shall be efficiently managed,
2 operated, and maintained as a revenue-producing undertaking. Subject
3 to the provisions of RCW 47.60.326 the ((~~commission~~)) Washington state
4 ferries department shall maintain and revise from time to time as
5 necessary a schedule of tolls and charges on said ferry system with
6 other moneys deposited in the Puget Sound ferry operations account for
7 maintenance and operation ((~~and~~)). All moneys in the Puget Sound
8 capital construction account available for debt service will produce
9 net revenue available for debt service, in each fiscal year, in an
10 amount at least equal to minimum annual debt service requirements as
11 hereinafter provided. Minimum annual debt service requirements as used
12 in this section shall include required payments of principal and
13 interest, sinking fund requirements, and payments into reserves on all
14 outstanding revenue bonds authorized by RCW 47.60.400 through
15 47.60.470.

16 The provisions of law relating to the revision of tolls and charges
17 to meet minimum annual debt service requirements from net revenues as
18 required by this section shall be binding upon the ((~~commission~~))
19 department but shall not be deemed to constitute a contract to that
20 effect for the benefit of the holders of such bonds.

21 **Sec. 41.** RCW 47.60.450 and 1986 c 66 s 7 are each amended to read
22 as follows:

23 If the net revenue together with all moneys in the Puget Sound
24 capital construction account available for debt service in any fiscal
25 year fail to meet minimum annual debt service for the year, as defined
26 in RCW 47.60.440, the ((~~commission~~)) governor shall promptly revise the
27 tolls and charges after considering supporting data and recommendations
28 therefor which shall be furnished by a nationally recognized traffic
29 engineering firm retained by the ((~~commission~~)) governor in the manner
30 provided in the bond proceedings.

31 Tolls and charges shall not be increased in any case when in the
32 opinion of the engineering firm the increase would so reduce traffic
33 that no net gain in revenue would result. This section is a covenant
34 for the benefit of the holders of the bonds.

35 **Sec. 42.** RCW 47.60.505 and 1986 c 66 s 9 are each amended to read
36 as follows:

1 There is hereby created in the motor vehicle fund the Puget Sound
2 capital construction account. All moneys hereafter deposited in said
3 account shall be used by the Washington state ferries department (~~of~~
4 ~~transportation~~) for:

5 (1) Reimbursing the motor vehicle fund for all transfers therefrom
6 made in accordance with RCW 47.60.620; and

7 (2) Improving the Washington state ferry system including, but not
8 limited to, vessel acquisition, vessel construction, major and minor
9 vessel improvements, terminal construction and improvements, (~~and~~
10 ~~reconstruction or replacement of, and improvements to, the Hood Canal~~
11 ~~bridge, reimbursement of the motor vehicle fund for any state funds,~~
12 ~~other than insurance proceeds, expended therefrom for reconstruction or~~
13 ~~replacement of and improvements to the Hood Canal bridge,~~) pursuant to
14 proper appropriations(~~(: PROVIDED, That)~~). Any funds accruing to the
15 Puget Sound capital construction account after June 30, 1979, which are
16 not required to reimburse the motor vehicle fund pursuant to RCW
17 47.60.620 as such obligations come due nor are required for capital
18 improvements of the Washington state ferries pursuant to appropriations
19 therefor shall from time to time as shall be determined by the
20 Washington state ferries department (~~of transportation~~) be
21 transferred by the state treasurer to the Puget Sound ferry operations
22 account in the motor vehicle fund.

23 (3) The department may pledge any moneys in the Puget Sound capital
24 construction account or to be deposited in that account to guarantee
25 the payment of principal or interest on bonds issued to refund the
26 outstanding 1955 Washington state ferry system refunding bonds (~~and~~
27 ~~the 1957 ferry and Hood Canal bridge revenue bonds~~).

28 The department may further pledge moneys in the Puget Sound capital
29 construction account to meet any sinking fund requirements or reserves
30 established by the department with respect to any bond issues provided
31 for in this section.

32 To the extent of any pledge authorized in this section, the
33 department shall use the first moneys available in the Puget Sound
34 capital construction account to meet such obligations as they arise,
35 and shall maintain a balance of not less than one million dollars in
36 the account for this purpose.

37 (4) The treasurer shall never transfer any moneys from the Puget
38 Sound capital construction account for use by the department for state
39 highway purposes so long as there is due and unpaid any obligations for

1 payment of principal, interest, sinking funds, or reserves as required
2 by any pledge of the Puget Sound capital construction account.
3 Whenever the department has pledged any moneys in the account for the
4 purposes authorized in this section, the state agrees to continue to
5 deposit in the Puget Sound capital construction account the motor
6 vehicle fuel taxes and special fuel taxes as provided in RCW 82.36.020
7 and 82.38.290 and further agrees that, so long as there exists any
8 outstanding obligations pursuant to such pledge, to continue to impose
9 such taxes.

10 (5) Funds in the Puget Sound capital construction account of the
11 motor vehicle fund that are not required by the department for payment
12 of principal or interest on bond issues or for any of the other
13 purposes authorized in this chapter may be invested by the department
14 in bonds and obligations of the nature eligible for the investment of
15 current state funds as provided in RCW 43.84.080.

16 **Sec. 43.** RCW 47.60.530 and 1979 c 27 s 4 are each amended to read
17 as follows:

18 There is hereby created in the motor vehicle fund the Puget Sound
19 ferry operations account to the credit of which shall be deposited all
20 moneys directed by law to be deposited therein. All moneys deposited
21 in this account shall be expended pursuant to appropriations only for
22 ~~((reimbursement of the motor vehicle fund for any state moneys, other
23 than insurance proceeds, expended therefrom for alternate
24 transportation services instituted as a result of the destruction of
25 the Hood Canal bridge, and for))~~ maintenance and operation of the
26 Washington state ferries ~~((including the Hood Canal bridge)),~~
27 supplementing as required the revenues available from the Washington
28 state ferry system.

29 **Sec. 44.** RCW 47.60.760 and 1983 c 133 s 9 are each amended to read
30 as follows:

31 The Washington state ferries department ~~((of transportation shall))~~
32 may not be required to make available for public inspection and copying
33 financial information supplied by any person, firm, or corporation for
34 the purpose of qualifying to submit a bid or proposal for a ferry
35 system construction or repair contract as required by RCW 47.60.680
36 through 47.60.750.

1 **Sec. 45.** RCW 47.64.120 and 1997 c 436 s 1 are each amended to read
2 as follows:

3 (1) Ferry system management and ferry system employee
4 organizations, through their collective bargaining representatives,
5 shall meet at reasonable times, to negotiate in good faith with respect
6 to wages, hours, working conditions, insurance, and health care
7 benefits as limited by RCW 47.64.270, and other matters mutually agreed
8 upon. Employer funded retirement benefits shall be provided under the
9 public employees retirement system under chapter 41.40 RCW and shall
10 not be included in the scope of collective bargaining. If the
11 legislature enacts an across-the-board salary increase granted
12 automatically to all state employees including ferry system employees,
13 ferry system employees may not bargain for salary increases in addition
14 to the amount granted by the legislature.

15 (2) Upon ratification of bargaining agreements, ferry employees are
16 entitled to an amount equivalent to the interest earned on retroactive
17 compensation increases. For purposes of this section, the interest
18 earned on retroactive compensation increases is the same monthly rate
19 of interest that was earned on the amount of the compensation increases
20 while held in the state treasury. The interest will be computed for
21 each employee until the date the retroactive compensation is paid, and
22 must be allocated in accordance with appropriation authority. The
23 interest earned on retroactive compensation is not considered part of
24 the ongoing compensation obligation of the state and is not
25 compensation earnable for the purposes of chapter 41.40 RCW.
26 Negotiations shall also include grievance procedures for resolving any
27 questions arising under the agreement, which shall be embodied in a
28 written agreement and signed by the parties.

29 NEW SECTION. **Sec. 46.** The following acts or parts of acts are
30 each repealed:

- 31 (1) RCW 47.60.330 (Public participation) and 1983 c 15 s 26; and
32 (2) RCW 47.64.290 (Toll bridge employees subject to civil service)
33 and 1984 c 48 s 2.

34 NEW SECTION. **Sec. 47.** Sections 1 through 10 and 13 through 18 of
35 this act constitute a new chapter in Title 47 RCW.

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