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SENATE BILL 5163

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State of Washington                      57th Legislature                      2001 Regular Session

By Senators Benton, Johnson, Finkbeiner, Hale and West

Read first time 01/12/2001. Referred to Committee on Transportation.

1            AN ACT Relating to the ten-mile restriction on ferry crossings; and  
2 amending RCW 47.60.120 and 81.84.020.

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

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

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

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

1       (3) (~~The Washington utilities and transportation commission may,~~  
2 ~~upon written petition of a commercial ferry operator certificated or~~  
3 ~~applying for certification under chapter 81.84 RCW, and upon notice and~~  
4 ~~hearing, grant a waiver from the ten mile restriction. The waiver must~~  
5 ~~not be detrimental to the public interest. In making a decision to~~  
6 ~~waive the ten mile restriction, the commission shall consider, but is~~  
7 ~~not limited to, the impact of the waiver on transportation congestion~~  
8 ~~mitigation, air quality improvement, and the overall impact on the~~  
9 ~~Washington state ferry system. The commission shall act upon a request~~  
10 ~~for a waiver within ninety days after the conclusion of the hearing.~~  
11 ~~A waiver is effective for a period of five years from the date of~~  
12 ~~issuance. At the end of five years the waiver becomes permanent unless~~  
13 ~~appealed within thirty days by the commission on its own motion, the~~  
14 ~~department, or an interested party.~~

15       (4)) The department shall not maintain and operate any ((~~ferry~~  
16 ~~crossing or~~) toll bridge over Puget Sound or any of its tributary or  
17 connecting waters that would infringe upon any franchise lawfully  
18 issued by the state and in existence and being exercised at the time of  
19 the ((~~location of the ferry crossing or~~) construction of the toll  
20 bridge by the department, without first acquiring the rights granted to  
21 such franchise holder under the franchise.

22       **Sec. 2.** RCW 81.84.020 and 1993 c 427 s 3 are each amended to read  
23 as follows:

24       (1) Upon the filing of an application the commission shall give  
25 reasonable notice to the department, affected cities and counties, and  
26 any common carrier which might be adversely affected, of the time and  
27 place for hearing on such application. The commission shall have power  
28 after hearing, to issue the certificate as prayed for, or to refuse to  
29 issue it, or to issue it for the partial exercise only of the privilege  
30 sought, and may attach to the exercise of the rights granted by said  
31 certificate such terms and conditions as in its judgment the public  
32 convenience and necessity may require; but the commission shall not  
33 have power to grant a certificate to operate between districts and/or  
34 into any territory ((~~prohibited by RCW 47.60.120 or~~) already served by  
35 an existing certificate holder, unless such existing certificate holder  
36 has failed or refused to furnish reasonable and adequate service or has  
37 failed to provide the service described in its certificate or tariffs  
38 after the time period allowed to initiate service has elapsed:

1 PROVIDED, A certificate shall be granted when it shall appear to the  
2 satisfaction of the commission that the commercial ferry was actually  
3 operating in good faith over the route for which such certificate shall  
4 be sought, on January 15, 1927: PROVIDED, FURTHER, That in case two or  
5 more commercial ferries shall upon said date have been operating  
6 vessels upon the same route, or between the same districts the  
7 commission shall determine after public hearing whether one or more  
8 certificates shall issue, and in determining to whom a certificate or  
9 certificates shall be issued, the commission shall consider all  
10 material facts and circumstances including the prior operation,  
11 schedules, and services rendered by either of the ferries, and in case  
12 more than one certificate shall issue, the commission shall fix and  
13 determine the schedules and services of the ferries to which the  
14 certificates are issued to the end that duplication of service be  
15 eliminated and public convenience be furthered.

16 (2) Before issuing a certificate, the commission shall determine  
17 that the applicant has the financial resources to operate the proposed  
18 service for at least twelve months, based upon the submission by the  
19 applicant of a pro forma financial statement of operations. Issuance  
20 of a certificate shall be determined upon, but not limited to, the  
21 following factors: Ridership and revenue forecasts; the cost of  
22 service for the proposed operation; an estimate of the cost of the  
23 assets to be used in providing the service; a statement of the total  
24 assets on hand of the applicant that will be expended on the proposed  
25 operation; and a statement of prior experience, if any, in such field  
26 by the applicant. The documentation required of the applicant under  
27 this section shall comply with the provisions of RCW 9A.72.085.

28 (3) Subsection (2) of this section does not apply to an application  
29 for a certificate that is pending as of July 25, 1993.

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