
SENATE BILL 5740

State of Washington

57th Legislature

2001 Regular Session

By Senators Oke, Haugen, Winsley, Horn, McDonald and Rasmussen; by request of The Blue Ribbon Commission on Transportation

Read first time 02/01/2001. Referred to Committee on Transportation.

1 AN ACT Relating to removing barriers to transportation services
2 provided by the private sector; and amending RCW 36.57A.100, 47.60.120,
3 81.84.020, and 47.64.090.

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

5 **Sec. 1.** RCW 36.57A.100 and 1977 ex.s. c 44 s 4 are each amended to
6 read as follows:

7 ~~((Except in accordance with an agreement made as provided in this~~
8 ~~section or in accordance with the provisions of RCW 36.57A.090(3) as~~
9 ~~now or hereafter amended, upon the effective date on which the public~~
10 ~~transportation benefit area commences to perform the public~~
11 ~~transportation service, no)) A person or private corporation ((shall))
12 may operate a local public passenger transportation service within
13 ((the)) a public transportation benefit area ((with the exception of
14 taxis, buses owned or operated by a school district or private school,
15 and buses owned or operated by any corporation or organization solely
16 for the purposes of the corporation or organization and for the use of
17 which no fee or fare is charged.~~

18 An agreement may be entered into between the public transportation
19 benefit area authority and any person or corporation legally operating

1 a local public passenger transportation service wholly within or partly
2 within and partly without the public transportation benefit area and on
3 said effective date under which such person or corporation may continue
4 to operate such service or any part thereof for such time and upon such
5 terms and conditions as provided in such agreement. Such agreement
6 shall provide for a periodic review of the terms and conditions
7 contained therein. Where any such local public passenger
8 transportation service will be required to cease to operate within the
9 public transportation benefit area, the public transportation benefit
10 area authority may agree with the owner of such service to purchase the
11 assets used in providing such service, or if no agreement can be
12 reached, the public transportation benefit area authority shall condemn
13 such assets in the manner and by the same procedure as is or may be
14 provided by law for the condemnation of other properties for cities of
15 the first class, except insofar as such laws may be inconsistent with
16 the provisions of this chapter)).

17 Wherever a privately owned public carrier operates wholly or partly
18 within a public transportation benefit area, the Washington utilities
19 and transportation commission shall continue to exercise jurisdiction
20 over such operation as provided by law.

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

23 (1) If the department acquires or constructs, maintains, and
24 operates any ((ferry crossings upon or)) toll bridges over Puget Sound
25 or any of its tributary or connecting waters, there shall not be
26 constructed, operated, or maintained any other ((ferry crossing upon
27 or)) bridge over any such waters within ten miles of any such crossing
28 or bridge operated or maintained by the department excepting such
29 bridges ((or ferry crossings)) in existence, and being operated and
30 maintained under a lawfully issued franchise at the time of the
31 ((location of the ferry crossing or)) construction of the toll bridge
32 by the department.

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

37 (3) ((The Washington utilities and transportation commission may,
38 upon written petition of a commercial ferry operator certificated or

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

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

20 **Sec. 3.** RCW 81.84.020 and 1993 c 427 s 3 are each amended to read
21 as follows:

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

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

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

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

28 **Sec. 4.** RCW 47.64.090 and 1983 c 15 s 27 are each amended to read
29 as follows:

30 If any party assumes the operation and maintenance of any ferry or
31 ferry system by rent, lease, or charter from the department of
32 transportation, such party shall not assume ~~((and))~~ nor be bound by
33 ~~((all the provisions herein and any))~~ this chapter. An agreement or
34 contract for such operation of any ferry or ferry system entered into
35 by the department ~~((shall))~~ may provide that the wages to be paid,
36 hours of employment, working conditions, and seniority rights of
37 employees will ~~((be established by the marine employees' commission in
38 accordance with the terms and provisions of))~~ differ from agreements or

1 contracts covered by this chapter ((~~and it shall further provide that~~
2 ~~all labor disputes shall be adjudicated in accordance with chapter~~
3 ~~47.64 RCW~~)).

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