

SSB 5974 - H COMM AMD
By Committee on Transportation

ADOPTED 04/16/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 47.60.135 and 1997 c 323 s 2 are each amended to read
4 as follows:

5 (1) The charter use of Washington State Ferry vessels when
6 established route operations and normal user requirements are not
7 disrupted is permissible. In establishing chartering agreements,
8 Washington State Ferries shall consider the special needs of local
9 communities and interested parties. Washington State Ferries shall use
10 sound business judgment and be sensitive to the interests of existing
11 private enterprises.

12 (2) Consistent with the policy as established in subsection (1) of
13 this section, the (~~general manager~~) chief executive officer of the
14 Washington State Ferries may approve agreements for the chartering of
15 Washington State Ferry vessels to groups or individuals, including
16 hazardous material transporters, in accordance with the following:

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

23 (b) Charter rates for vessels must be established at actual vessel
24 operating costs plus (~~fifty percent of such actual costs rounded to~~
25 ~~the nearest fifty dollars~~) a market-rate profit margin. Actual vessel
26 operating costs include, but are not limited to, all labor, fuel, and
27 vessel maintenance costs incurred due to the charter agreement,
28 including deadheading and standby.

29 (~~Recognizing the need for stabilized charter rates in order to~~
30 ~~encourage use of vessels, rates must be established and revised July~~

1 ~~1st of each year and must remain fixed for a one year period unless~~
2 ~~actual vessel operating costs increase five percent or more within that~~
3 ~~year, in which case the charter rates must be revised in accordance~~
4 ~~with (b) of this subsection.~~

5 ~~(d) All charter agreements must be in writing and substantially in~~
6 ~~the form of (c) of this subsection and available, with calculations,~~
7 ~~for inspection by the legislature and the public.~~

8 ~~(e)) Parties chartering Washington State Ferry vessels shall~~
9 ~~comply with all applicable laws, rules, and regulations during the~~
10 ~~charter voyage, and failure to so comply is cause for immediate~~
11 ~~termination of the charter voyage.~~

12 ((~~"CHARTER CRUISE AGREEMENT~~

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

17 ~~1. WSF agrees to supply the vessel (subject to change)~~
18 ~~for the use of the Lessee from the period from to~~
19 ~~on (date).~~

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

23 ~~3. The voyage will originate at, and the route of travel~~
24 ~~during the voyage will be as follows:~~
25 ~~_____~~

26 ~~4. The charge for the above voyage is dollars (\$)~~
27 ~~plus a property damage deposit of \$350 for a total price of \$,~~
28 ~~to be paid by cashier's check three working days before the date of the~~
29 ~~voyage at the offices of the WSF at Seattle Ferry Terminal, Pier 52,~~
30 ~~Seattle, Washington 98104. The Lessee remains responsible for property~~
31 ~~damage in excess of \$350.~~

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

1 ~~6. Other than for hazardous materials transport, the voyage~~
2 ~~activities must be conducted exclusively on the passenger decks of the~~
3 ~~assigned ferry. Voyage patrons will not be permitted to enter the~~
4 ~~pilot house or the engine room, nor shall the vehicle decks be used for~~
5 ~~any purpose other than loading or unloading of voyage patrons or~~
6 ~~hazardous materials.~~

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

16 ~~8. WSF is not obligated to provide shoreside parking for the~~
17 ~~vehicles belonging to voyage patrons.~~

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

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

32 ~~11. This writing is the full agreement between the parties.~~

33 ~~..... WASHINGTON STATE FERRIES~~
34 ~~Lessee~~

1 By: By:

2 General Manager"))

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

5 (1) The department is empowered to operate such ferry system,
6 including all operations, whether intrastate or international, upon any
7 route or routes, and toll bridges as a revenue-producing and self-
8 liquidating undertaking. The department has full charge of the
9 construction, rehabilitation, rebuilding, enlarging, improving,
10 operation, and maintenance of the ferry system, including toll bridges,
11 approaches, and roadways incidental thereto that may be authorized by
12 the department, including the collection of tolls and other charges for
13 the services and facilities of the undertaking. The department has the
14 exclusive right to enter into leases and contracts for use and
15 occupancy by other parties of the concessions and space located on the
16 ferries, wharves, docks, approaches, parking lots, and landings,
17 including the selling of commercial advertising space and licenses to
18 use the Washington State Ferries trademarks, but, except as provided in
19 subsection (2) of this section, no such leases or contracts may be
20 entered into for more than ten years, nor without a competitive
21 contract process, except as otherwise provided in this section. The
22 competitive process shall be either an invitation for bids in
23 accordance with the process established by chapter 43.19 RCW, or a
24 request for proposals in accordance with the process established by RCW
25 47.56.030. All revenues from commercial advertising, concessions,
26 parking, leases, and contracts must be deposited in the Puget Sound
27 ferry operations account in accordance with RCW 47.60.150.

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

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

6 (3) The department shall include in the strategic planning and
7 performance assessment process, as required by RCW 43.88.090, an
8 analysis of the compatibility of public and private partnerships with
9 the state ferry system's core business, and the department's efforts to
10 maximize nonfarebox revenues and provide benefit to the public users of
11 the ferry system facilities. The department shall include an
12 assessment of the need for an open solicitation to identify and select
13 possible public or private partnerships in order to maximize the value
14 of projects and the state's investment in current and future ferry
15 system operations.

16 (a) When the department determines that an open solicitation is
17 necessary, a request for proposal shall be released, consisting of an
18 open solicitation outlining functional specifications to be used as the
19 basis for selecting partnerships in the project.

20 (b) Any responses to the request for proposal shall be evaluated,
21 at a minimum, on the basis of compatibility with the state ferry
22 system's core business, potential to maximize nonfarebox revenue,
23 longevity of the possible partnership commitment, and benefit to the
24 public users of the ferry system facilities.

25 (c) If no responses are received, or those that are received are
26 incompatible with ferry system operations, or do not meet the criteria
27 stated in (b) of this subsection, the state ferry system may proceed
28 with state ferry system operating strategies designed to achieve state
29 ferry system objectives without established partnerships.

30 **Sec. 3.** RCW 47.60.150 and 1999 c 94 s 26 are each amended to read
31 as follows:

32 Subject to the provisions of RCW 47.60.326, the schedule of charges
33 for the services and facilities of the system shall be fixed and
34 revised from time to time by the commission so that the tolls and other
35 revenues deposited in the Puget Sound ferry operations account for
36 maintenance and operation, and all moneys in the Puget Sound capital

1 construction account available for debt service will yield annual
2 revenue and income sufficient, after allowance for all operating,
3 maintenance, and repair expenses to pay the interest and principal and
4 sinking fund charges for all outstanding revenue bonds, and to create
5 and maintain a fund for ordinary renewals and replacements: PROVIDED,
6 That if provision is made by any resolution for the issuance of revenue
7 bonds for the creation and maintenance of a special fund for
8 rehabilitating, rebuilding, enlarging, or improving all or any part of
9 the ferry system then such schedule of tolls and rates of charges shall
10 be fixed and revised so that the revenue and income will also be
11 sufficient to comply with such provision.

12 All income and revenues as collected by the ferry system from any
13 source shall be paid to the state treasurer for the account of the
14 department and deposited into the Puget Sound ferry operations account.
15 Nothing in this section requires tolls on the Hood Canal bridge except
16 as may be required by any bond covenants.

17 **Sec. 4.** RCW 47.60.326 and 2001 1st sp.s. c 1 s 1 are each amended
18 to read as follows:

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

23 (2) Prior to February 1st of each odd-numbered year the department
24 shall transmit to the transportation commission a report of its review
25 together with its recommendations for the revision of a schedule of
26 charges for the ensuing biennium. The commission on or before July 1st
27 of that year shall adopt as a rule, in the manner provided by the
28 Washington administrative procedure act, a schedule of charges for the
29 Washington state ferries for the ensuing biennium commencing July 1st.
30 The schedule may initially be adopted as an emergency rule if necessary
31 to take effect on, or as near as possible to, July 1st.

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

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

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

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

5 (d) The efficient distribution of traffic between cross-sound
6 routes;

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

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

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

13 (h) The estimated revenues that are projected to be earned by the
14 ferry system from commercial advertisements, parking, contracts,
15 leases, and other sources;

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

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

35 (6) Under RCW 43.135.055, the transportation commission may
36 increase ferry tolls included in the schedule of charges adopted under
37 this section by a percentage that exceeds the fiscal growth factor.

1 (7) Notwithstanding the provisions of this section and chapter
2 81.28 RCW, and using sound business judgment, the chief executive
3 officer of the ferry system may authorize the use of promotional,
4 discounted, and special event fares to the general public and
5 commercial enterprises for the purpose of maximizing capacity use and
6 the revenues collected by the ferry system. The department shall
7 report to the transportation commission a summary of the promotional,
8 discounted, and special event fares offered during each fiscal year and
9 the financial results from these activities.

10 **Sec. 5.** RCW 47.60.330 and 1983 c 15 s 26 are each amended to read
11 as follows:

12 (1) Before a substantial expansion or curtailment in the level of
13 service provided to ferry users, or a revision in the schedule of ferry
14 tolls or charges, the department of transportation shall consult with
15 affected ferry users. The consultation shall be: (a) By public
16 hearing in affected local communities; (b) by review with the affected
17 ferry advisory committees pursuant to RCW 47.60.310; (c) by conducting
18 a survey of affected ferry users; or (d) by any combination of (a)
19 through (c). Promotional, discount, and special event fares that are
20 not part of the published schedule of ferry charges or tolls are
21 exempt. The department shall report an accounting of all exempt
22 revenues to the transportation commission each fiscal year.

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

30 (3) Before increasing ferry tolls the department of transportation
31 shall consider all possible cost reductions with full public
32 participation as provided in subsection (1) of this section and,
33 consistent with public policy, shall consider adapting service levels
34 equitably on a route-by-route basis to reflect trends in and forecasts
35 of traffic usage. Forecasts of traffic levels shall be developed by
36 the bond covenant traffic engineering firm appointed under the

1 provisions of RCW 47.60.450. Provisions of this section shall not
2 alter obligations under RCW 47.60.450. Before including any toll
3 increase in a budget proposal by the commission, the department of
4 transportation shall consult with affected ferry users in the manner
5 prescribed in (1)(b) of this section plus the procedure of either (1)
6 (a) or (c) of this section."

7 Correct the title.

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