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HOUSE BILL 1388

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State of Washington

58th Legislature

2003 Regular Session

By Representatives Woods, Ericksen, Ahern, Schindler, Jarrett, Bush, Shabro, Anderson, Bailey, Talcott, Clements, Chandler, Mielke, Boldt, Newhouse, Schoesler, Nixon, Pearson, Pflug and McMahan

Read first time 01/24/2003. Referred to Committee on Transportation.

1 AN ACT Relating to incentives to increase transportation revenues  
2 by reforming laws limiting the provision of passenger-only ferry  
3 service; amending RCW 47.60.120 and 47.64.090; and creating a new  
4 section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the Washington  
7 state department of transportation should focus on its core ferry  
8 mission of moving automobiles on Washington state's marine highways.  
9 The legislature finds that current statutes impose barriers to entities  
10 other than the state operating passenger-only ferries. The legislature  
11 intends to lift those barriers to allow entities other than the state  
12 to provide passenger-only ferry service. The legislature finds that  
13 the provision of this service and the improvement in the mobility of  
14 the citizens of Washington state is legally adequate consideration for  
15 the use of state facilities in conjunction with the provision of the  
16 service, and the legislature finds that allowing the operators of  
17 passenger-only ferries to use state facilities on the basis of legally  
18 adequate consideration does not evince donative intent on the part of  
19 the legislature.

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

3       (1) If the department acquires or constructs, maintains, and  
4 operates any ferry crossings upon or toll bridges over Puget Sound or  
5 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 excepting such bridges  
9 or ferry crossings in existence, and being operated and maintained  
10 under a lawfully issued franchise at the time of the location of the  
11 ferry crossing or construction of the toll bridge by the department.

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

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

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

37       (5) This section does not apply to operators of passenger-only  
38 ferry service.

1       **Sec. 3.** RCW 47.64.090 and 1983 c 15 s 27 are each amended to read  
2 as follows:

3       (1) If any party assumes the operation and maintenance of any ferry  
4 or ferry system by rent, lease, or charter from the department of  
5 transportation, such party shall assume and be bound by all the  
6 provisions herein and any agreement or contract for such operation of  
7 any ferry or ferry system entered into by the department shall provide  
8 that the wages to be paid, hours of employment, working conditions and  
9 seniority rights of employees will be established by the marine  
10 employees' commission in accordance with the terms and provisions of  
11 this chapter and it shall further provide that all labor disputes shall  
12 be adjudicated in accordance with chapter 47.64 RCW.

13       (2) The department of transportation shall make its terminal, dock,  
14 and pier space available to operators of passenger-only ferries if the  
15 space can be made available without limiting the operation of car  
16 ferries operated by the department. The department may not charge any  
17 lease, rent, or fee in excess of amounts necessary to be deemed legally  
18 adequate.

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