
HOUSE BILL 1853

State of Washington 58th Legislature 2003 Regular Session

By Representatives Rockefeller, Woods, Haigh, Morris, Quall and Lantz

Read first time 02/12/2003. Referred to Committee on Transportation.

1 AN ACT Relating to improvement of passenger ferry service; amending
2 RCW 47.60.120, 47.64.090, and 81.104.140; adding new sections to
3 chapter 36.57A RCW; adding a new section to chapter 47.52 RCW; adding
4 a new section to chapter 81.104 RCW; creating new sections; providing
5 an effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that
8 passenger-only ferry service is a key element to the state's
9 transportation system and that it is in the interest of the state to
10 make provision for such services. The legislature further finds that
11 diminished state transportation resources require that local
12 authorities be authorized to develop, operate, and fund needed
13 services.

14 It is the intent of the legislature that the state provide for a
15 transition from state-provided to local service and that the department
16 of transportation provide resources to assist in this effort.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.57A RCW
18 to read as follows:

1 PTBA AUTHORIZATION FOR PASSENGER-ONLY FERRIES. A public
2 transportation benefit area, having a boundary located on Puget Sound,
3 may implement a passenger ferry service. The benefit area must develop
4 a passenger ferry investment plan including elements to operate or
5 contract for the operation of passenger ferry services, purchase,
6 lease, or rental of ferry vessels and dock facilities, and identify
7 other activities necessary to implement the plan. The plan must set
8 forth routes to be served, projected costs of providing services, and
9 revenues to be generated from tolls, locally collected tax revenues,
10 and other revenue sources. The benefit area may use any of its powers
11 to carry out this purpose, unless otherwise prohibited by law.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.57A RCW
13 to read as follows:

14 TAXES, FEES, AND TOLLS. (1) A public transportation benefit area
15 may, as part of a passenger ferry investment plan, recommend some or
16 all of the following revenue sources as provided in this chapter:

17 (a) Those taxes authorized for high-capacity transportation in
18 chapter 81.104 RCW;

19 (b) Tolls for passengers and packages and, where applicable,
20 parking; and

21 (c) Charges or licensing fees for advertising, leasing space for
22 services to ferry passengers, and other activities.

23 (2) Taxes may not be imposed without an affirmative vote of the
24 majority of the voters within the boundaries of the area voting on a
25 single ballot proposition to both approve a passenger ferry investment
26 plan and to approve taxes to implement the plan. Revenues from these
27 taxes and fees may be used only to implement the plan. A district may
28 contract with the state department of revenue or other appropriate
29 entities for administration and collection of any of the taxes or
30 charges authorized in this section.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 47.52 RCW
32 to read as follows:

33 CONVEYANCE OF FERRY VESSELS. The department of transportation may
34 enter into contracts with public transportation benefit areas meeting
35 the requirements of section 2 of this act to convey passenger ferry
36 vessels and other properties associated with passenger-only ferry

1 service that serve to provide passenger ferry service, as full or part
2 consideration for the benefit area assuming all future maintenance and
3 operation obligations and costs required to maintain and operate the
4 vessel and facilities. The conveyances must provide that the vessels
5 or properties revert to the department if the vessels are not used for
6 providing passenger ferry service or if they are not maintained in
7 accordance with standards previously agreed upon by the department and
8 the benefit area.

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

11 TEN-MILE RULE EXEMPTION. (1) If the department acquires or
12 constructs, maintains, and operates any ferry crossings upon or toll
13 bridges over Puget Sound or any of its tributary or connecting waters,
14 there shall not be constructed, operated, or maintained any other ferry
15 crossing upon or bridge over any such waters within ten miles of any
16 such crossing or bridge operated or maintained by the department
17 excepting such bridges or ferry crossings in existence, and being
18 operated and maintained under a lawfully issued franchise at the time
19 of the location of the ferry crossing or construction of the toll
20 bridge by the department.

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

25 (3) The Washington utilities and transportation commission may,
26 upon written petition of a commercial ferry operator certificated or
27 applying for certification under chapter 81.84 RCW, and upon notice and
28 hearing, grant a waiver from the ten-mile restriction. The waiver must
29 not be detrimental to the public interest. In making a decision to
30 waive the ten-mile restriction, the commission shall consider, but is
31 not limited to, the impact of the waiver on transportation congestion
32 mitigation, air quality improvement, and the overall impact on the
33 Washington state ferry system. The commission shall act upon a request
34 for a waiver within ninety days after the conclusion of the hearing.
35 A waiver is effective for a period of five years from the date of
36 issuance. At the end of five years the waiver becomes permanent unless

1 appealed within thirty days by the commission on its own motion, the
2 department, or an interested party.

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

10 (5) This section does not apply to the operation of passenger-only
11 ferry service operated by public transportation benefit areas meeting
12 the requirements of section 2 of this act.

13 **Sec. 6.** RCW 47.64.090 and 1983 c 15 s 27 are each amended to read
14 as follows:

15 USE OF STATE FERRY FACILITIES. (1) Except as provided in
16 subsection (2) of this section, if any party assumes the operation and
17 maintenance of any ferry or ferry system by rent, lease, or charter
18 from the department of transportation, such party shall assume and be
19 bound by all the provisions herein and any agreement or contract for
20 such operation of any ferry or ferry system entered into by the
21 department shall provide that the wages to be paid, hours of
22 employment, working conditions, and seniority rights of employees will
23 be established by the marine employees' commission in accordance with
24 the terms and provisions of this chapter and it shall further provide
25 that all labor disputes shall be adjudicated in accordance with chapter
26 47.64 RCW.

27 (2) If a public transportation benefit area meeting the
28 requirements of section 2 of this act has voter approval to operate
29 passenger-only ferry service, it may enter into an agreement with
30 Washington State Ferries to rent or lease terminal space for purposes
31 of loading and unloading the passenger-only ferry. A benefit area that
32 qualifies under this subsection is not subject to the restrictions of
33 subsection (1) of this section, but is subject to the terms of those
34 agreements and contracts that it negotiates with affected labor groups.

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 81.104 RCW
36 to read as follows:

1 PASSENGER-ONLY FERRIES AS HIGH-CAPACITY TRANSIT. (1) A public
2 transportation benefit area, having a boundary located on Puget Sound,
3 and meeting the requirements of section 2 of this act may implement
4 high-capacity transportation systems to operate passenger-only ferry
5 service. This includes responsibility for system implementation and
6 may include contracts and agreements to operate passenger-only ferry
7 service and may include public-private partnerships and design-build
8 purchasing methods.

9 (2) For the purposes of this chapter, high-capacity transportation
10 system includes passenger-only ferry service.

11 (3) The requirements of RCW 81.104.100 and 81.104.110 do not apply
12 to the public transportation benefit areas operating under this
13 section. However, those agencies must comply with the requirements of
14 section 2 of this act.

15 **Sec. 8.** RCW 81.104.140 and 2002 c 56 s 202 are each amended to
16 read as follows:

17 PTBA PASSENGER-ONLY FERRY--HIGH-CAPACITY TRANSIT TAX AUTHORIZATION.

18 (1) Agencies authorized to provide high capacity transportation
19 service, including transit agencies and regional transit authorities,
20 and regional transportation investment districts acting with the
21 agreement of an agency, are hereby granted dedicated funding sources
22 for such systems. These dedicated funding sources, as set forth in RCW
23 81.104.150, 81.104.160, and 81.104.170, are authorized only for
24 agencies located in (a) each county with a population of two hundred
25 ten thousand or more (~~and~~), (b) each county with a population of from
26 one hundred twenty-five thousand to less than two hundred ten thousand
27 except for those counties that do not border a county with a population
28 as described under (a) of this subsection, and (c) for the purposes of
29 implementing passenger-only ferry service, public transportation
30 benefit areas whose boundaries are on Puget Sound. In any county with
31 a population of one million or more or in any county having a
32 population of four hundred thousand or more bordering a county with a
33 population of one million or more, these funding sources may be imposed
34 only by a regional transit authority or a regional transportation
35 investment district. Regional transportation investment districts may,
36 with the approval of the regional transit authority within its

1 boundaries, impose the taxes authorized under this chapter, but only
2 upon approval of the voters and to the extent that the maximum amount
3 of taxes authorized under this chapter have not been imposed.

4 (2) Agencies planning to construct and operate a high capacity
5 transportation system should also seek other funds, including federal,
6 state, local, and private sector assistance.

7 (3) Funding sources should satisfy each of the following criteria
8 to the greatest extent possible:

- 9 (a) Acceptability;
10 (b) Ease of administration;
11 (c) Equity;
12 (d) Implementation feasibility;
13 (e) Revenue reliability; and
14 (f) Revenue yield.

15 (4) Agencies participating in regional high capacity transportation
16 system development are authorized to levy and collect the following
17 voter-approved local option funding sources:

- 18 (a) Employer tax as provided in RCW 81.104.150, other than by
19 regional transportation investment districts;
20 (b) Special motor vehicle excise tax as provided in RCW 81.104.160;
21 and
22 (c) Sales and use tax as provided in RCW 81.104.170.

23 Revenues from these taxes may be used only to support those
24 purposes prescribed in subsection (10) of this section. Before the
25 date of an election authorizing an agency to impose any of the taxes
26 enumerated in this section and authorized in RCW 81.104.150,
27 81.104.160, and 81.104.170, the agency must comply with the process
28 prescribed in RCW 81.104.100 (1) and (2) and 81.104.110. No
29 construction on exclusive right of way may occur before the
30 requirements of RCW 81.104.100(3) are met.

31 (5) Authorization in subsection (4) of this section shall not
32 adversely affect the funding authority of transit agencies not provided
33 for in this chapter. Local option funds may be used to support
34 implementation of interlocal agreements with respect to the
35 establishment of regional high capacity transportation service. Except
36 when a regional transit authority exists, local jurisdictions shall
37 retain control over moneys generated within their boundaries, although

1 funds may be commingled with those generated in other areas for
2 planning, construction, and operation of high capacity transportation
3 systems as set forth in the agreements.

4 (6) Agencies planning to construct and operate high capacity
5 transportation systems may contract with the state for collection and
6 transference of voter-approved local option revenue.

7 (7) Dedicated high capacity transportation funding sources
8 authorized in RCW 81.104.150, 81.104.160, and 81.104.170 shall be
9 subject to voter approval by a simple majority. A single ballot
10 proposition may seek approval for one or more of the authorized taxing
11 sources. The ballot title shall reference the document identified in
12 subsection (8) of this section.

13 (8) Agencies shall provide to the registered voters in the area a
14 document describing the systems plan and the financing plan set forth
15 in RCW 81.104.100. It shall also describe the relationship of the
16 system to regional issues such as development density at station
17 locations and activity centers, and the interrelationship of the system
18 to adopted land use and transportation demand management goals within
19 the region. This document shall be provided to the voters at least
20 twenty days prior to the date of the election.

21 (9) For any election in which voter approval is sought for a high
22 capacity transportation system plan and financing plan pursuant to RCW
23 81.104.040, a local voter's pamphlet shall be produced as provided in
24 chapter 29.81A RCW.

25 (10) Agencies providing high capacity transportation service shall
26 retain responsibility for revenue encumbrance, disbursement, and
27 bonding. Funds may be used for any purpose relating to planning,
28 construction, and operation of high capacity transportation systems and
29 commuter rail systems, personal rapid transit, busways, bus sets, and
30 entrained and linked buses.

31 NEW SECTION. **Sec. 9.** CAPTIONS NOT LAW. Captions used in this act
32 are not part of the law.

33 NEW SECTION. **Sec. 10.** SEVERABILITY. If any provision of this act
34 or its application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 July 1, 2003.

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