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ENGROSSED SUBSTITUTE SENATE BILL 5850

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State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Highways & Transportation (originally sponsored by Senators Oke, B. Sheldon, T. Sheldon, Poulsen, Kohl-Welles and McAuliffe)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to the provision of passenger ferry service;  
2 amending RCW 47.60.120, 47.64.090, and 82.14.050; adding new sections  
3 to chapter 36.57A RCW; adding a new section to chapter 47.52 RCW;  
4 adding a new section to chapter 82.80 RCW; adding a new section to  
5 chapter 82.14 RCW; adding a new section to chapter 36.54 RCW; creating  
6 new sections; providing an effective date; and declaring an emergency.

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

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

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

1       It is the intent of the legislature to encourage interlocal  
2 agreements to ensure passenger-only ferry service is maintained on  
3 routes that the Washington state ferry system eliminates.

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

6       PTBA AUTHORIZATION FOR PASSENGER-ONLY FERRIES. A public  
7 transportation benefit area having a boundary located on Puget Sound  
8 may implement a passenger ferry service. For the purposes of this  
9 chapter and sections 7, 8, and 10 of this act, Puget Sound is  
10 considered as extending north as far as the Canadian border and west as  
11 far as Port Angeles. The benefit area must develop a passenger ferry  
12 investment plan including elements to operate or contract for the  
13 operation of passenger ferry services, purchase, lease, or rental of  
14 ferry vessels and dock facilities for the provision of transit service,  
15 and identify other activities necessary to implement the plan. The  
16 plan must set forth terminal locations to be served, projected costs of  
17 providing services, and revenues to be generated from tolls, locally  
18 collected tax revenues, and other revenue sources. The benefit area  
19 may use any of its powers to carry out this purpose, unless otherwise  
20 prohibited by law. In addition, the public transportation benefit area  
21 may enter into contracts and agreements to operate passenger-only ferry  
22 service and public-private partnerships and design-build, general  
23 contractor/construction management, or other alternative procurement  
24 process substantially consistent with chapter 39.10 RCW.

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

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

30       (a) A motor vehicle excise tax, as provided in section 7 of this  
31 act;

32       (b) A sales and use tax, as provided in section 8 of this act;

33       (c) Tolls for passengers and packages and, where applicable,  
34 parking; and

35       (d) Charges or licensing fees for advertising, leasing space for  
36 services to ferry passengers, and other revenue-generating activities.

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

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

11 CONVEYANCE OF FERRY VESSELS. The department of transportation may  
12 enter into contracts with public transportation benefit areas meeting  
13 the requirements of section 2 of this act and ferry districts created  
14 under section 10 of this act to convey passenger ferry vessels and  
15 other properties associated with passenger-only ferry service that  
16 serve to provide passenger ferry service, as full or part consideration  
17 for the benefit area or ferry district assuming all future maintenance  
18 and operation obligations and costs required to maintain and operate  
19 the vessel and facilities. The conveyances must provide that the  
20 vessels or properties revert to the department if the vessels are not  
21 used for providing passenger ferry service.

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

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

34 (2) The ten-mile distance in subsection (1) of this section means  
35 ten statute miles measured by airline distance. The ten-mile

1 restriction shall be applied by comparing the two end points (termini)  
2 of a state ferry crossing to those of a private ferry crossing.

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

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

24 (5) This section does not apply to the operation of passenger-only  
25 ferry service operated by public transportation benefit areas meeting  
26 the requirements of section 2 of this act or by ferry districts created  
27 under section 10 of this act.

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

30 USE OF STATE FERRY FACILITIES. (1) Except as provided in section  
31 4 of this act and subsection (2) of this section, if any party assumes  
32 the operation and maintenance of any ferry or ferry system by rent,  
33 lease, or charter from the department of transportation, such party  
34 shall assume and be bound by all the provisions herein and any  
35 agreement or contract for such operation of any ferry or ferry system  
36 entered into by the department shall provide that the wages to be paid,  
37 hours of employment, working conditions, and seniority rights of

1 employees will be established by the marine employees' commission in  
2 accordance with the terms and provisions of this chapter and it shall  
3 further provide that all labor disputes shall be adjudicated in  
4 accordance with chapter 47.64 RCW.

5 (2) If a public transportation benefit area meeting the  
6 requirements of section 2 of this act or a ferry district created under  
7 section 10 of this act has voter approval to operate passenger-only  
8 ferry service, it may enter into an agreement with Washington State  
9 Ferries to rent, lease, or purchase passenger-only vessels, related  
10 equipment, or terminal space for purposes of loading and unloading the  
11 passenger-only ferry. A benefit area or ferry district or  
12 subcontractor of that benefit area or ferry district that qualifies  
13 under this subsection is not subject to the restrictions of subsection  
14 (1) of this section, but is subject to the terms of those agreements  
15 and contracts that it or its subcontractor negotiates with its labor  
16 groups. These labor contracts will be conducted in accordance with the  
17 provisions of the public employment relations commission, as provided  
18 for in chapter 41.58 RCW, or the National Labor Relations Act, as  
19 appropriate.

20 NEW SECTION. Sec. 7. A new section is added to chapter 82.80 RCW  
21 to read as follows:

22 MOTOR VEHICLE EXCISE TAX AUTHORIZED. (1) Public transportation  
23 benefit areas authorized to implement passenger ferry service under  
24 section 2 of this act whose boundaries (a) are on the Puget Sound, but  
25 (b) do not include an area where a regional transit authority has been  
26 formed, may submit an authorizing proposition to the voters and, if  
27 approved, may levy and collect an excise tax, at a rate approved by the  
28 voters, but not exceeding eighty one-hundredths of one percent on the  
29 value, under chapter 82.44 RCW, of every motor vehicle owned by a  
30 resident of the taxing district, solely for the purpose of providing  
31 passenger ferry service. The tax may be collected only at the time of  
32 vehicle license renewal under chapter 46.16 RCW. The tax will be  
33 imposed on vehicles previously registered in another state or nation  
34 when they are initially registered in this state. In a county imposing  
35 a motor vehicle excise tax surcharge under RCW 81.100.060, the maximum  
36 tax rate under this section must be reduced to a rate equal to eighty  
37 one-hundredths of one percent on the value less the equivalent motor

1 vehicle excise tax rate of the surcharge imposed under RCW 81.100.060.  
2 This rate does not apply to vehicles licensed under RCW 46.16.070 with  
3 an unladen weight more than six thousand pounds, or to vehicles  
4 licensed under RCW 46.16.079, 46.16.085, or 46.16.090.

5 (2) The department of licensing shall administer and collect the  
6 tax. The department shall deduct a percentage amount, as provided by  
7 contract, not to exceed two percent of the taxes collected, for  
8 administration and collection expenses incurred by it. The remaining  
9 proceeds must be remitted to the custody of the state treasurer for  
10 monthly distribution to the public transportation benefit area.

11 (3) The public transportation benefit area imposing this tax shall  
12 delay the effective date at least six months from the date the fee is  
13 approved by the qualified voters of the authority area to allow the  
14 department of licensing to implement administration and collection of  
15 the tax.

16 (4) Before an authority may impose a tax authorized under this  
17 section, the authorization for imposition of the tax must be approved  
18 by a majority of the qualified electors of the authority area voting on  
19 that issue.

20 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.14 RCW  
21 to read as follows:

22 SALES AND USE TAX AUTHORIZATION. Public transportation benefit  
23 areas providing passenger ferry service as provided in section 2 of  
24 this act whose boundaries (1) are on the Puget Sound, but (2) do not  
25 include an area where a regional transit authority has been formed, may  
26 submit an authorizing proposition to the voters and, if approved by a  
27 majority of persons voting, fix and impose a sales and use tax in  
28 accordance with the terms of this chapter, solely for the purpose of  
29 providing passenger ferry service.

30 The tax authorized by this section is in addition to the tax  
31 authorized by RCW 82.14.030 and must be collected from those persons  
32 who are taxable by the state under chapters 82.08 and 82.12 RCW upon  
33 the occurrence of a taxable event within the taxing district. The  
34 maximum rate of the tax must be approved by the voters and may not  
35 exceed one percent of the selling price in the case of a sales tax or  
36 value of the article used in the case of a use tax. The maximum rate  
37 of the tax that may be imposed may not exceed nine-tenths of one

1 percent in a county that imposes a tax under RCW 82.14.340. The  
2 exemptions in RCW 82.08.820 and 82.12.820 are for the state portion of  
3 the sales and use tax and do not extend to the tax authorized in this  
4 section.

5 **Sec. 9.** RCW 82.14.050 and 2002 c 56 s 406 are each amended to read  
6 as follows:

7 ADMINISTRATION AND COLLECTION--LOCAL SALES AND USE TAX ACCOUNT.

8 The counties, cities, and transportation authorities under RCW  
9 82.14.045, public facilities districts under chapters 36.100 and 35.57  
10 RCW, public transportation benefit areas under section 8 of this act,  
11 and regional transportation investment districts shall contract, prior  
12 to the effective date of a resolution or ordinance imposing a sales and  
13 use tax, the administration and collection to the state department of  
14 revenue, which shall deduct a percentage amount, as provided by  
15 contract, not to exceed two percent of the taxes collected for  
16 administration and collection expenses incurred by the department. The  
17 remainder of any portion of any tax authorized by this chapter that is  
18 collected by the department of revenue shall be deposited by the state  
19 department of revenue in the local sales and use tax account hereby  
20 created in the state treasury. Moneys in the local sales and use tax  
21 account may be spent only for distribution to counties, cities,  
22 transportation authorities, public facilities districts, public  
23 transportation benefit areas, and regional transportation investment  
24 districts imposing a sales and use tax. All administrative provisions  
25 in chapters 82.03, 82.08, 82.12, and 82.32 RCW, as they now exist or  
26 may hereafter be amended, shall, insofar as they are applicable to  
27 state sales and use taxes, be applicable to taxes imposed pursuant to  
28 this chapter. Except as provided in RCW 43.08.190, all earnings of  
29 investments of balances in the local sales and use tax account shall be  
30 credited to the local sales and use tax account and distributed to the  
31 counties, cities, transportation authorities, public facilities  
32 districts, public transportation benefit areas, and regional  
33 transportation investment districts monthly.

34 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.54 RCW  
35 to read as follows:

36 (1) The establishment of a ferry district to provide passenger

1 ferry service is authorized for areas bordering the Puget Sound.  
2 Written application for the formation of such a district signed by at  
3 least twenty-five percent of the registered voters who reside in the  
4 proposed district, must be filed with the county legislative authority.  
5 The authority shall immediately transmit the application to the proper  
6 registrar of voters for the proposed district who shall check the  
7 names, residence, and registration of the signers with the records of  
8 the office and shall, as soon as possible, certify to the county  
9 legislative authority the number of qualified signers. If the  
10 requisite number of signers is so certified, the authority shall place  
11 the proposition, "Shall a ferry district be established in the  
12 following area to operate ferries between the following termini:  
13 (describing the proposed district and ferry routes)?" upon the ballot  
14 for a vote of the people of the proposed district at the next election,  
15 general or special. If sixty percent of the voters on the proposition  
16 vote in favor of the proposition, the authority shall, by resolution,  
17 declare the district established. If the requisite number of qualified  
18 persons have not signed the application, further signatures may be  
19 added and certified until the requisite number have signed and the  
20 procedure set forth in this subsection then followed.

21 (2) When established, a ferry district is a municipality as defined  
22 by the statutes of the state and is entitled to all the powers  
23 conferred by law and exercised by municipal corporations in this state.  
24 A ferry district may levy a property tax in an amount not to exceed one  
25 dollar and twenty-five cents per thousand dollars of assessed value  
26 against the assessed valuation of the property lying within the  
27 district.

28 (3) A ferry district has the right of eminent domain according to  
29 the laws of the state.

30 (4) A ferry district may operate any vessel over its authorized  
31 routes upon any of the waters of the state that touch any of the area  
32 of the district.

33 NEW SECTION. **Sec. 11.** CAPTIONS NOT LAW. Captions used in this  
34 act are not part of the law.

35 NEW SECTION. **Sec. 12.** SEVERABILITY. If any provision of this act



1 or its application to any person or circumstance is held invalid, the  
2 remainder of the act or the application of the provision to other  
3 persons or circumstances is not affected.

4 NEW SECTION. **Sec. 13.** This act is necessary for the immediate  
5 preservation of the public peace, health, or safety, or support of the  
6 state government and its existing public institutions, and takes effect  
7 July 1, 2003.

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