
SUBSTITUTE SENATE BILL 5974

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Highways & Transportation (originally sponsored by Senators Benton, Haugen, Horn and Oke)

READ FIRST TIME 03/10/03.

1 AN ACT Relating to the exercise of sound business practices to
2 enhance revenues for Washington State Ferries; and amending RCW
3 47.60.135, 47.60.140, 47.60.150, 47.60.326, and 47.60.330.

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

5 **Sec. 1.** RCW 47.60.135 and 1997 c 323 s 2 are each amended to read
6 as follows:

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

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

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

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

13 ~~((Recognizing the need for stabilized charter rates in order to
14 encourage use of vessels, rates must be established and revised July
15 1st of each year and must remain fixed for a one year period unless
16 actual vessel operating costs increase five percent or more within that
17 year, in which case the charter rates must be revised in accordance
18 with (b) of this subsection.~~

19 ~~(d) All charter agreements must be in writing and substantially in
20 the form of (e) of this subsection and available, with calculations,
21 for inspection by the legislature and the public.~~

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

26 ~~(("CHARTER CRUISE AGREEMENT~~

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

31 ~~1. WSF agrees to supply the vessel (subject to change)
32 for the use of the Lessee from the period from to
33 on (date).~~

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

1 ~~such a cancellation, WSF agrees to refund the entire amount of the~~
2 ~~charter fee to the Lessee.~~

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

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

10 ~~..... WASHINGTON STATE FERRIES~~
11 ~~Lessee~~

12 By:..... By:.....
13 (General Manager"))

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

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

1 47.56.030. All revenues from commercial advertising, concessions,
2 parking, leases, and contracts must be deposited in the Puget Sound
3 ferry operations account in accordance with RCW 47.60.150.

4 (2) As part of a joint development agreement under which a public
5 or private developer constructs or installs improvements on ferry
6 system property, the department may lease all or part of such property
7 and improvements to such developers for that period of time, not to
8 exceed fifty-five years, or not to exceed thirty years for those areas
9 located within harbor areas, which the department determines is
10 necessary to allow the developer to make reasonable recovery on its
11 initial investment. Any lease entered into as provided for in this
12 subsection that involves state aquatic lands shall conform with the
13 Washington state Constitution and applicable statutory requirements as
14 determined by the department of natural resources. That portion of the
15 lease rate attributable to the state aquatic lands shall be distributed
16 in the same manner as other lease revenues derived from state aquatic
17 lands as provided in RCW 79.24.580.

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

20 Subject to the provisions of RCW 47.60.326, the schedule of charges
21 for the services and facilities of the system shall be fixed and
22 revised from time to time by the commission so that the tolls and other
23 revenues deposited in the Puget Sound ferry operations account for
24 maintenance and operation, and all moneys in the Puget Sound capital
25 construction account available for debt service will yield annual
26 revenue and income sufficient, after allowance for all operating,
27 maintenance, and repair expenses to pay the interest and principal and
28 sinking fund charges for all outstanding revenue bonds, and to create
29 and maintain a fund for ordinary renewals and replacements: PROVIDED,
30 That if provision is made by any resolution for the issuance of revenue
31 bonds for the creation and maintenance of a special fund for
32 rehabilitating, rebuilding, enlarging, or improving all or any part of
33 the ferry system then such schedule of tolls and rates of charges shall
34 be fixed and revised so that the revenue and income will also be
35 sufficient to comply with such provision.

36 All income and revenues as collected by the ferry system from any
37 source shall be paid to the state treasurer for the account of the

1 department and deposited into the Puget Sound ferry operations account.
2 Nothing in this section requires tolls on the Hood Canal bridge except
3 as may be required by any bond covenants.

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

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

10 (2) Prior to February 1st of each odd-numbered year the department
11 shall transmit to the transportation commission a report of its review
12 together with its recommendations for the revision of a schedule of
13 charges for the ensuing biennium. The commission on or before July 1st
14 of that year shall adopt as a rule, in the manner provided by the
15 Washington administrative procedure act, a schedule of charges for the
16 Washington state ferries for the ensuing biennium commencing July 1st.
17 The schedule may initially be adopted as an emergency rule if necessary
18 to take effect on, or as near as possible to, July 1st.

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

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

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

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

28 (d) The efficient distribution of traffic between cross-sound
29 routes;

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

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

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

36 (h) The estimated revenues that are projected to be earned by the

1 ferry system from commercial advertisements, parking, contracts,
2 leases, and other sources;

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

5 (4) If at any time during the biennium it appears that projected
6 revenues from the Puget Sound ferry operations account and any other
7 operating subsidy available to the Washington state ferries will be
8 less than the projected total cost of maintenance and operation of the
9 Washington state ferries for the biennium, the department shall
10 forthwith undertake a review of its schedule of charges to ascertain
11 whether or not the schedule of charges should be revised. The
12 department shall, upon completion of its review report, submit its
13 recommendation to the transportation commission which may in its sound
14 discretion revise the schedule of charges as required to meet necessary
15 maintenance and operation expenditures of the ferry system for the
16 biennium or may defer action until the regular annual review and
17 revision of ferry charges as provided in subsection (2) of this
18 section.

19 (5) The provisions of RCW 47.60.330 relating to public
20 participation shall apply to the process of revising ferry tolls under
21 this section.

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

25 (7) Notwithstanding the provisions of this section and chapter
26 81.28 RCW, and using sound business judgment, the chief executive
27 officer of the ferry system may authorize the use of promotional,
28 discounted, and special event fares to the general public and
29 commercial enterprises for the purpose of maximizing capacity use and
30 the revenues collected by the ferry system. The department shall
31 report to the transportation commission a summary of the promotional,
32 discounted, and special event fares offered during each fiscal year and
33 the financial results from these activities.

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

36 (1) Before a substantial expansion or curtailment in the level of
37 service provided to ferry users, or a revision in the schedule of ferry

1 tolls or charges, the department of transportation shall consult with
2 affected ferry users. The consultation shall be: (a) By public
3 hearing in affected local communities; (b) by review with the affected
4 ferry advisory committees pursuant to RCW 47.60.310; (c) by conducting
5 a survey of affected ferry users; or (d) by any combination of (a)
6 through (c). Promotional, discount, and special event fares that are
7 not part of the published schedule of ferry charges or tolls are
8 exempt. The department shall report an accounting of all exempt
9 revenues to the transportation commission each fiscal year.

10 (2) There is created a ferry system productivity council consisting
11 of a representative of each ferry advisory committee empanelled under
12 RCW 47.60.310, elected by the members thereof, and two representatives
13 of employees of the ferry system appointed by mutual agreement of all
14 of the unions representing ferry employees, which shall meet from time
15 to time with ferry system management to discuss means of improving
16 ferry system productivity.

17 (3) Before increasing ferry tolls the department of transportation
18 shall consider all possible cost reductions with full public
19 participation as provided in subsection (1) of this section and,
20 consistent with public policy, shall consider adapting service levels
21 equitably on a route-by-route basis to reflect trends in and forecasts
22 of traffic usage. Forecasts of traffic levels shall be developed by
23 the bond covenant traffic engineering firm appointed under the
24 provisions of RCW 47.60.450. Provisions of this section shall not
25 alter obligations under RCW 47.60.450. Before including any toll
26 increase in a budget proposal by the commission, the department of
27 transportation shall consult with affected ferry users in the manner
28 prescribed in (1)(b) of this section plus the procedure of either (1)
29 (a) or (c) of this section.

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