

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2358

60th Legislature
2007 Regular Session

Passed by the House April 20, 2007
Yeas 93 Nays 5

Speaker of the House of Representatives

Passed by the Senate April 20, 2007
Yeas 47 Nays 1

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2358** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2358

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Transportation (originally sponsored by Representatives Rolfes, Strow, Appleton, Seaquist, VanDeWege, Lantz, Flannigan, Roberts, Cody, Green, Eickmeyer, Jarrett and Kessler)

READ FIRST TIME 3/5/07.

1 AN ACT Relating to state ferries; amending RCW 47.06.140,
2 47.60.290, and 47.60.330; adding new sections to chapter 47.60 RCW;
3 creating a new section; repealing RCW 47.60.150 and 47.60.326; and
4 providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds from the 2006
7 Washington state ferries financing study that the state has limited
8 information on state ferry users and markets. Accurate user and market
9 information is vital in order to find ways to maximize the ferry
10 systems' current capacity and to make the most efficient use of
11 citizens' tax dollars. Therefore, it is the intent of the legislature
12 that Washington state ferries be given the tools necessary to maximize
13 the utilization of existing capacity and to make the most efficient use
14 of existing assets and tax dollars. Furthermore, it is the intent of
15 the legislature that the department of transportation adopt adaptive
16 management practices in its operating and capital programs so as to
17 keep the costs of the Washington state ferries system as low as
18 possible while continuously improving the quality and timeliness of
19 service.

1 **Sec. 2.** RCW 47.06.140 and 1998 c 171 s 7 are each amended to read
2 as follows:

3 (1) The legislature declares the following transportation
4 facilities and services to be of statewide significance: The
5 interstate highway system, interregional state principal arterials
6 including ferry connections that serve statewide travel, intercity
7 passenger rail services, intercity high-speed ground transportation,
8 major passenger intermodal terminals excluding all airport facilities
9 and services, the freight railroad system, the Columbia/Snake navigable
10 river system, marine port facilities and services that are related
11 solely to marine activities affecting international and interstate
12 trade, and high-capacity transportation systems serving regions as
13 defined in RCW 81.104.015. The department, in cooperation with
14 regional transportation planning organizations, counties, cities,
15 transit agencies, public ports, private railroad operators, and private
16 transportation providers, as appropriate, shall plan for improvements
17 to transportation facilities and services of statewide significance in
18 the statewide multimodal plan. Improvements to facilities and services
19 of statewide significance identified in the statewide multimodal plan
20 are essential state public facilities under RCW 36.70A.200.

21 (2) The department of transportation, in consultation with local
22 governments, shall set level of service standards for state highways
23 and state ferry routes of statewide significance. Although the
24 department shall consult with local governments when setting level of
25 service standards, the department retains authority to make final
26 decisions regarding level of service standards for state highways and
27 state ferry routes of statewide significance. In establishing level of
28 service standards for state highways and state ferry routes of
29 statewide significance, the department shall consider the necessary
30 balance between providing for the free interjurisdictional movement of
31 people and goods and the needs of local communities using these
32 facilities. When setting the level of service standards under this
33 section for state ferry routes, the department may allow for a standard
34 that is adjustable for seasonality.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 47.60 RCW
36 to read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Adaptive management" means a systematic process for
4 continually improving management policies and practices by learning
5 from the outcomes of operational programs.

6 (2) "Capital plan" means the state ferry system plan developed by
7 the department as described in RCW 47.06.050(2) and adopted by the
8 commission.

9 (3) "Capital project" has the same meaning as used in budget
10 instructions developed by the office of financial management.

11 (4) "Commission" means the transportation commission created in RCW
12 47.01.051.

13 (5) "Improvement project" has the same meaning as in the budget
14 instructions developed by the office of financial management. If the
15 budget instructions do not define improvement project, then it has the
16 same meaning as "program project" in the budget instructions. If a
17 project meets both the improvement project and preservation project
18 definitions in this section it must be defined as an improvement
19 project. New vessel acquisitions must be defined as improvement
20 projects.

21 (6) "Life-cycle cost model" means that portion of a capital asset
22 inventory system which, among other things, is used to estimate future
23 preservation needs.

24 (7) "Maintenance cost" has the same meaning as used in budget
25 instructions developed by the office of financial management.

26 (8) "Preservation project" has the same meaning as used in budget
27 instructions developed by the office of financial management.

28 (9) "Route" means all ferry sailings from one location to another,
29 such as the Seattle to Bainbridge route or the Port Townsend to
30 Keystone route.

31 (10) "Sailing" means an individual ferry sailing for a specific
32 route, such as the 5:00 p.m. sailing from Seattle to Bremerton.

33 (11) "Travel shed" means one or more ferry routes with distinct
34 characteristics as determined by the department.

35 NEW SECTION. **Sec. 4.** A new section is added to chapter 47.60 RCW
36 to read as follows:

37 (1) The commission shall, with the involvement of the department,

1 conduct a survey to gather data on ferry users to help inform level of
2 service, operational, pricing, planning, and investment decisions. The
3 survey must include, but is not limited to:

- 4 (a) Recreational use;
- 5 (b) Walk-on customer use;
- 6 (c) Vehicle customer use;
- 7 (d) Freight and goods movement demand; and
- 8 (e) Reactions to potential operational strategies and pricing
9 policies described under section 7 of this act and RCW 47.60.290.

10 (2) The commission shall develop the survey after providing an
11 opportunity for ferry advisory committees to offer input.

12 (3) The survey must be updated at least every two years and
13 maintained to support the development and implementation of adaptive
14 management of ferry services.

15 **Sec. 5.** RCW 47.60.290 and 1983 c 3 s 136 are each amended to read
16 as follows:

17 ~~((Subject to the provisions of RCW 47.60.326,))~~ (1) The department
18 ~~((is hereby authorized and directed to))~~ shall annually review
19 ~~((tariffs and charges as))~~ fares and pricing policies applicable to the
20 operation of the Washington state ferries ~~((for the purpose of~~
21 ~~establishing a more fair and equitable tariff to be charged passengers,~~
22 ~~vehicles, and commodities on the routes of the Washington state~~
23 ~~ferries)).~~

24 (2) Beginning in 2008, the department shall develop fare and
25 pricing policy proposals that must:

26 (a) Recognize that each travel shed is unique, and might not have
27 the same farebox recovery rate and the same pricing policies;

28 (b) Use data from the current survey conducted under section 4 of
29 this act;

30 (c) Be developed with input from affected ferry users by public
31 hearing and by review with the affected ferry advisory committees, in
32 addition to the data gathered from the survey conducted in section 4 of
33 this act;

34 (d) Generate the amount of revenue required by the biennial
35 transportation budget;

36 (e) Consider the impacts on users, capacity, and local communities;
37 and

1 (f) Keep fare schedules as simple as possible.

2 (3) While developing fare and pricing policy proposals, the
3 department must consider the following:

4 (a) Options for using pricing to level vehicle peak demand; and

5 (b) Options for using pricing to increase off-peak ridership.

6 NEW SECTION. Sec. 6. A new section is added to chapter 47.60 RCW
7 to read as follows:

8 (1) The commission shall adopt fares and pricing policies by rule,
9 under chapter 34.05 RCW, according to the following schedule:

10 (a) Each year the department shall provide the commission a report
11 of its review of fares and pricing policies, with recommendations for
12 the revision of fares and pricing policies for the ensuing year;

13 (b) By September 1st of each year, beginning in 2008, the
14 commission shall adopt by rule fares and pricing policies for the
15 ensuing year.

16 (2) The commission may adopt by rule fares that are effective for
17 more or less than one year for the purposes of transitioning to the
18 fare schedule in subsection (1) of this section.

19 (3) The commission may increase ferry fares included in the
20 schedule of charges adopted under this section by a percentage that
21 exceeds the fiscal growth factor.

22 (4) The chief executive officer of the ferry system may authorize
23 the use of promotional, discounted, and special event fares to the
24 general public and commercial enterprises for the purpose of maximizing
25 capacity use and the revenues collected by the ferry system. The
26 department shall report to the commission a summary of the promotional,
27 discounted, and special event fares offered during each fiscal year and
28 the financial results from these activities.

29 (5) Fare revenues and other revenues deposited in the Puget Sound
30 ferry operations account created in RCW 47.60.530 may not be used to
31 support the Puget Sound capital construction account created in RCW
32 47.60.505, unless the support for capital is separately identified in
33 the fare.

34 (6) The commission may not raise fares until the fare rules contain
35 pricing policies developed under section 5 of this act, or September 1,
36 2009, whichever is later.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 47.60 RCW
2 to read as follows:

3 (1) The department shall develop, and the commission shall review,
4 operational strategies to ensure that existing assets are fully
5 utilized and to guide future investment decisions. These operational
6 strategies must, at a minimum:

7 (a) Recognize that each travel shed is unique and might not have
8 the same operational strategies;

9 (b) Use data from the current survey conducted under section 4 of
10 this act;

11 (c) Be consistent with vehicle level of service standards;

12 (d) Choose the most efficient balance of capital and operating
13 investments by using a life-cycle cost analysis; and

14 (e) Use methods of collecting fares that maximize efficiency and
15 achieve revenue management control.

16 (2) After the commission reviews recommendations by the department,
17 the commission and department shall make joint recommendations to the
18 legislature for the improvement of operational strategies.

19 (3) In developing operational strategies, the following, at a
20 minimum, must be considered:

21 (a) The feasibility of using reservation systems;

22 (b) Methods of shifting vehicular traffic to other modes of
23 transportation;

24 (c) Methods of improving on-dock operations to maximize efficiency
25 and minimize operating and capital costs;

26 (d) A cost-benefit analysis of remote holding versus over-water
27 holding;

28 (e) Methods of reorganizing holding areas and minimizing on-dock
29 employee parking to maximize the dock size available for customer
30 vehicles;

31 (f) Schedule modifications;

32 (g) Efficiencies in exit queuing and metering;

33 (h) Interoperability with other transportation services;

34 (i) Options for leveling vehicle peak demand; and

35 (j) Options for increasing off-peak ridership.

36 (4) Operational strategies must be reevaluated periodically and, at
37 a minimum, before developing a new capital plan.

1 **Sec. 8.** RCW 47.60.330 and 2003 c 374 s 5 are each amended to read
2 as follows:

3 (1) Before a substantial change to the service levels provided to
4 ferry users, the department shall consult with affected ferry users by
5 public hearing and by review with the affected ferry advisory
6 committees.

7 ~~(2) Before ((a substantial expansion or curtailment in the level of~~
8 ~~service provided to ferry users, or a revision in the schedule of ferry~~
9 ~~tolls or charges)) adding or eliminating a ferry route, the department~~
10 ~~((of transportation)) shall consult with affected ferry users and~~
11 ~~receive legislative approval. ((The consultation shall be: (a) By~~
12 ~~public hearing in affected local communities; (b) by review with the~~
13 ~~affected ferry advisory committees pursuant to RCW 47.60.310; (c) by~~
14 ~~conducting a survey of affected ferry users; or (d) by any combination~~
15 ~~of (a) through (c).)~~

16 ~~Promotional, discount, and special event fares that are not part of~~
17 ~~the published schedule of ferry charges or tolls are exempt. The~~
18 ~~department shall report an accounting of all exempt revenues to the~~
19 ~~transportation commission each fiscal year.~~

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

27 ~~(3) Before increasing ferry tolls the department of transportation~~
28 ~~shall consider all possible cost reductions with full public~~
29 ~~participation as provided in subsection (1) of this section and,~~
30 ~~consistent with public policy, shall consider adapting service levels~~
31 ~~equitably on a route by route basis to reflect trends in and forecasts~~
32 ~~of traffic usage. Forecasts of traffic levels shall be developed by~~
33 ~~the bond covenant traffic engineering firm appointed under the~~
34 ~~provisions of RCW 47.60.450. Provisions of this section shall not~~
35 ~~alter obligations under RCW 47.60.450. Before including any toll~~
36 ~~increase in a budget proposal by the commission, the department of~~
37 ~~transportation shall consult with affected ferry users in the manner~~

1 ~~prescribed in (1)(b) of this section plus the procedure of either~~
2 ~~(1)(a) or (c) of this section.)~~

3 NEW SECTION. **Sec. 9.** A new section is added to chapter 47.60 RCW
4 to read as follows:

5 (1) Appropriations made for the Washington state ferries capital
6 program may not be used for maintenance costs.

7 (2) Appropriations made for preservation projects shall be spent
8 only on preservation and only when warranted by asset condition, and
9 shall not be spent on master plans, right-of-way acquisition, or other
10 nonpreservation items.

11 (3) Systemwide and administrative capital program costs shall be
12 allocated to specific capital projects using a cost allocation plan
13 developed by the department. Systemwide and administrative capital
14 program costs shall be identifiable.

15 NEW SECTION. **Sec. 10.** A new section is added to chapter 47.60 RCW
16 to read as follows:

17 (1) The department shall maintain a life-cycle cost model on
18 capital assets such that:

19 (a) Available industry standards are used for estimating the life
20 of an asset, and department-adopted standard life cycles derived from
21 the experience of similar public and private entities are used when
22 industry standards are not available;

23 (b) Standard estimated life is adjusted for asset condition when
24 inspections are made;

25 (c) It does not include utilities or other systems that are not
26 replaced on a standard life cycle; and

27 (d) It does not include assets not yet built.

28 (2) All assets in the life-cycle cost model must be inspected and
29 updated in the life-cycle cost model for asset condition at least every
30 three years.

31 (3) The life-cycle cost model shall be used when estimating future
32 system preservation needs.

33 NEW SECTION. **Sec. 11.** A new section is added to chapter 47.60 RCW
34 to read as follows:

1 (1) Preservation funding requests shall only be for assets in the
2 life-cycle cost model.

3 (2) Preservation funding requests that exceed five million dollars
4 per project must be accompanied by a predesign study. The predesign
5 study must include all elements required by the office of financial
6 management.

7 NEW SECTION. **Sec. 12.** A new section is added to chapter 47.60 RCW
8 to read as follows:

9 The department shall develop terminal design standards that:

10 (1) Adhere to vehicle level of service standards as described in
11 RCW 47.06.140;

12 (2) Adhere to operational strategies as described in section 7 of
13 this act; and

14 (3) Choose the most efficient balance between capital and operating
15 investments by using a life-cycle cost analysis.

16 NEW SECTION. **Sec. 13.** A new section is added to chapter 47.60 RCW
17 to read as follows:

18 The capital plan must adhere to the following:

19 (1) A current ridership demand forecast;

20 (2) Vehicle level of service standards as described in RCW
21 47.06.140;

22 (3) Operational strategies as described in section 7 of this act;
23 and

24 (4) Terminal design standards as described in section 12 of this
25 act.

26 NEW SECTION. **Sec. 14.** A new section is added to chapter 47.60 RCW
27 to read as follows:

28 (1) Terminal improvement project funding requests must adhere to
29 the capital plan.

30 (2) Requests for terminal improvement design and construction
31 funding must be submitted with a predesign study that:

32 (a) Includes all elements required by the office of financial
33 management;

34 (b) Separately identifies basic terminal elements essential for
35 operation and their costs;

1 (c) Separately identifies additional elements to provide ancillary
2 revenue and customer comfort and their costs;

3 (d) Includes construction phasing options that are consistent with
4 forecasted ridership increases;

5 (e) Separately identifies additional elements requested by local
6 governments and the cost and proposed funding source of those elements;

7 (f) Separately identifies multimodal elements and the cost and
8 proposed funding source of those elements; and

9 (g) Identifies all contingency amounts.

10 NEW SECTION. **Sec. 15.** A new section is added to chapter 47.60 RCW
11 to read as follows:

12 (1) The joint legislative audit and review committee shall assess
13 and report as follows:

14 (a) Audit the implementation of the cost allocation methodology
15 evaluated under chapter . . . (Engrossed Substitute House Bill No.
16 1094), Laws of 2007, as it exists on the effective date of this
17 section, assessing whether actual costs are allocated consistently with
18 the methodology, whether there are sufficient internal controls to
19 ensure proper allocation, and the adequacy of staff training; and

20 (b) Review the assignment of preservation costs and improvement
21 costs for fiscal year 2009 to determine whether:

22 (i) The costs are capital costs;

23 (ii) The costs meet the statutory requirements for preservation
24 activities and for improvement activities; and

25 (iii) Improvement costs are within the scope of legislative
26 appropriations.

27 (2) The report on the evaluations in this section is due by January
28 31, 2010.

29 (3) This section expires December 31, 2010.

30 NEW SECTION. **Sec. 16.** The following acts or parts of acts are
31 each repealed:

32 (1) RCW 47.60.150 (Fixing of charges--Deposit of revenues) and 2003
33 c 374 s 3, 1999 c 94 s 26, & 1990 c 42 s 405; and

34 (2) RCW 47.60.326 (Schedule of charges for state ferries--Review by
35 department, factors considered--Rule making by commission) and 2005 c

1 270 s 1, 2003 c 374 s 4, 2001 1st sp.s. c 1 s 1, 1999 c 94 s 27, 1990
2 c 42 s 406, 1983 c 15 s 25, & 1981 c 344 s 5.

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