
HOUSE BILL 2230

State of Washington 61st Legislature 2009 Regular Session

By Representatives Angel, Seaquist, Finn, Nelson, Dammeier, Walsh, Anderson, Bailey, and Smith

Read first time 02/17/09. Referred to Committee on Transportation.

1 AN ACT Relating to changing the name of the Washington state
2 ferries to the Washington state marine highway system; amending RCW
3 47.60.015, 47.04.250, 47.56.030, 47.56.032, 47.56.860, 47.60.135,
4 47.60.140, 47.60.145, 47.60.170, 47.60.290, 47.60.310, 47.60.335,
5 47.60.500, 47.60.505, 47.60.530, 47.60.560, 47.60.649, 47.60.680,
6 47.60.800, 47.60.814, 47.61.010, 49.46.010, and 82.70.010; and creating
7 a new section.

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

9 **Sec. 1.** RCW 47.60.015 and 1984 c 7 s 297 are each amended to read
10 as follows:

11 The department is authorized to operate its ferry system under the
12 name: "Washington State (~~Ferries~~) Marine Highway System."

13 NEW SECTION. **Sec. 2.** By January 1, 2010, the department of
14 transportation must change all public materials and references used by
15 the department in the operation of the ferry system to reflect the name
16 change in this act.

1 **Sec. 3.** RCW 47.04.250 and 2002 c 355 s 1 are each amended to read
2 as follows:

3 (1) For the purposes of this section only, "assault" means an act
4 by a motorist that results in physical injury to an employee of the
5 department while engaged in highway construction or maintenance
6 activities along a roadway right-of-way (fence line to fence line,
7 landscaped areas) or in the loading and unloading of passenger vehicles
8 in service of the vessel as a maritime employee not covered under
9 chapter 51.32 RCW or engaged in those work activities as a Washington
10 state ((Ferries)) marine highway system terminal employee covered under
11 chapter 51.32 RCW.

12 (2) In recognition of the nature of employment in departmental
13 highway construction or maintenance activities and by the Washington
14 state ((Ferries)) marine highway system, this section provides a
15 supplementary program to reimburse employees of the department for some
16 of their costs attributable to their being the victims of assault by
17 motorists. This program is limited to the reimbursement provided in
18 this section.

19 (3) An employee is entitled to receive the reimbursement provided
20 in this section only if the secretary finds that each of the following
21 has occurred:

22 (a) A motorist has assaulted the employee who is engaged in highway
23 construction or maintenance along a roadway right-of-way (fence line to
24 fence line, landscaped areas) or service of the vessel as a maritime
25 employee or terminal employee engaged in the loading or unloading of
26 passenger vehicles and as a result the employee has sustained
27 demonstrated physical injuries that have required the employee to miss
28 one or more days of work;

29 (b) The assault is not attributable to any extent to the employee's
30 negligence, misconduct, or failure to comply with any rules or
31 conditions of employment; and

32 (c) The department of labor and industries has approved the
33 employee's workers' compensation application under chapter 51.32 RCW,
34 or for maritime employees the department of transportation risk
35 management office has approved maintenance and cure benefits under 46
36 U.S.C. Sec. 688 et seq.

37 (4) The reimbursement authorized under this section is as follows:

1 (a) The employee's accumulated sick leave days will not be reduced
2 for the workdays missed. The injured worker who qualifies for and
3 receives assault benefits will also receive full standard benefits
4 (vacation leave, sick leave, health insurance, etc.) as if uninjured;

5 (b) For an employee covered by chapter 51.32 RCW, for each workday
6 missed for which the employee is not eligible to receive compensation
7 under chapter 51.32 RCW, the employee will receive the full amount of
8 the injured worker's net pay at the time of injury; and

9 (c) In respect to workdays missed for which the employee will
10 receive or has received compensation under chapter 51.32 RCW, or under
11 federal maritime law benefits, including the Jones Act, for an employee
12 deemed a maritime employee assigned to work in service of the vessel or
13 a nonmaritime terminal employee covered under chapter 51.32 RCW, the
14 employee will be reimbursed in an amount that, when added to that
15 compensation, will result in the employee receiving no more than full
16 net pay (gross pay less mandatory and voluntary deductions) for the
17 workdays missed.

18 (5) Reimbursement under this section may not last longer than three
19 hundred sixty-five consecutive days after the date of the injury. No
20 application for assault benefits is valid nor may a claim be enforced
21 unless it was made within one year after the day upon which the injury
22 occurred.

23 (6) The employee is not entitled to the reimbursement provided in
24 subsection (4) of this section for a workday for which the secretary or
25 an applicable designee finds that the employee has not diligently
26 pursued his or her compensation remedies under chapter 51.32 RCW or
27 federal maritime law, including the Jones Act.

28 (7) The reimbursement may be made only for absences that the
29 secretary or an applicable designee believes are justified.

30 (8) While the employee is receiving reimbursement under this
31 section, he or she will continue to be classified as a state employee,
32 and the reimbursement amount is considered as salary or wages.

33 (9) The department shall make all reimbursement payments required
34 to be made to employees under this section. The payments are
35 considered as a salary or wage expense and must be paid by the
36 department in the same manner and from the same appropriations as other
37 salary and wage expenses for the department.

1 (10) Nothing in this section precludes the department from
2 recovering the supplemental payments authorized by this section from
3 the assaulting motorist, and that recovery is considered exclusive of
4 recovery under chapter 51.24 RCW.

5 (11) If the legislature revokes the reimbursement authorized under
6 this section or repeals this section, no affected employee is entitled
7 after that to receive the reimbursement as a matter of contractual
8 right.

9 **Sec. 4.** RCW 47.56.030 and 2008 c 122 s 8 are each amended to read
10 as follows:

11 (1) Except as permitted under chapter 47.29 or 47.46 RCW:

12 (a) Unless otherwise delegated, and subject to RCW 47.56.820, the
13 department of transportation shall have full charge of the planning,
14 analysis, and construction of all toll bridges and other toll
15 facilities including the Washington state (~~ferries~~) marine highway
16 system, and the operation and maintenance thereof.

17 (b) The transportation commission shall determine and establish the
18 tolls and charges thereon.

19 (c) Unless otherwise delegated, and subject to RCW 47.56.820, the
20 department shall have full charge of planning, analysis, and design of
21 all toll facilities. The department may conduct the planning,
22 analysis, and design of toll facilities as necessary to support the
23 legislature's consideration of toll authorization.

24 (d) The department shall utilize and administer toll collection
25 systems that are simple, unified, and interoperable. To the extent
26 practicable, the department shall avoid the use of toll booths. The
27 department shall set the statewide standards and protocols for all toll
28 facilities within the state, including those authorized by local
29 authorities.

30 (e) Except as provided in this section, the department shall
31 proceed with the construction of such toll bridges and other facilities
32 and the approaches thereto by contract in the manner of state highway
33 construction immediately upon there being made available funds for such
34 work and shall prosecute such work to completion as rapidly as
35 practicable. The department is authorized to negotiate contracts for
36 any amount without bid under (e)(i) and (ii) of this subsection:

1 (i) Emergency contracts, in order to make repairs to ferries or
2 ferry terminal facilities or removal of such facilities whenever
3 continued use of ferries or ferry terminal facilities constitutes a
4 real or immediate danger to the traveling public or precludes prudent
5 use of such ferries or facilities; and

6 (ii) Single source contracts for vessel dry dockings, when there is
7 clearly and legitimately only one available bidder to conduct dry dock-
8 related work for a specific class or classes of vessels. The contracts
9 may be entered into for a single vessel dry docking or for multiple
10 vessel dry dockings for a period not to exceed two years.

11 (2) The department shall proceed with the procurement of materials,
12 supplies, services, and equipment needed for the support, maintenance,
13 and use of a ferry, ferry terminal, or other facility operated by
14 Washington state (~~ferries~~) marine highway system, in accordance with
15 chapter 43.19 RCW except as follows:

16 (a) When the secretary of the department of transportation
17 determines in writing that the use of invitation for bid is either not
18 practicable or not advantageous to the state and it may be necessary to
19 make competitive evaluations, including technical or performance
20 evaluations among acceptable proposals to complete the contract award,
21 a contract may be entered into by use of a competitive sealed proposals
22 method, and a formal request for proposals solicitation. Such formal
23 request for proposals solicitation shall include a functional
24 description of the needs and requirements of the state and the
25 significant factors.

26 (b) When purchases are made through a formal request for proposals
27 solicitation the contract shall be awarded to the responsible proposer
28 whose competitive sealed proposal is determined in writing to be the
29 most advantageous to the state taking into consideration price and
30 other evaluation factors set forth in the request for proposals. No
31 significant factors may be used in evaluating a proposal that are not
32 specified in the request for proposals. Factors that may be considered
33 in evaluating proposals include but are not limited to: Price;
34 maintainability; reliability; commonality; performance levels; life
35 cycle cost if applicable under this section; cost of transportation or
36 delivery; delivery schedule offered; installation cost; cost of spare
37 parts; availability of parts and service offered; and the following:

1 (i) The ability, capacity, and skill of the proposer to perform the
2 contract or provide the service required;

3 (ii) The character, integrity, reputation, judgment, experience,
4 and efficiency of the proposer;

5 (iii) Whether the proposer can perform the contract within the time
6 specified;

7 (iv) The quality of performance of previous contracts or services;

8 (v) The previous and existing compliance by the proposer with laws
9 relating to the contract or services;

10 (vi) Objective, measurable criteria defined in the request for
11 proposal. These criteria may include but are not limited to items such
12 as discounts, delivery costs, maintenance services costs, installation
13 costs, and transportation costs; and

14 (vii) Such other information as may be secured having a bearing on
15 the decision to award the contract.

16 (c) When purchases are made through a request for proposal process,
17 proposals received shall be evaluated based on the evaluation factors
18 set forth in the request for proposal. When issuing a request for
19 proposal for the procurement of propulsion equipment or systems that
20 include an engine, the request for proposal must specify the use of a
21 life cycle cost analysis that includes an evaluation of fuel
22 efficiency. When a life cycle cost analysis is used, the life cycle
23 cost of a proposal shall be given at least the same relative importance
24 as the initial price element specified in the request of proposal
25 documents. The department may reject any and all proposals received.
26 If the proposals are not rejected, the award shall be made to the
27 proposer whose proposal is most advantageous to the department,
28 considering price and the other evaluation factors set forth in the
29 request for proposal.

30 **Sec. 5.** RCW 47.56.032 and 1984 c 7 s 247 are each amended to read
31 as follows:

32 All powers vested in the toll bridge authority as of September 21,
33 1977, relating to the acquiring, operating, extending, designing,
34 constructing, repairing, and maintenance of the Washington state
35 (~~ferries~~) marine highway system or any part thereof and the
36 collecting of tolls and charges for use of its facilities, shall be
37 performed by the department. The commission shall determine all fares,

1 tolls, and other charges for its facilities and shall directly perform
2 all duties and exercise all powers relating to financing, refinancing,
3 and fiscal management of the system's bonded indebtedness in the manner
4 provided by law.

5 **Sec. 6.** RCW 47.56.860 and 2008 c 122 s 2 are each amended to read
6 as follows:

7 This subchapter applies only to all state toll bridges and other
8 state toll facilities, excluding the Washington state ((ferries))
9 marine highway system, first authorized within this state after July 1,
10 2008.

11 **Sec. 7.** RCW 47.60.135 and 2003 c 374 s 1 are each amended to read
12 as follows:

13 (1) The charter use of Washington state ferry vessels when
14 established route operations and normal user requirements are not
15 disrupted is permissible. In establishing chartering agreements,
16 Washington state ((Ferries)) marine highway system shall consider the
17 special needs of local communities and interested parties. Washington
18 state ((Ferries)) marine highway system shall use sound business
19 judgment and be sensitive to the interests of existing private
20 enterprises.

21 (2) Consistent with the policy as established in subsection (1) of
22 this section, the chief executive officer of the Washington state
23 ((Ferries)) marine highway system may approve agreements for the
24 chartering of Washington state ferry vessels to groups or individuals,
25 including hazardous material transporters, in accordance with the
26 following:

27 (a) Vessels may be committed to charter only when established route
28 operation and normal user requirements are not disrupted or
29 inconvenienced. If a vessel is engaged in the transport of hazardous
30 materials, the transporter shall pay for all legs necessary to complete
31 the charter, even if the vessel is simultaneously engaged in an
32 operational voyage on behalf of Washington state ((Ferries)) marine
33 highway system.

34 (b) Charter rates for vessels must be established at actual vessel
35 operating costs plus a market-rate profit margin. Actual vessel

1 operating costs include, but are not limited to, all labor, fuel, and
2 vessel maintenance costs incurred due to the charter agreement,
3 including deadheading and standby.

4 (c) Parties chartering Washington state ferry vessels shall comply
5 with all applicable laws, rules, and regulations during the charter
6 voyage, and failure to so comply is cause for immediate termination of
7 the charter voyage.

8 **Sec. 8.** RCW 47.60.140 and 2003 c 374 s 2 are each amended to read
9 as follows:

10 (1) The department is empowered to operate such ferry system,
11 including all operations, whether intrastate or international, upon any
12 route or routes, and toll bridges as a revenue-producing and self-
13 liquidating undertaking. The department has full charge of the
14 construction, rehabilitation, rebuilding, enlarging, improving,
15 operation, and maintenance of the ferry system, including toll bridges,
16 approaches, and roadways incidental thereto that may be authorized by
17 the department, including the collection of tolls and other charges for
18 the services and facilities of the undertaking. The department has the
19 exclusive right to enter into leases and contracts for use and
20 occupancy by other parties of the concessions and space located on the
21 ferries, wharves, docks, approaches, parking lots, and landings,
22 including the selling of commercial advertising space and licenses to
23 use the Washington state (~~Ferries~~) marine highway system trademarks,
24 but, except as provided in subsection (2) of this section, no such
25 leases or contracts may be entered into for more than ten years, nor
26 without a competitive contract process, except as otherwise provided in
27 this section. The competitive process shall be either an invitation
28 for bids in accordance with the process established by chapter 43.19
29 RCW, or a request for proposals in accordance with the process
30 established by RCW 47.56.030. All revenues from commercial
31 advertising, concessions, parking, leases, and contracts must be
32 deposited in the Puget Sound ferry operations account in accordance
33 with RCW 47.60.150.

34 (2) As part of a joint development agreement under which a public
35 or private developer constructs or installs improvements on ferry
36 system property, the department may lease all or part of such property
37 and improvements to such developers for that period of time, not to

1 exceed fifty-five years, or not to exceed thirty years for those areas
2 located within harbor areas, which the department determines is
3 necessary to allow the developer to make reasonable recovery on its
4 initial investment. Any lease entered into as provided for in this
5 subsection that involves state aquatic lands shall conform with the
6 Washington state Constitution and applicable statutory requirements as
7 determined by the department of natural resources. That portion of the
8 lease rate attributable to the state aquatic lands shall be distributed
9 in the same manner as other lease revenues derived from state aquatic
10 lands as provided in RCW 79.24.580.

11 (3) The department shall include in the strategic planning and
12 performance assessment process, as required by RCW 43.88.090, an
13 analysis of the compatibility of public and private partnerships with
14 the state ferry system's core business, and the department's efforts to
15 maximize nonfarebox revenues and provide benefit to the public users of
16 the ferry system facilities. The department shall include an
17 assessment of the need for an open solicitation to identify and select
18 possible public or private partnerships in order to maximize the value
19 of projects and the state's investment in current and future ferry
20 system operations.

21 (a) When the department determines that an open solicitation is
22 necessary, a request for proposal shall be released, consisting of an
23 open solicitation outlining functional specifications to be used as the
24 basis for selecting partnerships in the project.

25 (b) Any responses to the request for proposal shall be evaluated,
26 at a minimum, on the basis of compatibility with the state ferry
27 system's core business, potential to maximize nonfarebox revenue,
28 longevity of the possible partnership commitment, and benefit to the
29 public users of the ferry system facilities.

30 (c) If no responses are received, or those that are received are
31 incompatible with ferry system operations, or do not meet the criteria
32 stated in (b) of this subsection, the state ferry system may proceed
33 with state ferry system operating strategies designed to achieve state
34 ferry system objectives without established partnerships.

35 **Sec. 9.** RCW 47.60.145 and 1982 c 210 s 1 are each amended to read
36 as follows:

1 (1) An "historic ferry" is any vessel in the Washington state
2 ((ferries)) marine highway system fleet which has been listed in the
3 Washington state register of historic places.

4 (2) When the department of transportation determines that an
5 historic ferry is surplus to the needs of Washington state ((ferries))
6 marine highway system, the department shall call for proposals from
7 persons who wish to acquire the historic ferry. Proposals for the
8 acquisition of an historic ferry shall be accepted only from persons or
9 organizations that (a) are a governmental entity or a nonprofit
10 corporation or association dedicated to the preservation of historic
11 properties; (b) agree to a contract approved by the state historic
12 preservation officer, which requires the preservation and maintenance
13 of the historic ferry and provides that title to the ferry reverts to
14 the state if the secretary of transportation determines that the
15 contract has been violated; and (c) demonstrate the administrative and
16 financial ability successfully to comply with the contract.

17 (3) The department shall evaluate the qualifying proposals and
18 shall select the proposal which is most advantageous to the state.
19 Factors to be considered in making the selection shall include but not
20 be limited to:

- 21 (a) Extent and quality of restoration;
- 22 (b) Retention of original design and use;
- 23 (c) Public access to the vessel;
- 24 (d) Provisions for historical interpretation;
- 25 (e) Monetary return to the state.

26 (4) If there are no qualifying proposals, an historic ferry shall
27 be disposed of in the manner provided by state law.

28 **Sec. 10.** RCW 47.60.170 and 1984 c 7 s 313 are each amended to read
29 as follows:

30 Nothing in RCW 47.60.150 forbids the establishment by the
31 department of a Washington state ((ferries)) marine highway system
32 revolving fund of not to exceed six hundred thousand dollars from the
33 proceeds of any bonds sold under the provisions of this chapter. The
34 fund may be deposited by the department in such banks or financial
35 institutions as it may select throughout the state. RCW 43.01.050 does
36 not apply to the fund or any deposits therein made by the department
37 under this section. The department may deposit all moneys received

1 under this chapter in the fund. All expenses whatsoever arising in the
2 operations of the Puget Sound ferry system shall be paid from the fund,
3 if established, by check or voucher in such manner as may be prescribed
4 by the department.

5 All moneys received by the department or any employee under the
6 foregoing sections of this chapter, except an amount of petty cash for
7 each day's needs as fixed by the regulation of the department, shall
8 each day and as often during the day as advisable, be deposited in the
9 nearest authorized depository selected by the department under this
10 section.

11 Whenever the fund exceeds six hundred thousand dollars, the
12 department shall forthwith transmit the excess to the state treasurer
13 for deposit in the trust fund established by RCW 47.60.150.

14 **Sec. 11.** RCW 47.60.290 and 2007 c 512 s 5 are each amended to read
15 as follows:

16 (1) The department shall annually review fares and pricing policies
17 applicable to the operation of the Washington state (~~ferries~~) marine
18 highway system.

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

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

23 (b) Use data from the current survey conducted under RCW 47.60.286;

24 (c) Be developed with input from affected ferry users by public
25 hearing and by review with the affected ferry advisory committees, in
26 addition to the data gathered from the survey conducted in RCW
27 47.60.286;

28 (d) Generate the amount of revenue required by the biennial
29 transportation budget;

30 (e) Consider the impacts on users, capacity, and local communities;
31 and

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

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

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

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

1 **Sec. 12.** RCW 47.60.310 and 1988 c 100 s 1 are each amended to read
2 as follows:

3 (1) The department is further directed to conduct such review by
4 soliciting and obtaining expressions from local community groups in
5 order to be properly informed as to problems being experienced within
6 the area served by the Washington state ((ferries)) marine highway
7 system. In order that local representation may be established, the
8 department shall give prior notice of the review to the ferry advisory
9 committees.

10 (2) The legislative authorities of San Juan, Skagit, Clallam, and
11 Jefferson counties shall each appoint a committee to consist of five
12 members to serve as an advisory committee to the department or its
13 designated representative in such review. The legislative authorities
14 of other counties that contain ferry terminals shall appoint ferry
15 advisory committees consisting of three members for each terminal area
16 in each county, except for Vashon Island, which shall have one
17 committee, and its members shall be appointed by the Vashon/Maury
18 Island community council. At least one person appointed to each ferry
19 advisory committee shall be representative of an established ferry user
20 group or of frequent users of the ferry system. Each member shall
21 reside in the vicinity of the terminal that the advisory committee
22 represents.

23 (3) The members of the San Juan, Clallam, and Jefferson county
24 ferry advisory committees shall be appointed for four-year terms. The
25 initial terms shall commence on July 1, 1982, and end on June 30, 1986.
26 Any vacancy shall be filled for the remainder of the unexpired term by
27 the appointing authority. At least one person appointed to the
28 advisory committee shall be representative of an established ferry-user
29 group or of frequent users of the ferry system, at least one shall be
30 representative of persons or firms using or depending upon the ferry
31 system for commerce, and one member shall be representative of a local
32 government planning body or its staff. Every member shall be a
33 resident of the county upon whose advisory committee he or she sits,
34 and not more than three members shall at the time of their appointment
35 be members of the same major political party.

36 (4) The members of each terminal area committee shall be appointed
37 for four-year terms. The initial terms of the members of each terminal
38 area committee shall be staggered as follows: All terms shall commence

1 September 1, 1988, with one member's term expiring August 31, 1990, one
2 member's term expiring August 31, 1991, and the remaining member's term
3 expiring August 31, 1992. Any vacancy shall be filled for the
4 remainder of the unexpired term by the appointing authority. Not more
5 than two members of any terminal-area committee may be from the same
6 political party at the time of their appointment, and in a county
7 having more than one committee, the overall party representation shall
8 be as nearly equal as possible.

9 (5) The chairmen of the several committees constitute an executive
10 committee of the Washington state ferry users. The executive committee
11 shall meet twice each year with representatives of the marine division
12 of the department to review ferry system issues.

13 (6) The committees to be appointed by the county legislative
14 authorities shall serve without fee or compensation.

15 **Sec. 13.** RCW 47.60.335 and 2008 c 124 s 7 are each amended to read
16 as follows:

17 (1) Appropriations made for the Washington state (~~ferries~~) marine
18 highway system capital program may not be used for maintenance costs.

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

23 (3) Systemwide and administrative capital program costs shall be
24 allocated to specific capital projects using a cost allocation plan
25 developed by the department. Systemwide and administrative capital
26 program costs shall be identifiable.

27 (4) The vessel emergency repair budget may not be used for planned
28 maintenance and inspections of inactive vessels.

29 **Sec. 14.** RCW 47.60.500 and 1986 c 66 s 8 are each amended to read
30 as follows:

31 (1) The legislature finds that the state's ferry fleet available
32 for mass transportation of people within the urban region of Puget
33 Sound is critically deficient and that substantial financial assistance
34 for the acquisition of new ferries is necessary if the Washington state
35 (~~ferries~~) marine highway system is to continue to fulfill its role in
36 the Puget Sound regional urban transportation system.

1 (2) The department is authorized:

2 (a) To apply to the United States secretary of transportation for
3 a financial grant to assist the state to acquire urgently needed
4 ferries;

5 (b) To enter into an agreement with the United States secretary of
6 transportation or other duly authorized federal officials and to assent
7 to such conditions as may be necessary to obtain financial assistance
8 for the acquisition of additional ferries. In connection with the
9 agreement the department may pledge any moneys in the Puget Sound
10 capital construction account, not required for debt service, in the
11 motor vehicle fund or any moneys to be deposited in the account for the
12 purpose of paying the state's share of the cost of acquiring ferries.
13 To the extent of the pledge the department shall use the moneys
14 available in the Puget Sound capital construction account to meet the
15 obligations as they arise.

16 **Sec. 15.** RCW 47.60.505 and 1986 c 66 s 9 are each amended to read
17 as follows:

18 There is hereby created in the motor vehicle fund the Puget Sound
19 capital construction account. All moneys hereafter deposited in said
20 account shall be used by the department of transportation for:

21 (1) Reimbursing the motor vehicle fund for all transfers therefrom
22 made in accordance with RCW 47.60.620; and

23 (2) Improving the Washington state ferry system including, but not
24 limited to, vessel acquisition, vessel construction, major and minor
25 vessel improvements, terminal construction and improvements, and
26 reconstruction or replacement of, and improvements to, the Hood Canal
27 bridge, reimbursement of the motor vehicle fund for any state funds,
28 other than insurance proceeds, expended therefrom for reconstruction or
29 replacement of and improvements to the Hood Canal bridge, pursuant to
30 proper appropriations: PROVIDED, That any funds accruing to the Puget
31 Sound capital construction account after June 30, 1979, which are not
32 required to reimburse the motor vehicle fund pursuant to RCW 47.60.620
33 as such obligations come due nor are required for capital improvements
34 of the Washington state ((ferries)) marine highway system pursuant to
35 appropriations therefor shall from time to time as shall be determined
36 by the department of transportation be transferred by the state

1 treasurer to the Puget Sound ferry operations account in the motor
2 vehicle fund.

3 (3) The department may pledge any moneys in the Puget Sound capital
4 construction account or to be deposited in that account to guarantee
5 the payment of principal or interest on bonds issued to refund the
6 outstanding 1955 Washington state ferry system refunding bonds and the
7 1957 ferry and Hood Canal bridge revenue bonds.

8 The department may further pledge moneys in the Puget Sound capital
9 construction account to meet any sinking fund requirements or reserves
10 established by the department with respect to any bond issues provided
11 for in this section.

12 To the extent of any pledge authorized in this section, the
13 department shall use the first moneys available in the Puget Sound
14 capital construction account to meet such obligations as they arise,
15 and shall maintain a balance of not less than one million dollars in
16 the account for this purpose.

17 (4) The treasurer shall never transfer any moneys from the Puget
18 Sound capital construction account for use by the department for state
19 highway purposes so long as there is due and unpaid any obligations for
20 payment of principal, interest, sinking funds, or reserves as required
21 by any pledge of the Puget Sound capital construction account.
22 Whenever the department has pledged any moneys in the account for the
23 purposes authorized in this section, the state agrees to continue to
24 deposit in the Puget Sound capital construction account the motor
25 vehicle fuel taxes and special fuel taxes as provided in RCW 82.36.020
26 and 82.38.290 and further agrees that, so long as there exists any
27 outstanding obligations pursuant to such pledge, to continue to impose
28 such taxes.

29 (5) Funds in the Puget Sound capital construction account of the
30 motor vehicle fund that are not required by the department for payment
31 of principal or interest on bond issues or for any of the other
32 purposes authorized in this chapter may be invested by the department
33 in bonds and obligations of the nature eligible for the investment of
34 current state funds as provided in RCW 43.84.080.

35 **Sec. 16.** RCW 47.60.530 and 1979 c 27 s 4 are each amended to read
36 as follows:

37 There is hereby created in the motor vehicle fund the Puget Sound

1 ferry operations account to the credit of which shall be deposited all
2 moneys directed by law to be deposited therein. All moneys deposited
3 in this account shall be expended pursuant to appropriations only for
4 reimbursement of the motor vehicle fund for any state moneys, other
5 than insurance proceeds, expended therefrom for alternate
6 transportation services instituted as a result of the destruction of
7 the Hood Canal bridge, and for maintenance and operation of the
8 Washington state ((ferries)) marine highway system including the Hood
9 Canal bridge, supplementing as required the revenues available from the
10 Washington state ferry system.

11 **Sec. 17.** RCW 47.60.560 and 1986 c 290 s 8 are each amended to read
12 as follows:

13 In order to provide funds necessary for vessel acquisition, vessel
14 construction, major and minor vessel improvements, and terminal
15 construction and improvements for the Washington state ((ferries))
16 marine highway system, there shall be issued and sold upon the request
17 of the department general obligation bonds of the state of Washington
18 in the sum of one hundred thirty-five million dollars or such amount
19 thereof as may be required (together with other funds available
20 therefor). If the state of Washington is able to obtain matching funds
21 from the urban mass transportation administration or other federal
22 government agencies for the acquisition of passenger-only vessels
23 capable of operating as an integral part of the Washington state
24 ((ferries)) marine highway system on Puget Sound and the Straits of
25 Juan de Fuca, a sufficient amount of the proceeds of the bonds
26 authorized herein shall be used to pay the state's share of the
27 acquisition cost of the passenger-only vessels. Upon request being
28 made by the department, the state finance committee shall supervise and
29 provide for the issuance, sale, and retirement of the bonds in
30 accordance with chapter 39.42 RCW. The bonds may be sold from time to
31 time in such amounts as may be necessary for the orderly progress in
32 constructing the ferries. The bonds shall be sold in such manner, at
33 such time or times, in such amounts, and at such price or prices as the
34 state finance committee shall determine. The state finance committee
35 may obtain insurance, letters of credit, or other credit facility
36 devices with respect to the bonds and may authorize the execution and
37 delivery of agreements, promissory notes, and other obligations for the

1 purpose of insuring the payment or enhancing the marketability of the
2 bonds. Promissory notes or other obligations issued under this section
3 shall not constitute a debt or the contracting of indebtedness under
4 any constitutional or statutory indebtedness limitation if their
5 payment is conditioned upon the failure of the state to pay the
6 principal of or interest on the bonds with respect to which the
7 promissory notes or other obligations relate. The state finance
8 committee may authorize the issuance of short-term obligations in lieu
9 of long-term obligations for the purposes of more favorable interest
10 rates, lower total interest costs, and increased marketability and for
11 the purposes of retiring the bonds during the life of the project for
12 which they were issued.

13 **Sec. 18.** RCW 47.60.649 and 1998 c 166 s 1 are each amended to read
14 as follows:

15 The legislature finds and declares that there is a compelling need
16 for the construction of additional state ferry vessels and
17 corresponding terminal improvements in order to provide more capacity
18 and frequent service to meet the forecasted travel demands of citizens
19 traveling on Puget Sound ferry routes. The vessel technology required
20 must provide additional travel options for high growth ferry routes
21 through increased passenger-only ferry service.

22 The 1989 west corridor study evaluated cross-sound travel through
23 the year 2020 and identified the Southworth to Seattle and the Kingston
24 to Seattle passenger-only ferry routes as promising based on criteria
25 evaluating cost-effectiveness, time savings, physical constraints to
26 operation, nonduplication of current service, and ability to relieve
27 congestion.

28 Furthermore, as a result of legislative direction provided in the
29 1991-93 transportation budget to the state transportation commission to
30 evaluate and determine the location of new passenger-only ferry routes,
31 the commission reviewed several service alternatives, determined that
32 the Southworth to Seattle and Kingston to Seattle routes ranked
33 highest, and directed the Washington state (~~ferries~~) marine highway
34 system to proceed with the design and permitting processes for
35 passenger-only terminals at both Southworth and Kingston.

1 **Sec. 19.** RCW 47.60.680 and 1983 c 133 s 1 are each amended to read
2 as follows:

3 No contract for the construction, improvement, or repair of a
4 ferry, ferry terminal, or other facility operated by the Washington
5 state (~~(ferries)~~) marine highway system or for the repair, overhaul, or
6 the dry-docking of any ferry operated by Washington state (~~(ferries)~~)
7 marine highway system may be awarded to any contractor who has not
8 first been prequalified to perform the work by the department of
9 transportation. No bid or proposal for such a contract may be received
10 from any contractor who has not first been prequalified to perform the
11 work by the department of transportation.

12 **Sec. 20.** RCW 47.60.800 and 1992 c 158 s 1 are each amended to read
13 as follows:

14 In order to provide funds necessary for vessel and terminal
15 acquisition, construction, and major and minor improvements, including
16 long lead time materials acquisition for the Washington state
17 (~~(ferries)~~) marine highway system, there shall be issued and sold upon
18 the request of the Washington state transportation commission and
19 legislative appropriation a total of two hundred ten million dollars of
20 general obligation bonds of the state of Washington.

21 **Sec. 21.** RCW 47.60.814 and 2001 c 226 s 6 are each amended to read
22 as follows:

23 Subject to legislative appropriation for the procurement of
24 vessels, the department shall issue a request for proposals to
25 interested parties that must include, at least, the following:

26 (1) Solicitation of a proposal to participate in a design and build
27 partnership with the department to design and construct the auto
28 ferries;

29 (2) Instructions on the prequalification process and procedures;

30 (3) A description of the modified request for proposals process.
31 Under this process, the department may modify any component of the
32 request for proposals, including the outline specifications, by
33 addendum at any time before the submittal of bids in phase three;

34 (4) A description of the design and build partnership process to be
35 used for procurement of the vessels;

1 (5) Outline specifications that provide the requirements for the
2 vessels including, but not limited to, items such as length, beam,
3 displacement, speed, propulsion requirements, capacities for autos and
4 passengers, passenger space characteristics, and crew size. The
5 department will produce notional line drawings depicting hull geometry
6 that will interface with Washington state ((ferries)) marine highway
7 system terminal facilities. Notional lines may be modified in phase
8 two, subject to approval by the department;

9 (6) Instructions for the development of technical proposals in
10 phase two, and information regarding confidentiality of technical
11 proposals;

12 (7) The vessel delivery schedule, identification of the port on
13 Puget Sound where delivery must take place, and the location where
14 acceptance trials must be held;

15 (8) The estimated price range for the contract;

16 (9) The form and amount of the required bid deposit and contract
17 security;

18 (10) A copy of the contract that will be signed by the successful
19 proposer;

20 (11) The date by which proposals in phase one must be received by
21 the department in order to be considered;

22 (12) A description of information to be submitted in the proposals
23 in phase one concerning each proposer's qualifications, capabilities,
24 and experience;

25 (13) A statement of the maximum number of proposers that may be
26 selected in phase one for development of technical proposals in phase
27 two;

28 (14) Criteria that will be used for the phase one selection of
29 proposers to participate in the phase two development of technical
30 proposals;

31 (15) A description of the process that will be used for the phase
32 three submittal and evaluation of bids, award of the contract, and
33 postaward administrative activities;

34 (16) A requirement that the contractor comply with all applicable
35 laws, rules, and regulations including but not limited to those
36 pertaining to the environment, worker health and safety, and prevailing
37 wages;

1 (17) A requirement that the vessels be constructed within the
2 boundaries of the state of Washington except that equipment furnished
3 by the state and components, products, and systems that are standard
4 manufactured items are not subject to the in-state requirement under
5 this subsection. For the purposes of this subsection, "constructed"
6 means the fabrication, by the joining together by welding or fastening
7 of all steel parts from which the total vessel is constructed,
8 including, but not limited to, all shell frames, longitudinals,
9 bulkheads, webs, piping runs, wire ways, and ducting. "Constructed"
10 also means the installation of all components and systems, including,
11 but not limited to, equipment and machinery, castings, electrical,
12 electronics, deck covering, lining, paint, and joiner work required by
13 the contract. "Constructed" also means the interconnection of all
14 equipment, machinery, and services, such as piping, wiring, and
15 ducting; and

16 (18) A requirement that all warranty work on the vessel must be
17 performed within the boundaries of the state of Washington, insofar as
18 practical.

19 **Sec. 22.** RCW 47.61.010 and 1984 c 7 s 338 are each amended to read
20 as follows:

21 Recognizing that the Washington state (~~ferries~~) marine highway
22 system is an integral part of the state highway system, the department
23 is authorized to enter into an agreement with the administrator of the
24 housing and home finance agency and to make application for a grant for
25 financial assistance for the acquisition by construction or purchase of
26 new vessels pursuant to the provisions of the Urban Mass Transportation
27 Act of 1964.

28 **Sec. 23.** RCW 49.46.010 and 2002 c 354 s 231 are each amended to
29 read as follows:

30 As used in this chapter:

- 31 (1) "Director" means the director of labor and industries;
- 32 (2) "Wage" means compensation due to an employee by reason of
33 employment, payable in legal tender of the United States or checks on
34 banks convertible into cash on demand at full face value, subject to
35 such deductions, charges, or allowances as may be permitted by rules of
36 the director;

1 (3) "Employ" includes to permit to work;

2 (4) "Employer" includes any individual, partnership, association,
3 corporation, business trust, or any person or group of persons acting
4 directly or indirectly in the interest of an employer in relation to an
5 employee;

6 (5) "Employee" includes any individual employed by an employer but
7 shall not include:

8 (a) Any individual (i) employed as a hand harvest laborer and paid
9 on a piece rate basis in an operation which has been, and is generally
10 and customarily recognized as having been, paid on a piece rate basis
11 in the region of employment; (ii) who commutes daily from his or her
12 permanent residence to the farm on which he or she is employed; and
13 (iii) who has been employed in agriculture less than thirteen weeks
14 during the preceding calendar year;

15 (b) Any individual employed in casual labor in or about a private
16 home, unless performed in the course of the employer's trade, business,
17 or profession;

18 (c) Any individual employed in a bona fide executive,
19 administrative, or professional capacity or in the capacity of outside
20 salesman as those terms are defined and delimited by rules of the
21 director. However, those terms shall be defined and delimited by the
22 director of personnel pursuant to chapter 41.06 RCW for employees
23 employed under the director of personnel's jurisdiction;

24 (d) Any individual engaged in the activities of an educational,
25 charitable, religious, state or local governmental body or agency, or
26 nonprofit organization where the employer-employee relationship does
27 not in fact exist or where the services are rendered to such
28 organizations gratuitously. If the individual receives reimbursement
29 in lieu of compensation for normally incurred out-of-pocket expenses or
30 receives a nominal amount of compensation per unit of voluntary service
31 rendered, an employer-employee relationship is deemed not to exist for
32 the purpose of this section or for purposes of membership or
33 qualification in any state, local government or publicly supported
34 retirement system other than that provided under chapter 41.24 RCW;

35 (e) Any individual employed full time by any state or local
36 governmental body or agency who provides voluntary services but only
37 with regard to the provision of the voluntary services. The voluntary
38 services and any compensation therefor shall not affect or add to

1 qualification, entitlement or benefit rights under any state, local
2 government, or publicly supported retirement system other than that
3 provided under chapter 41.24 RCW;

4 (f) Any newspaper vendor or carrier;

5 (g) Any carrier subject to regulation by Part 1 of the Interstate
6 Commerce Act;

7 (h) Any individual engaged in forest protection and fire prevention
8 activities;

9 (i) Any individual employed by any charitable institution charged
10 with child care responsibilities engaged primarily in the development
11 of character or citizenship or promoting health or physical fitness or
12 providing or sponsoring recreational opportunities or facilities for
13 young people or members of the armed forces of the United States;

14 (j) Any individual whose duties require that he or she reside or
15 sleep at the place of his or her employment or who otherwise spends a
16 substantial portion of his or her work time subject to call, and not
17 engaged in the performance of active duties;

18 (k) Any resident, inmate, or patient of a state, county, or
19 municipal correctional, detention, treatment or rehabilitative
20 institution;

21 (l) Any individual who holds a public elective or appointive office
22 of the state, any county, city, town, municipal corporation or quasi
23 municipal corporation, political subdivision, or any instrumentality
24 thereof, or any employee of the state legislature;

25 (m) All vessel operating crews of the Washington state (~~ferries~~)
26 marine highway system operated by the department of transportation;

27 (n) Any individual employed as a seaman on a vessel other than an
28 American vessel;

29 (6) "Occupation" means any occupation, service, trade, business,
30 industry, or branch or group of industries or employment or class of
31 employment in which employees are gainfully employed;

32 (7) "Retail or service establishment" means an establishment
33 seventy-five percent of whose annual dollar volume of sales of goods or
34 services, or both, is not for resale and is recognized as retail sales
35 or services in the particular industry.

36 **Sec. 24.** RCW 82.70.010 and 2005 c 297 s 1 are each amended to read
37 as follows:

1 The definitions in this section apply throughout this chapter and
2 RCW 70.94.996 unless the context clearly requires otherwise.

3 (1) "Public agency" means any county, city, or other local
4 government agency or any state government agency, board, or commission.

5 (2) "Public transportation" means the same as "public
6 transportation service" as defined in RCW 36.57A.010 and includes
7 passenger services of the Washington state ((ferries)) marine highway
8 system.

9 (3) "Nonmotorized commuting" means commuting to and from the
10 workplace by an employee by walking or running or by riding a bicycle
11 or other device not powered by a motor.

12 (4) "Ride sharing" means the same as "flexible commuter ride
13 sharing" as defined in RCW 46.74.010, including ride sharing on
14 Washington state ((ferries)) marine highway system.

15 (5) "Car sharing" means a membership program intended to offer an
16 alternative to car ownership under which persons or entities that
17 become members are permitted to use vehicles from a fleet on an hourly
18 basis.

19 (6) "Telework" means a program where work functions that are
20 normally performed at a traditional workplace are instead performed by
21 an employee at his or her home at least one day a week for the purpose
22 of reducing the number of trips to the employee's workplace.

23 (7) "Applicant" means a person applying for a tax credit under this
24 chapter.

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