

ESSB 5742 - H COMM AMD
By Committee on Transportation

ADOPTED AS AMENDED 04/22/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 47.60.530 and 1979 c 27 s 4 are each amended to read
4 as follows:

5 ~~((There is hereby created in the motor vehicle fund))~~ (1) The Puget
6 Sound ferry operations account ((to the credit of which shall be
7 deposited all moneys directed by law to be deposited therein. All
8 moneys deposited in this account shall be expended pursuant to
9 appropriations only for reimbursement of the motor vehicle fund for any
10 state moneys, other than insurance proceeds, expended therefrom for
11 alternate transportation services instituted as a result of the
12 destruction of the Hood Canal bridge, and)) is created in the motor
13 vehicle fund.

14 (2) The following funds must be deposited into the account:

15 (a) All moneys directed by law;

16 (b) All revenues generated from ferry fares; and

17 (c) All revenues generated from commercial advertising,
18 concessions, parking, and leases as allowed under RCW 47.60.140.

19 (3) Moneys in the account may be spent only after appropriation.

20 (4) Expenditures from the account may be used only for the
21 maintenance, administration, and operation of the ((Washington state
22 ferries including the Hood Canal bridge, supplementing as required the
23 revenues available from the)) Washington state ferry system.

24 NEW SECTION. Sec. 2. A new section is added to chapter 47.60 RCW
25 to read as follows:

26 (1) The capital vessel replacement account is created in the motor
27 vehicle fund. All revenues generated from the vessel replacement
28 surcharge under RCW 47.60.315(7) must be deposited into the account.
29 Moneys in the account may be spent only after appropriation.

1 Expenditures from the account may be used only for the construction or
2 purchase of ferry vessels and to pay the principal and interest on
3 bonds authorized for the construction or purchase of ferry vessels.
4 However, expenditures from the account must first be used to support
5 the construction or purchase, including any applicable financing costs,
6 of a ferry vessel with a carrying capacity of at least one hundred
7 forty-four cars.

8 (2) The state treasurer shall not transfer any moneys from the
9 capital vessel replacement account.

10 **Sec. 3.** RCW 47.60.315 and 2007 c 512 s 6 are each amended to read
11 as follows:

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

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

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

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

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

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

33 (5) Fare revenues and other revenues deposited in the Puget Sound
34 ferry operations account created in RCW 47.60.530 may not be used to
35 support the Puget Sound capital construction account created in RCW
36 47.60.505, unless the support for capital is separately identified in
37 the fare.

1 (6) The commission may not raise fares until the fare rules contain
2 pricing policies developed under RCW 47.60.290, or September 1, 2009,
3 whichever is later.

4 (7) The commission shall impose a vessel replacement surcharge of
5 twenty-five cents on every ferry fare sold, including multiride and
6 monthly pass fares. In the event that fares are collected in one
7 direction only, the surcharge is fifty cents on every ferry fare sold.
8 This surcharge must be clearly indicated to ferry passengers and
9 drivers and, if possible, on the fare media itself.

10 **Sec. 4.** RCW 82.08.0255 and 2007 c 223 s 9 are each amended to read
11 as follows:

12 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
13 motor vehicle and special fuel if:

14 (a) The fuel is purchased for the purpose of public transportation
15 and the purchaser is entitled to a refund or an exemption under RCW
16 82.36.275 or 82.38.080(3); or

17 (b) The fuel is purchased by a private, nonprofit transportation
18 provider certified under chapter 81.66 RCW and the purchaser is
19 entitled to a refund or an exemption under RCW 82.36.285 or
20 82.38.080(1)(h); or

21 (c) The fuel is purchased by a public transportation benefit area
22 created under chapter 36.57A RCW or a county-owned ferry or county
23 ferry district created under chapter 36.54 RCW for use in passenger-
24 only ferry vessels; or

25 (d) The fuel is purchased by the Washington state ferry system for
26 use in a state-owned ferry after June 30, 2013; or

27 (e) The fuel is purchased by a county-owned ferry for use in ferry
28 vessels after June 30, 2013; or

29 (f) The fuel is taxable under chapter 82.36 or 82.38 RCW.

30 (2) Any person who has paid the tax imposed by RCW 82.08.020 on the
31 sale of special fuel delivered in this state shall be entitled to a
32 credit or refund of such tax with respect to fuel subsequently
33 established to have been actually transported and used outside this
34 state by persons engaged in interstate commerce. The tax shall be
35 claimed as a credit or refunded through the tax reports required under
36 RCW 82.38.150.

1 **Sec. 5.** RCW 82.12.0256 and 2007 c 223 s 10 are each amended to
2 read as follows:

3 The provisions of this chapter shall not apply in respect to the
4 use of:

5 (1) Special fuel purchased in this state upon which a refund is
6 obtained as provided in RCW 82.38.180(2); and

7 (2) Motor vehicle and special fuel if:

8 (a) The fuel is used for the purpose of public transportation and
9 the purchaser is entitled to a refund or an exemption under RCW
10 82.36.275 or 82.38.080(3); or

11 (b) The fuel is purchased by a private, nonprofit transportation
12 provider certified under chapter 81.66 RCW and the purchaser is
13 entitled to a refund or an exemption under RCW 82.36.285 or
14 82.38.080(1)(h); or

15 (c) The fuel is purchased by a public transportation benefit area
16 created under chapter 36.57A RCW or a county-owned ferry or county
17 ferry district created under chapter 36.54 RCW for use in passenger-
18 only ferry vessels; or

19 (d) The fuel is taxable under chapter 82.36 or 82.38 RCW:
20 PROVIDED, That the use of motor vehicle and special fuel upon which a
21 refund of the applicable fuel tax is obtained shall not be exempt under
22 this subsection (2)(d), and the director of licensing shall deduct from
23 the amount of such tax to be refunded the amount of tax due under this
24 chapter and remit the same each month to the department of revenue; or

25 (e) The fuel is purchased by a county-owned ferry for use in ferry
26 vessels after June 30, 2013; or

27 (f) The fuel is purchased by the Washington state ferry system for
28 use in a state-owned ferry after June 30, 2013.

29 **Sec. 6.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp.s.
30 c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145
31 s 11 are each reenacted and amended to read as follows:

32 (1) All earnings of investments of surplus balances in the state
33 treasury shall be deposited to the treasury income account, which
34 account is hereby established in the state treasury.

35 (2) The treasury income account shall be utilized to pay or receive
36 funds associated with federal programs as required by the federal cash
37 management improvement act of 1990. The treasury income account is

1 subject in all respects to chapter 43.88 RCW, but no appropriation is
2 required for refunds or allocations of interest earnings required by
3 the cash management improvement act. Refunds of interest to the
4 federal treasury required under the cash management improvement act
5 fall under RCW 43.88.180 and shall not require appropriation. The
6 office of financial management shall determine the amounts due to or
7 from the federal government pursuant to the cash management improvement
8 act. The office of financial management may direct transfers of funds
9 between accounts as deemed necessary to implement the provisions of the
10 cash management improvement act, and this subsection. Refunds or
11 allocations shall occur prior to the distributions of earnings set
12 forth in subsection (4) of this section.

13 (3) Except for the provisions of RCW 43.84.160, the treasury income
14 account may be utilized for the payment of purchased banking services
15 on behalf of treasury funds including, but not limited to, depository,
16 safekeeping, and disbursement functions for the state treasury and
17 affected state agencies. The treasury income account is subject in all
18 respects to chapter 43.88 RCW, but no appropriation is required for
19 payments to financial institutions. Payments shall occur prior to
20 distribution of earnings set forth in subsection (4) of this section.

21 (4) Monthly, the state treasurer shall distribute the earnings
22 credited to the treasury income account. The state treasurer shall
23 credit the general fund with all the earnings credited to the treasury
24 income account except:

25 (a) The following accounts and funds shall receive their
26 proportionate share of earnings based upon each account's and fund's
27 average daily balance for the period: The aeronautics account, the
28 aircraft search and rescue account, the budget stabilization account,
29 the capital vessel replacement account, the capitol building
30 construction account, the Cedar River channel construction and
31 operation account, the Central Washington University capital projects
32 account, the charitable, educational, penal and reformatory
33 institutions account, the cleanup settlement account, the Columbia
34 river basin water supply development account, the common school
35 construction fund, the county arterial preservation account, the county
36 criminal justice assistance account, the county sales and use tax
37 equalization account, the deferred compensation administrative account,
38 the deferred compensation principal account, the department of

1 licensing services account, the department of retirement systems
2 expense account, the developmental disabilities community trust
3 account, the drinking water assistance account, the drinking water
4 assistance administrative account, the drinking water assistance
5 repayment account, the Eastern Washington University capital projects
6 account, the education construction fund, the education legacy trust
7 account, the election account, the energy freedom account, the energy
8 recovery act account, the essential rail assistance account, The
9 Evergreen State College capital projects account, the federal forest
10 revolving account, the ferry bond retirement fund, the freight
11 congestion relief account, the freight mobility investment account, the
12 freight mobility multimodal account, the grade crossing protective
13 fund, the public health services account, the health system capacity
14 account, the high capacity transportation account, the state higher
15 education construction account, the higher education construction
16 account, the highway bond retirement fund, the highway infrastructure
17 account, the highway safety account, the high occupancy toll lanes
18 operations account, the hospital safety net assessment fund, the
19 industrial insurance premium refund account, the judges' retirement
20 account, the judicial retirement administrative account, the judicial
21 retirement principal account, the local leasehold excise tax account,
22 the local real estate excise tax account, the local sales and use tax
23 account, the marine resources stewardship trust account, the medical
24 aid account, the mobile home park relocation fund, the motor vehicle
25 fund, the motorcycle safety education account, the multiagency
26 permitting team account, the multimodal transportation account, the
27 municipal criminal justice assistance account, the municipal sales and
28 use tax equalization account, the natural resources deposit account,
29 the oyster reserve land account, the pension funding stabilization
30 account, the perpetual surveillance and maintenance account, the public
31 employees' retirement system plan 1 account, the public employees'
32 retirement system combined plan 2 and plan 3 account, the public
33 facilities construction loan revolving account beginning July 1, 2004,
34 the public health supplemental account, the public transportation
35 systems account, the public works assistance account, the Puget Sound
36 capital construction account, the Puget Sound ferry operations account,
37 the Puyallup tribal settlement account, the real estate appraiser
38 commission account, the recreational vehicle account, the regional

1 mobility grant program account, the resource management cost account,
2 the rural arterial trust account, the rural Washington loan fund, the
3 site closure account, the small city pavement and sidewalk account, the
4 special category C account, the special wildlife account, the state
5 employees' insurance account, the state employees' insurance reserve
6 account, the state investment board expense account, the state
7 investment board commingled trust fund accounts, the state patrol
8 highway account, the state route number 520 civil penalties account,
9 the state route number 520 corridor account, the supplemental pension
10 account, the Tacoma Narrows toll bridge account, the teachers'
11 retirement system plan 1 account, the teachers' retirement system
12 combined plan 2 and plan 3 account, the tobacco prevention and control
13 account, the tobacco settlement account, the transportation 2003
14 account (nickel account), the transportation equipment fund, the
15 transportation fund, the transportation improvement account, the
16 transportation improvement board bond retirement account, the
17 transportation infrastructure account, the transportation partnership
18 account, the traumatic brain injury account, the tuition recovery trust
19 fund, the University of Washington bond retirement fund, the University
20 of Washington building account, the urban arterial trust account, the
21 volunteer firefighters' and reserve officers' relief and pension
22 principal fund, the volunteer firefighters' and reserve officers'
23 administrative fund, the Washington judicial retirement system account,
24 the Washington law enforcement officers' and firefighters' system plan
25 1 retirement account, the Washington law enforcement officers' and
26 firefighters' system plan 2 retirement account, the Washington public
27 safety employees' plan 2 retirement account, the Washington school
28 employees' retirement system combined plan 2 and 3 account, the
29 Washington state health insurance pool account, the Washington state
30 patrol retirement account, the Washington State University building
31 account, the Washington State University bond retirement fund, the
32 water pollution control revolving fund, and the Western Washington
33 University capital projects account. Earnings derived from investing
34 balances of the agricultural permanent fund, the normal school
35 permanent fund, the permanent common school fund, the scientific
36 permanent fund, and the state university permanent fund shall be
37 allocated to their respective beneficiary accounts.

1 (b) Any state agency that has independent authority over accounts
2 or funds not statutorily required to be held in the state treasury that
3 deposits funds into a fund or account in the state treasury pursuant to
4 an agreement with the office of the state treasurer shall receive its
5 proportionate share of earnings based upon each account's or fund's
6 average daily balance for the period.

7 (5) In conformance with Article II, section 37 of the state
8 Constitution, no treasury accounts or funds shall be allocated earnings
9 without the specific affirmative directive of this section.

10 NEW SECTION. **Sec. 7.** By December 31, 2011, the marine employees'
11 commission is merged with the public employment relations commission
12 and becomes an independent division within the public employment
13 relations commission.

14 **Sec. 8.** RCW 47.64.280 and 2010 c 283 s 14 are each amended to read
15 as follows:

16 (1) There is created the marine employees' commission within the
17 public employment relations commission. The governor shall appoint the
18 marine employees' commission with the consent of the senate. The
19 marine employees' commission shall consist of three members: One
20 member to be appointed from labor, one member from industry, and one
21 member from the public who has significant knowledge of maritime
22 affairs. The public member shall be chair of the marine employees'
23 commission. One of the original members shall be appointed for a term
24 of three years, one for a term of four years, and one for a term of
25 five years. Their successors shall be appointed for terms of five
26 years each, except that any person chosen to fill a vacancy shall be
27 appointed only for the unexpired term of the member whom he or she
28 succeeds. Marine employees' commission members are eligible for
29 reappointment. Any member of the marine employees' commission may be
30 removed by the governor, upon notice and hearing, for neglect of duty
31 or malfeasance in office, but for no other cause. Marine employees'
32 commission members are not eligible for state retirement under chapter
33 41.40 RCW by virtue of their service on the marine employees'
34 commission. Members of the marine employees' commission shall be
35 compensated in accordance with RCW 43.03.250 and shall receive
36 reimbursement for official travel and other expenses at the same rate

1 and on the same terms as provided for the transportation commission by
2 RCW 47.01.061. The payments shall be made from the Puget Sound ferry
3 operations account.

4 (2) The marine employees' commission shall: (a) Adjust all
5 complaints, grievances, and disputes between labor and management
6 arising out of the operation of the ferry system as provided in RCW
7 47.64.150; (b) provide for impasse mediation as required in RCW
8 47.64.210; and (c) perform those duties required in RCW 47.64.300.

9 (3)(a) In adjudicating all complaints, grievances, and disputes,
10 the party claiming labor disputes shall, in writing, notify the marine
11 employees' commission, which shall make careful inquiry into the cause
12 thereof and issue an order advising the ferry employee, or the ferry
13 employee organization representing him or her, and the department of
14 transportation, as to the decision of the marine employees' commission.

15 (b) The parties are entitled to offer evidence relating to disputes
16 at all hearings conducted by the marine employees' commission. The
17 orders and awards of the marine employees' commission are final and
18 binding upon any ferry employee or employees or their representative
19 affected thereby and upon the department.

20 (c) The marine employees' commission shall adopt rules of procedure
21 under chapter 34.05 RCW.

22 (d) The marine employees' commission has the authority to subpoena
23 any ferry employee or employees, or their representatives, and any
24 member or representative of the department, and any witnesses. The
25 marine employees' commission may require attendance of witnesses and
26 the production of all pertinent records at any hearings held by the
27 marine employees' commission. The subpoenas of the marine employees'
28 commission are enforceable by order of any superior court in the state
29 of Washington for the county within which the proceeding may be
30 pending.

31 (~~The commission may hire staff as necessary, appoint consultants,
32 enter into contracts, and conduct studies as reasonably necessary to
33 carry out this chapter.~~)

34 **Sec. 9.** RCW 47.64.011 and 2006 c 164 s 1 are each amended to read
35 as follows:

36 As used in this chapter, unless the context otherwise requires, the
37 definitions in this section shall apply.

1 (1) "Collective bargaining representative" means the persons
2 designated by the governor and employee organizations to be the
3 exclusive representatives during collective bargaining negotiations.

4 (2) "Commission" means the marine employees' commission created
5 within the public employment relations commission in RCW 47.64.280 (as
6 recodified by this act).

7 (3) "Department of transportation" means the department as defined
8 in RCW 47.01.021.

9 (4) "Employer" means the state of Washington.

10 (5) "Ferry employee" means any employee of the marine
11 transportation division of the department of transportation who is a
12 member of a collective bargaining unit represented by a ferry employee
13 organization and does not include an exempt employee pursuant to RCW
14 41.06.079.

15 (6) "Ferry employee organization" means any labor organization
16 recognized to represent a collective bargaining unit of ferry
17 employees.

18 (7) "Lockout" means the refusal of the employer to furnish work to
19 ferry employees in an effort to get ferry employee organizations to
20 make concessions during collective bargaining, grievance, or other
21 labor relation negotiations. Curtailment of employment of ferry
22 employees due to lack of work resulting from a strike or work stoppage
23 shall not be considered a lockout.

24 (8) "Office of financial management" means the office as created in
25 RCW 43.41.050.

26 (9) "Strike or work stoppage" means a ferry employee's refusal, in
27 concerted action with others, to report to duty, or his or her willful
28 absence from his or her position, or his or her stoppage or slowdown of
29 work, or his or her abstinence in whole or in part from the full,
30 faithful, and proper performance of the duties of employment, for the
31 purpose of inducing, influencing, or coercing a change in conditions,
32 compensation, rights, privileges, or obligations of his, her, or any
33 other ferry employee's employment. A refusal, in good faith, to work
34 under conditions which pose an endangerment to the health and safety of
35 ferry employees or the public, as determined by the master of the
36 vessel, shall not be considered a strike for the purposes of this
37 chapter.

1 **Sec. 10.** RCW 47.64.150 and 1983 c 15 s 6 are each amended to read
2 as follows:

3 An agreement with a ferry employee organization that is the
4 exclusive representative of ferry employees in an appropriate unit may
5 provide procedures for the consideration of ferry employee grievances
6 and of disputes over the interpretation and application of agreements.
7 Negotiated procedures may provide for binding arbitration of ferry
8 employee grievances and of disputes over the interpretation and
9 application of existing agreements. An arbitrator's decision on a
10 grievance shall not change or amend the terms, conditions, or
11 applications of the collective bargaining agreement. The procedures
12 shall provide for the invoking of arbitration only with the approval of
13 the employee organization. The costs of arbitrators shall be shared
14 equally by the parties.

15 Ferry system employees shall follow either the grievance procedures
16 provided in a collective bargaining agreement, or if no such procedures
17 are so provided, shall submit the grievances to the ((~~marine~~
18 ~~employees~~)) commission as provided in RCW 47.64.280 (as recodified by
19 this act).

20 NEW SECTION. **Sec. 11.** RCW 47.64.280 is recodified as a section in
21 chapter 41.58 RCW."

22 Correct the title.

EFFECT: (1) Clarifies that expenditures from the Puget Sound
Ferry Operations Account may be spent only after appropriation for
maintenance and operation, as well as administration, of the Washington
State Ferry System.

(2) Instead of eliminating the Marine Employees' Commission (MEC)
and moving their functions to the Public Employment Relations
Commission (PERC), the amendment requires, by December 31, 2011, MEC to
merge to PERC as an independent division of PERC.

(3) Removes the provision that increases the threshold amount for
apprenticeship utilization on WSF public works projects from \$2 million
to \$5 million.

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