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**SUBSTITUTE SENATE BILL 6109**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senate Transportation (originally sponsored by Senators Haugen, Rockefeller, Kilmer, Sheldon, King, and Swecker)

READ FIRST TIME 04/03/09.

1       AN ACT Relating to ferries; amending RCW 47.60.355, 47.60.365,  
2 47.60.375, 47.60.385, 47.64.220, 47.64.280, 47.60.315, 43.19.642, and  
3 47.60.310; adding new sections to chapter 47.60 RCW; creating a new  
4 section; and repealing RCW 47.60.395.

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

6       NEW SECTION.   **Sec. 1.** It is the intent of the legislature that  
7 final recommendations from the joint transportation committee ferry  
8 study, submitted to the legislature during the 2009 regular legislative  
9 session, be enacted by the legislature and implemented by the  
10 department of transportation as soon as practicable in order to benefit  
11 from the efficiencies and cost savings identified in the  
12 recommendations. It is also the intent of the legislature to make  
13 various additional policy changes aimed at further efficiencies and  
14 cost savings. Since the study began in 2006, recommendations have been  
15 made with regard to long range planning and implementing the most  
16 efficient and effective balance between ferry capital and operating  
17 investments. It is intended that this act, the 2009-2011 omnibus  
18 transportation appropriations act, and subsequent transportation  
19 appropriations acts serve as vehicles for enacting these

1 recommendations in order to maximize the utilization of existing  
2 capacity and to make the most efficient use of existing assets and tax  
3 dollars.

4 **Sec. 2.** RCW 47.60.355 and 2007 c 512 s 11 are each amended to read  
5 as follows:

6 (1) Terminal and vessel preservation funding requests shall only be  
7 for assets in the life-cycle cost model.

8 (2) Terminal and vessel preservation funding requests that exceed  
9 five million dollars per project must be accompanied by a predesign  
10 study. The predesign study must include all elements required by the  
11 office of financial management.

12 **Sec. 3.** RCW 47.60.365 and 2007 c 512 s 12 are each amended to read  
13 as follows:

14 The department shall develop terminal and vessel design standards  
15 that:

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

18 (2) Adhere to operational strategies as described in RCW 47.60.327;  
19 and

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

22 **Sec. 4.** RCW 47.60.375 and 2008 c 124 s 3 are each amended to read  
23 as follows:

24 (1) The capital plan must adhere to the following:

25 (a) A current ridership demand forecast;

26 (b) Vehicle level of service standards as described in RCW  
27 47.06.140;

28 (c) Operational strategies as described in RCW 47.60.327; and

29 (d) Terminal and vessel design standards as described in RCW  
30 47.60.365.

31 (2) The capital plan must include the following:

32 (a) A current vessel preservation plan;

33 (b) A current systemwide vessel rebuild and replacement plan as  
34 described in RCW 47.60.377;

35 (c) A current vessel deployment plan; and

1 (d) A current terminal preservation plan that adheres to the life-  
2 cycle cost model on capital assets as described in RCW 47.60.345.

3 **Sec. 5.** RCW 47.60.385 and 2008 c 124 s 6 are each amended to read  
4 as follows:

5 (1) Terminal improvement, vessel improvement, and vessel  
6 acquisition project funding requests must adhere to the capital plan(~~(-~~  
7 ~~(2) Requests for terminal improvement design and construction~~  
8 ~~funding must~~), include route-based planning, and be submitted with a  
9 predesign study that:

10 (a) Includes all elements required by the office of financial  
11 management;

12 (b) Separately identifies basic terminal elements essential for  
13 operation and their costs;

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

16 (d) Includes construction phasing options that are consistent with  
17 forecasted ridership increases;

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

20 (f) Separately identifies multimodal elements and the cost and  
21 proposed funding source of those elements; (~~and~~)

22 (g) Identifies all contingency amounts(~~(-~~

23 ~~(h)[(3)] When planning for new vessel acquisitions, the department~~  
24 ~~must evaluate the long term vessel operating costs related to fuel~~  
25 ~~efficiency and staffing~~);

26 (h) Identifies any terminal, vessel, or other capital modifications  
27 that would be required as a result of the proposed capital project;

28 (i) Includes planned service modifications as a result of the  
29 proposed capital project, and the consistency of those service  
30 modifications with the capital plan; and

31 (j) Demonstrates the evaluation of long-term operating costs  
32 including fuel efficiency, staffing, and preservation.

33 (2) The department shall prioritize vessel preservation and  
34 acquisition funding requests over vessel improvement funding requests.

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

1 (1) In addition to the requirements of RCW 47.60.385(1), initial  
2 requests for, and substantial modification requests to, vessel  
3 acquisition funding must be submitted with a predesign study that:

4 (a) Includes a business decision case on vessel sizing;

5 (b) Includes an updated vessel deployment plan demonstrating  
6 maximum use of existing vessels, and an updated systemwide vessel  
7 rebuild and replacement plan;

8 (c) Includes an analysis that demonstrates that acquiring a new  
9 vessel or improving an existing vessel is more cost-effective than  
10 other alternatives considered. At a minimum, alternatives explored  
11 must include:

12 (i) Alternatives to new vessel construction that increase capacity  
13 of existing vessels;

14 (ii) Service level changes in lieu of adding vessel capacity; and

15 (iii) Existing vessels or vessel plans;

16 (d) Includes documentation of community reaction to proposed vessel  
17 capacity changes;

18 (e) Demonstrates that the vessel proposed for improvement,  
19 construction, or purchase, if intended to replace an existing vessel or  
20 to place an existing vessel into inactive or reserve status, is  
21 consistent with the scheduled replacements in the rebuild and  
22 replacement plan.

23 (2) In addition to the requirements of RCW 47.60.385(1), initial  
24 requests for, and substantial modification requests to, vessel  
25 improvement funding must be submitted with a predesign study that  
26 includes:

27 (a) An explanation of any regulatory changes necessitating the  
28 improvement;

29 (b) The requirements under subsection (1) of this section, if the  
30 improvement modifies the capacity of a vessel;

31 (c) A cost-benefit analysis of any modifications designed to  
32 improve fuel efficiency, including potential impacts on vessel  
33 maintenance and repair; and

34 (d) An assessment of out-of-service time associated with making the  
35 improvement and ongoing preservation of the improvement.

36 **Sec. 7.** RCW 47.64.220 and 2006 c 164 s 10 are each amended to read  
37 as follows:

1 (1) Prior to collective bargaining and for purposes of collective  
2 bargaining and arbitration, the (~~commission~~) office of financial  
3 management shall conduct a salary survey. The results of the survey  
4 shall be published in a report which shall be a public document  
5 comparing wages, hours, employee benefits, and conditions of employment  
6 of involved ferry employees with those of public and private sector  
7 employees in states along the west coast of the United States,  
8 including Alaska, and in British Columbia doing directly comparable but  
9 not necessarily identical work, giving consideration to factors  
10 peculiar to the area and the classifications involved. Such survey  
11 report shall be for the purpose of disclosing generally prevailing  
12 levels of compensation, benefits, and conditions of employment. It  
13 shall be used to guide generally but not to define or limit collective  
14 bargaining between the parties.

15 (2) Salary and employee benefit information collected from private  
16 employers that identifies a specific employer with the salary and  
17 employee benefit rates which that employer pays to its employees is not  
18 subject to public disclosure under chapter 42.56 RCW.

19 **Sec. 8.** RCW 47.64.280 and 2006 c 164 s 18 are each amended to read  
20 as follows:

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

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

5 (2) The commission shall: (a) Adjust all complaints, grievances,  
6 and disputes between labor and management arising out of the operation  
7 of the ferry system as provided in RCW 47.64.150; (b) provide for  
8 impasse mediation as required in RCW 47.64.210; and (c) (~~provide~~  
9 ~~salary surveys as required in RCW 47.64.220; and (d)) perform those~~  
10 duties required in RCW 47.64.300.

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

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

22 (c) The commission shall adopt rules of procedure under chapter  
23 34.05 RCW.

24 (d) The commission has the authority to subpoena any ferry employee  
25 or employees, or their representatives, and any member or  
26 representative of the department, and any witnesses. The commission  
27 may require attendance of witnesses and the production of all pertinent  
28 records at any hearings held by the commission. The subpoenas of the  
29 commission are enforceable by order of any superior court in the state  
30 of Washington for the county within which the proceeding may be  
31 pending. The commission may hire staff as necessary, appoint  
32 consultants, enter into contracts, and conduct studies as reasonably  
33 necessary to carry out this chapter.

34 **Sec. 9.** RCW 47.60.315 and 2007 c 512 s 6 are each amended to read  
35 as follows:

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

1 (a) Each year the department shall provide the commission a report  
2 of its review of fares and pricing policies, with recommendations for  
3 the revision of fares and pricing policies for the ensuing year,  
4 including options for active demand management pricing strategies;

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

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

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

14 (4) The chief executive officer of the ferry system may authorize  
15 the use of promotional, discounted, and special event fares to the  
16 general public and commercial enterprises for the purpose of maximizing  
17 capacity use and the revenues collected by the ferry system. The  
18 department shall report to the commission a summary of the promotional,  
19 discounted, and special event fares offered during each fiscal year and  
20 the financial results from these activities.

21 (5) Fare revenues and other revenues deposited in the Puget Sound  
22 ferry operations account created in RCW 47.60.530 may not be used to  
23 support the Puget Sound capital construction account created in RCW  
24 47.60.505, unless the support for capital is separately identified in  
25 the fare.

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

29 (7) When setting ferry fares, the commission shall:

30 (a) Separate the fare into the fuel component and other operating  
31 expenditures component, and ensure that forecasted fuel increases and  
32 decreases are covered by the calculated fuel component; and

33 (b) Ensure that other operating costs, less available subsidies,  
34 are covered by the other operating expenditures component of the fare.

35 (8) Before raising the fuel component of the fares, the commission  
36 shall ensure the department has considered operational changes to  
37 reduce fuel consumption.

1       (9) When setting ferry fares to raise required total system  
2 revenues, first consideration must be given to raising revenues through  
3 increased off-peak vehicle ridership.

4       (10) The commission may authorize a fuel surcharge effective no  
5 sooner than July 1, 2013.

6       NEW SECTION. Sec. 10. A new section is added to chapter 47.60 RCW  
7 to read as follows:

8       The legislature finds measuring the performance of Washington state  
9 ferries requires the measurement of quality, timeliness, and unit cost  
10 of services delivered to customers. Consequently, the department must  
11 develop a set of metrics that measure that performance and report to  
12 the transportation committees of the house of representatives and  
13 senate and to the office of financial management on the development of  
14 these measurements along with recommendations to the 2010 legislature  
15 on which measurements must become a part of the next transportation  
16 budget.

17       **Sec. 11.** RCW 43.19.642 and 2007 c 348 s 201 are each amended to  
18 read as follows:

19       (1) Effective June 1, 2006, for agencies complying with the ultra-  
20 low sulfur diesel mandate of the United States environmental protection  
21 agency for on-highway diesel fuel, agencies shall use biodiesel as an  
22 additive to ultra-low sulfur diesel for lubricity, provided that the  
23 use of a lubricity additive is warranted and that the use of biodiesel  
24 is comparable in performance and cost with other available lubricity  
25 additives. The amount of biodiesel added to the ultra-low sulfur  
26 diesel fuel shall be not less than two percent.

27       (2) Effective June 1, 2009, state agencies are required to use a  
28 minimum of twenty percent biodiesel as compared to total volume of all  
29 diesel purchases made by the agencies for the operation of the  
30 agencies' diesel-powered vessels, vehicles, and construction equipment.

31       (3) All state agencies using biodiesel fuel shall, beginning on  
32 July 1, 2006, file biannual reports with the department of general  
33 administration documenting the use of the fuel and a description of how  
34 any problems encountered were resolved.

35       (4) The requirements of this section do not apply to vessel fuel  
36 purchases by the Washington state ferries.



1        NEW SECTION.        **Sec. 12.**        RCW 47.60.395 (Evaluation of cost  
2 allocation methodology and preservation and improvement costs) and 2007  
3 c 512 s 15 are each repealed.

4        **Sec. 13.**        RCW 47.60.310 and 1988 c 100 s 1 are each amended to read  
5 as follows:

6        (1) The department is further directed to conduct such review by  
7 soliciting and obtaining expressions from local community groups in  
8 order to be properly informed as to problems being experienced within  
9 the area served by the Washington state ferries. ~~((In order that local  
10 representation may be established, the department))~~ The department  
11 shall meet the requirements of this section by means of no more than  
12 quarterly meetings with the legislative authority of each ferry-served  
13 county.

14        (2) The legislative authorities of ferry-served counties:

15        (a) Shall give prior notice of ~~((the review))~~ meetings described in  
16 subsection (1) of this section to the ferry advisory committees  
17 established in this section and to the governing officials or towns  
18 with ferry terminals;

19        (b) Shall update the membership of the ferry advisory committees to  
20 reflect statutory requirements regarding numbers of members, expiration  
21 of terms, and diversity of representation on the committees; and

22        (c) May require the ferry advisory committees to conduct public  
23 outreach to gather community input, document the method and findings of  
24 the public outreach, and report the results at the meetings with the  
25 department.

26        ~~((+2))~~ (3) The legislative authorities of San Juan, Skagit,  
27 Clallam, and Jefferson counties shall each appoint a committee to  
28 consist of ~~((five))~~ a maximum of six members to serve as an advisory  
29 committee to the ~~((department or its designated representative))~~  
30 legislative authorities of ferry-served counties in such review. The  
31 legislative authorities of other counties that contain ferry terminals  
32 shall appoint ferry advisory committees consisting of ~~((three))~~ a  
33 maximum of four members for each terminal area in each county, except  
34 for Vashon Island, which shall have one committee, and its members  
35 shall be appointed ~~((by))~~ in consultation with the Vashon/Maury Island  
36 community council. ~~((At least one person appointed to))~~

1        (4) Membership in each ferry advisory committee shall be  
2        representative of ((an)) established ferry user ((group or of frequent  
3        users of the ferry system)) groups consistent with the most recent  
4        ferry ridership survey conducted by the Washington state transportation  
5        commission. The membership of county ferry advisory committees shall  
6        include an elected local official and a representative of commercial  
7        users. Each member shall reside in the vicinity of the terminal that  
8        the advisory committee represents.

9        ~~((+3))~~ (5) The members of the ~~((San Juan, Clallam, and Jefferson~~  
10        ~~county))~~ ferry advisory committees shall be appointed for four-year  
11        terms. ~~((The initial terms shall commence on July 1, 1982, and end on~~  
12        ~~June 30, 1986.))~~ Any vacancy shall be filled for the remainder of the  
13        unexpired term by the appointing authority. ~~((At least one person~~  
14        ~~appointed to the advisory committee shall be representative of an~~  
15        ~~established ferry user group or of frequent users of the ferry system,~~  
16        ~~at least one shall be representative of persons or firms using or~~  
17        ~~depending upon the ferry system for commerce, and one member shall be~~  
18        ~~representative of a local government planning body or its staff. Every~~  
19        ~~member shall be a resident of the county upon whose advisory committee~~  
20        ~~he or she sits, and not more than three members shall at the time of~~  
21        ~~their appointment be members of the same major political party.~~

22        ~~(4)~~ The members of each terminal area committee shall be appointed  
23        for four-year terms. The initial terms of the members of each terminal  
24        area committee shall be staggered as follows: All terms shall commence  
25        September 1, 1988, with one member's term expiring August 31, 1990, one  
26        member's term expiring August 31, 1991, and the remaining member's term  
27        expiring August 31, 1992. Any vacancy shall be filled for the  
28        remainder of the unexpired term by the appointing authority. Not more  
29        than two members of any terminal area committee may be from the same  
30        political party at the time of their appointment, and in a county  
31        having more than one)) For each ferry advisory committee, the overall  
32        party representation shall be as nearly equal as possible.

33        ~~((+5)~~ The chairmen of the several committees constitute an  
34        executive committee of the Washington state ferry users. The executive  
35        committee shall meet twice each year with representatives of the marine  
36        division of the department to review ferry system issues.

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

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