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**SUBSTITUTE SENATE BILL 5862**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** Senate Committee on Transportation (originally sponsored by Senators Kilmer, Rockefeller, Poulsen, Kohl-Welles and Kline)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to passenger-only ferry service; amending RCW  
2 36.57A.220, 47.01.350, 47.60.662, 82.08.0255, 36.54.110, and 47.60.658;  
3 amending 2006 c 332 s 2 (uncodified); reenacting and amending RCW  
4 47.60.120; adding a new section to chapter 47.60 RCW; creating a new  
5 section; providing an effective date; and declaring an emergency.

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

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

9 By August 1st, November 1st, February 1st, and May 1st of every  
10 year, the department of transportation shall notify the state treasurer  
11 in writing of the amount of state sales and use tax paid under chapters  
12 82.08 and 82.12 RCW by the Washington state ferries on the purchase of  
13 fuel for the preceding calendar quarter. By September 1st, December  
14 1st, March 1st, and June 1st of every year, the state treasurer shall  
15 transfer an amount equal to the amount indicated by the department in  
16 their notification to the treasurer into the passenger ferry account  
17 created in RCW 47.60.645.

1        NEW SECTION.    **Sec. 2.**    The indication of the amount of fuel taxes  
2    paid by the Washington state ferries in section 1 of this act applies  
3    to all calendar quarters beginning on or after April 1, 2007.

4        **Sec. 3.**    RCW 36.57A.220 and 2006 c 332 s 8 are each amended to read  
5    as follows:

6        A public transportation benefit area seeking grant funding as  
7    described in RCW 47.01.350 for a passenger-only ferry route between  
8    Kingston and Seattle shall first receive approval from the governor  
9    after submitting a complete business plan to the governor and the  
10   legislature by November 1, ((2006)) 2007. The business plan must, at  
11   a minimum, include hours of operation, vessel needs, labor needs,  
12   proposed routes, passenger terminal facilities, passenger rates,  
13   anticipated federal and local funding, coordination with the Washington  
14   state ferry system, coordination with existing transit providers, long-  
15   term operation and maintenance needs, and a long-term financial plan.

16       **Sec. 4.**    RCW 47.01.350 and 2006 c 332 s 4 are each amended to read  
17   as follows:

18       (1) The department of transportation shall establish a ferry grant  
19   program subject to availability of amounts appropriated for this  
20   specific purpose. The purpose of the grant program is to provide  
21   operating or capital grants for ferry systems as provided in chapters  
22   36.54 and 36.57A RCW to operate passenger-only ferry service.

23       (2) In providing grants under this section, the department may  
24   enter into multiple year contracts with the stipulation that future  
25   year allocations are subject to the availability of funding as provided  
26   by legislative appropriation.

27       ((~~(3) Priority shall be given to grant applications that provide~~  
28   ~~continuity of existing passenger only service and the provision of~~  
29   ~~local or federal matching funds.~~))

30       **Sec. 5.**    RCW 47.60.662 and 2006 c 332 s 5 are each amended to read  
31   as follows:

32       The Washington state ferry system shall collaborate with new and  
33   potential passenger-only ferry service providers, as described in ((~~RCW~~  
34   ~~36.54.110(5)~~)) chapters 36.54 and 36.57A RCW, for terminal operations  
35   at its existing terminal facilities.

1       **Sec. 6.** RCW 82.08.0255 and 2005 c 443 s 5 are each amended to read  
2 as follows:

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

5       (a) The fuel is purchased for the purpose of public transportation  
6 and the purchaser is entitled to a refund or an exemption under RCW  
7 82.36.275 or 82.38.080(3); or

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

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

16       (d) The fuel is taxable under chapter 82.36 or 82.38 RCW.

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

24       **Sec. 7.** 2006 c 332 s 2 (uncodified) is amended to read as follows:

25       ~~((By October 31, 2006, the department of transportation shall have~~  
26 ~~an independent appraisal of the market value of the Washington state~~  
27 ~~ferries Snohomish and Chinook and present it to the transportation~~  
28 ~~committees of the legislature and the governor by November 1, 2006.))~~  
29 The department of transportation shall ~~((sell or otherwise dispose of))~~  
30 make available for sale the Washington state ferries Snohomish and  
31 Chinook ~~((for))~~ at market value ~~((and deposit the proceeds of the sales~~  
32 ~~into the passenger ferry account created in RCW 47.60.645 as soon as~~  
33 ~~practicable upon approval by the governor of the business plan~~  
34 ~~described in RCW 36.54.110(5))~~ by June 1, 2007. Proceeds from the  
35 sale must be deposited into the passenger ferry account created in RCW  
36 47.60.645.

1       **Sec. 8.** RCW 36.54.110 and 2006 c 332 s 7 are each amended to read  
2 as follows:

3       (1) The legislative authority of a county may adopt an ordinance  
4 creating a ferry district in all or a portion of the area of the  
5 county, including the area within the corporate limits of any city or  
6 town within the county. The ordinance may be adopted only after a  
7 public hearing has been held on the creation of a ferry district, and  
8 the county legislative authority makes a finding that it is in the  
9 public interest to create the district.

10       (2) A ferry district is a municipal corporation, an independent  
11 taxing "authority" within the meaning of Article VII, section 1 of the  
12 state Constitution, and a "taxing district" within the meaning of  
13 Article VII, section 2 of the state Constitution.

14       (3) A ferry district is a body corporate and possesses all the  
15 usual powers of a corporation for public purposes as well as all other  
16 powers that may now or hereafter be specifically conferred by statute,  
17 including, but not limited to, the authority to hire employees, staff,  
18 and services, to enter into contracts, and to sue and be sued.

19       (4) The members of the county legislative authority, acting ex  
20 officio and independently, shall compose the governing body of any  
21 ferry district that is created within the county. The voters of a  
22 ferry district must be registered voters residing within the boundaries  
23 of the district.

24       (5) A county with a population greater than one million persons and  
25 having a boundary on Puget Sound, or a county to the west of Puget  
26 Sound with a population greater than two hundred thirty thousand but  
27 less than three hundred thousand persons, proposing to create a ferry  
28 district to assume a passenger-only ferry route between Vashon and  
29 Seattle, including an expansion of that route to include Southworth,  
30 shall first receive approval from the governor after submitting a  
31 complete business plan to the governor and the legislature by November  
32 1, (~~2006~~) 2007. The business plan must, at a minimum, include hours  
33 of operation, vessel needs, labor needs, proposed routes, passenger  
34 terminal facilities, passenger rates, anticipated federal and local  
35 funding, coordination with Washington state ferry system, coordination  
36 with existing transit providers, long-term operation and maintenance  
37 needs, and long-term financial plan. The business plan must not  
38 include contracting for operations with state employees or agencies.

1 The business plan may include provisions regarding coordination with an  
2 appropriate county to participate in a joint ferry under RCW 36.54.030  
3 through 36.54.070. In order to be considered for assuming the route,  
4 the ferry district shall ensure that the route will be operated only by  
5 the ferry district and not contracted out to a private entity, all  
6 existing labor agreements will be honored, and operations will begin no  
7 later than July 1, ~~((2007))~~ 2008. If the route is to be expanded to  
8 include serving Southworth, the ferry district shall enter into an  
9 interlocal agreement with the public transportation benefit area  
10 serving the Southworth ferry terminal within thirty days of beginning  
11 Southworth ferry service. For the purposes of this subsection, Puget  
12 Sound is considered as extending north to Admiralty Inlet.

13 **Sec. 9.** RCW 47.60.120 and 2003 c 373 s 2 and 2003 c 83 s 204 are  
14 each reenacted and amended to read as follows:

15 ~~((1))~~ If the department acquires or constructs, maintains, and  
16 operates any ferry crossings upon ~~((or toll bridges over))~~ Puget Sound  
17 or any of its tributary or connecting waters, there shall not be  
18 constructed, operated, or maintained any other ferry crossing upon ~~((or~~  
19 ~~bridge over))~~ any such waters ~~((within ten miles of any such crossing~~  
20 ~~or bridge operated or maintained))~~ in a manner that would interfere  
21 with the safe operation of ferries by the department ~~((excepting~~  
22 ~~such)),~~ except for bridges or ferry crossings in existence~~((7))~~ and  
23 being operated and maintained ~~((under a))~~ lawfully ~~((issued franchise))~~  
24 at the time of the location of the ferry crossing ~~((or construction of~~  
25 ~~the toll bridge))~~ by the department.

26 ~~((2) The ten-mile distance in subsection (1) of this section means~~  
27 ~~ten statute miles measured by airline distance. The ten-mile~~  
28 ~~restriction shall be applied by comparing the two end points (termini)~~  
29 ~~of a state ferry crossing to those of a private ferry crossing.~~

30 ~~(3) The Washington utilities and transportation commission may,~~  
31 ~~upon written petition of a commercial ferry operator certificated or~~  
32 ~~applying for certification under chapter 81.84 RCW, and upon notice and~~  
33 ~~hearing, grant a waiver from the ten-mile restriction. The waiver must~~  
34 ~~not be detrimental to the public interest. In making a decision to~~  
35 ~~waive the ten-mile restriction, the commission shall consider, but is~~  
36 ~~not limited to, the impact of the waiver on transportation congestion~~  
37 ~~mitigation, air quality improvement, and the overall impact on the~~

1 ~~Washington state ferry system. The commission shall act upon a request~~  
2 ~~for a waiver within ninety days after the conclusion of the hearing.~~  
3 ~~A waiver is effective for a period of five years from the date of~~  
4 ~~issuance. At the end of five years the waiver becomes permanent unless~~  
5 ~~appealed within thirty days by the commission on its own motion, the~~  
6 ~~department, or an interested party.~~

7 ~~(4) The department shall not maintain and operate any ferry~~  
8 ~~crossing or toll bridge over Puget Sound or any of its tributary or~~  
9 ~~connecting waters that would infringe upon any franchise lawfully~~  
10 ~~issued by the state and in existence and being exercised at the time of~~  
11 ~~the location of the ferry crossing or toll bridge by the department,~~  
12 ~~without first acquiring the rights granted to such franchise holder~~  
13 ~~under the franchise.~~

14 ~~(5) This section does not apply to the operation of passenger only~~  
15 ~~ferry service by public transportation benefit areas meeting the~~  
16 ~~requirements of RCW 36.57A.200 or to the operation of passenger only~~  
17 ~~ferry service by ferry districts.)~~

18 **Sec. 10.** RCW 47.60.658 and 2006 c 332 s 3 are each amended to read  
19 as follows:

20 The department shall maintain the level of service existing on  
21 January 1, 2006, for the Vashon to Seattle passenger-only ferry route  
22 until such time as the (~~legislature approves a county ferry district's~~  
23 ~~assumption of the route, as authorized under RCW 36.54.110(5)) route~~  
24 is assumed by another entity, providing a level of service at or  
25 exceeding the state level.

26 NEW SECTION. **Sec. 11.** This act is necessary for the immediate  
27 preservation of the public peace, health, or safety, or support of the  
28 state government and its existing public institutions, and takes effect  
29 immediately, except for section 9 of this act which takes effect July  
30 1, 2008.

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