

Chapter 47.60 RCW
PUGET SOUND FERRY AND TOLL BRIDGE SYSTEM

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Bridges across navigable waters: RCW 79.110.110 through 79.110.140.

Credit permits for vehicular passage: RCW 47.56.247, 47.56.248.

Sale, lease of unneeded toll facility, ferry system property—Franchises for utility, railway purposes: RCW 47.56.253 through 47.56.257.

Traffic violations and unlawful acts on toll facility or ferry: RCW 46.61.690.

RCW 47.60.005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Capital plan" means the state ferry system plan developed by the department as described in RCW 47.06.050(2), reviewed by the commission, and reported to the transportation committees of the legislature by the department.

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

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

(5) "Fixed price contract" means a contract that requires the contractor to deliver a specified project for a set price. Change orders on fixed price contracts are allowable but should be used on a very limited basis.

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

(7) "Life-cycle cost analysis" means an analysis of the full net present value cost of constructing and operating a vessel over its life span, including capital costs, financing costs, operation and maintenance costs, decommissioning costs, and variable costs including fuel.

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

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

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

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

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

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

(14) "Washington state ferries" means the ferry division within the department, as described in RCW 47.60.015. [2023 c 188 s 2. Prior: 2015 3rd sp.s. c 14 s 1; 2008 c 124 s 1; 2007 c 512 s 3.]

Effective date—2015 3rd sp.s. c 14: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [July 6, 2015]." [2015 3rd sp.s. c 14 s 9.]

Finding—Intent—2007 c 512: See note following RCW 47.06.140.

RCW 47.60.010 Ferry system, toll bridges, and facilities authorized—Power to contract, sell, and lease back. The department is authorized to acquire by lease, charter, contract, purchase, condemnation, or construction, and partly by any or all of such means, and to thereafter operate, improve, and extend, a system of ferries on and crossing Puget Sound and any of its tributary waters and connections thereof, and connecting with the public streets and highways in the state. However, any new vessel planning, construction, purchase, analysis, or design work must be consistent with RCW 47.60.810, except as otherwise provided in RCW 47.60.826. The system of ferries shall include such boats, vessels, wharves, docks, approaches, landings, franchises, licenses, and appurtenances as shall be determined by the department to be necessary or desirable for efficient operation of the ferry system and best serve the public. Subject to RCW 47.56.820, the department may in like manner acquire by purchase, condemnation, or construction and include in the ferry system such toll bridges, approaches, and connecting roadways as may be deemed by the department advantageous in channeling traffic to points served by the ferry system. In addition to the powers of acquisition granted by this section, the department is empowered to enter into any contracts, agreements, or leases with any person, firm, or corporation and to thereby provide, on such terms and conditions as it shall determine, for the operation of any ferry or ferries or system thereof, whether acquired by the department or not.

The authority of the department to sell and lease back any state ferry, for federal tax purposes only, as authorized by 26 U.S.C., Sec. 168(f)(8) is confirmed. Legal title and all incidents of legal title to any ferry sold and leased back (except for the federal tax benefits attributable to the ownership thereof) shall remain in the state of

Washington. [2023 c 429 s 5; 2015 3rd sp.s. c 14 s 2; 2008 c 122 s 20; 1984 c 18 s 1; 1984 c 7 s 296; 1961 c 13 s 47.60.010. Prior: 1949 c 179 s 1; Rem. Supp. 1949 s 6584-30.]

Effective date—2023 c 429: See note following RCW 47.60.826.

Effective date—2015 3rd sp.s. c 14: See note following RCW 47.60.005.

RCW 47.60.013 Emergency powers of governor to insure continued operation of ferry and toll bridge system—Cost reimbursement. The governor is authorized to take such actions as may be necessary to insure the continued operation of the Puget Sound ferry and toll bridge system under any emergency circumstances which threaten the continued operation of the system. In the event of such an emergency, the governor may assume all the powers granted by law to the transportation commission and department of transportation with respect to the ferry system. In addition, notwithstanding the provisions of chapters 47.60 and 47.64 RCW, the governor may contract with any qualified persons for the operation of the Washington state ferry system, or any part thereof, or for ferry service to be provided by privately owned vessels. Administrative costs to the office of the governor incurred in the exercise of this authority shall be reimbursed by the department. [1981 c 341 s 1.]

Severability—1981 c 341: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 341 s 2.]

RCW 47.60.015 "Washington State Ferries"—Name authorized. The department is authorized to operate its ferry system under the name: "Washington State Ferries." [1984 c 7 s 297; 1961 c 13 s 47.60.015. Prior: 1953 c 33 s 1.]

RCW 47.60.017 State ferry system a public mass transportation system. The legislature finds and declares that the state ferry system is a public mass transportation system. [1974 ex.s. c 105 s 1.]

RCW 47.60.020 Eminent domain—Condemnation proceedings. For the purpose of carrying out any or all of the powers granted in this chapter, the department has the power of eminent domain for the acquisition of either real or personal property, used or useful for the Puget Sound ferry system. Condemnation pursuant to this chapter shall be the procedure set out in chapter 8.04 RCW. The department may institute condemnation proceedings in the superior court of any county or other court of competent jurisdiction in which any of the property sought to be condemned is located or in which the owner of any thereof does business, and the court in any such action has jurisdiction to condemn property wherever located within the state. It shall not be necessary to allege or prove any offer to purchase or inability to

agree with the owners thereof for the purchase of any such property in the proceedings. It is the intention of this section to permit the consolidation in one action of all condemnation proceedings necessary to acquire a ferry system and every type of property incident thereto, irrespective of its location within the state or diversity of ownership. Upon the filing of a petition for condemnation as provided in this section, the court may issue an order restraining the removal from the jurisdiction of the state of any personal property sought to be acquired by the proceeding during the pendency thereof. The court further has the power to issue such orders or process as are necessary to place the department into possession of any property condemned. [1984 c 7 s 298; 1961 c 13 s 47.60.020. Prior: 1949 c 179 s 2; Rem. Supp. 1949 s 6584-31.]

RCW 47.60.030 Existing contracts—Prior negotiations and bids validated. In any case where the department takes over any property or properties which are under lease, contract, or concession, or where the department has heretofore entered into any contract or negotiation or received any bid for any of the purposes set forth in this chapter, the department is authorized to continue in effect and carry out any such contract, lease, or concession or complete any such negotiation or accept any such bid or any modification of any of them which appears advantageous to the department without regard to any limitations or directions as to the manner thereof contained in this chapter. However, this section shall not be construed as requiring the department so to act, but this section is permissive only and then only in respect to contracts, leases, concessions, negotiations, or bids existing, entered into, or received prior to April 1, 1949. [1984 c 7 s 299; 1961 c 13 s 47.60.030. Prior: 1949 c 179 s 7; Rem. Supp. 1949 s 6584-36.]

RCW 47.60.040 Survey by department. For the purpose of obtaining information for the consideration of the department upon the acquisition of any ferries or ferry facilities or the construction of any toll bridge under this chapter, the department shall make any examination, investigation, survey, or reconnaissance for the determination of material facts pertaining thereto.

The cost of any such examination, investigation, survey, or reconnaissance, and all preliminary expenses leading up to and resulting in the issuance of any revenue bonds including, but not being limited to expenses in making surveys and appraisals and the drafting, printing, issuance, and sale of bonds under this chapter shall be borne by the department out of the motor vehicle fund. All such costs and expenses as well as any thereof heretofore incurred shall be reimbursed to the motor vehicle fund out of any proceeds derived from the sale of bonds or out of tolls and revenues to be derived by the department through its operations hereunder. [1984 c 7 s 300; 1961 c 13 s 47.60.040. Prior: 1949 c 179 s 4, part; Rem. Supp. 1949 s 6584-33, part.]

RCW 47.60.050 Improvement of facilities—Financing. Any facility that the department acquires or is authorized to acquire under the provisions of this chapter may be rehabilitated, rebuilt,

enlarged, or improved, and the cost thereof may be paid from the revenues of the system or through the issuance of bonds as hereinafter provided. [1984 c 7 s 301; 1961 c 13 s 47.60.050. Prior: 1949 c 179 s 3, part; Rem. Supp. 1949 s 6584-32, part.]

RCW 47.60.060 Revenue bonds authorized—Issuance—Conditions—Negotiability—Interim bonds. For the purpose of paying the cost of acquiring by lease, charter, contract, purchase, condemnation, or construction all or any part of such Puget Sound ferry system, including toll bridges, approaches, and roadways incidental thereto, and for rehabilitating, rebuilding, enlarging, or improving all or any part of the system, the department is authorized by resolution to issue its revenue bonds which shall constitute obligations only of the department and shall be payable solely and only from all or such part of the revenues from the operation of the system as may be provided in and by the resolution.

Each revenue bond shall contain a recital that payment or redemption of the bond and payment of the interest thereon is secured by a direct charge and lien upon the tolls and revenues pledged for that purpose and that the bond does not constitute an indebtedness of the state of Washington.

The department is empowered to include in any resolution authorizing the issuance of the bonds such covenants, stipulations, and conditions as may be deemed necessary with respect to the continued use and application of the income and revenues from the undertaking.

The revenue bonds may bear such date or dates, may mature at such time or times as the department determines, may bear interest at such rate or rates, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be made subject to such terms of redemption with or without premium, and may contain such other terms and covenants not inconsistent with this chapter as may be provided in the resolution. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, each such revenue bond shall at all times be and shall be treated as a negotiable instrument for all purposes. All such bonds shall be signed by the state treasurer and countersigned by the governor, and any interest coupons appertaining thereto shall bear the signature of the state treasurer. The countersignature of the governor on the bonds and the signature of the state treasurer on the coupons may be their printed or lithographed facsimile signatures.

Pending the issuance of definitive bonds, temporary or interim bonds, certificates, or receipts of any denomination and with or without coupons attached may be issued as may be provided by the resolution. [1984 c 7 s 302; 1973 c 106 s 28; 1970 ex.s. c 56 s 65; 1969 ex.s. c 232 s 34; 1961 c 13 s 47.60.060. Prior: 1949 c 179 s 4, part; Rem. Supp. 1949 s 6584-33, part.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 47.60.080 Determining amount of bonds to be issued. In determining the amount of bonds required to be issued there may be included any expenses incurred by the department in connection with and incidental to the issuance and sale of bonds and for the preparation of surveys and estimates and making inspections and examinations, interest during the estimated construction period, and for six months thereafter, and a reasonable amount for working capital and prepaid insurance. [1984 c 7 s 303; 1961 c 13 s 47.60.080. Prior: 1949 c 179 s 4, part; Rem. Supp. 1949 s 6584-33, part.]

RCW 47.60.090 Sale of bonds—Deposit, disbursement of proceeds. All bonds issued under or by authority of this chapter shall be sold to the highest and best bidder after such advertising for bids as the department deems proper. However, the department may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as it deems most advantageous to its own interests. The purchase price of all bonds issued under this chapter shall be paid to the state treasurer consistent with the provisions of the resolution pursuant to which the bonds have been issued or to the trustee designated in the bond resolution and held as a separate trust fund to be disbursed on the orders of the department. [1984 c 7 s 304; 1961 c 13 s 47.60.090. Prior: 1949 c 179 s 4, part; Rem. Supp. 1949 s 6584-33, part.]

RCW 47.60.100 Bonds are legal investment for state moneys. Notwithstanding any other provision of the law, bonds issued by the authority shall be legal investments by the state investment board of any state moneys in its hands, except permanent school funds and motor vehicle funds. [1981 c 3 s 40; 1961 c 13 s 47.60.100. Prior: 1953 c 154 s 14; 1951 c 259 s 3; 1951 c 121 s 14; 1949 c 179 s 8; Rem. Supp. 1949 s 6584-37.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

RCW 47.60.110 Bondholders may compel performance. The holder of any bond or the trustee for any bonds designated by resolution may by mandamus or other appropriate proceeding require and compel performance of any duties imposed upon any state department, official or employee, including any duties imposed upon or undertaken by the authority or its officers, agents and employees in connection with the construction, maintenance and operation of the ferry system and in connection with the collection, deposit, investment, application and disbursement of the proceeds of the bonds and the revenue and income derived from the operation of the system. [1961 c 13 s 47.60.110. Prior: 1949 c 179 s 4, part; Rem. Supp. 1949 s 6584-33, part.]

RCW 47.60.113 Refunding bonds—Authorization—Amount—Interest—Conditions. The department is authorized to refund, at the maturity thereof, or before the maturity thereof if they are subject to call prior to maturity or if all of the holders thereof consent thereto, upon such terms and conditions as it deems best, any or all of its

revenue bonds now or hereafter outstanding, issued for the purpose of acquiring, constructing, or reconstructing any toll bridge, toll road, toll tunnel, ferry system, or any other toll facility of any sort, or issued for the purpose of refunding such bonds, which revenue bonds are payable out of all or part of the revenues of the toll facility. Refunding bonds may be issued hereunder in a sufficient amount to provide additional funds for acquiring, constructing, reconstructing, rehabilitating, rebuilding, enlarging, or improving any toll bridge, toll road, toll tunnel, ferry system, or any other toll facility of any sort, and to pay all refunding costs and expenses and to provide adequate reserves for the toll facility and for any such refunding bonds. Various issues and series of such outstanding bonds, including refunding bonds, may be combined and refunded by a single issue of refunding bonds. The refunding bonds shall bear interest at such rates and mature at such times, without limitation by the interest rates or maturity of the bonds being refunded, and shall contain such other covenants and conditions as the department determines by resolution. [1984 c 7 s 305; 1961 c 13 s 47.60.113. Prior: 1957 c 152 s 1; 1955 c 17 s 1.]

RCW 47.60.114 Refunding bonds—Payable from revenues. Any refunding bonds authorized by this chapter constitute obligations of the department only and not of the state of Washington. They shall be payable solely out of all or such part of the revenues derived from the operation of the toll bridge, toll road, toll tunnel, ferry system, or any other toll facility, as shall be provided in the resolution authorizing the issuance of the refunding bonds. [1984 c 7 s 306; 1961 c 13 s 47.60.114. Prior: 1957 c 152 s 2; 1955 c 17 s 2.]

RCW 47.60.115 Refunding bonds—Disposition—Laws applicable. The bonds herein authorized shall, in the discretion of the department, be exchanged at the best possible price for the bonds being refunded, or any such bonds not exchanged shall be sold in the manner provided in RCW 47.60.090. The bonds herein authorized shall be issued in accordance with, and shall be subject to, the provisions of RCW 47.60.050, 47.60.060, 47.60.080, 47.60.100, 47.60.110, and 47.60.120. [1983 c 3 s 134; 1961 c 13 s 47.60.115. Prior: 1957 c 152 s 3; 1955 c 17 s 3.]

RCW 47.60.120 Other crossings—Infringement of existing franchises—Waivers (as amended by 2003 c 83). (1) If the department acquires or constructs, maintains, and operates any ferry crossings upon or toll bridges over Puget Sound or any of its tributary or connecting waters, there shall not be constructed, operated, or maintained any other ferry crossing upon or bridge over any such waters within ten miles of any such crossing or bridge operated or maintained by the department excepting such bridges or ferry crossings in existence, and being operated and maintained under a lawfully issued franchise at the time of the location of the ferry crossing or construction of the toll bridge by the department.

(2) The ten-mile distance in subsection (1) of this section means ten statute miles measured by airline distance. The ten-mile

restriction shall be applied by comparing the two end points (termini) of a state ferry crossing to those of a private ferry crossing.

(3) The Washington utilities and transportation commission may, upon written petition of a commercial ferry operator certificated or applying for certification under chapter 81.84 RCW, and upon notice and hearing, grant a waiver from the ten-mile restriction. The waiver must not be detrimental to the public interest. In making a decision to waive the ten-mile restriction, the commission shall consider, but is not limited to, the impact of the waiver on transportation congestion mitigation, air quality improvement, and the overall impact on the Washington state ferry system. The commission shall act upon a request for a waiver within ninety days after the conclusion of the hearing. A waiver is effective for a period of five years from the date of issuance. At the end of five years the waiver becomes permanent unless appealed within thirty days by the commission on its own motion, the department, or an interested party.

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

(5) This section does not apply to the operation of passenger-only ferry service by public transportation benefit areas meeting the requirements of RCW 36.57A.200 or to the operation of passenger-only ferry service by ferry districts. [2003 c 83 s 204; 1993 c 427 s 1; 1984 c 7 s 307; 1961 c 13 s 47.60.120. Prior: 1949 c 179 s 6; Rem. Supp. 1949 s 6584-35.]

Findings—Intent—Captions, part headings not law—Severability—Effective date—2003 c 83: See notes following RCW 36.57A.200.

RCW 47.60.120 Other crossings—Infringement of existing franchises—Waivers (as amended by 2003 c 373). (1) If the department acquires or constructs, maintains, and operates any ferry crossings upon or toll bridges over Puget Sound or any of its tributary or connecting waters, there shall not be constructed, operated, or maintained any other ferry crossing upon or bridge over any such waters within ten miles of any such crossing or bridge operated or maintained by the department excepting such bridges or ferry crossings in existence, and being operated and maintained under a lawfully issued franchise at the time of the location of the ferry crossing or construction of the toll bridge by the department.

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

(3) The Washington utilities and transportation commission may, upon written petition of a commercial ferry operator certificated or applying for certification under chapter 81.84 RCW, and upon notice and hearing, grant a waiver from the ten-mile restriction. The waiver must not be detrimental to the public interest. In making a decision to waive the ten-mile restriction, the commission shall consider, but is not limited to, the impact of the waiver on transportation

congestion mitigation, air quality improvement, and the overall impact on the Washington state ferry system. The commission shall act upon a request for a waiver within ninety days after the conclusion of the hearing. A waiver is effective for a period of five years from the date of issuance. At the end of five years the waiver becomes permanent unless appealed within thirty days by the commission on its own motion, the department, or an interested party.

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

(5) This section does not apply to operators of passenger-only ferry service. [2003 c 373 s 2; 1993 c 427 s 1; 1984 c 7 s 307; 1961 c 13 s 47.60.120. Prior: 1949 c 179 s 6; Rem. Supp. 1949 s 6584-35.]

Reviser's note: RCW 47.60.120 was amended twice during the 2003 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Findings—Intent—2003 c 373: See note following RCW 47.64.090.

RCW 47.60.122 Ferries, terminal facilities—Interim revenue warrants authorized. For the purpose of paying the cost of acquiring, constructing, or reconstructing ferries or ferry terminal facilities, and all costs which may be incurred in connection therewith, the department is authorized to issue interim revenue warrants, which shall constitute obligations only of the department, and which shall not be obligations of the state of Washington. Such warrants shall be payable solely out of part or all of the revenues derived from the operation of the Puget Sound ferry system as shall be provided in the resolution authorizing their issuance, and shall be drawn upon, and the principal thereof and interest thereon shall be payable out of, such fund or funds as shall be created in and provided by the resolution. The warrants may be interest-bearing coupon warrants with a fixed maturity date, or may be interest-bearing registered warrants payable in order of their issuance whenever there is sufficient money in the fund upon which they were drawn to redeem any of them. [1984 c 7 s 308; 1961 c 13 s 47.60.122. Prior: 1953 c 159 s 1.]

RCW 47.60.124 Revenue refunding bonds to redeem interim warrants. If it is deemed advisable or found necessary to redeem any or all of such warrants, the department is authorized to issue its revenue refunding bonds for that purpose. The bonds shall constitute obligations only of the department, and shall not be obligations of the state of Washington. The refunding bonds shall be payable solely out of part or all of the revenues derived from the operation of the Puget Sound ferry system as shall be provided in the resolution authorizing their issuance. [1984 c 7 s 309; 1961 c 13 s 47.60.124. Prior: 1953 c 159 s 2.]

RCW 47.60.126 Interim warrants and refunding bonds—Laws applicable. All provisions of chapter 47.60 RCW pertaining and applicable to the revenue bonds of the department authorized in that chapter are applicable to the warrants and revenue refunding bonds authorized herein except insofar as otherwise provided by RCW 47.60.122 through 47.60.126. [1984 c 7 s 310; 1961 c 13 s 47.60.126. Prior: 1953 c 159 s 3.]

RCW 47.60.130 Unit or combined operation—Continuous project—Rental, charter, lease of system property—Sale of unneeded property. Such ferry system, including any toll bridges, approaches, and roadways incidental thereto, may be financed and operated in combination or separately as one or more units as the department of transportation may determine, and such ferry system together with any toll bridge hereafter constructed by the department upon or across the waters of Puget Sound or Hood Canal, or any part of either, replacing one or more presently operated ferry routes, is declared to be a continuous project within the meaning of *RCW 47.56.070. The department is empowered to rent, lease, or charter any property acquired under this chapter. If the department determines that any real property (including lands, improvements thereon, and any interests or estates) originally acquired for the ferry system is no longer required for the purposes of the ferry system, the department shall offer it for sale in the manner and with the authority authorized to the department by RCW 47.12.063 or 47.12.283. The secretary of transportation may adopt rules further implementing this section. The proceeds of all such sales shall be paid into the separate trust fund of the state treasury established pursuant to **RCW 47.60.150. [1979 ex.s. c 189 s 6; 1973 1st ex.s. c 177 s 5; 1961 c 13 s 47.60.130. Prior: 1955 c 22 s 1; 1953 c 32 s 1; 1949 c 179 s 3, part; Rem. Supp. 1949 s 6584-32, part.]

Reviser's note: *(1) RCW 47.56.070 was amended by 2008 c 122 s 10, deleting the language pertaining to the meaning of a continuous project.

** (2) RCW 47.60.150 was repealed by 2007 c 512 s 16.

Effective date—1979 ex.s. c 189: See note following RCW 47.12.283.

RCW 47.60.135 Charter of state ferries—Hazardous materials.

(1) The charter use of Washington State Ferry vessels when established route operations and normal user requirements are not disrupted is permissible. In establishing chartering agreements, Washington State Ferries shall consider the special needs of local communities and interested parties. Washington State Ferries shall use sound business judgment and be sensitive to the interests of existing private enterprises.

(2) Consistent with the policy as established in subsection (1) of this section, the chief executive officer of the Washington State Ferries may approve agreements for the chartering of Washington State Ferry vessels to groups or individuals, including hazardous material transporters, in accordance with the following:

(a) Vessels may be committed to charter only when established route operation and normal user requirements are not disrupted or

inconvenienced. If a vessel is engaged in the transport of hazardous materials, the transporter shall pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of Washington State Ferries.

(b) Charter rates for vessels must be established at actual vessel operating costs plus a market-rate profit margin. Actual vessel operating costs include, but are not limited to, all labor, fuel, and vessel maintenance costs incurred due to the charter agreement, including deadheading and standby.

(c) Parties chartering Washington State Ferry vessels shall comply with all applicable laws, rules, and regulations during the charter voyage, and failure to so comply is cause for immediate termination of the charter voyage. [2003 c 374 s 1; 1997 c 323 s 2.]

Finding—1997 c 323: "The legislature finds that when established route operations and normal user requirements are not disrupted Washington state ferries may be used for the transportation of hazardous materials under the chartering procedures and rates described in RCW 47.60.135." [1997 c 323 s 1.]

RCW 47.60.140 System as self-liquidating undertaking—Powers of department—Concessions. (1) The department is empowered to operate such ferry system, including all operations, whether intrastate or international, upon any route or routes, and toll bridges as a revenue-producing and self-liquidating undertaking. The department has full charge of the construction, rehabilitation, rebuilding, enlarging, improving, operation, and maintenance of the ferry system, including toll bridges, approaches, and roadways incidental thereto that may be authorized by the department, including the collection of tolls and other charges for the services and facilities of the undertaking. The department has the exclusive right to enter into leases and contracts for use and occupancy by other parties of the concessions and space located on the ferries, wharves, docks, approaches, parking lots, and landings, including the selling of commercial advertising space and licenses to use the Washington State Ferries trademarks, but, except as provided in subsection (2) of this section, no such leases or contracts may be entered into for more than ten years, nor without a competitive contract process, except as otherwise provided in this section. The competitive process shall be either an invitation for bids in accordance with the process established by chapter 43.19 RCW, or a request for proposals in accordance with the process established by RCW 47.56.030. All revenues from commercial advertising, concessions, parking, leases, and contracts must be deposited in the Puget Sound ferry operations account in accordance with *RCW 47.60.150.

(2) As part of a joint development agreement under which a public or private developer constructs or installs improvements on ferry system property, the department may lease all or part of such property and improvements to such developers for that period of time, not to exceed fifty-five years, or not to exceed thirty years for those areas located within harbor areas, which the department determines is necessary to allow the developer to make reasonable recovery on its initial investment. Any lease entered into as provided for in this subsection that involves state aquatic lands shall conform with the Washington state Constitution and applicable statutory requirements as

determined by the department of natural resources. That portion of the lease rate attributable to the state aquatic lands shall be distributed in the same manner as other lease revenues derived from state aquatic lands as provided in **RCW 79.24.580.

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

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

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

(c) If no responses are received, or those that are received are incompatible with ferry system operations, or do not meet the criteria stated in (b) of this subsection, the state ferry system may proceed with state ferry system operating strategies designed to achieve state ferry system objectives without established partnerships. [2003 c 374 s 2; 1995 1st sp.s. c 4 s 2; 1987 c 69 s 1; 1984 c 7 s 311; 1965 ex.s. c 170 s 58; 1961 c 13 s 47.60.140. Prior: 1951 c 259 s 1; 1949 c 179 s 5, part; Rem. Supp. 1949 s 6584-34, part.]

Reviser's note: *(1) RCW 47.60.150 was repealed by 2007 c 512 s 16.

** (2) RCW 79.24.580 was recodified as RCW 79.90.245 pursuant to 2003 c 334 s 569. RCW 79.90.245 was subsequently recodified as RCW 79.105.150 pursuant to 2005 c 155 s 1003.

Effective date—1995 1st sp.s. c 4: See note following RCW 47.56.030.

RCW 47.60.145 Historic ferries—Acquisition by qualified persons or organizations. (1) An "historic ferry" is any vessel in the Washington state ferries fleet which has been listed in the Washington state register of historic places.

(2) When the department of transportation determines that an historic ferry is surplus to the needs of Washington state ferries, the department shall call for proposals from persons who wish to acquire the historic ferry. Proposals for the acquisition of an historic ferry shall be accepted only from persons or organizations that (a) are a governmental entity or a nonprofit corporation or association dedicated to the preservation of historic properties; (b) agree to a contract approved by the state historic preservation officer, which requires the preservation and maintenance of the historic ferry and provides that title to the ferry reverts to the state if the secretary of transportation determines that the contract

has been violated; and (c) demonstrate the administrative and financial ability successfully to comply with the contract.

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

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

(4) If there are no qualifying proposals, an historic ferry shall be disposed of in the manner provided by state law. [1982 c 210 s 1.]

Severability—1982 c 210: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 210 s 2.]

Archaeology and historic preservation, office of: Chapter 27.34 RCW.

RCW 47.60.170 Ferries revolving fund—Deposit of excess funds.

Nothing in *RCW 47.60.150 forbids the establishment by the department of a Washington state ferries revolving fund of not to exceed six hundred thousand dollars from the proceeds of any bonds sold under the provisions of this chapter. The fund may be deposited by the department in such banks or financial institutions as it may select throughout the state. RCW 43.01.050 does not apply to the fund or any deposits therein made by the department under this section. The department may deposit all moneys received under this chapter in the fund. All expenses whatsoever arising in the operations of the Puget Sound ferry system shall be paid from the fund, if established, by check or voucher in such manner as may be prescribed by the department.

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

Whenever the fund exceeds six hundred thousand dollars, the department shall forthwith transmit the excess to the state treasurer for deposit in the trust fund established by *RCW 47.60.150. [1984 c 7 s 313; 1970 ex.s. c 85 s 6; 1961 c 13 s 47.60.170. Prior: 1951 c 259 s 13.]

***Reviser's note:** RCW 47.60.150 was repealed by 2007 c 512 s 16.

Effective date—1970 ex.s. c 85: See note following RCW 47.60.500.

RCW 47.60.200 Consent to liability not general liability of state. Any consent to liability given under the provisions of this chapter creates liability of the department only and does not create

any general liability of the state. [1984 c 7 s 314; 1961 c 13 s 47.60.200. Prior: 1951 c 259 s 5.]

RCW 47.60.210 Seamen may sue for injuries—Venue. The state consents to suits against the department by seamen for injuries occurring upon vessels of the department in accordance with the provisions of section 688, title 46, of the United States code. The venue of such actions may be in the superior court for Thurston county or the county where the injury occurred. [1984 c 7 s 315; 1961 c 13 s 47.60.210. Prior: 1951 c 259 s 6.]

RCW 47.60.220 Department as common carrier—Rights and liabilities. The department has all the obligations, duties, and rights of a common carrier of persons and property in its operation of ferries, terminals, or other facilities used in its ferry operations, including the right to participate in joint rates and through routes, agreements, and divisions of through and joint rates with railroads and other common carriers and the right to make any filings with the interstate commerce commission, the United States maritime commission, or any other state or federal regulatory or governmental body and to comply with the lawful rules and regulations or requirements of any such body, and is subject to laws relating to carrier's liability for loss or damage to property transported, and for personal injury or death of persons transported. [1984 c 7 s 316; 1961 c 13 s 47.60.220. Prior: 1951 c 259 s 7.]

RCW 47.60.230 Liability for damages as to persons or property. In case of property loss or damage or personal injuries or death resulting from the operation of any ferry or terminal by the department, any person or the personal representative of any person, subject to and to the extent hereinafter provided, has a right of action against the department for the damage, loss, injury, or death. [1984 c 7 s 317; 1961 c 13 s 47.60.230. Prior: 1951 c 259 s 8.]

RCW 47.60.240 Liability to persons other than shippers or passengers—Limitation. The right of action extended by this chapter is applicable to loss or damage of property and/or personal injury or death resulting from the operation of ferries or terminals by the department to persons other than shippers or passengers, but any recovery of damages in such cases shall not exceed an amount equal to the limitations of the insurance carried by the department to insure it against loss for such liability. [1984 c 7 s 318; 1961 c 13 s 47.60.240. Prior: 1951 c 259 s 9.]

RCW 47.60.250 Claim for damages—Filing—Contents—Time limitations. As a condition to a recovery thereon, a verified claim against the department growing out of such damages, loss, injuries, or death must first be presented to the department and filed with the secretary within one hundred twenty days after the time when the claim accrued. If the claimant is incapacitated from verifying and filing a claim within the one hundred twenty days, or if the claimant is a

minor, then the claim may be verified and presented on behalf of the claimant by his or her relative, attorney, or agent. Each claim must accurately locate and describe the event or defect that caused the damage, loss, injury, or death, reasonably describe the damage, loss, or injury, and state the time when the damage, loss, or injury occurred, give the claimant's residence for the last six months, and contain the items of damages claimed. No action may be maintained against the department upon the claim until the claim has been presented to, and filed with, the department and sixty days have elapsed after the presentation and filing, nor more than three years after the claim accrued.

With respect to the content of the claims, this section shall be liberally construed so that substantial compliance will be deemed satisfactory. [1984 c 7 s 319; 1967 c 164 s 3; 1961 c 13 s 47.60.250. Prior: 1951 c 259 s 10.]

Purpose—Severability—1967 c 164: See notes following RCW 4.96.010.

Claims against the state: Chapter 4.92 RCW.

RCW 47.60.260 Payment of claims. The department may upon such terms and conditions as it may impose and under such rules as it may adopt, pay claims arising under its operation of ferries or terminals or compromise or settle the claims. No claim may be paid by the department or any settlement or compromise of it be made except from the operating revenues of the department derived from its operation of ferries or terminals or from the proceeds of insurance recoveries. [1984 c 7 s 320; 1961 c 13 s 47.60.260. Prior: 1951 c 259 s 11.]

RCW 47.60.270 Venue of actions—Enforcement of judgment. Actions for the recovery of damages under RCW 47.60.220 through 47.60.260 may be brought in Thurston county or in the county in which the aggrieved person resides. No execution upon a judgment or attachment may be levied against the property of the department, nor does the state consent to any maritime lien against vessels of the department, but the department may be required by order of court to pay any judgment. [1984 c 7 s 321; 1961 c 13 s 47.60.270. Prior: 1951 c 259 s 12.]

RCW 47.60.275 Local law enforcement officers on ferries and terminals. Law enforcement officers of cities, towns, and counties which are served by state ferries shall have, and are hereby authorized to exercise, concurrent jurisdiction and authority with state law enforcement officers in the enforcement of laws of the state and local governmental divisions at those state ferry terminals located within the respective governmental division served by such local law enforcement officers and on state ferries at the terminals and throughout the ferry runs, notwithstanding that the ferry may not be in the officer's governmental division. [1969 ex.s. c 13 s 1.]

RCW 47.60.280 Ferry service—Lummi Island to Orcas Island—
Limitation on operation. The department is authorized and directed to establish and operate a ferry service from a suitable point on Lummi Island in Whatcom county to a suitable point on Orcas Island in San Juan county by the most feasible route if and when Whatcom county constructs a bridge from Gooseberry Point on the mainland to Lummi Island. The actual operation of the ferry service shall not begin until Whatcom county has completed the construction of such bridge. [1984 c 7 s 322; 1961 c 13 s 47.60.280. Prior: 1959 c 198 s 1.]

RCW 47.60.282 Ferry service between Port Townsend and Keystone—
Operation authorized, when. The department is authorized to operate a ferry service between Port Townsend and Keystone on Admiralty Inlet if the certificate of convenience and necessity for the ferry operation is theretofore surrendered, rights thereunder are abandoned, and the ferry service is discontinued. In no event may the department undertake such a ferry service preceding events as set forth herein or before April 1, 1973. [1984 c 7 s 323; 1972 ex.s. c 44 s 1.]

RCW 47.60.283 Ferry service between Port Townsend and Keystone—
Purpose. The purpose of RCW 47.60.282 and 47.60.283 is to provide service on the ferry route between Port Townsend and Keystone to be determined by the department. Operation of this route is necessary for the economic health, safety, and welfare of the people of the state. Additionally, state operation of this route will further benefit the people of the state by providing better access to important installations maintained by the United States Navy and the United States Coast Guard. [1984 c 7 s 324; 1972 ex.s. c 44 s 2.]

RCW 47.60.286 Ferry user data survey. (1) The commission shall, with the involvement of the department, conduct a survey to gather data on ferry users to help inform level of service, operational, pricing, planning, and investment decisions. The survey must include, but is not limited to:

- (a) Recreational use;
- (b) Walk-on customer use;
- (c) Vehicle customer use;
- (d) Freight and goods movement demand; and
- (e) Reactions to potential operational strategies and pricing policies described under RCW 47.60.327 and 47.60.290.

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

(3) The survey must be updated at least every two years and maintained to support the development and implementation of adaptive management of ferry services. [2007 c 512 s 4.]

Finding—Intent—2007 c 512: See note following RCW 47.06.140.

RCW 47.60.290 State ferries—Review of fares and pricing policies—Proposals. (1) The department shall annually review fares and pricing policies applicable to the operation of the Washington state ferries.

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

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

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

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

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

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

(f) Keep fare schedules as simple as possible.

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

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

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

[2007 c 512 s 5; 1983 c 3 s 136; 1972 ex.s. c 24 s 6; 1961 c 13 s 47.60.290. Prior: 1959 c 199 s 1.]

Finding—Intent—2007 c 512: See note following RCW 47.06.140.

RCW 47.60.300 State ferries—Scope of review—Periodic reviews required. The review shall include but not be limited to tariffs for automobiles, passengers, trucks, commutation rates, and volume discounts. The review shall give proper consideration to time of travel, distance of travel, operating costs, maintenance and repair expenses, and the resultant effect any change in tariff might have on the debt service requirements of the department as specifically provided in existing financing programs. The review shall also include the allocation of vessels to particular runs, the scheduling of particular runs, the adequacy and arrangements of docks and dock facilities, and any other subject deemed by the department to be properly within the scope of the review. The department is further authorized and directed to make a like review within every three-year period. [1984 c 7 s 325; 1961 c 13 s 47.60.300. Prior: 1959 c 199 s 2.]

RCW 47.60.310 State ferries—Local expressions—Ferry advisory committees. (1) The department is further directed to conduct such review by soliciting and obtaining expressions from local community groups in order to be properly informed as to problems being experienced within the area served by the Washington state ferries. In order that local representation may be established, the department shall give prior notice of the review to the ferry advisory committees.

(2) The legislative authorities of San Juan, Skagit, Clallam, and Jefferson counties shall each appoint a committee to consist of five members to serve as an advisory committee to the department or its designated representative in such review. The legislative authorities of other counties that contain ferry terminals shall appoint ferry advisory committees consisting of three members for each terminal area

in each county, except for Vashon Island, which shall have one committee, and its members shall be appointed by the Vashon/Maury Island community council. If the Vashon/Maury Island community council fails to appoint a qualified person to fill a vacancy within ninety days of the occurrence of the vacancy, the legislative authority of King county shall appoint a qualified person to fill the vacancy. At least one person appointed to each ferry advisory committee shall be representative of an established ferry user group or of frequent users of the ferry system. Each member shall reside in the vicinity of the terminal that the advisory committee represents.

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

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

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

(6) The committees to be appointed by the county legislative authorities shall serve without fee or compensation. [2016 c 25 s 1; 2010 c 8 s 10020; 1988 c 100 s 1; 1983 c 15 s 24; 1983 c 3 s 137; 1977 c 29 s 1; 1961 c 13 s 47.60.310. Prior: 1959 c 199 s 3.]

RCW 47.60.315 Fares and pricing policies—Adoption schedule—Revenues—Vessel replacement surcharges. (1) The commission shall adopt fares and pricing policies by rule, under chapter 34.05 RCW, according to the following schedule:

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

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

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

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

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

(5) Fare revenues and other revenues deposited in the Puget Sound ferry operations account created in RCW 47.60.530 may not be used to support the Puget Sound capital construction account created in RCW 47.60.505, unless the support for capital is separately identified in the fare or except as provided in section 715, chapter 333, Laws of 2021 during the 2021-2023 biennium and section 716, chapter 472, Laws of 2023 during the 2023-2025 fiscal biennium.

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

(7) The commission shall impose a vessel replacement surcharge of 25 cents on every one-way and round-trip ferry fare sold, including multiride and monthly pass fares. This surcharge must be clearly indicated to ferry passengers and drivers and, if possible, on the fare media itself.

(8) Except as provided in subsection (10) of this section, beginning May 1, 2020, the commission shall impose an additional vessel replacement surcharge in an amount sufficient to fund 25 year debt service on one 144-auto hybrid vessel taking into account funds provided in chapter 417, Laws of 2019 or *chapter . . . (SSB 5419), Laws of 2019. The department of transportation shall provide to the commission vessel and debt service cost estimates. Information on vessels constructed or purchased with revenue from the surcharges must be publicly posted including, but not limited to, the commission website.

(9) The vessel replacement surcharges imposed in this section may only be used for the construction or purchase of ferry vessels and to pay the principal and interest on bonds authorized for the construction or purchase of new ferry vessels.

(10) The commission shall not impose the additional vessel replacement surcharge in subsection (8) of this section if doing so would increase fares by more than 10 percent.

(11) For the 2023-2025 fiscal biennium, any ferry fuel surcharge imposed by the commission may not go into effect until after the ensuing regular legislative session. If a fuel surcharge is imposed as provided under this subsection, the commission must reevaluate the need for the surcharge on at least a quarterly basis to determine if the surcharge is still needed to cover increased fuel costs, and revoke the surcharge if the determination is that the surcharge is no longer needed for this purpose. [2023 c 472 s 714; 2021 c 333 s 716; 2019 c 431 s 3; 2011 1st sp.s. c 16 s 3; 2007 c 512 s 6.]

***Reviser's note:** Substitute Senate Bill No. 5419 was not enacted during the 2019 legislative session.

Effective date—2023 c 472: See note following RCW 43.19.642.

Effective date—2021 c 333: See note following RCW 43.19.642.

Effective date—2011 1st sp.s. c 16 ss 1-15: See note following RCW 47.60.530.

Finding—Intent—2007 c 512: See note following RCW 47.06.140.

RCW 47.60.322 Capital vessel replacement account—Transfer prohibition, authorization. (1) The capital vessel replacement account is created in the motor vehicle account. All revenues generated from the vessel replacement surcharge under RCW 47.60.315(7) and service fees collected by the department of licensing or county auditor or other agent appointed by the director under RCW 46.17.040, 46.17.050, and 46.17.060 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the construction or purchase of ferry vessels and to pay the principal and interest on bonds authorized for the construction or purchase of ferry vessels. However, expenditures from the account must first be used to support the construction or purchase, including any applicable financing costs, of a ferry vessel with a carrying capacity of at least one hundred forty-four cars.

(2) The state treasurer may transfer moneys from the capital vessel replacement account to the transportation 2003 account (nickel account) for debt service on bonds issued for the construction of 144-car class ferry vessels.

(3) The legislature may transfer from the capital vessel replacement account to the connecting Washington account created under RCW 46.68.395 such amounts as reflect the excess fund balance of the capital vessel replacement account to be used for ferry terminal construction and preservation.

(4) During the 2021-2023 and 2023-2025 fiscal biennia, the legislature may direct the state treasurer to make transfers of moneys in the capital vessel replacement account to the transportation partnership account and the connecting Washington account. [2023 c 472 s 715; 2021 c 333 s 712; 2019 c 416 s 716; 2015 3rd sp.s. c 44 s 213; 2014 c 59 s 1; 2011 1st sp.s. c 16 s 2.]

Effective date—2023 c 472: See note following RCW 43.19.642.

Effective date—2021 c 333: See note following RCW 43.19.642.

Effective date—2019 c 416: See note following RCW 43.19.642.

Effective date—2015 3rd sp.s. c 44: See note following RCW 46.68.395.

Application—2014 c 59: "This act applies to vehicle registrations that are due or become due on or after January 1, 2015, and certificate of title transactions that are processed on or after January 1, 2015." [2014 c 59 s 5.]

Effective date—2011 1st sp.s. c 16 ss 1-15: See note following RCW 47.60.530.

RCW 47.60.327 Operational strategies for asset utilization. (1)

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

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

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

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

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

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

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

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

(a) The feasibility of using reservation systems;

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

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

(d) A cost-benefit analysis of remote holding versus overwater holding;

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

(f) Schedule modifications;

(g) Efficiencies in exit queuing and metering;

(h) Interoperability with other transportation services;

(i) Options for leveling vehicle peak demand; and

(j) Options for increasing off-peak ridership.

(4) Operational strategies must be reevaluated periodically and, at a minimum, before developing a new capital plan. [2007 c 512 s 7.]

Finding—Intent—2007 c 512: See note following RCW 47.06.140.

RCW 47.60.330 Public participation—Legislative approval. (1)

Before a substantial change to the service levels provided to ferry users, the department shall consult with affected ferry users by public hearing and by review with the affected ferry advisory committees.

(2) Before adding or eliminating a ferry route, the department shall consult with affected ferry users and receive legislative approval. [2007 c 512 s 8; 2003 c 374 s 5; 1983 c 15 s 26.]

Finding—Intent—2007 c 512: See note following RCW 47.06.140.

RCW 47.60.335 Appropriation limitations—Capital program cost allocation. (1) Appropriations made for the Washington state ferries capital program may not be used for maintenance costs.

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

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

(4) The vessel emergency repair budget may not be used for planned maintenance and inspections of inactive vessels. [2008 c 124 s 7; 2007 c 512 s 9.]

Finding—Intent—2007 c 512: See note following RCW 47.06.140.

RCW 47.60.340 Vessel maintenance and preservation program—Report. (1) The department shall develop and maintain a vessel maintenance and preservation program that meets or exceeds all federal requirements and, at a minimum:

- (a) Includes a bilge and void maintenance program;
- (b) Includes a visual inspection/audio gauging steel preservation program; and
- (c) Uses a lowest life-cycle cost method.

(2) The vessel maintenance and preservation program must maximize cost efficiency by, at a minimum:

- (a) Reducing planned out-of-service time to the greatest extent possible; and
- (b) Striving to eliminate planned peak season out-of-service periods.

(3) When construction is underway for the replacement of a vessel, the vessel that is scheduled for retirement is exempt from the requirement in subsection (1)(c) of this section.

(4) The department shall include a plain language status report on the maintenance and preservation vessel program with each budget submittal to the office of financial management. This report must include, at a minimum:

- (a) A description of the maintenance and preservation of each vessel in the fleet;
- (b) A highlight and explanation of any significant deviation from the norm;
- (c) A highlight and explanation of any significant deviation from the vessel preservation plan required under RCW 47.60.375;
- (d) A highlight and explanation of decisions not to invest in vessels; and
- (e) A highlight and explanation of decisions to invest early in vessels. [2008 c 124 s 5.]

RCW 47.60.345 Life-cycle cost model on capital assets. (1) The department shall maintain a life-cycle cost model on capital assets such that:

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

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

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

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

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

(3) The life-cycle cost model shall be used when estimating future terminal and vessel preservation needs.

(4) The life-cycle cost model shall be the basis for developing the budget request for terminal and vessel preservation funding. [2008 c 124 s 4; 2007 c 512 s 10.]

Finding—Intent—2007 c 512: See note following RCW 47.06.140.

RCW 47.60.355 Terminal and vessel preservation funding requests—Predesign study. (1) Terminal and vessel preservation funding requests shall only be for assets in the life-cycle cost model.

(2) Terminal and vessel preservation funding requests that exceed five million dollars per project must be accompanied by a predesign study. The predesign study must include all elements required by the office of financial management. [2010 c 283 s 3; 2007 c 512 s 11.]

Findings—Intent—2010 c 283: "The legislature finds that the Washington state ferry system is a critical component of the state's highway system. The legislature further finds that ferry system revenues are inadequate to support the capital requirements of aging vessels and terminals, and operating cost growth is fast outpacing the growth of fare revenue and gas tax revenue dedicated to the ferry system. As such, and drawing on more than four consecutive years of legislative analysis and operating policy reforms, the legislature finds that a realignment of the ferry compensation policy framework is an appropriate next step toward the legislature's long-term goal of assuring sustainable, cost-effective ferry service. The legislature further intends to address increased costs of ferry system operations in a manner that balances the interests of the ferry system, ferry workforce, and fare payers. It is the intent of the legislature that final recommendations from the joint transportation committee ferry study, submitted to the legislature during the 2009 regular legislative session, be enacted by the legislature and implemented by the department of transportation as soon as practicable in order to benefit from the efficiencies and cost savings identified in the recommendations. It is also the intent of the legislature to make various additional policy changes aimed at further efficiencies and cost savings. Since the study began in 2006, recommendations have been made with regard to long range planning and implementing the most efficient and effective balance between ferry capital and operating investments. It is intended that this act, the 2009-2011 omnibus transportation appropriations act, and subsequent transportation appropriations acts serve as vehicles for enacting these recommendations in order to maximize the utilization of existing capacity and to make the most efficient use of existing assets and tax dollars." [2010 c 283 s 1.]

Effective date—2010 c 283: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 1, 2010]." [2010 c 283 s 24.]

Finding—Intent—2007 c 512: See note following RCW 47.06.140.

RCW 47.60.365 Terminal and vessel design standards. The department shall develop terminal and vessel design standards that:

- (1) Adhere to vehicle level of service standards as described in RCW 47.06.140;
- (2) Adhere to operational strategies as described in RCW 47.60.327; and
- (3) Choose the most efficient balance between capital and operating investments by using a life-cycle cost analysis. [2010 c 283 s 4; 2007 c 512 s 12.]

Findings—Intent—Effective date—2010 c 283: See notes following RCW 47.60.355.

Finding—Intent—2007 c 512: See note following RCW 47.06.140.

RCW 47.60.375 Capital plan. (1) The capital plan must adhere to the following:

- (a) A current ridership demand forecast;
- (b) Vehicle level of service standards as described in RCW 47.06.140;
- (c) Operational strategies as described in RCW 47.60.327; and
- (d) Terminal and vessel design standards as described in RCW 47.60.365.

(2) The capital plan must include the following:

- (a) A current vessel preservation plan;
- (b) A current systemwide vessel rebuild and replacement plan as described in RCW 47.60.377;
- (c) A current vessel deployment plan; and
- (d) A current terminal preservation plan that adheres to the life-cycle cost model on capital assets as described in RCW 47.60.345. [2010 c 283 s 5; 2008 c 124 s 3; 2007 c 512 s 13.]

Findings—Intent—Effective date—2010 c 283: See notes following RCW 47.60.355.

Finding—Intent—2007 c 512: See note following RCW 47.06.140.

RCW 47.60.377 Vessel rebuild and replacement plan. The department shall develop and maintain a vessel rebuild and replacement plan that, at a minimum:

- (1) Includes projected retirement dates for all vessels, distinguishing between active and inactive vessels;
- (2) Includes projected rebuild dates for all vessels;
- (3) Includes timelines for vessel replacement, including business decisions, design, procurement, and construction; and

(4) Includes a summary of the condition of all vessels, distinguishing between active and inactive vessels. [2008 c 124 s 2.]

RCW 47.60.385 Terminal improvement, vessel improvement, and vessel acquisition project funding requests—Predesign study—Prioritization. (1) Terminal improvement, vessel improvement, and vessel acquisition project funding requests must adhere to the capital plan, include route-based planning, and be submitted with a predesign study that:

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

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

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

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

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

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

(g) Identifies all contingency amounts;

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

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

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

(2) The department shall prioritize vessel preservation and acquisition funding requests over vessel improvement funding requests. [2010 c 283 s 6; 2008 c 124 s 6; 2007 c 512 s 14.]

Findings—Intent—Effective date—2010 c 283: See notes following RCW 47.60.355.

Finding—Intent—2007 c 512: See note following RCW 47.06.140.

RCW 47.60.386 Additional requirements for vessel improvement and vessel acquisition funding requests. (1) In addition to the requirements of RCW 47.60.385(1), initial requests for, and substantial modification requests to, vessel acquisition funding must be submitted with a predesign study that:

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

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

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

- (i) Alternatives to new vessel construction that increase capacity of existing vessels;
 - (ii) Service level changes in lieu of adding vessel capacity; and
 - (iii) Acquiring existing vessels or existing vessel plans rather than wholly new vessels or vessel plans; and
 - (d) Demonstrates that the vessel proposed for improvement, construction, or purchase, if intended to replace an existing vessel or to place an existing vessel into inactive or reserve status, is consistent with the scheduled replacements in the rebuild and replacement plan.
- (2) In addition to the requirements of RCW 47.60.385(1), initial requests for, and substantial modification requests to, vessel improvement funding must be submitted with a predesign study that includes:
- (a) An explanation of any regulatory changes necessitating the improvement;
 - (b) The requirements under subsection (1) of this section, if the improvement modifies the capacity of a vessel;
 - (c) A cost-benefit analysis of any modifications designed to improve fuel efficiency, including potential impacts on vessel maintenance and repair; and
 - (d) An assessment of out-of-service time associated with making the improvement and ongoing preservation of the improvement. [2010 c 283 s 7.]

Findings—Intent—Effective date—2010 c 283: See notes following RCW 47.60.355.

RCW 47.60.400 Refunding bonds authorized, 1961 Act. The Washington toll bridge authority is authorized to issue revenue bonds to refund all or any part of the authority's outstanding 1955 Washington state ferry system refunding revenue bonds and 1957 ferry and Hood Canal bridge revenue bonds. With respect to the issuing of such bonds and the payment of principal and interest thereon, the payment into reserves, sinking funds, and the fixing and revision of charges for services and facilities of the system, and in managing all its fiscal operations, the authority shall have all the powers and shall follow the same procedures established for it under existing laws, except as otherwise provided herein. [1986 c 66 s 3; 1961 ex.s. c 9 s 1.]

Reviser's note: Powers, duties, and functions of toll bridge authority transferred to department of transportation; see RCW 47.01.031. Term "Washington toll bridge authority" means department of transportation; see RCW 47.04.015.

Effective date—1986 c 66: "This act shall take effect July 1, 1987. The secretary of transportation may immediately take such steps as are necessary to ensure that this act is implemented on its effective date." [1986 c 66 s 14.]

Appropriation—1961 ex.s. c 9: "There is hereby appropriated from the motor vehicle fund to the Washington toll bridge authority, for the biennium ending June 30, 1963, the sum of two million six hundred thousand dollars or so much thereof as may be necessary for the operation and maintenance of the Washington state ferries and the

payments of principal and interest on outstanding 1955 Washington state ferry system refunding revenue bonds and 1957 ferry and Hood Canal bridge revenue bonds and payments into reserves thereof as required by resolutions adopted by the authority with respect to such bond issues. Whenever such bond issues shall be refunded, any unexpended part of this appropriation shall lapse." [1961 ex.s. c 9 s 8.]

RCW 47.60.420 Additional revenue bonds, refunding bonds, authorized, 1961 Act—Prior charge against Puget Sound capital construction account if ferry system revenues insufficient. To the extent that all revenues from the Washington state ferry system available therefor are insufficient to provide for the payment of principal and interest on the bonds authorized and issued under RCW 47.60.400 through *47.60.450 and for sinking fund requirements established with respect thereto and for payment into such reserves as the department has established with respect to the securing of the bonds, there is imposed a first and prior charge against the Puget Sound capital construction account of the motor vehicle fund created by RCW 47.60.505 and, to the extent required, against all revenues required by RCW 46.68.090 to be deposited in the Puget Sound capital construction account.

To the extent that the revenues from the Washington state ferry system available therefor are insufficient to meet required payments of principal and interest on bonds, sinking fund requirements, and payments into reserves, the department shall use moneys in the Puget Sound capital construction account for such purpose. [1999 c 269 s 15; 1990 c 42 s 407; 1986 c 66 s 4; 1984 c 7 s 330; 1961 ex.s. c 9 s 3.]

***Reviser's note:** RCW 47.60.450 was repealed by 2005 c 335 s 5.

Effective date—1999 c 269: See note following RCW 36.78.070.

Purpose—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 46.68.090.

Effective date—1986 c 66: See note following RCW 47.60.400.

RCW 47.60.430 Additional revenue bonds, refunding bonds, authorized, 1961 Act—Agreement to continue imposition of certain taxes. So long as any bonds issued as authorized herein are outstanding, the state hereby agrees to continue to impose at least one-quarter cent of motor vehicle fuel tax and one-quarter cent of special fuel tax required by law and to deposit the proceeds of these taxes in the Puget Sound capital construction account of the motor vehicle fund. [1986 c 66 s 5; 1961 ex.s. c 9 s 4.]

Effective date—1986 c 66: See note following RCW 47.60.400.

RCW 47.60.440 Additional revenue bonds, refunding bonds, authorized, 1961 Act—Ferry system a revenue-producing undertaking—Debt service—Tolls on ferry system and Hood Canal bridge. The

Washington state ferry system shall be efficiently managed, operated, and maintained as a revenue-producing undertaking. Subject to the provisions of *RCW 47.60.326 the commission shall maintain and revise from time to time as necessary a schedule of tolls and charges on said ferry system with other moneys deposited in the Puget Sound ferry operations account for maintenance and operation and all moneys in the Puget Sound capital construction account available for debt service will produce net revenue available for debt service, in each fiscal year, in an amount at least equal to minimum annual debt service requirements as hereinafter provided. Minimum annual debt service requirements as used in this section shall include required payments of principal and interest, sinking fund requirements, and payments into reserves on all outstanding revenue bonds authorized by RCW 47.60.400 through **47.60.470.

The provisions of law relating to the revision of tolls and charges to meet minimum annual debt service requirements from net revenues as required by this section shall be binding upon the commission but shall not be deemed to constitute a contract to that effect for the benefit of the holders of such bonds. [1999 c 94 s 28; 1990 c 42 s 408; 1986 c 66 s 6; 1983 c 3 s 139; 1972 ex.s. c 24 s 7; 1963 ex.s. c 3 s 42; 1961 ex.s. c 9 s 5.]

Reviser's note: *(1) RCW 47.60.326 was repealed by 2007 c 512 s 16.

** (2) RCW 47.60.470 was repealed by 1998 c 245 s 176.

Legislative finding—Effective dates—1999 c 94: See notes following RCW 43.84.092.

Purpose—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 46.68.090.

Effective date—1986 c 66: See note following RCW 47.60.400.

RCW 47.60.500 Acquisition of additional ferries—Legislative finding—Department authority. (1) The legislature finds that the state's ferry fleet available for mass transportation of people within the urban region of Puget Sound is critically deficient and that substantial financial assistance for the acquisition of new ferries is necessary if the Washington state ferries is to continue to fulfill its role in the Puget Sound regional urban transportation system.

(2) The department is authorized:

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

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

meet the obligations as they arise. [1986 c 66 s 8; 1984 c 7 s 333; 1970 ex.s. c 85 s 1.]

Effective date—1986 c 66: See note following RCW 47.60.400.

Effective date—1970 ex.s. c 85: "This 1970 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and shall take effect April 1, 1970." [1970 ex.s. c 85 s 9.]

RCW 47.60.505 Puget Sound capital construction account—Created—Use. There is hereby created in the motor vehicle fund the Puget Sound capital construction account. All moneys hereafter deposited in said account shall be used by the department of transportation for:

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

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

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

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

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

(4) The treasurer shall never transfer any moneys from the Puget Sound capital construction account for use by the department for state highway purposes so long as there is due and unpaid any obligations for payment of principal, interest, sinking funds, or reserves as required by any pledge of the Puget Sound capital construction account. Whenever the department has pledged any moneys in the account for the purposes authorized in this section, the state agrees to continue to deposit in the Puget Sound capital construction account

the motor vehicle fuel taxes and special fuel taxes as provided in RCW *82.36.020 and 82.38.290 and further agrees that, so long as there exists any outstanding obligations pursuant to such pledge, to continue to impose such taxes.

(5) Funds in the Puget Sound capital construction account of the motor vehicle fund that are not required by the department for payment of principal or interest on bond issues or for any of the other purposes authorized in this chapter may be invested by the department in bonds and obligations of the nature eligible for the investment of current state funds as provided in RCW 43.84.080. [1986 c 66 s 9; 1979 c 27 s 3; 1977 ex.s. c 360 s 10; 1970 ex.s. c 85 s 2.]

***Reviser's note:** Chapter 82.36 RCW was repealed in its entirety by 2013 c 225 s 501, effective July 1, 2016.

Transfer of funds—1986 c 66: "Moneys in the Puget Sound reserve account and ferry improvement fund on July 1, 1987, shall be transferred to the Puget Sound capital construction account." [1986 c 66 s 13.]

Effective date—1986 c 66: See note following RCW 47.60.400.

Severability—1979 c 27: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 27 s 10.]

Severability—1977 ex.s. c 360: See note following RCW 47.60.560.

Effective date—1970 ex.s. c 85: See note following RCW 47.60.500.

RCW 47.60.530 Puget Sound ferry operations account. (1) The Puget Sound ferry operations account is created in the motor vehicle account.

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

(a) All moneys directed by law;

(b) All revenues generated from ferry fares; and

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

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

(4) Expenditures from the account may be used only for the maintenance, administration, and operation of the Washington state ferry system.

(5) During the 2021-2023 and 2023-2025 fiscal biennia, the legislature may direct the state treasurer to make transfers of moneys in the Puget Sound ferry operations account to the Puget Sound capital construction account. [2023 c 472 s 716; 2021 c 333 s 715; 2017 c 313 s 714; 2015 3rd sp.s. c 43 s 605; 2011 1st sp.s. c 16 s 1; 1979 c 27 s 4; 1972 ex.s. c 24 s 3.]

Effective date—2023 c 472: See note following RCW 43.19.642.

Effective date—2021 c 333: See note following RCW 43.19.642.

Effective date—2017 c 313: See note following RCW 43.19.642.

Effective date—2015 3rd sp.s. c 43: See note following RCW 46.68.030.

Effective date—2011 1st sp.s. c 16 ss 1-15: "Sections 1 through 15 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [June 7, 2011]." [2011 1st sp.s. c 16 s 30.]

Severability—1979 c 27: See note following RCW 47.60.505.

RCW 47.60.550 Parking or holding area for ferry patrons in conjunction with municipal off-street parking facilities. (1)

Whenever a county, city, or other municipal corporation acquires or constructs a facility to be used in whole or in part for off-street parking of motor vehicles which is in the immediate vicinity of an existing or planned ferry terminal, the department may enter into an agreement with the local governmental body providing for the use in part or at specified times of the facility as a holding area for traffic waiting to board a ferry or for parking by ferry patrons.

(2) As a part of an agreement authorized by subsection (1) of this section, the department, subject to the limitations contained in RCW 47.60.505, may pledge any moneys in the Puget Sound capital construction account in the motor vehicle fund, or to be deposited in the account, to guarantee the payment of principal and interest on bonds issued by a county, city, or other municipal corporation to finance the acquisition or construction of the parking facility. In making the pledge, the department shall reserve the right to issue its own bonds for the purpose of paying the costs of acquiring ferry vessels with the provision that the bonds shall rank on parity with the bonds authorized by this section as a lien upon moneys in or to be deposited in the Puget Sound capital construction account.

The department shall also reserve the right to pledge moneys in the Puget Sound capital construction account to guarantee subsequent bonds issued by any county, city, or other municipal corporation to finance parking facilities as authorized in subsection (1) of this section with the provision that the subsequent bonds shall rank on parity with prior bonds guaranteed pursuant to this section as a lien upon moneys in or to be deposited in the Puget Sound capital construction account. To the extent of any pledge herein authorized, the department shall use the first moneys available in the Puget Sound capital construction account to meet the obligations as they arise. [1986 c 66 s 10; 1984 c 7 s 335; 1975-'76 2nd ex.s. c 69 s 1.]

Effective date—1986 c 66: See note following RCW 47.60.400.

RCW 47.60.560 General obligation bonds—Ferries—Authorized—Purposes—Passenger-only vessels—Issuance, sale, and retirement. In

order to provide funds necessary for vessel acquisition, vessel construction, major and minor vessel improvements, and terminal construction and improvements for the Washington state ferries, there shall be issued and sold upon the request of the department general

obligation bonds of the state of Washington in the sum of one hundred thirty-five million dollars or such amount thereof as may be required (together with other funds available therefor). If the state of Washington is able to obtain matching funds from the urban mass transportation administration or other federal government agencies for the acquisition of passenger-only vessels capable of operating as an integral part of the Washington state ferries on Puget Sound and the Straits of Juan de Fuca, a sufficient amount of the proceeds of the bonds authorized herein shall be used to pay the state's share of the acquisition cost of the passenger-only vessels. Upon request being made by the department, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds in accordance with chapter 39.42 RCW. The bonds may be sold from time to time in such amounts as may be necessary for the orderly progress in constructing the ferries. The bonds shall be sold in such manner, at such time or times, in such amounts, and at such price or prices as the state finance committee shall determine. The state finance committee may obtain insurance, letters of credit, or other credit facility devices with respect to the bonds and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of the bonds. Promissory notes or other obligations issued under this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the promissory notes or other obligations relate. The state finance committee may authorize the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purposes of retiring the bonds during the life of the project for which they were issued. [1986 c 290 s 8; 1985 c 176 s 1; 1984 c 7 s 336; 1977 ex.s. c 360 s 1.]

Severability—1977 ex.s. c 360: "If any provision of this 1977 amendatory act or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 360 s 13.]

RCW 47.60.570 Disposition of proceeds from sale of bonds. The proceeds from the sale of the bonds shall be deposited in the Puget Sound capital construction account of the motor vehicle fund and such proceeds shall be available only for the purposes enumerated in RCW 47.60.560, for the payment of bond anticipation notes, if any, and for the payment of the expense incurred in the drafting, printing, issuance, and sale of such bonds. The costs of obtaining insurance, letters of credit, or other credit enhancement devices with respect to the bonds shall be considered to be expenses incurred in the issuance and sale of the bonds. [1986 c 290 s 9; 1977 ex.s. c 360 s 2.]

Severability—1977 ex.s. c 360: See note following RCW 47.60.560.

RCW 47.60.580 Bonds—Terms—Principal and interest payable from proceeds of state excise taxes on motor vehicle and special fuels.

Bonds issued under the provisions of RCW 47.60.560 must distinctly state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay such principal and interest as the same becomes due. The principal of and interest on such bonds must be first payable in the manner provided in RCW 47.60.560 through 47.60.640 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter 82.38 RCW. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.60.560 through 47.60.640 and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the provisions of RCW 47.60.560 through 47.60.640. [2013 c 225 s 635; 1995 c 274 s 18; 1977 ex.s. c 360 s 3.]

Effective date—2013 c 225: See note following RCW 82.38.010.

Severability—1977 ex.s. c 360: See note following RCW 47.60.560.

RCW 47.60.590 Repayment of bonds—Fund sources. Any funds required to repay the bonds authorized by RCW 47.60.560 or the interest thereon when due shall be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels and which is distributed to the state for expenditure pursuant to RCW 46.68.130 and shall never constitute a charge against any allocations of such funds to counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle and special fuels and available for state highway purposes proves insufficient to meet the requirements for bond retirement or interest on any such bonds. [1977 ex.s. c 360 s 4.]

Severability—1977 ex.s. c 360: See note following RCW 47.60.560.

RCW 47.60.600 Bonds—Powers and duties of state finance committee. At least one year prior to the date any interest is due and payable on such bonds or before the maturity date of such bonds, the state finance committee shall estimate, subject to the provisions of RCW 47.60.590, the percentage of the receipts in money of the motor vehicle fund resulting from collection of excise taxes on motor vehicle and special fuels, for each month of the year which shall be required to meet interest or bond payments when due and shall notify the treasurer of such estimated requirement. The state treasurer shall thereafter from time to time each month as such funds are paid into the motor vehicle fund, transfer such percentage of the monthly receipts from excise taxes on motor vehicle and special fuels of the motor vehicle fund to the ferry bond retirement fund hereby created in the state treasury, which funds shall be available solely for payment of the principal of and interest on the bonds when due. If in any month it shall appear that the estimated percentage of moneys so made

is insufficient to meet the requirements for payment of the principal thereof or interest thereon, the treasurer shall notify the state finance committee forthwith and such committee shall adjust its estimates so that all requirements for the interest on and principal of all bonds issued shall be fully met at all times. [1977 ex.s. c 360 s 5.]

Severability—1977 ex.s. c 360: See note following RCW 47.60.560.

RCW 47.60.610 Excess repayment funds—Disposition. Whenever the percentage of the motor vehicle fund arising from excise taxes on motor vehicle and special fuels payable into the bond retirement fund proves more than is required for the payment of interest on bonds when due, or current retirement of bonds, any excess may, in the discretion of the state finance committee and with the concurrence of the department, be available for the prior redemption of any bonds or remain available in the fund to reduce requirements upon the fuel excise tax portion of the motor vehicle fund at the next interest or bond payment period. [1984 c 7 s 337; 1977 ex.s. c 360 s 6.]

Severability—1977 ex.s. c 360: See note following RCW 47.60.560.

RCW 47.60.620 Reimbursements and transfers of funds. Whenever, pursuant to RCW 47.60.600, the state treasurer shall transfer funds from the motor vehicle fund to the ferry bond retirement fund, the state treasurer shall at the same time reimburse the motor vehicle fund in an identical amount from the Puget Sound capital construction account. After each transfer by the treasurer of funds from the motor vehicle fund to the bond retirement fund and to the extent permitted by RCW 47.60.420, 47.60.505(3), and 47.60.505(4), the obligation to reimburse the motor vehicle fund as required herein shall constitute a first and prior charge against the funds within and accruing to the Puget Sound capital construction account, including the proceeds of the additional two-tenths of one percent excise tax imposed by *RCW 82.44.020, as amended by chapter 332, Laws of 1977 ex. sess. All funds reimbursed to the motor vehicle fund as provided herein shall be distributed to the state for expenditure pursuant to RCW 46.68.130. [1986 c 66 s 11; 1977 ex.s. c 360 s 7.]

***Reviser's note:** RCW 82.44.020 was repealed by 2000 1st sp.s. c 1 s 2.

Effective date—1986 c 66: See note following RCW 47.60.400.

Severability—1977 ex.s. c 360: See note following RCW 47.60.560.

RCW 47.60.630 Bonds legal investment for public funds. The bonds authorized in RCW 47.60.560 through 47.60.640 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 ex.s. c 360 s 8.]

Severability—1977 ex.s. c 360: See note following RCW 47.60.560.

RCW 47.60.640 Bonds—Equal charge against revenues from motor vehicle and special fuel excise taxes. Bonds issued under authority of RCW 47.60.560 through 47.60.640 and any subsequent general obligation bonds of the state of Washington which may be authorized and which pledge motor vehicle and special fuel excise taxes for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuel excise taxes. [1977 ex.s. c 360 s 9.]

Severability—1977 ex.s. c 360: See note following RCW 47.60.560.

RCW 47.60.656 Passenger-only ferry service—Conveyance of vessels authorized. The department of transportation may enter into contracts with public transportation benefit areas meeting the requirements of RCW 36.57A.200 or county ferry districts to convey passenger-only ferry vessels and other properties associated with passenger-only ferry service that serve to provide passenger-only ferry service, as full or part consideration for the benefit area or ferry district assuming all future maintenance and operation obligations and costs required to maintain and operate the vessel and facilities. The conveyances must provide that the vessels or properties revert to the department if the vessels are not used for providing passenger-only ferry service. [2003 c 83 s 203.]

Findings—Intent—Captions, part headings not law—Severability—Effective date—2003 c 83: See notes following RCW 36.57A.200.

RCW 47.60.662 Ferry system collaboration with passenger-only ferry service providers. The Washington state ferry system shall collaborate with new and potential passenger-only ferry service providers, as described in chapters 36.54, 36.57A, and 53.08 RCW, for terminal operations at its existing terminal facilities. [2008 c 45 s 3; 2007 c 223 s 3; 2006 c 332 s 5.]

Effective date—2007 c 223: See note following RCW 36.57A.220.

RCW 47.60.680 Prequalification of contractors required. No contract for the construction, improvement, or repair of a ferry, ferry terminal, or other facility operated by the Washington state ferries or for the repair, overhaul, or the dry-docking of any ferry operated by Washington state ferries may be awarded to any contractor who has not first been prequalified to perform the work by the department of transportation. No bid or proposal for such a contract may be received from any contractor who has not first been prequalified to perform the work by the department of transportation. [1983 c 133 s 1.]

RCW 47.60.690 Qualifications of contractor—Rules to assure. The secretary of transportation shall adopt rules prescribing standards and criteria to assure that each ferry system construction and repair contract described in RCW 47.60.680 shall be awarded to a

competent and responsible contractor who has all of the following qualifications:

(1) Adequate financial resources, which may take into account the ability of the contractor to secure such resources;

(2) The necessary organization, personnel, equipment, facilities, experience, and technical qualification[s] to perform ferry system construction and repair contracts generally and with respect to any specific contract such additional special qualifications as may be necessary to perform the contract;

(3) The ability to comply with the department's performance schedules taking into account the outstanding work on all of the contractor's construction and repair contracts;

(4) A satisfactory record of performing previous contracts;

(5) A satisfactory record of integrity, judgment, and skills; and

(6) Such other qualifications as the secretary may prescribe to assure that prequalified contractors are competent and responsible. [1983 c 133 s 2.]

RCW 47.60.700 Application for prequalification—Form. Any contractor desiring to submit bids or proposals for ferry system construction or repair contracts as described in RCW 47.60.680 shall file an application for prequalification with the department. The application shall be on a standard form supplied by the department. The form shall require a complete statement of the applicant's financial ability, including a statement of the applicant's current net assets and working capital. The form shall require such additional information as may be necessary for the department to determine whether or not the applicant is entitled to be prequalified in accordance with RCW 47.60.680 through 47.60.760 and the rules adopted thereunder. [1983 c 133 s 3.]

RCW 47.60.710 Department authority to obtain information. Upon request by the department an applicant for prequalification shall authorize the department to obtain any information pertinent to the application, including information relating to the applicant's net worth, assets, and liabilities, from banks or other financial institutions, surety companies, and material and equipment suppliers. [1983 c 133 s 4.]

RCW 47.60.720 Additional investigation—Terms of prequalification—Notice of nonqualification. Upon receipt of an application by a contractor for prequalification to perform ferry system construction and repair contracts, the department shall conduct such additional investigation as it deems necessary. If it finds that the applicant is qualified in accordance with the rules as adopted by the secretary, the department shall prequalify the contractor to perform the contracts for a period of one year. The prequalification shall fix the aggregate dollar amount of work, including any contract let by the department, that the contractor may have under contract and uncompleted at any one time and may limit the contractor to the submission of bids or proposals upon a certain class of work. Subject to any restrictions on the dollar amount or class of work specified thereunder, the prequalification shall authorize a contractor to bid

or submit proposals on all ferry system construction and repair contracts mentioned in RCW 47.60.680 except contracts requiring special prequalification. If the department determines that an applicant is not entitled to prequalification, it shall give written notice of the determination to the applicant. [1983 c 133 s 5.]

RCW 47.60.730 Renewal of prequalification—Nonrenewal or revocation, notice. A contractor may apply annually for renewal of its prequalification by submission of a new or supplemental questionnaire and financial statement on standard forms provided by the department. Based upon information received at the time of renewal or at any other time the department may amend the prequalification of the contractor as to the dollar amount or class of work that the contractor may perform or may refuse to renew the prequalification or may revoke a prequalification previously approved, all in accordance with the same standards and criteria used for considering an original application for prequalification. The department shall give written notice of any such action to the contractor. [1983 c 133 s 6.]

RCW 47.60.740 Rejection of bid despite prequalification—Unqualified bidder. If the department finds, after the opening of bids, that facts exist that would disqualify the lowest bidder, or that the lowest bidder is not competent or responsible in accordance with the standards and criteria for prequalifying contractors, the department shall reject the bid despite the prior prequalification of the bidder. No contract may be awarded to a bidder not qualified to bid on it at the time fixed for receiving bids. [1983 c 133 s 7.]

RCW 47.60.750 Appeal of refusal, modification, or revocation of prequalification. The action of the department in refusing, modifying, or revoking the prequalification of any contractor under RCW 47.60.680 through 47.60.740 is conclusive unless an appeal is filed with the Thurston county superior court within ten days after receiving written notice of the refusal, modification, or revocation. The appeal shall be heard summarily within twenty days after the appeal is taken and on five days notice thereof to the department. The court shall hear any such appeal on the administrative record that was before the department. The court may affirm the decision of the department, or it may reverse the decision if it determines the action of the department was arbitrary or capricious. [1983 c 133 s 8.]

RCW 47.60.760 Financial information regarding qualifying not public. The department of transportation shall not be required to make available for public inspection and copying financial information supplied by any person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750. [1983 c 133 s 9.]

RCW 47.60.800 General obligation bonds—1992 issue—Purpose—Issuance and sale. In order to provide funds necessary for vessel and

terminal acquisition, construction, and major and minor improvements, including long lead time materials acquisition for the Washington state ferries, there shall be issued and sold upon the request of the Washington state transportation commission and legislative appropriation a total of two hundred ten million dollars of general obligation bonds of the state of Washington. [1992 c 158 s 1.]

RCW 47.60.802 Bonds—1992 issue—Supervision of sale by state finance committee—Option of short-term obligations. (1) Upon request being made by the transportation commission, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.60.800 through 47.60.808 in accordance with chapter 39.42 RCW. The bonds may be sold from time to time in such amounts as may be necessary for the purposes under RCW 47.60.800. The bonds shall be sold in such manner, at such time or times, in such amounts, and at such price or prices as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

(2) The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purposes of retiring the bonds during the life of the project for which they were issued. [1992 c 158 s 2.]

RCW 47.60.804 Bonds—1992 issue—Use of proceeds. The proceeds from the sale of bonds authorized by RCW 47.60.800 through 47.60.808 shall be deposited in the Puget Sound capital construction account of the motor vehicle fund and such proceeds shall be available only for the purposes under RCW 47.60.800, for the payment of bond anticipation notes, if any, and for the payment of bond issuance costs, including the costs of underwriting. [1992 c 158 s 3.]

RCW 47.60.806 Bonds—1992 issue—Payment of principal and interest from pledged excise taxes. Bonds issued under the authority of RCW 47.60.800 through 47.60.808 shall distinctly state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The principal and interest shall be first payable in the manner provided in RCW 47.60.800 through 47.60.808 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapters *82.36 and 82.38 RCW and distributed to the state pursuant to RCW 46.68.130 and shall never constitute a charge against any allocations of such funds to counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle and special fuels and available for state highway purposes proves insufficient to meet the requirements for bond retirement or interest on any such bonds. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.60.800 through 47.60.808,

and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.60.800 through 47.60.808. [1995 c 274 s 19; 1992 c 158 s 4.]

***Reviser's note:** Chapter 82.36 RCW was repealed in its entirety by 2013 c 225 s 501, effective July 1, 2016.

RCW 47.60.808 Bonds—1992 issue—Payment from ferry bond retirement fund. Both principal and interest on the bonds issued for the purposes of RCW 47.60.800 through 47.60.808 shall be payable from the ferry bond retirement fund authorized in RCW 47.60.600. Whenever, pursuant to RCW 47.60.800 and 47.60.806, the state treasurer transfers funds from the motor vehicle fund to the ferry bond retirement fund, the state treasurer may at the same time reimburse the motor vehicle fund in an identical amount from the Puget Sound capital construction account. [1992 c 158 s 5.]

RCW 47.60.810 Design-build ferries—Independent owner's representative—Phases defined—Department may modify certain existing option contracts. (1) Except as otherwise provided in RCW 47.60.826, the department shall use a modified request for proposals process when purchasing new auto ferries, except for new 144-auto ferries purchased through an option on a contract executed before July 6, 2015, whereby the prevailing shipbuilder and the department engage in a design and build partnership for the design and construction of the auto ferries. The process consists of the three phases described in subsection (3) of this section.

(2) Throughout the three phases described in subsection (3) of this section, the department shall employ an independent owner's representative to serve as a third-party intermediary between the department and the proposers, and subsequently the successful proposer. However, this representative shall serve only during the development and construction of the first vessel constructed as part of a new class of vessels developed after July 6, 2015. The independent owner's representative shall:

- (a) Serve as the department's primary advocate and communicator with the proposers and successful proposer;
- (b) Perform project quality oversight;
- (c) Manage any change order requests;
- (d) Ensure that the contract is adhered to and the department's best interests are considered in all decisions; and
- (e) Possess knowledge of and experience with inland waterways, Puget Sound vessel operations, the propulsion system of the new vessels, and Washington state ferries operations.

(3) The definitions in this subsection apply throughout RCW 47.60.812 through 47.60.822.

(a) "Phase one" means the evaluation and selection of proposers to participate in development of technical proposals in phase two.

(b) "Phase two" means the preparation of technical proposals by the selected proposers in consultation with the department.

(c) "Phase three" means the submittal and evaluation of bids, the award of the contract to the successful proposer, and the design and construction of the auto ferries.

(4) The department may modify an existing option contract executed prior to July 6, 2015, to allow for the purchase of up to five additional 144-auto ferries, for a total of nine 144-auto ferries. The department must execute a new modification to an existing option contract for each of the additional five ferries. [2023 c 429 s 3; 2019 c 431 s 1; 2015 3rd sp.s. c 14 s 3; 2001 c 226 s 4.]

Effective date—2023 c 429: See note following RCW 47.60.826.

Effective date—2015 3rd sp.s. c 14: See note following RCW 47.60.005.

Findings—Purpose—2001 c 226: See note following RCW 47.20.780.

RCW 47.60.812 Design-build ferries—Notice of request for proposals. To commence the request for proposals process, the department shall publish a notice of its intent once a week for at least two consecutive weeks in at least one trade paper and one other paper, both of general circulation in the state. The notice must contain, but is not limited to, the following information:

(1) The number of auto ferries to be procured, the auto and passenger capacities, the delivery dates, and the estimated price range for the contract;

(2) A statement that a modified request for proposals design and build partnership will be used in the procurement process;

(3) A short summary of the requirements for prequalification of proposers including a statement that prequalification is a prerequisite to submittal of a proposal in phase one; and

(4) An address and telephone number that may be used to obtain a prequalification questionnaire and the request for proposals. [2001 c 226 s 5.]

Findings—Purpose—2001 c 226: See note following RCW 47.20.780.

RCW 47.60.814 Design-build ferries—Issuance of request for proposals. (1) Subject to legislative appropriation for the procurement of vessels, the department shall issue a request for proposals to interested parties that must include, at least, the following:

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

(b) Instructions on the prequalification process and procedures;

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

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

(e) Outline specifications that provide the requirements for the vessels including, but not limited to, items such as length, beam, displacement, speed, propulsion requirements, capacities for autos and passengers, passenger space characteristics, and crew size. The department will produce notional line drawings depicting hull geometry

that will interface with Washington state ferries terminal facilities. Notional lines may be modified in phase two, subject to approval by the department;

(f) Instructions for the development of technical proposals in phase two, and information regarding confidentiality of technical proposals;

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

(h) The estimated price range for the contract;

(i) Notification that the contract will be a fixed price contract;

(j) The form and amount of the required bid deposit and contract security;

(k) A copy of the contract that will be signed by the successful proposer;

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

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

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

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

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

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

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

(s) A requirement that all vessel design specifications and drawings must be complete and, when applicable, meet United States coast guard standards before vessel construction begins; and

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

(2) The department shall not issue a request for proposals for the procurement of vessels, except on a contract executed before July

6, 2015, without specific authorization to do so from the legislature. After receiving such specific authorization, any request for proposals issued by the department must comply with RCW 47.60.815. [2015 3rd sp.s. c 14 s 4; 2001 c 226 s 6.]

Effective date—2015 3rd sp.s. c 14: See note following RCW 47.60.005.

Findings—Purpose—2001 c 226: See note following RCW 47.20.780.

RCW 47.60.815 Design-build ferries—Cost-benefit analysis—Engineer's estimate—Subsequent request for proposals, when required.

(1) The Washington state institute for public policy must conduct a cost-benefit analysis of the state's ferry vessel procurement practices. This analysis must (a) compare in-state construction to construction at shipyards across the United States, (b) identify barriers to receiving three or more in-state bids to a request for proposals, and (c) recommend policies to encourage three or more in-state bidders to respond to a request for proposals. This analysis must be provided to the governor, the transportation committees of the legislature, and the department by December 1, 2016.

(2) In developing its engineer's estimate to procure a ferry vessel, the department must identify significant project cost drivers, including materials, labor, overhead, delivery, and profit.

(3) After July 1, 2017, if all responses to the initial request for proposals under RCW 47.60.814 are greater than five percent above the department's engineer's estimate for the project, the department must reject all proposals and issue a subsequent request for proposal that is not subject to RCW 47.60.814(1)(r). [2015 3rd sp.s. c 14 s 5.]

Effective date—2015 3rd sp.s. c 14: See note following RCW 47.60.005.

RCW 47.60.816 Design-build ferries—Phase one. Phase one of the request for proposals process consists of evaluation and selection of prequalified proposers to participate in subsequent development of technical proposals in phase two, as follows:

(1) The department shall issue a request for proposals to interested parties.

(2) The request for proposals must require that each proposer prequalify for the contract under chapter 468-310 WAC, except that the department may adopt rules for the financial prequalification of proposers for this specific contract only. The department shall modify the financial prequalification rules in chapter 468-310 WAC in order to maximize competition among financially capable and otherwise qualified proposers. In adopting these rules, the department shall consider factors including, without limitation: (a) Shipyard resources in Washington state; (b) the cost to design and construct multiple vessels under a single contract without options; and (c) the sequenced delivery schedule for the vessels.

(3) The department may use some, or all, of the nonfinancial prequalification factors as part of the evaluation factors in phase one to enable the department to select a limited number of best

qualified proposers to participate in development of technical proposals in phase two.

(4) The department shall evaluate submitted proposals in accordance with the selection criteria established in the request for proposals. Selection criteria may include, but are not limited to, the following:

- (a) Shipyard facilities;
- (b) Organization components;
- (c) Design capability;
- (d) Build strategy;
- (e) Experience and past performance;
- (f) Ability to meet vessel delivery dates;
- (g) Projected workload; and
- (h) Expertise of project team and other key personnel.

(5) Upon concluding its evaluation of proposals, the department shall select the best qualified proposers in accordance with the request for proposals. The selected proposers must participate in development of technical proposals. Selection must be made in accordance with the selection criteria stated in the request for proposals. All proposers must be ranked in order of preference as derived from the same selection criteria. [2001 c 226 s 7.]

Findings—Purpose—2001 c 226: See note following RCW 47.20.780.

RCW 47.60.818 Design-build ferries—Phase two. Phase two of the request for proposals process consists of preparation of technical proposals in consultation with the department, as follows:

(1) The development of technical proposals in compliance with the detailed instructions provided in the request for proposals, including the outline specifications, and any addenda to them. Technical proposals must include the following:

- (a) Design and specifications sufficient to fully depict the ferries' characteristics and identify installed equipment;
- (b) Drawings showing arrangements of equipment and details necessary for the proposer to develop a firm, fixed price bid;
- (c) Project schedule including vessel delivery dates; and
- (d) Other appropriate items.

(2) The department shall conduct periodic reviews with each of the selected proposers to consider and critique their designs, drawings, and specifications. These reviews must be held to ensure that technical proposals meet the department's requirements and are responsive to the critiques conducted by the department during the development of technical proposals.

(3) If, as a result of the periodic technical reviews or otherwise, the department determines that it is in the best interests of the department to modify any element of the request for proposals, including the outline specifications, it shall do so by written addenda to the request for proposals.

(4) Proposers must submit final technical proposals for approval that include design, drawings, and specifications at a sufficient level of detail to fully depict the ferries' characteristics and identify installed equipment, and to enable a proposer to deliver a firm, fixed price bid to the department. The department shall reject final technical proposals that modify, fail to conform to, or are not fully responsive to and in compliance with the requirements of the

request for proposals, including the outline specifications, as amended by addenda. [2001 c 226 s 8.]

Findings—Purpose—2001 c 226: See note following RCW 47.20.780.

RCW 47.60.820 Design-build ferries—Phase three. Phase three consists of the submittal and evaluation of bids and the award of the contract to the successful proposer for the final design and construction of the auto ferries, as follows:

(1) The department shall request bids for detailed design and construction of the vessels after completion of the review of technical proposals in phase two. The department will review detailed design drawings in phase three for conformity with the technical proposals submitted in phase two. In no case may the department's review replace the builder's responsibility to deliver a product meeting the phase two technical proposal. The department may only consider bids from selected proposers that have qualified to bid by submitting technical proposals that have been approved by the department.

(2) Each qualified proposer must submit its total bid price for all vessels, including certification that the bid is based upon its approved technical proposal and the request for proposals.

(3) Bids constitute an offer and remain open for ninety days from the date of the bid opening. A deposit in cash, certified check, cashier's check, or surety bond in an amount specified in the request for proposals must accompany each bid and no bid may be considered unless the deposit is enclosed.

(4) The department shall evaluate the submitted bids. Upon completing the bid evaluation, the department may select the responsive and responsible proposer that offers the lowest total fixed price bid for all vessels.

(5) The department may waive informalities in the proposal and bid process, accept a bid from the lowest responsive and responsible proposer, reject any or all bids, republish, and revise or cancel the request for proposals to serve the best interests of the department.

(6) The department may:

(a) Award the contract to the proposer that has been selected as the responsive and responsible proposer that has submitted the lowest total fixed price bid;

(b) If a contract cannot be signed with the apparent successful proposer, award the contract to the next lowest responsive and responsible proposer; or

(c) If necessary, repeat this procedure with each responsive and responsible proposer in order of rank until the list of those proposers has been exhausted.

(7) If the department awards a contract to a proposer under this section, and the proposer fails to enter into the contract and furnish satisfactory contract security as required by chapter 39.08 RCW within twenty days from the date of award, its deposit is forfeited to the state and will be deposited by the state treasurer to the credit of the Puget Sound capital construction account. Upon the execution of a ferry design and construction contract all proposal deposits will be returned.

(8) The department may provide an honorarium to reimburse each unsuccessful phase three proposer for a portion of its technical

proposal preparation costs at a preset, fixed amount to be specified in the request for proposals. If the department rejects all bids, the department may provide the honoraria to all phase three proposers that submitted bids.

(9) (a) To accommodate change orders on a fixed price contract, the department shall request that the legislative appropriation for any auto ferry construction project include a contingency in the following amounts:

(i) For the first vessel in any class of vessels designed to be powered by liquefied natural gas, the contingency may be no more than ten percent of the contract price;

(ii) For all other vessels, the contingency may be no more than five percent of the contract price.

(b) The contingency required by this subsection (9) must be identified in the funding request to the legislature and held in reserve until the office of financial management approves the expenditure. [2015 3rd sp.s. c 14 s 6; 2001 c 226 s 9.]

Effective date—2015 3rd sp.s. c 14: See note following RCW 47.60.005.

Findings—Purpose—2001 c 226: See note following RCW 47.20.780.

RCW 47.60.822 Design-build ferries—Notice to proposers not selected—Appeal. (1) The department shall immediately notify those proposers that are not selected to participate in development of technical proposals in phase one and those proposers who submit unsuccessful bids in phase three.

(2) The department's decision is conclusive unless an aggrieved proposer files an appeal with the superior court of Thurston county within five days after receiving notice of the department's award decision. The court shall hear any such appeal on the department's administrative record for the project. The court may affirm the decision of the department, or it may reverse or remand the administrative decision if it determines the action of the department was arbitrary and capricious. [2001 c 226 s 10.]

Findings—Purpose—2001 c 226: See note following RCW 47.20.780.

RCW 47.60.824 Design-build ferries—Single best-qualified proposer—Incentives—Proposal negotiations—Compensation. If at any point there is only a single best-qualified proposer participating in the competitive design-build procurement process prior to the submission of bids in phase three, or if there is only a single responsive and responsible bid submitted in phase three, or if the current best-qualified proposers elect to jointly submit a single proposal, the department may negotiate a fair-value contract with the proposer or joint proposers. The negotiations may consider the scope of work as well as contract price. The contract price must be established between the department and the proposer through negotiation based on detailed cost and price information provided by the proposer, the department, and other relevant sources in a format as determined by the department. To achieve efficiencies, the department may negotiate incentives and economic cost sharing between

the state and the proposer. In addition to the cost incentives, other incentives may be considered, as determined by the department, to be in the best interests of the state. Such incentives may include, but are not limited to, key schedule milestones, technological innovations, performance efficiencies, constructability, and operational value or life-cycle cost. The department may issue guidelines, requirements, and procedures for all negotiations.

If the department conducts negotiations with a single remaining proposer or joint proposers prior to the submission of bids in phase three, all negotiations must be completed within forty-five days of the department's approval of the final technical proposal. If the department conducts negotiations with a single responsive and responsible phase three bidder, all negotiations must be completed within thirty days of submission of the phase three bids.

If the department reaches an agreement with the proposer or joint proposers, the department shall submit a copy of the contract, the final negotiated price, and supporting information to the office of financial management at least ten days prior to execution of the contract. If the final negotiated price is greater than the legislature's adopted expenditure plan for vessel construction, the department may not execute the contract until the legislature reviews the final proposals and adjusts the expenditure plan accordingly.

If the department is unable within the designated time period to reach an agreement with the proposer or joint proposers that is fair, reasonable, and in the department's budget, or if the proposers initially provide notice of their intent to jointly submit a single proposal but fail to do so, or if any one of the proposers withdraws from a jointly submitted single proposal before entering into a contract with the department, or if both of the current best-qualified proposers withdraw or otherwise fail to proceed with the request for proposals process, the department may issue a new request for proposals or cancel the request for proposals process, to serve the best interests of the state.

The department may pay an honorarium in a specified amount determined by the department to a proposer or joint proposers who has [have] submitted a final, approved technical proposal and with whom the department has engaged in unsuccessful negotiations. The proposer or joint proposers shall not receive any other compensation for attempting to negotiate a contract, except to the extent allowed by the department in a final contract awarded pursuant to the request for proposal. [2007 c 481 s 2.]

Effective date—2007 c 481: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 14, 2007]." [2007 c 481 s 3.]

RCW 47.60.8241 Findings—Single proposal process for new ferry vessel construction. The legislature finds that the Washington state ferry system has an excellent safety record and has commenced a long-term vessel procurement plan to ensure the replacement of older and outdated ferry vessels. The legislature further finds that the current vessel procurement process must move forward with all due speed, balancing the interests of both the taxpayers and shipyards. The commencement of construction of new vessels is important not only for

safety reasons, but also to keep skilled marine construction jobs in the Puget Sound region and to sustain the capacity of the region to meet the ongoing preservation needs of the ferry system fleet of vessels.

The legislature further finds that the balancing of interests described in this section may necessitate the department of transportation to consider in the department's current new 144—auto ferries request for proposals a single proposal submitted jointly by the current best-qualified proposers. The department may, therefore, consider and accept or reject in the department's discretion such a single proposal, and the current best-qualified proposers may meet and confer to discuss matters that are reasonably necessary to determine whether to submit such a single proposal and to implement a single final contract if the proposal is accepted by the department. Discussions may address the terms of any agreement that may be entered into between the best-qualified proposers for purposes of submitting a single proposal, as well as any agreement that may be entered into with the department. Discussions may also address cost and price information and division of work under the request for proposals. The current best-qualified proposers shall each expressly declare in writing to the department, their intent, if any, to jointly submit a single proposal within thirty days of May 14, 2007, and shall further provide within the thirty-day period information that may be required by the department including, but not limited to, information regarding the proposed shipyard organizational structure and responsibilities of each participant. If at the end of the thirty-day period the proposers have not declared such an intent and provided the information required by the department, or if the department, in its discretion, determines that the joint venture, other legal entity, or organizational structure, or division of responsibilities intended by the joint proposers are unacceptable and not in the best interests of the state, the proposers will be deemed as proposing separately to the request for proposals, and further discussions related to the request for proposals shall not be allowed between the proposers.

To further facilitate the balancing of interests described in this section, the department of transportation may, in its discretion, make revisions to the request for proposals that the department deems necessary or appropriate to balance such interests. [2007 c 481 s 1.]

Effective date—2007 c 481: See note following RCW 47.60.824.

RCW 47.60.826 Design-build ferries—Hybrid diesel-electric ferry vessels—Contract requirements—Third-party experts. (1)(a) The department shall contract for the acquisition of up to five new hybrid diesel-electric ferry vessels that can carry up to 144 vehicles, using a one or two contract procurement approach to potentially accelerate vessel delivery.

(b) The Washington state ferries shall make available the design for the 144 vehicle hybrid electric Olympic class vessel to potential bidders. Incentives may be awarded by the department to bidders who offer design modifications that:

(i) Lower the minimum number of crew needed to staff the vessel in accordance with United States coast guard requirements;

(ii) Incorporate materials, technologies, or other features that lower life-cycle maintenance and operations costs;

(iii) Accelerate the proposed delivery schedule; or

(iv) Make other improvements determined to be beneficial by the department. The Washington state ferries may allow for exceptions of the 144 vehicle capacity of the vessel design in cases where efficiencies outlined in (b) (i) or (ii) of this subsection are met.

(2) (a) The contract or contracts must be for a minimum of two vessels, with options for up to five vessels in total, and are exempt from the requirements set forth in RCW 47.60.810 through 47.60.824.

(b) The contract or contracts may employ the following procurement methods:

(i) Design-build procedure as authorized under chapter 39.10 RCW;

(ii) Design-bid-build as authorized under chapter 39.04 RCW or an equivalent process allowed in statute as determined by the department; or

(iii) Lease with an option to buy in accordance with RCW 47.60.010. The terms of any plan to pursue a lease with an option to buy agreement must be approved by the governor and appropriate committees of the legislature and are subject to the availability of amounts appropriated for this specific purpose.

(c) To the extent possible, the department shall establish and apply evaluation criteria beyond low price to meet best value objectives.

(d) The department must award a credit of 13 percent of the bid price for bid proposals for vessels constructed in the state of Washington, which must be adjusted to reflect the proportion of the construction of the vessels that occurs within the state. This credit represents the:

(i) Amount of economic and revenue loss to the state of Washington from constructing vessels outside the state of Washington, as indicated by the Washington institute for public policy study regarding Washington state ferry vessel procurement dated December 2016; and

(ii) Additional costs of transport, potential delay, and owner oversight incurred for construction at shipyards located outside the state of Washington.

(e) The department must require that contractors meet the requirements of RCW 39.04.320 regarding apprenticeships or other state law or federal law equivalents, where such equivalents exist.

(f) The department must require that contractors meet the requirements of chapter 90.48 RCW regarding water pollution control or other state law or federal law equivalents, where such equivalents exist.

(3) For contracts eligible for the use of federal funds, contractors must comply with federal disadvantaged business enterprise targets as outlined by the federal agency awarding funds.

(4) Contractors located in the state of Washington must meet the requirements of RCW 47.60.835, the small business enterprise enforceable goals program.

(5) The department shall employ third-party experts that report to the Washington state ferries to serve as a supplementary resource. The third-party experts contracted by the Washington state ferries shall:

(a) Perform project quality oversight and report to the transportation committees of the legislature and the office of financial management on a semiannual basis on project schedule, risks, and project budget;

(b) Assist with the management of change order requests;

(c) Advise on contract and technical matters; and
(d) Possess knowledge of and experience with inland waterways, Puget Sound vessel operations, the propulsion system of the new vessels, and Washington state ferries operations. [2023 c 429 s 2.]

Effective date—2023 c 429: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 11, 2023]." [2023 c 429 s 7.]

RCW 47.60.830 Ferry system operation—Fuel purchasing strategies—Report. In performing the function of operating its ferry system, the department may, subject to the availability of amounts appropriated for this specific purpose and after consultation with the department of enterprise services, explore and implement strategies designed to reduce the overall cost of fuel and mitigate the impact of market fluctuations and pressure on both short-term and long-term fuel costs. These strategies may include, but are not limited to, futures contracts, hedging, swap transactions, option contracts, costless collars, and long-term storage. The department shall periodically submit a report to the transportation committees of the legislature and the department of enterprise services on the status of any such implemented strategies, including cost mitigation results, a description of each contract established to mitigate fuel costs, the amounts of fuel covered by the contracts, the cost mitigation results, and any related recommendations. The first report must be submitted within one year of implementation. [2015 c 225 s 101; 2008 c 126 s 4.]

Finding—Intent—2008 c 126: See note following RCW 35.58.262.

RCW 47.60.835 Small business enterprise enforceable goals program. (1) In the absence of federal funding and the applicability of the disadvantaged business enterprise program, to increase race and gender-neutral participation of small and diverse businesses in ferry procurement, the Washington state department of transportation's office of equal opportunity and civil rights shall develop and monitor a state small business enterprise enforceable goals program. Pursuant to this program, the office shall establish contract goals for ferry vessel procurement. The contract goal is defined as a percentage of the contract award amount that the prime contractor must meet by subcontracting with small business enterprises. The enforceable goal for all ferry vessel procurement contracts will be set by the office. Prime contractors unable to meet the enforceable goals must submit evidence of good faith efforts to meet the contract goals to the small business enterprise enforceable goals program. The department, in collaboration with the office of equal opportunities [opportunity] and civil rights will develop contractual remedies should the contractor not make good faith efforts.

(2) Small business enterprises intending to benefit from the small business enterprise enforceable goals program established in subsection (1) of this section must meet the definition of "small business" in RCW 39.26.010 and must be certified as a "small business enterprise" by the Washington state office of minority and women's

business enterprises. Prime contractors will enter all subcontractor payments into the office's diversity management and compliance system. The office of equal opportunity and civil rights shall monitor program performance. [2023 c 429 s 4; 2019 c 431 s 2.]

Effective date—2023 c 429: See note following RCW 47.60.826.

RCW 47.60.838 Vessel and terminal electrification program. It is the intent of the legislature to fully fund the vessel and terminal electrification program in accordance with the Washington state ferries 2040 long range plan. The legislature finds that to attain the 2040 target fleet size of 26 vessels, a biennial replacement schedule is necessary to ensure the level of ferry service and reliability expected by the public. Therefore, by June 30, 2025, the legislature will secure funding options, including but not limited to a vessel surcharge, to devote the resources necessary to fulfill the vessel and terminal needs outlined in the 2040 long range plan. [2022 c 182 s 431.]

Intent—Effective date—2022 c 182: See notes following RCW 70A.65.240.

RCW 47.60.840 Annual fare policy. Consistent with RCW 47.60.315(1)(b), the commission shall adopt an annual fare policy for Washington state ferries to allow all riders 18 years of age and younger to ride free of charge on all system routes. This fare change must apply to both walk-on passengers and passengers in vehicles. The commission is directed to make the initial fare policy change effective no later than October 1, 2022. [2022 c 182 s 421.]

Effective date—2022 c 182 ss 313, 408-414, and 421: See note following RCW 82.21.030.

Intent—2022 c 182: See note following RCW 70A.65.240.

RCW 47.60.850 Implementation of workforce planning recommendations—Adoption of formal strategy—Annual employee survey—Workforce development and career advancement—Instruction—Evaluation of management practices—Report of staffing. (1) The legislature finds that the maritime sector in Washington state is currently facing historic labor challenges. The legislature further finds that the Washington state ferry system is an essential component of the transportation system. Therefore, the legislature intends that Washington state ferries implement the recommendations of the joint transportation committee study on workforce planning, completed in December 2022.

(2) Washington state ferries shall adopt a formal strategy to implement diversity, equity, and inclusion directives to address issues including, but not limited to, recruitment, employee development, retention, and agency branding for workforce marketing materials. The strategy may address specific goals and objectives of diversity, equity, and inclusion efforts, training and development of

staff, and key performance indicators to track effectiveness of the strategy.

(3) (a) On an annual basis, Washington state ferries shall conduct an employee survey of employees' feedback on workplace conditions either via the department-wide survey or utilizing a third-party consultant. The results of the survey shall be used at a minimum to:

(i) Perform an in-depth cultural assessment;

(ii) Identify any issues of concern among the Washington state ferries workforce; and

(iii) Form the basis of an action plan to remediate any cultural issues identified.

(b) Washington state ferries shall submit a summary of survey results and corresponding action planning to address cultural issues to the transportation committees of the legislature and the office of financial management at the time of Washington state ferries' biennial budget submissions, beginning with the 2025-2027 submission.

(4) Washington state ferries shall continuously seek methods to improve workforce development and career advancement for all employees with a focus on vessel engine room and deck, terminal, and Eagle Harbor maintenance facility tradespeople. In consultation with labor partners, Washington state ferries shall develop programs for employees to gain maritime credentials and marine pilotage required by the United States coast guard, as well as transferring knowledge through formalized mentorship, work shadow, or apprenticeship programs. Washington state ferries shall adopt a formal policy to assist applicants to gain required United States coast guard documentation and maritime credentialing necessary for entry-level positions. Assistance to perspective employees may include both financial and technical assistance.

(5) When possible, Washington state ferries shall partner with maritime academies and training facilities to offer instruction, including electronic learning, internships, or apprenticeships, to current or perspective employees.

(6) Washington state ferries shall continuously evaluate management practices concerning recruitment and hiring, staffing levels, scheduling practices, compensation, and agency technology needs, to optimize system and administrative performance. The evaluation must include a strategy to develop or modify a staffing model to forecast staffing needs and succession planning for future biennia and set a target level of operational overtime.

(7) At the time of Washington state ferries' biennial budget submissions, beginning with the 2025-2027 submission, Washington state ferries shall report staffing progress for deck, terminal, maintenance shop, and engine room employees, identifying:

(a) The approximate number of employees eligible for promotion;

(b) The number of employees eligible for retirement;

(c) The number of employees who have utilized on-the-job programs to gain maritime credentials or fulfill marine pilotage requirements; and

(d) A forecast of all staffing needs and changes for the subsequent biennia. [2023 c 188 s 1.]