

**RESOLUTION NO. \_\_\_\_\_**

**REQUESTING COUNCIL APPROVAL OF THE INTERPRETATION AND RETROACTIVE APPLICATION OF AMBIGUOUS LANGUAGE IN WCC 10.34.030 - USE OF FERRY USER FEE REVENUE**

**WHEREAS**, Chapter 10.34 of the Whatcom County code addresses the administration of the ferry rates and guides what should and should not be included in calculating the annual fare box goal; and

**WHEREAS**, the 2007 fare box goal calculation was amended by ordinance 2008-017 adding language to Chapter 10.34.030 – Use of Ferry User Fee Revenues that included an ambiguous reference to “income from the state Motor Vehicle Fuel Tax for ferry operation”; and

**WHEREAS**, two state revenue streams, Motor Vehicle Fuel Tax attributable to the ferry (MVFT-F) and Ferry Deficit Reimbursement Funding (FDRF) originate at the state level from Motor Vehicle Fuel Tax collections and therefore fit the language added to WCC 10.34.030 in 2008; and

**WHEREAS**, starting with the adoption of this change in the 2007 fare box goal calculation, FDRF revenue has been included in the fare box goal calculation per the revised language of WCC 10.34.030; and

**WHEREAS**, Public Works has not previously considered Motor Vehicle Fuel Tax attributable to Ferry as qualifying under the definition provided in WCC 10.34.030 “income from state Motor Vehicle Fuel Tax for ferry operation” based on interpretations and explanations of the income from the County Road Administration Board; and

1           **WHEREAS**, it is reasonable to believe that the language in WCC 10.34.030 is  
2 ambiguous, given past conversations with the council and unsuccessful attempts to clarify  
3 the language made in 2008 (AB2008-085) and 2013 (AB2013-161), and should be clarified  
4 to avoid disputes over fare box goal calculations; and

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6           **WHEREAS**, the proposed new language for WCC 10.34 clears up the ambiguity in  
7 future calculations by assigning both Motor Vehicle Fuel Tax attributable to Ferry and Ferry  
8 Deficit Reimbursement Funding to be used in the annual fare box goal; and

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10           **WHEREAS**, annual fare box goal calculations starting in 2007 and continuing  
11 through 2022 have been calculated without including Motor Vehicle Fuel Tax attributable to  
12 Ferry income in the calculation; and

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14           **WHEREAS**, between 2007 and 2022, \$2.7m of the Motor Vehicle Fuel Tax received  
15 by the Road Fund was considered attributable to the ferry, which at a 55% fare box  
16 recovery rate would have resulted in a reduction of the total fare box goal by \$1.5m  
17 through 2022; and

18           **WHEREAS**, this does not change the 2022 year-end fund balance but instead  
19 updates the portion of the fund balance attributable to Ferry Fare collections vs. attributable  
20 to other fund contributions.

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22           **NOW, THEREFORE, BE IT RESOLVED** by the Whatcom County Council that since  
23 the Motor Vehicle Fuel Tax attributable to Ferry and Ferry Deficit Reimbursement Funding  
24 are derived, at a state level, from Motor Vehicle Fuel Tax collections, it is reasonable to  
25 include both sources in the interpretation of Whatcom County Code 10.34.030 "income from  
26 the state Motor Vehicle Fuel Tax for ferry operation"; and

1           **BE IT FURTHER RESOLVED** by the Whatcom County Council that the fare box goal  
2 calculations for 2007-2022 will be recalculated, with the clarity of this resolution, to obtain a  
3 new Cumulative Fare Box Reserve balance for the end of 2022.

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**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

\_\_\_\_\_  
Dana Brown-Davis, Clerk of the Council

\_\_\_\_\_  
Barry Buchanan, Council Chair

WHATCOM COUNTY EXECUTIVE  
APPROVED AS TO FORM:

Christopher Quinn per email 06.07.2023/RR  
Christopher Quinn, Civil Deputy Prosecutor