



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2023-403

File ID:	AB2023-403	Version:	1	Status:	Approved
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Department:	Public Works Department	File Type:	Resolution		
Assigned to:	Council Public Works & Health Committee	Final Action:	06/20/2023		
Agenda Date:	06/20/2023	Enactment #:	RES 2023-016		

Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Resolution on the interpretation and retroactive application of ambiguous language in WCC 10.34.030,
Use of Ferry Fee Revenue

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See Memo

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
06/20/2023		A GENERIC PASS	
06/20/2023	Council Public Works & Health Committee	RECOMMENDED FOR APPROVAL	
		Aye: 2 Frazey, and Galloway	
		Nay: 1 Kershner	
06/20/2023	Council	APPROVED	
		Aye: 4 Buchanan, Donovan, Frazey, and Galloway	
		Nay: 3 Byrd, Elenbaas, and Kershner	

Attachments: Staff Memo, Resolution, Presentation for 6.20.2023

RESOLUTION NO. 2023 - 016

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

5
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

9
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

13
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.

21
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 20th day of June, 2023.

ATTEST:


Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


Barry Buchanan, Council Chair

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM:
Christopher Quinn per email 06.07.2023/RR
Christopher Quinn, Civil Deputy Prosecutor