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ENGROSSED SUBSTITUTE HOUSE BILL 2863

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State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Transportation (originally sponsored by Representatives Zellinsky, R. Meyers and Schmidt)

Read first time 02/08/94.

1 AN ACT Relating to the jumbo ferry vessel propulsion system; adding  
2 a new section to chapter 47.60 RCW; creating new sections; and  
3 declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

6 A 1991 legislative study, conducted by Booz.Allen, Hamilton and M.  
7 Rosenblatt and Son, examining the Washington State Ferries' management  
8 of its vessel refurbishment and construction program, resulted in  
9 recommendations for improvements and changes in the vessel  
10 refurbishment and construction program. These legislatively adopted  
11 recommendations encourage and support input by Washington State  
12 Ferries' engineers in the development of refurbishment and new  
13 construction project requirements.

14 The recommendations of the Booz.Allen study have been applied to  
15 the construction of the Jumbo Class Mark II ferries through the  
16 appointment of a Jumbo Class Mark II Steering Committee comprised of  
17 current state ferry engineers responsible for the design, operation,  
18 and maintenance of state ferry vessels.

1 The Steering Committee, in carrying out the recommendations of the  
2 Booz. Allen study, has determined that the procedure for the  
3 procurement of equipment, parts, and supplies for the Jumbo Class Mark  
4 II ferry vessels authorized by RCW 47.60.770 through 47.60.778, must  
5 take into consideration, in addition to life-cycle cost criteria,  
6 criteria that are essential to the operation of a public mass  
7 transportation system responsive to the needs of Washington State  
8 Ferries' users, and that assess the reliability, maintainability, and  
9 performance of equipment, parts, and supplies to be installed in the  
10 Jumbo Mark II ferries.

11 The construction of the new Jumbo Class Mark II ferry vessels  
12 authorized by RCW 47.60.770 through 47.60.778 is critical to the  
13 welfare of the state and any delay in the immediate construction of the  
14 ferries will result in severe hardship and economic loss to the state  
15 and its citizens. Recognizing these findings, it is the intent of the  
16 legislature that the vessel construction should not be delayed further  
17 because of the acquisition of a propulsion system, or any component of  
18 it, for the ferries, and to authorize the department of transportation  
19 to acquire all components of a complete propulsion system as soon as  
20 possible so that planned construction of the Jumbo Class Mark II ferry  
21 vessels can proceed immediately.

22 The purpose of this chapter is to authorize the use, by the  
23 department, of supplemental, alternative contracting procedures for the  
24 procurement of a propulsion system, and the components thereof, for the  
25 Jumbo Class Mark II ferries; and to prescribe appropriate requirements  
26 and criteria to ensure that contracting procedures for such procurement  
27 serve the public interest.

28 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.60 RCW  
29 to read as follows:

30 (1) The department may enter into a contract, without bid, for the  
31 acquisition of the propulsion system, or any component of it, including  
32 diesel engines and spare parts, for installation into one or more of  
33 the three Jumbo Class Mark II ferry vessels authorized under this  
34 chapter. This authorization does not limit the department from  
35 obtaining and installing the propulsion system, or any component of it,  
36 as incidental to the overall vessel construction contract authorized  
37 under RCW 47.60.770 through 47.60.778, nor from proceeding to complete

1 an existing contract for acquisition of the propulsion system or any  
2 component of it.

3 (2) Acquisition of a propulsion system, or any component of it, for  
4 the Jumbo Class Mark II ferries by the department under this section is  
5 exempt from chapter 43.19 RCW.

6 (3) Whenever the department decides to enter into an acquisition  
7 contract under this section it shall publish a notice of its intent to  
8 negotiate such a contract once a week for at least two consecutive  
9 weeks in one trade newspaper and one other newspaper, both of general  
10 circulation in the state. The notice must contain, but is not limited  
11 to, the following information:

12 (a) The identity of the propulsion system or components to be  
13 acquired and the proposed delivery dates for the propulsion system or  
14 components;

15 (b) An address and telephone number that may be used to obtain the  
16 request for proposal.

17 (4) The department shall send to any firm that requests it, a  
18 request for proposal outlining the design and construction requirements  
19 for the propulsion system, including any desired components. The  
20 request for proposal must include, but is not limited to, the following  
21 information:

22 (a) The proposed delivery date for each propulsion system or  
23 desired component and the location where delivery will be taken;

24 (b) The form and formula for contract security;

25 (c) A copy of the proposed contract;

26 (d) The date by which proposals must be received by the department  
27 in order to be considered; and

28 (e) A statement that any proposal submitted constitutes an offer  
29 and must remain open until ninety days after the deadline for  
30 submitting proposals, together with an explanation of the requirement  
31 that all proposals submitted must be accompanied by a deposit in the  
32 amount of five percent of the proposed cost.

33 (5) The department shall evaluate all timely proposals received  
34 for: (a) Compliance with the requirements specified in the request for  
35 proposal; and (b) suitability of each firm's proposal by applying  
36 appropriate criteria to be developed by the department: (i) To assess  
37 the ability of the firm to expeditiously and satisfactorily perform and  
38 (ii) to accomplish an acquisition that is most advantageous to the  
39 department.

1 (6) The criteria to select the most advantageous diesel engine  
2 under subsection (5)(b)(ii) shall consist of life-cycle cost factors  
3 weighted at thirty percent; and operational factors weighted as  
4 follows: reliability at twenty-five percent, maintainability at  
5 twenty-five percent, and engine performance at twenty percent. For  
6 purposes of this subsection, the cost factors shall consist of the  
7 costs for engine acquisition and warranty, spare parts acquisition and  
8 inventory, fuel efficiency and lubricating oil consumption, and  
9 commonality. The reliability factors shall consist of the length of  
10 service and reliability record in comparable uses, user verifications  
11 of manufacturer's reliability claims, and mean time between overhauls.  
12 The maintainability factors shall consist of spare parts availability,  
13 the usual time anticipated to perform typical repair functions, the  
14 quality of engine maintenance documentation, and the quality of factory  
15 training programs for ferry system maintenance staff. The performance  
16 factors shall consist of engine compatibility with ship design, load  
17 change responsiveness, and air quality of exhaust and engine room  
18 emissions.

19 (7) Upon concluding its evaluation, the department shall:

20 (a) Select the firm presenting the proposal most advantageous to  
21 the department, taking into consideration compliance with the  
22 requirements stated in the request for proposal, and the criteria  
23 developed by the department, and rank the remaining firms in order of  
24 preference, judging them by the same standards; or

25 (b) Reject all proposals as not in compliance with the requirements  
26 contained in the request for proposals.

27 (8) The department shall immediately notify those firms that were  
28 not selected as the firm presenting the most advantageous proposal of  
29 the department's decision. The department's decision is conclusive  
30 unless an aggrieved firm appeals the decision to the superior court of  
31 Thurston county within five days after receiving notice of the  
32 department's final decision. The appeal shall be heard summarily  
33 within ten days after it is taken and on five days' notice to the  
34 department. The court shall hear the appeal on the administrative  
35 record that was before the department. The court may affirm the  
36 decision of the department, or it may reverse the decision if it  
37 determines the action of the department is arbitrary or capricious.

1 (9) Upon selecting the firm that has presented the most  
2 advantageous proposal and ranking the remaining firms in order of  
3 preference, the department shall:

4 (a) Negotiate a contract with the firm presenting the most  
5 advantageous proposal; or

6 (b) If a final agreement satisfactory to the department cannot be  
7 negotiated with the firm presenting the most advantageous proposal, the  
8 department may then negotiate with the firm ranked next highest in  
9 order of preference. If necessary, the department may repeat this  
10 procedure and negotiate with each firm in order of rank until the list  
11 of firms has been exhausted.

12 (10) Proposals submitted by firms under this section constitute an  
13 offer and must remain open for ninety days. When submitted, each  
14 proposal must be accompanied by a deposit in cash, certified check,  
15 cashier's check, or surety bond in the amount equal to five percent of  
16 the amount of the proposed contract price, and the department may not  
17 consider a proposal that has no deposit enclosed with it. If the  
18 department awards a contract to a firm under the procedure set forth in  
19 this section and the firm fails to enter into the contract and furnish  
20 the required contract security within twenty days, exclusive of the day  
21 of the award, its deposit shall be forfeited to the state and deposited  
22 by the state treasurer to the credit of the Puget Sound capital  
23 construction account. Upon the execution of a contract all proposal  
24 deposits shall be returned.

25 NEW SECTION. **Sec. 3.** The department of transportation, the  
26 department of general administration, and the office of financial  
27 management, in consultation with the legislative transportation  
28 committee, shall conduct a systematic review of acquisition authorities  
29 established under chapters 43.19, 47.56, and 47.60 RCW, and the  
30 consequent impact on the operation of Washington state ferries as a  
31 public mass transportation system. The results of this review,  
32 including any proposed legislation, shall be reported to the governor  
33 and the house of representatives and senate transportation committees  
34 on or before January 1, 1995.

35 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take  
2 effect immediately.

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