
SUBSTITUTE HOUSE BILL 2863

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 that the construction
6 of the new Jumbo Class Mark II ferry vessels authorized by RCW
7 47.60.770 through 47.60.778 is critical to the welfare of the state and
8 that any delay in the immediate construction of the ferries will result
9 in severe hardship and economic loss to the state and its citizens.
10 Recognizing these findings, it is the intent of the legislature that
11 the vessel construction should not be delayed further because of the
12 acquisition of a propulsion system, or any component of it, for the
13 ferries, and to authorize the department of transportation to acquire
14 all components of a complete propulsion system as soon as possible so
15 that planned construction of the new ferries can proceed immediately.

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

1 (1) The department may enter into a contract, without bid, for the
2 acquisition of the propulsion system, or any component of it, including
3 diesel engines and spare parts, for installation into one or more of
4 the three Jumbo Class Mark II ferry vessels authorized under this
5 chapter. This authorization does not limit the department from
6 obtaining and installing the propulsion system, or any component of it,
7 as incidental to the overall vessel construction contract authorized
8 under RCW 47.60.770 through 47.60.778, nor from proceeding to complete
9 an existing contract for acquisition of the propulsion system or any
10 component of it.

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

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

20 (a) The identity of the propulsion system or components to be
21 acquired and the proposed delivery dates for the propulsion system or
22 components;

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

25 (4) The department shall send to any firm that requests it, a
26 request for proposal outlining the design and construction requirements
27 for the propulsion system, including any desired components. The
28 request for proposal must include, but is not limited to, the following
29 information:

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

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

33 (c) A copy of the proposed contract;

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

36 (e) A statement that any proposal submitted constitutes an offer
37 and must remain open until ninety days after the deadline for
38 submitting proposals, together with an explanation of the requirement

1 that all proposals submitted must be accompanied by a deposit in the
2 amount of five percent of the proposed cost.

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

10 (6) The criteria to select the most advantageous diesel engine
11 under subsection (5)(b)(ii) of this section shall consist of cost
12 factors weighted at thirty percent; and operational factors weighted as
13 follows: Reliability at twenty-five percent, maintainability at
14 twenty-five percent, and engine performance at twenty percent. For
15 purposes of this subsection, the cost factors shall consist of the
16 costs for engine acquisition and warranty, spare parts acquisition and
17 inventory, fuel efficiency and lubricating oil consumption, and
18 commonality.

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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