

2 **SHB 1093 - H AMD 928 ADOPTED 5/17/95**

3 By Representative K. Schmidt

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5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 47.56.030 and 1977 ex.s. c 151 s 66 are each amended
8 to read as follows:

9 The department of transportation shall have full charge of the
10 construction of all toll bridges and other toll facilities including
11 the Washington state ferries, and the operation and maintenance
12 thereof. The transportation commission shall determine and establish
13 the tolls and charges thereon, and shall perform all duties and
14 exercise all powers relating to the financing, refinancing, and fiscal
15 management of all toll bridges and other toll facilities including the
16 Washington state ferries, and bonded indebtedness in the manner
17 provided by law. The department shall have full charge of design of
18 all toll facilities. The department shall proceed with the
19 construction of such toll bridges and other facilities and the
20 approaches thereto by contract in the manner of state highway
21 construction immediately upon there being made available funds for such
22 work and shall prosecute such work to completion as rapidly as
23 practicable. The department is authorized to negotiate contracts for
24 any amount without bid in order to make repairs to ferries or ferry
25 terminal facilities or removal of such facilities whenever continued
26 use of ferries or ferry terminal facilities constitutes a real or
27 immediate danger to the traveling public or precludes prudent use of
28 such ferries or facilities.

29 The department shall proceed with the procurement of materials,
30 supplies, services, and equipment needed for the support, maintenance,
31 and use of a ferry, ferry terminal, or other facility operated by
32 Washington state ferries, in accordance with chapter 43.19 RCW except
33 as follows:

34 (1) When the secretary of the department of transportation
35 determines in writing that the use of invitation for bid is either not
36 practicable or not advantageous to the state and it may be necessary to

1 make competitive evaluations, including technical or performance
2 evaluations among acceptable proposals to complete the contract award,
3 a contract may be entered into by use of a competitive sealed proposals
4 method, and a formal request for proposals solicitation. Such formal
5 request for proposals solicitation shall include a functional
6 description of the needs and requirements of the state and the
7 significant factors.

8 (2) When purchases are made through a formal request for proposals
9 solicitation the contract shall be awarded to the responsible proposer
10 whose competitive sealed proposal is determined in writing to be the
11 most advantageous to the state taking into consideration price and
12 other evaluation factors set forth in the request for proposals. No
13 significant factors may be used in evaluating a proposal that are not
14 specified in the request for proposals. Factors that may be considered
15 in evaluating proposals include but are not limited to: Price
16 maintainability; reliability; commonality; performance levels; life
17 cycle cost if applicable under this section; cost of transportation or
18 delivery; delivery schedule offered; installation cost; cost of spare
19 parts; availability of parts and service offered; and the following:

20 (a) The ability, capacity, and skill of the proposer to perform
21 the contract or provide the service required;

22 (b) The character, integrity, reputation, judgment, experience, and
23 efficiency of the proposer;

24 (c) Whether the proposer can perform the contract within the time
25 specified;

26 (d) The quality of performance of previous contracts or services;

27 (e) The previous and existing compliance by the proposer with laws
28 relating to the contract or services;

29 (f) Objective, measurable criteria defined in the request for
30 proposal. These criteria may include but are not limited to items such
31 as discounts, delivery costs, maintenance services costs, installation
32 costs, and transportation costs; and

33 (g) Such other information as may be secured having a bearing on
34 the decision to award the contract.

35 When purchases are made through a request for proposal process,
36 proposals received shall be evaluated based on the evaluation factors
37 set forth in the request for proposal. When a life cycle cost analysis
38 is used, the life cycle cost of a proposal shall be given at least the
39 same relative importance as the initial price element specified in the

1 request of proposal documents. The department may reject any and all
2 proposals received. If the proposals are not rejected, the award shall
3 be made to the proposer whose proposal is most advantageous to the
4 department, considering price and the other evaluation factors set
5 forth in the request for proposal.

6 (3) The legislative transportation committee shall review the
7 secretary's use of the request for proposals solicitation for
8 Washington state ferries projects to determine if the process
9 established under this act is appropriate. The results of the review,
10 including recommendations for modification of the request for proposal
11 process, shall be reported to the house of representatives and senate
12 transportation committees by January 1, 1997.

13 **Sec. 2.** RCW 47.60.140 and 1987 c 69 s 1 are each amended to read
14 as follows:

15 (1) The department is empowered to operate such ferry system,
16 including all operations, whether intrastate or international, upon any
17 route or routes, and toll bridges as a revenue-producing and self-
18 liquidating undertaking. The department has full charge of the
19 construction, rehabilitation, rebuilding, enlarging, improving,
20 operation, and maintenance of the ferry system, including toll bridges,
21 approaches, and roadways incidental thereto that may be authorized by
22 the department, including the collection of tolls and other charges for
23 the services and facilities of the undertaking. The department has the
24 exclusive right to enter into leases and contracts for use and
25 occupancy by other parties of the concessions and space located on the
26 ferries, wharves, docks, approaches, and landings, but, except as
27 provided in subsection (2) of this section, no such leases or contracts
28 may be entered into for more than ~~((five years, nor without public~~
29 ~~advertisement for bids as may be prescribed by the department.~~
30 ~~However, except as provided in subsection (2) of this section, the~~
31 ~~Colman Dock facilities may be leased for a period not to exceed))~~ ten
32 years, nor without a competitive contract process, except as otherwise
33 provided in this section. The competitive process shall be either an
34 invitation for bids in accordance with the process established by
35 chapter 43.19 RCW, or a request for proposals in accordance with the
36 process established by RCW 47.56.030.

37 (2) As part of a joint development agreement under which a public
38 or private developer constructs or installs improvements on ferry

1 system property, the department may lease all or part of such property
2 and improvements to such developers for that period of time, not to
3 exceed fifty-five years, or not to exceed thirty years for those areas
4 located within harbor areas, which the department determines is
5 necessary to allow the developer to make reasonable recovery on its
6 initial investment. Any lease entered into as provided for in this
7 subsection that involves state aquatic lands shall conform with the
8 Washington state Constitution and applicable statutory requirements as
9 determined by the department of natural resources. That portion of the
10 lease rate attributable to the state aquatic lands shall be distributed
11 in the same manner as other lease revenues derived from state aquatic
12 lands as provided in RCW 79.24.580.

13 NEW SECTION. **Sec. 3.** The following acts or parts of acts are each
14 repealed:

- 15 (1) RCW 47.60.651 and 1987 c 183 s 1;
- 16 (2) RCW 47.60.653 and 1987 c 183 s 2;
- 17 (3) RCW 47.60.655 and 1987 c 183 s 3;
- 18 (4) RCW 47.60.657 and 1987 c 183 s 4;
- 19 (5) RCW 47.60.659 and 1987 c 183 s 5; and
- 20 (6) RCW 47.60.661 and 1987 c 183 s 6.

21 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and shall take
24 effect immediately."

25 **SHB 1093** - H AMD
26 By Representative

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28 On page 1, line 2 of the title, after "ferries;" strike the
29 remainder of the title and insert "amending RCW 47.56.030 and
30 47.60.140; repealing RCW 47.60.651, 47.60.653, 47.60.655, 47.60.657,
31 47.60.659, and 47.60.661; and declaring an emergency."

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