

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1093

54th Legislature
1995 1st Special Session

Passed by the House May 17, 1995
Yeas 89 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate May 23, 1995
Yeas 30 Nays 17

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1093** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1093

Passed Legislature - 1995 1st Special Session

State of Washington 54th Legislature 1995 Regular Session

By House Committee on Transportation (originally sponsored by Representatives K. Schmidt, Johnson, Romero and Wolfe; by request of Department of General Administration)

Read first time 02/21/95.

1 AN ACT Relating to streamlining purchasing provisions for state
2 agencies including Washington state ferries; amending RCW 47.56.030 and
3 47.60.140; repealing RCW 47.60.651, 47.60.653, 47.60.655, 47.60.657,
4 47.60.659, and 47.60.661; and declaring an emergency.

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

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

8 The department of transportation shall have full charge of the
9 construction of all toll bridges and other toll facilities including
10 the Washington state ferries, and the operation and maintenance
11 thereof. The transportation commission shall determine and establish
12 the tolls and charges thereon, and shall perform all duties and
13 exercise all powers relating to the financing, refinancing, and fiscal
14 management of all toll bridges and other toll facilities including the
15 Washington state ferries, and bonded indebtedness in the manner
16 provided by law. The department shall have full charge of design of
17 all toll facilities. The department shall proceed with the
18 construction of such toll bridges and other facilities and the
19 approaches thereto by contract in the manner of state highway

1 construction immediately upon there being made available funds for such
2 work and shall prosecute such work to completion as rapidly as
3 practicable. The department is authorized to negotiate contracts for
4 any amount without bid in order to make repairs to ferries or ferry
5 terminal facilities or removal of such facilities whenever continued
6 use of ferries or ferry terminal facilities constitutes a real or
7 immediate danger to the traveling public or precludes prudent use of
8 such ferries or facilities.

9 The department shall proceed with the procurement of materials,
10 supplies, services, and equipment needed for the support, maintenance,
11 and use of a ferry, ferry terminal, or other facility operated by
12 Washington state ferries, in accordance with chapter 43.19 RCW except
13 as follows:

14 (1) When the secretary of the department of transportation
15 determines in writing that the use of invitation for bid is either not
16 practicable or not advantageous to the state and it may be necessary to
17 make competitive evaluations, including technical or performance
18 evaluations among acceptable proposals to complete the contract award,
19 a contract may be entered into by use of a competitive sealed proposals
20 method, and a formal request for proposals solicitation. Such formal
21 request for proposals solicitation shall include a functional
22 description of the needs and requirements of the state and the
23 significant factors.

24 (2) When purchases are made through a formal request for proposals
25 solicitation the contract shall be awarded to the responsible proposer
26 whose competitive sealed proposal is determined in writing to be the
27 most advantageous to the state taking into consideration price and
28 other evaluation factors set forth in the request for proposals. No
29 significant factors may be used in evaluating a proposal that are not
30 specified in the request for proposals. Factors that may be considered
31 in evaluating proposals include but are not limited to: Price
32 maintainability; reliability; commonality; performance levels; life
33 cycle cost if applicable under this section; cost of transportation or
34 delivery; delivery schedule offered; installation cost; cost of spare
35 parts; availability of parts and service offered; and the following:

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

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

1 (c) Whether the proposer can perform the contract within the time
2 specified;

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

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

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

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

12 When purchases are made through a request for proposal process,
13 proposals received shall be evaluated based on the evaluation factors
14 set forth in the request for proposal. When a life cycle cost analysis
15 is used, the life cycle cost of a proposal shall be given at least the
16 same relative importance as the initial price element specified in the
17 request of proposal documents. The department may reject any and all
18 proposals received. If the proposals are not rejected, the award shall
19 be made to the proposer whose proposal is most advantageous to the
20 department, considering price and the other evaluation factors set
21 forth in the request for proposal.

22 (3) The legislative transportation committee shall review the
23 secretary's use of the request for proposals solicitation for
24 Washington state ferries projects to determine if the process
25 established under this act is appropriate. The results of the review,
26 including recommendations for modification of the request for proposal
27 process, shall be reported to the house of representatives and senate
28 transportation committees by January 1, 1997.

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

31 (1) The department is empowered to operate such ferry system,
32 including all operations, whether intrastate or international, upon any
33 route or routes, and toll bridges as a revenue-producing and self-
34 liquidating undertaking. The department has full charge of the
35 construction, rehabilitation, rebuilding, enlarging, improving,
36 operation, and maintenance of the ferry system, including toll bridges,
37 approaches, and roadways incidental thereto that may be authorized by
38 the department, including the collection of tolls and other charges for

1 the services and facilities of the undertaking. The department has the
2 exclusive right to enter into leases and contracts for use and
3 occupancy by other parties of the concessions and space located on the
4 ferries, wharves, docks, approaches, and landings, but, except as
5 provided in subsection (2) of this section, no such leases or contracts
6 may be entered into for more than ~~((five years, nor without public
7 advertisement for bids as may be prescribed by the department.
8 However, except as provided in subsection (2) of this section, the
9 Colman Dock facilities may be leased for a period not to exceed))~~ ten
10 years, nor without a competitive contract process, except as otherwise
11 provided in this section. The competitive process shall be either an
12 invitation for bids in accordance with the process established by
13 chapter 43.19 RCW, or a request for proposals in accordance with the
14 process established by RCW 47.56.030.

15 (2) As part of a joint development agreement under which a public
16 or private developer constructs or installs improvements on ferry
17 system property, the department may lease all or part of such property
18 and improvements to such developers for that period of time, not to
19 exceed fifty-five years, or not to exceed thirty years for those areas
20 located within harbor areas, which the department determines is
21 necessary to allow the developer to make reasonable recovery on its
22 initial investment. Any lease entered into as provided for in this
23 subsection that involves state aquatic lands shall conform with the
24 Washington state Constitution and applicable statutory requirements as
25 determined by the department of natural resources. That portion of the
26 lease rate attributable to the state aquatic lands shall be distributed
27 in the same manner as other lease revenues derived from state aquatic
28 lands as provided in RCW 79.24.580.

29 NEW SECTION. Sec. 3. The following acts or parts of acts are each
30 repealed:

- 31 (1) RCW 47.60.651 and 1987 c 183 s 1;
- 32 (2) RCW 47.60.653 and 1987 c 183 s 2;
- 33 (3) RCW 47.60.655 and 1987 c 183 s 3;
- 34 (4) RCW 47.60.657 and 1987 c 183 s 4;
- 35 (5) RCW 47.60.659 and 1987 c 183 s 5; and
- 36 (6) RCW 47.60.661 and 1987 c 183 s 6.

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

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