

HB 2271 - S AMD 242

By Senators Haugen, Swecker

ADOPTED AS AMENDED 03/03/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** It is the intent of the legislature that
4 final recommendations from the joint transportation committee ferry
5 study, submitted to the legislature during the 2009 regular legislative
6 session, be enacted by the legislature and implemented by the
7 department of transportation as soon as practicable in order to benefit
8 from the efficiencies and cost savings identified in the
9 recommendations. It is also the intent of the legislature to make
10 various additional policy changes aimed at further efficiencies and
11 cost savings. Since the study began in 2006, recommendations have been
12 made with regard to long range planning and implementing the most
13 efficient and effective balance between ferry capital and operating
14 investments. It is intended that this act, the 2009-2011 omnibus
15 transportation appropriations act, and subsequent transportation
16 appropriations acts serve as vehicles for enacting these
17 recommendations in order to maximize the utilization of existing
18 capacity and to make the most efficient use of existing assets and tax
19 dollars.

20 **Sec. 2.** RCW 47.60.355 and 2007 c 512 s 11 are each amended to read
21 as follows:

22 (1) Terminal and vessel preservation funding requests shall only be
23 for assets in the life-cycle cost model.

24 (2) Terminal and vessel preservation funding requests that exceed
25 five million dollars per project must be accompanied by a predesign
26 study. The predesign study must include all elements required by the
27 office of financial management.

1 **Sec. 3.** RCW 47.60.365 and 2007 c 512 s 12 are each amended to read
2 as follows:

3 The department shall develop terminal and vessel design standards
4 that:

5 (1) Adhere to vehicle level of service standards as described in
6 RCW 47.06.140;

7 (2) Adhere to operational strategies as described in RCW 47.60.327;
8 and

9 (3) Choose the most efficient balance between capital and operating
10 investments by using a life-cycle cost analysis.

11 **Sec. 4.** RCW 47.60.375 and 2008 c 124 s 3 are each amended to read
12 as follows:

13 (1) The capital plan must adhere to the following:

14 (a) A current ridership demand forecast;

15 (b) Vehicle level of service standards as described in RCW
16 47.06.140;

17 (c) Operational strategies as described in RCW 47.60.327; and

18 (d) Terminal and vessel design standards as described in RCW
19 47.60.365.

20 (2) The capital plan must include the following:

21 (a) A current vessel preservation plan;

22 (b) A current systemwide vessel rebuild and replacement plan as
23 described in RCW 47.60.377;

24 (c) A current vessel deployment plan; and

25 (d) A current terminal preservation plan that adheres to the life-
26 cycle cost model on capital assets as described in RCW 47.60.345.

27 **Sec. 5.** RCW 47.60.385 and 2008 c 124 s 6 are each amended to read
28 as follows:

29 (1) Terminal improvement, vessel improvement, and vessel
30 acquisition project funding requests must adhere to the capital plan((-

31 ~~2) Requests for terminal improvement design and construction~~
32 ~~funding must)), include route-based planning, and be submitted with a
33 predesign study that:~~

34 (a) Includes all elements required by the office of financial
35 management;

1 (b) Separately identifies basic terminal and vessel elements
2 essential for operation and their costs;

3 (c) Separately identifies additional elements to provide ancillary
4 revenue and customer comfort and their costs;

5 (d) Includes construction phasing options that are consistent with
6 forecasted ridership increases;

7 (e) Separately identifies additional elements requested by local
8 governments and the cost and proposed funding source of those elements;

9 (f) Separately identifies multimodal elements and the cost and
10 proposed funding source of those elements; ((and))

11 (g) Identifies all contingency amounts((-

12 ~~(h)[(3)] When planning for new vessel acquisitions, the department
13 must evaluate the long term vessel operating costs related to fuel
14 efficiency and staffing))~~);

15 (h) Identifies any terminal, vessel, or other capital modifications
16 that would be required as a result of the proposed capital project;

17 (i) Includes planned service modifications as a result of the
18 proposed capital project, and the consistency of those service
19 modifications with the capital plan; and

20 (j) Demonstrates the evaluation of long-term operating costs
21 including fuel efficiency, staffing, and preservation.

22 (2) The department shall prioritize vessel preservation and
23 acquisition funding requests over vessel improvement funding requests.

24 NEW SECTION. Sec. 6. A new section is added to chapter 47.60 RCW
25 to read as follows:

26 (1) In addition to the requirements of RCW 47.60.385(1), initial
27 requests for, and substantial modification requests to, vessel
28 acquisition funding must be submitted with a predesign study that:

29 (a) Includes a business decision case on vessel sizing;

30 (b) Includes an updated vessel deployment plan demonstrating
31 maximum use of existing vessels, and an updated systemwide vessel
32 rebuild and replacement plan;

33 (c) Includes an analysis that demonstrates that acquiring a new
34 vessel or improving an existing vessel is more cost-effective than
35 other alternatives considered. At a minimum, alternatives explored
36 must include:

1 (i) Alternatives to new vessel construction that increase capacity
2 of existing vessels;

3 (ii) Service level changes in lieu of adding vessel capacity; and

4 (iii) Acquiring existing vessels or existing vessel plans rather
5 than wholly new vessels or vessel plans; and

6 (d) Demonstrates that the vessel proposed for improvement,
7 construction, or purchase, if intended to replace an existing vessel or
8 to place an existing vessel into inactive or reserve status, is
9 consistent with the scheduled replacements in the rebuild and
10 replacement plan.

11 (2) In addition to the requirements of RCW 47.60.385(1), initial
12 requests for, and substantial modification requests to, vessel
13 improvement funding must be submitted with a predesign study that
14 includes:

15 (a) An explanation of any regulatory changes necessitating the
16 improvement;

17 (b) The requirements under subsection (1) of this section, if the
18 improvement modifies the capacity of a vessel;

19 (c) A cost-benefit analysis of any modifications designed to
20 improve fuel efficiency, including potential impacts on vessel
21 maintenance and repair; and

22 (d) An assessment of out-of-service time associated with making the
23 improvement and ongoing preservation of the improvement.

24 NEW SECTION. **Sec. 7.** A new section is added to chapter 47.60 RCW
25 to read as follows:

26 (1) The legislature finds measuring the performance of Washington
27 state ferries requires the measurement of quality, timeliness, and unit
28 cost of services delivered to customers. Consequently, the department
29 must develop a set of metrics that measure that performance and report
30 to the transportation committees of the house of representatives and
31 senate and to the office of financial management on the development of
32 these measurements along with recommendations to the 2011 legislature
33 on which measurements must become a part of the next transportation
34 budget.

35 (2) Annually, the department shall report to the transportation
36 committees of the legislature statistics regarding its on-time arrival
37 and departure status on a route-by-route and month-by-month basis, as

1 well as an annual route-by-route and systemwide basis, weighted by the
2 number of customers on each sailing and distinguishing peak period on-
3 time performance. The statistics must include reasons for any delays
4 over ten minutes from the scheduled time. The statistics must be
5 prominently displayed on the Washington state ferries' web site. Each
6 Washington state ferries vessel and terminal must prominently display
7 the statistics as they relate to their specific route.

8 NEW SECTION. **Sec. 8.** (1) Signage must be prominently displayed at
9 each terminal and on each vessel that informs the public that assaults
10 on Washington state employees will be prosecuted to the full extent of
11 the law.

12 (2) The department shall investigate the frequency, severity, and
13 prosecutorial results of assaults on Washington state ferries employees
14 and, if appropriate, make recommendations to the transportation
15 committees of the senate and house of representatives during the 2011
16 legislative session regarding methods to decrease the number of
17 assaults on employees and procedures for prosecuting those who assault
18 employees.

19 (3) This section expires June 30, 2011.

20 **Sec. 9.** RCW 47.28.030 and 2007 c 218 s 90 are each amended to read
21 as follows:

22 (1)(a) A state highway shall be constructed, altered, repaired, or
23 improved, and improvements located on property acquired for
24 right-of-way purposes may be repaired or renovated pending the use of
25 such right-of-way for highway purposes, by contract or state forces.
26 The work or portions thereof may be done by state forces when the
27 estimated costs thereof are less than fifty thousand dollars and
28 effective July 1, 2005, sixty thousand dollars(~~(+PROVIDED, That)~~).

29 (b) When delay of performance of such work would jeopardize a state
30 highway or constitute a danger to the traveling public, the work may be
31 done by state forces when the estimated cost thereof is less than
32 eighty thousand dollars and effective July 1, 2005, one hundred
33 thousand dollars.

34 (c) When the department of transportation determines to do the work
35 by state forces, it shall enter a statement upon its records to that
36 effect, stating the reasons therefor.

1 (d) To enable a larger number of small businesses, and minority,
2 and women contractors to effectively compete for department of
3 transportation contracts, the department may adopt rules providing for
4 bids and award of contracts for the performance of work, or furnishing
5 equipment, materials, supplies, or operating services whenever any work
6 is to be performed and the engineer's estimate indicates the cost of
7 the work would not exceed eighty thousand dollars and effective July 1,
8 2005, one hundred thousand dollars.

9 (2) The rules adopted under this section:

10 ~~((+1))~~ (a) Shall provide for competitive bids to the extent that
11 competitive sources are available except when delay of performance
12 would jeopardize life or property or inconvenience the traveling
13 public; and

14 ~~((+2))~~ (b) Need not require the furnishing of a bid deposit nor a
15 performance bond, but if a performance bond is not required then
16 progress payments to the contractor may be required to be made based on
17 submittal of paid invoices to substantiate proof that disbursements
18 have been made to laborers, material suppliers, mechanics, and
19 subcontractors from the previous partial payment; and

20 ~~((+3))~~ (c) May establish prequalification standards and procedures
21 as an alternative to those set forth in RCW 47.28.070, but the
22 prequalification standards and procedures under RCW 47.28.070 shall
23 always be sufficient.

24 (3) The department of transportation shall comply with such goals
25 and rules as may be adopted by the office of minority and women's
26 business enterprises to implement chapter 39.19 RCW with respect to
27 contracts entered into under this chapter. The department may adopt
28 such rules as may be necessary to comply with the rules adopted by the
29 office of minority and women's business enterprises under chapter 39.19
30 RCW.

31 (4)(a) For the period of July 1, 2010, through June 30, 2011, work
32 for less than seventy-five thousand dollars may be performed on ferry
33 vessels and terminals by state forces.

34 (b) The department shall hire a disinterested, third party to
35 conduct an independent analysis to identify methods of reducing out-of-
36 service times for vessel maintenance, preservation, and improvement
37 projects. The analysis must include options to extend the hours and
38 days of operation at Eagle Harbor maintenance facility, consolidating

1 work while vessels are at shipyards by having state forces perform
2 services traditionally performed at Eagle Harbor at the shipyard, and
3 decreasing the allowable time at shipyards. The analysis must also
4 compare the out-of-service vessel times of performing services by state
5 forces versus contracting out those services which in turn must be used
6 to form a recommendation as to what the threshold of work performed on
7 ferry vessels and terminals by state forces should be. This analysis
8 must be presented to the transportation committees of the senate and
9 house of representatives by December 1, 2010.

10 (c) The department shall develop a proposed ferry vessel
11 maintenance, preservation, and improvement program and present it to
12 the transportation committees of the senate and house of
13 representatives by December 1, 2010. The proposed program must:

14 (i) Improve the basis for budgeting vessel maintenance,
15 preservation, and improvement costs and for projecting those costs into
16 a sixteen-year financial plan;

17 (ii) Limit the amount of planned out-of-service time to the
18 greatest extent possible, including options associated with department
19 staff as well as commercial shipyards; and

20 (iii) Be based on the service plan in the capital plan, recognizing
21 that vessel preservation and improvement needs may vary by route.

22 (d) In developing the proposed ferry vessel maintenance,
23 preservation, and improvement program, the department shall consider
24 the following, related to reducing vessel out-of-service time:

25 (i) The costs compared to benefits of Eagle Harbor repair and
26 maintenance facility operations options to include staffing costs and
27 benefits in terms of reduced out-of-service time;

28 (ii) The maintenance requirements for on-vessel staff, including
29 the benefits of a systemwide standard;

30 (iii) The costs compared to benefits of staff performing
31 preservation or maintenance work, or both, while the vessel is
32 underway, tied up between sailings, or not deployed;

33 (iv) A review of the department's vessel maintenance, preservation,
34 and improvement program contracting process and contractual
35 requirements;

36 (v) The costs compared to benefits of allowing for increased costs
37 associated with expedited delivery;

1 (vi) A method for comparing the anticipated out-of-service time of
2 proposed projects and other projects planned during the same
3 construction period;

4 (vii) Coordination with required United States coast guard dry
5 dockings;

6 (viii) A method for comparing how proposed projects relate to the
7 service requirements of the route on which the vessel normally
8 operates; and

9 (ix) A method for evaluating the ongoing maintenance and
10 preservation costs associated with proposed improvement projects.

11 **Sec. 10.** RCW 47.64.006 and 1989 c 327 s 1 are each amended to read
12 as follows:

13 The legislature declares that it is the public policy of the state
14 of Washington to: (1) Provide continuous operation of the Washington
15 state ferry system at reasonable cost to users; (2) efficiently provide
16 levels of ferry service consistent with trends and forecasts of ferry
17 usage; (3) promote harmonious and cooperative relationships between the
18 ferry system and its employees by permitting ferry employees to
19 organize and bargain collectively; (4) protect the citizens of this
20 state by assuring effective and orderly operation of the ferry system
21 in providing for their health, safety, and welfare; (5) prohibit and
22 prevent all strikes or work stoppages by ferry employees; (6) protect
23 the rights of ferry employees with respect to employee organizations;
24 and (7) promote just and fair compensation, benefits, and working
25 conditions for ferry system employees (~~as compared with public and~~
26 ~~private sector employees in states along the west coast of the United~~
27 ~~States, including Alaska, and in British Columbia in directly~~
28 ~~comparable but not necessarily identical positions)).~~

29 **Sec. 11.** RCW 47.64.120 and 2006 c 164 s 3 are each amended to read
30 as follows:

31 (1) The employer and ferry system employee organizations, through
32 their collective bargaining representatives, shall meet at reasonable
33 times, to negotiate in good faith with respect to wages, hours, working
34 conditions, insurance, and health care benefits as limited by RCW
35 47.64.270, and other matters mutually agreed upon. Employer funded
36 retirement benefits shall be provided under the public employees

1 retirement system under chapter 41.40 RCW and shall not be included in
2 the scope of collective bargaining. Any retirement system or
3 retirement benefits shall not be subject to collective bargaining.

4 (2) Upon ratification of bargaining agreements, ferry employees are
5 entitled to an amount equivalent to the interest earned on retroactive
6 compensation increases. For purposes of this section, the interest
7 earned on retroactive compensation increases is the same monthly rate
8 of interest that was earned on the amount of the compensation increases
9 while held in the state treasury. The interest will be computed for
10 each employee until the date the retroactive compensation is paid, and
11 must be allocated in accordance with appropriation authority. The
12 interest earned on retroactive compensation is not considered part of
13 the ongoing compensation obligation of the state and is not
14 compensation earnable for the purposes of chapter 41.40 RCW.
15 Negotiations shall also include grievance procedures for resolving any
16 questions arising under the agreement, which shall be embodied in a
17 written agreement and signed by the parties.

18 (3) Except as otherwise provided in this chapter, if a conflict
19 exists between an executive order, administrative rule, or agency
20 policy relating to wages, hours, and terms and conditions of employment
21 and a collective bargaining agreement negotiated under this chapter,
22 the collective bargaining agreement shall prevail. A provision of a
23 collective bargaining agreement that conflicts with the terms of a
24 statute is invalid and unenforceable.

25 **Sec. 12.** RCW 47.64.170 and 2007 c 160 s 1 are each amended to read
26 as follows:

27 (1) Any ferry employee organization certified as the bargaining
28 representative shall be the exclusive representative of all ferry
29 employees in the bargaining unit and shall represent all such employees
30 fairly.

31 (2) A ferry employee organization or organizations and the governor
32 may each designate any individual as its representative to engage in
33 collective bargaining negotiations.

34 (3) Negotiating sessions, including strategy meetings of the
35 employer or employee organizations, mediation, and the deliberative
36 process of arbitrators are exempt from the provisions of chapter 42.30

1 RCW. Hearings conducted by arbitrators may be open to the public by
2 mutual consent of the parties.

3 (4) Terms of any collective bargaining agreement may be enforced by
4 civil action in Thurston county superior court upon the initiative of
5 either party.

6 (5) Ferry system employees or any employee organization shall not
7 negotiate or attempt to negotiate directly with anyone other than the
8 person who has been appointed or authorized a bargaining representative
9 for the purpose of bargaining with the ferry employees or their
10 representative.

11 (6)(a) Within ten working days after the first Monday in September
12 of every odd-numbered year, the parties shall attempt to agree on an
13 interest arbitrator to be used if the parties are not successful in
14 negotiating a comprehensive collective bargaining agreement. If the
15 parties cannot agree on an arbitrator within the ten-day period, either
16 party may request a list of seven arbitrators from the federal
17 mediation and conciliation service. The parties shall select an
18 interest arbitrator using the coin toss/alternate strike method within
19 thirty calendar days of receipt of the list. Immediately upon
20 selecting an interest arbitrator, the parties shall cooperate to
21 reserve dates with the arbitrator for potential arbitration between
22 August 1st and September 15th of the following even-numbered year. The
23 parties shall also prepare a schedule of at least five negotiation
24 dates for the following year, absent an agreement to the contrary. The
25 parties shall execute a written agreement before November 1st of each
26 odd-numbered year setting forth the name of the arbitrator and the
27 dates reserved for bargaining and arbitration. This subsection (6)(a)
28 imposes minimum obligations only and is not intended to define or limit
29 a party's full, good faith bargaining obligation under other sections
30 of this chapter.

31 (b) The negotiation of a proposed collective bargaining agreement
32 by representatives of the employer and a ferry employee organization
33 shall commence on or about February 1st of every even-numbered year.

34 (c) For negotiations covering the 2009-2011 biennium and subsequent
35 biennia, the time periods specified in this section, and in RCW
36 47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of
37 all agreements on or before October 1st of the even-numbered year next
38 preceding the biennial budget period during which the agreement should

1 take effect. These time periods may only be altered by mutual
2 agreement of the parties in writing. Any such agreement and any
3 impasse procedures agreed to by the parties under RCW 47.64.200 must
4 include an agreement regarding the new time periods that will allow
5 final resolution by negotiations or arbitration by October 1st of each
6 even-numbered year.

7 ~~(7) ((Until a new collective bargaining agreement is in effect, the~~
8 ~~terms and conditions of the previous collective bargaining agreement~~
9 ~~shall remain in force.))~~ It is the intent of this section that the
10 collective bargaining agreement or arbitrator's award shall commence on
11 July 1st of each odd-numbered year and shall terminate on June 30th of
12 the next odd-numbered year to coincide with the ensuing biennial budget
13 year, as defined by RCW 43.88.020(7), to the extent practical. It is
14 further the intent of this section that all collective bargaining
15 agreements be concluded by October 1st of the even-numbered year before
16 the commencement of the biennial budget year during which the
17 agreements are to be in effect. After the expiration date of a
18 collective bargaining agreement negotiated under this chapter, all of
19 the terms and conditions specified in the collective bargaining
20 agreement remain in effect until the effective date of a subsequently
21 negotiated agreement, not to exceed one year from the expiration date
22 stated in the agreement. Thereafter, the employer may unilaterally
23 implement according to law.

24 (8)(a) The governor shall submit a request either for funds
25 necessary to implement the collective bargaining agreements including,
26 but not limited to, the compensation and fringe benefit provisions or
27 for legislation necessary to implement the agreement, or both.
28 Requests for funds necessary to implement the collective bargaining
29 agreements shall not be submitted to the legislature by the governor
30 unless such requests:

31 (i) Have been submitted to the director of the office of financial
32 management by October 1st before the legislative session at which the
33 requests are to be considered; and

34 (ii) Have been certified by the director of the office of financial
35 management as being feasible financially for the state.

36 (b) The governor shall submit a request either for funds necessary
37 to implement the arbitration awards or for legislation necessary to
38 implement the arbitration awards, or both. Requests for funds

1 necessary to implement the arbitration awards shall not be submitted to
2 the legislature by the governor unless such requests have been
3 submitted to the director of the office of financial management by
4 October 1st before the legislative session at which the requests are to
5 be considered. Requests for funds necessary to implement the
6 arbitration awards shall not be submitted to the legislature by the
7 governor unless such requests:

8 (i) Have been submitted to the director of the office of financial
9 management by October 1st before the legislative session at which the
10 requests are to be considered; and

11 (ii) Have been certified by the director of the office of financial
12 management as being feasible financially for the state.

13 (c) The legislature shall approve or reject the submission of the
14 request for funds necessary to implement the collective bargaining
15 agreements or arbitration awards as a whole for each agreement or
16 award. The legislature shall not consider a request for funds to
17 implement a collective bargaining agreement or arbitration award unless
18 the request is transmitted to the legislature as part of the governor's
19 budget document submitted under RCW 43.88.030 and 43.88.060. If the
20 legislature rejects or fails to act on the submission, either party may
21 reopen all or part of the agreement and award or the exclusive
22 bargaining representative may seek to implement the procedures provided
23 for in RCW 47.64.210 and 47.64.300.

24 (9) If, after the compensation and fringe benefit provisions of an
25 agreement or arbitration award are approved by the legislature, a
26 significant revenue shortfall occurs resulting in reduced
27 appropriations, as declared by proclamation of the governor or by
28 resolution of the legislature, both parties shall immediately enter
29 into collective bargaining for a mutually agreed upon modification of
30 the agreement or award.

31 **Sec. 13.** RCW 47.64.200 and 2006 c 164 s 7 are each amended to read
32 as follows:

33 As the first step in the performance of their duty to bargain, the
34 employer and the employee organization shall endeavor to agree upon
35 impasse procedures. ~~((Unless otherwise agreed to by the employee~~
36 ~~organization and the employer in their impasse procedures, the~~
37 ~~arbitrator or panel is limited to selecting the most reasonable offer,~~

1 ~~in its judgment, of the final offers on each impasse item submitted by~~
2 ~~the parties.))~~ The arbitrator shall make written findings of fact and
3 a written determination of the issues in dispute, based on the evidence
4 presented. The employee organization and the employer may mutually
5 agree to the impasse procedure under which the arbitrator or panel may
6 issue a decision it deems just and appropriate with respect to each
7 impasse item. If the parties fail to agree upon impasse procedures
8 under this section, the impasse procedures provided in RCW 47.64.210
9 and 47.64.230 and 47.64.300 through 47.64.320 apply. It is unlawful
10 for either party to refuse to participate in the impasse procedures
11 provided in RCW 47.64.210 and 47.64.230 and 47.64.300 through
12 47.64.320.

13 **Sec. 14.** RCW 47.64.280 and 2006 c 164 s 18 are each amended to
14 read as follows:

15 (1) There is created the marine employees' commission. The
16 governor shall appoint the commission with the consent of the senate.
17 The commission shall consist of three members: One member to be
18 appointed from labor, one member from industry, and one member from the
19 public who has significant knowledge of maritime affairs. The public
20 member shall be chair of the commission. One of the original members
21 shall be appointed for a term of three years, one for a term of four
22 years, and one for a term of five years. Their successors shall be
23 appointed for terms of five years each, except that any person chosen
24 to fill a vacancy shall be appointed only for the unexpired term of the
25 member whom he or she succeeds. Commission members are eligible for
26 reappointment. Any member of the commission may be removed by the
27 governor, upon notice and hearing, for neglect of duty or malfeasance
28 in office, but for no other cause. Commission members are not eligible
29 for state retirement under chapter 41.40 RCW by virtue of their service
30 on the commission. Members of the commission shall be compensated in
31 accordance with RCW 43.03.250 and shall receive reimbursement for
32 official travel and other expenses at the same rate and on the same
33 terms as provided for the transportation commission by RCW 47.01.061.
34 The payments shall be made from the Puget Sound ferry operations
35 account.

36 (2) The commission shall: (a) Adjust all complaints, grievances,
37 and disputes between labor and management arising out of the operation

1 of the ferry system as provided in RCW 47.64.150; (b) provide for
2 impasse mediation as required in RCW 47.64.210; and (c) (~~provide~~
3 ~~salary surveys as required in RCW 47.64.220; and (d))~~) perform those
4 duties required in RCW 47.64.300.

5 (3)(a) In adjudicating all complaints, grievances, and disputes,
6 the party claiming labor disputes shall, in writing, notify the
7 commission, which shall make careful inquiry into the cause thereof and
8 issue an order advising the ferry employee, or the ferry employee
9 organization representing him or her, and the department of
10 transportation, as to the decision of the commission.

11 (b) The parties are entitled to offer evidence relating to disputes
12 at all hearings conducted by the commission. The orders and awards of
13 the commission are final and binding upon any ferry employee or
14 employees or their representative affected thereby and upon the
15 department.

16 (c) The commission shall adopt rules of procedure under chapter
17 34.05 RCW.

18 (d) The commission has the authority to subpoena any ferry employee
19 or employees, or their representatives, and any member or
20 representative of the department, and any witnesses. The commission
21 may require attendance of witnesses and the production of all pertinent
22 records at any hearings held by the commission. The subpoenas of the
23 commission are enforceable by order of any superior court in the state
24 of Washington for the county within which the proceeding may be
25 pending. The commission may hire staff as necessary, appoint
26 consultants, enter into contracts, and conduct studies as reasonably
27 necessary to carry out this chapter.

28 **Sec. 15.** RCW 47.64.320 and 2006 c 164 s 14 are each amended to
29 read as follows:

30 (1) The mediator, arbitrator, or arbitration panel may consider
31 only matters that are subject to bargaining under this chapter, except
32 that health care benefits are not subject to interest arbitration.

33 (2) The decision of an arbitrator or arbitration panel is not
34 binding on the legislature and, if the legislature does not approve the
35 funds necessary to implement provisions pertaining to compensation and
36 fringe benefit provisions of an arbitrated collective bargaining

1 agreement, is not binding on the state, the department of
2 transportation, or the ferry employee organization.

3 (3) In making its determination, the arbitrator or arbitration
4 panel shall be mindful of the legislative purpose under RCW 47.64.005
5 and 47.64.006 and, as additional standards or guidelines to aid it in
6 reaching a decision, shall take into consideration the following
7 factors:

8 (a) The financial ability of the department to pay for the
9 compensation and fringe benefit provisions of a collective bargaining
10 agreement;

11 (b) Past collective bargaining contracts between the parties
12 including the bargaining that led up to the contracts;

13 ~~((b))~~ (c) The constitutional and statutory authority of the
14 employer;

15 ~~((c))~~ (d) Stipulations of the parties;

16 ~~((d) The results of the salary survey as required in RCW~~
17 ~~47.64.220;~~

18 ~~(e) Comparison of wages, hours, employee benefits, and conditions~~
19 ~~of employment of the involved ferry employees with those of public and~~
20 ~~private sector employees in states along the west coast of the United~~
21 ~~States, including Alaska, and in British Columbia doing directly~~
22 ~~comparable but not necessarily identical work, giving consideration to~~
23 ~~factors peculiar to the area and the classifications involved;~~

24 ~~(f))~~ (e) Changes in any of the foregoing circumstances during the
25 pendency of the proceedings;

26 ~~((g))~~ (f) The limitations on ferry toll increases and operating
27 subsidies as may be imposed by the legislature; ~~((and~~

28 ~~(h))~~ (g) The ability of the state to retain ferry employees;

29 (h) Comparison of wages, hours, employee benefits, and conditions
30 of employment of the involved ferry employees with those of other
31 public employees in the state;

32 (i) The overall compensation presently received by the ferry
33 employees, including direct wage compensation, vacations, holidays and
34 other paid excused time, pensions, insurance benefits, and all other
35 direct or indirect monetary benefits received;

36 (j) The implicit price deflator for personal consumption index; and

37 (k) Other factors that are normally or traditionally taken into

1 consideration in the determination of matters that are subject to
2 bargaining under this chapter.

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

5 The department shall not allow free passage on any ferry vessel
6 operated by the department to:

7 (1) Any department employee unless it is directly related to the
8 employee's job duties, directly reporting to duty, or directly
9 returning home from duty;

10 (2) Any former department employee or their families; or

11 (3) Any department employee's family members.

12 NEW SECTION. **Sec. 17.** The following acts or parts of acts are
13 each repealed:

14 (1) RCW 47.61.010 (Authority to enter into agreement and apply for
15 financial assistance) and 1984 c 7 s 338 & 1965 ex.s. c 56 s 1;

16 (2) RCW 47.61.020 (Bonds for matching funds--Issuance and sale) and
17 1965 ex.s. c 56 s 2;

18 (3) RCW 47.61.030 (Term of bonds--Terms and conditions) and 1965
19 ex.s. c 56 s 3;

20 (4) RCW 47.61.040 (Bonds--Signatures--Registration--Where payable--
21 Negotiable instruments) and 1965 ex.s. c 56 s 4;

22 (5) RCW 47.61.050 (Bonds--Denominations--Manner and terms of sale--
23 Legal investment for state funds) and 1965 ex.s. c 56 s 5;

24 (6) RCW 47.61.060 (Proceeds of bonds--Deposit and use) and 1965
25 ex.s. c 56 s 6;

26 (7) RCW 47.61.070 (Statement describing nature of bond obligation--
27 Pledge of excise taxes) and 1965 ex.s. c 56 s 7;

28 (8) RCW 47.61.080 (Bonds to reflect terms and conditions of grant
29 agreement) and 1965 ex.s. c 56 s 8;

30 (9) RCW 47.61.090 (Designation of funds to repay bonds and
31 interest) and 1984 c 7 s 339 & 1965 ex.s. c 56 s 9;

32 (10) RCW 47.61.100 (Bond repayment procedure--Highway bond
33 retirement fund) and 1965 ex.s. c 56 s 10;

34 (11) RCW 47.61.110 (Sums in excess of bond retirement
35 requirements--Use) and 1965 ex.s. c 56 s 11;

1 (12) RCW 47.60.240 (Liability to persons other than shippers or
2 passengers--Limitation) and 1984 c 7 s 318 & 1961 c 13 s 47.60.240;

3 (13) RCW 47.60.395 (Evaluation of cost allocation methodology and
4 preservation and improvement costs--Exception) and 2009 c 470 s 707 &
5 2007 c 512 s 15;

6 (14) RCW 47.60.649 (Passenger-only ferry service--Finding) and 1998
7 c 166 s 1;

8 (15) RCW 47.60.652 (Passenger-only ferry service--Vessel and
9 terminal acquisition, procurement, and construction) and 1998 c 166 s
10 2;

11 (16) RCW 47.60.654 (Passenger-only ferry service--Contingency) and
12 1998 c 166 s 3;

13 (17) RCW 47.60.658 (Passenger-only ferry service between Vashon and
14 Seattle) and 2007 c 223 s 8 & 2006 c 332 s 3;

15 (18) RCW 47.60.770 (Jumbo ferry construction--Notice) and 1993 c
16 493 s 1;

17 (19) RCW 47.60.772 (Jumbo ferry construction--Bidding documents)
18 and 1993 c 493 s 2;

19 (20) RCW 47.60.774 (Jumbo ferry construction--Procedure on
20 conclusion of evaluation) and 1993 c 493 s 4;

21 (21) RCW 47.60.776 (Jumbo ferry construction--Contract) and 1993 c
22 493 s 5;

23 (22) RCW 47.60.778 (Jumbo ferry construction--Bid deposits--Low
24 bidder claiming error) and 1996 c 18 s 9 & 1993 c 493 s 6; and

25 (23) RCW 47.60.780 (Jumbo ferry construction--Propulsion system
26 acquisition) and 1994 c 181 s 2.

27 NEW SECTION. **Sec. 18.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 19.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of the
33 state government and its existing public institutions, and takes effect
34 immediately."

ADOPTED AS AMENDED 03/03/2010

1 On page 1, line 2 of the title, after "terminals;" strike the
2 remainder of the title and insert "amending RCW 47.60.355, 47.60.365,
3 47.60.375, 47.60.385, 47.28.030, 47.64.006, 47.64.120, 47.64.170,
4 47.64.200, 47.64.280, and 47.64.320; adding new sections to chapter
5 47.60 RCW; creating new sections; repealing RCW 47.61.010, 47.61.020,
6 47.61.030, 47.61.040, 47.61.050, 47.61.060, 47.61.070, 47.61.080,
7 47.61.090, 47.61.100, 47.61.110, 47.60.240, 47.60.395, 47.60.649,
8 47.60.652, 47.60.654, 47.60.658, 47.60.770, 47.60.772, 47.60.774,
9 47.60.776, 47.60.778, and 47.60.780; providing an expiration date; and
10 declaring an emergency."

EFFECT: Bid limits for work performed on ferry vessels and terminals by state forces is increased to \$75,000 for the 2011 fiscal year. WSF must propose a vessel maintenance, preservation, and improvement program. Arbitration is no longer "baseball" style and factors that an arbitrator must consider are changed. The governor shall not submit funding requests for arbitration awards unless the director of OFM has certified they are financially feasible. When a collective bargaining agreement expires, if a new agreement has not yet been negotiated, the previous agreement is in force for up to one year. This is the same language that is in the other state employee union statutes. An emergency clause and severability clause are added.

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