

ESHB 3209 - S AMD 354

By Senators Haugen, Ranker, King, Kilmer, Rockefeller

PULLED 03/10/2010

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 March 15, 2010, through June 30, 2011,
32 work for less than one hundred thousand dollars may be performed on
33 ferry 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) Except as otherwise provided in this chapter, the employer and
32 ferry system employee organizations, through their collective
33 bargaining representatives, shall meet at reasonable times((~~7~~)) to
34 negotiate in good faith with respect to wages, hours, working
35 conditions, and insurance, ((~~and health care benefits as limited by RCW~~
36 ~~47.64.270,)) and other matters mutually agreed upon. Employer funded~~

1 retirement benefits shall be provided under the public employees
2 retirement system under chapter 41.40 RCW and shall not be included in
3 the scope of collective bargaining. Except as provided under RCW
4 47.64.270, the employer is not required to bargain over health care
5 benefits. Any retirement system or retirement benefits shall not be
6 subject to collective bargaining.

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

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

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

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

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

1 (3) Negotiating sessions, including strategy meetings of the
2 employer or employee organizations, mediation, and the deliberative
3 process of arbitrators are exempt from the provisions of chapter 42.30
4 RCW. Hearings conducted by arbitrators may be open to the public by
5 mutual consent of the parties.

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

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

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

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

37 (c) For negotiations covering the 2009-2011 biennium and subsequent
38 biennia, the time periods specified in this section, and in RCW

1 47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of
2 all agreements on or before October 1st of the even-numbered year next
3 preceding the biennial budget period during which the agreement should
4 take effect. These time periods may only be altered by mutual
5 agreement of the parties in writing. Any such agreement and any
6 impasse procedures agreed to by the parties under RCW 47.64.200 must
7 include an agreement regarding the new time periods that will allow
8 final resolution by negotiations or arbitration by October 1st of each
9 even-numbered year.

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

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

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

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

1 (b) The governor shall submit a request either for funds necessary
2 to implement the arbitration awards or for legislation necessary to
3 implement the arbitration awards, or both. Requests for funds
4 necessary to implement the arbitration awards shall not be submitted to
5 the legislature by the governor unless such requests:

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

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

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

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

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

30 As the first step in the performance of their duty to bargain, the
31 employer and the employee organization shall endeavor to agree upon
32 impasse procedures. Unless otherwise agreed to by the employee
33 organization and the employer in their impasse procedures, the
34 arbitrator or panel (~~is limited to selecting the most reasonable~~
35 ~~offer, in its judgment, of the final offers on each impasse item~~
36 ~~submitted by the parties. The employee organization and the employer~~
37 ~~may mutually agree to the impasse procedure under which the arbitrator~~

1 ~~or panel may))~~ shall issue a decision it deems just and appropriate
2 with respect to each impasse item. If the parties fail to agree upon
3 impasse procedures under this section, the impasse procedures provided
4 in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320 apply.
5 It is unlawful for either party to refuse to participate in the impasse
6 procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300
7 through 47.64.320.

8 **Sec. 14.** RCW 47.64.270 and 2006 c 164 s 17 are each amended to
9 read as follows:

10 (1) The employer and one coalition of all the exclusive bargaining
11 representatives subject to this chapter and chapter 41.80 RCW shall
12 conduct negotiations regarding the dollar amount expended on behalf of
13 each employee for health care benefits.

14 (2) Absent a collective bargaining agreement to the contrary, the
15 department of transportation shall provide contributions to insurance
16 and health care plans for ferry system employees and dependents, as
17 determined by the state health care authority, under chapter 41.05
18 RCW(~~and~~)).

19 (3) The employer and employee organizations may collectively
20 bargain for (~~other~~) insurance (~~and health care~~) plans other than
21 health care benefits, and employer contributions may exceed that of
22 other state agencies as provided in RCW 41.05.050. (~~To the extent~~
23 that ferry employees by bargaining unit have absorbed the required
24 offset of wage increases by the amount that the employer's contribution
25 for employees' and dependents' insurance and health care plans exceeds
26 that of other state general government employees in the 1985-87 fiscal
27 biennium, employees shall not be required to absorb a further offset
28 except to the extent the differential between employer contributions
29 for those employees and all other state general government employees
30 increases during any subsequent fiscal biennium. If such differential
31 increases in the 1987-89 fiscal biennium or the 1985-87 offset by
32 bargaining unit is insufficient to meet the required deduction, the
33 amount available for compensation shall be reduced by bargaining unit
34 by the amount of such increase or the 1985-87 shortage in the required
35 offset. Compensation shall include all wages and employee benefits.))

1 **Sec. 15.** RCW 47.64.280 and 2006 c 164 s 18 are each amended to
2 read as follows:

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

24 (2) The commission shall: (a) Adjust all complaints, grievances,
25 and disputes between labor and management arising out of the operation
26 of the ferry system as provided in RCW 47.64.150; (b) provide for
27 impasse mediation as required in RCW 47.64.210; and (c) (~~provide~~
28 ~~salary surveys as required in RCW 47.64.220; and (d)) perform those~~
29 duties required in RCW 47.64.300.

30 (3)(a) In adjudicating all complaints, grievances, and disputes,
31 the party claiming labor disputes shall, in writing, notify the
32 commission, which shall make careful inquiry into the cause thereof and
33 issue an order advising the ferry employee, or the ferry employee
34 organization representing him or her, and the department of
35 transportation, as to the decision of the commission.

36 (b) The parties are entitled to offer evidence relating to disputes
37 at all hearings conducted by the commission. The orders and awards of

1 the commission are final and binding upon any ferry employee or
2 employees or their representative affected thereby and upon the
3 department.

4 (c) The commission shall adopt rules of procedure under chapter
5 34.05 RCW.

6 (d) The commission has the authority to subpoena any ferry employee
7 or employees, or their representatives, and any member or
8 representative of the department, and any witnesses. The commission
9 may require attendance of witnesses and the production of all pertinent
10 records at any hearings held by the commission. The subpoenas of the
11 commission are enforceable by order of any superior court in the state
12 of Washington for the county within which the proceeding may be
13 pending. The commission may hire staff as necessary, appoint
14 consultants, enter into contracts, and conduct studies as reasonably
15 necessary to carry out this chapter.

16 **Sec. 16.** RCW 47.64.320 and 2006 c 164 s 14 are each amended to
17 read as follows:

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

21 (2) The decision of an arbitrator or arbitration panel is not
22 binding on the legislature and, if the legislature does not approve the
23 funds necessary to implement provisions pertaining to compensation and
24 fringe benefit provisions of an arbitrated collective bargaining
25 agreement, is not binding on the state, the department of
26 transportation, or the ferry employee organization.

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

32 (a) The financial ability of the department to pay for the
33 compensation and fringe benefit provisions of a collective bargaining
34 agreement;

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

1 ~~((b))~~ (c) The constitutional and statutory authority of the
2 employer;

3 ~~((e))~~ (d) Stipulations of the parties;

4 ~~((d) The results of the salary survey as required in RCW
5 47.64.220;~~

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

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

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

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

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

20 (i) The overall compensation presently received by the ferry
21 employees, including direct wage compensation, vacations, holidays and
22 other paid excused time, pensions, insurance benefits, and all other
23 direct or indirect monetary benefits received;

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

25 (k) Other factors that are normally or traditionally taken into
26 consideration in the determination of matters that are subject to
27 bargaining under this chapter.

28 (4) This section applies to any matter before the respective
29 mediator, arbitrator, or arbitration panel.

30 **Sec. 17.** RCW 41.80.020 and 2002 c 354 s 303 are each amended to
31 read as follows:

32 (1) Except as otherwise provided in this chapter, the matters
33 subject to bargaining include wages, hours, and other terms and
34 conditions of employment, and the negotiation of any question arising
35 under a collective bargaining agreement.

36 (2) The employer is not required to bargain over matters pertaining
37 to:

1 (a) Health care benefits or other employee insurance benefits,
2 except as required in subsection (3) of this section;

3 (b) Any retirement system or retirement benefit; or

4 (c) Rules of the director of personnel or the Washington personnel
5 resources board adopted under section 203, chapter 354, Laws of 2002.

6 (3) Matters subject to bargaining include the number of names to be
7 certified for vacancies, promotional preferences, and the dollar amount
8 expended on behalf of each employee for health care benefits. However,
9 except as provided otherwise in this subsection for institutions of
10 higher education, negotiations regarding the number of names to be
11 certified for vacancies, promotional preferences, and the dollar amount
12 expended on behalf of each employee for health care benefits shall be
13 conducted between the employer and one coalition of all the exclusive
14 bargaining representatives subject to this chapter. The exclusive
15 bargaining representatives for employees that are subject to chapter
16 47.64 RCW shall bargain the dollar amount expended on behalf of each
17 employee for health care benefits with the employer as part of the
18 coalition under this subsection. Any such provision agreed to by the
19 employer and the coalition shall be included in all master collective
20 bargaining agreements negotiated by the parties. For institutions of
21 higher education, promotional preferences and the number of names to be
22 certified for vacancies shall be bargained under the provisions of RCW
23 41.80.010(4).

24 (4) The employer and the exclusive bargaining representative shall
25 not agree to any proposal that would prevent the implementation of
26 approved affirmative action plans or that would be inconsistent with
27 the comparable worth agreement that provided the basis for the salary
28 changes implemented beginning with the 1983-1985 biennium to achieve
29 comparable worth.

30 (5) The employer and the exclusive bargaining representative shall
31 not bargain over matters pertaining to management rights established in
32 RCW 41.80.040.

33 (6) Except as otherwise provided in this chapter, if a conflict
34 exists between an executive order, administrative rule, or agency
35 policy relating to wages, hours, and terms and conditions of employment
36 and a collective bargaining agreement negotiated under this chapter,
37 the collective bargaining agreement shall prevail. A provision of a

1 collective bargaining agreement that conflicts with the terms of a
2 statute is invalid and unenforceable.

3 (7) This section does not prohibit bargaining that affects
4 contracts authorized by RCW 41.06.142.

5 **Sec. 18.** 2010 c ... (ESSB 6381) s 222 (uncodified) is amended to
6 read as follows:

7 **FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X**

8 Puget Sound Ferry Operations Account--State

9	Appropriation	((\$425,922,000))
10		<u>\$425,252,000</u>

11 The appropriation in this section is subject to the following
12 conditions and limitations:

13 (1) \$78,754,952 of the Puget Sound ferry operations account--state
14 appropriation is provided solely for auto ferry vessel operating fuel
15 in the 2009-11 fiscal biennium. This appropriation is contingent upon
16 the enactment of section(~~s~~) 716 (~~and 701~~) of this act and section
17 701, chapter . . . (ESSB 6381), Laws of 2010. All fuel purchased by
18 the Washington state ferries at Harbor Island truck terminal for the
19 operation of the Washington state ferries diesel powered vessels must
20 be a minimum of five percent biodiesel blend so long as the per gallon
21 price of diesel containing a five percent biodiesel blend level does
22 not exceed the per gallon price of diesel by more than five percent.

23 (2) To protect the waters of Puget Sound, the department shall
24 investigate nontoxic alternatives to fuel additives and other
25 commercial products that are used to operate, maintain, and preserve
26 vessels.

27 (3) If, after the department's review of fares and pricing
28 policies, the department proposes a fuel surcharge, the department must
29 evaluate other cost savings and fuel price stabilization strategies
30 that would be implemented before the imposition of a fuel surcharge.
31 The department shall report to the legislature and transportation
32 commission on its progress of implementing new fuel forecasting and
33 budgeting practices, price hedging contracts for fuel purchases, and
34 fuel conservation strategies by November 30, 2010.

35 (4) The department shall strive to significantly reduce the number
36 of injuries suffered by Washington state ferries employees. By

1 December 15, 2009, the department shall submit to the office of
2 financial management and the transportation committees of the
3 legislature its implementation plan to reduce such injuries.

4 (5) The department shall continue to provide service to Sidney,
5 British Columbia. The department may place a Sidney terminal departure
6 surcharge on fares for out of state residents riding the Washington
7 state ferry route that runs between Anacortes, Washington and Sidney,
8 British Columbia, if the cost for landing/license fee, taxes, and
9 additional amounts charged for docking are in excess of \$280,000 CDN.
10 The surcharge must be limited to recovering amounts above \$280,000 CDN.

11 (6) The department shall analyze operational solutions to enhance
12 service on the Bremerton to Seattle ferry run. The Washington state
13 ferries shall report its analysis to the transportation committees of
14 the legislature by December 1, 2009.

15 (7) The office of financial management budget instructions require
16 agencies to recast enacted budgets into activities. The Washington
17 state ferries shall include a greater level of detail in its 2011-13
18 omnibus transportation appropriations act request, as determined
19 jointly by the office of financial management, the Washington state
20 ferries, and the legislative transportation committees.

21 (8) (~~(\$4,794,000)~~) \$4,124,000 of the Puget Sound ferry operations
22 account--state appropriation is provided solely for commercial
23 insurance for ferry assets. The office of financial management, after
24 consultation with the transportation committees of the legislature,
25 must present a business plan for the Washington state ferry system's
26 insurance coverage to the 2010 legislature. The business plan must
27 include a cost-benefit analysis of Washington state ferries' current
28 commercial insurance purchased for ferry assets and a review of self-
29 insurance for noncatastrophic events.

30 (9) \$1,100,000 of the Puget Sound ferry operations account--state
31 appropriation is provided solely for a marketing program. The
32 department shall present a marketing program proposal to the
33 transportation committees of the legislature during the 2010
34 legislative session before implementing this program. Of this amount,
35 \$10,000 is for the city of Port Townsend and \$10,000 is for the town of
36 Coupeville for mitigation expenses related to only one vessel operating
37 on the Port Townsend/Keystone ferry route. The moneys provided to the

1 city of Port Townsend and town of Coupeville are not contingent upon
2 the required marketing proposal.

3 (10) \$350,000 of the Puget Sound ferry operations account--state
4 appropriation is provided solely for two extra trips per day during the
5 summer of 2009 season, beyond the current schedule, on the Port
6 Townsend/Keystone route.

7 (11) When purchasing uniforms that are required by collective
8 bargaining agreements, the department shall contract with the lowest
9 cost provider.

10 (12) The legislature finds that measuring the performance of
11 Washington state ferries requires the measurement of quality,
12 timeliness, and unit cost of services delivered to customers.
13 Consequently, the department must develop a set of metrics that measure
14 that performance and report to the transportation committees of the
15 legislature and to the office of financial management on the
16 development of these measurements along with recommendations to the
17 2010 legislature on which measurements must become a part of the next
18 omnibus transportation appropriations act.

19 (13) As a priority task, the department is directed to propose a
20 comprehensive incident and accident investigation policy and
21 appropriate procedures, and to provide the proposal to the legislature
22 by November 1, 2009, using existing resources and staff expertise. In
23 addition to consulting with ferry system unions and the United States
24 coast guard, the Washington state ferries is encouraged to solicit
25 independent outside expertise on incident and accident investigation
26 best practices as they may be found in other organizations with a
27 similar concern for marine safety. It is the intent of the legislature
28 to enact the policies into law and to publish that law and procedures
29 as a manual for Washington state ferries' accident/incident
30 investigations. Until that time, the Washington state ferry system
31 must exercise particular diligence to assure that any incident or
32 accident investigations are conducted within the spirit of the
33 guidelines of this act. The proposed policy must contain, at a
34 minimum:

35 (a) The definition of an incident and an accident and the type of
36 investigation that is required by both types of events;

37 (b) The process for appointing an investigating officer or officers

1 and a description of the authorities and responsibilities of the
2 investigating officer or officers. The investigating officer or
3 officers must:

4 (i) Have the appropriate training and experience as determined by
5 the policy;

6 (ii) Not have been involved in the incident or accident so as to
7 avoid any conflict of interest;

8 (iii) Have full access to all persons, records, and relevant
9 organizations that may have information about or may have contributed
10 to, directly or indirectly, the incident or accident under
11 investigation, in compliance with any affected employee's or employees'
12 respective collective bargaining agreement and state laws and rules
13 regarding public disclosure under chapter 42.56 RCW;

14 (iv) Be provided with, if requested by the investigating officer or
15 officers, appropriate outside technical expertise; and

16 (v) Be provided with staff and legal support by the Washington
17 state ferries as may be appropriate to the type of investigation;

18 (c) The process of working with the affected employee or employees
19 in accordance with the employee's or employees' respective collective
20 bargaining agreement and the appropriate union officials, within
21 protocols afforded to all public employees;

22 (d) The process by which the United States coast guard is kept
23 informed of, interacts with, and reviews the investigation;

24 (e) The process for review, approval, and implementation of any
25 approved recommendations within the department; and

26 (f) The process for keeping the public informed of the
27 investigation and its outcomes, in compliance with any affected
28 employee's or employees' respective collective bargaining agreement and
29 state laws and rules regarding public disclosure under chapter 42.56
30 RCW.

31 (14) \$7,300,000 of the Puget Sound ferry operations account--state
32 appropriation is provided solely for the purposes of travel time
33 associated with Washington state ferries employees. However, if
34 Engrossed Substitute House Bill No. 3209 (managing costs of ferry
35 system) is enacted by June 30, 2010, containing an appropriation for
36 purposes of travel time associated with Washington state ferries
37 employees, the amount provided in this subsection lapses.

1 (15) \$50,000 of the Puget Sound ferry operations account--state
2 appropriation is provided solely to implement a mechanism to report on-
3 time performance statistics.

4 (a) The department shall conduct a study to identify process
5 changes that would improve on-time performance on a route-by-route
6 basis. The study must include looking into the slowing down of vessels
7 for fuel economy purposes and touch-and-go sailings on peak runs. The
8 department shall report its findings to the transportation committees
9 of the senate and house of representatives by December 1, 2010.

10 (b) The department shall, by November 1, 2010, report to the
11 transportation committees of the legislature statistics regarding its
12 on-time arrival and departure status on a route-by-route and month-by-
13 month basis, as well as an annual route-by-route and systemwide basis,
14 weighted by the number of customers on each sailing and distinguishing
15 peak period on-time performance. The statistics must include reasons
16 for any delays over ten minutes from the scheduled time. The
17 statistics must be prominently displayed on the Washington state
18 ferries' web site. Each Washington state ferries vessel and terminal
19 must prominently display the statistics as they relate to their
20 specific route.

21 (16) The department shall investigate outsourcing the call center
22 functions planned for the ferry reservation system and report its
23 findings to the transportation committees of the senate and house of
24 representatives by December 15, 2010.

25 (17) By July 1, 2010, the department shall provide to the governor
26 and the transportation committees of the senate and house of
27 representatives a listing of all benefits that Washington state ferries
28 union employees receive that other state employees do not traditionally
29 receive. The listing must include any costs associated with these
30 benefits.

31 **Sec. 19.** 2010 c ... (ESSB 6381) s 306 (uncodified) is amended to
32 read as follows:

33 **FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES**
34 **CONSTRUCTION--PROGRAM W**

35 Puget Sound Capital Construction Account--State
36 Appropriation \$126,824,000
37 Puget Sound Capital Construction Account--Federal

1	Appropriation	\$60,364,000
2	Puget Sound Capital Construction Account--Local	
3	Appropriation	\$200,000
4	Transportation 2003 Account (Nickel Account)--State	
5	Appropriation	\$51,734,000
6	Transportation Partnership Account--State	
7	Appropriation	\$66,879,000
8	Multimodal Transportation Account--State	
9	Appropriation	\$149,000
10	TOTAL APPROPRIATION	\$306,150,000

11 The appropriations in this section are subject to the following
12 conditions and limitations:

13 (1) \$126,824,000 of the Puget Sound capital construction account--
14 state appropriation, \$60,364,000 of the Puget Sound capital
15 construction account--federal appropriation, \$200,000 of the Puget
16 Sound capital construction account--local appropriation, \$66,879,000 of
17 the transportation partnership account--state appropriation,
18 \$51,734,000 of the transportation 2003 account (nickel account)--state
19 appropriation, and \$149,000 of the multimodal transportation account--
20 state appropriation are provided solely for ferry capital projects,
21 project support, and administration as listed in LEAP Transportation
22 Document ALL PROJECTS 2010-2 as developed March 8, 2010, Program -
23 Ferries Construction Program (W). Of the total appropriation, a
24 maximum of \$10,627,000 may be used for administrative support, a
25 maximum of \$8,184,000 may be used for terminal project support, and a
26 maximum of \$4,497,000 may be used for vessel project support. Of the
27 total appropriation, \$5,851,000 is provided solely for a reservation
28 system and associated communications projects.

29 (2) \$51,734,000 of the transportation 2003 account (nickel
30 account)--state appropriation, \$63,100,000 of the transportation
31 partnership account--state appropriation, and \$10,164,000 of the Puget
32 Sound capital construction account--state appropriation are provided
33 solely for the acquisition of three new Island Home class ferry vessels
34 subject to the conditions of RCW 47.56.780. The department shall
35 pursue a contract for the second and third Island Home class ferry
36 vessels with an option to purchase a fourth Island Home class ferry
37 vessel. However, if sufficient resources are available to build one
38 144-auto vessel prior to exercising the option to build the fourth

1 Island Home class ferry vessel, procurement of the fourth Island Home
2 class ferry vessel will be postponed and the department shall pursue
3 procurement of a 144-auto vessel.

4 (a) The first two Island Home class ferry vessels must be placed on
5 the Port Townsend-Keystone route.

6 (b) The department may add additional passenger capacity to one of
7 the Island Home class ferry vessels to make it more flexible within the
8 system in the future, if doing so does not require additional staffing
9 on the vessel.

10 (c) Cost savings from the following initiatives will be included in
11 the funding of these vessels: The department's review and update of
12 the vessel life-cycle cost model as required under this section; and
13 the implementation of technology efficiencies as required under section
14 602 of this act.

15 (3)(a) \$8,450,000 of the Puget Sound capital construction account--
16 state appropriation and \$2,450,000 of the transportation partnership
17 account--state appropriation are provided solely for the following
18 projects related to the design of a 144-vehicle vessel class: (i)
19 \$1,380,000 is provided solely for completion of the contract for owner-
20 furnished equipment; (ii) \$8,320,000 is provided solely for completion
21 of the technical design, detail design, and production drawings, all of
22 which must plan for an aluminum superstructure; (iii) \$480,000 is
23 provided solely for the storage of owner-furnished equipment; and (iv)
24 a maximum of \$720,000 is for construction engineering. In completing
25 the contract for owner-furnished equipment, the department shall use as
26 much of the already procured equipment as is practicable on the Island
27 Home class ferry vessels if it is likely to be obsolete before it is
28 used in procured 144-vehicle vessels.

29 (b) The department shall conduct a cost-benefit study on
30 alternative furnishings and fittings for the 144-vehicle vessel class.
31 The study must review the proposed interior furnishings and fittings
32 for the long-term maintenance and out-of-service vessel costs and, if
33 appropriate, propose alternative interior furnishings and fittings that
34 will decrease long-term maintenance and out-of-service vessel costs.
35 The study must include a projection of out-of-service time and a life-
36 cycle cost analysis of planned out-of-service time, including the
37 impact on fleet size. The department must submit the study to the
38 joint transportation committee by August 1, 2010.

1 (c) The department shall identify costs for any additional detail
2 design and production drawings costs related to incorporating the
3 aluminum superstructure and any changes in the proposed furnishings and
4 fittings.

5 (4) \$6,300,000 of the Puget Sound capital construction account--
6 state appropriation is provided solely for emergency capital costs.

7 (5) \$3,000,000 of the Puget Sound capital construction account--
8 federal appropriation is provided solely for completing the Anacortes
9 terminal design up to the maximum allowable construction cost phase.
10 Beyond preparing environmental work, these funds may be spent only
11 after the following conditions have been met: (a) A value engineering
12 process is conducted on the existing design and the concept of a
13 terminal building smaller than preferred alternative; (b) the office of
14 financial management participates in the value engineering process; (c)
15 the office of financial management concurs with the recommendations of
16 the value engineering process; and (d) the office of financial
17 management gives its approval to proceed with the design work.

18 (6) \$3,965,000 of the Puget Sound capital construction account--
19 state appropriation is provided solely for the following vessel
20 projects: Waste heat recovery pilot project for the Issaquah; jumbo
21 Mark 1 class steering gear ventilation pilot project; and improvements
22 to the Yakima and Kaleetan propulsion controls to allow for two engine
23 operation. Before beginning these projects, the Washington state
24 ferries must ensure the vessels' out-of-service time does not
25 negatively impact service to the system.

26 (7) The department shall pursue purchasing a foreign-flagged vessel
27 for service on the Anacortes, Washington to Sidney, British Columbia
28 ferry route.

29 (8) The department shall provide to the office of financial
30 management and the legislature quarterly reports providing the status
31 on each project listed in this section and in the project lists
32 submitted pursuant to this act and on any additional projects for which
33 the department has expended funds during the 2009-11 fiscal biennium.
34 Elements must include, but not be limited to, project scope, schedule,
35 and costs. The department shall also provide the information required
36 under this subsection via the transportation executive information
37 systems (TEIS). The quarterly report regarding the status of projects

1 identified on the list referenced in subsection (1) of this section
2 must be developed according to an earned value method of project
3 monitoring.

4 (9) The department shall review and adjust its capital program
5 staffing levels to ensure staffing is at the most efficient level
6 necessary to implement the capital program in the omnibus
7 transportation appropriations act. The Washington state ferries shall
8 report this review and adjustment to the office of financial management
9 and the house and senate transportation committees of the legislature
10 by July 2009.

11 (10) \$1,200,000 of the total appropriation is provided solely for
12 improving the toll booth configuration at the Port Townsend and
13 Keystone ferry terminals.

14 (11) \$2,636,000 of the total appropriation is provided solely for
15 continued permitting work on the Mukilteo ferry terminal. The
16 department shall seek additional federal funding for this project.

17 (12) The department shall develop a proposed ferry vessel
18 maintenance, preservation, and improvement program and present it to
19 the transportation committees of the legislature by July 1, 2010. The
20 proposal must:

21 (a) Improve the basis for budgeting vessel maintenance,
22 preservation, and improvement costs and for projecting those costs into
23 a sixteen-year financial plan;

24 (b) Limit the amount of planned out-of-service time to the greatest
25 extent possible, including options associated with department staff as
26 well as commercial shipyards. At a minimum, the department shall
27 consider the following:

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

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

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

36 (iv) A review of the department's vessel maintenance, preservation,
37 and improvement program contracting process and contractual
38 requirements;

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

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

6 (vii) Coordination with required United States coast guard dry
7 dockings;

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

11 (ix) A method for evaluating the ongoing maintenance and
12 preservation costs associated with proposed improvement projects; and

13 (c) Be based on the service plan in the capital plan, recognizing
14 that vessel preservation and improvement needs may vary by route.

15 (13) \$247,000 of the Puget Sound capital construction account--
16 state appropriation is provided solely for the Washington state ferries
17 to review and update its vessel life-cycle cost model and report the
18 results to the house of representatives and senate transportation
19 committees of the legislature by (~~March 15~~) December 1, 2010. This
20 review will evaluate the impact of the planned out-of-service periods
21 scheduled for each vessel on the ability of the overall system to
22 deliver uninterrupted service and will assess the risk of service
23 disruption from unscheduled maintenance or longer than planned
24 maintenance periods.

25 (14) The department shall work with the department of archaeology
26 and historic preservation to ensure that the cultural resources
27 investigation is properly conducted on all large ferry terminal
28 projects. These projects must be conducted with active archaeological
29 management. Additionally, the department shall establish a scientific
30 peer review of independent archaeologists that are knowledgeable about
31 the region and its cultural resources.

32 (15) The Puget Sound capital construction account--state
33 appropriation includes up to \$114,000,000 in proceeds from the sale of
34 bonds authorized in RCW 47.10.843.

35 (16) The Puget Sound capital construction account--state
36 appropriation reflects the reduction of three terminal positions due to
37 decreased terminal activity and funding.

1 NEW SECTION. **Sec. 20.** The following acts or parts of acts are
2 each repealed:

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

5 (2) RCW 47.61.020 (Bonds for matching funds--Issuance and sale) and
6 1965 ex.s. c 56 s 2;

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

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

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

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

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

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

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

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

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

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

27 (13) RCW 47.60.395 (Evaluation of cost allocation methodology and
28 preservation and improvement costs--Exception) and 2009 c 470 s 707 &
29 2007 c 512 s 15;

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

32 (15) RCW 47.60.652 (Passenger-only ferry service--Vessel and
33 terminal acquisition, procurement, and construction) and 1998 c 166 s
34 2;

35 (16) RCW 47.60.654 (Passenger-only ferry service--Contingency) and
36 1998 c 166 s 3;

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

1 (18) RCW 47.60.770 (Jumbo ferry construction--Notice) and 1993 c
2 493 s 1;

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

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

7 (21) RCW 47.60.776 (Jumbo ferry construction--Contract) and 1993 c
8 493 s 5;

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

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

13 NEW SECTION. **Sec. 21.** Section 18 of this act takes effect if
14 section 222, chapter . . . (Engrossed Substitute Senate Bill No. 6381),
15 Laws of 2010 is enacted into law. If section 222, chapter . . .
16 (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is not
17 enacted into law, section 18 of this act is void in its entirety.

18 NEW SECTION. **Sec. 22.** Section 19 of this act takes effect if
19 section 306, chapter . . . (Engrossed Substitute Senate Bill No. 6381),
20 Laws of 2010 is enacted into law. If section 306, chapter . . .
21 (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is not
22 enacted into law, section 19 of this act is void in its entirety.

23 NEW SECTION. **Sec. 23.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 24.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 immediately."

PULLED 03/10/2010

1 On page 1, line 1 of the title, after "system;" 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, 47.64.270, 47.64.280, 47.64.320, and 41.80.020; amending
5 2010 c . . . (ESSB 6381) ss 222 and 306 (uncodified); adding new
6 sections to chapter 47.60 RCW; creating new sections; repealing RCW
7 47.61.010, 47.61.020, 47.61.030, 47.61.040, 47.61.050, 47.61.060,
8 47.61.070, 47.61.080, 47.61.090, 47.61.100, 47.61.110, 47.60.240,
9 47.60.395, 47.60.649, 47.60.652, 47.60.654, 47.60.658, 47.60.770,
10 47.60.772, 47.60.774, 47.60.776, 47.60.778, and 47.60.780; providing
11 contingent effective dates; providing an expiration date; and declaring
12 an emergency."

EFFECT: (1) Adds intent to enact recommendations of ferry study and make further efficiencies.

(2) Updates capital construction guidelines to include vessels.

(3) Adds predesign requirements for vessel funding requests.

(4) Requires that performance measures be developed and reported, including on-time performance, which must be publicly displayed.

(5) Requires signage regarding assaults on state employees.

(6) Repeals outdated statutes.

(7) Bid limit for work performed at Eagle Harbor maintenance facility is increased to \$100K for the remainder of 2009/11.

(8) Directs Washington State Ferries (WSF) to analyze contracting out versus in-house work and determine which results in lower out-of-service vessel time. This analysis helps decide the bid limit in the future.

(9) Directs WSF to implement a vessel maintenance, preservation, and improvement program that, among other things, must reduce vessel-out-of-service time as much as possible.

(10) Removes baseball-style arbitration as the default.

(11) Directs Office of Financial Management to certify arbitration awards as financially feasible before requesting funding from the legislature.

(12) Clarifies that WSF unions cannot bargain for retirement benefits beyond those other state employees receive.

(13) Removes factors an arbitrator must consider:

- (a) Alaska, other states along the west coast, and British Columbia, as a comparison; and
- (b) Salary survey prepared by Marine Employees Commission.
- (14) Adds factors an arbitrator must consider:
 - (a) Financial ability of department to pay for agreements;
 - (b) Ability of state to retain ferry employees;
 - (c) Comparison of wages, hours, benefits, and conditions with other state employees;
 - (d) Overall compensation received by ferry employees; and
 - (e) Inflation.
- (15) Directs that when a collective bargaining agreement expires before a new one is negotiated, the old one is in effect for up to 1 year.
- (16) Adds emergency and severability clauses.
- (17) Adds WSF unions to the Super Coalition for health care bargaining purposes.
- (18) Moves the due date from March 15, 2010, to December 1, 2010, for the vessel LCCM update (in the budget bill).
- (19) Decreases the WSF--Operating insurance appropriation by \$670K.

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