
ENGROSSED SUBSTITUTE HOUSE BILL 3209

State of Washington

61st Legislature

2010 Regular Session

By House Transportation (originally sponsored by Representatives
Clibborn, Rolfes, Seaquist, and Morris)

READ FIRST TIME 03/04/10.

1 AN ACT Relating to managing costs of the ferry system; amending RCW
2 47.64.200, 47.64.320, and 47.28.030; creating new sections; making an
3 appropriation; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the Washington
6 state ferries system is a critical component of the state's highway
7 system. The legislature further finds that ferry system revenues are
8 inadequate to support the capital requirements of aging vessels and
9 terminals, and operating cost growth is fast outpacing the growth of
10 fare revenue and gas tax revenue dedicated to the ferry system. As
11 such, and drawing on more than four consecutive years of legislative
12 analysis and operating policy reforms, the legislature finds that a
13 realignment of the ferry compensation policy framework is an
14 appropriate next step toward the legislature's long-term goal of
15 assuring sustainable, cost-effective ferry service. The legislature
16 further intends to address increasing costs of operating the ferry
17 system in a manner that balances the interests of the ferry system,
18 ferry workforce, and the fare payers.

1 **Sec. 2.** RCW 47.64.200 and 2006 c 164 s 7 are each amended to read
2 as follows:

3 As the first step in the performance of their duty to bargain, the
4 employer and the employee organization shall endeavor to agree upon
5 impasse procedures. Unless otherwise agreed to by the employee
6 organization and the employer in their impasse procedures, the
7 arbitrator or panel (~~((is limited to selecting the most reasonable
8 offer, in its judgment, of the final offers on each impasse item
9 submitted by the parties. The employee organization and the employer
10 may mutually agree to the impasse procedure under which the arbitrator
11 or panel may))~~) shall issue a decision it deems just and appropriate
12 with respect to each impasse item. If the parties fail to agree upon
13 impasse procedures under this section, the impasse procedures provided
14 in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320 apply.
15 It is unlawful for either party to refuse to participate in the impasse
16 procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300
17 through 47.64.320.

18 **Sec. 3.** RCW 47.64.320 and 2006 c 164 s 14 are each amended to read
19 as follows:

20 (1) The mediator, arbitrator, or arbitration panel may consider
21 only matters that are subject to bargaining under this chapter.

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

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

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

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

1 enter a statement upon its records to that effect, stating the reasons
2 therefor. To enable a larger number of small businesses, and minority,
3 and women contractors to effectively compete for department of
4 transportation contracts, the department may adopt rules providing for
5 bids and award of contracts for the performance of work, or furnishing
6 equipment, materials, supplies, or operating services whenever any work
7 is to be performed and the engineer's estimate indicates the cost of
8 the work would not exceed eighty thousand dollars and effective July 1,
9 2005, one hundred thousand dollars. The rules adopted under this
10 section:

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

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

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

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

31 NEW SECTION. **Sec. 5.** The department shall develop a methodology
32 for giving public visibility to the cost service tradeoffs among
33 sailing schedules, crew schedules, crew costs, and operating costs with
34 a goal of enabling crew and passenger cost lowering suggestions to be
35 considered during each schedule development cycle. The methodology is
36 to be reported to the transportation committees of the legislature by
37 September 1, 2010.

1 NEW SECTION. **Sec. 6.** The governor shall consult with the affected
2 unions to conduct a comprehensive review of the current array of
3 bargaining units and contracts associated with the Washington ferry
4 service with a view to proposing any appropriate improvements which may
5 assure the long-term viability of a career workforce within a cost-
6 effective service.

7 NEW SECTION. **Sec. 7.** The sum of seven million three hundred
8 thousand dollars, or as much thereof as may be necessary, is
9 appropriated from the Puget Sound ferry operations account to the
10 department of transportation solely for the purposes of travel time
11 associated with Washington state ferries employees. The amounts
12 provided in this section are contingent upon the provision of data to
13 the legislature for a transparent analysis of travel pay policies.

14 NEW SECTION. **Sec. 8.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of the
20 state government and its existing public institutions, and takes effect
21 immediately.

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