

SHB 1516 - S COMM AMD
By Committee on Transportation

ADOPTED AS AMENDED 04/11/2011

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that the Washington
4 state ferry system has been plagued with declining ridership, increased
5 operating costs, and poor on-time performance during peak periods. The
6 legislature intends to give the Washington state ferry system
7 management the tools to change that and, furthermore, intends to hold
8 management accountable to do so.

9 **Sec. 2.** RCW 47.64.120 and 2010 c 283 s 10 are each amended to read
10 as follows:

11 (1) Except as otherwise provided in this chapter, the employer and
12 ferry system employee organizations, through their collective
13 bargaining representatives, shall meet at reasonable times to negotiate
14 in good faith with respect to wages, hours, (~~working conditions,~~) and
15 insurance, and other matters mutually agreed upon. Employer funded
16 retirement benefits shall be provided under the public employees'
17 retirement system under chapter 41.40 RCW and shall not be included in
18 the scope of collective bargaining. Except as provided under RCW
19 47.64.270, the employer is not required to bargain over health care
20 benefits. Any retirement system or retirement benefits shall not be
21 subject to collective bargaining.

22 (2) Upon ratification of bargaining agreements, ferry employees are
23 entitled to an amount equivalent to the interest earned on retroactive
24 compensation increases. For purposes of this section, the interest
25 earned on retroactive compensation increases is the same monthly rate
26 of interest that was earned on the amount of the compensation increases
27 while held in the state treasury. The interest will be computed for
28 each employee until the date the retroactive compensation is paid, and
29 must be allocated in accordance with appropriation authority. The

1 interest earned on retroactive compensation is not considered part of
2 the ongoing compensation obligation of the state and is not
3 compensation earnable for the purposes of chapter 41.40 RCW.
4 Negotiations shall also include grievance procedures for resolving any
5 questions arising under the agreement, which shall be embodied in a
6 written agreement and signed by the parties.

7 (3) The employer shall make decisions regarding working conditions
8 to best suit the operational needs of the state and may not bargain its
9 own decision or the effects of a decision for any working condition
10 other than shift bidding, scheduling leave time, and grievance
11 procedures, provided that the grievance procedures do not expand the
12 scope of grievances beyond the interpretation and application of terms
13 permissible under this chapter. The employer shall not bargain over
14 rights of management which, in addition to all powers, duties, and
15 rights established by constitutional provision or statute, must
16 include, but not be limited to, the following:

17 (a) Assigning employees to work stations, vessels, or terminals;

18 (b) Directing promotions;

19 (c) Directing who will be laid off in the event of a layoff action,
20 bumping rights, or layoff options;

21 (d) Directing staffing levels;

22 (e) Providing for training; and

23 (f) Directing the use of part-time shifts.

24 (4) A collective bargaining agreement may not contain any provision
25 that extends the term of an existing collective bargaining agreement or
26 applicability of items incompatible with this section in an existing
27 collective bargaining agreement.

28 (5) Except as otherwise provided in this chapter, if a conflict
29 exists between an executive order, administrative rule, or agency
30 policy relating to wages((7)) or hours((7, and terms and conditions of
31 employment)) and a collective bargaining agreement negotiated under
32 this chapter, the collective bargaining agreement shall prevail. A
33 provision of a collective bargaining agreement that conflicts with the
34 terms of a statute is invalid and unenforceable.

35 NEW SECTION. Sec. 3. A new section is added to chapter 47.64 RCW
36 to read as follows:

37 (1) Effective July 1, 2012, all captains of Washington state ferry

1 vessels are managers as defined in RCW 41.06.022 and therefore are
2 subject to the rules adopted by the director of the department of
3 personnel pursuant to RCW 41.06.500. Salary increases for captains
4 must be directly related to the performance of their responsibilities.

5 (2) The captain, also known as the master of a vessel or the
6 commanding officer, is the ultimate authority on and has responsibility
7 for the entire vessel. The captain's responsibilities include, but are
8 not limited to:

9 (a) Ensuring the safe navigation of the vessel and its crew and
10 passengers;

11 (b) Following all applicable federal, state, and agency policies
12 and regulations;

13 (c) Supervising crew in performance, operations, training,
14 security, and environmental protection; and

15 (d) Overseeing all aspects of vessel operations including, but not
16 limited to:

17 (i) Vessel arrivals and departures;

18 (ii) Schedule adherence;

19 (iii) Customer service;

20 (iv) Cost containment; and

21 (v) Fuel efficiency.

22 (3) Effective January 1, 2013, all chief engineers and terminal
23 supervisors of Washington state ferry vessels are managers as defined
24 in RCW 41.06.022 and therefore are subject to the rules adopted by the
25 director of the department of personnel pursuant to RCW 41.06.500.
26 Salary increases for chief engineers and terminal supervisors must be
27 directly related to the performance of their responsibilities.

28 (4) The chief engineer, also known as a staff engineer, is the
29 engineering department head and reports directly to the captain. The
30 chief engineer's duties include, but are not limited to:

31 (a) Overseeing all aspects of engineering propulsion, electrical,
32 and machinery components;

33 (b) Ensuring safe and efficient engineering plant operations;

34 (c) Advising the captain of factors affecting the vessel's
35 operation from an engineering perspective;

36 (d) Supervising the conduct of engineering watchstanders and
37 directing work and maintenance routines;

1 (e) Following federal, state, and agency policies and regulations;
2 and

3 (f) Overseeing all fueling to ensure efficient and environmentally
4 safe operations.

5 (5) The terminal supervisor is the ultimate authority and has
6 responsibility for the entire operations at that ferry terminal. The
7 terminal supervisor's duties include, but are not limited to:

8 (a) Overseeing all aspects of dock-side terminal operations;

9 (b) Coordinating with the captain in arrival and departure
10 procedures;

11 (c) Supervising the conduct of ticket sellers and traffic and
12 loading attendants and directing selling, loading, and traffic work and
13 routines; and

14 (d) Following federal, state, and agency policies and regulations.

15 (6) With each biennial budget submittal, the department shall
16 include recommendations for distributing any appropriations the
17 legislature may provide for incentive pay for vessel captains, chief
18 engineers, or terminal supervisors.

19 (7) Any employee who is a captain, chief engineer, or terminal
20 supervisor may not belong to a collective bargaining unit.

21 (8) A collective bargaining agreement may not contain any provision
22 that extends the term of an existing collective bargaining agreement or
23 applicability of items incompatible with this section in an existing
24 collective bargaining agreement.

25 **Sec. 4.** RCW 41.06.022 and 2002 c 354 s 207 are each amended to
26 read as follows:

27 For purposes of this chapter, "manager" means any employee who:

28 (1) Formulates statewide policy or directs the work of an agency or
29 agency subdivision;

30 (2) Is responsible to administer one or more statewide policies or
31 programs of an agency or agency subdivision;

32 (3) Manages, administers, and controls a local branch office of an
33 agency or agency subdivision, including the physical, financial, or
34 personnel resources;

35 (4) Has substantial responsibility in personnel administration,
36 legislative relations, public information, or the preparation and
37 administration of budgets; ((~~or~~))

1 (5) Functionally is above the first level of supervision and
2 exercises authority that is not merely routine or clerical in nature
3 and requires the consistent use of independent judgment; or

4 (6) Is a captain or chief engineer of a Washington state ferry
5 vessel, or a terminal supervisor of a Washington state ferry terminal.

6 No employee who is a member of the Washington management service
7 may be included in a collective bargaining unit established under RCW
8 41.80.001 and 41.80.010 through 41.80.130 and chapter 47.64 RCW.

9 NEW SECTION. Sec. 5. A new section is added to chapter 47.64 RCW
10 to read as follows:

11 Washington state ferry system management must meet with its union
12 employees twice a year and encourage an open and direct exchange of
13 ideas and concerns between line employees and management.

14 NEW SECTION. Sec. 6. A new section is added to chapter 47.64 RCW
15 to read as follows:

16 (1) Using state fiscal year 2010 as a basis, Washington state ferry
17 system management shall develop targets for the performance measures
18 listed under this subsection. These targets must be developed in
19 collaboration with the office of financial management and presented to
20 the transportation committees of the legislature by September 30, 2011,
21 along with an implementation plan for achieving these targets by June
22 30, 2013:

23 (a) Number of riders per service hour;

24 (b) Terminal and vessel operating costs, not including fuel, per
25 service hour;

26 (c) Fuel consumption per service hour; and

27 (d) Peak-direction, peak-time, on-time performance by route for all
28 runs except those delayed or canceled due to tidal conditions. On-time
29 is defined as within ten minutes of the scheduled time. Peak-time for
30 the Mukilteo/Clinton, Edmonds/Kingston, Seattle/Bainbridge,
31 Seattle/Bremerton, Fauntleroy/Vashon/Southworth, and Point
32 Defiance/Tahlequah ferry routes means weekdays from 5:00 a.m. to 9:00
33 a.m. and 3:00 p.m. to 7:00 p.m. Peak-time for the Coupeville
34 (Keystone)/Port Townsend and Anacortes/San Juan Island ferry routes
35 means Fridays from 3:00 p.m. to closing, Saturdays all day, Sundays all
36 day, holidays all day, and Mondays from opening to 12:00 p.m.

1 (2) The department shall, on a quarterly basis, report Washington
2 state ferry system management's performance as it relates to the
3 performance measures in subsection (1) of this section (a) to the
4 transportation committees of the legislature, (b) on its vessels, (c)
5 at all ferry terminals, and (d) on the department's web site.

6 (3) The joint legislative audit and review committee shall work
7 with the department in determining baseline data for the performance
8 measures in subsection (1) of this section and shall determine whether
9 Washington state ferry system management has met the performance
10 measures in subsection (1) of this section and report its findings to
11 the transportation committees of the legislature by September 30, 2013.

12 (4) If the joint legislative audit and review committee determines
13 that Washington state ferry system management has not met the targets
14 developed in subsection (1) of this section, the governor, with the
15 consensus of the chairs and ranking minorities of the transportation
16 committees of the legislature, shall appoint a governor's management
17 representative who, within sixty days, shall develop and submit a
18 corrective action plan to achieve the targets in this section within
19 the following twelve months. The plan must be submitted to the
20 governor and the transportation committees of the legislature.

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 47.64 RCW
22 to read as follows:

23 The report required in RCW 47.01.071(5) and 47.04.280 must include
24 the performance measures in section 6(1) of this act.

25 **Sec. 8.** RCW 47.64.011 and 2006 c 164 s 1 are each amended to read
26 as follows:

27 As used in this chapter, unless the context otherwise requires, the
28 definitions in this section shall apply.

29 (1) "Collective bargaining representative" means the persons
30 designated by the governor and employee organizations to be the
31 exclusive representatives during collective bargaining negotiations.

32 (2) "Commission" means the (~~marine employees~~) public employment
33 relations commission created in RCW (~~47.64.280~~) 41.58.010.

34 (3) "Department of transportation" means the department as defined
35 in RCW 47.01.021.

36 (4) "Employer" means the state of Washington.

1 (5) "Ferry employee" means any employee of the marine
2 transportation division of the department of transportation who is a
3 member of a collective bargaining unit represented by a ferry employee
4 organization and does not include an exempt employee pursuant to RCW
5 41.06.079.

6 (6) "Ferry employee organization" means any labor organization
7 recognized to represent a collective bargaining unit of ferry
8 employees.

9 (7) "Lockout" means the refusal of the employer to furnish work to
10 ferry employees in an effort to get ferry employee organizations to
11 make concessions during collective bargaining, grievance, or other
12 labor relation negotiations. Curtailment of employment of ferry
13 employees due to lack of work resulting from a strike or work stoppage
14 shall not be considered a lockout.

15 (8) "Office of financial management" means the office as created in
16 RCW 43.41.050.

17 (9) "Strike or work stoppage" means a ferry employee's refusal, in
18 concerted action with others, to report to duty, or his or her willful
19 absence from his or her position, or his or her stoppage or slowdown of
20 work, or his or her abstinence in whole or in part from the full,
21 faithful, and proper performance of the duties of employment, for the
22 purpose of inducing, influencing, or coercing a change in conditions,
23 compensation, rights, privileges, or obligations of his, her, or any
24 other ferry employee's employment. A refusal, in good faith, to work
25 under conditions which pose an endangerment to the health and safety of
26 ferry employees or the public, as determined by the master of the
27 vessel, shall not be considered a strike for the purposes of this
28 chapter.

29 **Sec. 9.** RCW 47.64.090 and 2003 c 373 s 3 and 2003 c 91 s 1 are
30 each reenacted and amended to read as follows:

31 (1) Except as provided in RCW 47.60.656 and subsections (2) and (4)
32 of this section, or as provided in RCW 36.54.130 and subsection (3) of
33 this section, if any party assumes the operation and maintenance of any
34 ferry or ferry system by rent, lease, or charter from the department of
35 transportation, such party shall assume and be bound by all the
36 provisions herein and any agreement or contract for such operation of
37 any ferry or ferry system entered into by the department shall provide

1 that the wages to be paid, hours of employment, working conditions, and
2 seniority rights of employees will be established by the ((~~marine~~
3 ~~employees~~)) commission in accordance with the terms and provisions of
4 this chapter and it shall further provide that all labor disputes shall
5 be adjudicated in accordance with chapter 47.64 RCW.

6 (2) If a public transportation benefit area meeting the
7 requirements of RCW 36.57A.200 has voter approval to operate passenger-
8 only ferry service, it may enter into an agreement with Washington
9 State Ferries to rent, lease, or purchase passenger-only vessels,
10 related equipment, or terminal space for purposes of loading and
11 unloading the passenger-only ferry. Charges for the vessels,
12 equipment, and space must be fair market value taking into account the
13 public benefit derived from the ferry service. A benefit area or
14 subcontractor of that benefit area that qualifies under this subsection
15 is not subject to the restrictions of subsection (1) of this section,
16 but is subject to:

17 (a) The terms of those collective bargaining agreements that it or
18 its subcontractors negotiate with the exclusive bargaining
19 representatives of its or its subcontractors' employees under chapter
20 41.56 RCW or the National Labor Relations Act, as applicable;

21 (b) Unless otherwise prohibited by federal or state law, a
22 requirement that the benefit area and any contract with its
23 subcontractors, give preferential hiring to former employees of the
24 department of transportation who separated from employment with the
25 department because of termination of the ferry service by the state of
26 Washington; and

27 (c) Unless otherwise prohibited by federal or state law, a
28 requirement that the benefit area and any contract with its
29 subcontractors, on any questions concerning representation of employees
30 for collective bargaining purposes, may be determined by conducting a
31 cross-check comparing an employee organization's membership records or
32 bargaining authorization cards against the employment records of the
33 employer.

34 (3) If a ferry district is formed under RCW 36.54.110 to operate
35 passenger-only ferry service, it may enter into an agreement with
36 Washington State Ferries to rent, lease, or purchase vessels, related
37 equipment, or terminal space for purposes of loading and unloading the
38 ferry. Charges for the vessels, equipment, and space must be fair

1 market value taking into account the public benefit derived from the
2 ferry service. A ferry district or subcontractor of that district that
3 qualifies under this subsection is not subject to the restrictions of
4 subsection (1) of this section, but is subject to:

5 (a) The terms of those collective bargaining agreements that it or
6 its subcontractors negotiate with the exclusive bargaining
7 representatives of its or its subcontractors' employees under chapter
8 41.56 RCW or the National Labor Relations Act, as applicable;

9 (b) Unless otherwise prohibited by federal or state law, a
10 requirement that the ferry district and any contract with its
11 subcontractors, give preferential hiring to former employees of the
12 department of transportation who separated from employment with the
13 department because of termination of the ferry service by the state of
14 Washington; and

15 (c) Unless otherwise prohibited by federal or state law, a
16 requirement that the ferry district and any contract with its
17 subcontractors, on any questions concerning representation of employees
18 for collective bargaining purposes, may be determined by conducting a
19 cross-check comparing an employee organization's membership records or
20 bargaining authorization cards against the employment records of the
21 employer.

22 (4) The department of transportation shall make its terminal, dock,
23 and pier space available to private operators of passenger-only ferries
24 if the space can be made available without limiting the operation of
25 car ferries operated by the department. These private operators are
26 not bound by the provisions of subsection (1) of this section. Charges
27 for the equipment and space must be fair market value taking into
28 account the public benefit derived from the passenger-only ferry
29 service.

30 **Sec. 10.** RCW 47.64.150 and 1983 c 15 s 6 are each amended to read
31 as follows:

32 An agreement with a ferry employee organization that is the
33 exclusive representative of ferry employees in an appropriate unit may
34 provide procedures for the consideration of ferry employee grievances
35 and of disputes over the interpretation and application of agreements.
36 Negotiated procedures may provide for binding arbitration of ferry
37 employee grievances and of disputes over the interpretation and

1 application of existing agreements. An arbitrator's decision on a
2 grievance shall not change or amend the terms, conditions, or
3 applications of the collective bargaining agreement. The procedures
4 shall provide for the invoking of arbitration only with the approval of
5 the employee organization. The costs of arbitrators shall be shared
6 equally by the parties.

7 Ferry system employees shall follow ~~((either))~~ the grievance
8 procedures provided in a collective bargaining agreement, or if ~~((no))~~
9 such procedures are ~~((so))~~ not provided, shall submit the grievances to
10 the ~~((marine employees¹))~~ commission ~~((as provided in RCW 47.64.280))~~.

11 **Sec. 11.** RCW 41.58.060 and 1983 c 15 s 22 are each amended to read
12 as follows:

13 For any matter concerning the state ferry system and employee
14 relations, collective bargaining, or labor disputes or stoppages, the
15 provisions of chapter 47.64 RCW and this chapter shall govern.
16 However, if a conflict exists between the provisions of chapter 47.64
17 RCW and this chapter, the provisions of chapter 47.64 RCW shall govern.

18 **Sec. 12.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and
19 2010 c 1 s 1 are each reenacted and amended to read as follows:

- 20 (1) The provisions of this chapter do not apply to:
- 21 (a) The members of the legislature or to any employee of, or
22 position in, the legislative branch of the state government including
23 members, officers, and employees of the legislative council, joint
24 legislative audit and review committee, statute law committee, and any
25 interim committee of the legislature;
 - 26 (b) The justices of the supreme court, judges of the court of
27 appeals, judges of the superior courts or of the inferior courts, or to
28 any employee of, or position in the judicial branch of state
29 government;
 - 30 (c) Officers, academic personnel, and employees of technical
31 colleges;
 - 32 (d) The officers of the Washington state patrol;
 - 33 (e) Elective officers of the state;
 - 34 (f) The chief executive officer of each agency;
 - 35 (g) In the departments of employment security and social and health
36 services, the director and the director's confidential secretary; in

1 all other departments, the executive head of which is an individual
2 appointed by the governor, the director, his or her confidential
3 secretary, and his or her statutory assistant directors;

4 (h) In the case of a multimember board, commission, or committee,
5 whether the members thereof are elected, appointed by the governor or
6 other authority, serve ex officio, or are otherwise chosen:

7 (i) All members of such boards, commissions, or committees;

8 (ii) If the members of the board, commission, or committee serve on
9 a part-time basis and there is a statutory executive officer: The
10 secretary of the board, commission, or committee; the chief executive
11 officer of the board, commission, or committee; and the confidential
12 secretary of the chief executive officer of the board, commission, or
13 committee;

14 (iii) If the members of the board, commission, or committee serve
15 on a full-time basis: The chief executive officer or administrative
16 officer as designated by the board, commission, or committee; and a
17 confidential secretary to the chair of the board, commission, or
18 committee;

19 (iv) If all members of the board, commission, or committee serve ex
20 officio: The chief executive officer; and the confidential secretary
21 of such chief executive officer;

22 (i) The confidential secretaries and administrative assistants in
23 the immediate offices of the elective officers of the state;

24 (j) Assistant attorneys general;

25 (k) Commissioned and enlisted personnel in the military service of
26 the state;

27 (l) Inmate, student, part-time, or temporary employees, and part-
28 time professional consultants, as defined by the Washington personnel
29 resources board;

30 (m) The public printer or to any employees of or positions in the
31 state printing plant;

32 (n) Officers and employees of the Washington state fruit
33 commission;

34 (o) Officers and employees of the Washington apple commission;

35 (p) Officers and employees of the Washington state dairy products
36 commission;

37 (q) Officers and employees of the Washington tree fruit research
38 commission;

1 (r) Officers and employees of the Washington state beef commission;
2 (s) Officers and employees of the Washington grain commission;
3 (t) Officers and employees of any commission formed under chapter
4 15.66 RCW;

5 (u) Officers and employees of agricultural commissions formed under
6 chapter 15.65 RCW;

7 (v) Officers and employees of the nonprofit corporation formed
8 under chapter 67.40 RCW;

9 (w) Executive assistants for personnel administration and labor
10 relations in all state agencies employing such executive assistants
11 including but not limited to all departments, offices, commissions,
12 committees, boards, or other bodies subject to the provisions of this
13 chapter and this subsection shall prevail over any provision of law
14 inconsistent herewith unless specific exception is made in such law;

15 (x) In each agency with fifty or more employees: Deputy agency
16 heads, assistant directors or division directors, and not more than
17 three principal policy assistants who report directly to the agency
18 head or deputy agency heads;

19 ~~((All employees of the marine employees' commission;~~
20 ~~(z)))~~ Staff employed by the department of commerce to administer
21 energy policy functions;

22 ~~((aa)))~~ (z) The manager of the energy facility site evaluation
23 council;

24 ~~((bb)))~~ (aa) A maximum of ten staff employed by the department of
25 commerce to administer innovation and policy functions, including the
26 three principal policy assistants exempted under (x) of this
27 subsection;

28 ~~((cc)))~~ (bb) Staff employed by Washington State University to
29 administer energy education, applied research, and technology transfer
30 programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

31 (2) The following classifications, positions, and employees of
32 institutions of higher education and related boards are hereby exempted
33 from coverage of this chapter:

34 (a) Members of the governing board of each institution of higher
35 education and related boards, all presidents, vice presidents, and
36 their confidential secretaries, administrative, and personal
37 assistants; deans, directors, and chairs; academic personnel; and
38 executive heads of major administrative or academic divisions employed

1 by institutions of higher education; principal assistants to executive
2 heads of major administrative or academic divisions; other managerial
3 or professional employees in an institution or related board having
4 substantial responsibility for directing or controlling program
5 operations and accountable for allocation of resources and program
6 results, or for the formulation of institutional policy, or for
7 carrying out personnel administration or labor relations functions,
8 legislative relations, public information, development, senior computer
9 systems and network programming, or internal audits and investigations;
10 and any employee of a community college district whose place of work is
11 one which is physically located outside the state of Washington and who
12 is employed pursuant to RCW 28B.50.092 and assigned to an educational
13 program operating outside of the state of Washington;

14 (b) The governing board of each institution, and related boards,
15 may also exempt from this chapter classifications involving research
16 activities, counseling of students, extension or continuing education
17 activities, graphic arts or publications activities requiring
18 prescribed academic preparation or special training as determined by
19 the board: PROVIDED, That no nonacademic employee engaged in office,
20 clerical, maintenance, or food and trade services may be exempted by
21 the board under this provision;

22 (c) Printing craft employees in the department of printing at the
23 University of Washington.

24 (3) In addition to the exemptions specifically provided by this
25 chapter, the director of personnel may provide for further exemptions
26 pursuant to the following procedures. The governor or other
27 appropriate elected official may submit requests for exemption to the
28 director of personnel stating the reasons for requesting such
29 exemptions. The director of personnel shall hold a public hearing,
30 after proper notice, on requests submitted pursuant to this subsection.
31 If the director determines that the position for which exemption is
32 requested is one involving substantial responsibility for the
33 formulation of basic agency or executive policy or one involving
34 directing and controlling program operations of an agency or a major
35 administrative division thereof, the director of personnel shall grant
36 the request and such determination shall be final as to any decision
37 made before July 1, 1993. The total number of additional exemptions
38 permitted under this subsection shall not exceed one percent of the

1 number of employees in the classified service not including employees
2 of institutions of higher education and related boards for those
3 agencies not directly under the authority of any elected public
4 official other than the governor, and shall not exceed a total of
5 twenty-five for all agencies under the authority of elected public
6 officials other than the governor.

7 The salary and fringe benefits of all positions presently or
8 hereafter exempted except for the chief executive officer of each
9 agency, full-time members of boards and commissions, administrative
10 assistants and confidential secretaries in the immediate office of an
11 elected state official, and the personnel listed in subsections (1)(j)
12 through (v) (~~and (y)~~) and (2) of this section, shall be determined by
13 the director of personnel. Changes to the classification plan
14 affecting exempt salaries must meet the same provisions for classified
15 salary increases resulting from adjustments to the classification plan
16 as outlined in RCW 41.06.152.

17 From February 18, 2009, through June 30, 2011, a salary or wage
18 increase shall not be granted to any position exempt from
19 classification under this chapter, except that a salary or wage
20 increase may be granted to employees pursuant to collective bargaining
21 agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW,
22 or negotiated by the nonprofit corporation formed under chapter 67.40
23 RCW, and except that increases may be granted for positions for which
24 the employer has demonstrated difficulty retaining qualified employees
25 if the following conditions are met:

- 26 (a) The salary increase can be paid within existing resources; and
- 27 (b) The salary increase will not adversely impact the provision of
28 client services.

29 Any agency granting a salary increase from February 15, 2010,
30 through June 30, 2011, to a position exempt from classification under
31 this chapter shall submit a report to the fiscal committees of the
32 legislature no later than July 31, 2011, detailing the positions for
33 which salary increases were granted, the size of the increases, and the
34 reasons for giving the increases.

35 Any person holding a classified position subject to the provisions
36 of this chapter shall, when and if such position is subsequently
37 exempted from the application of this chapter, be afforded the
38 following rights: If such person previously held permanent status in

1 another classified position, such person shall have a right of
2 reversion to the highest class of position previously held, or to a
3 position of similar nature and salary.

4 Any classified employee having civil service status in a classified
5 position who accepts an appointment in an exempt position shall have
6 the right of reversion to the highest class of position previously
7 held, or to a position of similar nature and salary.

8 A person occupying an exempt position who is terminated from the
9 position for gross misconduct or malfeasance does not have the right of
10 reversion to a classified position as provided for in this section.

11 From February 15, 2010, until June 30, 2011, no monetary
12 performance-based awards or incentives may be granted by the director
13 or employers to employees covered by rules adopted under this section.
14 This subsection does not prohibit the payment of awards provided for in
15 chapter 41.60 RCW.

16 NEW SECTION. **Sec. 13.** (1) The marine employees' commission is
17 hereby abolished and its powers, duties, and functions are hereby
18 transferred to the public employment relations commission.

19 (2)(a) All reports, documents, surveys, books, records, files,
20 papers, or written material in the possession of the marine employees'
21 commission shall be delivered to the custody of the public employment
22 relations commission. All cabinets, furniture, office equipment, motor
23 vehicles, and other tangible property employed by the marine employees'
24 commission shall be made available to the public employment relations
25 commission. All funds, credits, or other assets held by the marine
26 employees' commission shall be assigned to the public employment
27 relations commission.

28 (b) Any appropriations made to the marine employees' commission
29 shall, on the effective date of this section, be transferred and
30 credited to the public employment relations commission.

31 (c) If any question arises as to the transfer of any funds, books,
32 documents, records, papers, files, equipment, or other tangible
33 property used or held in the exercise of the powers and the performance
34 of the duties and functions transferred, the director of financial
35 management shall make a determination as to the proper allocation and
36 certify the same to the state agencies concerned.

1 (3) All rules and all pending business before the marine employees'
2 commission shall be continued and acted upon by the public employment
3 relations commission. All existing contracts and obligations shall
4 remain in full force and shall be performed by the public employment
5 relations commission.

6 (4) The transfer of the powers, duties, and functions of the marine
7 employees' commission shall not affect the validity of any act
8 performed before the effective date of this section.

9 (5) If apportionments of budgeted funds are required because of the
10 transfers directed by this section, the director of financial
11 management shall certify the apportionments to the agencies affected,
12 the state auditor, and the state treasurer. Each of these shall make
13 the appropriate transfer and adjustments in funds and appropriation
14 accounts and equipment records in accordance with the certification.

15 NEW SECTION. **Sec. 14.** The joint transportation committee shall
16 conduct a study of the management structure at the Washington state
17 ferries. The study results must make recommendations on changes to the
18 organizational structure that will result in more efficient operations
19 and a more balanced management organization structure scaled to the
20 workforce. The study results must be presented to the transportation
21 committees of the legislature by September 30, 2011.

22 NEW SECTION. **Sec. 15.** The following acts or parts of acts are
23 each repealed:

24 (1) RCW 47.64.080 (Employee seniority rights) and 1984 c 7 s 341 &
25 1961 c 13 s 47.64.080; and

26 (2) RCW 47.64.280 (Marine employees' commission) and 2010 c 283 s
27 14, 2006 c 164 s 18, 1984 c 287 s 95, & 1983 c 15 s 19.

28 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and takes effect
31 immediately."

ADOPTED AS AMENDED 04/11/2011

1 On page 1, line 1 of the title, after "Relating to" strike the
2 remainder of the title and insert "providing tools for improving and
3 measuring the performance of state ferry system management; amending
4 RCW 47.64.120, 41.06.022, 47.64.011, 47.64.150, and 41.58.060;
5 reenacting and amending RCW 47.64.090 and 41.06.070; adding new
6 sections to chapter 47.64 RCW; creating new sections; repealing RCW
7 47.64.080 and 47.64.280; and declaring an emergency."

EFFECT: All language is removed and the following is added: (1) Management prerogatives are defined; (2) ferry captains, chief engineers, and terminal supervisors are made part of management; (3) WSF management is required to meet with line union employees twice a year to encourage an open and direct exchange of ideas and concerns; (4) performance measures are defined and the department is to develop targets for those measures which are to be met by June 30, 2013; (5) performance measures must be reported; (6) JLARC is to conduct an audit to determine whether targets are met; (7) if targets are not met, a governor's management representative is to be appointed to develop a 12-month corrective action plan; (8) defined performance measures must be included in the department's attainment report; (9) the JTC must conduct a study regarding the size and organization of management; and (10) the Marine Employees' Commission is abolished and responsibilities are transferred to the Personnel Employment Relations Commission.

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