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**Labor & Workforce Development  
Committee**

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**HB 1511**

**Brief Description:** Promoting efficiency in the Washington state ferry system through personnel and administration reforms.

**Sponsors:** Representatives Clibborn, Armstrong, Angel, Kagi, Smith, Johnson, Van De Wege, Morris, Kristiansen, Schmick, Rodne, Condotta, Ahern, Warnick and Ladenburg.

**Brief Summary of Bill**

- Prohibits certain provisions from inclusion in a ferry collective bargaining agreement.
- Removes interest arbitration for ferry collective bargaining.
- Abolishes the Marine Employees Commission (MEC) and transfers responsibilities associated with the MEC to the Public Employment Relations Commission.
- Prohibits ferry managers from belonging to the same bargaining unit as the employees they supervise and prohibits captains from being members of a bargaining unit.

**Hearing Date:** 2/1/11

**Staff:** Alison Hellberg (786-7152).

**Background:**

The Washington State Department of Transportation Ferries Division (WSF) operates and maintains ferry vessels and terminals, constructs terminals, and acquires vessels. The system serves eight Washington counties and one Canadian province through 22 vessels and 20 terminals.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

### Administration of Public Sector Collective Bargaining Laws.

The state bargains with ferry employee organizations under the Marine Employees' Collective Bargaining Act (MECBA) over wages, hours, working conditions, and insurance. The MECBA is administered by the Marine Employees' Commission (MEC). The state also collectively bargains under a separate statute over wages, hours, and other terms and conditions of employment with the representatives of other state employee organizations.

The Public Employment Relations Commission (PERC) administers and enforces other public sector collective bargaining laws in Washington. The PERC was created in 1975 and originally had the MECBA under its jurisdiction. Prior to 1975, the MEC had administered ferry employee collective bargaining, but it was disbanded in 1975. In 1983, the MEC was re-established, and ferry employee collective bargaining was removed from the PERC's jurisdiction and transferred to the MEC.

### Impasse Procedures.

As a first step to bargaining, the employer and the employee organization must attempt to agree upon impasse procedures. If an agreement has not been reached after a reasonable period of negotiations, all impasse items must be submitted to binding interest arbitration. If the parties fail to agree upon impasse procedures, the statutory arbitration processes apply.

The parties have the option of requesting a mediator if there is an absence of impasse procedures or if either party fails to follow the impasse procedures. Parties may by mutual agreement waive mediation and proceed directly to interest arbitration.

### Grievance Arbitration Procedures.

Under the MECBA, a collective bargaining agreement may provide procedures for the consideration of ferry employee grievances and of disputes over the interpretation and application of existing agreements. The procedures must provide for the invoking of arbitration only with the approval of the ferry employee organization.

### Other Provisions.

Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. In the event of curtailment of ferry operations, employees must be relieved of service on the basis of their duration of employment in the ferry system.

### 2010 Legislation.

House Bill 3209 was enacted in 2010, and made several changes to the MECBA. The interest arbitration processes were modified so an arbitrator is not required to select from the final offers submitted by the parties at bargaining impasses. An arbitrator is required to issue a decision that is just and appropriate with respect to each impasse item.

The statutory factors that the arbitrator must consider in making its decision were modified. An arbitrator must take into consideration the financial ability of the Department of Transportation to pay for the compensation and fringe benefit provisions of an agreement.

Retirement systems or benefits are not subject to collective bargaining. Also, ferry employees are now required to bargain over the amount expended for health care benefits as part of the

super coalition of other state employees. When a contract expires before a new one is negotiated, the existing contract is effective for up to one year.

#### Joint Transportation Commission Budget Proviso Study.

A budget proviso in the 2010 Supplemental Transportation budget directed the Joint Transportation Committee (JTC) to conduct a comparison of the processing time of labor-related grievances and hearings at PERC and MEC, and investigate whether the necessary expertise exists at PERC to administer the grievances and hearings currently administered by MEC. The report concluded that:

- PERC processes unfair labor practice and grievance arbitration decisions faster than MEC; and
- PERC has the necessary expertise to administer the grievances and hearings currently administered by MEC.

#### **Summary of Bill:**

##### Findings and Intent.

Findings are made and the legislative intent of the bill is stated. The Legislature finds that the ferry system is a critical component of the state's highway system. The current system is financially unsustainable and the legislature intends for this act to provide guidance for efficiently managing scarce resources.

The Legislature recognizes that labor is one of the main cost drivers for operating the system and recent recommendations from the passenger vessel association confirm a similar recognition from legislative studies conducted over the years. The Legislature also recognizes the unique skills required of ferry employees to ensure safe and comfortable operations of the ferry system for both themselves and their customers.

Furthermore, the Legislature finds that ferry system management must play a strong role in improving the system and controlling costs, and this act is intended to provide the tools necessary for management to be held accountable for the performance of the system. It is time to take on the difficult task of controlling labor costs. This act intends to reign in abuses that have been brought to light and to give clear guidance so that the relationship between employees and management can move from an adversarial one to one where the focus is on improving efficiencies, customer service, and working cohesively.

##### Scope of Negotiations.

An agreement may not contain certain provisions at a rate greater than those received by most state employees who bargain under a separate statute. The provisions listed are:

- overtime, standby, call out, holiday, or any other pay to be paid at a rate greater than time and one-half base pay;
- rounding of regular time, overtime, compensatory time, or any other time at greater than six minute increments;
- compensatory time to be earned at a rate greater than time and one-half;
- exchange time to be earned at a rate greater than straight time;
- entitlement to any type of compensation or penalty for other than work performed;
- annual vacation leave, sick leave, or personal holiday leave accruals;
- accruals of other types of leave not mentioned in this subsection;

- number of compensated holidays;
- cash outs of any type of leave or compensatory time;
- minimum call back time or pay;
- a guaranteed minimum shift period;
- penalty pay;
- travel time pay for commuting to and from work;
- free passage on ferries for employees or their families;
- compensation for meals;
- employee selection of work stations, vessels, or terminals;
- promotions;
- direction on who will be laid off in the event of a layoff action, bumping rights, or layoff options;
- staffing levels;
- take-home vehicles; or
- training.

Additionally, ferry employees may not receive interest earned on retroactive compensation increases. Extension of these provisions in any collective bargaining agreement is prohibited.

Other Collective Bargaining Provisions.

Interest arbitration for ferry employees is eliminated and related sections are repealed. In the event that there is not agreement between the parties, either party may request the PERC to appoint an impartial and disinterested person to act as a mediator to bring parties together to settle the dispute.

Managers are no longer allowed to belong to the same collective bargaining unit representing employees whom they supervise. Captains of ferry vessels are established as the sole individual responsible for all activities aboard a vessel. Beginning January 1, 2012, captains may not be included in a collective bargaining unit.

The MEC is abolished and the duties and responsibilities of the MEC are transferred to the PERC. The grievance arbitration procedures are modified. Rather than invoking arbitration only with the approval of the employee organization, arbitration may only be invoked if both the employee organization and management agree.

The section regarding employee seniority rights when ferry service is curtailed is repealed.

**Appropriation:** None.

**Fiscal Note:** Requested on 01/24/2011.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.