

# HOUSE BILL REPORT

## HB 1511

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### As Reported by House Committee On: Labor & Workforce Development

**Title:** An act relating to promoting efficiency in the Washington state ferry system through personnel and administration reforms.

**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 History:**

##### **Committee Activity:**

Labor & Workforce Development: 2/1/11, 3/23/11 [DPS].

#### **Brief Summary of Substitute Bill**

- Merges the Marine Employees' Commission (MEC) with the Public Employment Relations Commission (PERC) by December 31, 2011, and establishes the MEC as an independent division within the PERC.

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### HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Sells, Chair; Reykdal, Vice Chair; Condotta, Ranking Minority Member; Fagan, Green, Kenney, Miloscia, Moeller, Ormsby, Roberts and Warnick.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Shea, Assistant Ranking Minority Member; Taylor.

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

#### **Background:**

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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.*

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.

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 reestablished, and ferry employee collective bargaining was removed from the PERC's jurisdiction and transferred to the MEC.

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.

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 the PERC and the MEC, and investigate whether the necessary expertise exists at the PERC to administer the grievances and hearings currently administered by the MEC. The report concluded that:

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

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

The MEC is merged with the PERC and becomes an independent division within the PERC by December 31, 2011. The Office of Financial Management (OFM) must oversee the merger and ensure that the only costs transferred to the PERC are direct costs associated with the members of the MEC themselves.

The JTC must meet and consult with the Governor to set parameters around collective bargaining. The PERC is required to coordinate with the Department of Transportation to provide the JTC with a report on implementation of these provisions by December 31, 2011.

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

### **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, that the current system is financially unsustainable, and the Legislature intends 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 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.

### **Substitute Bill Compared to Original Bill:**

Provisions are removed that:

- prohibit certain items from being included in a ferry collective bargaining agreement;
- disallow ferry employees from receiving interest earned on retroactive compensation increases;
- eliminate interest arbitration procedures;
- prohibit certain ferry managers from belonging to the same bargaining unit as the employees they supervise; and
- establish captains as responsible for all activities aboard a vessel, and prohibit captains from being members of a bargaining unit.

Instead of abolishing the MEC and transferring responsibilities associated with the MEC to the PERC, the MEC is merged with the PERC. The MEC must become an independent division within the PERC by December 31, 2011. The OFM is required to oversee the MEC into the PERC merger. Only direct costs of the MEC Commissioners may be transferred to the PERC.

The JTC must meet and consult with the Governor to set parameters around collective bargaining. The PERC is required to coordinate with the Department of Transportation to provide the JTC with a report on implementation of the bill by December 31, 2011.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on March 23, 2011.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) These bills come after many years of trying to make savings in the ferry system. Washington has the fourth largest ferry system in the world and the largest in the United States. Most of the costs in the ferry system are labor costs. The Legislature has been transferring money from other accounts into the ferry system for years, but it will be in the red very soon. There is no other money in the other accounts any longer.

These bills did not come out of nowhere. A number of studies and audits have been conducted and there have been several efforts over the years to change the ferry system. Several changes have been made to prioritize and lower costs in the ferry system. For example major changes were made in 2008, but labor costs were not substantially addressed. Ferry unions have made concessions, but these were small.

House Bill 3209 from last year sought to make major changes to treat ferry employees more like other state employees. Ferry employees are not average state employees. They bring special skills and experience, and work in a unique environment. Certain practices by outlier employees were brought to light in the media. These outlier employees were costing the ferry system a tremendous amount of money. It was expected that negotiations would deal with all of these topics, but few major changes were made. An impasse was reached and the impasse items were submitted to arbitration in September. Negotiated contracts were found not financially feasible by the OFM in November. The bills being heard today brings a full toolbox. The parties are now in negotiations again. There is another bill in the Transportation budget that deals with management issues.

The part of the bill that moves the MEC to the PERC is a recommendation from a study required under a Transportation budget proviso. The MEC was originally put into place because the PERC was not processing claims fast enough. That is no longer the case. The PERC has the expertise to handle these cases and it would save money. Another study compared ferry employee benefits with those provided to other state employees. In most cases the benefits ferry employees receive is beyond what the average state employee receives.

The Governor has said that she will not continue to bail out the ferry system by transferring money from other accounts. The bills introduced this year hold both ferry management and labor accountable. This bill gives management tools to cut costs. The "Waste on the Water" series put a light on money being wasted in the ferry system, but this bill is not just reacting to news stories. These issues have been well-documented for years.

(Opposed) The prime sponsor has been working hard to find solutions for transportation funding issues. It is important for the Labor and Workforce Development Committee to be involved in these bills. It adds value to the process. A major issue for constituents is that communities dependent on ferries are dying because of lack of service. The Governor's budget makes even further cuts to service. This bill does not address these issues.

This is an incredibly hostile work environment. The problem is not rogue employees, but a dysfunctional headquarters. This is not a difficult problem, but a straightforward question of personnel and fleet management. These are fine mariners and employees and the focus should be on efficiency at headquarters.

This bill will have devastating impacts on ferry workers and the larger labor movement. Collective bargaining is a vital right and gives workers a voice on issues and in negotiations with management. Collective bargaining increases productivity and the inclusion of workers in decision-making results in better decisions. This bill tramples on contractual rights and sends a message to all workers. In the labor community an injury to one is an injury to all.

The elephant in the room is the lost funding source for the WSF. The Transportation Committee should find another funding source for ferries. There is no value in a fix that does not take into account the root causes of the problem.

These issues can be taken care of through negotiation and arbitration. Management already has the tools and could control costs. The parties are back to the table, not because of these bills, but because of a letter from the Governor asking them to return. Workers have tried to be part of the solution. Many studies and audits have been done, but workers were never part of the studies and were never asked their opinions. Workers have a better understanding of how systems work and have ideas on how to save money. There is no basis for targeting one part of the organization without determining whether it will help.

The Legislature should not overreact to media reports. These issues have been dealt with and most employees are hardworking and honest. This bill makes workers feel underappreciated. This is a kneejerk response and will permanently damage labor and management relations. The media did not tell the truth and scapegoated employees. This bill will have the opposite effect of its stated intent. It will drive away senior employees and promising junior employees. Employees will be demoralized and unmotivated.

Following the wildcat strike in 1981, Governor Spellman put together an agreement. The unions promised they will never strike so long as there is interest arbitration. The MEC was also reestablished. The MEC and interest arbitration have led to 30 years of no strikes. The MEC is a good value to taxpayers. Moving to the PERC would be more expensive. The report left out one important aspect – many issues are settled and never go to the MEC. The MEC solves labor disputes.

Ferry employees are different from other state employees. There are Coast Guard requirements, drug tests, and other unique working conditions.

It would be a mistake to remove captains from collective bargaining units. Captains are always concerned with safety and other groups have other interests. You do not want a captain taking a risk to save some time. Captains are required to report various activities to other jurisdictions and this sometimes adversely affects customer safety goals and timeliness. Captains need to continue to be part of a bargaining unit and have their interests protected.

This bill will ultimately hurt the economy and risk safety. The state saves considerable money with this system. The ferry system has a highly skilled workforce and is consistently rated high for efficiency, safety, costs, and timeliness. Ferries deliver the gold standard with limited resources.

Many families and small business depend on the ferries. This bill will erode cohesiveness. It prevents labor and management from thinking creatively about how to cut costs and create efficiencies.

**Persons Testifying:** (In support) Representative Clibborn, prime sponsor; and Walt Elliott, Ferry Advisory Committees.

(Opposed) Representative Seaquist; Rebecca Johnson, Washington State Labor Council; Terri Mast, Patty Snyder, Peter Hart, and Alan Cote, The Inlandboatmans Union; Jeff Duncan, Jim Sturgul, Alex Zecha, Bruce Cooper, and Chris Sutton, Marine Engineers' Beneficial Association; Chris Sutton, Tim Saffle, and Gregory Faust, International Organization of Masters, Mates, and Pilots; Robert Scott, Marty Yellam, Marcus Law, and Michael Garling, Puget Sound Metal Trades; Nicole Grant, Certified Electrical Workers of Washington; and Melinda McBride.

**Persons Signed In To Testify But Not Testifying:** None.