

SENATE BILL REPORT

ESSB 5992

As Passed Senate, February 27, 2015

Title: An act relating to modifying certain requirements for ferry vessel construction.

Brief Description: Modifying certain requirements for ferry vessel construction.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators King, Hobbs, Fain, Liias, Litzow, Braun, Schoesler, Parlette, Warnick, Sheldon, Becker and Brown).

Brief History:

Committee Activity: Transportation: 2/17/15, 2/19/15 [DPS].

Passed Senate: 2/27/15, 48-1.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5992 be substituted therefor, and the substitute bill do pass.

Signed by Senators King, Chair; Fain, Vice Chair; Hobbs, Ranking Minority Member; Liias, Assistant Ranking Minority Member; Baumgartner, Cleveland, Habib, Jayapal, Litzow, Miloscia, Pedersen, Rivers and Sheldon.

Staff: Hayley Gamble (786-7452)

Background: Washington State Ferries (WSF) may use design-build as a contracting option for construction of new ferries, whereby design and construction are completed by the bidder. Current design-build laws available to WSF include a provision that any vessels constructed must be built in Washington.

An independent owners' representative is a position used by some entities as a third-party intermediary to facilitate construction projects. Their roles may include project quality oversight and change-order management.

A 2012 audit of WSF vessel construction costs by the State Auditor's Office contained several recommendations for improving vessel construction.

Summary of Engrossed Substitute Bill: WSF must use a design-build purchasing process for new auto vessels. WSF also must use an independent owners' representative as a third-party intermediary to serve as WSF's primary advocate and communicator with the design-

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build proposers, perform project quality oversight, manage change orders, and ensure the contract is adhered to.

WSF must use a fixed-price contract, which is defined as a contract that requires the contractor to deliver a project for a set price. Change orders are allowable but should be used on a limited basis. To accommodate change orders, WSF must identify up to 5 percent of the contract price as contingency funds in their legislative appropriation request. The Office of Financial Management must hold these funds in reserve and may approve their release.

New vessel contracts must include a requirement that all vessel design and drawings are complete and approved by the U.S. Coastguard prior to construction beginning.

If initial bids on a new vessel are greater than 5 percent above the Department of Transportation engineers' estimate for the project, all bids must be rejected and a new request that is not subject to build-in-Washington requirements is issued.

Options executed on existing contracts for new 144-car vessels are exempt from the requirements in this bill.

The bill is contingent on the enactment of SB 5987, concerning transportation revenue, by June 30, 2015. The provisions of this act apply to new project contracts funded by SSB 5987.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2015. This bill is also contingent upon passage of the new transportation revenue bill, SB 5987.

Staff Summary of Public Testimony on Original Bill: OTHER: WSDOT would like to see more specific language relating to the independent owners representative (IOR) that requires experience relevant to Washington. The costs of an IOR should be considered. Canada recently purchased vessels from Poland for much less than Washington paid for the recently purchased 144 car vessels. Washington should use open bidding practices.

Persons Testifying: OTHER: Lynn Peterson, WSDOT Secretary; Bob Pishue, WA Policy Center.