

# SENATE BILL REPORT

## 2ESSB 5992

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As Passed Senate, June 28, 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.

**Third Special Session:** Passed Senate: 6/28/15, 41-4.

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### 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 Second Engrossed Substitute Bill:** Issuing a Request for Proposals. The Washington State Department of Transportation (WSDOT) may not issue a request for

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proposals (RFP) for vessels without specific authorization from the Legislature. After July 1, 2017, if initial bids on a new vessel are greater than 5 percent above the WSDOT 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.

Contracting and Process Requirements for Construction of a New Vessel. WSF must use a design-build purchasing process for new auto vessels. WSF also must use an independent owners' representative (IOR) as a third-party intermediary during the development and construction of the first vessel constructed in a new class. The IOR is to serve as WSF's primary advocate and communicator with the design-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 10 percent of the contract price as contingency funds on vessels powered with natural gas, and up to 5 percent of the contract price as contingency funds on all other vessels, 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 meet the requirements of the U.S. Coastguard prior to construction beginning.

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

A study of the state's ferry vessel procurement practices by the Washington State institute for public policy is required, with a report due to the Legislature by December 1, 2016.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**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.