

**SHB 2161 - H AMD 767**

By Representative Fey

**ADOPTED 04/25/2019**

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

3 **"Sec. 1.** RCW 47.60.810 and 2015 3rd sp.s. c 14 s 3 are each  
4 amended to read as follows:

5 (1) The department shall use a modified request for proposals  
6 process when purchasing new auto ferries, except for new 144-auto  
7 ferries purchased through an option on a contract executed before  
8 July 6, 2015, whereby the prevailing shipbuilder and the department  
9 engage in a design and build partnership for the design and  
10 construction of the auto ferries. The process consists of the three  
11 phases described in subsection (3) of this section.

12 (2) Throughout the three phases described in subsection (3) of  
13 this section, the department shall employ an independent owner's  
14 representative to serve as a third-party intermediary between the  
15 department and the proposers, and subsequently the successful  
16 proposer. However, this representative shall serve only during the  
17 development and construction of the first vessel constructed as part  
18 of a new class of vessels developed after July 6, 2015. The  
19 independent owner's representative shall:

20 (a) Serve as the department's primary advocate and communicator  
21 with the proposers and successful proposer;

22 (b) Perform project quality oversight;

23 (c) Manage any change order requests;

24 (d) Ensure that the contract is adhered to and the department's  
25 best interests are considered in all decisions; and

26 (e) Possess knowledge of and experience with inland waterways,  
27 Puget Sound vessel operations, the propulsion system of the new  
28 vessels, and Washington state ferries operations.

29 (3) The definitions in this subsection apply throughout RCW  
30 47.60.812 through 47.60.822.

31 (a) "Phase one" means the evaluation and selection of proposers  
32 to participate in development of technical proposals in phase two.

1 (b) "Phase two" means the preparation of technical proposals by  
2 the selected proposers in consultation with the department.

3 (c) "Phase three" means the submittal and evaluation of bids, the  
4 award of the contract to the successful proposer, and the design and  
5 construction of the auto ferries.

6 (4) The department may modify an existing option contract  
7 executed prior to July 6, 2015, to allow for the purchase of up to  
8 five additional 144-auto ferries, for a total of nine 144-auto  
9 ferries. The department must execute a new modification to an  
10 existing option contract for each of the additional five ferries.

11 NEW SECTION. Sec. 2. A new section is added to chapter 47.60  
12 RCW to read as follows:

13 (1) To increase small business participation in ferry vessel  
14 procurement, the Washington state department of transportation's  
15 office of equal opportunity shall develop and monitor a state small  
16 business enterprise enforceable goals program. Pursuant to this  
17 program, the office shall establish contract goals for ferry vessel  
18 procurement. The contract goal is defined as a percentage of the  
19 contract award amount that the prime contractor must meet by  
20 subcontracting with small business enterprises. The enforceable goal  
21 for all ferry vessel procurement contracts will be set by the office.  
22 Prime contractors unable to meet the enforceable goal must submit  
23 evidence of good faith efforts to meet the contract goal to the small  
24 business enterprise enforceable goals program.

25 (2) Small business enterprises intending to benefit from the  
26 small business enterprise enforceable goals program established in  
27 subsection (1) of this section must meet the definition of "small  
28 business" in RCW 39.26.010. Prime contractors will enter all  
29 subcontractor payments into the office's diversity management and  
30 compliance system. The office of equal opportunity shall monitor  
31 program performance.

32 **Sec. 3.** RCW 47.60.315 and 2011 1st sp.s. c 16 s 3 are each  
33 amended to read as follows:

34 (1) The commission shall adopt fares and pricing policies by  
35 rule, under chapter 34.05 RCW, according to the following schedule:

36 (a) Each year the department shall provide the commission a  
37 report of its review of fares and pricing policies, with

1 recommendations for the revision of fares and pricing policies for  
2 the ensuing year;

3 (b) By September 1st of each year, beginning in 2008, the  
4 commission shall adopt by rule fares and pricing policies for the  
5 ensuing year.

6 (2) The commission may adopt by rule fares that are effective for  
7 more or less than one year for the purposes of transitioning to the  
8 fare schedule in subsection (1) of this section.

9 (3) The commission may increase ferry fares included in the  
10 schedule of charges adopted under this section by a percentage that  
11 exceeds the fiscal growth factor.

12 (4) The chief executive officer of the ferry system may authorize  
13 the use of promotional, discounted, and special event fares to the  
14 general public and commercial enterprises for the purpose of  
15 maximizing capacity use and the revenues collected by the ferry  
16 system. The department shall report to the commission a summary of  
17 the promotional, discounted, and special event fares offered during  
18 each fiscal year and the financial results from these activities.

19 (5) Fare revenues and other revenues deposited in the Puget Sound  
20 ferry operations account created in RCW 47.60.530 may not be used to  
21 support the Puget Sound capital construction account created in RCW  
22 47.60.505, unless the support for capital is separately identified in  
23 the fare.

24 (6) The commission may not raise fares until the fare rules  
25 contain pricing policies developed under RCW 47.60.290, or September  
26 1, 2009, whichever is later.

27 (7) The commission shall impose a vessel replacement surcharge of  
28 twenty-five cents on every one-way and round-trip ferry fare sold,  
29 including multiride and monthly pass fares. This surcharge must be  
30 clearly indicated to ferry passengers and drivers and, if possible,  
31 on the fare media itself.

32 (8) Beginning May 1, 2020, the commission shall impose an  
33 additional vessel replacement surcharge in an amount sufficient to  
34 fund twenty-five year debt service on one 144-auto hybrid vessel  
35 taking into account funds provided in chapter . . . (HB 1789), Laws  
36 of 2019 or chapter . . . (SSB 5419), Laws of 2019. The department of  
37 transportation shall provide to the commission vessel and debt  
38 service cost estimates. Information on vessels constructed or  
39 purchased with revenue from the surcharges must be publicly posted  
40 including, but not limited to, the commission web site.

1       (9) The vessel replacement surcharges imposed in this section may  
2 only be used for the construction or purchase of ferry vessels and to  
3 pay the principal and interest on bonds authorized for the  
4 construction or purchase of new ferry vessels."

5       Correct the title.

EFFECT: (1) Increases the number of 144-auto ferries, which may be purchased via a modification to an existing option contract from two to five, and the total number of 144-auto ferries from six to nine.

(2) Requires a new modification to an existing option contract for each additional ferry.

(3) Eliminates language requiring the Transportation Commission to adopt a specific increase to the vessel replacement surcharge.

(4) Requires the Transportation Commission to impose an additional vessel replacement surcharge beginning May 1, 2020. The amount of revenue must be sufficient to fund the 25-year debt service on one 144-auto ferry taking into account funds provided by HB 1789 or SSB 5419 (service fees).

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