
HOUSE BILL 2403

State of Washington

66th Legislature

2020 Regular Session

By Representatives Dufault and Walsh

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1 AN ACT Relating to legislative direction to manage escalating
2 costs by modifying management responsibilities and operational
3 considerations of state transportation public employees funded
4 biennially by the transportation budget; amending RCW 47.64.120;
5 adding new sections to chapter 47.64 RCW; and creating new sections.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The taxpayers of Washington and ferry
8 riders are seeking relief from the burden of operational and capital
9 costs associated with the ferry system. Ferries connect residents on
10 islands to the mainland. Those residents bear the brunt of the
11 operational costs through fares. There are roughly one hundred thirty
12 thousand residents paying for millions of rides per year directly,
13 and indirectly for goods delivered to their communities. Tourists
14 also ride the ferries and help pay the costs, but they are not
15 reliant on the system as part of their everyday lives. All taxpayers
16 in Washington pay for the capital costs of the system and some may
17 never ride a ferry. In 2011 and 2012, the joint legislative
18 transportation committee conducted a study of the management and
19 organization that identified employee wages, schedules, and working
20 conditions that went beyond those expected in the industry that were
21 increasing the costs of operations.

1 The legislature finds that years later the generosity of the
2 taxpayers is strained by the one billion dollar cost in the 2019-2021
3 biennium of the ferry system that continues to increase. The
4 legislature is readjusting operational expectations so that the
5 executive branch and employees can operate within the budgets that
6 the legislature and the taxpayers are willing to provide.

7 **Sec. 2.** RCW 47.64.120 and 2011 1st sp.s. c 16 s 7 are each
8 amended to read as follows:

9 (1) Except as otherwise provided in this chapter, the employer
10 and ferry system employee organizations, through their collective
11 bargaining representatives, shall meet at reasonable times to
12 negotiate in good faith with respect to wages, hours, working
13 conditions, and insurance, and other matters mutually agreed upon.
14 Employer funded retirement benefits shall be provided under the
15 public employees retirement system under chapter 41.40 RCW and shall
16 not be included in the scope of collective bargaining. Except as
17 provided under RCW 47.64.270, the employer is not required to bargain
18 over health care benefits. Any retirement system or retirement
19 benefits shall not be subject to collective bargaining.

20 (2) Upon ratification of bargaining agreements, ferry employees
21 are entitled to an amount equivalent to the interest earned on
22 retroactive compensation increases. For purposes of this section, the
23 interest earned on retroactive compensation increases is the same
24 monthly rate of interest that was earned on the amount of the
25 compensation increases while held in the state treasury. The interest
26 will be computed for each employee until the date the retroactive
27 compensation is paid, and must be allocated in accordance with
28 appropriation authority. The interest earned on retroactive
29 compensation is not considered part of the ongoing compensation
30 obligation of the state and is not compensation earnable for the
31 purposes of chapter 41.40 RCW. Negotiations shall also include
32 grievance procedures for resolving any questions arising under the
33 agreement, which shall be embodied in a written agreement and signed
34 by the parties.

35 (3) The employer shall not bargain over the rights of management
36 as identified in this subsection, section 3 of this act, and RCW
37 41.80.040. The rights of management that may not be bargained
38 include:

1 (a) The use of compensatory time. Management may place limits or
2 restrictions on a ferry employee's use of compensatory time, such as
3 requiring an employee to use compensatory time within a twenty-four
4 month period; and

5 (b) The ability to manage and adjust schedules. Management has
6 the right to adjust schedules as needed and approve or disapprove
7 employees' use of leave without any involvement by the union.

8 (4) A collective bargaining agreement may not contain any
9 provision that extends the term of an existing collective bargaining
10 agreement or applicability of items incompatible with this section in
11 an existing collective bargaining agreement.

12 (5) Except as otherwise provided in this chapter, if a conflict
13 exists between an executive order, administrative rule, or agency
14 policy relating to wages, hours, and terms and conditions of
15 employment and a collective bargaining agreement negotiated under
16 this chapter, the collective bargaining agreement shall prevail. A
17 provision of a collective bargaining agreement that conflicts with
18 the terms of a statute is invalid and unenforceable.

19 NEW SECTION. Sec. 3. A new section is added to chapter 47.64
20 RCW to read as follows:

21 (1) Subject to section 4 of this act, any collective bargaining
22 agreement with a ferry employee organization that is the
23 representative of ferry employees must comply with the provisions of
24 this section. Any provision in an agreement that conflicts with the
25 provisions of this section is void and unenforceable.

26 (2) A collective bargaining agreement with a ferry employee
27 organization that is the representative of ferry employees may not
28 contain any provision that:

29 (a) Mandates a ferry employee to transfer vacation, sick, or
30 compensatory leave time to any other person or to a union leave bank.
31 This section does not prohibit management from allowing ferry
32 employees to voluntarily transfer leave to a fellow employee under a
33 voluntary shared leave program;

34 (b) Entitles a ferry employee to receive travel pay and mileage
35 for travel to and from the ferry employee's home and his or her
36 regular duty station or his or her primary terminal;

37 (c) Entitles a ferry employee, who does not work on the holiday,
38 to receive holiday pay that exceeds the amount the employee would

1 normally be paid at the employee's straight time rate of pay on a
2 nonholiday day;

3 (d) Entitles a ferry employee to be allocated more than three
4 days of bereavement leave per instance of death. This section does
5 not prohibit management from allowing a ferry employee to use
6 vacation, compensatory, or unpaid leave for bereavement;

7 (e) Entitles a ferry employee to receive overtime pay for
8 attending training classes, unless the time spent in training results
9 in the ferry employee working in excess of forty hours in a workweek.
10 Any overtime paid to the ferry employee for attending training
11 classes must be for actual time the ferry employee is in training or
12 working;

13 (f) Uses more than fifteen minute increments when calculating the
14 number of hours worked for purposes of compensation, including
15 overtime pay. An agreement may not include compensation that rounds
16 up to greater than a fifteen minute increment for any type of
17 additive benefit that is not the employee's compensation for time at
18 work;

19 (g) Contains call back or call out provisions that allow a ferry
20 employee to be paid for time not actually worked by the ferry
21 employee or that provide a minimum number of hours to be paid to the
22 ferry employee regardless of the actual hours worked;

23 (h) Contains provisions, such as seniority lists, that limit,
24 restrict, direct, or presume management's ability to hire,
25 discipline, or terminate a ferry employee. Nothing in this section
26 prohibits management from using seniority in the hiring or selection
27 process when seniority is applied between two equally qualified
28 candidates;

29 (i) Limits, restricts, directs, or presumes management's ability
30 to decide which qualified ferry employees to call to fill open
31 shifts. Management has the discretion to call any qualified ferry
32 employee to fill an opening or shift;

33 (j) Grants a ferry employee severance pay that exceeds more than
34 one week of the employee's straight time rate of pay if the
35 employee's position is eliminated due to route abandonment. Nothing
36 in this section restricts a ferry employee's rights to unemployment
37 insurance benefits;

38 (k) Limits, restricts, directs, or presumes management's ability
39 to establish compensation for ferry employees who are not working due
40 to their vessels undergoing maintenance or repairs. Management has

1 the discretion to provide a reduced salary to those ferry employees,
2 and nothing in this section prohibits those ferry employees from
3 using annual leave or compensatory time for the purposes of receiving
4 their full rate of pay;

5 (l) Directs management's discretion regarding paying for public
6 transportation passes for ferry employees as part of a commute trip
7 reduction program;

8 (m) Entitles retired ferry employees or spouses or dependents of
9 ferry employees to free ferry passes;

10 (n) Provides additional compensation for completion of duties
11 that are viewed as undesirable but necessary for operations, such as
12 cleaning up excrement, vomit, or blood. These duties must be
13 incorporated into the job descriptions as necessary duties of certain
14 positions to maintain a safe working and operating environment; and

15 (o) Sets or controls, with no discretion given to management,
16 payments to ferry employees for traveling to alternative duty
17 stations.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 47.64
19 RCW to read as follows:

20 Nothing contained in sections 2 and 3 of this act shall be
21 construed to alter any existing collective bargaining unit or the
22 provisions of any existing collective bargaining agreement until any
23 such agreement has expired or until any such bargaining unit has been
24 modified as provided by law.

25 NEW SECTION. **Sec. 5.** A new section is added to chapter 47.64
26 RCW to read as follows:

27 Sections 2 through 4 of this act apply to all collective
28 bargaining agreements of ferry employees of the marine transportation
29 division of the department of transportation.

30 NEW SECTION. **Sec. 6.** This act may be known and cited as the
31 ferry rider relief act.

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