
SENATE BILL 5710

State of Washington

69th Legislature

2025 Regular Session

By Senators MacEwen and Dozier

Read first time 02/10/25. Referred to Committee on Transportation.

1 AN ACT Relating to addressing diesel vessel procurement at the
2 Washington state ferries; amending RCW 47.56.030, 47.60.010,
3 47.60.810, 47.60.826, and 47.56.030; adding a new section to chapter
4 47.60 RCW; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 47.60
7 RCW to read as follows:

8 (1) The department shall contract for the acquisition of clean
9 diesel ferry vessels to replace the current Issaquah class. The
10 department may use a multiple contract procurement approach to
11 potentially accelerate vessel delivery.

12 (2)(a) The contract or contracts must be for a minimum of two
13 vessels and are exempt from the requirements set forth in RCW
14 47.60.810 through 47.60.824.

15 (b) The contract or contracts may employ the following
16 procurement methods:

17 (i) Design-build procedure as authorized under chapter 39.10 RCW;

18 (ii) Design-bid-build as authorized under chapter 39.04 RCW or an
19 equivalent process allowed in statute as determined by the
20 department; or

1 (iii) Lease with an option to buy in accordance with RCW
2 47.60.010. The terms of any plan to pursue a lease with an option to
3 buy agreement must be approved by the governor and appropriate
4 committees of the legislature and are subject to the availability of
5 amounts appropriated for this specific purpose.

6 (c) The department must award a credit of 13 percent of the bid
7 price for bid proposals for vessels constructed in the state of
8 Washington, which must be adjusted to reflect the proportion of the
9 construction of the vessels that occurs within the state. This credit
10 represents the:

11 (i) Amount of economic and revenue loss to the state of
12 Washington from constructing vessels outside the state of Washington,
13 as indicated by the Washington institute for public policy study
14 regarding Washington state ferry vessel procurement dated December
15 2016; and

16 (ii) Additional costs of transport, potential delay, and owner
17 oversight incurred for construction at shipyards located outside the
18 state of Washington.

19 (d) The department may not limit the means of transportation
20 utilized for the delivery voyage of any vessel acquired pursuant to
21 this act.

22 (3) The department may postpone the conversion of the second and
23 third jumbo mark II vessel to hybrid electric vessels until the first
24 conversion is complete and has been proven to be effective so as not
25 to exacerbate service problems.

26 **Sec. 2.** RCW 47.56.030 and 2023 c 429 s 6 are each amended to
27 read as follows:

28 (1) Except as permitted under chapter 47.29 or 47.46 RCW:

29 (a) Unless otherwise delegated, and subject to RCW 47.56.820, the
30 department of transportation shall have full charge of the planning,
31 analysis, and construction of all toll bridges and other toll
32 facilities including the Washington state ferries, and the operation
33 and maintenance thereof.

34 (b) The transportation commission shall determine and establish
35 the tolls and charges thereon.

36 (c) Unless otherwise delegated, and subject to RCW 47.56.820, the
37 department shall have full charge of planning, analysis, and design
38 of all toll facilities. The department may conduct the planning,

1 analysis, and design of toll facilities as necessary to support the
2 legislature's consideration of toll authorization.

3 (d) The department shall utilize and administer toll collection
4 systems that are simple, unified, and interoperable. To the extent
5 practicable, the department shall avoid the use of toll booths. The
6 department shall set the statewide standards and protocols for all
7 toll facilities within the state, including those authorized by local
8 authorities.

9 (e) Except as provided in this section, the department shall
10 proceed with the construction of such toll bridges and other
11 facilities and the approaches thereto by contract in the manner of
12 state highway construction immediately upon there being made
13 available funds for such work and shall prosecute such work to
14 completion as rapidly as practicable. The department is authorized to
15 negotiate contracts for any amount without bid under (e) (i) and (ii)
16 of this subsection:

17 (i) Emergency contracts, in order to make repairs to ferries or
18 ferry terminal facilities or removal of such facilities whenever
19 continued use of ferries or ferry terminal facilities constitutes a
20 real or immediate danger to the traveling public or precludes prudent
21 use of such ferries or facilities; and

22 (ii) Single source contracts for vessel dry dockings, when there
23 is clearly and legitimately only one available bidder to conduct dry
24 dock-related work for a specific class or classes of vessels. The
25 contracts may be entered into for a single vessel dry docking or for
26 multiple vessel dry dockings for a period not to exceed two years.

27 (f) Any new vessel planning, construction, purchase, analysis, or
28 design work must be consistent with RCW 47.60.810, except as
29 otherwise provided in RCW 47.60.826 and section 1 of this act.

30 (2) The department shall proceed with the procurement of
31 materials, supplies, services, and equipment needed for the support,
32 maintenance, and use of a ferry, ferry terminal, or other facility
33 operated by Washington state ferries, in accordance with chapter
34 43.19 RCW except as follows:

35 (a) When the secretary of the department of transportation
36 determines in writing that the use of invitation for bid is either
37 not practicable or not advantageous to the state and it may be
38 necessary to make competitive evaluations, including technical or
39 performance evaluations among acceptable proposals to complete the
40 contract award, a contract may be entered into by use of a

1 competitive sealed proposals method, and a formal request for
2 proposals solicitation. Such formal request for proposals
3 solicitation shall include a functional description of the needs and
4 requirements of the state and the significant factors.

5 (b) When purchases are made through a formal request for
6 proposals solicitation the contract shall be awarded to the
7 responsible proposer whose competitive sealed proposal is determined
8 in writing to be the most advantageous to the state taking into
9 consideration price and other evaluation factors set forth in the
10 request for proposals. No significant factors may be used in
11 evaluating a proposal that are not specified in the request for
12 proposals. Factors that may be considered in evaluating proposals
13 include but are not limited to: Price; maintainability; reliability;
14 commonality; performance levels; life-cycle cost if applicable under
15 this section; cost of transportation or delivery; delivery schedule
16 offered; installation cost; cost of spare parts; availability of
17 parts and service offered; and the following:

18 (i) The ability, capacity, and skill of the proposer to perform
19 the contract or provide the service required;

20 (ii) The character, integrity, reputation, judgment, experience,
21 and efficiency of the proposer;

22 (iii) Whether the proposer can perform the contract within the
23 time specified;

24 (iv) The quality of performance of previous contracts or
25 services;

26 (v) The previous and existing compliance by the proposer with
27 laws relating to the contract or services;

28 (vi) Objective, measurable criteria defined in the request for
29 proposal. These criteria may include but are not limited to items
30 such as discounts, delivery costs, maintenance services costs,
31 installation costs, and transportation costs; and

32 (vii) Such other information as may be secured having a bearing
33 on the decision to award the contract.

34 (c) When purchases are made through a request for proposal
35 process, proposals received shall be evaluated based on the
36 evaluation factors set forth in the request for proposal. When
37 issuing a request for proposal for the procurement of propulsion
38 equipment or systems that include an engine, the request for proposal
39 must specify the use of a life-cycle cost analysis that includes an
40 evaluation of fuel efficiency. When a life-cycle cost analysis is

1 used, the life-cycle cost of a proposal shall be given at least the
2 same relative importance as the initial price element specified in
3 the request of proposal documents. The department may reject any and
4 all proposals received. If the proposals are not rejected, the award
5 shall be made to the proposer whose proposal is most advantageous to
6 the department, considering price and the other evaluation factors
7 set forth in the request for proposal.

8 **Sec. 3.** RCW 47.60.010 and 2023 c 429 s 5 are each amended to
9 read as follows:

10 The department is authorized to acquire by lease, charter,
11 contract, purchase, condemnation, or construction, and partly by any
12 or all of such means, and to thereafter operate, improve, and extend,
13 a system of ferries on and crossing Puget Sound and any of its
14 tributary waters and connections thereof, and connecting with the
15 public streets and highways in the state. However, any new vessel
16 planning, construction, purchase, analysis, or design work must be
17 consistent with RCW 47.60.810, except as otherwise provided in RCW
18 47.60.826 and section 1 of this act. The system of ferries shall
19 include such boats, vessels, wharves, docks, approaches, landings,
20 franchises, licenses, and appurtenances as shall be determined by the
21 department to be necessary or desirable for efficient operation of
22 the ferry system and best serve the public. Subject to RCW 47.56.820,
23 the department may in like manner acquire by purchase, condemnation,
24 or construction and include in the ferry system such toll bridges,
25 approaches, and connecting roadways as may be deemed by the
26 department advantageous in channeling traffic to points served by the
27 ferry system. In addition to the powers of acquisition granted by
28 this section, the department is empowered to enter into any
29 contracts, agreements, or leases with any person, firm, or
30 corporation and to thereby provide, on such terms and conditions as
31 it shall determine, for the operation of any ferry or ferries or
32 system thereof, whether acquired by the department or not.

33 The authority of the department to sell and lease back any state
34 ferry, for federal tax purposes only, as authorized by 26 U.S.C.,
35 Sec. 168(f)(8) is confirmed. Legal title and all incidents of legal
36 title to any ferry sold and leased back (except for the federal tax
37 benefits attributable to the ownership thereof) shall remain in the
38 state of Washington.

1 **Sec. 4.** RCW 47.60.810 and 2023 c 429 s 3 are each amended to
2 read as follows:

3 (1) Except as otherwise provided in RCW 47.60.826 and section 1
4 of this act, the department shall use a modified request for
5 proposals process when purchasing new auto ferries, except for new
6 144-auto ferries purchased through an option on a contract executed
7 before July 6, 2015, whereby the prevailing shipbuilder and the
8 department engage in a design and build partnership for the design
9 and construction of the auto ferries. The process consists of the
10 three phases described in subsection (3) of this section.

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

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

21 (b) Perform project quality oversight;

22 (c) Manage any change order requests;

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

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

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

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

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

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

37 (4) The department may modify an existing option contract
38 executed prior to July 6, 2015, to allow for the purchase of up to
39 five additional 144-auto ferries, for a total of nine 144-auto

1 ferries. The department must execute a new modification to an
2 existing option contract for each of the additional five ferries.

3 **Sec. 5.** RCW 47.60.826 and 2023 c 429 s 2 are each amended to
4 read as follows:

5 (1) (a) ((The)) Except as provided in section 1 of this act, the
6 department shall contract for the acquisition of up to five new
7 hybrid diesel-electric ferry vessels that can carry up to 144
8 vehicles, using a one or two contract procurement approach to
9 potentially accelerate vessel delivery.

10 (b) The Washington state ferries shall make available the design
11 for the 144 vehicle hybrid electric Olympic class vessel to potential
12 bidders. Incentives may be awarded by the department to bidders who
13 offer design modifications that:

14 (i) Lower the minimum number of crew needed to staff the vessel
15 in accordance with United States coast guard requirements;

16 (ii) Incorporate materials, technologies, or other features that
17 lower life-cycle maintenance and operations costs;

18 (iii) Accelerate the proposed delivery schedule; or

19 (iv) Make other improvements determined to be beneficial by the
20 department. The Washington state ferries may allow for exceptions of
21 the 144 vehicle capacity of the vessel design in cases where
22 efficiencies outlined in (b) (i) or (ii) of this subsection are met.

23 (2) (a) The contract or contracts must be for a minimum of two
24 vessels, with options for up to five vessels in total, and are exempt
25 from the requirements set forth in RCW 47.60.810 through 47.60.824.

26 (b) The contract or contracts may employ the following
27 procurement methods:

28 (i) Design-build procedure as authorized under chapter 39.10 RCW;

29 (ii) Design-bid-build as authorized under chapter 39.04 RCW or an
30 equivalent process allowed in statute as determined by the
31 department; or

32 (iii) Lease with an option to buy in accordance with RCW
33 47.60.010. The terms of any plan to pursue a lease with an option to
34 buy agreement must be approved by the governor and appropriate
35 committees of the legislature and are subject to the availability of
36 amounts appropriated for this specific purpose.

37 (c) To the extent possible, the department shall establish and
38 apply evaluation criteria beyond low price to meet best value
39 objectives.

1 (d) The department must award a credit of 13 percent of the bid
2 price for bid proposals for vessels constructed in the state of
3 Washington, which must be adjusted to reflect the proportion of the
4 construction of the vessels that occurs within the state. This credit
5 represents the:

6 (i) Amount of economic and revenue loss to the state of
7 Washington from constructing vessels outside the state of Washington,
8 as indicated by the Washington institute for public policy study
9 regarding Washington state ferry vessel procurement dated December
10 2016; and

11 (ii) Additional costs of transport, potential delay, and owner
12 oversight incurred for construction at shipyards located outside the
13 state of Washington.

14 (e) The department must require that contractors meet the
15 requirements of RCW 39.04.320 regarding apprenticeships or other
16 state law or federal law equivalents, where such equivalents exist.

17 (f) The department must require that contractors meet the
18 requirements of chapter 90.48 RCW regarding water pollution control
19 or other state law or federal law equivalents, where such equivalents
20 exist.

21 (3) For contracts eligible for the use of federal funds,
22 contractors must comply with federal disadvantaged business
23 enterprise targets as outlined by the federal agency awarding funds.

24 (4) Contractors located in the state of Washington must meet the
25 requirements of RCW 47.60.835, the small business enterprise
26 enforceable goals program.

27 (5) The department shall employ third-party experts that report
28 to the Washington state ferries to serve as a supplementary resource.
29 The third-party experts contracted by the Washington state ferries
30 shall:

31 (a) Perform project quality oversight and report to the
32 transportation committees of the legislature and the office of
33 financial management on a semiannual basis on project schedule,
34 risks, and project budget;

35 (b) Assist with the management of change order requests;

36 (c) Advise on contract and technical matters; and

37 (d) Possess knowledge of and experience with inland waterways,
38 Puget Sound vessel operations, the propulsion system of the new
39 vessels, and Washington state ferries operations.

1 **Sec. 6.** RCW 47.56.030 and 2023 c 429 s 6 are each amended to
2 read as follows:

3 (1) Except as permitted under chapter 47.29 or 47.46 RCW:

4 (a) Unless otherwise delegated, and subject to RCW 47.56.820, the
5 department of transportation shall have full charge of the planning,
6 analysis, and construction of all toll bridges and other toll
7 facilities including the Washington state ferries, and the operation
8 and maintenance thereof.

9 (b) The transportation commission shall determine and establish
10 the tolls and charges thereon.

11 (c) Unless otherwise delegated, and subject to RCW 47.56.820, the
12 department shall have full charge of planning, analysis, and design
13 of all toll facilities. The department may conduct the planning,
14 analysis, and design of toll facilities as necessary to support the
15 legislature's consideration of toll authorization.

16 (d) The department shall utilize and administer toll collection
17 systems that are simple, unified, and interoperable. To the extent
18 practicable, the department shall avoid the use of toll booths. The
19 department shall set the statewide standards and protocols for all
20 toll facilities within the state, including those authorized by local
21 authorities.

22 (e) Except as provided in this section, the department shall
23 proceed with the construction of such toll bridges and other
24 facilities and the approaches thereto by contract in the manner of
25 state highway construction immediately upon there being made
26 available funds for such work and shall prosecute such work to
27 completion as rapidly as practicable. The department is authorized to
28 negotiate contracts for any amount without bid under (e)(i) and (ii)
29 of this subsection:

30 (i) Emergency contracts, in order to make repairs to ferries or
31 ferry terminal facilities or removal of such facilities whenever
32 continued use of ferries or ferry terminal facilities constitutes a
33 real or immediate danger to the traveling public or precludes prudent
34 use of such ferries or facilities; and

35 (ii) Single source contracts for vessel dry dockings, when there
36 is clearly and legitimately only one available bidder to conduct dry
37 dock-related work for a specific class or classes of vessels. The
38 contracts may be entered into for a single vessel dry docking or for
39 multiple vessel dry dockings for a period not to exceed two years.

1 (f) Any new vessel planning, construction, purchase, analysis, or
2 design work must be consistent with RCW 47.60.810, except as
3 otherwise provided in RCW 47.60.826 and section 1 of this act.

4 (2) The department shall proceed with the procurement of
5 materials, supplies, services, and equipment needed for the support,
6 maintenance, and use of a ferry, ferry terminal, or other facility
7 operated by Washington state ferries, in accordance with chapter
8 43.19 RCW except as follows:

9 (a) When the secretary of the department of transportation
10 determines in writing that the use of invitation for bid is either
11 not practicable or not advantageous to the state and it may be
12 necessary to make competitive evaluations, including technical or
13 performance evaluations among acceptable proposals to complete the
14 contract award, a contract may be entered into by use of a
15 competitive sealed proposals method, and a formal request for
16 proposals solicitation. Such formal request for proposals
17 solicitation shall include a functional description of the needs and
18 requirements of the state and the significant factors.

19 (b) When purchases are made through a formal request for
20 proposals solicitation the contract shall be awarded to the
21 responsible proposer whose competitive sealed proposal is determined
22 in writing to be the most advantageous to the state taking into
23 consideration price and other evaluation factors set forth in the
24 request for proposals. No significant factors may be used in
25 evaluating a proposal that are not specified in the request for
26 proposals. Factors that may be considered in evaluating proposals
27 include but are not limited to: Price; maintainability; reliability;
28 commonality; performance levels; life-cycle cost if applicable under
29 this section; cost of transportation or delivery; delivery schedule
30 offered; installation cost; cost of spare parts; availability of
31 parts and service offered; and the following:

32 (i) The ability, capacity, and skill of the proposer to perform
33 the contract or provide the service required;

34 (ii) The character, integrity, reputation, judgment, experience,
35 and efficiency of the proposer;

36 (iii) Whether the proposer can perform the contract within the
37 time specified;

38 (iv) The quality of performance of previous contracts or
39 services;

1 (v) The previous and existing compliance by the proposer with
2 laws relating to the contract or services;

3 (vi) Objective, measurable criteria defined in the request for
4 proposal. These criteria may include but are not limited to items
5 such as discounts, delivery costs, maintenance services costs,
6 installation costs, and transportation costs; and

7 (vii) Such other information as may be secured having a bearing
8 on the decision to award the contract.

9 (c) When purchases are made through a request for proposal
10 process, proposals received shall be evaluated based on the
11 evaluation factors set forth in the request for proposal. When
12 issuing a request for proposal for the procurement of propulsion
13 equipment or systems that include an engine, the request for proposal
14 must specify the use of a life-cycle cost analysis that includes an
15 evaluation of fuel efficiency. When a life-cycle cost analysis is
16 used, the life-cycle cost of a proposal shall be given at least the
17 same relative importance as the initial price element specified in
18 the request of proposal documents. The department may reject any and
19 all proposals received. If the proposals are not rejected, the award
20 shall be made to the proposer whose proposal is most advantageous to
21 the department, considering price and the other evaluation factors
22 set forth in the request for proposal.

23 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of
25 the state government and its existing public institutions, and takes
26 effect immediately.

--- END ---