H-3682.1

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**HOUSE BILL 2403**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Dufault and Walsh

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Entitles a ferry employee, who does not work on the holiday, to receive holiday pay that exceeds the amount the employee would normally be paid at the employee's straight time rate of pay on a nonholiday day;

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

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

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

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

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

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

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

(k) Limits, restricts, directs, or presumes management's ability to establish compensation for ferry employees who are not working due to their vessels undergoing maintenance or repairs. Management has the discretion to provide a reduced salary to those ferry employees, and nothing in this section prohibits those ferry employees from using annual leave or compensatory time for the purposes of receiving their full rate of pay;

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

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

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

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

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

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

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

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

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

**--- END ---**