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**ENGROSSED SUBSTITUTE HOUSE BILL 1093**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** House Committee on Transportation (originally sponsored by Representatives K. Schmidt, Johnson, Romero and Wolfe; by request of Department of General Administration)

Read first time 02/21/95.

1       AN ACT Relating to streamlining purchasing provisions for state  
2 agencies including Washington state ferries; amending RCW 47.56.030 and  
3 47.60.140; repealing RCW 47.60.651, 47.60.653, 47.60.655, 47.60.657,  
4 47.60.659, and 47.60.661; and declaring an emergency.

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

6       "**Sec. 1.** RCW 47.56.030 and 1977 ex.s. c 151 s 66 are each amended  
7 to read as follows:

8       The department of transportation shall have full charge of the  
9 construction of all toll bridges and other toll facilities including  
10 the Washington state ferries, and the operation and maintenance  
11 thereof. The transportation commission shall determine and establish  
12 the tolls and charges thereon, and shall perform all duties and  
13 exercise all powers relating to the financing, refinancing, and fiscal  
14 management of all toll bridges and other toll facilities including the  
15 Washington state ferries, and bonded indebtedness in the manner  
16 provided by law. The department shall have full charge of design of  
17 all toll facilities. The department shall proceed with the  
18 construction of such toll bridges and other facilities and the  
19 approaches thereto by contract in the manner of state highway

1 construction immediately upon there being made available funds for such  
2 work and shall prosecute such work to completion as rapidly as  
3 practicable. The department is authorized to negotiate contracts for  
4 any amount without bid in order to make repairs to ferries or ferry  
5 terminal facilities or removal of such facilities whenever continued  
6 use of ferries or ferry terminal facilities constitutes a real or  
7 immediate danger to the traveling public or precludes prudent use of  
8 such ferries or facilities.

9 The department shall proceed with the procurement of materials,  
10 supplies, services, and equipment needed for the support, maintenance,  
11 and use of a ferry, ferry terminal, or other facility operated by  
12 Washington state ferries, in accordance with chapter 43.19 RCW except  
13 as follows:

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

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

36 (a) The ability, capacity, and skill of the proposer to perform  
37 the contract or provide the service required;

38 (b) The character, integrity, reputation, judgment, experience, and  
39 efficiency of the proposer;

1 (c) Whether the proposer can perform the contract within the time  
2 specified;

3 (d) The quality of performance of previous contracts or services;

4 (e) The previous and existing compliance by the proposer with laws  
5 relating to the contract or services;

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

10 (g) Such other information as may be secured having a bearing on  
11 the decision to award the contract.

12 When purchases are made through a request for proposal process,  
13 proposals received shall be evaluated based on the evaluation factors  
14 set forth in the request for proposal. When a life cycle cost analysis  
15 is used, the life cycle cost of a proposal shall be given at least the  
16 same relative importance as the initial price element specified in the  
17 request of proposal documents. The department may reject any and all  
18 proposals received. If the proposals are not rejected, the award shall  
19 be made to the proposer whose proposal is most advantageous to the  
20 department, considering price and the other evaluation factors set  
21 forth in the request for proposal.

22 (3) The legislative transportation committee shall review the  
23 secretary's use of the request for proposals solicitation for  
24 Washington state ferries projects to determine if the process  
25 established under this act is appropriate. The results of the review,  
26 including recommendations for modification of the request for proposal  
27 process, shall be reported to the house of representatives and senate  
28 transportation committees by January 1, 1997.

29 **Sec. 2.** RCW 47.60.140 and 1987 c 69 s 1 are each amended to read  
30 as follows:

31 (1) The department is empowered to operate such ferry system,  
32 including all operations, whether intrastate or international, upon any  
33 route or routes, and toll bridges as a revenue-producing and self-  
34 liquidating undertaking. The department has full charge of the  
35 construction, rehabilitation, rebuilding, enlarging, improving,  
36 operation, and maintenance of the ferry system, including toll bridges,  
37 approaches, and roadways incidental thereto that may be authorized by  
38 the department, including the collection of tolls and other charges for

1 the services and facilities of the undertaking. The department has the  
2 exclusive right to enter into leases and contracts for use and  
3 occupancy by other parties of the concessions and space located on the  
4 ferries, wharves, docks, approaches, and landings, but, except as  
5 provided in subsection (2) of this section, no such leases or contracts  
6 may be entered into for more than ~~((five years, nor without public  
7 advertisement for bids as may be prescribed by the department.  
8 However, except as provided in subsection (2) of this section, the  
9 Colman Dock facilities may be leased for a period not to exceed))~~ ten  
10 years, nor without a competitive contract process, except as otherwise  
11 provided in this section. The competitive process shall be either an  
12 invitation for bids in accordance with the process established by  
13 chapter 43.19 RCW, or a request for proposals in accordance with the  
14 process established by RCW 47.56.030.

15 (2) As part of a joint development agreement under which a public  
16 or private developer constructs or installs improvements on ferry  
17 system property, the department may lease all or part of such property  
18 and improvements to such developers for that period of time, not to  
19 exceed fifty-five years, or not to exceed thirty years for those areas  
20 located within harbor areas, which the department determines is  
21 necessary to allow the developer to make reasonable recovery on its  
22 initial investment. Any lease entered into as provided for in this  
23 subsection that involves state aquatic lands shall conform with the  
24 Washington state Constitution and applicable statutory requirements as  
25 determined by the department of natural resources. That portion of the  
26 lease rate attributable to the state aquatic lands shall be distributed  
27 in the same manner as other lease revenues derived from state aquatic  
28 lands as provided in RCW 79.24.580.

29 NEW SECTION. Sec. 3. The following acts or parts of acts are each  
30 repealed:

- 31 (1) RCW 47.60.651 and 1987 c 183 s 1;
- 32 (2) RCW 47.60.653 and 1987 c 183 s 2;
- 33 (3) RCW 47.60.655 and 1987 c 183 s 3;
- 34 (4) RCW 47.60.657 and 1987 c 183 s 4;
- 35 (5) RCW 47.60.659 and 1987 c 183 s 5; and
- 36 (6) RCW 47.60.661 and 1987 c 183 s 6.

1        NEW SECTION.    **Sec. 4.**    This act is necessary for the immediate  
2 preservation of the public peace, health, or safety, or support of the  
3 state government and its existing public institutions, and shall take  
4 effect immediately.

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