

FINAL BILL REPORT

ESHB 3209

PARTIAL VETO C 283 L 10 Synopsis as Enacted

Brief Description: Managing costs of the ferry system.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Clibborn, Rolfes, Seaquist and Morris).

House Committee on Transportation

Background:

The Washington State Department of Transportation (WSDOT) Ferries Division operates and maintains ferry vessels and terminals, constructs terminals, and acquires vessels. The system serves eight Washington counties and one Canadian province through 22 vessels and 20 terminals.

The 2009-11 Transportation Budget appropriates \$400.6 million for the operating expenses and \$98.4 million for the capital expenses of the Ferries Division.

The Washington State Ferry (WSF) system is part of the state highway system. State highways may be constructed, altered, repaired, or improved by state work forces or by contractors. The work may be done by state work forces when:

- estimated costs are less than \$60,000; or
- estimated costs are less than \$100,000 and delay of the project would jeopardize a state highway or constitute a danger to the traveling public.

The WSF has a maintenance facility located at Eagle Harbor on Bainbridge Island. The WSDOT employees at the site perform maintenance and preservation work on ferry vessels and terminals within the contracting limits in state law.

Representatives of ferry employees at the WSDOT, who are members of a collective bargaining unit represented by a ferry employee organization, bargain with the state over wages, hours, working conditions, insurance, and health care benefits. The first step in negotiations is to agree on impasse procedures. If the parties fail to agree on procedures, the statutory mediation and interest arbitration procedures apply.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Under the statutory interest arbitration process, the arbitrator is limited to deciding between the final offers of the parties on each impasse item, unless the parties have agreed to allow the arbitrator to issue a decision it deems just and appropriate. The statutory factors that the arbitrator must consider in making its decision include:

- past collective bargaining agreements;
- the constitutional and statutory authority of the state;
- the stipulations of the parties;
- the results of a salary survey;
- wage comparisons with other west coast operations doing comparable work, giving consideration to factors peculiar to the area and classifications involved;
- changes in circumstances during the proceedings;
- limitations on ferry toll increases or operating subsidies as the Legislature may impose; and
- other factors that are normally or traditionally taken into consideration.

The interest arbitration award is not binding on the Legislature and, if the Legislature does not approve the funding, is not binding on the state or ferry employee organization.

Before the Governor submits a funding request to the Legislature, the request must be submitted to the Director of the Office of Financial Management (OFM) by October 1 prior to the legislative session in which it will be considered, and the Director of the OFM must certify the request as feasible financially for the state.

Most state employees covered by collective bargaining bargain over health care issues through a super coalition of all the exclusive bargaining representatives of the employees.

Summary:

Legislative Findings and Intent.

The Legislature makes several findings and declares intent. The Legislature finds that the WSF system is a critical component of the state's highway system and that ferry system revenues are inadequate to support the capital and operating requirements of the ferry system. As such, and drawing on more than four consecutive years of legislative analysis and operating policy reforms, the Legislature finds that a realignment of the ferry compensation policy framework is an appropriate next step toward the Legislature's long-term goal of assuring sustainable, cost-effective ferry service. Furthermore, the Legislature intends to implement the recommendations from the Joint Transportation Committee ferry study as soon as practicable and establishes legislative intent to make various additional policy changes aimed at further efficiencies and cost savings.

Management Review.

The OFM is required to conduct an expert panel review of Washington State Ferries (WSF) management, and WSF is required to provide travel policy data to the Legislature.

Work on Ferry Vessels or Terminals.

For the remainder of the 2009-11 biennium, state work forces may construct, alter, repair, or improve the WSDOT ferry vessels and terminals if the estimated cost of the work is less than \$120,000. An independent analysis to identify methods of reducing out-of-service times for

vessel maintenance, preservation and improvement projects is required. The WSF is also required to analyze contracting out versus maintaining in-house work to determine which results in lower out-of-service vessel time. The DOT is required to develop a proposed vessel maintenance, preservation, and improvement program and present it to the House and Senate transportation committees by December 1, 2010.

Collective Bargaining.

The limitation that an arbitrator may only select from the final offers submitted by the parties at bargaining impasses is eliminated. Instead, unless otherwise agreed to by the employee organization and the state in their impasse procedures, an arbitrator is required to issue a decision it deems just and appropriate with respect to each impasse item. Before the Governor may submit them to the Legislature, the OFM is required to certify arbitration awards as being feasible financially for the state. Retirement systems or retirement benefits of any kind are not subject to collective bargaining. Marine employees are included in the health care super coalition for bargaining purposes, and health care benefits are not subject to interest arbitration. When a contract expires before a new one is negotiated, the existing contract is effective for up to one year.

The statutory factors that the arbitrator must consider in making its decision are modified. As an additional factor, an arbitrator must take into consideration the financial ability of the WSDOT to pay for the compensation and fringe benefit provisions of a collective bargaining agreement. The arbitrator must also consider the ability of the state to retain ferry employees; the overall compensation for WSF employees, and a salary survey prepared by the OFM.

The OFM is required to use a nationally recognized firm in the field of HR management and consulting to prepare the salary survey, and the Marine Employees Commission is no longer required to conduct the salary survey.

The WSF may not give free ferry rides to current or former employees and their families, except for current employees if needed for job duties or commuting directly between work and home.

Other Requirements.

Signs informing the public that assaults on Washington state employees will be prosecuted to the full extent of the law must be prominently displayed at each terminal and on each vessel. The DOT is required to investigate frequency, severity, and prosecutorial results of assaults and report incidents and make recommendations to House and Senate transportation committees during the 2011 session.

The appropriation for the WSF insurance policy is reduced by \$670,000, an error to the fuel proviso is corrected, and the date of the Life Cycle Cost Model report is changed from March 15, 2010, to December 1, 2010.

An appropriation of \$7.3 million is made from the Puget Sound Ferries Operating Account for the purpose of travel time associated with ferries employees, and the appropriation is contingent upon the WSDOT's provision of travel pay data to the Governor and the Legislature.

Votes on Final Passage:

House	90	8	
Senate	39	9	(Senate amended)
House	81	16	(House concurred)

Effective: April 1, 2010

Partial Veto Summary: The elimination of free ferry passes for current employees, retirees, and their family members contained in section 17 was vetoed. Additionally, section 18 which included a reduction in the funding for ferries insurance was also vetoed.