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**SUBSTITUTE HOUSE BILL 2161**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Transportation (originally sponsored by Representatives Fey and Fitzgibbon)

READ FIRST TIME 04/09/19.

1 AN ACT Relating to concerning ferry vessel procurement; amending  
2 RCW 47.60.810 and 47.60.315; and adding a new section to chapter  
3 47.60 RCW.

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

5 **Sec. 1.** RCW 47.60.810 and 2015 3rd sp.s. c 14 s 3 are each  
6 amended to read as follows:

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

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

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

3 (b) Perform project quality oversight;

4 (c) Manage any change order requests;

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

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

10 (3) The definitions in this subsection apply throughout RCW  
11 47.60.812 through 47.60.822.

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

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

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

19 (4) The department may modify an existing option contract  
20 executed prior to July 6, 2015, to allow for the purchase of up to  
21 two additional 144-auto ferries, for a total of six 144-auto ferries.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.60  
23 RCW to read as follows:

24 (1) To increase small business participation in ferry vessel  
25 procurement, the Washington state department of transportation's  
26 office of equal opportunity shall develop and monitor a state small  
27 business enterprise enforceable goals program. Pursuant to this  
28 program, the office shall establish contract goals for ferry vessel  
29 procurement. The contract goal is defined as a percentage of the  
30 contract award amount that the prime contractor must meet by  
31 subcontracting with small business enterprises. The enforceable goal  
32 for all ferry vessel procurement contracts will be set by the office.  
33 Prime contractors unable to meet the enforceable goal must submit  
34 evidence of good faith efforts to meet the contract goal to the small  
35 business enterprise enforceable goals program.

36 (2) Small business enterprises intending to benefit from the  
37 small business enterprise enforceable goals program established in  
38 subsection (1) of this section must meet the definition of "small  
39 business" in RCW 39.26.010. Prime contractors will enter all

1 subcontractor payments into the office's diversity management and  
2 compliance system. The office of equal opportunity shall monitor  
3 program performance.

4 **Sec. 3.** RCW 47.60.315 and 2011 1st sp.s. c 16 s 3 are each  
5 amended to read as follows:

6 (1) The commission shall adopt fares and pricing policies by  
7 rule, under chapter 34.05 RCW, according to the following schedule:

8 (a) Each year the department shall provide the commission a  
9 report of its review of fares and pricing policies, with  
10 recommendations for the revision of fares and pricing policies for  
11 the ensuing year;

12 (b) By September 1st of each year, beginning in 2008, the  
13 commission shall adopt by rule fares and pricing policies for the  
14 ensuing year.

15 (2) The commission may adopt by rule fares that are effective for  
16 more or less than one year for the purposes of transitioning to the  
17 fare schedule in subsection (1) of this section.

18 (3) The commission may increase ferry fares included in the  
19 schedule of charges adopted under this section by a percentage that  
20 exceeds the fiscal growth factor.

21 (4) The chief executive officer of the ferry system may authorize  
22 the use of promotional, discounted, and special event fares to the  
23 general public and commercial enterprises for the purpose of  
24 maximizing capacity use and the revenues collected by the ferry  
25 system. The department shall report to the commission a summary of  
26 the promotional, discounted, and special event fares offered during  
27 each fiscal year and the financial results from these activities.

28 (5) Fare revenues and other revenues deposited in the Puget Sound  
29 ferry operations account created in RCW 47.60.530 may not be used to  
30 support the Puget Sound capital construction account created in RCW  
31 47.60.505, unless the support for capital is separately identified in  
32 the fare.

33 (6) The commission may not raise fares until the fare rules  
34 contain pricing policies developed under RCW 47.60.290, or September  
35 1, 2009, whichever is later.

36 (7) The commission shall impose a vessel replacement surcharge of  
37 twenty-five cents on every one-way and round-trip ferry fare sold,  
38 including multiride and monthly pass fares. ~~((This))~~ The commission  
39 must impose an additional vessel replacement surcharge of seventy-

1 five cents on every one-way and round-trip vehicle ferry fare sold,  
2 including multiride and monthly pass fares. These surcharges must be  
3 clearly indicated to ferry passengers and drivers and, if possible,  
4 on the fare media itself. The vessel replacement surcharges imposed  
5 in this section may only be used for the construction or purchase of  
6 ferry vessels and to pay the principal and interest on bonds  
7 authorized for the construction or purchase of new ferry vessels.

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