
HOUSE BILL 1377

State of Washington

69th Legislature

2025 Regular Session

By Representatives Caldier, Barkis, Eslick, Couture, Richards, Jacobsen, Corry, Ley, and Connors

Read first time 01/17/25. Referred to Committee on Transportation.

1 AN ACT Relating to declaring the ferry system to be in a state of
2 emergency to authorize expedient actions; amending RCW 47.56.030,
3 47.60.010, 47.60.810, 47.60.315, and 47.60.826; adding a new section
4 to chapter 47.60 RCW; creating a new section; repealing RCW
5 47.60.838; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that Washington
8 state ferries provides lifeline services to specific communities. The
9 transition to the use of hybrid electric ferries derailed the
10 procurement of five new ferries that were to be constructed starting
11 in 2019. Washington state ferries has been in the process of
12 procuring new electric ferries since that time. The legislature has
13 been given procurement schedules that continue to get revised and
14 delayed. The date for when Washington state ferries will announce
15 whether there is a qualified shipyard that is willing to build the
16 first electric ferry is scheduled to occur in April 2025, with the
17 hope that the ferry may be delivered in 2028.

18 This act puts in place a contingency option in the event the bid
19 procurement to contract for the construction of the hybrid electric
20 ferry that is to be awarded spring 2025 is unsuccessful.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.60

2 RCW to read as follows:

3 (1) If Washington state ferries fails to award a contract to a
4 qualified contractor to build the hybrid electric ferry designed by
5 Washington state ferries in the spring of 2025, the legislature is
6 providing this pathway for the governor to declare an emergency with
7 regard to ferry procurement and exercise the gubernatorial powers
8 authorized under chapters 38.52 and 43.06 RCW to take all the
9 necessary actions to expedite permitting and conduct an emergency
10 procurement to acquire at least two nonhybrid electric ferries with
11 the goal of delivery in two years.

12 (2) The department may use the existing design for the Olympic
13 class vessels to eliminate the need for additional design work and
14 realize the benefits of a fleet of interchangeable vessels, or the
15 department may procure and use a vessel design that is easily
16 adaptable or compatible with existing ferry infrastructure, can be
17 built expeditiously, will provide the necessary service, and can be
18 purchased within the budgeted amount for ferry vessel procurement.
19 The procurement shall also include a preference that all warranty
20 work on the vessels be performed within the boundaries of the state
21 of Washington, insofar as practicable.

22 (3) The department is directed to immediately take all the
23 necessary actions to expedite permitting and conduct an emergency
24 procurement to acquire nonhybrid electric vessels for expedited
25 delivery.

26 (4) The department may postpone the conversion of the second and
27 third jumbo mark II vessels to hybrid electric vessels until the
28 first conversion is complete and has been proven to be effective so
29 as not to exacerbate service problems or the department may choose
30 not to convert the third jumbo mark II vessel and advance its mid-
31 life maintenance to facilitate having an operational ferry for less
32 cost and in a more timely manner.

33 (5) The provisions in this section will supersede and replace the
34 requirements in RCW 47.60.826 and any executive order that conflicts
35 with this section.

36 **Sec. 3.** RCW 47.56.030 and 2023 c 429 s 6 are each amended to
37 read as follows:

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

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

6 (b) The transportation commission shall determine and establish
7 the tolls and charges thereon.

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

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

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

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

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

38 (iii) Emergency contracts, in order to construct new vessels in
39 the case of an emergency declared by the governor under section 2 of
40 this act and for mid-life maintenance on the jumbo mark II vessels.

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 2 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 **Sec. 4.** RCW 47.60.010 and 2023 c 429 s 5 are each amended to
24 read as follows:

25 The department is authorized to acquire by lease, charter,
26 contract, purchase, condemnation, or construction, and partly by any
27 or all of such means, and to thereafter operate, improve, and extend,
28 a system of ferries on and crossing Puget Sound and any of its
29 tributary waters and connections thereof, and connecting with the
30 public streets and highways in the state. However, any new vessel
31 planning, construction, purchase, analysis, or design work must be
32 consistent with RCW 47.60.810, except as otherwise provided in RCW
33 47.60.826 and section 2 of this act. The system of ferries shall
34 include such boats, vessels, wharves, docks, approaches, landings,
35 franchises, licenses, and appurtenances as shall be determined by the
36 department to be necessary or desirable for efficient operation of
37 the ferry system and best serve the public. Subject to RCW 47.56.820,
38 the department may in like manner acquire by purchase, condemnation,
39 or construction and include in the ferry system such toll bridges,

1 approaches, and connecting roadways as may be deemed by the
2 department advantageous in channeling traffic to points served by the
3 ferry system. In addition to the powers of acquisition granted by
4 this section, the department is empowered to enter into any
5 contracts, agreements, or leases with any person, firm, or
6 corporation and to thereby provide, on such terms and conditions as
7 it shall determine, for the operation of any ferry or ferries or
8 system thereof, whether acquired by the department or not.

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

15 **Sec. 5.** RCW 47.60.810 and 2023 c 429 s 3 are each amended to
16 read as follows:

17 (1) Except as otherwise provided in RCW 47.60.826 and section 2
18 of this act, the department shall use a modified request for
19 proposals process when purchasing new auto ferries, except for new
20 144-auto ferries purchased through an option on a contract executed
21 before July 6, 2015, whereby the prevailing shipbuilder and the
22 department engage in a design and build partnership for the design
23 and construction of the auto ferries. The process consists of the
24 three phases described in subsection (3) of this section.

25 (2) Throughout the three phases described in subsection (3) of
26 this section, the department shall employ an independent owner's
27 representative to serve as a third-party intermediary between the
28 department and the proposers, and subsequently the successful
29 proposer. However, this representative shall serve only during the
30 development and construction of the first vessel constructed as part
31 of a new class of vessels developed after July 6, 2015. The
32 independent owner's representative shall:

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

35 (b) Perform project quality oversight;

36 (c) Manage any change order requests;

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

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

4 (3) The definitions in this subsection apply throughout RCW
5 47.60.812 through 47.60.822.

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

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

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

13 (4) The department may modify an existing option contract
14 executed prior to July 6, 2015, to allow for the purchase of up to
15 five additional 144-auto ferries, for a total of nine 144-auto
16 ferries. The department must execute a new modification to an
17 existing option contract for each of the additional five ferries.

18 **Sec. 6.** RCW 47.60.315 and 2023 c 472 s 714 are each amended to
19 read as follows:

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

22 (a) Each year the department shall provide the commission a
23 report of its review of fares and pricing policies, with
24 recommendations for the revision of fares and pricing policies for
25 the ensuing year;

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

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

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

35 (4) The chief executive officer of the ferry system may authorize
36 the use of promotional, discounted, and special event fares to the
37 general public and commercial enterprises for the purpose of
38 maximizing capacity use and the revenues collected by the ferry
39 system. The department shall report to the commission a summary of

1 the promotional, discounted, and special event fares offered during
2 each fiscal year and the financial results from these activities.

3 (5) Fare revenues and other revenues deposited in the Puget Sound
4 ferry operations account created in RCW 47.60.530 may not be used to
5 support the Puget Sound capital construction account created in RCW
6 47.60.505, unless the support for capital is separately identified in
7 the fare or except as provided in section 715, chapter 333, Laws of
8 2021 during the 2021-2023 biennium and section 716, chapter 472, Laws
9 of 2023 during the 2023-2025 fiscal biennium.

10 (6) The commission may not raise fares until the fare rules
11 contain pricing policies developed under RCW 47.60.290, or September
12 1, 2009, whichever is later.

13 (7) The commission shall impose a vessel replacement surcharge of
14 25 cents on every one-way and round-trip ferry fare sold, including
15 multiride and monthly pass fares. This surcharge must be clearly
16 indicated to ferry passengers and drivers and, if possible, on the
17 fare media itself.

18 (8) Except as provided in subsection (10) of this section,
19 beginning May 1, 2020, the commission shall impose an additional
20 vessel replacement surcharge in an amount sufficient to fund 25 year
21 debt service on one 144-auto hybrid vessel taking into account funds
22 provided in chapter 417, Laws of 2019 or chapter . . . (SSB 5419),
23 Laws of 2019 or vessels acquired pursuant to section 2 of this act.
24 The department of transportation shall provide to the commission
25 vessel and debt service cost estimates. Information on vessels
26 constructed or purchased with revenue from the surcharges must be
27 publicly posted including, but not limited to, the commission
28 website.

29 (9) The vessel replacement surcharges imposed in this section may
30 only be used for the construction or purchase of ferry vessels and to
31 pay the principal and interest on bonds authorized for the
32 construction or purchase of new ferry vessels.

33 (10) The commission shall not impose the additional vessel
34 replacement surcharge in subsection (8) of this section if doing so
35 would increase fares by more than 10 percent.

36 (11) For the 2023-2025 fiscal biennium, any ferry fuel surcharge
37 imposed by the commission may not go into effect until after the
38 ensuing regular legislative session. If a fuel surcharge is imposed
39 as provided under this subsection, the commission must reevaluate the
40 need for the surcharge on at least a quarterly basis to determine if

1 the surcharge is still needed to cover increased fuel costs, and
2 revoke the surcharge if the determination is that the surcharge is no
3 longer needed for this purpose.

4 **Sec. 7.** RCW 47.60.826 and 2023 c 429 s 2 are each amended to
5 read as follows:

6 (1) (a) ((The)) Except as provided in section 2 of this act, the
7 department shall contract for the acquisition of up to five new
8 hybrid diesel-electric ferry vessels that can carry up to 144
9 vehicles, using a one or two contract procurement approach to
10 potentially accelerate vessel delivery.

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

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

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

19 (iii) Accelerate the proposed delivery schedule; or

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (4) Contractors located in the state of Washington must meet the
28 requirements of RCW 47.60.835, the small business enterprise
29 enforceable goals program.

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

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

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

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

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

4 NEW SECTION. **Sec. 8.** RCW 47.60.838 (Vessel and terminal
5 electrification program) and 2022 c 182 s 431 are each repealed.

6 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of
8 the state government and its existing public institutions, and takes
9 effect immediately.

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