

# HOUSE BILL REPORT

## SHB 3178

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### As Passed Legislature

**Title:** An act relating to collective bargaining by state ferry employees.

**Brief Description:** Concerning collective bargaining by state ferry employees.

**Sponsors:** By House Committee on Commerce & Labor (originally sponsored by Representatives Murray and Woods; by request of Department of Transportation).

#### Brief History:

##### Committee Activity:

Commerce & Labor: 2/1/06 [DPS];

Transportation: 2/3/06, 2/6/06 [DPS(TR)].

##### Floor Activity:

Passed House: 2/13/06, 96-2.

Senate Amended.

Passed Senate: 3/2/06, 47-0.

House Concurred.

Passed House: 3/4/06, 94-1.

Passed Legislature.

#### Brief Summary of Substitute Bill

- Modifies collective bargaining between the bargaining representative of ferry workers and the state beginning with bargaining for the 2007-09 fiscal biennium, including requiring bargaining before the adoption of the biennial budget, review of the funding request by the Office of Financial Management, and submission of a certified funding request to the Legislature in the Governor's budget.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Conway, Chair; Wood, Vice Chair; Crouse, Hudgins, Kenney and McCoy.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Condotta, Ranking Minority Member and Chandler, Assistant Ranking Minority Member.

**Staff:** Chris Cordes (786-7103).

## HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill by Committee on Transportation be substituted therefor and the substitute bill do pass. Signed by 28 members: Representatives Murray, Chair; Wallace, Vice Chair; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton, Buck, Campbell, Clibborn, Curtis, Dickerson, Ericksen, Flannigan, Hankins, Hudgins, Jarrett, Kilmer, Lovick, Morris, Nixon, Rodne, Schindler, Sells, Shabro, Simpson, B. Sullivan, Takko, Upthegrove and Wood.

**Minority Report:** Do not pass. Signed by 1 member: Representative Holmquist.

**Staff:** David Munnecke (786-7315).

### **Background:**

Representatives of ferry workers in the Marine Transportation Division (Division) of the Washington State Department of Transportation (WSDOT), who are members of a collective bargaining unit represented by a ferry employee organization, bargain with the Division over wages, hours, working conditions, insurance, and health care benefits. By statute, the WSDOT is required, unless a bargaining agreement provides otherwise, to provide insurance and health care plans as determined by the State Health Care Authority. Employer contributions may exceed those for other state employees, subject to certain limits. Employer-funded retirement benefits are provided under the public employees retirement system and are not in the scope of bargaining.

Negotiations commence in each odd-numbered year immediately following the adoption of the biennial budget. It is stated to be legislative intent that agreements commence on July 1 of each odd-numbered year and terminate to coincide with the biennial budget year.

The first step in negotiations is to agree on impasse procedures, which must be implemented by July 1 in each odd-numbered year. If the parties fail to agree on procedures, the statutory mediation and arbitration procedures apply. The Marine Employees' Commission (MEC) may also provide certain fact-finding, including conducting a salary survey.

Under the statutory arbitration process, the arbitrator is restricted to the final offers of the parties on each impasse item and must consider various statutory factors in making its decision, including:

- past collective bargaining agreements;
- wage comparisons with other west coast operations doing comparable work, giving consideration to factors peculiar to the area and classifications involved;
- interests of the public;
- the ability of the ferry system to finance economic adjustments and the effect on the standard of service;
- the right of the Legislature to appropriate and limit funds for the ferry system; and
- limitations on ferry toll increases or operating subsidies as the Legislature may impose.

No agreement or arbitration award is valid if it is inconsistent with statutory limitations, such as a budget limitation. Within five days after negotiations are concluded with all ferry worker bargaining units, the Secretary of Transportation must review the agreements to determine whether the cumulative fiscal requirements are within statutory limits. If the Secretary finds that limits will be exceeded, the agreements or awards are submitted to the MEC for a binding determination. The MEC may order across-the-board reductions if it finds that the limits will be exceeded.

The Transportation Commission may not increase ferry tolls more than the Seattle consumer price index to fund a collective bargaining agreement.

It is unlawful for ferry workers or employee organizations, directly or indirectly, to induce or participate in a strike, and it is unlawful for the ferry system to authorize or condone a strike or conduct a lockout.

### **Summary of Substitute Bill:**

Various changes are made in the collective bargaining law that applies to ferry workers, including requiring the negotiation process to begin before the adoption of the relevant biennial budget, and requiring review of the funding request and submission of approved requests in the Governor's budget.

### Bargaining Process

The employer, for purposes of bargaining with the collective bargaining representative of ferry workers, is the state of Washington. The employer is represented by the Governor or Governor's designee.

With respect to conflicts in provisions relating to wages, hours, and terms and conditions of employment, the collective bargaining agreement prevails over executive orders, rules, or policies. The agreement is invalid if it conflicts with any statute.

Beginning with an agreement for the 2007-2009 biennium, negotiations may commence at any time after the bill's effective date and must conclude by October 1, 2006. For subsequent biennia, negotiations must commence about September 1 of each odd-numbered year and must conclude by April 1 of the following year. If not concluded by April 1, the parties are considered at impasse. For these negotiations, the time periods must ensure that all agreements are concluded by September 1 of the even-numbered year. However, the time periods may be altered by the parties. It is stated to be legislative intent that agreements should coincide with the biennial budget year.

Two or more ferry employee organizations may, on agreement of the parties, negotiate as a coalition for a multiunion agreement.

### Impasse and Interest Arbitration

The first step in negotiations is to agree on impasse procedures, which must be implemented by April 15 (instead of July 1) in each even-numbered year. If the parties fail to agree on

procedures, the statutory mediation and arbitration procedures apply. The MEC's authority to provide fact-finding is deleted, except for conducting a salary survey.

Under the statutory 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 are modified and include:

- past collective bargaining agreements;
- the constitutional and statutory authority of the employer;
- the stipulations of the parties;
- the results of the 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 taken into consideration.

The 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.

A provision is added to provide that the interest arbitration proceeding is exercising a state function.

### Approval of Funding

The Secretary of Transportation's procedures for review of all ferry worker collective bargaining agreements are repealed. The Transportation Commission's authority to increase ferry tolls to fund a collective bargaining agreement or award an arbitration is repealed.

Before submitting a funding request to the Legislature, the request must be submitted to the Director of the Office of Financial Management by October 1 prior to the legislative session in which it will be considered, and the Director must certify the request as feasible financially for the state. The Governor submits a certified request for funds to implement the compensation and fringe benefits provisions as part of the Governor's proposed budget.

The Legislature must approve or reject the request for funds as a whole. If the Legislature rejects or fails to act on the request, either party may reopen all or part of the agreement, or the exclusive bargaining representative may initiate mediation and arbitration procedures.

If, after the agreement is funded, a significant revenue shortfall occurs resulting in reduced appropriations (by Governor proclamation or Legislative resolution), both parties must immediately enter into negotiations for a mutually agreed to modification of the agreement.

### Application

The new provisions are prospective only and do not apply to agreements in effect or to bargaining and related proceedings that began or arise under the current law. A collective bargaining agreement under the new provisions may not take effect before July 1, 2007.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately, except for section 10, which reinstates prior law related to a salary survey after a scheduled expiration and takes effect July 1, 2006.

**Testimony For:** (Commerce & Labor) (In support) This is another step in the process to bring reform and accountability to the Washington Ferry System. It will result in a less byzantine approach to labor relations under that system. The bill is the result of much effort and cooperation by all the parties to reach agreement. There are still pending contracts and arbitrations that must be concluded, but this bill provides a prospective new approach that is more in alignment with the process now used by other state employees. With the ferry system's new management and the Department of Transportation as a cabinet level position, there is a need for closer cooperation with the Governor's office. The bill removes a number of hindrances to working cooperatively. The result of this bill will be a system that is fairer to the employees, the ferry system, and the taxpayers. It brings a new era to the ferry system.

(Information only) The bill's provisions that address when a collective bargaining agreement will prevail over agency policies and rules refer to those policies adopted within the agency that address personnel issues, not the rules that apply outside of administration of personnel issues. For example, Department of Personnel rules might be covered, but not rules the Department of Labor and Industries adopts to implement a statute.

**Testimony For:** (Transportation) Washington State Ferries (WSF) has been working hard to improve labor relations over the course of the last year. In that time, WSF and its unions have completed more labor agreements than were completed in the last three years combined. There are still hindrances to the process, and this bill clears many of them away. All the unions are in favor of this bill.

The current system is broken and it needs to be fixed. This bill puts the ferry system in line with the rest of the state employees in bargaining ahead of the budget. A great deal of time and effort has gone into creating this bill on both sides. This bill will improve the system, and both sides should be pleased.

**Testimony Against:** (Commerce & Labor) None.

**Testimony Against:** (Transportation) None.

**Persons Testifying:** (Commerce & Labor) (In support) Representative Murray, prime sponsor; Peter Bogdanoff, Governor's Executive Policy Office; Mike Anderson and Charlie Bates, Washington State Department of Transportation; Gordon Baxter, Inland Boatmen's Union of the Pacific, International Organization of Masters Mates & Pilots, Marine Engineers

Beneficial Association, Office & Professional Employees International Union, Local 8, and Puget Sound Metal Trades Council; Jon Anderson and Jeff Duncan, Marine Employees Beneficial Association; and Steve Demeroutis, International Organization of Masters Mates & Pilots.

(Information only) Steve McLain, Office of Labor Relations.

**Persons Testifying:** (Transportation) Representative Murray, prime sponsor; Peter Bogdanoff, Governor's Office; Charles Bates and Mike Anderson, Washington State Ferries; Gordon Baxter, Inland Boatmen's Union of the Pacific, International Organization of Masters Mates & Pilots, Marine Engineers Beneficial Association, Office & Professional Employees International Union, Local 8, and Puget Sound Metal Trades Council; Steve Demeroutis, Masters Mates and Pilots Union; Jon Anderson, Marine Engineers Beneficial Union; and Bob Scott, Puget Sound Metal Trades Council.

**Persons Signed In To Testify But Not Testifying:** (Commerce & Labor) None.

**Persons Signed In To Testify But Not Testifying:** (Transportation) None.