

# HOUSE BILL REPORT

## SHB 2378

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### As Passed Legislature

**Title:** An act relating to construction of new vessels for Washington state ferries.

**Brief Description:** Expediting new vessel construction for Washington state ferries.

**Sponsors:** By House Committee on Transportation (originally sponsored by Representatives Flannigan, Jarrett, Clibborn, Eddy, Seaquist and Roberts).

#### **Brief History:**

##### **Committee Activity:**

Transportation: 3/29/07, 3/30/07 [DPS].

##### **Floor Activity:**

Passed House: 4/11/07, 91-6.

Passed Senate: 4/13/07, 45-0.

Passed Legislature.

#### **Brief Summary of Substitute Bill**

- Authorizes the current qualified proposers to meet, confer, and submit a single joint proposal for the construction of ferry vessels.
- Modifies the provisions related to ferry vessel procurement through the design-build process to allow for the negotiation of a contract if there is only a single qualified proposer or a single proposal.

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### HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 21 members: Representatives Clibborn, Chair; Flannigan, Vice Chair; Jarrett, Ranking Minority Member; Appleton, Armstrong, Curtis, Dickerson, Hailey, Hankins, Hudgins, Lovick, Rodne, Rolfes, Sells, Simpson, Springer, B. Sullivan, Takko, Upthegrove, Wallace and Wood.

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

#### **Background:**

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*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.*

The design-build ferry procurement process is divided into three phases. In order to begin the process, the Department of Transportation (DOT) issues a notice of intent to submit a request for proposal (RFP).

In phase one, the DOT evaluates and selects pre-qualified proposers to participate in development of technical proposals. The DOT rules outline pre-qualification requirements, which include both a technical and financial test. In phase two, qualified proposers prepare technical proposals in consultation with the DOT, sufficient to generate a firm, fixed price bid to the DOT. Phase three includes the submission and evaluation of bids, award of the contract, and design and construction of the automobile ferries.

In order to be considered, bids must conform with the technical proposals submitted in phase two and proposers must have qualified through phase two. The DOT may select the lowest total bid price and award the contract or reject any or all of the bids, republish the RFP, or revise or cancel the RFP. The DOT may provide an honorarium to reimburse each unsuccessful phase three proposer for a portion of its technical proposal preparation costs.

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

The Legislature finds that the Washington State Ferries has commenced a vessel procurement process to replace older and outdated vessels and that this process must move forward with all speed. The commencement of construction is determined to be important for safety reasons as well as for sustaining the region's ship construction and preservation capacity.

The DOT is authorized to consider and accept or reject a single proposal jointly submitted by the qualified proposers. The DOT is also authorized to make revisions to the RFP, and pay an honorarium to a proposer or proposers with whom the DOT engages in unsuccessful negotiations.

The qualified proposers are authorized to meet and confer regarding matters reasonably related to submitting a single proposal and implementing a final contract. The proposers are required to declare their intent to submit a proposal within 30 days of the effective date of the legislation and provide any information required by the DOT. If at the end of the 30-day period the proposers have not declared their intent and provided the required information or the DOT has determined that the proposers' plan is unacceptable, no further discussions between the proposers is allowed.

The provisions related to ferry vessel procurement through the design-build process are modified to allow for the negotiation of a contract if there is only a single qualified proposer or proposal. The DOT is also authorized to negotiate incentives and cost-sharing provisions with the proposer.

The DOT is required to submit a copy of the contract, along with the negotiated price, to the Office of Financial Management 10 days prior to the execution of the contract. If the negotiated price is higher than the adopted expenditure plan for vessel construction, the DOT

may not execute the contract until the Legislature reviews the proposal and adjusts the expenditure plan.

If the DOT and the proposer or joint proposers are not able to reach an agreement, the DOT may republish, revise, or cancel the RFP process.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) We need to start building replacement vessels. There are currently vessels in the fleet that were built in 1927. This is an opportunity to bring together the qualified bidders to agree on the construction of new vessels.

This bill is an important step forward, but this is an area where people need to continue to pay attention. We are beginning the systematic modernization of the ferry fleet, which will also allow us to revitalize the shipbuilding industry in this state and allow it to remain an important part of the state's economy. The ferries themselves are also an important component of the economy that is needed to move goods and people.

The ferry system is consistently under great pressure, since it is responsible for moving between 1.8 and 2.5 million passengers per month. Despite this, it has a very small number of complaints and 94 percent of its trips are on time. However, the fleet is aging, with an average vessel age of 41 years. We are fortunate to have world-class shipyards and a skilled work force that can work to ameliorate this difficulty.

The first goal that everyone has is to see the keel laid on new boats. This bill provides a framework for new discussions that will lead to building new boats in one way or another. The preference is for the current bidders to come together to build the boats. Together with the people from the Washington State Ferries, the best possible boats will be built.

(Opposed) None.

**Persons Testifying:** (In support) Representative Flannigan, prime sponsor; Representative Seaquist; Tom Fitzsimmons, Office of the Governor; Doug MacDonald, Department of Transportation; and Al Tremlett, Puget Sound Metal Trades Council.

(Opposed) None.

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