

HOUSE BILL REPORT

ESHB 2161

As Passed Legislature

Title: An act relating to concerning ferry vessel procurement.

Brief Description: Concerning ferry vessel procurement.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Fey and Fitzgibbon).

Brief History:

Committee Activity:

Transportation: 4/1/19, 4/8/19 [DPS].

Floor Activity:

Passed House: 4/25/19, 60-37.

Senate Amended.

Passed Senate: 4/26/19, 31-16.

House Concurred.

Passed House: 4/28/19, 63-35.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Authorizes the Washington State Department of Transportation to modify an existing option contract executed prior to July 6, 2015, to allow for the purchase of up to five additional 144-auto ferry vessels, for a total of nine 144-auto ferry vessels, including the four Olympic-class vessels already delivered.
- Creates the Small Business Enforceable Goals Program to increase small business participation in ferry vessel procurement.
- Limits the use of vessel replacement surcharges to the construction or purchase of ferry vessels and debt service authorized for the construction or purchase of ferry vessels.
- Requires a modification to an existing option contract for each additional ferry.
- Requires the Transportation Commission to impose an additional vessel replacement surcharge beginning May 1, 2020, in an amount sufficient to

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fund one 144-auto ferry, taking into account revenue from increases to vehicle transaction service fees.

- Prohibits the Commission from imposing an additional vessel replacement surcharge if it would increase ferry fares by more than 10 percent.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 21 members: Representatives Fey, Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Wylie, 1st Vice Chair; Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Chapman, Doglio, Entenman, Eslick, Gregerson, Irwin, Kloba, Lovick, Mead, Ortiz-Self, Pellicciotti, Ramos, Riccelli, Shewmake and Van Werven.

Minority Report: Do not pass. Signed by 8 members: Representatives Young, Assistant Ranking Minority Member; Boehnke, Chambers, Dufault, Goehner, McCaslin, Orcutt and Shea.

Minority Report: Without recommendation. Signed by 2 members: Representatives Dent and Paul.

Staff: Beth Redfield (786-7140).

Background:

The Washington State Ferries (WSF) system is composed of 23 vessels, operating on 11 routes around the Puget Sound. In acquiring vessels for the system, the Washington State Department of Transportation (WSDOT) is authorized to use a design-build (DB) procurement process. This process consists of three phases: (1) evaluation of proposers; (2) preparation of technical proposals; and (3) evaluation of bids and selection of the successful bidder.

In 2018 the WSF accepted the fourth 144-car vessel in a series of new vessels procured under a DB process. The original contract was signed on December 13, 2007. Contract options for the four vessels were executed in 2011, 2012, 2014, and 2015. For each contract option, wages paid under the contract were updated to reflect current rates of prevailing wage. The contract will expire as of June 30, 2019.

The DB process was amended in 2015 to require:

- legislative approval before issuing a new request for proposal for new vessels;
- an independent owners' representative as a third-party intermediary during the development and construction of the first vessel in a new class;
- a fixed-price contract; and
- a provision that if initial bids on a new contract are greater than 5 percent over the engineers' estimate, all bids must be rejected and a new request for proposals issued, which would not be subject to build-in-Washington requirements.

The 2015 changes to the procurement law do not apply to a class of vessels developed before July 6, 2015.

Ferry fares and pricing policies are set by the Washington State Transportation Commission (Commission). In 2011 the Legislature directed the Commission to impose a 25-cent vessel replacement surcharge on every one-way and round-trip ferry fare sold, including multiride and monthly pass fares.

The Capital Vessel Replacement Account (account) is an appropriated account created in the Motor Vehicle Fund (restricted to highway purposes). Revenues to the account include the capital vessel replacement surcharge and service fees collected by the state and county auditors on transactions including, but not limited to, changes to vehicle titles and vehicle registration renewals. Expenditures from the account are for the construction or purchase of ferry vessels and to pay the principal and interest on bonds authorized for the construction or purchase of ferry vessels. Excess fund balance in the account may be used for ferry terminal construction and preservation.

Summary of Engrossed Substitute Bill:

The WSDOT may modify an existing option contract executed prior to July 6, 2015, to allow for the purchase of up to five additional 144-auto ferry vessels, for a total of nine 144-auto ferry vessels, including the four Olympic-class vessels already delivered. The Department of Transportation must execute a new modification to an existing option contract for each of the additional five ferries.

To increase small business participation in ferry vessel procurement, the WSDOT's Office of Equal Opportunity is directed to develop and monitor a Small Business Enforceable Goals Program for ferry vessel contracts.

Beginning May 1, 2020, the Transportation Commission shall impose an additional vessel replacement surcharge in an amount sufficient to fund 25-year debt service on one 144-auto vessel, taking into account funds provided by increases to vehicle transaction service fees enacted in the 2019 Legislative Session. The additional vessel replacement surcharge imposed by the Transportation Commission may not increase ferry fares by more than 10 percent. The use of vessel replacement surcharges is limited to the construction or purchase of ferry vessels and debt service authorized for the construction or purchase of ferry vessels.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on April 25, 2019.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) It is well demonstrated that the WSF's vessels need to be replaced; one need only read the news about breakdowns in the current fleet to understand how aged the fleet is.

Many people are dependent on a reliable ferry system. The bill is the most straight-forward way of getting new ferries into the system in an expeditious manner. The surcharge is akin to toll payers helping to pay for bridge replacements. Skilled craftspeople at the shipyard are proud to have delivered four vessels on time and on budget. Each ferry built has supported 560 jobs at the shipyards and subcontractors plus indirect jobs. Building ferries one at a time minimizes efficiencies and purchasing power. Efficiencies will be gained by a consistent manufacturing process and standardization of the fleet. A common hull design leads to cost efficiencies in construction, training, spare parts, and interchangeability of labor in ferry operations. The shipyard is excited to provide a new hybrid propulsion system which will be more efficient with far lower carbon emissions. Once shore power is available, carbon emissions and fuel savings are estimated at almost 97 percent, and there will be lower maintenance costs.

Boats need to be built now. Riders are concerned that the surcharge has not been used as promised for ferries. The surcharge will be a hardship on low-income riders. Ridership still has not recovered from fare increases in the early 2000s. Tolls on the Tacoma Narrows Bridge paid for increased capacity, not just replacement of existing capacity.

A joint venture headquartered in Anacortes has developed the world's first large-scale solid electrolyte battery energy storage for the marine market. The commercial version will be released in the next year. Washington State Ferries has embraced hybrid or full electric propulsion systems because of improvements in efficiency and environmental sustainability, an area where Washington is leading the way. The investment in electrification will generate long-term benefits and cost savings for the state. Our business looks forward to participating in these projects with other Washington companies to provide full propulsion designs and systems to the WSF.

The surcharge is a good idea; it will promote more walk ons. There are concerns about prevailing wages on the vessel contract being several years old; the contracts should include updates, possibly at several points in the contract.

(Opposed) None.

(Other) Nichols Brothers is the largest private employer on Whidbey Island. The shipyard would like to be a part of the process. The current contract has been in place for 12 years and four boats have been built with teamwork within the industry. With the redesign to hybrid propulsion, it is a good time for a competitive process and a fair opportunity to bid.

Persons Testifying: (In support) Representative Fey, prime sponsor; Jill Mackie, Vigor Shipyards; Adam Brockus, Ferry Community Partnership; Walt Elliott, Kingston Ferry Advisory Committee; Gordon Baxter, International Boatmans Union, Masters, Mates and Pilots Union; and Sean Connell, Lavel.

(Other) Jeff DeVere, Nichols Brothers Boat Builders.

Persons Signed In To Testify But Not Testifying: None.