
HOUSE BILL 2498

State of Washington

68th Legislature

2024 Regular Session

By Representatives Barkis, Hutchins, Chapman, Stokesbary, Corry, Caldier, Low, Robertson, Goehner, Dent, Schmidt, Klicker, Walsh, Griffey, Harris, Couture, Waters, Connors, Cheney, Volz, Wilcox, Chambers, McEntire, Ybarra, Maycumber, and Steele

Read first time 02/12/24. 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.** (1) The legislature finds that a failure
8 to address the ferry system's ongoing challenges has resulted in
9 continued deterioration of service, increased frustration among
10 riders, and heightened uncertainty for communities that rely on ferry
11 transportation. Immediate, decisive action must be taken to fix
12 Washington's ferry system.

13 (2) Despite broad agreement that replacement vessels are needed,
14 the vision of transitioning the ferry fleet to hybrid electric
15 vessels has resulted in sluggish procurement, skyrocketing costs, and
16 delayed delivery. As a result, riders have suffered the consequences
17 of reduced and unreliable service.

18 (3) The current state of Washington's ferry system, with aging
19 vessels struggling to serve 10 routes, represents a critical
20 challenge, while the pursuit of hybrid electric ferries at exorbitant

1 costs represents an irresponsible gamble, especially with proposed
2 costs doubling since 2019.

3 (4) The goal of putting environmentally responsible ferries in
4 the water is a worthwhile objective, but the feasibility and cost-
5 effectiveness of such objectives must be carefully evaluated to
6 ensure they align with the urgent and immediate need for reliable,
7 accessible ferry service for all Washingtonians.

8 (5) The legislature urges the governor to prioritize proven
9 solutions, building ferries within existing plans, allocated budgets,
10 and without demanding extensive infrastructure upgrades or employee
11 retraining. Washingtonians cannot wait 10 years for another new ferry
12 to set sail. We must fix the ferry system now.

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

15 (1) The legislature requests the governor to declare an emergency
16 with regard to ferry procurement and exercise the gubernatorial
17 powers authorized under chapters 38.52 and 43.06 RCW to take all the
18 necessary actions to expedite permitting and conduct an emergency
19 procurement to acquire at least two nonhybrid electric ferries with
20 the first one to be delivered within two years.

21 (2) The procurement must use the existing design for the diesel-
22 powered Olympic class vessels, to eliminate the need for additional
23 design work and realize the benefits of a fleet of interchangeable
24 vessels. The procurement shall also include a preference that all
25 warranty work on the vessels be performed within the boundaries of
26 the state of Washington, insofar as practicable.

27 (3) The department is directed to immediately take all the
28 necessary actions to expedite permitting and conduct an emergency
29 procurement to acquire nonhybrid electric vessels for expedited
30 delivery.

31 (4) The department may postpone the conversion of the second and
32 third jumbo mark II vessels to hybrid electric vessels until the
33 first conversion is complete and has been proven to be effective so
34 as not to exacerbate service problems.

35 (5) The provisions in this section will supercede and replace the
36 requirements in RCW 47.60.826 and any executive order that conflicts
37 with this section.

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

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

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

9 (b) The transportation commission shall determine and establish
10 the tolls and charges thereon.

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

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

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

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

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

1 (iii) Emergency contracts, in order to construct new vessels in
2 the case of an emergency declared by the governor under section 2 of
3 this act.

4 (f) Any new vessel planning, construction, purchase, analysis, or
5 design work must be consistent with RCW 47.60.810, except as
6 otherwise provided in RCW 47.60.826 and section 2 of this act.

7 (2) The department shall proceed with the procurement of
8 materials, supplies, services, and equipment needed for the support,
9 maintenance, and use of a ferry, ferry terminal, or other facility
10 operated by Washington state ferries, in accordance with chapter
11 43.19 RCW except as follows:

12 (a) When the secretary of the department of transportation
13 determines in writing that the use of invitation for bid is either
14 not practicable or not advantageous to the state and it may be
15 necessary to make competitive evaluations, including technical or
16 performance evaluations among acceptable proposals to complete the
17 contract award, a contract may be entered into by use of a
18 competitive sealed proposals method, and a formal request for
19 proposals solicitation. Such formal request for proposals
20 solicitation shall include a functional description of the needs and
21 requirements of the state and the significant factors.

22 (b) When purchases are made through a formal request for
23 proposals solicitation the contract shall be awarded to the
24 responsible proposer whose competitive sealed proposal is determined
25 in writing to be the most advantageous to the state taking into
26 consideration price and other evaluation factors set forth in the
27 request for proposals. No significant factors may be used in
28 evaluating a proposal that are not specified in the request for
29 proposals. Factors that may be considered in evaluating proposals
30 include but are not limited to: Price; maintainability; reliability;
31 commonality; performance levels; life-cycle cost if applicable under
32 this section; cost of transportation or delivery; delivery schedule
33 offered; installation cost; cost of spare parts; availability of
34 parts and service offered; and the following:

35 (i) The ability, capacity, and skill of the proposer to perform
36 the contract or provide the service required;

37 (ii) The character, integrity, reputation, judgment, experience,
38 and efficiency of the proposer;

39 (iii) Whether the proposer can perform the contract within the
40 time specified;

1 (iv) The quality of performance of previous contracts or
2 services;

3 (v) The previous and existing compliance by the proposer with
4 laws relating to the contract or services;

5 (vi) Objective, measurable criteria defined in the request for
6 proposal. These criteria may include, but are not limited to, items
7 such as discounts, delivery costs, maintenance services costs,
8 installation costs, and transportation costs; and

9 (vii) Such other information as may be secured having a bearing
10 on the decision to award the contract.

11 (c) When purchases are made through a request for proposal
12 process, proposals received shall be evaluated based on the
13 evaluation factors set forth in the request for proposal. When
14 issuing a request for proposal for the procurement of propulsion
15 equipment or systems that include an engine, the request for proposal
16 must specify the use of a life-cycle cost analysis that includes an
17 evaluation of fuel efficiency. When a life-cycle cost analysis is
18 used, the life-cycle cost of a proposal shall be given at least the
19 same relative importance as the initial price element specified in
20 the request of proposal documents. The department may reject any and
21 all proposals received. If the proposals are not rejected, the award
22 shall be made to the proposer whose proposal is most advantageous to
23 the department, considering price and the other evaluation factors
24 set forth in the request for proposal.

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

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

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

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

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

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

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

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

37 (b) Perform project quality oversight;

38 (c) Manage any change order requests;

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

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

6 (3) The definitions in this subsection apply throughout RCW
7 47.60.812 through 47.60.822.

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

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

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

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

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

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

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

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

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

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

37 (4) The chief executive officer of the ferry system may authorize
38 the use of promotional, discounted, and special event fares to the
39 general public and commercial enterprises for the purpose of

1 maximizing capacity use and the revenues collected by the ferry
2 system. The department shall report to the commission a summary of
3 the promotional, discounted, and special event fares offered during
4 each fiscal year and the financial results from these activities.

5 (5) Fare revenues and other revenues deposited in the Puget Sound
6 ferry operations account created in RCW 47.60.530 may not be used to
7 support the Puget Sound capital construction account created in RCW
8 47.60.505, unless the support for capital is separately identified in
9 the fare or except as provided in section 715, chapter 333, Laws of
10 2021 during the 2021-2023 biennium and section 716, chapter 472, Laws
11 of 2023 during the 2023-2025 fiscal biennium.

12 (6) The commission may not raise fares until the fare rules
13 contain pricing policies developed under RCW 47.60.290, or September
14 1, 2009, whichever is later.

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

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

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

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

38 (11) For the 2023-2025 fiscal biennium, any ferry fuel surcharge
39 imposed by the commission may not go into effect until after the
40 ensuing regular legislative session. If a fuel surcharge is imposed

1 as provided under this subsection, the commission must reevaluate the
2 need for the surcharge on at least a quarterly basis to determine if
3 the surcharge is still needed to cover increased fuel costs, and
4 revoke the surcharge if the determination is that the surcharge is no
5 longer needed for this purpose.

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

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

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

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

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

21 (iii) Accelerate the proposed delivery schedule; or

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

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

29 (b) The contract or contracts may employ the following
30 procurement methods:

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

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

35 (iii) Lease with an option to buy in accordance with RCW
36 47.60.010. The terms of any plan to pursue a lease with an option to
37 buy agreement must be approved by the governor and appropriate
38 committees of the legislature and are subject to the availability of
39 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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