

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1635

53rd Legislature
1993 Regular Session

Passed by the House April 20, 1993
Yeas 97 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 6, 1993
Yeas 42 Nays 6

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1635** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1635

AS AMENDED BY THE SENATE

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By House Committee on Transportation (originally sponsored by Representatives Zellinsky, Schmidt, King, Ballard, Dorn, Sehlin, Heavey, Kremen, Brough, Sheldon, Wood, Jones, Jacobsen, J. Kohl, R. Johnson, Karahalios, Holm, Scott, Orr, Kessler, Pruitt, R. Fisher, Wang, Springer, Quall, Conway, Anderson, Shin, Voloria, Leonard, Campbell, R. Meyers, Ballasiotes, Vance, Foreman, Patterson, Valle, Johanson, Miller, Chandler, G. Fisher, Roland, Linville and Cothorn)

Read first time 03/08/93.

1 AN ACT Relating to jumbo ferry construction; adding new sections to
2 chapter 47.60 RCW; and declaring an emergency.

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

4 NEW SECTION. **Sec. 1.** Whenever the department is authorized to
5 construct one or more new jumbo ferry vessels under this chapter, it
6 shall publish a notice of its intent once a week for at least two
7 consecutive weeks in at least one trade paper and one other paper, both
8 of general circulation in the state. The notice shall contain, but not
9 be limited to, the following information:

10 (1) The number of jumbo ferry vessels to be constructed and the
11 proposed delivery date for each vessel;

12 (2) A short summary of the requirements for prequalification of
13 bidders including a statement that prequalification is a prerequisite
14 to consideration by the department of any bid, and a statement that the
15 bidder shall submit its bid for the vessel in compliance with the plans
16 and specifications supplied by the state; and

17 (3) An address and telephone number that may be used to obtain the
18 bid package.

1 NEW SECTION. **Sec. 2.** The department shall send to any firm that
2 requests it bidding documents specifying the criteria for the jumbo
3 ferry vessels. The bid documents shall include, but not be limited to,
4 the following information:

5 (1) Solicitation of a bid to deliver to the department vessels that
6 are constructed as specified by the plans and specifications provided
7 by the department;

8 (2) A requirement that bids submitted should include one bid for
9 the construction of three vessels;

10 (3) The proposed delivery date for each vessel, the port on Puget
11 Sound where delivery will be taken, and the location where acceptance
12 sea trials will be held;

13 (4) The amount and form of required contract security under RCW
14 39.08.100;

15 (5) A copy of the vessel construction contract that will be signed
16 by the successful bidder;

17 (6) The date by which bids for ferry vessel construction must be
18 received by the department in order to be considered;

19 (7) A requirement that the contractor comply with all applicable
20 laws, rules, and regulations including, but not limited to those
21 pertaining to the environment, worker health and safety, and prevailing
22 wages;

23 (8) A requirement that the vessels be constructed within the
24 boundaries of the state of Washington except that equipment furnished
25 by the state and components, products, and systems that are standard
26 manufactured items are not subject to the in-state requirement under
27 this subsection. For the purposes of this section, "constructed"
28 means: The fabrication, by the joining together by welding or
29 fastening of all steel parts from which the total vessel is
30 constructed, including, but not limited to, all shell frames,
31 longitudinals, bulkheads, webs, piping runs, wire ways, and ducting.
32 "Constructed" also means the installation of all components and
33 systems, including, but not limited to, equipment and machinery,
34 castings, electrical, electronics, deck covering, lining, paint and
35 joiner work, required by the contract. "Constructed" also means the
36 interconnection of all equipment, machinery, and services, such as
37 piping, wiring, and ducting;

1 (9) A requirement that all warranty work on the vessel be performed
2 within the boundaries of the state of Washington, insofar as
3 practicable;

4 (10) A statement that any bid submitted constitutes an offer and
5 remains open until ninety days after the deadline for submitting bids,
6 unless the firm submitting it withdraws it by formal written notice
7 that is received by the department before the date and time specified
8 for opening of the bids, together with an explanation of the
9 requirement that all bids submitted be accompanied by a bid deposit in
10 the amount of five percent of the bid amount; and

11 (11) A listing of all equipment to be furnished by the state.

12 NEW SECTION. **Sec. 3.** If the lowest responsible bid exceeds by
13 more than five percent the engineer's estimate of the cost to construct
14 the vessels in the state of Washington, the department shall request
15 the legislative transportation committee to perform and complete within
16 sixty days after the bid opening, an independent review of the
17 engineer's estimate and the bidding results to determine the
18 appropriateness of the original engineer's estimate. In performing the
19 independent review, the legislative transportation committee shall
20 consult with persons not bidding on the construction of new jumbo ferry
21 vessels in the state of Washington and who have experience in maritime
22 bidding, ferry construction bid estimating, and are familiar with
23 shipbuilding costs in the Pacific Northwest. If the legislative
24 transportation committee confirms the original engineer's estimate it
25 becomes the confirmed estimate. If the legislative transportation
26 committee's review determines that the engineer's estimate should be
27 adjusted to reflect appropriate and current information, the department
28 shall evaluate the lowest responsible bid against the revised
29 engineer's estimate. If the lowest responsible bid does not exceed the
30 revised engineer's estimate by more than five percent, the department
31 shall follow the procedures established under sections 4 through 6 of
32 this act. If the lowest responsible bid exceeds by more than five
33 percent the confirmed or revised engineer's estimate, the department
34 shall solicit new bids, retaining the in-state requirement established
35 in section 2(8) of this act. If the lowest responsible bid again
36 exceeds the confirmed or revised engineer's estimate by more than five
37 percent, the department shall rebid the project, eliminating the in-
38 state requirement.

1 NEW SECTION. **Sec. 4.** (1) Upon concluding its evaluation, the
2 department may:

3 (a) Select the firm submitting the lowest responsible bid for the
4 construction of new jumbo ferries, taking into consideration the
5 requirements stated in the bid documents and rank the remaining firms,
6 judging them by the same standards;

7 (b) Reject all bids not in compliance with the requirements
8 contained in the bid documents;

9 (c) Reject all bids.

10 (2) The department shall immediately notify those firms that were
11 not selected as the firm presenting the lowest responsible bid. The
12 department's selection is conclusive unless appeal from it is taken by
13 an aggrieved firm to the superior court of Thurston county within five
14 days after receiving notice of the department's final decision. The
15 appeal shall be heard summarily within ten days after it is taken and
16 on five days' notice to the department. The court shall hear any
17 appeal on the administrative record that was before the department.
18 The court may affirm the decision of the department, or it may reverse
19 the decision if it determines the action of the department was
20 arbitrary or capricious.

21 NEW SECTION. **Sec. 5.** (1) Upon selecting the firm that has
22 submitted the lowest responsible bid for the construction of new jumbo
23 ferries, and ranking the remaining firms in order of preference, the
24 department shall:

25 (a) Sign a contract with the firm presenting the lowest responsible
26 bid; or

27 (b) If a final agreement satisfactory to the department cannot be
28 signed with the firm presenting the lowest responsible bid, the
29 department may sign a contract with the firm ranked next lowest bidder.
30 If necessary, the department may repeat this procedure with each firm
31 in order until the list of firms has been exhausted, or reject all
32 bids.

33 (2) In developing a contract for the construction of ferry vessels,
34 the department may, subject to the provisions of RCW 39.25.020,
35 authorize the use of foreign-made materials and components, products,
36 and systems that are standard manufactured items in the construction of
37 ferries in order to minimize costs.

1 NEW SECTION. **Sec. 6.** Bids submitted by firms under this section
2 constitute an offer and shall remain open for ninety days. When
3 submitted, each bid shall be accompanied by a deposit in cash,
4 certified check, cashier's check, or surety bond in an amount equal to
5 five percent of the bid amount, and no bid may be considered unless the
6 deposit is enclosed. If the department awards a contract to a firm and
7 the firm fails to enter into a contract or fails to furnish a
8 satisfactory contract security as required by RCW 39.08.100, its
9 deposit shall be forfeited to the state and be deposited by the state
10 treasurer to the credit of the Puget Sound capital construction
11 account. Upon the execution of a ferry construction contract for the
12 construction of new jumbo ferries, all bid deposits shall be returned.

13 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act are each
14 added to chapter 47.60 RCW.

15 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of the
17 state government and its existing public institutions, and shall take
18 effect immediately.

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