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**Commerce & Labor Committee**

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**HB 3113**

**Brief Description:** Regarding requiring bargaining over past practices in ferry employee collective bargaining.

**Sponsors:** Representatives Cooper, Conway, McDermott, Dickerson, Hunt, Cody, Sullivan, Chase, Kenney, Haigh and Simpson, G.

**Brief Summary of Bill**

- Requires the Washington State Ferries and ferry workers to bargain over changes in past practices of the ferry system management that are related to mandatory subjects of bargaining.

**Hearing Date:** 2/2/04

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

**Background:**

Ferry workers bargain under the Marine Employees' Collective Bargaining Act (MECBA) with the Washington State Ferries (WSF) over wages, hours, working conditions, and insurance and health care benefits. Retirement benefits are not included in the scope of bargaining. Refusal of the parties to bargain over mandatory subjects of bargaining is an unfair labor practice. The MECBA is administered by the Marine Employees' Commission (MEC).

In December 2003, the MEC decided an unfair labor practice case involving Request for Proposals (RFPs) issued by the WSF for food service contracts on Washington ferries. These services are provided by the employees of the business that contracts with the WSF to provide food service. The last contract for these services terminated December 31, 2003. The contractor's employees are represented by a union that also represents employees of the WSF.

The union filed an unfair labor practice case with the MEC after the WSF issued RFPs that did not contain language requiring contractors to give preferential hiring to current galley employees or to assume the existing collective bargaining agreement applying to the galley employees. The MEC found that although it did not have jurisdiction over labor relations between the food service contractor and the union, it did have jurisdiction to decide the unfair labor practice charge. It held that (1) whether the past practice of including preferential hiring and contract assumption clauses in the food service contract RFPs was to prevent a labor stoppage or to better its relationship with the union, it was a practice on which the union was entitled to depend, and (2) when the WSF

chose to eliminate this provision in the RFP, without first bargaining with the union, the WSF violated its statutory obligation to bargain. The case is on appeal to the superior court.

Under earlier MEC decisions, the MEC has held that if there is not written agreement on a past practice, then for the past practice to be binding on the parties, it must be unequivocal, clearly enunciated and acted on, and readily ascertainable over a reasonable period of time as a fixed practice or policy accepted by both parties.

**Summary of Bill:**

Ferry system management and ferry employee organizations are required to negotiate over changes in past practices of ferry system management that relate to wages, hours, working conditions, and insurance and health care benefits.

**Rules Authority:** The bill does not contain provisions addressing the rule-making powers of an agency.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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