

ESHB 3209 - S AMD 998
By Senator Haugen

ADOPTED AND ENGROSSED 03/10/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the Washington
4 state ferry system is a critical component of the state's highway
5 system. The legislature further finds that ferry system revenues are
6 inadequate to support the capital requirements of aging vessels and
7 terminals, and operating cost growth is fast outpacing the growth of
8 fare revenue and gas tax revenue dedicated to the ferry system. As
9 such, and drawing on more than four consecutive years of legislative
10 analysis and operating policy reforms, the legislature finds that a
11 realignment of the ferry compensation policy framework is an
12 appropriate next step toward the legislature's long-term goal of
13 assuring sustainable, cost-effective ferry service. The legislature
14 further intends to address increased costs of ferry system operations
15 in a manner that balances the interests of the ferry system, ferry
16 workforce, and fare payers. It is the intent of the legislature that
17 final recommendations from the joint transportation committee ferry
18 study, submitted to the legislature during the 2009 regular legislative
19 session, be enacted by the legislature and implemented by the
20 department of transportation as soon as practicable in order to benefit
21 from the efficiencies and cost savings identified in the
22 recommendations. It is also the intent of the legislature to make
23 various additional policy changes aimed at further efficiencies and
24 cost savings. Since the study began in 2006, recommendations have been
25 made with regard to long range planning and implementing the most
26 efficient and effective balance between ferry capital and operating
27 investments. It is intended that this act, the 2009-2011 omnibus
28 transportation appropriations act, and subsequent transportation
29 appropriations acts serve as vehicles for enacting these

1 recommendations in order to maximize the utilization of existing
2 capacity and to make the most efficient use of existing assets and tax
3 dollars.

4 NEW SECTION. **Sec. 2.** (1) The office of financial management shall
5 convene an expert panel of ferry operators to conduct a management
6 review of the Washington state department of transportation, ferries
7 division. The panel must have between three and five members and must
8 represent both management and operations specialists, as well as public
9 and private ferry operators that can bring best practices and state-of-
10 the-art knowledge to this effort. The panel shall review past studies,
11 conduct its own review, and make recommendations of the ferries
12 division's management. The study must be completed and submitted to
13 the transportation committees of the senate and house of
14 representatives by August 1, 2010, and must include:

15 (a) A review and comment on the studies and audits conducted on the
16 ferries division over the past four years in areas of overhead and
17 management organization structure and costs, maintenance practices,
18 scheduling, and prioritization of preservation of vessels and terminals
19 to ensure they represent current best practices;

20 (b) A report on the implementation of the recommendations in the
21 studies and audits described in (a) of this subsection, and a report on
22 their effectiveness compared to national best practices; and

23 (c) A review and report on the procedures for crew and service
24 scheduling and recommendations on opportunities for improvement to
25 provide the least cost of operations while maintaining service
26 schedules that meet the needs of ferries customers.

27 (2) This section expires July 1, 2011.

28 **Sec. 3.** RCW 47.60.355 and 2007 c 512 s 11 are each amended to read
29 as follows:

30 (1) Terminal and vessel preservation funding requests shall only be
31 for assets in the life-cycle cost model.

32 (2) Terminal and vessel preservation funding requests that exceed
33 five million dollars per project must be accompanied by a predesign
34 study. The predesign study must include all elements required by the
35 office of financial management.

1 **Sec. 4.** RCW 47.60.365 and 2007 c 512 s 12 are each amended to read
2 as follows:

3 The department shall develop terminal and vessel design standards
4 that:

5 (1) Adhere to vehicle level of service standards as described in
6 RCW 47.06.140;

7 (2) Adhere to operational strategies as described in RCW 47.60.327;
8 and

9 (3) Choose the most efficient balance between capital and operating
10 investments by using a life-cycle cost analysis.

11 **Sec. 5.** RCW 47.60.375 and 2008 c 124 s 3 are each amended to read
12 as follows:

13 (1) The capital plan must adhere to the following:

14 (a) A current ridership demand forecast;

15 (b) Vehicle level of service standards as described in RCW
16 47.06.140;

17 (c) Operational strategies as described in RCW 47.60.327; and

18 (d) Terminal and vessel design standards as described in RCW
19 47.60.365.

20 (2) The capital plan must include the following:

21 (a) A current vessel preservation plan;

22 (b) A current systemwide vessel rebuild and replacement plan as
23 described in RCW 47.60.377;

24 (c) A current vessel deployment plan; and

25 (d) A current terminal preservation plan that adheres to the life-
26 cycle cost model on capital assets as described in RCW 47.60.345.

27 **Sec. 6.** RCW 47.60.385 and 2008 c 124 s 6 are each amended to read
28 as follows:

29 (1) Terminal improvement, vessel improvement, and vessel
30 acquisition project funding requests must adhere to the capital plan((-

31 ~~2) Requests for terminal improvement design and construction~~
32 ~~funding must)), include route-based planning, and be submitted with a
33 predesign study that:~~

34 (a) Includes all elements required by the office of financial
35 management;

1 (b) Separately identifies basic terminal and vessel elements
2 essential for operation and their costs;

3 (c) Separately identifies additional elements to provide ancillary
4 revenue and customer comfort and their costs;

5 (d) Includes construction phasing options that are consistent with
6 forecasted ridership increases;

7 (e) Separately identifies additional elements requested by local
8 governments and the cost and proposed funding source of those elements;

9 (f) Separately identifies multimodal elements and the cost and
10 proposed funding source of those elements; ((and))

11 (g) Identifies all contingency amounts((-

12 ~~(h)[(3)] When planning for new vessel acquisitions, the department
13 must evaluate the long term vessel operating costs related to fuel
14 efficiency and staffing))~~);

15 (h) Identifies any terminal, vessel, or other capital modifications
16 that would be required as a result of the proposed capital project;

17 (i) Includes planned service modifications as a result of the
18 proposed capital project, and the consistency of those service
19 modifications with the capital plan; and

20 (j) Demonstrates the evaluation of long-term operating costs
21 including fuel efficiency, staffing, and preservation.

22 (2) The department shall prioritize vessel preservation and
23 acquisition funding requests over vessel improvement funding requests.

24 NEW SECTION. Sec. 7. A new section is added to chapter 47.60 RCW
25 to read as follows:

26 (1) In addition to the requirements of RCW 47.60.385(1), initial
27 requests for, and substantial modification requests to, vessel
28 acquisition funding must be submitted with a predesign study that:

29 (a) Includes a business decision case on vessel sizing;

30 (b) Includes an updated vessel deployment plan demonstrating
31 maximum use of existing vessels, and an updated systemwide vessel
32 rebuild and replacement plan;

33 (c) Includes an analysis that demonstrates that acquiring a new
34 vessel or improving an existing vessel is more cost-effective than
35 other alternatives considered. At a minimum, alternatives explored
36 must include:

1 (i) Alternatives to new vessel construction that increase capacity
2 of existing vessels;

3 (ii) Service level changes in lieu of adding vessel capacity; and

4 (iii) Acquiring existing vessels or existing vessel plans rather
5 than wholly new vessels or vessel plans; and

6 (d) Demonstrates that the vessel proposed for improvement,
7 construction, or purchase, if intended to replace an existing vessel or
8 to place an existing vessel into inactive or reserve status, is
9 consistent with the scheduled replacements in the rebuild and
10 replacement plan.

11 (2) In addition to the requirements of RCW 47.60.385(1), initial
12 requests for, and substantial modification requests to, vessel
13 improvement funding must be submitted with a predesign study that
14 includes:

15 (a) An explanation of any regulatory changes necessitating the
16 improvement;

17 (b) The requirements under subsection (1) of this section, if the
18 improvement modifies the capacity of a vessel;

19 (c) A cost-benefit analysis of any modifications designed to
20 improve fuel efficiency, including potential impacts on vessel
21 maintenance and repair; and

22 (d) An assessment of out-of-service time associated with making the
23 improvement and ongoing preservation of the improvement.

24 NEW SECTION. **Sec. 8.** (1) Signage must be prominently displayed at
25 each terminal and on each vessel that informs the public that assaults
26 on Washington state employees will be prosecuted to the full extent of
27 the law.

28 (2) The department shall investigate the frequency, severity, and
29 prosecutorial results of assaults on Washington state ferries employees
30 and, if appropriate, make recommendations to the transportation
31 committees of the senate and house of representatives during the 2011
32 legislative session regarding methods to decrease the number of
33 assaults on employees and procedures for prosecuting those who assault
34 employees.

35 (3) This section expires June 30, 2011.

1 **Sec. 9.** RCW 47.28.030 and 2007 c 218 s 90 are each amended to read
2 as follows:

3 (1)(a) A state highway shall be constructed, altered, repaired, or
4 improved, and improvements located on property acquired for
5 right-of-way purposes may be repaired or renovated pending the use of
6 such right-of-way for highway purposes, by contract or state forces.
7 The work or portions thereof may be done by state forces when the
8 estimated costs thereof are less than fifty thousand dollars and
9 effective July 1, 2005, sixty thousand dollars(~~(+PROVIDED, That)~~).

10 (b) When delay of performance of such work would jeopardize a state
11 highway or constitute a danger to the traveling public, the work may be
12 done by state forces when the estimated cost thereof is less than
13 eighty thousand dollars and effective July 1, 2005, one hundred
14 thousand dollars.

15 (c) When the department of transportation determines to do the work
16 by state forces, it shall enter a statement upon its records to that
17 effect, stating the reasons therefor.

18 (d) To enable a larger number of small businesses, and minority,
19 and women contractors to effectively compete for department of
20 transportation contracts, the department may adopt rules providing for
21 bids and award of contracts for the performance of work, or furnishing
22 equipment, materials, supplies, or operating services whenever any work
23 is to be performed and the engineer's estimate indicates the cost of
24 the work would not exceed eighty thousand dollars and effective July 1,
25 2005, one hundred thousand dollars.

26 (2) The rules adopted under this section:

27 ~~((+1))~~ (a) Shall provide for competitive bids to the extent that
28 competitive sources are available except when delay of performance
29 would jeopardize life or property or inconvenience the traveling
30 public; and

31 ~~((+2))~~ (b) Need not require the furnishing of a bid deposit nor a
32 performance bond, but if a performance bond is not required then
33 progress payments to the contractor may be required to be made based on
34 submittal of paid invoices to substantiate proof that disbursements
35 have been made to laborers, material suppliers, mechanics, and
36 subcontractors from the previous partial payment; and

37 ~~((+3))~~ (c) May establish prequalification standards and procedures

1 as an alternative to those set forth in RCW 47.28.070, but the
2 prequalification standards and procedures under RCW 47.28.070 shall
3 always be sufficient.

4 (3) The department of transportation shall comply with such goals
5 and rules as may be adopted by the office of minority and women's
6 business enterprises to implement chapter 39.19 RCW with respect to
7 contracts entered into under this chapter. The department may adopt
8 such rules as may be necessary to comply with the rules adopted by the
9 office of minority and women's business enterprises under chapter 39.19
10 RCW.

11 (4)(a) For the period of March 15, 2010, through June 30, 2011,
12 work for less than one hundred twenty thousand dollars may be performed
13 on ferry vessels and terminals by state forces.

14 (b) The department shall hire a disinterested, third party to
15 conduct an independent analysis to identify methods of reducing out-of-
16 service times for vessel maintenance, preservation, and improvement
17 projects. The analysis must include options that consider
18 consolidating work while vessels are at shipyards by having state
19 forces perform services traditionally performed at Eagle Harbor at the
20 shipyard and decreasing the allowable time at shipyards. The analysis
21 must also compare the out-of-service vessel times of performing
22 services by state forces versus contracting out those services which in
23 turn must be used to form a recommendation as to what the threshold of
24 work performed on ferry vessels and terminals by state forces should
25 be. This analysis must be presented to the transportation committees
26 of the senate and house of representatives by December 1, 2010.

27 (c) The department shall develop a proposed ferry vessel
28 maintenance, preservation, and improvement program and present it to
29 the transportation committees of the senate and house of
30 representatives by December 1, 2010. The proposed program must:

31 (i) Improve the basis for budgeting vessel maintenance,
32 preservation, and improvement costs and for projecting those costs into
33 a sixteen-year financial plan;

34 (ii) Limit the amount of planned out-of-service time to the
35 greatest extent possible, including options associated with department
36 staff as well as commercial shipyards; and

37 (iii) Be based on the service plan in the capital plan, recognizing
38 that vessel preservation and improvement needs may vary by route.

1 (d) In developing the proposed ferry vessel maintenance,
2 preservation, and improvement program, the department shall consider
3 the following, related to reducing vessel out-of-service time:

4 (i) The costs compared to benefits of Eagle Harbor repair and
5 maintenance facility operations options to include staffing costs and
6 benefits in terms of reduced out-of-service time;

7 (ii) The maintenance requirements for on-vessel staff, including
8 the benefits of a systemwide standard;

9 (iii) The costs compared to benefits of staff performing
10 preservation or maintenance work, or both, while the vessel is
11 underway, tied up between sailings, or not deployed;

12 (iv) A review of the department's vessel maintenance, preservation,
13 and improvement program contracting process and contractual
14 requirements;

15 (v) The costs compared to benefits of allowing for increased costs
16 associated with expedited delivery;

17 (vi) A method for comparing the anticipated out-of-service time of
18 proposed projects and other projects planned during the same
19 construction period;

20 (vii) Coordination with required United States coast guard dry
21 dockings;

22 (viii) A method for comparing how proposed projects relate to the
23 service requirements of the route on which the vessel normally
24 operates; and

25 (ix) A method for evaluating the ongoing maintenance and
26 preservation costs associated with proposed improvement projects.

27 **Sec. 10.** RCW 47.64.120 and 2006 c 164 s 3 are each amended to read
28 as follows:

29 (1) Except as otherwise provided in this chapter, the employer and
30 ferry system employee organizations, through their collective
31 bargaining representatives, shall meet at reasonable times((7)) to
32 negotiate in good faith with respect to wages, hours, working
33 conditions, and insurance, ((and health care benefits as limited by RCW
34 47.64.270,)) and other matters mutually agreed upon. Employer funded
35 retirement benefits shall be provided under the public employees
36 retirement system under chapter 41.40 RCW and shall not be included in
37 the scope of collective bargaining. Except as provided under RCW

1 47.64.270, the employer is not required to bargain over health care
2 benefits. Any retirement system or retirement benefits shall not be
3 subject to collective bargaining.

4 (2) Upon ratification of bargaining agreements, ferry employees are
5 entitled to an amount equivalent to the interest earned on retroactive
6 compensation increases. For purposes of this section, the interest
7 earned on retroactive compensation increases is the same monthly rate
8 of interest that was earned on the amount of the compensation increases
9 while held in the state treasury. The interest will be computed for
10 each employee until the date the retroactive compensation is paid, and
11 must be allocated in accordance with appropriation authority. The
12 interest earned on retroactive compensation is not considered part of
13 the ongoing compensation obligation of the state and is not
14 compensation earnable for the purposes of chapter 41.40 RCW.
15 Negotiations shall also include grievance procedures for resolving any
16 questions arising under the agreement, which shall be embodied in a
17 written agreement and signed by the parties.

18 (3) Except as otherwise provided in this chapter, if a conflict
19 exists between an executive order, administrative rule, or agency
20 policy relating to wages, hours, and terms and conditions of employment
21 and a collective bargaining agreement negotiated under this chapter,
22 the collective bargaining agreement shall prevail. A provision of a
23 collective bargaining agreement that conflicts with the terms of a
24 statute is invalid and unenforceable.

25 **Sec. 11.** RCW 47.64.170 and 2007 c 160 s 1 are each amended to read
26 as follows:

27 (1) Any ferry employee organization certified as the bargaining
28 representative shall be the exclusive representative of all ferry
29 employees in the bargaining unit and shall represent all such employees
30 fairly.

31 (2) A ferry employee organization or organizations and the governor
32 may each designate any individual as its representative to engage in
33 collective bargaining negotiations.

34 (3) Negotiating sessions, including strategy meetings of the
35 employer or employee organizations, mediation, and the deliberative
36 process of arbitrators are exempt from the provisions of chapter 42.30

1 RCW. Hearings conducted by arbitrators may be open to the public by
2 mutual consent of the parties.

3 (4) Terms of any collective bargaining agreement may be enforced by
4 civil action in Thurston county superior court upon the initiative of
5 either party.

6 (5) Ferry system employees or any employee organization shall not
7 negotiate or attempt to negotiate directly with anyone other than the
8 person who has been appointed or authorized a bargaining representative
9 for the purpose of bargaining with the ferry employees or their
10 representative.

11 (6)(a) Within ten working days after the first Monday in September
12 of every odd-numbered year, the parties shall attempt to agree on an
13 interest arbitrator to be used if the parties are not successful in
14 negotiating a comprehensive collective bargaining agreement. If the
15 parties cannot agree on an arbitrator within the ten-day period, either
16 party may request a list of seven arbitrators from the federal
17 mediation and conciliation service. The parties shall select an
18 interest arbitrator using the coin toss/alternate strike method within
19 thirty calendar days of receipt of the list. Immediately upon
20 selecting an interest arbitrator, the parties shall cooperate to
21 reserve dates with the arbitrator for potential arbitration between
22 August 1st and September 15th of the following even-numbered year. The
23 parties shall also prepare a schedule of at least five negotiation
24 dates for the following year, absent an agreement to the contrary. The
25 parties shall execute a written agreement before November 1st of each
26 odd-numbered year setting forth the name of the arbitrator and the
27 dates reserved for bargaining and arbitration. This subsection (6)(a)
28 imposes minimum obligations only and is not intended to define or limit
29 a party's full, good faith bargaining obligation under other sections
30 of this chapter.

31 (b) The negotiation of a proposed collective bargaining agreement
32 by representatives of the employer and a ferry employee organization
33 shall commence on or about February 1st of every even-numbered year.

34 (c) For negotiations covering the 2009-2011 biennium and subsequent
35 biennia, the time periods specified in this section, and in RCW
36 47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of
37 all agreements on or before October 1st of the even-numbered year next
38 preceding the biennial budget period during which the agreement should

1 take effect. These time periods may only be altered by mutual
2 agreement of the parties in writing. Any such agreement and any
3 impasse procedures agreed to by the parties under RCW 47.64.200 must
4 include an agreement regarding the new time periods that will allow
5 final resolution by negotiations or arbitration by October 1st of each
6 even-numbered year.

7 ~~(7) ((Until a new collective bargaining agreement is in effect, the~~
8 ~~terms and conditions of the previous collective bargaining agreement~~
9 ~~shall remain in force.))~~ It is the intent of this section that the
10 collective bargaining agreement or arbitrator's award shall commence on
11 July 1st of each odd-numbered year and shall terminate on June 30th of
12 the next odd-numbered year to coincide with the ensuing biennial budget
13 year, as defined by RCW 43.88.020(7), to the extent practical. It is
14 further the intent of this section that all collective bargaining
15 agreements be concluded by October 1st of the even-numbered year before
16 the commencement of the biennial budget year during which the
17 agreements are to be in effect. After the expiration date of a
18 collective bargaining agreement negotiated under this chapter, all of
19 the terms and conditions specified in the collective bargaining
20 agreement remain in effect until the effective date of a subsequently
21 negotiated agreement, not to exceed one year from the expiration date
22 stated in the agreement. Thereafter, the employer may unilaterally
23 implement according to law.

24 (8) The office of financial management shall conduct a salary
25 survey, for use in collective bargaining and arbitration, which must be
26 conducted through a contract with a firm nationally recognized in the
27 field of human resources management consulting.

28 (9)(a) The governor shall submit a request either for funds
29 necessary to implement the collective bargaining agreements including,
30 but not limited to, the compensation and fringe benefit provisions or
31 for legislation necessary to implement the agreement, or both.
32 Requests for funds necessary to implement the collective bargaining
33 agreements shall not be submitted to the legislature by the governor
34 unless such requests:

35 (i) Have been submitted to the director of the office of financial
36 management by October 1st before the legislative session at which the
37 requests are to be considered; and

1 (ii) Have been certified by the director of the office of financial
2 management as being feasible financially for the state.

3 (b) The governor shall submit a request either for funds necessary
4 to implement the arbitration awards or for legislation necessary to
5 implement the arbitration awards, or both. Requests for funds
6 necessary to implement the arbitration awards shall not be submitted to
7 the legislature by the governor unless such requests:

8 (i) Have been submitted to the director of the office of financial
9 management by October 1st before the legislative session at which the
10 requests are to be considered; and

11 (ii) Have been certified by the director of the office of financial
12 management as being feasible financially for the state.

13 (c) The legislature shall approve or reject the submission of the
14 request for funds necessary to implement the collective bargaining
15 agreements or arbitration awards as a whole for each agreement or
16 award. The legislature shall not consider a request for funds to
17 implement a collective bargaining agreement or arbitration award unless
18 the request is transmitted to the legislature as part of the governor's
19 budget document submitted under RCW 43.88.030 and 43.88.060. If the
20 legislature rejects or fails to act on the submission, either party may
21 reopen all or part of the agreement and award or the exclusive
22 bargaining representative may seek to implement the procedures provided
23 for in RCW 47.64.210 and 47.64.300.

24 ~~((+9))~~ (10) If, after the compensation and fringe benefit
25 provisions of an agreement are approved by the legislature, a
26 significant revenue shortfall occurs resulting in reduced
27 appropriations, as declared by proclamation of the governor or by
28 resolution of the legislature, both parties shall immediately enter
29 into collective bargaining for a mutually agreed upon modification of
30 the agreement.

31 **Sec. 12.** RCW 47.64.200 and 2006 c 164 s 7 are each amended to read
32 as follows:

33 As the first step in the performance of their duty to bargain, the
34 employer and the employee organization shall endeavor to agree upon
35 impasse procedures. Unless otherwise agreed to by the employee
36 organization and the employer in their impasse procedures, the
37 arbitrator or panel ~~((is limited to selecting the most reasonable~~

1 offer, in its judgment, of the final offers on each impasse item
2 submitted by the parties. The employee organization and the employer
3 may mutually agree to the impasse procedure under which the arbitrator
4 or panel may)) shall issue a decision it deems just and appropriate
5 with respect to each impasse item. If the parties fail to agree upon
6 impasse procedures under this section, the impasse procedures provided
7 in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320 apply.
8 It is unlawful for either party to refuse to participate in the impasse
9 procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300
10 through 47.64.320.

11 **Sec. 13.** RCW 47.64.270 and 2006 c 164 s 17 are each amended to
12 read as follows:

13 (1) The employer and one coalition of all the exclusive bargaining
14 representatives subject to this chapter and chapter 41.80 RCW shall
15 conduct negotiations regarding the dollar amount expended on behalf of
16 each employee for health care benefits.

17 (2) Absent a collective bargaining agreement to the contrary, the
18 department of transportation shall provide contributions to insurance
19 and health care plans for ferry system employees and dependents, as
20 determined by the state health care authority, under chapter 41.05
21 RCW((; and)).

22 (3) The employer and employee organizations may collectively
23 bargain for ((other)) insurance ((and health care)) plans other than
24 health care benefits, and employer contributions may exceed that of
25 other state agencies as provided in RCW 41.05.050. ((To the extent
26 that ferry employees by bargaining unit have absorbed the required
27 offset of wage increases by the amount that the employer's contribution
28 for employees' and dependents' insurance and health care plans exceeds
29 that of other state general government employees in the 1985-87 fiscal
30 biennium, employees shall not be required to absorb a further offset
31 except to the extent the differential between employer contributions
32 for those employees and all other state general government employees
33 increases during any subsequent fiscal biennium. If such differential
34 increases in the 1987-89 fiscal biennium or the 1985-87 offset by
35 bargaining unit is insufficient to meet the required deduction, the
36 amount available for compensation shall be reduced by bargaining unit

1 ~~by the amount of such increase or the 1985-87 shortage in the required~~
2 ~~offset. Compensation shall include all wages and employee benefits.))~~

3 **Sec. 14.** RCW 47.64.280 and 2006 c 164 s 18 are each amended to
4 read as follows:

5 (1) There is created the marine employees' commission. The
6 governor shall appoint the commission with the consent of the senate.
7 The commission shall consist of three members: One member to be
8 appointed from labor, one member from industry, and one member from the
9 public who has significant knowledge of maritime affairs. The public
10 member shall be chair of the commission. One of the original members
11 shall be appointed for a term of three years, one for a term of four
12 years, and one for a term of five years. Their successors shall be
13 appointed for terms of five years each, except that any person chosen
14 to fill a vacancy shall be appointed only for the unexpired term of the
15 member whom he or she succeeds. Commission members are eligible for
16 reappointment. Any member of the commission may be removed by the
17 governor, upon notice and hearing, for neglect of duty or malfeasance
18 in office, but for no other cause. Commission members are not eligible
19 for state retirement under chapter 41.40 RCW by virtue of their service
20 on the commission. Members of the commission shall be compensated in
21 accordance with RCW 43.03.250 and shall receive reimbursement for
22 official travel and other expenses at the same rate and on the same
23 terms as provided for the transportation commission by RCW 47.01.061.
24 The payments shall be made from the Puget Sound ferry operations
25 account.

26 (2) The commission shall: (a) Adjust all complaints, grievances,
27 and disputes between labor and management arising out of the operation
28 of the ferry system as provided in RCW 47.64.150; (b) provide for
29 impasse mediation as required in RCW 47.64.210; and (c) (~~provide~~
30 ~~salary surveys as required in RCW 47.64.220; and (d)) perform those~~
31 duties required in RCW 47.64.300.

32 (3)(a) In adjudicating all complaints, grievances, and disputes,
33 the party claiming labor disputes shall, in writing, notify the
34 commission, which shall make careful inquiry into the cause thereof and
35 issue an order advising the ferry employee, or the ferry employee
36 organization representing him or her, and the department of
37 transportation, as to the decision of the commission.

1 (b) The parties are entitled to offer evidence relating to disputes
2 at all hearings conducted by the commission. The orders and awards of
3 the commission are final and binding upon any ferry employee or
4 employees or their representative affected thereby and upon the
5 department.

6 (c) The commission shall adopt rules of procedure under chapter
7 34.05 RCW.

8 (d) The commission has the authority to subpoena any ferry employee
9 or employees, or their representatives, and any member or
10 representative of the department, and any witnesses. The commission
11 may require attendance of witnesses and the production of all pertinent
12 records at any hearings held by the commission. The subpoenas of the
13 commission are enforceable by order of any superior court in the state
14 of Washington for the county within which the proceeding may be
15 pending. The commission may hire staff as necessary, appoint
16 consultants, enter into contracts, and conduct studies as reasonably
17 necessary to carry out this chapter.

18 **Sec. 15.** RCW 47.64.320 and 2006 c 164 s 14 are each amended to
19 read as follows:

20 (1) The mediator, arbitrator, or arbitration panel may consider
21 only matters that are subject to bargaining under this chapter, except
22 that health care benefits are not subject to interest arbitration.

23 (2) The decision of an arbitrator or arbitration panel is not
24 binding on the legislature and, if the legislature does not approve the
25 funds necessary to implement provisions pertaining to compensation and
26 fringe benefit provisions of an arbitrated collective bargaining
27 agreement, is not binding on the state, the department of
28 transportation, or the ferry employee organization.

29 (3) In making its determination, the arbitrator or arbitration
30 panel shall be mindful of the legislative purpose under RCW 47.64.005
31 and 47.64.006 and, as additional standards or guidelines to aid it in
32 reaching a decision, shall take into consideration the following
33 factors:

34 (a) The financial ability of the department to pay for the
35 compensation and fringe benefit provisions of a collective bargaining
36 agreement;

1 **(b)** Past collective bargaining contracts between the parties
2 including the bargaining that led up to the contracts;

3 ~~((b))~~ **(c)** The constitutional and statutory authority of the
4 employer;

5 ~~((e))~~ **(d)** Stipulations of the parties;

6 ~~((d))~~ **(e)** The results of the salary survey as required in RCW
7 ~~((47.64.220))~~ 47.64.170(8);

8 ~~((e))~~ **(f)** Comparison of wages, hours, employee benefits, and
9 conditions of employment of the involved ferry employees with those of
10 public and private sector employees in states along the west coast of
11 the United States, including Alaska, and in British Columbia doing
12 directly comparable but not necessarily identical work, giving
13 consideration to factors peculiar to the area and the classifications
14 involved;

15 ~~((f))~~ **(g)** Changes in any of the foregoing circumstances during
16 the pendency of the proceedings;

17 ~~((g))~~ **(h)** The limitations on ferry toll increases and operating
18 subsidies as may be imposed by the legislature; ~~((and~~

19 ~~(h))~~ **(i)** The ability of the state to retain ferry employees;

20 **(j)** The overall compensation presently received by the ferry
21 employees, including direct wage compensation, vacations, holidays and
22 other paid excused time, pensions, insurance benefits, and all other
23 direct or indirect monetary benefits received; and

24 **(k)** Other factors that are normally or traditionally taken into
25 consideration in the determination of matters that are subject to
26 bargaining under this chapter.

27 (4) This section applies to any matter before the respective
28 mediator, arbitrator, or arbitration panel.

29 **Sec. 16.** RCW 41.80.020 and 2002 c 354 s 303 are each amended to
30 read as follows:

31 (1) Except as otherwise provided in this chapter, the matters
32 subject to bargaining include wages, hours, and other terms and
33 conditions of employment, and the negotiation of any question arising
34 under a collective bargaining agreement.

35 (2) The employer is not required to bargain over matters pertaining
36 to:

1 (a) Health care benefits or other employee insurance benefits,
2 except as required in subsection (3) of this section;

3 (b) Any retirement system or retirement benefit; or

4 (c) Rules of the director of personnel or the Washington personnel
5 resources board adopted under section 203, chapter 354, Laws of 2002.

6 (3) Matters subject to bargaining include the number of names to be
7 certified for vacancies, promotional preferences, and the dollar amount
8 expended on behalf of each employee for health care benefits. However,
9 except as provided otherwise in this subsection for institutions of
10 higher education, negotiations regarding the number of names to be
11 certified for vacancies, promotional preferences, and the dollar amount
12 expended on behalf of each employee for health care benefits shall be
13 conducted between the employer and one coalition of all the exclusive
14 bargaining representatives subject to this chapter. The exclusive
15 bargaining representatives for employees that are subject to chapter
16 47.64 RCW shall bargain the dollar amount expended on behalf of each
17 employee for health care benefits with the employer as part of the
18 coalition under this subsection. Any such provision agreed to by the
19 employer and the coalition shall be included in all master collective
20 bargaining agreements negotiated by the parties. For institutions of
21 higher education, promotional preferences and the number of names to be
22 certified for vacancies shall be bargained under the provisions of RCW
23 41.80.010(4).

24 (4) The employer and the exclusive bargaining representative shall
25 not agree to any proposal that would prevent the implementation of
26 approved affirmative action plans or that would be inconsistent with
27 the comparable worth agreement that provided the basis for the salary
28 changes implemented beginning with the 1983-1985 biennium to achieve
29 comparable worth.

30 (5) The employer and the exclusive bargaining representative shall
31 not bargain over matters pertaining to management rights established in
32 RCW 41.80.040.

33 (6) Except as otherwise provided in this chapter, if a conflict
34 exists between an executive order, administrative rule, or agency
35 policy relating to wages, hours, and terms and conditions of employment
36 and a collective bargaining agreement negotiated under this chapter,
37 the collective bargaining agreement shall prevail. A provision of a

1 collective bargaining agreement that conflicts with the terms of a
2 statute is invalid and unenforceable.

3 (7) This section does not prohibit bargaining that affects
4 contracts authorized by RCW 41.06.142.

5 NEW SECTION. **Sec. 17.** A new section is added to chapter 47.60 RCW
6 to read as follows:

7 Upon expiration of the collective bargaining agreements in
8 existence as of the effective date of this section, the department
9 shall not allow free passage on any ferry vessel operated by the
10 department to:

11 (1) Any department employee unless it is directly related to the
12 employee's job duties, directly reporting to duty, or directly
13 returning home from duty;

14 (2) Any former department employee or their families; or

15 (3) Any department employee's family members.

16 **Sec. 18.** 2010 c ... (ESSB 6381) s 222 (uncodified) is amended to
17 read as follows:

18 **FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X**

19 Puget Sound Ferry Operations Account--State

20	Appropriation	((\$425,922,000))
21		<u>\$425,252,000</u>

22 The appropriation in this section is subject to the following
23 conditions and limitations:

24 (1) \$78,754,952 of the Puget Sound ferry operations account--state
25 appropriation is provided solely for auto ferry vessel operating fuel
26 in the 2009-11 fiscal biennium. This appropriation is contingent upon
27 the enactment of (~~sections 716 and 701 of this act~~) section 701,
28 chapter . . . (ESSB 6381), Laws of 2010. All fuel purchased by the
29 Washington state ferries at Harbor Island truck terminal for the
30 operation of the Washington state ferries diesel powered vessels must
31 be a minimum of five percent biodiesel blend so long as the per gallon
32 price of diesel containing a five percent biodiesel blend level does
33 not exceed the per gallon price of diesel by more than five percent.

34 (2) To protect the waters of Puget Sound, the department shall
35 investigate nontoxic alternatives to fuel additives and other

1 commercial products that are used to operate, maintain, and preserve
2 vessels.

3 (3) If, after the department's review of fares and pricing
4 policies, the department proposes a fuel surcharge, the department must
5 evaluate other cost savings and fuel price stabilization strategies
6 that would be implemented before the imposition of a fuel surcharge.
7 The department shall report to the legislature and transportation
8 commission on its progress of implementing new fuel forecasting and
9 budgeting practices, price hedging contracts for fuel purchases, and
10 fuel conservation strategies by November 30, 2010.

11 (4) The department shall strive to significantly reduce the number
12 of injuries suffered by Washington state ferries employees. By
13 December 15, 2009, the department shall submit to the office of
14 financial management and the transportation committees of the
15 legislature its implementation plan to reduce such injuries.

16 (5) The department shall continue to provide service to Sidney,
17 British Columbia. The department may place a Sidney terminal departure
18 surcharge on fares for out of state residents riding the Washington
19 state ferry route that runs between Anacortes, Washington and Sidney,
20 British Columbia, if the cost for landing/license fee, taxes, and
21 additional amounts charged for docking are in excess of \$280,000 CDN.
22 The surcharge must be limited to recovering amounts above \$280,000 CDN.

23 (6) The department shall analyze operational solutions to enhance
24 service on the Bremerton to Seattle ferry run. The Washington state
25 ferries shall report its analysis to the transportation committees of
26 the legislature by December 1, 2009.

27 (7) The office of financial management budget instructions require
28 agencies to recast enacted budgets into activities. The Washington
29 state ferries shall include a greater level of detail in its 2011-13
30 omnibus transportation appropriations act request, as determined
31 jointly by the office of financial management, the Washington state
32 ferries, and the legislative transportation committees.

33 (8) (~~(\$4,794,000)~~) \$4,124,000 of the Puget Sound ferry operations
34 account--state appropriation is provided solely for commercial
35 insurance for ferry assets. The office of financial management, after
36 consultation with the transportation committees of the legislature,
37 must present a business plan for the Washington state ferry system's
38 insurance coverage to the 2010 legislature. The business plan must

1 include a cost-benefit analysis of Washington state ferries' current
2 commercial insurance purchased for ferry assets and a review of self-
3 insurance for noncatastrophic events.

4 (9) \$1,100,000 of the Puget Sound ferry operations account--state
5 appropriation is provided solely for a marketing program. The
6 department shall present a marketing program proposal to the
7 transportation committees of the legislature during the 2010
8 legislative session before implementing this program. Of this amount,
9 \$10,000 is for the city of Port Townsend and \$10,000 is for the town of
10 Coupeville for mitigation expenses related to only one vessel operating
11 on the Port Townsend/Keystone ferry route. The moneys provided to the
12 city of Port Townsend and town of Coupeville are not contingent upon
13 the required marketing proposal.

14 (10) \$350,000 of the Puget Sound ferry operations account--state
15 appropriation is provided solely for two extra trips per day during the
16 summer of 2009 season, beyond the current schedule, on the Port
17 Townsend/Keystone route.

18 (11) When purchasing uniforms that are required by collective
19 bargaining agreements, the department shall contract with the lowest
20 cost provider.

21 (12) The legislature finds that measuring the performance of
22 Washington state ferries requires the measurement of quality,
23 timeliness, and unit cost of services delivered to customers.
24 Consequently, the department must develop a set of metrics that measure
25 that performance and report to the transportation committees of the
26 legislature and to the office of financial management on the
27 development of these measurements along with recommendations to the
28 2010 legislature on which measurements must become a part of the next
29 omnibus transportation appropriations act.

30 (13) As a priority task, the department is directed to propose a
31 comprehensive incident and accident investigation policy and
32 appropriate procedures, and to provide the proposal to the legislature
33 by November 1, 2009, using existing resources and staff expertise. In
34 addition to consulting with ferry system unions and the United States
35 coast guard, the Washington state ferries is encouraged to solicit
36 independent outside expertise on incident and accident investigation
37 best practices as they may be found in other organizations with a
38 similar concern for marine safety. It is the intent of the legislature

1 to enact the policies into law and to publish that law and procedures
2 as a manual for Washington state ferries' accident/incident
3 investigations. Until that time, the Washington state ferry system
4 must exercise particular diligence to assure that any incident or
5 accident investigations are conducted within the spirit of the
6 guidelines of this act. The proposed policy must contain, at a
7 minimum:

8 (a) The definition of an incident and an accident and the type of
9 investigation that is required by both types of events;

10 (b) The process for appointing an investigating officer or officers
11 and a description of the authorities and responsibilities of the
12 investigating officer or officers. The investigating officer or
13 officers must:

14 (i) Have the appropriate training and experience as determined by
15 the policy;

16 (ii) Not have been involved in the incident or accident so as to
17 avoid any conflict of interest;

18 (iii) Have full access to all persons, records, and relevant
19 organizations that may have information about or may have contributed
20 to, directly or indirectly, the incident or accident under
21 investigation, in compliance with any affected employee's or employees'
22 respective collective bargaining agreement and state laws and rules
23 regarding public disclosure under chapter 42.56 RCW;

24 (iv) Be provided with, if requested by the investigating officer or
25 officers, appropriate outside technical expertise; and

26 (v) Be provided with staff and legal support by the Washington
27 state ferries as may be appropriate to the type of investigation;

28 (c) The process of working with the affected employee or employees
29 in accordance with the employee's or employees' respective collective
30 bargaining agreement and the appropriate union officials, within
31 protocols afforded to all public employees;

32 (d) The process by which the United States coast guard is kept
33 informed of, interacts with, and reviews the investigation;

34 (e) The process for review, approval, and implementation of any
35 approved recommendations within the department; and

36 (f) The process for keeping the public informed of the
37 investigation and its outcomes, in compliance with any affected

1 employee's or employees' respective collective bargaining agreement and
2 state laws and rules regarding public disclosure under chapter 42.56
3 RCW.

4 (14) \$7,300,000 of the Puget Sound ferry operations account--state
5 appropriation is provided solely for the purposes of travel time
6 associated with Washington state ferries employees. However, if
7 Engrossed Substitute House Bill No. 3209 (managing costs of ferry
8 system) is enacted by June 30, 2010, containing an appropriation for
9 purposes of travel time associated with Washington state ferries
10 employees, the amount provided in this subsection lapses.

11 (15) \$50,000 of the Puget Sound ferry operations account--state
12 appropriation is provided solely to implement a mechanism to report on-
13 time performance statistics.

14 (a) The department shall conduct a study to identify process
15 changes that would improve on-time performance on a route-by-route
16 basis. The study must include looking into the slowing down of vessels
17 for fuel economy purposes and touch-and-go sailings on peak runs. The
18 department shall report its findings to the transportation committees
19 of the senate and house of representatives by December 1, 2010.

20 (b) The department shall, by November 1, 2010, report to the
21 transportation committees of the legislature statistics regarding its
22 on-time arrival and departure status on a route-by-route and month-by-
23 month basis, as well as an annual route-by-route and systemwide basis,
24 weighted by the number of customers on each sailing and distinguishing
25 peak period on-time performance. The statistics must include reasons
26 for any delays over ten minutes from the scheduled time. The
27 statistics must be prominently displayed on the Washington state
28 ferries' web site. Each Washington state ferries vessel and terminal
29 must prominently display the statistics as they relate to their
30 specific route.

31 (16) The department shall investigate outsourcing the call center
32 functions planned for the ferry reservation system and report its
33 findings to the transportation committees of the senate and house of
34 representatives by December 15, 2010.

35 (17) By July 1, 2010, the department shall provide to the governor
36 and the transportation committees of the senate and house of
37 representatives a listing of all benefits that Washington state ferries

1 union employees receive that other state employees do not traditionally
2 receive. The listing must include any costs associated with these
3 benefits.

4 **Sec. 19.** 2010 c ... (ESSB 6381) s 306 (uncodified) is amended to
5 read as follows:

6 **FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES**
7 **CONSTRUCTION--PROGRAM W**

8	Puget Sound Capital Construction Account--State	
9	Appropriation	\$126,824,000
10	Puget Sound Capital Construction Account--Federal	
11	Appropriation	\$60,364,000
12	Puget Sound Capital Construction Account--Local	
13	Appropriation	\$200,000
14	Transportation 2003 Account (Nickel Account)--State	
15	Appropriation	\$51,734,000
16	Transportation Partnership Account--State	
17	Appropriation	\$66,879,000
18	Multimodal Transportation Account--State	
19	Appropriation	\$149,000
20	TOTAL APPROPRIATION	\$306,150,000

21 The appropriations in this section are subject to the following
22 conditions and limitations:

23 (1) \$126,824,000 of the Puget Sound capital construction account--
24 state appropriation, \$60,364,000 of the Puget Sound capital
25 construction account--federal appropriation, \$200,000 of the Puget
26 Sound capital construction account--local appropriation, \$66,879,000 of
27 the transportation partnership account--state appropriation,
28 \$51,734,000 of the transportation 2003 account (nickel account)--state
29 appropriation, and \$149,000 of the multimodal transportation account--
30 state appropriation are provided solely for ferry capital projects,
31 project support, and administration as listed in LEAP Transportation
32 Document ALL PROJECTS 2010-2 as developed March 8, 2010, Program -
33 Ferries Construction Program (W). Of the total appropriation, a
34 maximum of \$10,627,000 may be used for administrative support, a
35 maximum of \$8,184,000 may be used for terminal project support, and a
36 maximum of \$4,497,000 may be used for vessel project support. Of the

1 total appropriation, \$5,851,000 is provided solely for a reservation
2 system and associated communications projects.

3 (2) \$51,734,000 of the transportation 2003 account (nickel
4 account)--state appropriation, \$63,100,000 of the transportation
5 partnership account--state appropriation, and \$10,164,000 of the Puget
6 Sound capital construction account--state appropriation are provided
7 solely for the acquisition of three new Island Home class ferry vessels
8 subject to the conditions of RCW 47.56.780. The department shall
9 pursue a contract for the second and third Island Home class ferry
10 vessels with an option to purchase a fourth Island Home class ferry
11 vessel. However, if sufficient resources are available to build one
12 144-auto vessel prior to exercising the option to build the fourth
13 Island Home class ferry vessel, procurement of the fourth Island Home
14 class ferry vessel will be postponed and the department shall pursue
15 procurement of a 144-auto vessel.

16 (a) The first two Island Home class ferry vessels must be placed on
17 the Port Townsend-Keystone route.

18 (b) The department may add additional passenger capacity to one of
19 the Island Home class ferry vessels to make it more flexible within the
20 system in the future, if doing so does not require additional staffing
21 on the vessel.

22 (c) Cost savings from the following initiatives will be included in
23 the funding of these vessels: The department's review and update of
24 the vessel life-cycle cost model as required under this section; and
25 the implementation of technology efficiencies as required under section
26 602 of this act.

27 (3)(a) \$8,450,000 of the Puget Sound capital construction account--
28 state appropriation and \$2,450,000 of the transportation partnership
29 account--state appropriation are provided solely for the following
30 projects related to the design of a 144-vehicle vessel class: (i)
31 \$1,380,000 is provided solely for completion of the contract for owner-
32 furnished equipment; (ii) \$8,320,000 is provided solely for completion
33 of the technical design, detail design, and production drawings, all of
34 which must plan for an aluminum superstructure; (iii) \$480,000 is
35 provided solely for the storage of owner-furnished equipment; and (iv)
36 a maximum of \$720,000 is for construction engineering. In completing
37 the contract for owner-furnished equipment, the department shall use as

1 much of the already procured equipment as is practicable on the Island
2 Home class ferry vessels if it is likely to be obsolete before it is
3 used in procured 144-vehicle vessels.

4 (b) The department shall conduct a cost-benefit study on
5 alternative furnishings and fittings for the 144-vehicle vessel class.
6 The study must review the proposed interior furnishings and fittings
7 for the long-term maintenance and out-of-service vessel costs and, if
8 appropriate, propose alternative interior furnishings and fittings that
9 will decrease long-term maintenance and out-of-service vessel costs.
10 The study must include a projection of out-of-service time and a life-
11 cycle cost analysis of planned out-of-service time, including the
12 impact on fleet size. The department must submit the study to the
13 joint transportation committee by August 1, 2010.

14 (c) The department shall identify costs for any additional detail
15 design and production drawings costs related to incorporating the
16 aluminum superstructure and any changes in the proposed furnishings and
17 fittings.

18 (4) \$6,300,000 of the Puget Sound capital construction account--
19 state appropriation is provided solely for emergency capital costs.

20 (5) \$3,000,000 of the Puget Sound capital construction account--
21 federal appropriation is provided solely for completing the Anacortes
22 terminal design up to the maximum allowable construction cost phase.
23 Beyond preparing environmental work, these funds may be spent only
24 after the following conditions have been met: (a) A value engineering
25 process is conducted on the existing design and the concept of a
26 terminal building smaller than preferred alternative; (b) the office of
27 financial management participates in the value engineering process; (c)
28 the office of financial management concurs with the recommendations of
29 the value engineering process; and (d) the office of financial
30 management gives its approval to proceed with the design work.

31 (6) \$3,965,000 of the Puget Sound capital construction account--
32 state appropriation is provided solely for the following vessel
33 projects: Waste heat recovery pilot project for the Issaquah; jumbo
34 Mark 1 class steering gear ventilation pilot project; and improvements
35 to the Yakima and Kaleetan propulsion controls to allow for two engine
36 operation. Before beginning these projects, the Washington state
37 ferries must ensure the vessels' out-of-service time does not
38 negatively impact service to the system.

1 (7) The department shall pursue purchasing a foreign-flagged vessel
2 for service on the Anacortes, Washington to Sidney, British Columbia
3 ferry route.

4 (8) The department shall provide to the office of financial
5 management and the legislature quarterly reports providing the status
6 on each project listed in this section and in the project lists
7 submitted pursuant to this act and on any additional projects for which
8 the department has expended funds during the 2009-11 fiscal biennium.
9 Elements must include, but not be limited to, project scope, schedule,
10 and costs. The department shall also provide the information required
11 under this subsection via the transportation executive information
12 systems (TEIS). The quarterly report regarding the status of projects
13 identified on the list referenced in subsection (1) of this section
14 must be developed according to an earned value method of project
15 monitoring.

16 (9) The department shall review and adjust its capital program
17 staffing levels to ensure staffing is at the most efficient level
18 necessary to implement the capital program in the omnibus
19 transportation appropriations act. The Washington state ferries shall
20 report this review and adjustment to the office of financial management
21 and the house and senate transportation committees of the legislature
22 by July 2009.

23 (10) \$1,200,000 of the total appropriation is provided solely for
24 improving the toll booth configuration at the Port Townsend and
25 Keystone ferry terminals.

26 (11) \$2,636,000 of the total appropriation is provided solely for
27 continued permitting work on the Mukilteo ferry terminal. The
28 department shall seek additional federal funding for this project.

29 (12) The department shall develop a proposed ferry vessel
30 maintenance, preservation, and improvement program and present it to
31 the transportation committees of the legislature by July 1, 2010. The
32 proposal must:

33 (a) Improve the basis for budgeting vessel maintenance,
34 preservation, and improvement costs and for projecting those costs into
35 a sixteen-year financial plan;

36 (b) Limit the amount of planned out-of-service time to the greatest
37 extent possible, including options associated with department staff as

1 well as commercial shipyards. At a minimum, the department shall
2 consider the following:

3 (i) The costs compared to benefits of Eagle Harbor repair and
4 maintenance facility operations options to include staffing costs and
5 benefits in terms of reduced out-of-service time;

6 (ii) The maintenance requirements for on-vessel staff, including
7 the benefits of a systemwide standard;

8 (iii) The costs compared to benefits of staff performing
9 preservation or maintenance work, or both, while the vessel is
10 underway, tied up between sailings, or not deployed;

11 (iv) A review of the department's vessel maintenance, preservation,
12 and improvement program contracting process and contractual
13 requirements;

14 (v) The costs compared to benefits of allowing for increased costs
15 associated with expedited delivery;

16 (vi) A method for comparing the anticipated out-of-service time of
17 proposed projects and other projects planned during the same
18 construction period;

19 (vii) Coordination with required United States coast guard dry
20 dockings;

21 (viii) A method for comparing how proposed projects relate to the
22 service requirements of the route on which the vessel normally
23 operates; and

24 (ix) A method for evaluating the ongoing maintenance and
25 preservation costs associated with proposed improvement projects; and

26 (c) Be based on the service plan in the capital plan, recognizing
27 that vessel preservation and improvement needs may vary by route.

28 (13) \$247,000 of the Puget Sound capital construction account--
29 state appropriation is provided solely for the Washington state ferries
30 to review and update its vessel life-cycle cost model and report the
31 results to the house of representatives and senate transportation
32 committees of the legislature by (~~March 15~~) December 1, 2010. This
33 review will evaluate the impact of the planned out-of-service periods
34 scheduled for each vessel on the ability of the overall system to
35 deliver uninterrupted service and will assess the risk of service
36 disruption from unscheduled maintenance or longer than planned
37 maintenance periods.

1 (14) The department shall work with the department of archaeology
2 and historic preservation to ensure that the cultural resources
3 investigation is properly conducted on all large ferry terminal
4 projects. These projects must be conducted with active archaeological
5 management. Additionally, the department shall establish a scientific
6 peer review of independent archaeologists that are knowledgeable about
7 the region and its cultural resources.

8 (15) The Puget Sound capital construction account--state
9 appropriation includes up to \$114,000,000 in proceeds from the sale of
10 bonds authorized in RCW 47.10.843.

11 (16) The Puget Sound capital construction account--state
12 appropriation reflects the reduction of three terminal positions due to
13 decreased terminal activity and funding.

14 (17) The department shall provide data to the transportation
15 committees of the senate and house of representatives for a transparent
16 analysis of travel pay policies.

17 NEW SECTION. **Sec. 20.** The following acts or parts of acts are
18 each repealed:

19 (1) RCW 47.61.010 (Authority to enter into agreement and apply for
20 financial assistance) and 1984 c 7 s 338 & 1965 ex.s. c 56 s 1;

21 (2) RCW 47.61.020 (Bonds for matching funds--Issuance and sale) and
22 1965 ex.s. c 56 s 2;

23 (3) RCW 47.61.030 (Term of bonds--Terms and conditions) and 1965
24 ex.s. c 56 s 3;

25 (4) RCW 47.61.040 (Bonds--Signatures--Registration--Where payable--
26 Negotiable instruments) and 1965 ex.s. c 56 s 4;

27 (5) RCW 47.61.050 (Bonds--Denominations--Manner and terms of sale--
28 Legal investment for state funds) and 1965 ex.s. c 56 s 5;

29 (6) RCW 47.61.060 (Proceeds of bonds--Deposit and use) and 1965
30 ex.s. c 56 s 6;

31 (7) RCW 47.61.070 (Statement describing nature of bond obligation--
32 Pledge of excise taxes) and 1965 ex.s. c 56 s 7;

33 (8) RCW 47.61.080 (Bonds to reflect terms and conditions of grant
34 agreement) and 1965 ex.s. c 56 s 8;

35 (9) RCW 47.61.090 (Designation of funds to repay bonds and
36 interest) and 1984 c 7 s 339 & 1965 ex.s. c 56 s 9;

- 1 (10) RCW 47.61.100 (Bond repayment procedure--Highway bond
2 retirement fund) and 1965 ex.s. c 56 s 10;
- 3 (11) RCW 47.61.110 (Sums in excess of bond retirement
4 requirements--Use) and 1965 ex.s. c 56 s 11;
- 5 (12) RCW 47.60.395 (Evaluation of cost allocation methodology and
6 preservation and improvement costs--Exception) and 2009 c 470 s 707 &
7 2007 c 512 s 15;
- 8 (13) RCW 47.60.649 (Passenger-only ferry service--Finding) and 1998
9 c 166 s 1;
- 10 (14) RCW 47.60.652 (Passenger-only ferry service--Vessel and
11 terminal acquisition, procurement, and construction) and 1998 c 166 s
12 2;
- 13 (15) RCW 47.60.654 (Passenger-only ferry service--Contingency) and
14 1998 c 166 s 3;
- 15 (16) RCW 47.60.658 (Passenger-only ferry service between Vashon and
16 Seattle) and 2007 c 223 s 8 & 2006 c 332 s 3;
- 17 (17) RCW 47.60.770 (Jumbo ferry construction--Notice) and 1993 c
18 493 s 1;
- 19 (18) RCW 47.60.772 (Jumbo ferry construction--Bidding documents)
20 and 1993 c 493 s 2;
- 21 (19) RCW 47.60.774 (Jumbo ferry construction--Procedure on
22 conclusion of evaluation) and 1993 c 493 s 4;
- 23 (20) RCW 47.60.776 (Jumbo ferry construction--Contract) and 1993 c
24 493 s 5;
- 25 (21) RCW 47.60.778 (Jumbo ferry construction--Bid deposits--Low
26 bidder claiming error) and 1996 c 18 s 9 & 1993 c 493 s 6;
- 27 (22) RCW 47.60.780 (Jumbo ferry construction--Propulsion system
28 acquisition) and 1994 c 181 s 2; and
- 29 (23) RCW 47.64.220 (Salary survey) and 2006 c 164 s 10, 2005 c 274
30 s 308, 1999 c 256 s 1, 1989 c 327 s 2, & 1983 c 15 s 13.

31 NEW SECTION. **Sec. 21.** Section 18 of this act takes effect if
32 section 222, chapter . . . (Engrossed Substitute Senate Bill No. 6381),
33 Laws of 2010 is enacted into law. If section 222, chapter . . .
34 (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is not
35 enacted into law, section 18 of this act is void in its entirety.

1 NEW SECTION. **Sec. 22.** Section 19 of this act takes effect if
2 section 306, chapter . . . (Engrossed Substitute Senate Bill No. 6381),
3 Laws of 2010 is enacted into law. If section 306, chapter . . .
4 (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is not
5 enacted into law, section 19 of this act is void in its entirety.

6 NEW SECTION. **Sec. 23.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 24.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 immediately."

ESHB 3209 - S AMD
By Senator Haugen

ADOPTED AND ENGROSSED 03/10/2010

14 On page 1, line 1 of the title, after "system;" strike the
15 remainder of the title and insert "amending RCW 47.60.355, 47.60.365,
16 47.60.375, 47.60.385, 47.28.030, 47.64.120, 47.64.170, 47.64.200,
17 47.64.270, 47.64.280, 47.64.320, and 41.80.020; amending 2010 c . . .
18 (ESSB 6381) ss 222 and 306 (uncodified); adding new sections to chapter
19 47.60 RCW; creating new sections; repealing RCW 47.61.010, 47.61.020,
20 47.61.030, 47.61.040, 47.61.050, 47.61.060, 47.61.070, 47.61.080,
21 47.61.090, 47.61.100, 47.61.110, 47.60.395, 47.60.649, 47.60.652,
22 47.60.654, 47.60.658, 47.60.770, 47.60.772, 47.60.774, 47.60.776,
23 47.60.778, 47.60.780, and 47.64.220; providing contingent effective
24 dates; providing expiration dates; and declaring an emergency."

--- END ---