

HOUSE BILL REPORT

SHB 1516

As Amended by the Senate

Title: An act relating to improving and measuring performance of the management of the state ferry system.

Brief Description: Concerning the performance of state ferry system management.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Morris, Armstrong, Rolfes, Clibborn, Fitzgibbon, Lias, Maxwell, Appleton, Sells, Eddy and Smith).

Brief History:

Committee Activity:

Transportation: 1/31/11, 2/22/11 [DPS].

Floor Activity:

Passed House: 3/3/11, 91-7.

Senate Amended.

Passed Senate: 4/11/11, 36-11.

House Refused to Concur.

Senate Amended.

Passed Senate: 4/22/11, 31-14.

Brief Summary of Substitute Bill

- Requires the Washington State Department of Transportation (WSDOT) Ferries Division to meet or exceed performance levels for a variety of performance criteria.
- Lists the performance criteria that the Ferries Division is to be measured against.
- Contracts out to a private management services firm the management functions of the Ferries Division if the WSDOT does not meet or exceed 75 percent of the performance criteria and outlines a process to select, and contractual requirements for, a private management services firm.
- Requires the ad hoc committee to establish and present performance targets to the legislative Transportation committees and the Joint Transportation Committee by July 1, 2011.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Outlines a timeline and process for the WSDOT to meet performance criteria by June 30, 2013.
- Prohibits a manager in the Ferries Division from belonging to the same bargaining unit representing employees whom the manager supervises.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 26 members: Representatives Clibborn, Chair; Liias, Vice Chair; Armstrong, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Angel, Asay, Eddy, Finn, Fitzgibbon, Jinkins, Johnson, Klippert, Kristiansen, Ladenburg, Moeller, Morris, Moscoso, Overstreet, Rivers, Rodne, Rolfes, Ryu, Shea, Takko, Upthegrove and Zeiger.

Minority Report: Do not pass. Signed by 1 member: Representative Reykdal.

Staff: Debbie Driver (786-7143).

Background:

The Washington State Ferries Division (WSF) of the Washington State Department of Transportation (WSDOT) manages the largest automobile and passenger ferry service provider in the nation. Currently, the system includes 22 vessels that serve 20 terminals and nine routes. In 2009 the Washington ferry system, which is part of the highway network system in western Washington, carried more than 22 million customers. The Secretary of Transportation is appointed by the Governor and appoints an Assistant Secretary of Ferries. The Assistant Secretary of Ferries is responsible for overall management of the WSF.

Managers who belong to a collective bargaining unit and move to a management position are characterized as being inactive or on a leave of absence.

Summary of Substitute Bill:

The bill defines ferries management as Washington ferries employees who are either exempt or a part of Washington Management Services. The bill lists performance criteria and requires the Ferries Division to meet a variety of measurable performance criteria including: safety, service effectiveness, passenger satisfaction, on-time performance, cost containment measures, maintenance, and capital program effectiveness.

The bill creates an ad hoc committee with members from and designated by the Office of the Governor, and requires the ad hoc committee to establish and present performance targets to the legislative Transportation committees and the Joint Transportation Committee by July 1, 2011. By October 1, 2011, the bill requires the Washington State Department of Transportation (WSDOT) to complete a performance report that provides a baseline assessment of current performance and requires a review by the Office of Financial Management (OFM) and the legislative Transportation committees. By October 1, 2012, and every year thereafter, the WSDOT is to complete a performance report for the prior fiscal

year. This report is also to be reviewed by the OFM and the findings incorporated into the Governor's proposed biennial Transportation Budget. By June 30, 2013, if the WSDOT does not meet or exceed 75 percent of the performance criteria, the WSDOT must competitively contract out ferry management functions to a private management services firm. The invitation for bid for a private sector firm process may include a preliminary request for qualifications.

If the management functions are contracted out to a private management firm, the contract must be a fixed-cost contract that requires the private management firm to also meet or exceed 75 percent of the performance criteria outlined in the bill. The contract must also provide for incentive or retained payment arrangements and must require that the firm retain existing collective bargaining agreements between the state and the employees' labor representatives. The bill allows the private management firm to rehire Washington ferries management employees. The contract must be for a two-year period; renewable every two years for a maximum of 10 years. After 10 years, the WSDOT is to implement the invitation for bid process.

The bill prohibits collective bargaining agreements from allowing the WSDOT managers to belong to the same bargaining unit representing employees whom they supervise and includes an emergency clause.

EFFECT OF SENATE AMENDMENT(S):

All language is removed and the following is added: (1) management rights are defined and collective bargaining agreements may not include provisions that direct promotions, staffing levels, or the use of part-time shifts; (2) ferry captains are made part of management and may form their own union; (3) the WSF management is required to meet with line union employees twice a year to encourage an open and direct exchange of ideas and concerns; (4) performance measures are defined; (5) an ad hoc committee created by the Governor will determine the performance measure targets to be met by June 30, 2013; (6) performance measures must be reported; (7) the OFM will report to the Legislature whether targets are met; (8) if at least 80 percent of each target is not met by June 30, 2013, then a Governor's management representative is to be appointed to develop a 12-month corrective action plan and the WSDOT is to solicit requests for qualifications regarding the skills and costs associated with privatizing the management functions of the WSF; (9) if the Governor and transportation committees opt to competitively contract out the management functions, a selection process, and contractual requirements for a private management services firm are outlined; (10) defined performance measures must be included in the WSDOT's attainment report; (11) the Marine Employees' Commission is abolished and responsibilities are transferred to the Personnel Employment Relations Commission; (12) the MEC statutes and outdated employee seniority rights statutes are repealed; and (13) the act includes an emergency clause.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) There is currently not a systematic approach for the WSF to deliver efficient ferries service regularly, nor is there a system for which employees can provide efficiency suggestions, which is an important part of management. The bill provides a performance management approach that responds to these issues.

(In support with concerns) Consideration of this bill should be deferred until next session. Time is limited this session and legislators need to focus on solving the ferries budget problem. The first priority should be maintaining ferries funding; neither reducing service nor redeploying vessels. The second priority should be to address the ferries governance issue. Therefore, postponing this ferries management and governance legislation until next session is recommended.

(With concerns) Ferries is the number one priority for many communities this session. Reducing ferry service has real-life impacts on the people of Bremerton. Ferry service is necessary for community sustainability and reducing service could result in ongoing negative impacts to the community. The process the bill outlines is good, but not supported nor opposed.

(Opposed) The bill does not help solve the problems faced by the WSF system. Management is doing the best they can right now and the emphasis should be on what the ferry system needs. Eliminating the southwest and Bremerton runs would result in reducing costs for ferries and increasing revenues to the Tacoma Narrows Bridge. At times, inclement weather results in the cancellation of the Port Townsend runs, which results in taxpayer money being spent on vessels and crews that are not working.

Persons Testifying: (In support) Representative Morris, prime sponsor; and Paul Parker, Washington State Transportation Commission.

(In support with concerns) Walt Elliott, Ferry Advisory Committee.

(With concerns) Greg Wheeler.

(Opposed) Paul W. Locke.

Persons Signed In To Testify But Not Testifying: None.