

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 3209

Chapter 283, Laws of 2010

(partial veto)

61st Legislature
2010 Regular Session

FERRY SYSTEM--COSTS

EFFECTIVE DATE: 04/01/10

Passed by the House March 11, 2010
Yeas 81 Nays 16

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 10, 2010
Yeas 39 Nays 9

BRAD OWEN

President of the Senate

Approved April 1, 2010, 3:01 p.m., with
the exception of Sections 17 and 18
which are vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of
the House of Representatives of
the State of Washington, do hereby
certify that the attached is
**ENGROSSED SUBSTITUTE HOUSE BILL
3209** as passed by the House of
Representatives and the Senate on
the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 2, 2010

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 3209

AS AMENDED BY THE SENATE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By House Transportation (originally sponsored by Representatives
Clibborn, Rolfes, Seaquist, and Morris)

READ FIRST TIME 03/04/10.

1 AN ACT Relating to managing costs of the ferry system; amending RCW
2 47.60.355, 47.60.365, 47.60.375, 47.60.385, 47.28.030, 47.64.120,
3 47.64.170, 47.64.200, 47.64.270, 47.64.280, 47.64.320, and 41.80.020;
4 amending 2010 c . . . (ESSB 6381) ss 222 and 306 (uncodified); adding
5 new sections to chapter 47.60 RCW; creating new sections; repealing RCW
6 47.61.010, 47.61.020, 47.61.030, 47.61.040, 47.61.050, 47.61.060,
7 47.61.070, 47.61.080, 47.61.090, 47.61.100, 47.61.110, 47.60.395,
8 47.60.649, 47.60.652, 47.60.654, 47.60.658, 47.60.770, 47.60.772,
9 47.60.774, 47.60.776, 47.60.778, 47.60.780, and 47.64.220; providing
10 contingent effective dates; providing expiration dates; and declaring
11 an emergency.

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

13 NEW SECTION. **Sec. 1.** The legislature finds that the Washington
14 state ferry system is a critical component of the state's highway
15 system. The legislature further finds that ferry system revenues are
16 inadequate to support the capital requirements of aging vessels and
17 terminals, and operating cost growth is fast outpacing the growth of
18 fare revenue and gas tax revenue dedicated to the ferry system. As
19 such, and drawing on more than four consecutive years of legislative

1 analysis and operating policy reforms, the legislature finds that a
2 realignment of the ferry compensation policy framework is an
3 appropriate next step toward the legislature's long-term goal of
4 assuring sustainable, cost-effective ferry service. The legislature
5 further intends to address increased costs of ferry system operations
6 in a manner that balances the interests of the ferry system, ferry
7 workforce, and fare payers. It is the intent of the legislature that
8 final recommendations from the joint transportation committee ferry
9 study, submitted to the legislature during the 2009 regular legislative
10 session, be enacted by the legislature and implemented by the
11 department of transportation as soon as practicable in order to benefit
12 from the efficiencies and cost savings identified in the
13 recommendations. It is also the intent of the legislature to make
14 various additional policy changes aimed at further efficiencies and
15 cost savings. Since the study began in 2006, recommendations have been
16 made with regard to long range planning and implementing the most
17 efficient and effective balance between ferry capital and operating
18 investments. It is intended that this act, the 2009-2011 omnibus
19 transportation appropriations act, and subsequent transportation
20 appropriations acts serve as vehicles for enacting these
21 recommendations in order to maximize the utilization of existing
22 capacity and to make the most efficient use of existing assets and tax
23 dollars.

24 NEW SECTION. **Sec. 2.** (1) The office of financial management shall
25 convene an expert panel of ferry operators to conduct a management
26 review of the Washington state department of transportation, ferries
27 division. The panel must have between three and five members and must
28 represent both management and operations specialists, as well as public
29 and private ferry operators that can bring best practices and state-of-
30 the-art knowledge to this effort. The panel shall review past studies,
31 conduct its own review, and make recommendations of the ferries
32 division's management. The study must be completed and submitted to
33 the transportation committees of the senate and house of
34 representatives by August 1, 2010, and must include:

35 (a) A review and comment on the studies and audits conducted on the
36 ferries division over the past four years in areas of overhead and

1 management organization structure and costs, maintenance practices,
2 scheduling, and prioritization of preservation of vessels and terminals
3 to ensure they represent current best practices;

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

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

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

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

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

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

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

22 The department shall develop terminal and vessel design standards
23 that:

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

26 (2) Adhere to operational strategies as described in RCW 47.60.327;
27 and

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

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

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

33 (a) A current ridership demand forecast;

34 (b) Vehicle level of service standards as described in RCW
35 47.06.140;

1 (c) Operational strategies as described in RCW 47.60.327; and
2 (d) Terminal and vessel design standards as described in RCW
3 47.60.365.

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

5 (a) A current vessel preservation plan;

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

8 (c) A current vessel deployment plan; and

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

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

13 (1) Terminal improvement, vessel improvement, and vessel
14 acquisition project funding requests must adhere to the capital plan(~~(-~~
15 ~~(2) Requests for terminal improvement design and construction~~
16 ~~funding must~~), include route-based planning, and be submitted with a
17 predesign study that:

18 (a) Includes all elements required by the office of financial
19 management;

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

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

24 (d) Includes construction phasing options that are consistent with
25 forecasted ridership increases;

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

28 (f) Separately identifies multimodal elements and the cost and
29 proposed funding source of those elements; (~~and~~)

30 (g) Identifies all contingency amounts(~~(-~~

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

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

36 (i) Includes planned service modifications as a result of the

1 proposed capital project, and the consistency of those service
2 modifications with the capital plan; and

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

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

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

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

- 12 (a) Includes a business decision case on vessel sizing;
- 13 (b) Includes an updated vessel deployment plan demonstrating
14 maximum use of existing vessels, and an updated systemwide vessel
15 rebuild and replacement plan;

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

- 20 (i) Alternatives to new vessel construction that increase capacity
21 of existing vessels;
- 22 (ii) Service level changes in lieu of adding vessel capacity; and
- 23 (iii) Acquiring existing vessels or existing vessel plans rather
24 than wholly new vessels or vessel plans; and

25 (d) Demonstrates that the vessel proposed for improvement,
26 construction, or purchase, if intended to replace an existing vessel or
27 to place an existing vessel into inactive or reserve status, is
28 consistent with the scheduled replacements in the rebuild and
29 replacement plan.

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

- 34 (a) An explanation of any regulatory changes necessitating the
35 improvement;
- 36 (b) The requirements under subsection (1) of this section, if the
37 improvement modifies the capacity of a vessel;

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

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

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

10 (2) The department shall investigate the frequency, severity, and
11 prosecutorial results of assaults on Washington state ferries employees
12 and, if appropriate, make recommendations to the transportation
13 committees of the senate and house of representatives during the 2011
14 legislative session regarding methods to decrease the number of
15 assaults on employees and procedures for prosecuting those who assault
16 employees.

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

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

20 (1)(a) A state highway shall be constructed, altered, repaired, or
21 improved, and improvements located on property acquired for
22 right-of-way purposes may be repaired or renovated pending the use of
23 such right-of-way for highway purposes, by contract or state forces.
24 The work or portions thereof may be done by state forces when the
25 estimated costs thereof are less than fifty thousand dollars and
26 effective July 1, 2005, sixty thousand dollars(~~(~~PROVIDED, That~~)~~).

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

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

35 (d) To enable a larger number of small businesses, and minority,
36 and women contractors to effectively compete for department of

1 transportation contracts, the department may adopt rules providing for
2 bids and award of contracts for the performance of work, or furnishing
3 equipment, materials, supplies, or operating services whenever any work
4 is to be performed and the engineer's estimate indicates the cost of
5 the work would not exceed eighty thousand dollars and effective July 1,
6 2005, one hundred thousand dollars.

7 (2) The rules adopted under this section:

8 ~~((1))~~ (a) Shall provide for competitive bids to the extent that
9 competitive sources are available except when delay of performance
10 would jeopardize life or property or inconvenience the traveling
11 public; and

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

18 ~~((3))~~ (c) May establish prequalification standards and procedures
19 as an alternative to those set forth in RCW 47.28.070, but the
20 prequalification standards and procedures under RCW 47.28.070 shall
21 always be sufficient.

22 (3) The department of transportation shall comply with such goals
23 and rules as may be adopted by the office of minority and women's
24 business enterprises to implement chapter 39.19 RCW with respect to
25 contracts entered into under this chapter. The department may adopt
26 such rules as may be necessary to comply with the rules adopted by the
27 office of minority and women's business enterprises under chapter 39.19
28 RCW.

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

32 (b) The department shall hire a disinterested, third party to
33 conduct an independent analysis to identify methods of reducing out-of-
34 service times for vessel maintenance, preservation, and improvement
35 projects. The analysis must include options that consider
36 consolidating work while vessels are at shipyards by having state
37 forces perform services traditionally performed at Eagle Harbor at the
38 shipyard and decreasing the allowable time at shipyards. The analysis

1 must also compare the out-of-service vessel times of performing
2 services by state forces versus contracting out those services which in
3 turn must be used to form a recommendation as to what the threshold of
4 work performed on ferry vessels and terminals by state forces should
5 be. This analysis must be presented to the transportation committees
6 of the senate and house of representatives by December 1, 2010.

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

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

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

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

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

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

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

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

30 (iv) A review of the department's vessel maintenance, preservation,
31 and improvement program contracting process and contractual
32 requirements;

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

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

1 (vii) Coordination with required United States coast guard dry
2 dockings;

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

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

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

10 (1) Except as otherwise provided in this chapter, the employer and
11 ferry system employee organizations, through their collective
12 bargaining representatives, shall meet at reasonable times((~~7~~)) to
13 negotiate in good faith with respect to wages, hours, working
14 conditions, and insurance, ((and health care benefits as limited by RCW
15 47.64.270,)) and other matters mutually agreed upon. Employer funded
16 retirement benefits shall be provided under the public employees
17 retirement system under chapter 41.40 RCW and shall not be included in
18 the scope of collective bargaining. Except as provided under RCW
19 47.64.270, the employer is not required to bargain over health care
20 benefits. Any retirement system or retirement benefits shall not be
21 subject to collective bargaining.

22 (2) Upon ratification of bargaining agreements, ferry employees are
23 entitled to an amount equivalent to the interest earned on retroactive
24 compensation increases. For purposes of this section, the interest
25 earned on retroactive compensation increases is the same monthly rate
26 of interest that was earned on the amount of the compensation increases
27 while held in the state treasury. The interest will be computed for
28 each employee until the date the retroactive compensation is paid, and
29 must be allocated in accordance with appropriation authority. The
30 interest earned on retroactive compensation is not considered part of
31 the ongoing compensation obligation of the state and is not
32 compensation earnable for the purposes of chapter 41.40 RCW.
33 Negotiations shall also include grievance procedures for resolving any
34 questions arising under the agreement, which shall be embodied in a
35 written agreement and signed by the parties.

36 (3) Except as otherwise provided in this chapter, if a conflict
37 exists between an executive order, administrative rule, or agency

1 policy relating to wages, hours, and terms and conditions of employment
2 and a collective bargaining agreement negotiated under this chapter,
3 the collective bargaining agreement shall prevail. A provision of a
4 collective bargaining agreement that conflicts with the terms of a
5 statute is invalid and unenforceable.

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

8 (1) Any ferry employee organization certified as the bargaining
9 representative shall be the exclusive representative of all ferry
10 employees in the bargaining unit and shall represent all such employees
11 fairly.

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

15 (3) Negotiating sessions, including strategy meetings of the
16 employer or employee organizations, mediation, and the deliberative
17 process of arbitrators are exempt from the provisions of chapter 42.30
18 RCW. Hearings conducted by arbitrators may be open to the public by
19 mutual consent of the parties.

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

23 (5) Ferry system employees or any employee organization shall not
24 negotiate or attempt to negotiate directly with anyone other than the
25 person who has been appointed or authorized a bargaining representative
26 for the purpose of bargaining with the ferry employees or their
27 representative.

28 (6)(a) Within ten working days after the first Monday in September
29 of every odd-numbered year, the parties shall attempt to agree on an
30 interest arbitrator to be used if the parties are not successful in
31 negotiating a comprehensive collective bargaining agreement. If the
32 parties cannot agree on an arbitrator within the ten-day period, either
33 party may request a list of seven arbitrators from the federal
34 mediation and conciliation service. The parties shall select an
35 interest arbitrator using the coin toss/alternate strike method within
36 thirty calendar days of receipt of the list. Immediately upon
37 selecting an interest arbitrator, the parties shall cooperate to

1 reserve dates with the arbitrator for potential arbitration between
2 August 1st and September 15th of the following even-numbered year. The
3 parties shall also prepare a schedule of at least five negotiation
4 dates for the following year, absent an agreement to the contrary. The
5 parties shall execute a written agreement before November 1st of each
6 odd-numbered year setting forth the name of the arbitrator and the
7 dates reserved for bargaining and arbitration. This subsection (6)(a)
8 imposes minimum obligations only and is not intended to define or limit
9 a party's full, good faith bargaining obligation under other sections
10 of this chapter.

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

14 (c) For negotiations covering the 2009-2011 biennium and subsequent
15 biennia, the time periods specified in this section, and in RCW
16 47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of
17 all agreements on or before October 1st of the even-numbered year next
18 preceding the biennial budget period during which the agreement should
19 take effect. These time periods may only be altered by mutual
20 agreement of the parties in writing. Any such agreement and any
21 impasse procedures agreed to by the parties under RCW 47.64.200 must
22 include an agreement regarding the new time periods that will allow
23 final resolution by negotiations or arbitration by October 1st of each
24 even-numbered year.

25 (7) ~~((Until a new collective bargaining agreement is in effect, the
26 terms and conditions of the previous collective bargaining agreement
27 shall remain in force.))~~ It is the intent of this section that the
28 collective bargaining agreement or arbitrator's award shall commence on
29 July 1st of each odd-numbered year and shall terminate on June 30th of
30 the next odd-numbered year to coincide with the ensuing biennial budget
31 year, as defined by RCW 43.88.020(7), to the extent practical. It is
32 further the intent of this section that all collective bargaining
33 agreements be concluded by October 1st of the even-numbered year before
34 the commencement of the biennial budget year during which the
35 agreements are to be in effect. After the expiration date of a
36 collective bargaining agreement negotiated under this chapter, all of
37 the terms and conditions specified in the collective bargaining
38 agreement remain in effect until the effective date of a subsequently

1 negotiated agreement, not to exceed one year from the expiration date
2 stated in the agreement. Thereafter, the employer may unilaterally
3 implement according to law.

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

8 (9)(a) The governor shall submit a request either for funds
9 necessary to implement the collective bargaining agreements including,
10 but not limited to, the compensation and fringe benefit provisions or
11 for legislation necessary to implement the agreement, or both.
12 Requests for funds necessary to implement the collective bargaining
13 agreements shall not be submitted to the legislature by the governor
14 unless such requests:

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

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

20 (b) The governor shall submit a request either for funds necessary
21 to implement the arbitration awards or for legislation necessary to
22 implement the arbitration awards, or both. Requests for funds
23 necessary to implement the arbitration awards shall not be submitted to
24 the legislature by the governor unless such requests:

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

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

30 (c) The legislature shall approve or reject the submission of the
31 request for funds necessary to implement the collective bargaining
32 agreements or arbitration awards as a whole for each agreement or
33 award. The legislature shall not consider a request for funds to
34 implement a collective bargaining agreement or arbitration award unless
35 the request is transmitted to the legislature as part of the governor's
36 budget document submitted under RCW 43.88.030 and 43.88.060. If the
37 legislature rejects or fails to act on the submission, either party may

1 reopen all or part of the agreement and award or the exclusive
2 bargaining representative may seek to implement the procedures provided
3 for in RCW 47.64.210 and 47.64.300.

4 ~~((9))~~ (10) If, after the compensation and fringe benefit
5 provisions of an agreement are approved by the legislature, a
6 significant revenue shortfall occurs resulting in reduced
7 appropriations, as declared by proclamation of the governor or by
8 resolution of the legislature, both parties shall immediately enter
9 into collective bargaining for a mutually agreed upon modification of
10 the agreement.

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

13 As the first step in the performance of their duty to bargain, the
14 employer and the employee organization shall endeavor to agree upon
15 impasse procedures. Unless otherwise agreed to by the employee
16 organization and the employer in their impasse procedures, the
17 arbitrator or panel ~~((is limited to selecting the most reasonable
18 offer, in its judgment, of the final offers on each impasse item
19 submitted by the parties. The employee organization and the employer
20 may mutually agree to the impasse procedure under which the arbitrator
21 or panel may))~~ shall issue a decision it deems just and appropriate
22 with respect to each impasse item. If the parties fail to agree upon
23 impasse procedures under this section, the impasse procedures provided
24 in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320 apply.
25 It is unlawful for either party to refuse to participate in the impasse
26 procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300
27 through 47.64.320.

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

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

34 (2) Absent a collective bargaining agreement to the contrary, the
35 department of transportation shall provide contributions to insurance

1 and health care plans for ferry system employees and dependents, as
2 determined by the state health care authority, under chapter 41.05
3 RCW(~~(; and)~~).

4 (3) The employer and employee organizations may collectively
5 bargain for ((other)) insurance ((and health care)) plans other than
6 health care benefits, and employer contributions may exceed that of
7 other state agencies as provided in RCW 41.05.050. ~~((To the extent~~
8 ~~that ferry employees by bargaining unit have absorbed the required~~
9 ~~offset of wage increases by the amount that the employer's contribution~~
10 ~~for employees' and dependents' insurance and health care plans exceeds~~
11 ~~that of other state general government employees in the 1985-87 fiscal~~
12 ~~biennium, employees shall not be required to absorb a further offset~~
13 ~~except to the extent the differential between employer contributions~~
14 ~~for those employees and all other state general government employees~~
15 ~~increases during any subsequent fiscal biennium. If such differential~~
16 ~~increases in the 1987-89 fiscal biennium or the 1985-87 offset by~~
17 ~~bargaining unit is insufficient to meet the required deduction, the~~
18 ~~amount available for compensation shall be reduced by bargaining unit~~
19 ~~by the amount of such increase or the 1985-87 shortage in the required~~
20 ~~offset. Compensation shall include all wages and employee benefits.))~~

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

23 (1) There is created the marine employees' commission. The
24 governor shall appoint the commission with the consent of the senate.
25 The commission shall consist of three members: One member to be
26 appointed from labor, one member from industry, and one member from the
27 public who has significant knowledge of maritime affairs. The public
28 member shall be chair of the commission. One of the original members
29 shall be appointed for a term of three years, one for a term of four
30 years, and one for a term of five years. Their successors shall be
31 appointed for terms of five years each, except that any person chosen
32 to fill a vacancy shall be appointed only for the unexpired term of the
33 member whom he or she succeeds. Commission members are eligible for
34 reappointment. Any member of the commission may be removed by the
35 governor, upon notice and hearing, for neglect of duty or malfeasance
36 in office, but for no other cause. Commission members are not eligible
37 for state retirement under chapter 41.40 RCW by virtue of their service

1 on the commission. Members of the commission shall be compensated in
2 accordance with RCW 43.03.250 and shall receive reimbursement for
3 official travel and other expenses at the same rate and on the same
4 terms as provided for the transportation commission by RCW 47.01.061.
5 The payments shall be made from the Puget Sound ferry operations
6 account.

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

13 (3)(a) In adjudicating all complaints, grievances, and disputes,
14 the party claiming labor disputes shall, in writing, notify the
15 commission, which shall make careful inquiry into the cause thereof and
16 issue an order advising the ferry employee, or the ferry employee
17 organization representing him or her, and the department of
18 transportation, as to the decision of the commission.

19 (b) The parties are entitled to offer evidence relating to disputes
20 at all hearings conducted by the commission. The orders and awards of
21 the commission are final and binding upon any ferry employee or
22 employees or their representative affected thereby and upon the
23 department.

24 (c) The commission shall adopt rules of procedure under chapter
25 34.05 RCW.

26 (d) The commission has the authority to subpoena any ferry employee
27 or employees, or their representatives, and any member or
28 representative of the department, and any witnesses. The commission
29 may require attendance of witnesses and the production of all pertinent
30 records at any hearings held by the commission. The subpoenas of the
31 commission are enforceable by order of any superior court in the state
32 of Washington for the county within which the proceeding may be
33 pending. The commission may hire staff as necessary, appoint
34 consultants, enter into contracts, and conduct studies as reasonably
35 necessary to carry out this chapter.

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

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

4 (2) The decision of an arbitrator or arbitration panel is not
5 binding on the legislature and, if the legislature does not approve the
6 funds necessary to implement provisions pertaining to compensation and
7 fringe benefit provisions of an arbitrated collective bargaining
8 agreement, is not binding on the state, the department of
9 transportation, or the ferry employee organization.

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

15 (a) The financial ability of the department to pay for the
16 compensation and fringe benefit provisions of a collective bargaining
17 agreement;

18 (b) Past collective bargaining contracts between the parties
19 including the bargaining that led up to the contracts;

20 ~~((b))~~ (c) The constitutional and statutory authority of the
21 employer;

22 ~~((e))~~ (d) Stipulations of the parties;

23 ~~((d))~~ (e) The results of the salary survey as required in RCW
24 ~~((47.64.220))~~ 47.64.170(8);

25 ~~((e))~~ (f) Comparison of wages, hours, employee benefits, and
26 conditions of employment of the involved ferry employees with those of
27 public and private sector employees in states along the west coast of
28 the United States, including Alaska, and in British Columbia doing
29 directly comparable but not necessarily identical work, giving
30 consideration to factors peculiar to the area and the classifications
31 involved;

32 ~~((f))~~ (g) Changes in any of the foregoing circumstances during
33 the pendency of the proceedings;

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

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

37 (j) The overall compensation presently received by the ferry

1 employees, including direct wage compensation, vacations, holidays and
2 other paid excused time, pensions, insurance benefits, and all other
3 direct or indirect monetary benefits received; and

4 (k) Other factors that are normally or traditionally taken into
5 consideration in the determination of matters that are subject to
6 bargaining under this chapter.

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

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

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

15 (2) The employer is not required to bargain over matters pertaining
16 to:

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

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

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

22 (3) Matters subject to bargaining include the number of names to be
23 certified for vacancies, promotional preferences, and the dollar amount
24 expended on behalf of each employee for health care benefits. However,
25 except as provided otherwise in this subsection for institutions of
26 higher education, negotiations regarding the number of names to be
27 certified for vacancies, promotional preferences, and the dollar amount
28 expended on behalf of each employee for health care benefits shall be
29 conducted between the employer and one coalition of all the exclusive
30 bargaining representatives subject to this chapter. The exclusive
31 bargaining representatives for employees that are subject to chapter
32 47.64 RCW shall bargain the dollar amount expended on behalf of each
33 employee for health care benefits with the employer as part of the
34 coalition under this subsection. Any such provision agreed to by the
35 employer and the coalition shall be included in all master collective
36 bargaining agreements negotiated by the parties. For institutions of

1 higher education, promotional preferences and the number of names to be
2 certified for vacancies shall be bargained under the provisions of RCW
3 41.80.010(4).

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

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

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

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

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

24 ***Upon expiration of the collective bargaining agreements in
25 existence as of the effective date of this section, the department
26 shall not allow free passage on any ferry vessel operated by the
27 department to:***

28 ***(1) Any department employee unless it is directly related to the
29 employee's job duties, directly reporting to duty, or directly
30 returning home from duty;***

31 ***(2) Any former department employee or their families; or***

32 ***(3) Any department employee's family members.***

****Sec. 17 was vetoed. See message at end of chapter.***

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

35 ***FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X
36 Puget Sound Ferry Operations Account--State***

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

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

11 (8) (~~(\$4,794,000)~~) \$4,124,000 of the Puget Sound ferry operations
12 account--state appropriation is provided solely for commercial
13 insurance for ferry assets. The office of financial management, after
14 consultation with the transportation committees of the legislature,
15 must present a business plan for the Washington state ferry system's
16 insurance coverage to the 2010 legislature. The business plan must
17 include a cost-benefit analysis of Washington state ferries' current
18 commercial insurance purchased for ferry assets and a review of self-
19 insurance for noncatastrophic events.

20 (9) \$1,100,000 of the Puget Sound ferry operations account--state
21 appropriation is provided solely for a marketing program. The
22 department shall present a marketing program proposal to the
23 transportation committees of the legislature during the 2010
24 legislative session before implementing this program. Of this amount,
25 \$10,000 is for the city of Port Townsend and \$10,000 is for the town of
26 Coupeville for mitigation expenses related to only one vessel operating
27 on the Port Townsend/Keystone ferry route. The moneys provided to the
28 city of Port Townsend and town of Coupeville are not contingent upon
29 the required marketing proposal.

30 (10) \$350,000 of the Puget Sound ferry operations account--state
31 appropriation is provided solely for two extra trips per day during the
32 summer of 2009 season, beyond the current schedule, on the Port
33 Townsend/Keystone route.

34 (11) When purchasing uniforms that are required by collective
35 bargaining agreements, the department shall contract with the lowest
36 cost provider.

37 (12) The legislature finds that measuring the performance of
38 Washington state ferries requires the measurement of quality,

1 *timeliness, and unit cost of services delivered to customers.*
2 *Consequently, the department must develop a set of metrics that measure*
3 *that performance and report to the transportation committees of the*
4 *legislature and to the office of financial management on the*
5 *development of these measurements along with recommendations to the*
6 *2010 legislature on which measurements must become a part of the next*
7 *omnibus transportation appropriations act.*

8 *(13) As a priority task, the department is directed to propose a*
9 *comprehensive incident and accident investigation policy and*
10 *appropriate procedures, and to provide the proposal to the legislature*
11 *by November 1, 2009, using existing resources and staff expertise. In*
12 *addition to consulting with ferry system unions and the United States*
13 *coast guard, the Washington state ferries is encouraged to solicit*
14 *independent outside expertise on incident and accident investigation*
15 *best practices as they may be found in other organizations with a*
16 *similar concern for marine safety. It is the intent of the legislature*
17 *to enact the policies into law and to publish that law and procedures*
18 *as a manual for Washington state ferries' accident/incident*
19 *investigations. Until that time, the Washington state ferry system*
20 *must exercise particular diligence to assure that any incident or*
21 *accident investigations are conducted within the spirit of the*
22 *guidelines of this act. The proposed policy must contain, at a*
23 *minimum:*

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

26 *(b) The process for appointing an investigating officer or officers*
27 *and a description of the authorities and responsibilities of the*
28 *investigating officer or officers. The investigating officer or*
29 *officers must:*

30 *(i) Have the appropriate training and experience as determined by*
31 *the policy;*

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

34 *(iii) Have full access to all persons, records, and relevant*
35 *organizations that may have information about or may have contributed*
36 *to, directly or indirectly, the incident or accident under*
37 *investigation, in compliance with any affected employee's or employees'*

1 *respective collective bargaining agreement and state laws and rules*
2 *regarding public disclosure under chapter 42.56 RCW;*

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

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

7 *(c) The process of working with the affected employee or employees*
8 *in accordance with the employee's or employees' respective collective*
9 *bargaining agreement and the appropriate union officials, within*
10 *protocols afforded to all public employees;*

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

13 *(e) The process for review, approval, and implementation of any*
14 *approved recommendations within the department; and*

15 *(f) The process for keeping the public informed of the*
16 *investigation and its outcomes, in compliance with any affected*
17 *employee's or employees' respective collective bargaining agreement and*
18 *state laws and rules regarding public disclosure under chapter 42.56*
19 *RCW.*

20 *(14) \$7,300,000 of the Puget Sound ferry operations account--state*
21 *appropriation is provided solely for the purposes of travel time*
22 *associated with Washington state ferries employees. However, if*
23 *Engrossed Substitute House Bill No. 3209 (managing costs of ferry*
24 *system) is enacted by June 30, 2010, containing an appropriation for*
25 *purposes of travel time associated with Washington state ferries*
26 *employees, the amount provided in this subsection lapses.*

27 *(15) \$50,000 of the Puget Sound ferry operations account--state*
28 *appropriation is provided solely to implement a mechanism to report on-*
29 *time performance statistics.*

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

36 *(b) The department shall, by November 1, 2010, report to the*
37 *transportation committees of the legislature statistics regarding its*
38 *on-time arrival and departure status on a route-by-route and month-by-*

1 month basis, as well as an annual route-by-route and systemwide basis,
2 weighted by the number of customers on each sailing and distinguishing
3 peak period on-time performance. The statistics must include reasons
4 for any delays over ten minutes from the scheduled time. The
5 statistics must be prominently displayed on the Washington state
6 ferries' web site. Each Washington state ferries vessel and terminal
7 must prominently display the statistics as they relate to their
8 specific route.

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

13 (17) By July 1, 2010, the department shall provide to the governor
14 and the transportation committees of the senate and house of
15 representatives a listing of all benefits that Washington state ferries
16 union employees receive that other state employees do not traditionally
17 receive. The listing must include any costs associated with these
18 benefits.

*Sec. 18 was vetoed. See message at end of chapter.

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

21 **FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES**
22 **CONSTRUCTION--PROGRAM W**

23 Puget Sound Capital Construction Account--State	
24 Appropriation	\$126,824,000
25 Puget Sound Capital Construction Account--Federal	
26 Appropriation	\$60,364,000
27 Puget Sound Capital Construction Account--Local	
28 Appropriation	\$200,000
29 Transportation 2003 Account (Nickel Account)--State	
30 Appropriation	\$51,734,000
31 Transportation Partnership Account--State	
32 Appropriation	\$66,879,000
33 Multimodal Transportation Account--State	
34 Appropriation	\$149,000
35 TOTAL APPROPRIATION	\$306,150,000

36 The appropriations in this section are subject to the following
37 conditions and limitations:

1 (1) \$126,824,000 of the Puget Sound capital construction account--
2 state appropriation, \$60,364,000 of the Puget Sound capital
3 construction account--federal appropriation, \$200,000 of the Puget
4 Sound capital construction account--local appropriation, \$66,879,000 of
5 the transportation partnership account--state appropriation,
6 \$51,734,000 of the transportation 2003 account (nickel account)--state
7 appropriation, and \$149,000 of the multimodal transportation account--
8 state appropriation are provided solely for ferry capital projects,
9 project support, and administration as listed in LEAP Transportation
10 Document ALL PROJECTS 2010-2 as developed March 8, 2010, Program -
11 Ferries Construction Program (W). Of the total appropriation, a
12 maximum of \$10,627,000 may be used for administrative support, a
13 maximum of \$8,184,000 may be used for terminal project support, and a
14 maximum of \$4,497,000 may be used for vessel project support. Of the
15 total appropriation, \$5,851,000 is provided solely for a reservation
16 system and associated communications projects.

17 (2) \$51,734,000 of the transportation 2003 account (nickel
18 account)--state appropriation, \$63,100,000 of the transportation
19 partnership account--state appropriation, and \$10,164,000 of the Puget
20 Sound capital construction account--state appropriation are provided
21 solely for the acquisition of three new Island Home class ferry vessels
22 subject to the conditions of RCW 47.56.780. The department shall
23 pursue a contract for the second and third Island Home class ferry
24 vessels with an option to purchase a fourth Island Home class ferry
25 vessel. However, if sufficient resources are available to build one
26 144-auto vessel prior to exercising the option to build the fourth
27 Island Home class ferry vessel, procurement of the fourth Island Home
28 class ferry vessel will be postponed and the department shall pursue
29 procurement of a 144-auto vessel.

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

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

36 (c) Cost savings from the following initiatives will be included in
37 the funding of these vessels: The department's review and update of

1 the vessel life-cycle cost model as required under this section; and
2 the implementation of technology efficiencies as required under section
3 602 of this act.

4 (3)(a) \$8,450,000 of the Puget Sound capital construction account--
5 state appropriation and \$2,450,000 of the transportation partnership
6 account--state appropriation are provided solely for the following
7 projects related to the design of a 144-vehicle vessel class: (i)
8 \$1,380,000 is provided solely for completion of the contract for owner-
9 furnished equipment; (ii) \$8,320,000 is provided solely for completion
10 of the technical design, detail design, and production drawings, all of
11 which must plan for an aluminum superstructure; (iii) \$480,000 is
12 provided solely for the storage of owner-furnished equipment; and (iv)
13 a maximum of \$720,000 is for construction engineering. In completing
14 the contract for owner-furnished equipment, the department shall use as
15 much of the already procured equipment as is practicable on the Island
16 Home class ferry vessels if it is likely to be obsolete before it is
17 used in procured 144-vehicle vessels.

18 (b) The department shall conduct a cost-benefit study on
19 alternative furnishings and fittings for the 144-vehicle vessel class.
20 The study must review the proposed interior furnishings and fittings
21 for the long-term maintenance and out-of-service vessel costs and, if
22 appropriate, propose alternative interior furnishings and fittings that
23 will decrease long-term maintenance and out-of-service vessel costs.
24 The study must include a projection of out-of-service time and a life-
25 cycle cost analysis of planned out-of-service time, including the
26 impact on fleet size. The department must submit the study to the
27 joint transportation committee by August 1, 2010.

28 (c) The department shall identify costs for any additional detail
29 design and production drawings costs related to incorporating the
30 aluminum superstructure and any changes in the proposed furnishings and
31 fittings.

32 (4) \$6,300,000 of the Puget Sound capital construction account--
33 state appropriation is provided solely for emergency capital costs.

34 (5) \$3,000,000 of the Puget Sound capital construction account--
35 federal appropriation is provided solely for completing the Anacortes
36 terminal design up to the maximum allowable construction cost phase.
37 Beyond preparing environmental work, these funds may be spent only
38 after the following conditions have been met: (a) A value engineering

1 process is conducted on the existing design and the concept of a
2 terminal building smaller than preferred alternative; (b) the office of
3 financial management participates in the value engineering process; (c)
4 the office of financial management concurs with the recommendations of
5 the value engineering process; and (d) the office of financial
6 management gives its approval to proceed with the design work.

7 (6) \$3,965,000 of the Puget Sound capital construction account--
8 state appropriation is provided solely for the following vessel
9 projects: Waste heat recovery pilot project for the Issaquah; jumbo
10 Mark 1 class steering gear ventilation pilot project; and improvements
11 to the Yakima and Kaleetan propulsion controls to allow for two engine
12 operation. Before beginning these projects, the Washington state
13 ferries must ensure the vessels' out-of-service time does not
14 negatively impact service to the system.

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

18 (8) The department shall provide to the office of financial
19 management and the legislature quarterly reports providing the status
20 on each project listed in this section and in the project lists
21 submitted pursuant to this act and on any additional projects for which
22 the department has expended funds during the 2009-11 fiscal biennium.
23 Elements must include, but not be limited to, project scope, schedule,
24 and costs. The department shall also provide the information required
25 under this subsection via the transportation executive information
26 systems (TEIS). The quarterly report regarding the status of projects
27 identified on the list referenced in subsection (1) of this section
28 must be developed according to an earned value method of project
29 monitoring.

30 (9) The department shall review and adjust its capital program
31 staffing levels to ensure staffing is at the most efficient level
32 necessary to implement the capital program in the omnibus
33 transportation appropriations act. The Washington state ferries shall
34 report this review and adjustment to the office of financial management
35 and the house and senate transportation committees of the legislature
36 by July 2009.

37 (10) \$1,200,000 of the total appropriation is provided solely for

1 improving the toll booth configuration at the Port Townsend and
2 Keystone ferry terminals.

3 (11) \$2,636,000 of the total appropriation is provided solely for
4 continued permitting work on the Mukilteo ferry terminal. The
5 department shall seek additional federal funding for this project.

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

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

13 (b) Limit the amount of planned out-of-service time to the greatest
14 extent possible, including options associated with department staff as
15 well as commercial shipyards. At a minimum, the department shall
16 consider the following:

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

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

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

25 (iv) A review of the department's vessel maintenance, preservation,
26 and improvement program contracting process and contractual
27 requirements;

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

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

33 (vii) Coordination with required United States coast guard dry
34 dockings;

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

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

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

5 (13) \$247,000 of the Puget Sound capital construction account--
6 state appropriation is provided solely for the Washington state ferries
7 to review and update its vessel life-cycle cost model and report the
8 results to the house of representatives and senate transportation
9 committees of the legislature by (~~March 15~~) December 1, 2010. This
10 review will evaluate the impact of the planned out-of-service periods
11 scheduled for each vessel on the ability of the overall system to
12 deliver uninterrupted service and will assess the risk of service
13 disruption from unscheduled maintenance or longer than planned
14 maintenance periods.

15 (14) The department shall work with the department of archaeology
16 and historic preservation to ensure that the cultural resources
17 investigation is properly conducted on all large ferry terminal
18 projects. These projects must be conducted with active archaeological
19 management. Additionally, the department shall establish a scientific
20 peer review of independent archaeologists that are knowledgeable about
21 the region and its cultural resources.

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

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

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

31 NEW SECTION. Sec. 20. The following acts or parts of acts are
32 each repealed:

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

35 (2) RCW 47.61.020 (Bonds for matching funds--Issuance and sale) and
36 1965 ex.s. c 56 s 2;

1 (3) RCW 47.61.030 (Term of bonds--Terms and conditions) and 1965
2 ex.s. c 56 s 3;
3 (4) RCW 47.61.040 (Bonds--Signatures--Registration--Where payable--
4 Negotiable instruments) and 1965 ex.s. c 56 s 4;
5 (5) RCW 47.61.050 (Bonds--Denominations--Manner and terms of sale--
6 Legal investment for state funds) and 1965 ex.s. c 56 s 5;
7 (6) RCW 47.61.060 (Proceeds of bonds--Deposit and use) and 1965
8 ex.s. c 56 s 6;
9 (7) RCW 47.61.070 (Statement describing nature of bond obligation--
10 Pledge of excise taxes) and 1965 ex.s. c 56 s 7;
11 (8) RCW 47.61.080 (Bonds to reflect terms and conditions of grant
12 agreement) and 1965 ex.s. c 56 s 8;
13 (9) RCW 47.61.090 (Designation of funds to repay bonds and
14 interest) and 1984 c 7 s 339 & 1965 ex.s. c 56 s 9;
15 (10) RCW 47.61.100 (Bond repayment procedure--Highway bond
16 retirement fund) and 1965 ex.s. c 56 s 10;
17 (11) RCW 47.61.110 (Sums in excess of bond retirement
18 requirements--Use) and 1965 ex.s. c 56 s 11;
19 (12) RCW 47.60.395 (Evaluation of cost allocation methodology and
20 preservation and improvement costs--Exception) and 2009 c 470 s 707 &
21 2007 c 512 s 15;
22 (13) RCW 47.60.649 (Passenger-only ferry service--Finding) and 1998
23 c 166 s 1;
24 (14) RCW 47.60.652 (Passenger-only ferry service--Vessel and
25 terminal acquisition, procurement, and construction) and 1998 c 166 s
26 2;
27 (15) RCW 47.60.654 (Passenger-only ferry service--Contingency) and
28 1998 c 166 s 3;
29 (16) RCW 47.60.658 (Passenger-only ferry service between Vashon and
30 Seattle) and 2007 c 223 s 8 & 2006 c 332 s 3;
31 (17) RCW 47.60.770 (Jumbo ferry construction--Notice) and 1993 c
32 493 s 1;
33 (18) RCW 47.60.772 (Jumbo ferry construction--Bidding documents)
34 and 1993 c 493 s 2;
35 (19) RCW 47.60.774 (Jumbo ferry construction--Procedure on
36 conclusion of evaluation) and 1993 c 493 s 4;
37 (20) RCW 47.60.776 (Jumbo ferry construction--Contract) and 1993 c
38 493 s 5;

1 (21) RCW 47.60.778 (Jumbo ferry construction--Bid deposits--Low
2 bidder claiming error) and 1996 c 18 s 9 & 1993 c 493 s 6;

3 (22) RCW 47.60.780 (Jumbo ferry construction--Propulsion system
4 acquisition) and 1994 c 181 s 2; and

5 (23) RCW 47.64.220 (Salary survey) and 2006 c 164 s 10, 2005 c 274
6 s 308, 1999 c 256 s 1, 1989 c 327 s 2, & 1983 c 15 s 13.

7 NEW SECTION. **Sec. 21.** Section 18 of this act takes effect if
8 section 222, chapter . . . (Engrossed Substitute Senate Bill No. 6381),
9 Laws of 2010 is enacted into law. If section 222, chapter . . .
10 (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is not
11 enacted into law, section 18 of this act is void in its entirety.

12 NEW SECTION. **Sec. 22.** Section 19 of this act takes effect if
13 section 306, chapter . . . (Engrossed Substitute Senate Bill No. 6381),
14 Laws of 2010 is enacted into law. If section 306, chapter . . .
15 (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is not
16 enacted into law, section 19 of this act is void in its entirety.

17 NEW SECTION. **Sec. 23.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 24.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and takes effect
24 immediately.

Passed by the House March 11, 2010.
Passed by the Senate March 10, 2010.
Approved by the Governor April 1, 2010, with the exception of
certain items that were vetoed.
Filed in Office of Secretary of State April 2, 2010.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 17 and
18, Engrossed Substitute House Bill 3209 entitled:

"AN ACT Relating to managing costs of the ferry system."

Section 17 eliminates ferry passes for current employees, retirees,
and their family members at the end of the current collective
bargaining agreements. The issuance of ferry passes is a subject of
collective bargaining and should be dealt with as part of the overall
compensation package at the bargaining table, not singled out in
legislation for elimination. Legislating matters subject to

bargaining may restrict the state's ability to address other more important cost savings measures through the collective bargaining process. I am directing my Labor Relations Office to focus in this bargaining cycle on the best approaches to reduce long-term labor costs, including ferry passes and all aspects of the compensation package.

Section 18 reduces the Ferries Division insurance policy appropriation by \$670,000, based on a legislative study that concluded that the Department could save money by eliminating some marine insurance coverage. I share the Legislature's interest in saving money over the long term and being responsible stewards of taxpayer dollars by protecting our state-owned assets. While I am vetoing this subsection, I direct the Office of Financial Management to work with the Legislature over the interim to review the Department's marine insurance coverage carefully and to assess whether cost reductions can be made while still adequately protecting taxpayer dollars.

For these reasons, I have vetoed Sections 17 and 18 of Engrossed Substitute House Bill 3209.

With the exception of Sections 17 and 18, Engrossed Substitute House Bill 3209 is approved."