

FIRST DAY

NOON SESSION

Senate Chamber, Olympia, Sunday, June 28, 2015

In accordance with Gubernatorial Proclamation issued pursuant to Article II, Section 12 of the Washington State Constitution, the Senate of the 2015 Third Extraordinary Session of the Sixty-Fourth Legislature of the State of Washington assembled in the Senate Chamber at the State Capitol at Olympia.

At 12:00 o'clock p.m., Sunday, June 28, 2015, the Senate of the 2015 Third Extraordinary Session was called to order by the President Pro Tempore, Senator Pam Roach presiding. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exceptions of Senators Baumgartner, Conway, Ranker and Rolfes.

The Sergeant at Arms Color Guard consisting of Mr. Steve Jones and Ms. Julie Murray presented the Colors. Senator Dammeier offered the prayer.

MOTION

On motion of Senator Fain, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR

PROCLAMATION BY THE GOVERNOR
15-12

WHEREAS, in accordance with Article II, Section 12 (Amendment 68) of the Washington State Constitution, the Legislature adjourned its 2015 regular session on April 24, 2015, the 103rd day of the session; and

WHEREAS, the Legislature reconvened on April 29, 2015, to continue work on the 2015-2017 biennial operating and capital budgets, the 2015-2017 biennial transportation budget, and critical policy and related bills; and

WHEREAS, the Legislature failed to approve the 2015-2017 biennial operating and capital budgets, a 2015-2017 biennial transportation budget, the bills necessary to implement those budgets, and critical policy and related bills; and

WHEREAS, the Legislature reconvened on May 29, 2015, to continue work on the 2015-2017 biennial operating and capital budgets, 2015-2017 biennial transportation budget, critical policy bills and related bills; and

WHEREAS, the Legislature has again failed to approve the 2015-2017 biennial operating and capital budgets, and the bills necessary to implement those budgets; and

WHEREAS, the State enters a new fiscal biennium on July 1, 2015; and

WHEREAS, State law requires the adoption of a budget providing appropriations for the operation of state government prior to the beginning of the fiscal biennium; and

WHEREAS, work remains to be done with respect to the 2015-2017 biennial operating and capital budgets and bills necessary to implement those budgets; and

WHEREAS, the Washington State Supreme Court has determined that the State is not meeting its "paramount duty...to make ample provision for the education of all children residing within its borders"; and

WHEREAS, the Legislature has vital work do to on a transportation investment package; and

WHEREAS, the Speaker of the House, House Minority Leader, Senate Republican Leader, and Senate Democratic Leader, working together with the Governor may agree upon additional matters that are necessary for the legislature to address.

NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, by virtue of the authority vested in me by Article II, Section 12 (Amendment 68) and Article III, Section 7 of the Washington State Constitution, do hereby convene the Washington State Legislature in Special Session in the Capitol at Olympia on Sunday, June 28, 2015, at 12:00 p.m. for the purpose of enacting legislation as described above.

Signed and sealed with the official seal of the state of Washington the 27th day of June, A. D. Two-thousand and Fifteen at Olympia,, Washington.

Seal

JAY INSLEE, Governor of Washington

MOTION

On motion of Senator Fain, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SCR 8404 by Senators Schoesler and Nelson
Specifying the status of bills, memorials, and resolutions for the 2015 regular, first, and second special sessions of the Sixty-fourth Legislature.

MOTION

On motion of Senator Fain, under suspension of the rules Senate Concurrent Resolution No. 8404 was placed on the second reading calendar.

MOTION

On motion of Senator Fain, the Senate advanced to the sixth order of business.

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8404, by Senators Schoesler and Nelson

Specifying the status of bills, memorials, and resolutions for the 2015 regular, first, and second special sessions of the Sixty-fourth Legislature.

The measure was read the second time.

MOTION

On motion of Senator Fain, the rules were suspended, Senate Concurrent Resolution No. 8404 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8404.

SENATE CONCURRENT RESOLUTION NO. 8404 having received a majority was adopted by voice vote.

MOTION

On motion of Senator Fain, the Senate advanced to the eighth order of business.

MOTION

Senator Fain moved adoption of the following resolution:

SENATE RESOLUTION
8688

By Senators Fain and Roach

WHEREAS, James Blanchard has dutifully served South King and North Pierce counties as executive director of Auburn Youth Resources for over 14 years; and

WHEREAS, Jim received his bachelor's degree in social sciences from Wheaton College and his MBA from Seattle University; and

WHEREAS, Jim worked for Weyerhaeuser for over a decade as director of human resources, labor relations manager, and employee relations supervisor; and

WHEREAS, Jim was driven to take action watching children, young people, and families struggling to navigate complex social issues; and

WHEREAS, Auburn Youth Resources is a private nonprofit agency focusing on serving low to moderate income children, youth, and families; and

WHEREAS, The agency operates four major community-based programs that provide substance abuse treatment, intervention and prevention services, mental health counseling, children's residential services, child care and head start, tutoring, and homeless and runaway youth outreach services; and

WHEREAS, Jim and Auburn Youth Resources embrace the diversity of the populations they serve; and

WHEREAS, The agency has doubled, both in budget and number of employees, under Jim's tenure; and

WHEREAS, Jim oversaw the inclusion of childcare and early learning for low-income families, as well as the acquisition of three new buildings and a multiplex at Auburn Youth Resources; and

WHEREAS, Jim acquired ACAP Child and Family Services and integrated it within Auburn Youth Resources in 2011; and

WHEREAS, Jim is an active member in the community, having served as president of the Auburn Symphony Orchestra, treasurer at the Face, Heart, and Mind Foundation, member of the Kiwanis Club of Auburn, and board member at the Auburn Valley Human Services Campus Association; and

WHEREAS, Uniquely Auburn recognized Jim for Exemplifying the Spirit of Auburn in 2002; and

WHEREAS, Jim's outstanding leadership will be missed in his retirement by those he worked with and served;

NOW, THEREFORE, IT BE RESOLVED, That the Washington State Senate recognize James Blanchard for his passionate commitment to help those in need throughout South King and North Pierce counties.

Senator Fain spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8688.

The motion by Senator Fain carried and the resolution was adopted by voice vote.

Senator Fain announced a meeting of the Majority Coalition Caucus at 1:00 o'clock p.m.

Senator Fraser announced a meeting of the Senate Democratic Caucus at 1:00 o'clock p.m.

MOTION

At 12:14 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 4:36 p.m. by the President Pro Tempore.

MOTION

On motion of Senator Fain, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

June 27, 2015

MR. PRESIDENT:

The Speaker has signed:

HOUSE CONCURRENT RESOLUTION NO. 4409,

HOUSE CONCURRENT RESOLUTION NO. 4410

and the same are herewith transmitted.

BERNARD DEAN, Deputy Chief Clerk

MESSAGE FROM THE HOUSE

June 28, 2015

MR. PRESIDENT:

The House has adopted:

SENATE CONCURRENT RESOLUTION NO. 8404,

and the same is herewith transmitted.

BERNARD DEAN, Deputy Chief Clerk

MOTION

On motion of Senator Fain, the Senate advanced to the seventh order of business.

MOTION

On motion of Senator Rivers, Senators Baumgartner and Erickson were excused.

MOTION

On motion of Senator Habib, Senators Conway, Ranker and Rolfes were excused.

THIRD READING

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SUBSTITUTE SENATE BILL NO. 5186, by Senate Committee on Ways & Means (originally sponsored by Senators Benton, Hasegawa, Sheldon and Keiser).

Allowing certain health care coverage deductions from the calculation of disposable income for the purpose of qualifying for senior property tax programs. Revised for 1st Substitute: Concerning property tax exemptions for service-connected disabled veterans and senior citizens.

The bill was read on Third Reading.

Senators Benton and Hargrove spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5186.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5186 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Dammeier, Dansel, Darneille, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Schoesler, Sheldon and Warnick

Excused: Senators Conway, Ericksen, Ranker and Rolfes

SUBSTITUTE SENATE BILL NO. 5186, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT PRO TEMPORE

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 2(1), the President Pro Tempore announced the signing of and thereupon did sign in open session:

HOUSE CONCURRENT RESOLUTION NO. 4409,
HOUSE CONCURRENT RESOLUTION NO. 4410.
SENATE CONCURRENT RESOLUTION NO. 8404.

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5355, by Senate Committee on Higher Education (originally sponsored by Senators Bailey, Kohl-Welles, Roach, Conway, Braun, Baumgartner, Rolfes, O'Ban, McAuliffe and Chase).

Modifying the definition of resident student to comply with federal requirements established by the veterans access, choice, and accountability act of 2014.

The bill was read on Third Reading.

Senator Bailey spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5355.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5355 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Dammeier, Dansel, Darneille, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Schoesler, Sheldon and Warnick

Excused: Senators Conway, Ericksen, Ranker and Rolfes

ENGROSSED SUBSTITUTE SENATE BILL NO. 5355, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Habib, Senator McAuliffe was excused.

THIRD READING

SUBSTITUTE SENATE BILL NO. 5681, by Senate Committee on Ways & Means (originally sponsored by Senators Hill and Angel).

Concerning state lottery accounts.

The bill was read on Third Reading.

MOTION

On motion of Senator Fain, further consideration of Substitute Senate Bill No. 5681 was deferred and the bill held its place on the day's calendar.

MOTION

On motion of Senator Fain, the Senate reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 6013, by Senators Roach, Angel and Dammeier

Providing use tax relief for individuals who support charitable activities.

The measure was read the second time.

MOTION

Senator Hill moved that the following striking amendment by Senator Roach be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) This section is the tax preference performance statement for the tax preference in section 2 of this act. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to accomplish a general purpose as indicated in RCW 82.32.808(2)(f).

(3) It is the legislature's specific public policy objective to provide use tax relief for individuals who support charitable activities by purchasing or winning articles of personal property from a nonprofit organization or library when the personal property is sales tax exempt.

(4) To measure the effectiveness of the exemption provided in this act in achieving the specific public policy objective described in (3) of this section, the joint legislative audit and review committee must evaluate this tax preference.

Sec. 2. RCW 82.12.225 and 2013 2nd sp.s. c 13 s 1402 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of any article of personal property, valued at less than ~~((ten))~~ twelve thousand dollars, purchased or received as a prize in a contest of chance, as defined in RCW 82.04.285, from a nonprofit organization or a library, if the gross income the nonprofit organization or library receives from the sale is exempt under RCW 82.04.3651.

(2) This section expires July 1, ~~((2017))~~ 2020."

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senator Roach to 6013.

The motion by Senator Hill carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "activities;" strike the remainder of the title and insert "amending RCW 82.12.225; and creating a new section."

MOTION

On motion of Senator Hill, the rules were suspended, Engrossed Senate Bill No. 6013 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hill spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6013.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6013 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 2; Absent, 0; Excused, 5.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Dammeier, Dansel, Darneille, Fain, Fraser, Frockt, Habib, Hargrove, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Keiser, King, Kohl-Welles, Lias, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Schoesler, Sheldon and Warnick

Voting nay: Senators Hasegawa and Jayapal

Excused: Senators Conway, Ericksen, McAuliffe, Ranker and Rolfe

ENGROSSED SENATE BILL NO. 6013, having received the constitutional majority, was declared passed. There being no

objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Fain, the Senate advanced to the seventh order of business.

THIRD READING

ENGROSSED SENATE BILL NO. 6089, by Senator Hill.

Concerning health benefit exchange sustainability. (REVISED FOR ENGROSSED: Concerning the health benefit exchange.)

The bill was read on Third Reading.

MOTION

On motion of Senator Becker, the rules were suspended and Engrossed Senate Bill No. 6089 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SENATE BILL NO. 6089, by Senator Hill

Concerning health benefit exchange sustainability. (REVISED FOR ENGROSSED: Concerning the health benefit exchange.)

The measure was read the second time.

MOTION

Senator Becker moved that the following striking amendment by Senator Becker be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.71.030 and 2012 c 87 s 4 are each amended to read as follows:

(1) The exchange may, consistent with the purposes of this chapter: (a) Sue and be sued in its own name; (b) make and execute agreements, contracts, and other instruments, with any public or private person or entity; (c) employ, contract with, or engage personnel; (d) pay administrative costs; (e) accept grants, donations, loans of funds, and contributions in money, services, materials or otherwise, from the United States or any of its agencies, from the state of Washington and its agencies or from any other source, and use or expend those moneys, services, materials, or other contributions; (f) aggregate or delegate the aggregation of funds that comprise the premium for a health plan; and (g) complete other duties necessary to begin open enrollment in qualified health plans through the exchange beginning October 1, 2013.

(2) The board shall develop a methodology to ensure the exchange is self-sustaining after December 31, 2014. The board shall seek input from health carriers to develop funding mechanisms that fairly and equitably apportion among carriers the reasonable administrative costs and expenses incurred to implement the provisions of this chapter. The board shall submit its recommendations to the legislature by December 1, 2012. If the legislature does not enact legislation during the 2013 regular session to modify or reject the board's recommendations, the

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board may proceed with implementation of the recommendations.

(3) The board shall establish policies that permit city and county governments, Indian tribes, tribal organizations, urban Indian organizations, private foundations, and other entities to pay premiums on behalf of qualified individuals.

(4) The employees of the exchange may participate in the public employees' retirement system under chapter 41.40 RCW and the public employees' benefits board under chapter 41.05 RCW.

(5) Qualified employers may access coverage for their employees through the exchange for small groups under section 1311 of P.L. 111-148 of 2010, as amended. The exchange shall enable any qualified employer to specify a level of coverage so that any of its employees may enroll in any qualified health plan offered through the small group exchange at the specified level of coverage.

(6) The exchange shall report its activities and status to the governor and the legislature as requested, and no less often than annually.

(7) By January 1, 2016, the exchange must submit to the legislature, the governor's office, and the board a five-year spending plan that identifies potential reductions in exchange per member per month spending below the per member per month levels based on a calculation from the 2015-2017 biennium appropriation. The report must identify specific reductions in spending in the following areas: Call center, information technology, and staffing. The exchange must provide annual updates on the reduction identified in the spending plan.

(8) By January 1, 2016, the exchange must develop metrics, with actuarial support and input from the health care authority, office of insurance commissioner, office of financial management, and other relevant agencies, that capture current spending levels that include a per member per month metric; establish five-year benchmarks for spending reductions; monitor ongoing progress toward achieving those benchmarks; and post progress to date toward achieving the established benchmark on the exchange public corporate web site. Quarterly updates must be provided to relevant legislative committees and the board.

(9) For biennia following 2015-2017, the exchange must include additional detail capturing the annual cost of operating the exchange, per qualified health plan enrollee and apple health enrollee per month, as calculated by dividing funds allocated for the exchange over the 2015-2017 biennium by the number of enrollees in both qualified health plans and apple health during the year. The data must be tracked and reported to the legislature and the board on an annual basis.

(10)(a) The exchange shall prepare and annually update a strategic plan for the development, maintenance, and improvement of exchange operations for the purpose of assisting the exchange in establishing priorities to better serve the needs of its specific constituency and the public in general. The strategic plan is the exchange's process for defining its methodology for achieving optimal outcomes, for complying with applicable state and federal statutes, rules, regulations, and mandatory policies, and for guaranteeing an appropriate level of transparency in its dealings. The strategic plan must include, but is not limited to:

(i) Comprehensive five-year and ten-year plans for the exchange's direction with clearly defined outcomes and goals;

(ii) Concrete plans for achieving or surpassing desired outcomes and goals;

(iii) Strategy for achieving enrollment and reenrollment targets;

(iv) Detailed stakeholder and external communication plans;

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(v) Identification of funding sources, and a plan for how it will fund and allocate resources to pursue desired goals and outcomes; and

(vi) A detailed report including:

(A) Salaries of all current employees of the exchange, including starting salary, any increases received, and the basis for any increases;

(B) Salary, overtime, and compensation policies for staff of the exchange;

(C) A report of all expenses;

(D) Beginning and ending fund balances, by fund source;

(E) Any contracts or contract amendments signed by the exchange; and

(F) An accounting of staff required to operate the exchange broken out by full-time equivalent positions, contracted employees, temporary staff, and any other relevant designation that indicates the staffing level of the exchange.

(b) The strategic plan and its updates must be submitted to the authority, the appropriate committees of the legislature, and the board by September 30th of each year beginning September 30, 2015; the report of expenses for items identified in (a)(vi)(C) through (F) of this subsection must be submitted to the appropriate committees of the legislature and the board on a quarterly basis.

NEW SECTION. Sec. 2. A new section is added to chapter 43.71 RCW to read as follows:

As part of eligibility verification responsibilities, the exchange shall verify that a person seeking to enroll in a qualified health plan or qualified dental plan during a special enrollment period has experienced a qualifying event as established by the office of the insurance commissioner and shall require reasonable proof or documentation of the qualifying event.

Sec. 3. RCW 43.71.090 and 2014 c 84 s 1 are each amended to read as follows:

(1) The exchange must support the grace period by providing electronic information to an issuer of a qualified health plan or a qualified dental plan that complies with 45 C.F.R. Sec. 156.270 (2013) and 45 C.F.R. Sec. 155.430 (2013).

(2) If the health benefit exchange notifies an enrollee that he or she is delinquent on payment of premium, the notice must include information on how to report a change in income or circumstances and an explanation that such a report may result in a change in the premium amount or program eligibility.

(3) The exchange shall perform eligibility checks on enrollees who are in the grace period to determine eligibility for medicaid. The exchange, in collaboration with the health care authority, shall conduct outreach to eligible individuals with information regarding medicaid.

Sec. 4. RCW 48.43.039 and 2014 c 84 s 3 are each amended to read as follows:

(1) For an enrollee who is in the second or third month of the grace period, an issuer of a qualified health plan shall:

(a) Upon request by a health care provider or health care facility, provide information regarding the enrollee's eligibility status in real-time; ~~(and)~~

(b) Notify a health care provider or health care facility that an enrollee is in the grace period within three business days after submittal of a claim or status request for services provided; and

(c) If the health care provider or health care facility is providing care to an enrollee in the grace period, the provider or facility shall, wherever possible, encourage the enrollee to pay delinquent premiums to the issuer and provide information regarding the impact of nonpayment of premiums on access to services.

(2) The information or notification required under subsection (1) of this section must, at a minimum:

(a) Indicate "grace period" or use the appropriate national coding standard as the reason for pending the claim if a claim is pending due to the enrollee's grace period status; and

(b) Except for notifications provided electronically, indicate that enrollee is in the second or third month of the grace period.

(3) No earlier than January 1, 2016, and once the exchange has terminated premium aggregation functionality for qualified health plans offered in the individual exchange and issuers are accepting all payments from enrollees directly, an issuer of a qualified health plan shall:

(a) For an enrollee in the grace period, include a statement in a delinquency notice that concisely explains the impact of nonpayment of premiums on access to coverage and health care services and encourages the enrollee to contact the issuer regarding coverage options that may be available; and

(b) For an enrollee who has exhausted the grace period, include a statement in a termination notice for nonpayment of premium informing the enrollee that other coverage options such as medicaid may be available and to contact the issuer or the exchange for additional information;

(c) For a delinquency notice described in this subsection, the issuer shall include concise information on how a subsidized enrollee may report to the exchange a change in income or circumstances, including any deadline for doing so, and an explanation that it may result in a change in premium or cost-sharing amount or program eligibility.

(4) By December 1, 2014, and annually each December 1st thereafter, the health benefit exchange shall provide a report to the appropriate committees of the legislature with the following information for the calendar year: (a) The number of exchange enrollees who entered the grace period; (b) the number of enrollees who subsequently paid premium after entering the grace period; (c) the average number of days enrollees were in the grace period prior to paying premium; and (d) the number of enrollees who were in the grace period and whose coverage was terminated due to nonpayment of premium. The report must include as much data as is available for the calendar year.

((4)) (5) Upon the transfer of premium collection to the qualified health plan, each qualified health plan must provide detailed reports to the exchange to support the legislative reporting requirements.

(6) For purposes of this section, "grace period" means nonpayment of premiums by an enrollee receiving advance payments of the premium tax credit, as defined in section 1412 of the patient protection and affordable care act, P.L. 111-148, as amended by the health care and education reconciliation act, P.L. 111-152, and implementing regulations issued by the federal department of health and human services."

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senator Becker to Engrossed Senate Bill No. 6089.

The motion by Senator Becker carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "the health benefit exchange; amending RCW 43.71.030, 43.71.090, and 48.43.039; and adding a new section to chapter 43.71 RCW."

MOTION

On motion of Senator Becker, the rules were suspended, Second Engrossed Senate Bill No. 6089 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Becker and Frockt spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 6089.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 6089 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 3; Absent, 0; Excused, 5.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Dammeier, Darneille, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Liias, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Parlette, Pearson, Pedersen, Rivers, Roach, Schoesler, Sheldon and Warnick

Voting nay: Senators Baumgartner, Dansel and Padden

Excused: Senators Conway, Ericksen, McAuliffe, Ranker and Rolfes

SECOND ENGROSSED SENATE BILL NO. 6089, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Senate resumed consideration of Substitute Senate Bill No. 5681 which had been deferred earlier in the day.

MOTION

On motion of Senator Hill, the rules were suspended and Substitute Senate Bill No. 5681 was returned to second reading for the purpose of amendment.

SECOND READING

SUBSTITUTE SENATE BILL NO. 5681, by Senate Committee on Ways & Means (originally sponsored by Senators Hill and Angel)

Concerning state lottery accounts.

The measure was read the second time.

MOTION

Senator Hill moved that the following amendment by Senator Hill be adopted:

On page 1, beginning on line 14, after "43.330.250" strike all material through "biennium" on line 15

On page 2, beginning on line 34, after "9.46.100" strike all material through "2016" on line 36 and insert ", in amounts specified in the omnibus appropriations act"

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Hill on page 1, line 14 to Substitute Senate Bill No. 5681.

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The motion by Senator Hill carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Hill, the rules were suspended, Engrossed Substitute Senate Bill No. 5681 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hill and Hargrove spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5681.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5681 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yeas: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Lias, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Schoesler, Sheldon and Warnick

Excused: Senators Conway, McAuliffe, Ranker and Rolfes

ENGROSSED SUBSTITUTE SENATE BILL NO. 5681, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRD READING

SUBSTITUTE SENATE BILL NO. 5820, by Senate Committee on Transportation (originally sponsored by Senators King and Benton).

Concerning the sale of certain department of transportation surplus property.

The bill was read on Third Reading.

MOTION

On motion of Senator King, the rules were suspended and Substitute Senate Bill No. 5820 was returned to second reading for the purpose of amendment.

SECOND READING

SUBSTITUTE SENATE BILL NO. 5820, by Senate Committee on Transportation (originally sponsored by Senators King and Benton)

Concerning the sale of certain department of transportation surplus property.

The measure was read the second time.

MOTION

Senator King moved that the following striking amendment by Senators King and Hobbs be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.12.283 and 2010 c 8 s 10006 are each amended to read as follows:

(1) Whenever the department of transportation determines that any real property owned by the state of Washington and under the jurisdiction of the department is no longer required for highway purposes and that it is in the public interest to do so, the department may, in its discretion, sell the property under RCW 47.12.063 or under subsections (2) through (6) of this section.

(2) Whenever the department determines to sell real property under its jurisdiction at public auction, the department shall first give notice thereof by ~~((publication on the same day of the week for two consecutive weeks, with the first publication at least two weeks prior to the date of the auction, in a legal newspaper of general circulation in the area where the property to be sold is located. The notice shall be placed in both the legal notices section and the real estate classified section of the newspaper))~~ the most appropriate method as determined by the department. The notice shall contain a description of the property, the time and place of the auction, and the terms of the sale. The sale may be for cash or by real estate contract.

(3) The department shall sell the property at the public auction, in accordance with the terms set forth in the notice, to the highest and best bidder providing the bid is equal to or higher than the appraised fair market value of the property.

(4) If no bids are received at the auction or if all bids are rejected, the department may, in its discretion, enter into negotiations for the sale of the property or may list the property with a licensed real estate broker. No property shall be sold by negotiations or through a broker for less than the property's appraised fair market value. Any offer to purchase real property pursuant to this subsection shall be in writing and may be rejected at any time prior to written acceptance by the department.

(5) ~~((Before the department shall approve any offer for the purchase of real property having an appraised value of more than ten thousand dollars, pursuant to subsection (4) of this section, the department shall first publish a notice of the proposed sale in a local newspaper of general circulation in the area where the property is located. The notice shall include a description of the property, the selling price, the terms of the sale, including the price and interest rate if sold by real estate contract, and the name and address of the department employee or the real estate broker handling the transaction. The notice shall further state that any person may, within ten days after the publication of the notice, deliver to the designated state employee or real estate broker a written offer to purchase the property for not less than ten percent more than the negotiated sale price, subject to the same terms and conditions. A subsequent offer shall not be considered unless it is accompanied by a deposit of twenty percent of the offer in the form of cash, money order, cashier's check, or certified check payable to the Washington state treasurer, to be forfeited to the state (for deposit in the motor vehicle fund) if the offeror fails to complete the sale if the offeror's offer is accepted. If a subsequent offer is received, the first offeror shall be informed by registered or certified mail sent to the address stated in his or her offer. The first offeror shall then have ten days, from the date of mailing the notice of the increased offer, in which to file with the designated state employee or real estate broker a higher offer than that of the subsequent offeror. After the expiration of the ten day period, the department shall approve in writing the highest and best offer which the department then has on file.~~

~~(6))~~ All moneys received pursuant to this section, less any real estate broker's commissions paid pursuant to RCW 47.12.320, shall be deposited in the motor vehicle fund.

Sec. 2. RCW 47.12.063 and 2011 c 376 s 2 are each amended to read as follows:

(1) It is the intent of the legislature to continue the department's policy giving priority consideration to abutting property owners in agricultural areas when disposing of property through its surplus property program under this section.

(2) Whenever the department determines that any real property owned by the state of Washington and under the jurisdiction of the department is no longer required for transportation purposes and that it is in the public interest to do so, the department may sell the property or exchange it in full or part consideration for land or building improvements or for construction of highway improvements at fair market value to any person through the solicitation of written bids through public advertising in the manner prescribed under RCW 47.28.050 or in the manner prescribed under RCW 47.12.283.

(3) The department may forego the processes prescribed by RCW 47.28.050 and 47.12.283 and sell the real property to any of the following entities or persons at fair market value:

- (a) Any other state agency;
- (b) The city or county in which the property is situated;
- (c) Any other municipal corporation;
- (d) Regional transit authorities created under chapter 81.112 RCW;

(e) The former owner of the property from whom the state acquired title;

(f) In the case of residentially improved property, a tenant of the department who has resided thereon for not less than six months and who is not delinquent in paying rent to the state;

(g) Any abutting private owner but only after each other abutting private owner (if any), as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the property within fifteen days after receiving notice of the proposed sale, the property shall be sold at public auction in the manner provided in RCW 47.12.283;

(h) To any other owner of real property required for transportation purposes;

(i) In the case of property suitable for residential use, any nonprofit organization dedicated to providing affordable housing to very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510 and is eligible to receive assistance through the Washington housing trust fund created in chapter 43.185 RCW; or

(j) A federally recognized Indian tribe within whose reservation boundary the property is located.

(4) When selling real property pursuant to RCW 47.12.283, the department may withhold or withdraw the property from an auction when requested by one of the entities or persons listed in subsection (3) of this section and only after the receipt of a nonrefundable deposit equal to ten percent of the fair market value of the real property or five thousand dollars, whichever is less. This subsection does not prohibit the department from exercising its discretion to withhold or withdraw the real property from an auction if the department determines that the property is no longer surplus or chooses to sell the property through one of the other means listed in subsection (2) of this section. If a transaction under this subsection is not completed within sixty days, the real property must be put back up for sale.

(5) Sales to purchasers may, at the department's option, be for cash, by real estate contract, or exchange of land or highway improvements. Transactions involving the construction of improvements must be conducted pursuant to chapter 47.28

RCW and Title 39 RCW, as applicable, and must comply with all other applicable laws and rules.

(6) Conveyances made pursuant to this section shall be by deed executed by the secretary of transportation and shall be duly acknowledged.

(7) Unless otherwise provided, all moneys received pursuant to the provisions of this section less any real estate broker commissions paid pursuant to RCW 47.12.320 shall be deposited in the motor vehicle fund.

(8) The department may not enter into equal value exchanges or property acquisitions for building improvements without first consulting with the office of financial management and the joint transportation committee.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators King and Hobbs to Substitute Senate Bill No. 5820.

The motion by Senator King carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, after line 1 of the title, strike the remainder of the title and insert "amending RCW 47.12.283 and 47.12.063; and declaring an emergency."

MOTION

On motion of Senator King, the rules were suspended, Engrossed Substitute Senate Bill No. 5820 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King, Hobbs, Benton and Darneille spoke in favor of passage of the bill.

Senator Hasegawa spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5820.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5820 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Dammeier, Dassel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Liias, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Schoesler, Sheldon and Warnick

Excused: Senators Conway, McAuliffe, Ranker and Rolfes

ENGROSSED SUBSTITUTE SENATE BILL NO. 5820, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRD READING

FIRST DAY, JUNE 28, 2015

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ENGROSSED SUBSTITUTE SENATE BILL NO. 5992, by Senate Committee on Transportation (originally sponsored by Senators King, Hobbs, Fain, Liias, Litzow, Braun, Schoesler, Parlette, Warnick, Sheldon, Becker and Brown).

Modifying certain requirements for ferry vessel construction.

The bill was read on Third Reading.

MOTION

On motion of Senator King, the rules were suspended and Engrossed Substitute Senate Bill No. 5992 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5992, by Senate Committee on Transportation (originally sponsored by Senators King, Hobbs, Fain, Liias, Litzow, Braun, Schoesler, Parlette, Warnick, Sheldon, Becker and Brown)

Modifying certain requirements for ferry vessel construction.

The measure was read the second time.

MOTION

Senator King moved that the following striking amendment by Senators King and Hobbs be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.60.005 and 2008 c 124 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adaptive management" means a systematic process for continually improving management policies and practices by learning from the outcomes of operational programs.

(2) "Capital plan" means the state ferry system plan developed by the department as described in RCW 47.06.050(2), reviewed by the commission, and reported to the transportation committees of the legislature by the ~~((commission))~~ department.

(3) "Capital project" has the same meaning as used in budget instructions developed by the office of financial management.

(4) "Commission" means the transportation commission created in RCW 47.01.051.

(5) "Improvement project" has the same meaning as in the budget instructions developed by the office of financial management. If the budget instructions do not define improvement project, then it has the same meaning as "program project" in the budget instructions. If a project meets both the improvement project and preservation project definitions in this section it must be defined as an improvement project. New vessel acquisitions must be defined as improvement projects.

(6) "Life-cycle cost model" means that portion of a capital asset inventory system which, among other things, is used to estimate future preservation needs.

(7) "Maintenance cost" has the same meaning as used in budget instructions developed by the office of financial management.

(8) "Preservation project" has the same meaning as used in budget instructions developed by the office of financial management.

(9) "Route" means all ferry sailings from one location to another, such as the Seattle to Bainbridge route or the Port Townsend to Keystone route.

(10) "Sailing" means an individual ferry sailing for a specific route, such as the 5:00 p.m. sailing from Seattle to Bremerton.

(11) "Travel shed" means one or more ferry routes with distinct characteristics as determined by the department.

(12) "Fixed price contract" means a contract that requires the contractor to deliver a specified project for a set price. Change orders on fixed price contracts are allowable but should be used on a very limited basis.

(13) "Life-cycle cost analysis" means an analysis of the full net present value cost of constructing and operating a vessel over its life span, including capital costs, financing costs, operation and maintenance costs, decommissioning costs, and variable costs including fuel.

Sec. 2. RCW 47.60.010 and 2008 c 122 s 20 are each amended to read as follows:

The department is authorized to acquire by lease, charter, contract, purchase, condemnation, or construction, and partly by any or all of such means, and to thereafter operate, improve, and extend, a system of ferries on and crossing Puget Sound and any of its tributary waters and connections thereof, and connecting with the public streets and highways in the state. However, any new vessel planning, construction, purchase, analysis, or design work must be consistent with RCW 47.60.810. The system of ferries shall include such boats, vessels, wharves, docks, approaches, landings, franchises, licenses, and appurtenances as shall be determined by the department to be necessary or desirable for efficient operation of the ferry system and best serve the public. Subject to RCW 47.56.820, the department may in like manner acquire by purchase, condemnation, or construction and include in the ferry system such toll bridges, approaches, and connecting roadways as may be deemed by the department advantageous in channeling traffic to points served by the ferry system. In addition to the powers of acquisition granted by this section, the department is empowered to enter into any contracts, agreements, or leases with any person, firm, or corporation and to thereby provide, on such terms and conditions as it shall determine, for the operation of any ferry or ferries or system thereof, whether acquired by the department or not.

The authority of the department to sell and lease back any state ferry, for federal tax purposes only, as authorized by 26 U.S.C., Sec. 168(f)(8) is confirmed. Legal title and all incidents of legal title to any ferry sold and leased back (except for the federal tax benefits attributable to the ownership thereof) shall remain in the state of Washington.

Sec. 3. RCW 47.60.810 and 2001 c 226 s 4 are each amended to read as follows:

(1) The department ~~((may purchase new auto ferries through))~~ shall use ((of)) a modified request for proposals process when purchasing new auto ferries, except for new 144-auto ferries purchased through an option on a contract executed before the effective date of this section, whereby the prevailing shipbuilder and the department engage in a design and build partnership for the design and construction of the auto ferries. The process consists of the three phases described in subsection ~~((2))~~ (3) of this section.

(2) Throughout the three phases described in subsection (3) of this section, the department shall employ an independent owner's representative to serve as a third-party intermediary between the department and the proposers, and subsequently the successful proposer. However, this representative shall serve only during the development and construction of the first vessel constructed as

part of a new class of vessels developed after the effective date of this section. The independent owner's representative shall:

(a) Serve as the department's primary advocate and communicator with the proposers and successful proposer;

(b) Perform project quality oversight;

(c) Manage any change order requests;

(d) Ensure that the contract is adhered to and the department's best interests are considered in all decisions; and

(e) Possess knowledge of and experience with inland waterways, Puget Sound vessel operations, the propulsion system of the new vessels, and Washington state ferries operations.

(3) The definitions in this subsection apply throughout RCW 47.60.812 through 47.60.822.

(a) "Phase one" means the evaluation and selection of proposers to participate in development of technical proposals in phase two.

(b) "Phase two" means the preparation of technical proposals by the selected proposers in consultation with the department.

(c) "Phase three" means the submittal and evaluation of bids, the award of the contract to the successful proposer, and the design and construction of the auto ferries.

Sec. 4. RCW 47.60.814 and 2001 c 226 s 6 are each amended to read as follows:

(1) Subject to legislative appropriation for the procurement of vessels, the department shall issue a request for proposals to interested parties that must include, at least, the following:

((1)) (a) Solicitation of a proposal to participate in a design and build partnership with the department to design and construct the auto ferries;

((2)) (b) Instructions on the prequalification process and procedures;

((3)) (c) A description of the modified request for proposals process. Under this process, the department may modify any component of the request for proposals, including the outline specifications, by addendum at any time before the submittal of bids in phase three;

((4)) (d) A description of the design and build partnership process to be used for procurement of the vessels;

((5)) (e) Outline specifications that provide the requirements for the vessels including, but not limited to, items such as length, beam, displacement, speed, propulsion requirements, capacities for autos and passengers, passenger space characteristics, and crew size. The department will produce notional line drawings depicting hull geometry that will interface with Washington state ferries terminal facilities. Notional lines may be modified in phase two, subject to approval by the department;

((6)) (f) Instructions for the development of technical proposals in phase two, and information regarding confidentiality of technical proposals;

((7)) (g) The vessel delivery schedule, identification of the port on Puget Sound where delivery must take place, and the location where acceptance trials must be held;

((8)) (h) The estimated price range for the contract;

((9)) (i) Notification that the contract will be a fixed price contract;

(j) The form and amount of the required bid deposit and contract security;

((10)) (k) A copy of the contract that will be signed by the successful proposer;

((11)) (l) The date by which proposals in phase one must be received by the department in order to be considered;

((12)) (m) A description of information to be submitted in the proposals in phase one concerning each proposer's qualifications, capabilities, and experience;

((13)) (n) A statement of the maximum number of proposers that may be selected in phase one for development of technical proposals in phase two;

((14)) (o) Criteria that will be used for the phase one selection of proposers to participate in the phase two development of technical proposals;

((15)) (p) A description of the process that will be used for the phase three submittal and evaluation of bids, award of the contract, and postaward administrative activities;

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

((17)) (r) A requirement that the vessels be constructed within the boundaries of the state of Washington except that equipment furnished by the state and components, products, and systems that are standard manufactured items are not subject to the in-state requirement under this subsection (1)(r). For the purposes of this subsection (1)(r), "constructed" means the fabrication, by the joining together by welding or fastening of all steel parts from which the total vessel is constructed, including, but not limited to, all shell frames, longitudinals, bulkheads, webs, piping runs, wire ways, and ducting. "Constructed" also means the installation of all components and systems, including, but not limited to, equipment and machinery, castings, electrical, electronics, deck covering, lining, paint, and joiner work required by the contract. "Constructed" also means the interconnection of all equipment, machinery, and services, such as piping, wiring, and ducting; ~~and~~

((18)) (s) A requirement that all vessel design specifications and drawings must be complete and, when applicable, meet United States coast guard standards before vessel construction begins; and

(t) A requirement that all warranty work on the vessel must be performed within the boundaries of the state of Washington, insofar as practical.

(2) The department shall not issue a request for proposals for the procurement of vessels, except on a contract executed before the effective date of this section, without specific authorization to do so from the legislature. After receiving such specific authorization, any request for proposals issued by the department must comply with section 5 of this act.

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

(1) The Washington state institute for public policy must conduct a cost-benefit analysis of the state's ferry vessel procurement practices. This analysis must (a) compare in-state construction to construction at shipyards across the United States, (b) identify barriers to receiving three or more in-state bids to a request for proposals, and (c) recommend policies to encourage three or more in-state bidders to respond to a request for proposals. This analysis must be provided to the governor, the transportation committees of the legislature, and the department by December 1, 2016.

(2) In developing its engineer's estimate to procure a ferry vessel, the department must identify significant project cost drivers, including materials, labor, overhead, delivery, and profit.

(3) After July 1, 2017, if all responses to the initial request for proposals under RCW 47.60.814 are greater than five percent above the department's engineer's estimate for the project, the department must reject all proposals and issue a subsequent request for proposal that is not subject to RCW 47.60.814(1)(r).

Sec. 6. RCW 47.60.820 and 2001 c 226 s 9 are each amended to read as follows:

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Phase three consists of the submittal and evaluation of bids and the award of the contract to the successful proposer for the final design and construction of the auto ferries, as follows:

(1) The department shall request bids for detailed design and construction of the vessels after completion of the review of technical proposals in phase two. The department will review detailed design drawings in phase three for conformity with the technical proposals submitted in phase two. In no case may the department's review replace the builder's responsibility to deliver a product meeting the phase two technical proposal. The department may only consider bids from selected proposers that have qualified to bid by submitting technical proposals that have been approved by the department.

(2) Each qualified proposer must submit its total bid price for all vessels, including certification that the bid is based upon its approved technical proposal and the request for proposals.

(3) Bids constitute an offer and remain open for ninety days from the date of the bid opening. A deposit in cash, certified check, cashier's check, or surety bond in an amount specified in the request for proposals must accompany each bid and no bid may be considered unless the deposit is enclosed.

(4) The department shall evaluate the submitted bids. Upon completing the bid evaluation, the department may select the responsive and responsible proposer that offers the lowest total fixed price bid (~~(price)~~) for all vessels.

(5) The department may waive informalities in the proposal and bid process, accept a bid from the lowest responsive and responsible proposer, reject any or all bids, republish, and revise or cancel the request for proposals to serve the best interests of the department.

(6) The department may:

(a) Award the contract to the proposer that has been selected as the responsive and responsible proposer that has submitted the lowest total fixed price bid (~~(price)~~);

(b) If a contract cannot be signed with the apparent successful proposer, award the contract to the next lowest responsive and responsible proposer; or

(c) If necessary, repeat this procedure with each responsive and responsible proposer in order of rank until the list of those proposers has been exhausted.

(7) If the department awards a contract to a proposer under this section, and the proposer fails to enter into the contract and furnish satisfactory contract security as required by chapter 39.08 RCW within twenty days from the date of award, its deposit is forfeited to the state and will be deposited by the state treasurer to the credit of the Puget Sound capital construction account. Upon the execution of a ferry design and construction contract all proposal deposits will be returned.

(8) The department may provide an honorarium to reimburse each unsuccessful phase three proposer for a portion of its technical proposal preparation costs at a preset, fixed amount to be specified in the request for proposals. If the department rejects all bids, the department may provide the honoraria to all phase three proposers that submitted bids.

(9)(a) To accommodate change orders on a fixed price contract, the department shall request that the legislative appropriation for any auto ferry construction project include a contingency in the following amounts:

(i) For the first vessel in any class of vessels designed to be powered by liquefied natural gas, the contingency may be no more than ten percent of the contract price;

(ii) For all other vessels, the contingency may be no more than five percent of the contract price.

(b) The contingency required by this subsection (9) must be identified in the funding request to the legislature and held in

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reserve until the office of financial management approves the expenditure.

Sec. 7. RCW 47.56.030 and 2008 c 122 s 8 are each amended to read as follows:

(1) Except as permitted under chapter 47.29 or 47.46 RCW:

(a) Unless otherwise delegated, and subject to RCW 47.56.820, the department of transportation shall have full charge of the planning, analysis, and construction of all toll bridges and other toll facilities including the Washington state ferries, and the operation and maintenance thereof.

(b) The transportation commission shall determine and establish the tolls and charges thereon.

(c) Unless otherwise delegated, and subject to RCW 47.56.820, the department shall have full charge of planning, analysis, and design of all toll facilities. The department may conduct the planning, analysis, and design of toll facilities as necessary to support the legislature's consideration of toll authorization.

(d) The department shall utilize and administer toll collection systems that are simple, unified, and interoperable. To the extent practicable, the department shall avoid the use of toll booths. The department shall set the statewide standards and protocols for all toll facilities within the state, including those authorized by local authorities.

(e) Except as provided in this section, the department shall proceed with the construction of such toll bridges and other facilities and the approaches thereto by contract in the manner of state highway construction immediately upon there being made available funds for such work and shall prosecute such work to completion as rapidly as practicable. The department is authorized to negotiate contracts for any amount without bid under (e)(i) and (ii) of this subsection:

(i) Emergency contracts, in order to make repairs to ferries or ferry terminal facilities or removal of such facilities whenever continued use of ferries or ferry terminal facilities constitutes a real or immediate danger to the traveling public or precludes prudent use of such ferries or facilities; and

(ii) Single source contracts for vessel dry dockings, when there is clearly and legitimately only one available bidder to conduct dry dock-related work for a specific class or classes of vessels. The contracts may be entered into for a single vessel dry docking or for multiple vessel dry dockings for a period not to exceed two years.

(f) Any new vessel planning, construction, purchase, analysis, or design work must be consistent with RCW 47.60.810.

(2) The department shall proceed with the procurement of materials, supplies, services, and equipment needed for the support, maintenance, and use of a ferry, ferry terminal, or other facility operated by Washington state ferries, in accordance with chapter 43.19 RCW except as follows:

(a) When the secretary of the department of transportation determines in writing that the use of invitation for bid is either not practicable or not advantageous to the state and it may be necessary to make competitive evaluations, including technical or performance evaluations among acceptable proposals to complete the contract award, a contract may be entered into by use of a competitive sealed proposals method, and a formal request for proposals solicitation. Such formal request for proposals solicitation shall include a functional description of the needs and requirements of the state and the significant factors.

(b) When purchases are made through a formal request for proposals solicitation the contract shall be awarded to the responsible proposer whose competitive sealed proposal is determined in writing to be the most advantageous to the state taking into consideration price and other evaluation factors set

forth in the request for proposals. No significant factors may be used in evaluating a proposal that are not specified in the request for proposals. Factors that may be considered in evaluating proposals include but are not limited to: Price; maintainability; reliability; commonality; performance levels; life cycle cost if applicable under this section; cost of transportation or delivery; delivery schedule offered; installation cost; cost of spare parts; availability of parts and service offered; and the following:

(i) The ability, capacity, and skill of the proposer to perform the contract or provide the service required;

(ii) The character, integrity, reputation, judgment, experience, and efficiency of the proposer;

(iii) Whether the proposer can perform the contract within the time specified;

(iv) The quality of performance of previous contracts or services;

(v) The previous and existing compliance by the proposer with laws relating to the contract or services;

(vi) Objective, measurable criteria defined in the request for proposal. These criteria may include but are not limited to items such as discounts, delivery costs, maintenance services costs, installation costs, and transportation costs; and

(vii) Such other information as may be secured having a bearing on the decision to award the contract.

(c) When purchases are made through a request for proposal process, proposals received shall be evaluated based on the evaluation factors set forth in the request for proposal. When issuing a request for proposal for the procurement of propulsion equipment or systems that include an engine, the request for proposal must specify the use of a life cycle cost analysis that includes an evaluation of fuel efficiency. When a life cycle cost analysis is used, the life cycle cost of a proposal shall be given at least the same relative importance as the initial price element specified in the request of proposal documents. The department may reject any and all proposals received. If the proposals are not rejected, the award shall be made to the proposer whose proposal is most advantageous to the department, considering price and the other evaluation factors set forth in the request for proposal.

NEW SECTION. Sec. 8. RCW 47.56.780 (New ferry vessel construction for service on routes that require a vessel that carries no more than one hundred motor vehicles—How constructed—Warranty work) and 2008 c 4 s 2 are each repealed.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators King and Hobbs to Engrossed Substitute Senate Bill No. 5992.

The motion by Senator King carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "construction;" strike the remainder of the title and insert "amending RCW 47.60.005, 47.60.010, 47.60.810, 47.60.814, 47.60.820, and 47.56.030; adding a new section to chapter 47.60 RCW; repealing RCW 47.56.780; and declaring an emergency."

MOTION

On motion of Senator King, the rules were suspended, Second Engrossed Substitute Senate Bill No. 5992 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King and Hobbs spoke in favor of passage of the bill.

Senator Hasegawa spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 5992.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 5992 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 0; Excused, 4.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Cleveland, Dammeier, Darneille, Fain, Fraser, Frockt, Habib, Hargrove, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Lias, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Schoesler, Sheldon and Warnick

Voting nay: Senators Chase, Dansel, Ericksen and Hasegawa
Excused: Senators Conway, McAuliffe, Ranker and Rolfes

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5992, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5994, by Senate Committee on Transportation (originally sponsored by Senators King, Hobbs, Fain, Lias, Litzow, Braun, Schoesler, Parlette, Dammeier, Warnick, Sheldon, Hewitt, Becker, Brown and Bailey).

Concerning permits for state transportation corridor projects. Revised for 1st Substitute: Concerning permits for state transportation corridor projects. (REVISED FOR ENGROSSED: Concerning permits for state transportation projects.)

The bill was read on Third Reading.

MOTION

On motion of Senator King, the rules were suspended and Engrossed Substitute Senate Bill No. 5994 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5994, by Senate Committee on Transportation (originally sponsored by Senators King, Hobbs, Fain, Lias, Litzow, Braun, Schoesler, Parlette, Dammeier, Warnick, Sheldon, Hewitt, Becker, Brown and Bailey)

Concerning permits for state transportation corridor projects.

The measure was read the second time.

MOTION

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Senator King moved that the following striking amendment by Senators King and Hobbs be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that in 2012 the legislature passed Second Engrossed Substitute Senate Bill No. 6406 (chapter 1, Laws of 2012 1st sp. sess.), which updated statutory provisions relating to natural resource management and regulatory programs. The legislature finds that opportunities to build upon the updates made in 2012 and to further streamline regulatory processes and achieve program efficiencies while maintaining current levels of natural resource protection exist. The legislature intends to update provisions relating to the review, permitting, and approval of department of transportation projects, particularly those that occur on shorelines of the state, to achieve these opportunities.

The legislature further finds that the shoreline management act of 1971, codified in chapter 90.58 RCW, was approved and enacted by a vote of the people, and that the shoreline management act embodies a balance between the protection of state shorelines and development. Recognizing this balance, the legislature intends to facilitate transportation projects while ensuring accountability.

NEW SECTION. Sec. 2. A new section is added to chapter 47.01 RCW to read as follows:

(1) To the greatest extent practicable, a city, town, code city, or county must make a final determination on all permits required for a project on a state highway as defined in RCW 46.04.560 no later than ninety days after the department's submission of a complete permit application for a project with an estimated cost of less than five hundred million dollars.

(2) The department must report annually to the governor and the transportation committees of the house of representatives and the senate in compliance with RCW 43.01.036 regarding any permit application that takes longer than the number of days identified in subsection (1) of this section to process.

NEW SECTION. Sec. 3. A new section is added to chapter 35.21 RCW to read as follows:

A city or town must comply with the requirements of section 2 of this act in making a final determination on a permit as part of a project on a state highway as defined in RCW 46.04.560.

NEW SECTION. Sec. 4. A new section is added to chapter 35A.21 RCW to read as follows:

A code city must comply with the requirements of section 2 of this act in making a final determination on a permit as part of a project on a state highway as defined in RCW 46.04.560.

NEW SECTION. Sec. 5. A new section is added to chapter 36.01 RCW to read as follows:

A county must comply with the requirements of section 2 of this act in making a final determination on a permit as part of a project on a state highway as defined in RCW 46.04.560.

NEW SECTION. Sec. 6. A new section is added to chapter 47.01 RCW to read as follows:

The department shall coordinate a state agency work group in 2016 that will identify issues, laws, and regulations relevant to consolidating and coordinating the review processes under the national environmental policy act, 42 U.S.C. Sec. 4321 et seq. and chapter 43.21C RCW to streamline the review of and avoid delays to projects on state highways as defined in RCW 46.04.560. The department must report the work group's findings to the joint transportation committee in compliance with RCW 43.01.036 by December 31, 2016. State agencies in the work group must include the department, the department of ecology, and any other relevant agencies. The report must include: An

inventory of federal and state environmental regulatory authority; a discussion of the issues pertaining to the current process and timelines used by state and federal agencies for reviewing projects on state highways as defined in RCW 46.04.560; and recommendations for legislation or rules that would reduce delays and time associated with review by state and federal agencies, including suggestions for new categorical exemptions.

Sec. 7. RCW 90.58.140 and 2012 c 84 s 2 are each amended to read as follows:

(1) A development shall not be undertaken on the shorelines of the state unless it is consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, rules, or master program.

(2) A substantial development shall not be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971, until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and rules of the department; and (iii) so far as can be ascertained, the master program being developed for the area;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and this chapter.

(3) The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

(4) Except as otherwise specifically provided in subsection (11) of this section, the local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that notice of the application is given by at least one of the following methods:

(a) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;

(b) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(c) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

The notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application as expeditiously as possible after the issuance of the decision, may submit the comments or requests for decisions to the local government within thirty days of the last date the notice is to be published pursuant to this subsection. The local government shall forward, in a timely manner following the issuance of a decision, a copy of the decision to each person who submits a request for the decision.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(5) The system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until twenty-one days from the date the permit decision was filed as provided in subsection (6) of this section; or until all review

proceedings are terminated if the proceedings were initiated within twenty-one days from the date of filing as defined in subsection (6) of this section except as follows:

(a) In the case of any permit issued to the state of Washington, department of transportation, for the construction and modification of SR 90 (I-90) on or adjacent to Lake Washington, the construction may begin after thirty days from the date of filing, and the permits are valid until December 31, 1995;

(b)(i) In the case of any permit or decision to issue any permit to the state of Washington, department of transportation, for the replacement of the floating bridge and landings of the state route number 520 Evergreen Point bridge on or adjacent to Lake Washington, the construction may begin twenty-one days from the date of filing. Any substantial development permit granted for the floating bridge and landings is deemed to have been granted on the date that the local government's decision to grant the permit is issued. This authorization to construct is limited to only those elements of the floating bridge and landings that do not preclude the department of transportation's selection of a four-lane alternative for state route number 520 between Interstate 5 and Medina. Additionally, the Washington state department of transportation shall not engage in or contract for any construction on any portion of state route number 520 between Interstate 5 and the western landing of the floating bridge until the legislature has authorized the imposition of tolls on the Interstate 90 floating bridge and/or other funding sufficient to complete construction of the state route number 520 bridge replacement and HOV program. For the purposes of this subsection (5)(b), the "western landing of the floating bridge" means the least amount of new construction necessary to connect the new floating bridge to the existing state route number 520 and anchor the west end of the new floating bridge;

(ii) Nothing in this subsection (5)(b) precludes the shorelines hearings board from concluding that the project or any element of the project is inconsistent with the goals and policies of the shoreline management act or the local shoreline master program;

(iii) This subsection (5)(b) applies retroactively to any appeals filed after January 1, 2012, and to any appeals filed on or after March 23, 2012, and expires June 30, 2014(-);

(c)(i) In the case of permits for projects addressing significant public safety risks, as defined by the department of transportation, it is not in the public interest to delay construction until all review proceedings are terminated. In the case of any permit issued under this chapter or decision to issue any permit under this chapter for a transportation project of the Washington state department of transportation, construction may begin twenty-one days after the date of filing if all components of the project achieve a no net loss of shoreline ecological functions, as defined by department guidelines adopted pursuant to RCW 90.58.060 and as determined through the following process:

(A) The department of transportation, as part of the permit review process, must provide the local government with an assessment of how the project affects shoreline ecological functions. The assessment must include specific actions for avoiding, minimizing, and mitigating impacts to shoreline ecological functions, developed in consultation with the department, that ensure there is no net loss of shoreline ecological functions; and

(B) The local government, after reviewing the assessment required in (c)(i)(A) of this subsection and prior to the final issuance of all appropriate shoreline permits and variances, must determine that the project will result in no net loss of shoreline ecological functions.

(ii) Nothing in this subsection (5)(c) precludes the shorelines hearings board from concluding that the shoreline project or any element of the project is inconsistent with this chapter, the local

shoreline master program, chapter 43.21C RCW and its implementing regulations, or the applicable shoreline regulations.

(iii) This subsection (5)(c) does not apply to permit decisions for the replacement of the floating bridge and landings of the state route number 520 Evergreen Point bridge on or adjacent to Lake Washington;

(d) Except as authorized in (b) and (c) of this subsection, construction may be commenced no sooner than thirty days after the date of the appeal of the board's decision is filed if a permit is granted by the local government and (i) the granting of the permit is appealed to the shorelines hearings board within twenty-one days of the date of filing, (ii) the hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit, and (iii) an appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.05 RCW. The appellant may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction pursuant to the permit approved by the hearings board or to a revised permit issued pursuant to the order of the hearings board should not commence. If, at the conclusion of the hearing, the court finds that construction pursuant to such a permit would involve a significant, irreversible damaging of the environment, the court shall prohibit the permittee from commencing the construction pursuant to the approved or revised permit until all review proceedings are final. Construction pursuant to a permit revised at the direction of the hearings board may begin only on that portion of the substantial development for which the local government had originally issued the permit, and construction pursuant to such a revised permit on other portions of the substantial development may not begin until after all review proceedings are terminated. In such a hearing before the court, the burden of proving whether the construction may involve significant irreversible damage to the environment and demonstrating whether such construction would or would not be appropriate is on the appellant;

~~((e))~~ (e) Except as authorized in (b) and (c) of this subsection, if the permit is for a substantial development meeting the requirements of subsection (11) of this section, construction pursuant to that permit may not begin or be authorized until twenty-one days from the date the permit decision was filed as provided in subsection (6) of this section.

If a permittee begins construction pursuant to (a), (b), (c), ~~((d))~~ (d), or (e) of this subsection, the construction is begun at the permittee's own risk. If, as a result of judicial review, the courts order the removal of any portion of the construction or the restoration of any portion of the environment involved or require the alteration of any portion of a substantial development constructed pursuant to a permit, the permittee is barred from recovering damages or costs involved in adhering to such requirements from the local government that granted the permit, the hearings board, or any appellant or intervener.

(6) Any decision on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department and the attorney general. This shall be accomplished by return receipt requested mail. A petition for review of such a decision must be commenced within twenty-one days from the date of filing of the decision.

(a) With regard to a permit other than a permit governed by subsection (10) of this section, "date of filing" as used in this section refers to the date of actual receipt by the department of the local government's decision.

(b) With regard to a permit for a variance or a conditional use governed by subsection (10) of this section, "date of filing"

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means the date the decision of the department is transmitted by the department to the local government.

(c) When a local government simultaneously transmits to the department its decision on a shoreline substantial development with its approval of either a shoreline conditional use permit or variance, or both, "date of filing" has the same meaning as defined in (b) of this subsection.

(d) The department shall notify in writing the local government and the applicant of the date of filing by telephone or electronic means, followed by written communication as necessary, to ensure that the applicant has received the full written decision.

(7) Applicants for permits under this section have the burden of proving that a proposed substantial development is consistent with the criteria that must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180 (1) and (2), the person requesting the review has the burden of proof.

(8) Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. If the department is of the opinion that noncompliance exists, the department shall provide written notice to the local government and the permittee. If the department is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescission of the permit upon written notice of the petition to the local government and the permittee if the request by the department is made to the hearings board within fifteen days of the termination of the thirty-day notice to the local government.

(9) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(10) Any permit for a variance or a conditional use issued with approval by a local government under their approved master program must be submitted to the department for its approval or disapproval.

(11)(a) An application for a substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion shall be subject to the following procedures:

(i) The public comment period under subsection (4) of this section shall be twenty days. The notice provided under subsection (4) of this section shall state the manner in which the public may obtain a copy of the local government decision on the application no later than two days following its issuance;

(ii) The local government shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in (a)(i) of this subsection; and

(iii) If there is an appeal of the decision to grant or deny the permit to the local government legislative authority, the appeal shall be finally determined by the legislative authority within thirty days.

(b) For purposes of this section, a limited utility extension means the extension of a utility service that:

(i) Is categorically exempt under chapter 43.21C RCW for one or more of the following: Natural gas, electricity, telephone, water, or sewer;

(ii) Will serve an existing use in compliance with this chapter; and

(iii) Will not extend more than twenty-five hundred linear feet within the shorelines of the state.

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NEW SECTION. Sec. 8. To ensure that vital maintenance and minor safety upgrades to state transportation facilities are efficiently achieved while still protecting the shoreline environment, the legislature finds that it is in the public interest to exclude state highway maintenance and minor safety upgrade activities from local review and approval processes under the shoreline management act, as provided in sections 9 and 10 of this act.

Sec. 9. RCW 90.58.355 and 2012 c 169 s 1 are each amended to read as follows:

Requirements to obtain a substantial development permit, conditional use permit, ~~((or))~~ variance ~~((shall))~~, letter of exemption, or other review conducted by a local government to implement this chapter do not apply to ~~((any person))~~:

(1) Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department must ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090; ~~((or))~~

(2) Any person installing site improvements for storm water treatment in an existing booyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit. The department must ensure compliance with the substantive requirements of this chapter through the review of engineering reports, site plans, and other documents related to the installation of booyard storm water treatment facilities; or

(3) The department of transportation projects and activities that meet the conditions of section 10 of this act.

NEW SECTION. Sec. 10. A new section is added to chapter 90.58 RCW to read as follows:

(1) For purposes of this section, the following definitions apply:

(a) "Maintenance" means the preservation of the transportation facility, including surface, shoulders, roadsides, structures, and such traffic control devices as are necessary for safe and efficient utilization of the highway in a manner that substantially conforms to the preexisting design, function, and location as the original except to meet current engineering standards or environmental permit requirements.

(b) "Repair" means to restore a structure or development to a state comparable to its original condition including, but not limited to, restoring the development's size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction. Repair of a structure or development may not cause substantial adverse effects to shoreline resources or the shoreline environment. Replacement of a structure or development may be considered a repair if: Replacement is the common method of repair for the type of structure or development; the replacement structure or development is comparable to the original structure or development including, but not limited to, the size, shape, configuration, location, and external appearance of the original structure or development; and the replacement does not cause substantial adverse effects to shoreline resources or the shoreline environment.

(c) "Replacement" of any existing transportation facility means to replace in a manner that substantially conforms to the preexisting design, function, and location as the original except to meet current engineering standards or environmental permit requirements. Maintenance or replacement activities do not

involve expansion of automobile lanes, and do not result in significant negative shoreline impact.

(2) The following department of transportation projects and activities do not require a substantial development permit, conditional use permit, variance, letter of exemption, or other review conducted by a local government:

(a) Maintenance, repair, or replacement that occurs within the roadway prism of a state highway as defined in RCW 46.04.560, the lease or ownership area of a state ferry terminal, or the lease or ownership area of a transit facility, including ancillary transportation facilities such as pedestrian paths, bicycle paths, or both, and bike lanes;

(b) Construction or installation of safety structures and equipment, including pavement marking, freeway surveillance and control systems, railroad protective devices not including grade separated crossings, grooving, glare screen, safety barriers, energy attenuators, and hazardous or dangerous tree removal;

(c) Maintenance occurring within the right-of-way; or

(d) Construction undertaken in response to unforeseen, extraordinary circumstances that is necessary to prevent a decline, lapse, or cessation of service from a lawfully established transportation facility.

(3) The department of transportation must provide written notification of projects and activities authorized under this section with a cost in excess of one million dollars before the design or plan is finalized to all agencies with jurisdiction, agencies with facilities or services that may be impacted, and adjacent property owners.

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

Senators King and Lias spoke in favor of adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators King and Hobbs to Engrossed Substitute Senate Bill No. 5994.

The motion by Senator King carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "permits for state transportation projects; amending RCW 90.58.140 and 90.58.355; adding new sections to chapter 47.01 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 90.58 RCW; creating new sections; and declaring an emergency."

MOTION

On motion of Senator King, the rules were suspended, Second Engrossed Substitute Senate Bill No. 5994 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King, Lias, McCoy and Angel spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 5994.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 5994 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 8; Absent, 0; Excused, 4.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Dammeier, Danel, Darneille, Fain, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, King, Lias, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Rivers, Roach, Schoesler, Sheldon and Warnick

Voting nay: Senators Ericksen, Fraser, Frockt, Habib, Jayapal, Keiser, Kohl-Welles and Pedersen

Excused: Senators Conway, McAuliffe, Ranker and Rolfes
SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5994, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Fain, the Senate reverted to the sixth order of business.

THIRD READING

SENATE BILL NO. 5272, by Senators Schoesler, Sheldon, Fain, Hatfield, King, Hewitt and Parlette.

Concerning heavy haul industrial corridors.

The bill was read on Third Reading.

Senator King spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5272.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5272 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Dammeier, Danel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Lias, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Schoesler, Sheldon and Warnick

Excused: Senators Conway, McAuliffe, Ranker and Rolfes

SENATE BILL NO. 5272, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Fain, the Senate advanced to the seventh order of business.

THIRD READING

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ENGROSSED SENATE BILL NO. 5993, by Senators King, Fain, Litzow, Braun, Schoesler, Parlette, Warnick, Sheldon, Hewitt, Becker and Brown.

Concerning public works contracts and projects.

The bill was read on Third Reading.

MOTION

On motion of Senator King, the rules were suspended and Engrossed Senate Bill No. 5993 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SENATE BILL NO. 5993, by Senators King, Fain, Litzow, Braun, Schoesler, Parlette, Warnick, Sheldon, Hewitt, Becker and Brown

Concerning public works contracts and projects.

The measure was read the second time.

MOTION

Senator King moved that the following striking amendment by Senators King and Hobbs be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 39.04.320 and 2015 c 225 s 36 are each amended to read as follows:

(1)(a) Except as provided in (b) through (d) of this subsection, from January 1, 2005, and thereafter, for all public works estimated to cost one million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(b)(i) This section does not apply to contracts advertised for bid before July 1, 2007, for any public works by the department of transportation.

(ii) For contracts advertised for bid on or after July 1, 2007, and before July 1, 2008, for all public works by the department of transportation estimated to cost five million dollars or more, all specifications shall require that no less than ten percent of the labor hours be performed by apprentices.

(iii) For contracts advertised for bid on or after July 1, 2008, and before July 1, 2009, for all public works by the department of transportation estimated to cost three million dollars or more, all specifications shall require that no less than twelve percent of the labor hours be performed by apprentices.

(iv) For contracts advertised for bid on or after July 1, ~~((2009))~~ 2015, and before July 1, 2020, for all public works by the department of transportation estimated to cost ~~((two))~~ three million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(v) For contracts advertised for bid on or after July 1, 2020, for all public works by the department of transportation estimated to cost two million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(c)(i) This section does not apply to contracts advertised for bid before January 1, 2008, for any public works by a school district, or to any project funded in whole or in part by bond issues approved before July 1, 2007.

(ii) For contracts advertised for bid on or after January 1, 2008, for all public works by a school district estimated to cost three million dollars or more, all specifications shall require that no less than ten percent of the labor hours be performed by apprentices.

(iii) For contracts advertised for bid on or after January 1, 2009, for all public works by a school district estimated to cost two million dollars or more, all specifications shall require that no less than twelve percent of the labor hours be performed by apprentices.

(iv) For contracts advertised for bid on or after January 1, 2010, for all public works by a school district estimated to cost one million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(d)(i) For contracts advertised for bid on or after January 1, 2010, for all public works by a four-year institution of higher education estimated to cost three million dollars or more, all specifications must require that no less than ten percent of the labor hours be performed by apprentices.

(ii) For contracts advertised for bid on or after January 1, 2011, for all public works by a four-year institution of higher education estimated to cost two million dollars or more, all specifications must require that no less than twelve percent of the labor hours be performed by apprentices.

(iii) For contracts advertised for bid on or after January 1, 2012, for all public works by a four-year institution of higher education estimated to cost one million dollars or more, all specifications must require that no less than fifteen percent of the labor hours be performed by apprentices.

(2) Awarding entities may adjust the requirements of this section for a specific project for the following reasons:

(a) The demonstrated lack of availability of apprentices in specific geographic areas;

(b) A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation;

(c) Participating contractors have demonstrated a good faith effort to comply with the requirements of RCW 39.04.300 and 39.04.310 and this section; or

(d) Other criteria the awarding entity deems appropriate, which are subject to review by the office of the governor.

(3) The secretary of the department of transportation shall adjust the requirements of this section for a specific project for the following reasons:

(a) The demonstrated lack of availability of apprentices in specific geographic areas; or

(b) A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation.

(4) This section applies to public works contracts awarded by the state, to public works contracts awarded by school districts, and to public works contracts awarded by state four-year institutions of higher education. However, this section does not apply to contracts awarded by state agencies headed by a separately elected public official.

(5)(a) The department of enterprise services must provide information and technical assistance to affected agencies and collect the following data from affected agencies for each project covered by this section:

(i) The name of each apprentice and apprentice registration number;

(ii) The name of each project;

(iii) The dollar value of each project;

(iv) The date of the contractor's notice to proceed;

(v) The number of apprentices and labor hours worked by them, categorized by trade or craft;

(vi) The number of journey level workers and labor hours worked by them, categorized by trade or craft; and

(vii) The number, type, and rationale for the exceptions granted under subsection (2) of this section.

(b) The department of labor and industries shall assist the department of enterprise services in providing information and technical assistance.

(6) The secretary of transportation shall establish an apprenticeship utilization advisory committee, which shall include statewide geographic representation and consist of equal numbers of representatives of contractors and labor. The committee must include at least one member representing contractor businesses with less than thirty-five employees. The advisory committee shall meet regularly with the secretary of transportation to discuss implementation of this section by the department of transportation, including development of the process to be used to adjust the requirements of this section for a specific project. ~~((The committee shall provide a report to the legislature by January 1, 2008, on the effects of the apprentice labor requirement on transportation projects and on the availability of apprentice labor and programs statewide.))~~

(7) At the request of the senate labor, commerce, research and development committee, the house of representatives commerce and labor committee, or their successor committees, and the governor, the department of enterprise services and the department of labor and industries shall compile and summarize the agency data and provide a joint report to both committees. The report shall include recommendations on modifications or improvements to the apprentice utilization program and information on skill shortages in each trade or craft.

Sec. 2. RCW 39.12.026 and 2003 c 363 s 206 are each amended to read as follows:

(1) In establishing the prevailing rate of wage under RCW 39.12.010, 39.12.015, and 39.12.020, all data collected by the department of labor and industries may be used only in the county for which the work was performed.

(2) ~~((This section applies only to prevailing wage surveys initiated on or after August 1, 2003.))~~ The department of labor and industries must provide registered contractors with the option of completing a wage survey electronically.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

POINT OF INQUIRY

Senator Benton: "I would like to ask Senator King a question if I could? I noticed the amendment has an emergency clause in it adopting it immediately upon signage of the Governor. Is there a particular reason for that? Could you share with us any information that you have about it?"

Senator King: "I don't know that there's any particular reason other than it would start immediately and would apply to any of the projects that would be started between now and July 1st of 2020."

Senator Benton: "Ok, but it's in effect now I think already."

Senator King: "This is not, no. We have a bill that is in effect. This revises that bill or that statute for the five year period that's designated here."

Senator Benton: "Then this has a sunset clause so this reform goes away after five years?"

Senator King: "That is correct."

Senator Hobbs spoke in favor of adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators King and Hobbs to Engrossed Senate Bill No. 5993.

The motion by Senator King carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "projects;" strike the remainder of the title and insert "amending RCW 39.04.320 and 39.12.026; and declaring an emergency."

MOTION

On motion of Senator King, the rules were suspended, Second Engrossed Senate Bill No. 5993 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King and Hobbs spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 5993.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 5993 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Dammeier, Darneille, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Lias, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Schoesler, Sheldon and Warnick

Voting nay: Senators Dandel and Ericksen

Excused: Senators Conway, McAuliffe, Ranker and Rolfe

SECOND ENGROSSED SENATE BILL NO. 5993, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRD READING

ENGROSSED SENATE BILL NO. 5995, by Senators King, Hobbs, Fain, Lias, Litzow, Braun, Schoesler, Parlette, Dammeier, Warnick, Sheldon, O'Ban, Becker, Brown and Bailey.

Modifying the transportation system policy goal of mobility.

The bill was read on Third Reading.

MOTION

On motion of Senator King, the rules were suspended and Engrossed Senate Bill No. 5995 was returned to second reading for the purpose of amendment.

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SECOND READING

ENGROSSED SENATE BILL NO. 5995, by Senators King, Hobbs, Fain, Liias, Litzow, Braun, Schoesler, Parlette, Dammeier, Warnick, Sheldon, O'Ban, Becker, Brown and Bailey

Modifying the transportation system policy goal of mobility.

The measure was read the second time.

MOTION

Senator King moved that the following striking amendment by Senators King and Hobbs be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.04.280 and 2013 c 199 s 1 are each amended to read as follows:

(1) It is the intent of the legislature to establish policy goals for the planning, operation, performance of, and investment in, the state's transportation system. The policy goals established under this section are deemed consistent with the benchmark categories adopted by the state's blue ribbon commission on transportation on November 30, 2000. Public investments in transportation should support achievement of these policy goals:

(a) Economic vitality: To promote and develop transportation systems that stimulate, support, and enhance the movement of people and goods to ensure a prosperous economy;

(b) Preservation: To maintain, preserve, and extend the life and utility of prior investments in transportation systems and services;

(c) Safety: To provide for and improve the safety and security of transportation customers and the transportation system;

(d) Mobility: To improve the predictable movement of goods and people throughout Washington state, including congestion relief and improved freight mobility;

(e) Environment: To enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment; and

(f) Stewardship: To continuously improve the quality, effectiveness, and efficiency of the transportation system.

(2) The powers, duties, and functions of state transportation agencies must be performed in a manner consistent with the policy goals set forth in subsection (1) of this section.

(3) These policy goals are intended to be the basis for establishing detailed and measurable objectives and related performance measures.

(4) It is the intent of the legislature that the office of financial management establish objectives and performance measures for the department of transportation and other state agencies with transportation-related responsibilities to ensure transportation system performance at local, regional, and state government levels progresses toward the attainment of the policy goals set forth in subsection (1) of this section. The office of financial management shall submit initial objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during the 2008 legislative session. The office of financial management shall submit objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during each regular session of the legislature during an even-numbered year thereafter.

(5) A local or regional agency engaging in transportation planning may voluntarily establish objectives and performance measures to demonstrate progress toward the attainment of the policy goals set forth in subsection (1) of this section or any other transportation policy goals established by the local or regional agency. A local or regional agency engaging in transportation planning is encouraged to provide local and regional objectives and performance measures to be included with the objectives and performance measures submitted to the legislature pursuant to subsection (4) of this section.

(6) This section does not create a private right of action.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators King and Hobbs to Engrossed Senate Bill No. 5995.

The motion by Senator King carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "mobility;" strike the remainder of the title and insert "amending RCW 47.04.280; and declaring an emergency."

MOTION

On motion of Senator King, the rules were suspended, Second Engrossed Senate Bill No. 5995 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King and Hobbs spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 5995.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 5995 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Dammeier, Dassel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Liias, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Schoesler, Sheldon and Warnick

Excused: Senators Conway, McAuliffe, Ranker and Rolfe

SECOND ENGROSSED SENATE BILL NO. 5995, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5996, by Senate Committee on Transportation (originally sponsored by Senators King, Hobbs, Fain, Liias, Litzow, Braun, Schoesler,

Parlette, Dammeier, Warnick, Sheldon, O'Ban, Hewitt, Becker and Brown).

Concerning Washington state department of transportation projects.

The bill was read on Third Reading.

MOTION

On motion of Senator King, the rules were suspended and Engrossed Substitute Senate Bill No. 5996 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5996, by Senate Committee on Transportation (originally sponsored by Senators King, Hobbs, Fain, Lias, Litzow, Braun, Schoesler, Parlette, Dammeier, Warnick, Sheldon, O'Ban, Hewitt, Becker and Brown)

Concerning Washington state department of transportation projects.

The measure was read the second time.

MOTION

Senator King moved that the following striking amendment by Senators King and Hobbs be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. It is the intent of the legislature to achieve transportation regulatory reform that expedites the delivery of transportation projects through a streamlined approach to environmental decision making. The department of transportation should work cooperatively and proactively with state regulatory and natural resource agencies, public and private sector interests, and Indian tribes to avoid project delays. The department and state regulatory and natural resource agencies should continue to implement and improve upon the successful policies, guidance, tools, and procedures that were created as a result of transportation permit efficiency and accountability committee efforts. The department should expedite project delivery and routine maintenance activities through the use of programmatic agreements and permits where possible and seek new opportunities to eliminate duplicative processes.

NEW SECTION. Sec. 2. The legislature recognizes the value that tribal governments provide in the review of transportation projects. The legislature expects the department to continue its efforts to provide consistent consultation and communication during the environmental review of proposed transportation projects.

NEW SECTION. Sec. 3. The department must streamline the permitting process by developing and maintaining positive relationships with the regulatory agencies and the Indian tribes. The department can reduce the time it takes to obtain permits by incorporating impact avoidance and minimization measures into project design and by developing complete permit applications. To streamline the permitting process, the department must:

(1) Implement a multiagency permit program, commensurate with program funding levels, consisting of appropriate regulatory agency staff with oversight and management from the department.

(a) The multiagency permit program must provide early project coordination, expedited project review, project status updates, technical and regulatory guidance, and construction support to ensure compliance.

(b) The multiagency permit program staff must assist department project teams with developing complete biological assessments and permit applications, provide suggestions for how the project can avoid and minimize impacts, and provide input regarding mitigation for unavoidable impacts;

(2) Establish, implement, and maintain programmatic agreements and permits with federal and state agencies to expedite the process of ensuring compliance with the endangered species act, section 106 of the national historic preservation act, hydraulic project approvals, the clean water act, and other federal acts as appropriate;

(3) Collaborate with permitting staff from the United States army corps of engineers, Seattle district, department of ecology, and department of fish and wildlife to develop, implement, and maintain complete permit application guidance. The guidance must identify the information that is required for agencies to consider a permit application complete; and

(4) Perform internal quality assurance and quality control to ensure that permit applications are complete before submitting them to the regulatory agencies.

NEW SECTION. Sec. 4. The legislature finds that an essential component of streamlined permit decision making is the ability of the department to demonstrate the capacity to meet environmental responsibilities. Therefore, the legislature directs that:

(1) Qualified environmental staff within the department must supervise the development of all environmental documentation in accordance with the department's project delivery tools;

(2) The department must conduct special prebid meetings for projects that are environmentally complex. In addition, the department must review environmental requirements related to these projects during the preconstruction meeting held with the contractor who is awarded the bid;

(3) Environmental staff at the department, or consultant staff hired directly by the department, must conduct field inspections to ensure that project activities comply with permit conditions and environmental commitments. These inspectors:

(a) Must notify the department's project engineer when compliance with permit conditions or environmental regulations are not being met; and

(b) Must immediately notify the regulatory agencies with jurisdiction over the nonconforming work; and

(4) When a project is not complying with a permit or environmental regulation, the project engineer must immediately order the contractor to stop all nonconforming work and implement measures necessary to bring the project into compliance with permits and regulations.

NEW SECTION. Sec. 5. The legislature expects the department to continue its efforts to improve training and compliance. The department must:

(1) Provide training in environmental procedures and permit requirements for those responsible for project delivery activities;

(2) Require wetland mitigation sites to be designed by qualified technical specialists that meet training requirements developed by the department in consultation with the department of ecology. Environmental mitigation site improvements must have oversight by environmental staff;

(3) Develop, implement, and maintain an environmental compliance data system to track permit conditions, environmental commitments, and violations;

(4) Continue to implement the environmental compliance assurance procedure to ensure that appropriate agencies are

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notified and that action is taken to remedy noncompliant work as soon as possible. When work occurs that does not comply with environmental permits or regulations, the project engineer must document the lessons learned to make other project teams within the department aware of the violation to prevent reoccurrence; and

(5) Provide an annual report summarizing violations of environmental permits and regulations to the department of ecology and the legislature on March 1st of each year for violations occurring during the preceding year.

NEW SECTION. Sec. 6. The legislature finds that local land use reviews under chapter 90.58 RCW need to be harmonized with the efficient accomplishment of necessary maintenance and improvement to state transportation facilities. Local land use review procedures are highly variable and pose distinct challenges for linear facility maintenance and improvement projects sponsored by the department. In particular, clearer procedures for local permitting under chapter 90.58 RCW are needed to meet the objectives of chapter 36.70A RCW regarding department facilities designated as essential public facilities.

NEW SECTION. Sec. 7. Nothing in this chapter may be interpreted to create a private right of action or right of review. Judicial review of the department's environmental review is limited to that available under chapter 43.21C RCW or applicable federal law.

NEW SECTION. Sec. 8. A new section is added to chapter 47.01 RCW to read as follows:

(1) The department shall submit a report to the transportation committees of the legislature detailing engineering errors on highway construction projects resulting in project cost increases in excess of five hundred thousand dollars. The department must submit a full report within ninety days of the negotiated change order resulting from the engineering error.

(2) The department's full report must include an assessment and review of:

- (a) How the engineering error happened;
- (b) The department of the employee or employees responsible for the engineering error, without disclosing the name of the employee or employees;
- (c) What corrective action was taken;
- (d) The estimated total cost of the engineering error and how the department plans to mitigate that cost;
- (e) Whether the cost of the engineering error will impact the overall project financial plan; and
- (f) What action the secretary has recommended to avoid similar engineering errors in the future.

NEW SECTION. Sec. 9. A new section is added to chapter 47.01 RCW to read as follows:

Beginning in 2015-2017, the department shall include in its "Grey Notebook" (the department's data driven performance-based reporting structure) and provide an annual agency "LEAN & Performance & Accountability Report." A summary of this report must be provided annually to the office of financial management and the joint transportation committee of the legislature. This report must include progress made on achieving:

- (1) Criteria to prioritize asset management for maintenance, preservation, and capital improvements according to the legislatively mandated transportation goals;
- (2) The agency's strategic core values, goals, and outcomes to meet the legislatively mandated goals;
- (3) Results of LEAN efforts;
- (4) Challenges in sustainable approaches to meeting statutory policy goals;

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(5) Status on specific reforms initiated by the secretary of transportation and operational effectiveness; and

(6) Completion of a Baldrige assessment every three years with a goal of achieving a score of sixty percent within seven years of the first assessment.

NEW SECTION. Sec. 10. A new section is added to chapter 77.95 RCW to read as follows:

(1) The department of transportation, the department of ecology, and the department of fish and wildlife must use their existing authorities and guidance to provide a preference for the removal of existing fish passage barriers owned by cities and counties as compensatory mitigation for environmental impacts of transportation projects where appropriate.

(2)(a) The department of transportation, the department of ecology, and the department of fish and wildlife must consult with other relevant entities to develop a framework for encouraging off-site and out-of-kind local fish passage barrier mitigation that provides results that are consistent with habitat protection priorities and are ecologically preferable to on-site mitigation.

(b) The implementation of this framework must:

- (i) Not delay transportation project delivery;
- (ii) Not be additive to the amount or cost of mitigation required under existing regulations;
- (iii) Not preclude on-site or off-site and in-kind mitigation when that is the most ecologically appropriate means to address project impacts;
- (iv) Not alter the mitigation sequencing principles of first avoidance and then minimization of impacts before compensatory mitigation;
- (v) Provide for a mechanism that identifies whether environmental impacts from projects are appropriate for local fish passage barrier mitigation;
- (vi) Provide a mechanism for affected parties, including tribes, to determine when and how to use off-site and out-of-kind mitigation to address fish passage barriers in particular watersheds;
- (vii) Consult the statewide fish passage barrier removal strategy developed by the fish passage barrier removal board created in RCW 77.95.160 and information provided by affected tribes, salmon recovery regional organizations, and local entities to identify specific priority locations where removal of local barriers would provide a net resource gain; and
- (viii) Consistent with existing mitigation regulations and guidelines, provide a preference, where appropriate, for investment in local fish passage barrier removal where greater environmental benefit can be achieved with off-site and out-of-kind mitigation.

(c) In addition to the framework developed in (b) of this subsection, the department of transportation, the department of ecology, and the department of fish and wildlife must develop and implement an umbrella statewide in lieu fee program or other formal means to provide a streamlined mechanism to undertake priority local fish passage barrier corrections throughout the watersheds of the state as a preferred means of compensatory mitigation where appropriate for state transportation that is consistent with the principles in (a) and (b) of this subsection.

(3) Nothing in this section is intended to create or expand the state's obligation for fish passage barrier correction according to existing law or court ruling. Nothing in this section is intended to decrease funding or otherwise impede the state's efforts to meet its obligation for fish passage barrier correction according to existing law or court ruling.

NEW SECTION. Sec. 11. Sections 1 through 7 of this act constitute a new chapter in Title 47 RCW.

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

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators King and Hobbs to Engrossed Substitute Senate Bill No. 5996.

The motion by Senator King carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "projects;" strike the remainder of the title and insert "adding new sections to chapter 47.01 RCW; adding a new section to chapter 77.95 RCW; adding a new chapter to Title 47 RCW; and declaring an emergency."

MOTION

On motion of Senator King, the rules were suspended, Second Engrossed Substitute Senate Bill No. 5996 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King and Hobbs spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 5996.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 5996 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 0; Excused, 4.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Dammeier, Darneille, Fain, Fraser, Frockt, Habib, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Lias, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Parlette, Pearson, Pedersen, Rivers, Roach, Schoesler, Sheldon and Warnick

Voting nay: Senators Dansel, Ericksen, Hargrove and Padden

Excused: Senators Conway, McAuliffe, Ranker and Rolfes

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5996, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5997, by Senate Committee on Transportation (originally sponsored by Senators King, Hobbs, Fain, Lias, Litzow, Braun, Schoesler, Parlette, Dammeier, Warnick, Sheldon, O'Ban, Hewitt, Becker and Brown).

Concerning transportation project delivery.

The bill was read on Third Reading.

MOTION

On motion of Senator King, the rules were suspended and Engrossed Substitute Senate Bill No. 5997 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5997, by Senate Committee on Transportation (originally sponsored by Senators King, Hobbs, Fain, Lias, Litzow, Braun, Schoesler, Parlette, Dammeier, Warnick, Sheldon, O'Ban, Hewitt, Becker and Brown)

Concerning transportation project delivery.

The measure was read the second time.

MOTION

Senator King moved that the following striking amendment by Senators King and Hobbs be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.20.780 and 2007 c 152 s 1 are each amended to read as follows:

The department of transportation shall develop a process for awarding competitively bid highway construction contracts for projects over ~~((ten))~~ two million dollars that may be constructed using a design-build procedure. As used in this section and RCW 47.20.785, "design-build procedure" means a method of contracting under which the department of transportation contracts with another party for the party to both design and build the structures, facilities, and other items specified in the contract.

The process developed by the department must, at a minimum, include the scope of services required under the design-build procedure, contractor prequalification requirements, criteria for evaluating technical information and project costs, contractor selection criteria, and issue resolution procedures.

Sec. 2. RCW 47.20.785 and 2006 c 37 s 1 are each amended to read as follows:

~~((H))~~ The department of transportation ((may)) is authorized and strongly encouraged to use the design-build procedure for public works projects over ((ten)) two million dollars ((where)) when:

~~((a))~~ (1) The construction activities are highly specialized and a design-build approach is critical in developing the construction methodology; or

~~((b))~~ (2) The projects selected provide opportunity for greater innovation and efficiencies between the designer and the builder; or

~~((c))~~ (3) Significant savings in project delivery time would be realized.

~~((2) To test the applicability of the design-build procedure on smaller projects and specialty projects, the department may conduct up to five pilot projects on projects that cost between two and ten million dollars. The department shall evaluate these pilot projects with respect to cost, time to complete, efficiencies gained, if any, and other pertinent information to facilitate analysis regarding the further use of the design-build process on projects of this size.)~~

NEW SECTION. Sec. 3. (1) The joint transportation committee must conduct a design-build contracting review study to examine the department's implementation and use of design-build contracting under RCW 47.20.785.

(2) The joint transportation committee must provide a report detailing any recommended changes or improvements that the

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department of transportation should make to the design-build process in order to maximize cost and schedule efficiencies and ensure that design risk is borne by the appropriate party. The report is due to the transportation committees of the legislature and the governor by December 1, 2016.

(3) A panel of experts must be appointed to assist with the study. Membership must include: A consultant selected by the joint transportation committee and at least two nationally recognized experts in the field of design-build project delivery proposed by the consultant, a representative from the association of general contractors, a representative from the American council of engineering companies of Washington, a representative of the professional and technical employees local 17, and a representative from the department of transportation. The consultant must lead the review panel and be responsible for the organization and conduct of the panel and reporting on the process, findings, and recommendations of the panel.

(4) This section expires June 30, 2017.

NEW SECTION. Sec. 4. A new section is added to chapter 47.01 RCW to read as follows:

(1) The department must develop a construction program business plan that incorporates findings of the report required in section 3 of this act and also outlines a sustainable staffing level of state-employed engineering staff, adjusted as necessary by additional sustainable revenue and modeled and optimized to address long-term needs in preservation and improvement programs through multiple biennia.

(2) The sustainable staffing level recognizes that it is in the state's interest that periodic increases in workload due to increases in construction funding are best addressed through the use of contract engineering resources in conjunction with limited and flexible augmentations to department staffing levels as necessary for project oversight, accountability, and delivery.

(3) To provide the appropriate management oversight and accountability of the use of contracted services, the plan must also make recommendations on the development of a strong owner strategy that addresses state employee training, career development, and competitive compensation.

(4) The department must submit the plan to the office of financial management and appropriate committees of the legislature one hundred eighty days after the report in section 3 of this act is completed. The department must submit progress reports on implementation of the plan biennially beginning September 30, 2018, until September 30, 2030. The elements of the plan must include:

(a) Sustainable staffing levels to address long-term needs in preservation and improvement programs;

(b) Employee recruitment, retention, training, and compensation status;

(c) Project delivery methods for design and construction; and

(d) A comparison of Washington state to national trends and methods.

(5) To assist in the development of the plan, the department must convene an advisory group to be comprised of the following members:

(a) One representative of the professional and technical employees local 17 to represent the nonmanagement engineering and technical employees of the department;

(b) One member of the managerial engineering and technical staff of the department, who must serve as chair of the advisory group;

(c) One member appointed by the American council of engineering companies of Washington to represent the private design industry; and

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(d) One member appointed by the associated general contractors of Washington to represent the private construction industry.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators King and Hobbs to Engrossed Substitute Senate Bill No. 5997.

The motion by Senator King carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "delivery;" strike the remainder of the title and insert "amending RCW 47.20.780 and 47.20.785; adding a new section to chapter 47.01 RCW; creating a new section; providing an expiration date; and declaring an emergency."

MOTION

On motion of Senator King, the rules were suspended, Second Engrossed Substitute Senate Bill No. 5997 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King and Hobbs spoke in favor of passage of the bill.

Senator Hasegawa spoke on final passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 5997.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 5997 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Cleveland, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Kohl-Welles, Lias, Litzow, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Schoesler, Sheldon and Warnick

Voting nay: Senators Chase and Hasegawa

Excused: Senators Conway, McAuliffe, Ranker and Rolfes

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5997, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 6:13 p.m., on motion of Senator Fain, the Senate adjourned until 10:00 o'clock a.m. Monday, June 29, 2015.

BRAD OWEN, President of the Senate

HUNTER G. GOODMAN, Secretary of the Senate

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