

Washington State Ferries Financing Study

Technical Appendix 2: Legislative Concerns and Directions



Prepared For:

Joint Transportation Committee
Washington State Legislature

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Contents

Executive Summary	1
Section One: Introduction	3
Section Two: Legislator Interviews	4
A. Legislative Understanding	4
B. Management and Efficiency.....	4
C. Ferry Fares.....	5
D. Financing and Costs	5
E. Ancillary Revenues.....	5
F. Labor Relations.....	6
G. Ferry System Planning	6
H. Terminal and Eagle Harbor Repair Facility Capital Projects.....	6
I. Structure.....	7
Section Three: Legislative Record.....	8
A. RCW 47.60 Ferry and Toll Bridge System.....	8
B. RCW 36.54 County Ferry Districts and RCW 36.57A Public Transportation Benefit Authorities – Passenger-Only Ferry Service.....	17
C. RCW 47.64 Marine Employees Labor Relations	20
D. RCW 47.06 Planning	24
E. SSB 6241: Transportation Budget.....	26
Appendix A: Interviews	28
Appendix B: Summary of Legislation	29

List of Tables

Table 1. Purpose of Ferries	9
Table 2. Tariffs and Charges.....	11
Table 3. Other Operating Revenues/Public-Private Partnerships	13
Table 4. Vessel Acquisition	16
Table 5. Passenger-Only Ferry Service.....	17
Table 6. County Ferry Districts – Passenger-Only Ferry Service.....	18
Table 7. Public Transportation Benefit Areas – Passenger-Only Ferry Service.....	19
Table 8. Marine Employees Labor Relations.....	23
Table 9. Planning	25
Table 10. Budget Policies	27

Executive Summary

This review of legislative concerns and directions is to provide context for the Washington State Ferries Financing Study. Included are a summary of consultant interviews with key legislators and legislative staff, conducted in August and September 2006, and a review of the legislative record.

Legislator Interviews

The consultants interviewed state legislators and legislative staff to gather background on areas of concern regarding Washington State Ferries (WSF). See Appendix A for a list of those interviewed.

Each interview began with a review of the purpose of the ferry financing study and the legislation authorizing it. Those interviewed were asked to identify their major concerns and areas they would like to see addressed in the study.

Legislative concerns include a need for greater understanding of WSF. There are also concerns about: management and efficiency; ferry fares and ancillary revenues; ferry financing and costs; labor relations; ferry system planning; terminal and Eagle Harbor repair facility capital projects; and management structure.

Legislative Record

Laws covering Washington State Ferries are found in RCW 47.60, which covers the ferry and toll bridge system, and in RCW 47.64, which deals with marine employees and public employment relations. RCWs 36.54 and 36.57A relate to the provision of passenger-only ferry service by county ferry districts and public transportation benefit authorities respectively. RCW 47.06 includes requirements for the long-range plan for ferries as part of the state transportation plan, and SSB 6241 includes legislative directions with adoption of the biennial budget.

The legislative history partially reflects changes in state law in response to legislative studies. These studies are reviewed in the *Washington State Ferries Financing Study Technical Appendix 1: Review of Studies and Reports*.

Key laws are as follows:

RCW 47.60 Ferry and Toll Bridge System. Key provisions relate to: the purpose of the ferry system; tariffs and charges; ancillary revenues and partnerships; vessel acquisition; and passenger-only ferry service.

RCW 36.54 County Ferry Districts and RCW 36.57A Public Transportation Benefit Authorities – Passenger-Only Ferry Service. The legislature has modified these laws to encourage development of local passenger-only ferry services.

RCW 47.64 Marine Employees Labor Relations. This chapter includes a statement of public policy; prohibits strikes, work stoppages and lockouts; establishes the Marine Employees Commission; and governs collective bargaining for WSF.

RCW 47.06 Planning. This chapter deals with the statewide multimodal transportation plan, and includes requirements for the ferry portion of the plan.

SSB 6241: Transportation Budget. This legislation provides policy directions for the biennium budget, including direction for the ferry system.

See Appendix B: Summary of Legislation for more detail.

Section One Introduction

This review of legislative concerns and directions is to provide context for the Washington State Ferries Financing Study. Included are a summary of consultant interviews with key legislators and legislative staff, conducted in August and September 2006, and a review of the legislative record.

Section Two Legislator Interviews

The consultants interviewed state legislators and legislative staff to gather background on areas of concern regarding Washington State Ferries (WSF). See Appendix A for a list of those interviewed.

Each interview began with a review of the purpose of the ferry financing study and the legislation authorizing it. (See discussion of SSB 6241 starting on page 26.) Those interviewed were asked to identify their major concerns and areas they would like to see addressed in the study. The focus was on concerns, not areas of satisfaction.

Legislative concerns include a need for greater understanding of WSF. There are also concerns about: management and efficiency; ferry fares and ancillary revenues; ferry financing and costs; labor relations; ferry system planning; terminal and Eagle Harbor repair facility capital projects; and management structure.

A. Legislative Understanding

Legislators and staff interviewed indicated that there is a lack of understanding about the problems facing WSF, particularly among those legislators who do not represent ferry districts. Some noted that these legislators tend to regard the system as a drain on gas tax revenues that would otherwise go to highway projects.

The study needs to provide information on the history of WSF, particularly the impact of the loss of the motor vehicle excise tax on ferries' operations and capital funding. The key variables affecting ferries' operating and capital costs—including labor, fuel, and ridership—need to be explained. Legislators are particularly interested in the amount of gas tax money being spent on ferry capital projects.

Legislators hope that the study will provide a reality check on WSF's ridership projections and operations and capital plans.

B. Management and Efficiency

There is substantial concern among those interviewed about the management and efficiency of WSF. Some believe that management lacks credibility with the legislature and attribute that, in part, to frustration with the information provided by WSF. This contributes to a sense that WSF is not being realistic in its ridership and revenue projections or in its capital and operating plans.

Legislators want to be assured that the system is operating at maximum efficiency and if not, to understand the reasons for inefficiency. This is particularly important given large fare increases, decreases in ridership and the goal of 80 percent or better farebox recovery. In particular legislators and staff are concerned that management growth may have resulted in a top-heavy organization and that WSF does not have a clear and

realistic plan for the future. Some believe that WSF does not have staff capable of making sound business decisions or of entering into creative partnerships or otherwise engaging in entrepreneurial activities that might help close the revenue gap.

C. Ferry Fares

Many of those interviewed are concerned about the rising costs of ferry fares. Some believe that the goal of 80 percent farebox recovery recommended by the Joint Legislative Task Force on Ferries in 2001 is too high, and that it has created controversy with ferry users. They also want it to be clear that this recommendation from the Task Force is not, in their view, legislative policy. They would like to know how ferries' farebox recovery compares to transit systems, and how a farebox goal should be set systemwide and by route.

Some have pricing suggestions including discounting non-peak fares to use existing capacity; congestion pricing; and collecting fares both ways to promote greater ridership and reduce those riding for free.

Many of those interviewed expressed concern about the implementation of the electronic fare system, with many frustrated that it has taken so long. Some believe that WSF could have purchased a more easily installed system.

Rates are set by the Washington State Transportation Committee with advice from the Tariff Policy Committee (TPC). The TPC is not a legislatively created body, and there are concerns about the composition and role of this Committee.

There are also questions about: the number of frequent users and the percentage of tariff revenues generated by frequent users; the equity of fare increases; and school bus and other specific charges.

D. Financing and Costs

Those interviewed noted the need for stable funding for ferries, especially in light of the loss of Motor Vehicle Excise Tax (MVET) funding. Several suggested that more stable revenue could come from development partnerships and increased ancillary revenues. This would not eliminate the need for a more stable tax source, but may help to reduce the amount required.

The legislature has commissioned a fuel forecasting study that will be incorporated into this study of ferry financing. Several suggested that ferries should research hedging fuel purchases to help stabilize pricing, provided they can acquire the expertise to do so effectively.

E. Ancillary Revenues

Several of those interviewed noted that more sustainable, non-fare revenues should be generated by WSF, noting the potential for private/public partnerships to help fund development or generate income for ferries. Most questioned the capability of WSF to seek these partnerships.

Several felt that WSF could do a better job of generating advertising and concessions income, noting that at some terminals where there are long vehicle waits, food service is very important. Others felt that WSF should be able to show a reasonable rate of return on any investments made in food service or other concession facilities.

F. Labor Relations

Legislators want to understand the impact of collective bargaining agreements on ferry costs and how they differ from agreements with other state employees. Several mentioned the need to find a win-win situation with labor, with the goal of working together to stabilize ferry ridership and costs. Some noted the need to identify critical areas for negotiation, and others that the Marine Employees Commission is a large cost driver.

G. Ferry System Planning

Several of those interviewed expressed concern about how ferry planning is coordinated with highway planning. In particular they are concerned about the impact of ferry traffic as projected by WSF on roads. Interviewees suggested that since WSF is part of WSDOT, they should be required to plan jointly with highways, noting that there is little mention of ferries and their impacts in the state highway plan.

H. Terminal and Eagle Harbor Repair Facility Capital Projects

There are concerns related to the budgeting, scheduling and management of the terminal and Eagle Harbor repair facility projects and about scope creep. Legislators are concerned about: the integration of these projects with highway projects (i.e., Colman Dock and the Alaskan Way Viaduct); with projected service changes (i.e., impact on the Edmonds terminal re-location of a passenger-only ferry service between Kingston and Seattle); and with each other (i.e., staggering of construction at the Bainbridge Island terminal with construction at the Seattle terminal.)

Several expressed concern about how WSF prioritizes improvement projects, how they spend resources on planning when they have to return to the legislature for funding for the project; and why they continue designing projects if there is not a clearly identified fund source for construction.

Several also expressed concern about scope changes. If the legislature authorizes a project and then WSF decides to expand it, how should they receive approval? For instance, WSF is considering re-locating its warehouse to the Eagle Harbor repair facility, which is a change in the scope of that project.

One interviewee suggested allowing local communities to take a more active role in terminal designs, with WSF providing the key functional requirements. This might reduce friction with local communities and provide a better way to accomplish these projects.

I. Structure

Some of those interviewed raised a question of whether WSF should remain a part of the Washington State Department of Transportation (WSDOT) or be separate. A few suggested that outside review bodies should be created to help WSF. These might include an advisory commission of experts to review ridership forecasts or a panel to review major projects to ensure that they utilize best practices in terms of efficiency, technology, and business analysis of tradeoffs, including cost-benefit analysis.

Section Three Legislative Record

Laws covering Washington State Ferries are found in RCW 47.60, which covers the ferry and toll bridge system, and in RCW 47.64, which deals with marine employees and public employment relations. RCWs 36.54 and 36.57A relate to the provision of passenger-only ferry service by county ferry districts and public transportation benefit authorities respectively. RCW 47.06 includes requirements for the long-range plan for ferries as part of the state transportation plan, and SSB 6241 includes legislative directions with adoption with the biennial budget.

The legislative history partially reflects changes in state law in response to legislative studies. These studies are reviewed in the *Washington State Ferries Financing Study Technical Appendix 1: Review of Studies and Reports*.

A. RCW 47.60 Ferry and Toll Bridge System

Key provisions of RCW 47.60 dealing with the ferry system are discussed below, including: those provisions relating to the purpose of the system; tariffs and charges; ancillary revenues and partnerships; vessel acquisition; and passenger-only ferry service.

The legislative history reflects WSF's history. The agency was jointly operated by the Washington Toll Bridge Authority and the State Highway Department prior to the creation in 1977 of the WSDOT. RCW 47.01.011 is the statement of legislative intent behind the creation of WSDOT: "Through this chapter, a unified department of transportation is created. To the jurisdiction of this department will be transferred the present powers, duties, and functions of the department of highways, the highway commission, the toll bridge authority, the aeronautics commission, and the canal commission, and the transportation related powers, duties, and functions of the planning and community affairs agency."

1. Purpose of Washington State Ferries

RCW 47.60 identifies the purpose of the ferries as both an extension of the state highway system and as a provider of mass transit. As part of the state highway system, the ferry system may include toll bridges and connecting roadways, although it currently does not have any such facilities as part of the system. Competitive ferry systems within ten miles of the operation of a ferry route are prohibited, with the exception of passenger-only ferries operated by a ferry or public transportation district, providing WSF with a protected market.

WSDOT is authorized to operate, improve and extend a ferry system, connecting with the public streets and highways in the state. The system shall include "such boats, vessels, wharves, docks, approaches, landings, franchises, licenses and appurtenances as shall be deemed . . . necessary or desirable for efficient operation of the ferry system. . . . The department may . . . include in the ferry system such toll bridges, approaches, and

connecting roadways as may be deemed . . . advantageous in channeling traffic to points served by the ferry system.” (RCW 47.60.010)

The ferry system, including any toll bridges, approaches and roadways incidental to the system, may be financed and operated in combination or separately as one or more units of WSDOT as the department may determine. The ferry system, together with any toll bridge constructed by the department across Puget Sound or Hood Canal replacing one or more presently operated ferry routes, is declared to be a continuous project within the meaning of RCW 47.56.070. (RCW 47.60.130) (RCW 47.56.070 provides that no toll facility, toll bridge, toll road, or toll tunnel, shall be combined with any other toll facility for the purpose of financing unless such facilities form a continuous project, to the end that each such facility or project be self-liquidating and self-sustaining.)

The legislature finds and declares that the state ferry system is a public mass transportation system. (RCW 47.60.017)

If WSDOT operates a ferry crossing, there shall not be any other ferry crossing within ten miles of such crossing. This section does not apply to the operation of passenger-only ferry service by public transportation districts meeting the requirements of RCW 36.57A.200 or the operation of passenger-only ferry service by ferry districts. (RCW 47.60.120) (RCW 36.57A.200 deals with the creation of public transportation benefit areas. See Section A.2 for further information.)

Table 1. Purpose of Ferries

RCW	Provision
47.60.010	Authorizes ferries to connect to state highways. Ferry system may include toll bridges, approaches & connecting roadways.
47.60.017	State ferry system is a public mass transportation system.
47.60.120	Prohibits other ferry services within 10 miles of WSF ferry routes, except for passenger-only ferry service by ferry districts or public transportation districts meeting the requirements of RCW 36.57A.200.
47.60.130	Allows operation and financing of the ferry system in conjunction with any toll bridge across Puget Sound that replaces a presently operated ferry route or across Hood Canal.

2. Tariffs and Charges

The legislature has established requirements for revisions to ferry tariffs and charges; authorized the Washington State Transportation Commission (WSTC) to establish ferry tariffs and charges; created Ferry Advisory Committees to provide public input for tariff changes; and required public participation in making changes to ferry tariffs and charges. WSF is authorized to establish special event, promotional and discounted fares.

The department is to conduct a full review of the charges for WSF each year in order to maintain an “adequate, fair, and economically sound schedule of charges for . . . passengers, vehicles and commodities.” The review, with recommended fee changes, is to be sent to the WSTC prior to February 1st of each odd-numbered year. The Commission is to adopt charges for the ensuing biennium by July 1st.

If, during the biennium, it appears that projected revenues and operating subsidies will not meet projected ferry system maintenance and operations costs, the department is directed to undertake a review of charges to determine whether they should be revised and to make recommendations to the WSTC. The WSTC may revise the schedule of charges to meet the maintenance and operations expenditures of the ferry system or defer action until the regular review and revision of ferry charges.

In conducting its biennial tariff review, the department may consider the following factors:

- The amount of subsidy available to the ferry system for maintenance and operation.
 - The time and distance of ferry runs.
 - The maintenance and operation costs for ferry runs with a proper adjustment for higher costs of operating outmoded or less efficient equipment.
 - The efficient distribution of traffic between cross-sound routes.
 - The desirability of reasonable rates for persons using the ferry system to commute daily to work and other frequent users who live in ferry-dependent communities.
 - The effect of proposed fares in increasing walk-on and vehicular passenger use.
 - The effect of proposed fares in promoting all types of ferry use during non-peak periods.
 - The estimated revenues that are projected to be earned by the ferry system from commercial advertisements, parking, contracts, leases, and other sources.
 - The pre-purchase of multiple fares, whether for a single rider or multiple riders.
- d. Such other factors as prudent managers of a major ferry system would consider. (RCW 47.60.326)

Every three years, subject to the provisions of RCW 47.60.326, WSF is directed to undertake a review of tariffs and charges that shall include, but not be limited to, tariffs for automobiles, passengers, trucks, commutation rates, and volume discounts. The review shall give proper consideration to:

- Time of travel
- Distance of travel
- Operating costs
- Maintenance and repair expenses
- Effect on the debt service requirements
- Allocation of vessels to particular runs
- The scheduling of particular runs
- The adequacy and arrangements of docks and dock facilities
- Any other subject deemed by the department to be properly within the scope of the review. (RCW 47.60.300)

Before increasing ferry tolls, the department is to consider all possible cost reductions, with full public participation regarding the possible reductions, and also to consider adapting service levels equitably on a route-by-route basis to reflect trends in and forecasts of traffic usage. (RCW 47.60.330)

The ferry system is to be efficiently managed, operated and maintained as a revenue-producing undertaking. Subject to the provisions of RCW 47.60.326, the WSTC is required to set a schedule of tolls and charges that allow the Puget Sound capital construction account to meet debt service requirements. (RCW 47.60.440)

In conducting tariff reviews, WSF is directed to solicit advice from Ferry Advisory Committees. The legislative authorities of San Juan, Skagit, Clallam and Jefferson counties each appoint a committee of five members. The legislative authorities of all other counties that contain ferry terminals appoint ferry advisory committees consisting of three members for each terminal area in each county, except for Vashon, which shall have one committee appointed by the Vashon/Murray Island community council. At least one person appointed to each ferry advisory committee shall represent frequent users of the ferry system. Each member has to reside in the vicinity of the terminal that the advisory committee represents. Members serve four-year terms. The chairs of the several committees constitute an executive committee. The executive committee is to meet twice each year with WSF. (RCW 47.60.310)

Before a substantial expansion or curtailment of service or a revision in the schedule of ferry tolls or charges, the department is to consult with affected ferry users by:

- Public hearings in affected local communities, or
- Conducting a survey of affected ferry users, and
- Review with ferry advisory committees pursuant to RCW 47.60.310 (RCW 47.60.330)

The Chief Executive Officer of the ferry system is authorized to use promotional, discounted and special event fares to maximize capacity use and revenues. (RCW 47.60.326) These charges are not subject to the public participation requirements of RCW 47.60.330.

Table 2. Tariffs and Charges

RCW	Provision
47.60.290	Review tariffs for the purpose of establishing a more fair and equitable tariff for passengers, vehicles and commodities, subject to RCW 47.60.326.
47.60.300	The review required by RCW 47.60.326 shall occur every three years & must include: <ol style="list-style-type: none"> a. time of travel b. distance of travel c. operating costs d. maintenance and repair expenses e. effect on debt service requirements f. allocation of vessels to particular runs g. the scheduling of particular runs h. the adequacy and arrangements of docks and dock facilities

RCW	Provision
	i. or factors as decided by the department.
47.60.310	Establishes Ferry Advisory Committees to be appointed by County legislative authorities, except for Vashon Island where a community council appoints the members. The department is to consult with the Ferry Advisory Committees in making tariff recommendations.
47.60.326	The department to review fares by Feb. 1 st of each odd-numbered year. WSTC to adopt fares by July 1 st for the ensuing biennium. Fare review may include: <ul style="list-style-type: none"> a. Subsidy available to the ferry system for maintenance and operation. b. Time and distance of runs. c. Maintenance and operation costs for runs adjusted for use of outmoded or less efficient equipment. d. Efficient distribution of traffic between cross-sound routes. e. Reasonable rates for commuters & other frequent users in ferry dependent communities. f. Increasing walk-on and vehicular passenger use. g. Promote non-peak use. h. Other revenues from advertisements, parking, contracts, leases, etc. i. The pre-purchase of multiple fares. j. Other factors prudent ferry system managers would consider. WSTC CEO allowed to set promotional, discounted and special event fees.
47.60.330	Establishes public participation requirements for major service reductions or expansions and for tariff changes. Requires: <ul style="list-style-type: none"> a. Public hearings in local communities, or b. A survey of affected ferry users, and c. Review with Ferry Advisory Committees as required by RCW 47.60.130. Requires the consideration of all possible cost reductions, with full public participation on the cost reductions, and adapting service levels equitably on a route-by-route basis to reflect trends in and forecasts of traffic usage before tolls are increased.
47.60.440	Ferry system is to be operated and maintained as a revenue-producing undertaking. WSTC required to set tolls to meet debt service requirements.

3. Ancillary Revenues/Partnerships

The legislature has authorized the department to charter ferries and to enter into concession and advertising agreements, and joint development agreements with public or private developers.

Chartering of WSF's vessels is authorized when established route operations and normal use requirements are not disrupted. The department is directed to consider the special needs of local communities and interested parties and to be sensitive to the interests of existing private enterprises. Charter rates must be established at actual operating costs plus a market-rate profit margin. (RCW 47.60.135)

The ferry system is to be operated as a revenue-producing and self-liquidating undertaking. WSF has the right to enter into leases and contracts for use and occupancy of spaces on the ferries, wharves, docks, approaches, parking lots and landings, including the selling of commercial advertising space and licenses to use the WSF trademarks. All contracts are limited to ten years except for joint development agreements. The competitive process for the agreements limited to ten years shall be either an invitation for bids as established by RCW 43.19 or a request for proposals in accordance with RCW 47.56.030. All revenues from commercial advertising, concessions, parking, leases and contracts must be deposited in the ferry operations account.

As part of a joint development agreement under which a public or private developer constructs or installs improvements on ferry system property, the department may enter into leases not to exceed fifty-five years (or not to exceed thirty years for those areas located within harbor areas) if the department determines the longer term is necessary for the developer to make reasonable recovery on its initial investment. Any lease that involves state aquatic lands shall conform to the Washington State Constitution and applicable statutory requirements as determined by the Department of Natural Resources. That portion of the lease rate attributable to state aquatic lands shall be distributed in the same manner as other lease revenues derived from state aquatic lands as provided in RCW 79.105.150. (RCW 79.105.150 establishes the aquatic lands enhancement account for the deposit of funds received from sales or leases of state aquatic lands.)

WSF is to include in the strategic planning and performance assessment process, as required by RCW 43.88.090, an analysis of the compatibility of public and private partnerships with the ferry system’s core business, and efforts to maximize non-farebox revenues and benefit ferry users. The department shall include an assessment of the need for an open solicitation to identify and select possible public or private partnerships in order to maximize the value of projects and the state’s investment in current and future ferry system operations. If an open solicitation is warranted, WSF is to issue a request for proposal with responses to be evaluated based on compatibility with the state ferry system’s core business, potential to maximize non-farebox revenue, longevity of the possible partnership commitment, and benefit to ferry users. If no responses are received, or those that are received are incompatible with ferry system operations, WSF may proceed with state ferry system operating strategies designed to achieve state ferry system objectives without established partnerships. (RCW 47.60.140) (RCW 43.88.090 governs budgeting in the State of Washington and requires agencies to establish strategic plans and associated performance measures.)

Table 3. Other Operating Revenues/Public-Private Partnerships

RCW	Provision
47.60.135	<p>Authorizes chartering of ferries when not disruptive to normal operations. Charter fees must be set for full cost recovery plus a market-rate return. Chartering must be sensitive to the interests of existing private enterprises.</p>
47.60.140	<p>Ferries to be operated as revenue-producing and self-liquidating undertaking. Authorized to enter into leases and contracts for concessions & space. Allowed to sell commercial advertising space and use of the WSF trademarks. Unless part of a joint development agreement, leases cannot be longer than ten years and must be entered into through an invitation for bids or RFP process. All concessions and other income from these ten year agreements must be used to support operations. Joint development agreements can be up to 55 years (or 30 for those areas located within harbors) if necessary to allow the developer to make a reasonable recovery on their initial investment. An analysis of the compatibility of public and private partnerships with WSF’s core business and the effort to maximize non-farebox revenue is to be included in the strategic planning and performance assessment process required under the state budget law – RCW 43.88.090. If an open solicitation is warranted, public-private partnerships are to be sought via an RFP with the evaluation based on compatibility with WSF’s core business, potential to maximize non-farebox revenue, longevity of possible partnership commitment and benefit to ferry users. If no responses are received or the responses to the RFP are rejected, WSF may proceed to implement its operating strategies without established partnerships.</p>

4. Vessel Acquisition

The legislature has authorized three studies related to vessel acquisitions: *Washington State Ferries Management of Vessel Refurbishment Programs* in 1991; *Department of Transportation Ferry System Performance Audit 98-6* in 1998; and *Performance Audit of the Washington State Ferry System Capital Program* in 2001. These reports are reviewed in the *Washington State Ferries Financing Study Technical Appendix 1: Review of Studies and Reports*. Legislation regarding vessel acquisition has been adopted in conformance with the recommendations of these reports.

In 1993 the Legislature established a process for the construction of Jumbo Mark II class ferries. The process involved prequalification of potential bidders, with the prequalification process to include a summary of the vessel requirements. Any firm requesting them was to receive a copy of the bid documents. Bid documents had to include a bid to deliver vessels constructed by the plans and specifications provided by the department; one bid for the construction of three vessels; a requirement that the vessels be constructed within the state; a requirement that warranty work be done within the state; and a listing of all equipment to be furnished by the state. The contract was to be awarded to the firm submitting the lowest responsible bid. (RCW 47.60.770-778)

An RFP process was authorized in 1994 for acquisition of the Jumbo Mark II class ferry propulsion system, if not acquired as part of the bid process under RCW 47.60.770. The legislature established the criteria for the most advantageous diesel engine as 45% life-cycle costs; 20 percent reliability, 20 percent maintainability and 15 percent engine performance. The life-cycle cost factors shall consist of the costs for engine acquisition and warranty, spare parts acquisition and inventory, fuel efficiency and lubricating oil consumption, and commonality. The fuel efficiency and lubricating oil consumption life-cycle cost factors shall receive not less than 20 percent of the total evaluation weighting and shall be evaluated under a format similar to that employed in the 1992 M.V. Tyee engine replacement contract. The reliability factors shall consist of the length of service and reliability record in comparable uses, and the mean time between overhauls. The mean time between overhauls evaluation shall be based upon the manufacturer's required hours between change of wear components. The maintainability factors shall consist of spare parts availability, the usual time anticipated to perform typical repair functions, and the quality of factory training programs for ferry system maintenance staff. The performance factors shall consist of load change responsiveness, and air quality of exhaust and engine room emissions. (RCW 47.60.780)

The finding and intent notes for RCW 47.60.780 discuss the implementation of the 1991 *Washington State Ferries Management of Vessel Refurbishment Programs* report and that the legislation authorizing the RFP process for the propulsion system is in response to that study. It also states that a steering committee, in carrying out the recommendations of the 1991 study, had determined that the procedure for the procurement of equipment, parts, and supplies for the Jumbo Class Mark II ferry vessels authorized by RCW 47.60.770-778, must take into consideration, in addition to life-cycle cost criteria, criteria that are essential to the operation of a public mass transportation system responsive to the

needs of ferry users, and that assess the reliability, maintainability, and performance of equipment, parts, and supplies to be installed in the Jumbo Mark II ferries.

In 2001 after receipt of the *Performance Audit of the Washington State Ferry System Capital Program*, the Legislature authorized a design-build approach to auto-ferry construction. The contractor is to be selected in a three-phase RFP process. Phase one is to evaluate and select pre-qualified proposers to participate in subsequent development of technical proposals. WSF is to evaluate submitted proposals in phase one under selection criteria which may include but are not limited to:

- Shipyard facilities
- Organization components
- Design capability
- Build strategy
- Experience and past performance
- Ability to meet vessel delivery dates
- Projected workload
- Expertise of project team and other key personnel

Phase two involves preparation of technical proposals by those firms qualified in Phase one. The technical proposals must include:

- Design and specification sufficient to fully depict the ferries' characteristics and identify installed equipment.
- Drawings showing arrangements of equipment and details necessary for the proposer to develop a firm, fixed price bid.
- Project schedule including vessel delivery dates.

The department is to conduct periodic reviews with each of the selected proposers to consider and critique their designs, drawings and specifications. The department is authorized to change the RFP if they determine it to be necessary during the review process.

Phase three consists of the submittal and evaluation of bids and the award of the contract for the final design and construction of the auto ferries. The bids must be in conformance with the approved technical proposal. The department is to select the responsive and responsible proposer that has submitted the lowest total bid price.

The department may provide an honorarium to reimburse each unsuccessful phase three proposer for a portion of its technical proposal preparation costs at a pre-set, fixed amount to be specified in the request for proposals. (RCW 47.60.810-822)

Table 4. Vessel Acquisition

RCW	Provision
47.60.730-780	Authorized Jumbo Mark II class vessel construction. Authorized bid process for vessel construction. Permitted an RFP process to be used for purchase of the propulsion system in response to the findings of the 1991 Washington State Ferries Management of Vessel Refurbishment Programs report. Notes to 47.60.780 reference implementation of the 1991 report with additional criteria for acquisition of equipment, parts, and supplies to be installed in the Jumbo Mark II ferries.
47.60.810-822	Authorized auto-ferry vessel acquisition through a three-phase design-build process in response to the 2001 Performance Audit of the Washington State Ferry System Capital Program.

5. Passenger-Only Ferries

The legislature has authorized two studies related to passenger-only ferries including: *Ten-Year Passenger Strategy for Washington’s Multimodal Ferry Transportation System* in 2005 and the *Passenger-Only Ferry Cost Analysis* in 2006. The legislature also convened a Passenger-Only Ferry Task Force that issued a report in January 2006. The work of the Task Force and the reports are reflected in 2006 legislative action directing WSF to discontinue its passenger-only ferry service, except for the Vashon to Seattle route, authorizing a grant program to support transit district passenger-only ferry service, and in modifications to the legislation governing public transportation benefit areas.

In 1998 the legislature authorized the department to proceed with design and permitting processes for passenger-only terminals at Southworth and Kingston and to acquire four passenger-only ferries. (RCW 47.60.649-654)

In 2003 the legislature authorized the department to give its passenger-only ferries and other properties associated with passenger-only service to public transportation benefit areas meeting the requirements of RCW 36.571A.200 or county ferry districts for passenger-only ferry service as a full or part consideration for their assumption of passenger-only ferry service and all associated maintenance and operation costs. The vessels were to return to WSF if not used for passenger-only service. (RCW 47.60.656)

The 2006 legislature directed the ferry system to maintain the level of service existing on January 1, 2006, on the Vashon to Seattle passenger-only ferry route until such time as the legislature approves a county ferry district’s assumption of the route, as authorized under RCW 36.54.110(5). (RCW 36.54.110(5) deals with county ferry districts’ authorization to operate passenger-only ferry service between Vashon and Seattle. See Section 2.B.1 for further information.) (RCW 47.60.658)

The 2006 legislature also directed the ferry system to collaborate with new and potential passenger-only ferry service providers to Vashon and potentially Southworth, as described in RCW 36.54.110(5) for terminal operations at its existing terminal facilities. (RCW 47.60.662) A passenger ferry account was established by the 2006 legislature to be used for operating or capital grants for ferry systems as provided in RCW 36.54 and 36.57A. (RCW 47.60.645)

Table 5. Passenger-Only Ferry Service

RCW	Provision
47.60.649-654	Directed WSF to proceed with design and permitting processes for passenger-only terminals at Southworth and Kingston. Authorized to acquire 4 passenger-only ferries. Terminal improvements and vessel acquisition contingent on legislative appropriation.
47.60.656	Authorized the department to convey its passenger-only ferries and other properties associated with passenger-only service to public transportation benefit areas or county ferry districts as full or part consideration for the benefit area or ferry district to assume all future maintenance and operations obligations and costs to maintain and operate the vessels and facilities.
47.60.658	Department shall maintain the Jan. 1, 2006 level of service on the Vashon to Seattle passenger-only ferry route until the legislature approves a county ferry district's assumption of the route under RCW 36.54.110(5).
47.60.662	WSF shall collaborate with new and potential passenger-only ferry service providers as described under RCW 36.54.110(5) for terminal operations at its existing terminal facilities.

B. RCW 36.54 County Ferry Districts and RCW 36.57A Public Transportation Benefit Authorities – Passenger-Only Ferry Service

RCW 36.54 governing county ferry districts and RCW 36.57A authorizing public transportation benefit authorities have been modified to encourage development of local passenger-only ferry services.

1. RCW 36.54 County Ferry Districts

RCW 36.54, which governs county ferry districts, was modified in the 2003 and 2006 legislative sessions to deal specifically with passenger-only ferry service between Vashon and Seattle. It allows the legislative authority of any county to create a ferry district, as a separate taxing authority. The legislative body of the affected county would govern the ferry district. (RCW 36.54.110). Ferry districts are permitted to levy an ad valorem tax on all taxable property located in the district not to exceed seventy-five cents per thousand dollars of assessed value to be used for ferry services. (RCW 36.54.130). Ferry districts are also permitted to impose excess levies upon the property included within the district for a one-year period to be used for operating or capital purposes whenever authorized by the electors of the district. (RCW 36.54.140)

The 2006 legislative session added the following specific provision with regard to Vashon service:

A county with a population greater than one million persons and having a boundary on Puget Sound, or a county to the west of Puget Sound with a population greater than two hundred thirty thousand but less than three hundred thousand persons, proposing to create a ferry district to assume a passenger-only ferry route between Vashon and Seattle, including an expansion of that route to include Southworth, shall first receive approval from the governor after submitting a complete business plan to the governor and the legislature by November 1, 2006. The business plan must, at a minimum, include hours of operation, vessel needs, labor needs, proposed routes, passenger terminal facilities, passenger rates, anticipated federal and local funding, coordination with Washington state ferry system, coordination with existing transit providers, long-term operation and maintenance needs, and long-

term financial plan. The business plan may include provisions regarding coordination with an appropriate county to participate in a joint ferry. . . . In order to be considered for assuming the route, the ferry district shall ensure that the route will be operated only by the ferry district and not contracted out to a private entity, all existing labor agreements will be honored, and operations will begin no later than July 1, 2007. If the route is to be expanded to include serving Southworth, the ferry district shall enter into an inter-local agreement with the public transportation benefit area serving the Southworth ferry terminal within thirty days of beginning Southworth ferry service. (RCW 36.54.110)

Table 6. County Ferry Districts – Passenger-Only Ferry Service

RCW	Provision
37.54.110	<p>Authorizes the legislative authority to create a ferry district. The ferry district is an independent taxing authority. The members of the county legislative authority shall compose the governing body of any ferry district. Authorizes a ferry district to assume a passenger-only ferry route between Vashon and Seattle, including an expansion to include Southworth provided that the district submits a business plan to the governor and legislature by November 1, 2006. The business plan must include:</p> <ol style="list-style-type: none"> 1. Hours of operation 2. Vessel needs 3. Labor needs 4. Proposed routes 5. Passenger terminal facilities 6. Passenger rates 7. Anticipated federal and local funding 8. Coordination with WSF 9. Coordination with existing transit providers 10. Long-term maintenance and operations needs 11. Long-term financial plan <p>All operations must be provided by the ferry district and cannot be sub-contracted. All existing labor agreements must be honored. Operations must start by July 1, 2007.</p>
36.54.130	<p>Ferry district may levy each year an ad valorem tax on all taxable property in the district not to exceed \$.75 per thousand dollars of assessed value. The levy must be sufficient for the provision of ferry services as shown in the budget of the ferry district. The tax may only be used for providing ferry services.</p>
36.54.140	<p>Ferry district may impose excess levies upon the property included in the district for a one-year period to be used for operating or capital purposes whenever authorized by district electors.</p>

2. RCW 36.57A Public Transportation Benefit Areas

RCW 36.57A, which authorizes public transportation benefit areas, was amended in 2003 to allow public benefit areas with borders on Puget Sound to operate passenger-only ferry service. Before a benefit area may provide passenger-only ferry service, it must develop a passenger-only ferry investment plan including elements to operate or contract for the operation of passenger-only ferry services; purchase, lease, or rental of ferry vessels and dock facilities for the provision of transit service; and identify other activities necessary to implement the plan. The plan must set forth terminal locations to be served, projected costs of providing services, and revenues to be generated from tolls, locally collected tax revenues, and other revenue sources. The plan must ensure that services provided under the plan are for the benefit of the residents of the benefit area. The public transportation

benefit area may enter into contracts and agreements to operate passenger-only ferry service and public-private partnerships and design-build, general contractor/construction management, or other alternative procurement process substantially consistent with chapter 39.10 RCW. (RCW 36.57A.200) (RCW 39.10 authorizes alternative public works contracting procedures.)

In allowing public transportation benefit areas to provide passenger-only service, the legislature made the following finding: “Passenger-only ferry service is a key element to the state’s transportation system and it is in the interest of the state to ensure provision of such services. The legislature further finds that diminished state transportation resources require that regional and local authorities be authorized to develop, operate, and fund needed services. The legislature recognizes that if the state eliminates passenger-only ferry service on one or more routes, it should provide an opportunity for locally sponsored service and the department of transportation should assist in this effort. It is the intent of the legislature to encourage inter-local agreements to ensure passenger-only ferry service is reinstated on routes that the Washington state ferry system eliminates.” (RCW 36.57A.200 notes)

To finance passenger-only ferry service, public transportation benefit areas are allowed to recommend use of a motor vehicle excise tax, as provided in RCW 82.80.130; a sales and use tax, as provided in RCW 82.14.440; tolls for passengers and packages and, where applicable, parking; and charges or licensing fees for advertising, leasing space for services to ferry passengers, and other revenue-generating activities as part of their investment plan. Taxes may not be imposed without voter approval. (RCW 36.57A.210) (RCW 82.80.130 permits public transportation benefit areas in areas where a regional transit authority has not been formed to submit to the voters a tax of up to four-tenths of one percent on the motor vehicles for passenger-only ferry service. RCW 82.14.440 allows these same public transportation benefit areas to submit to the voters a sales and use tax not to exceed four-tenths of one percent for passenger-only ferry service.)

In 2006 the legislature adopted the following with regard to passenger-only ferry service between Kingston and Seattle: “A public transportation benefit area seeking funding for a passenger-only ferry route between Kingston and Seattle shall first receive approval from the governor after submitting a complete business plan to the governor and the legislature by November 1, 2006. The business plan must, at a minimum, include hours of operation, vessel needs, labor needs, proposed routes, passenger terminal facilities, passenger rates, anticipated federal and local funding, coordination with Washington state ferry system, coordination with existing transit providers, long-term operation and maintenance needs, and long-term financial plan.” (RCW 36.57A.220)

Table 7. Public Transportation Benefit Areas – Passenger-Only Ferry Service

RCW	Provision
36.57A.200	<p>Authorizes a public transportation benefit area with a boundary located on Puget Sound to provide passenger-only ferry service.</p> <p>Before providing such service, the benefit area must develop a passenger-only ferry investment plan to include:</p> <ol style="list-style-type: none"> 1. Elements to operate or contract for the operation of passenger-only ferry service, including

RCW	Provision
	<p>purchase, lease or rental of ferry vessels and dock facilities for the provision of transit service and other activities necessary to implement the plan.</p> <ol style="list-style-type: none"> 2. Terminal locations to be served. 3. Project costs for providing service. 4. Revenues to be generated from tolls, locally collected revenues and other revenue sources. <p>Findings: The legislature finds that passenger-only ferry service is a key element to the state's transportation system and that it is in the interest of the state to ensure provision of such services. The legislature further finds that diminished state transportation resources require that regional and local authorities be authorized to develop, operate, and fund needed services. The legislature recognizes that if the state eliminates passenger-only ferry service on one or more routes, it should provide an opportunity for locally sponsored service and the department of transportation should assist in this effort. It is the intent of the legislature to encourage inter-local agreements to ensure passenger-only ferry service is reinstated on routes that the Washington state ferry system eliminates.</p>
36.57A.210	<p>As part of passenger-only investment plan, benefit areas may recommend some or all of the following revenue sources:</p> <ol style="list-style-type: none"> 1. Motor vehicle excise tax as provided in RCW 82.80.130. 2. Sales and use tax, as provided in RCW 82.14.440. 3. Tolls for passengers and packages, and where applicable, parking. 4. Charges or licensing fees for advertising, leasing space for services to ferry passengers and other revenue-generating activities. <p>Taxes may not be imposed without voter approval.</p>
36.57A.220	<p>A public transportation benefit area seeking funding for a passenger-only ferry route between Kingston and Seattle shall first receive approval from the governor after submitting a complete business plan to the governor and legislature by November 1, 2006. The business plan must include, at a minimum:</p> <ol style="list-style-type: none"> 1. Hours of operation 2. Vessel needs 3. Labor needs 4. Proposed routes 5. Passenger terminal facilities 6. Passenger rates 7. Anticipated federal and local funding 8. Coordination with WSF 9. Coordination with existing transit providers 10. Long-term operations and maintenance needs 11. Long-term financial plan

C. RCW 47.64 Marine Employees Labor Relations

Labor relations for WSF's represented employees are governed under RCW 47.64, which: includes a statement of public policy; prohibits strikes, work stoppages and lockouts; establishes the Marine Employees Commission; and governs collective bargaining for WSF.

In 1975, the then-existing Marine Employees' Commission (created when the state acquired the ferry system in 1957), was disbanded and its functions placed under the Public Employment Relations Commission (PERC). A law passed in May 1981 removed ferry system employees' wages and certain benefits from the scope of collective bargaining. It resulted in a three-day wildcat strike by state ferry employees. This strike prompted then-Governor John Spellman to put together a Blue Ribbon Panel.

The Panel proposed a collective bargaining process to resolve disputes between ferry system management and employee organizations. The Panel recommended the reconstitution of the Marine Employees' Commission and policy goals, which formed the basis for RCW 47.64 governing WSF's labor relations. (www.marineempcom.org)

RCW 47.64 was modified in the 2006 Legislative session by the adoption of SHB 3178 which gave the governor, rather than WSDOT, the authority to negotiate marine employee labor agreements; changed the timing of collective bargaining to ensure its completion prior to the submission of the governor's budget to the legislature; required certification by the Office of Financial Management of the financial feasibility of the agreements; and gave the legislature the discretion to accept or reject the request for funds to pay for the agreements. Key provisions of RCW 47.64 are as follows.

1. Public Policy

The Legislature declares it is the public policy of the state of Washington to:

- Provide continuous operation of the Washington state ferry system at reasonable cost to users.
- Efficiently provide levels of ferry service consistent with trends and forecasts of ferry usage.
- Promote harmonious and cooperative relationships between the ferry system and its employees by permitting ferry employees to organize and bargain collectively.
- Protect the citizens of this state by assuring effective and orderly operation of the ferry system in providing for their health, safety, and welfare.
- Prohibit and prevent all strikes or work stoppages by ferry employees.
- Protect the rights of ferry employees with respect to employee organizations.
- Promote just and fair compensation, benefits, and working conditions for ferry system employees as compared with public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia in directly comparable but not necessarily identical positions. (RCW 47.64.006)

2. Strikes, Work Stoppages and Lockouts

Strikes, work stoppages and lockouts are prohibited. Any citizen is allowed to file in Thurston County Superior Court for an injunction restraining an actual or threatened violation of this prohibition. The rules allow emergency passenger service on the waters of Puget Sound in the event of a work slowdown or stoppage. (RCW 47.64.140)

3. Marine Employees Commission

A three-member Marine Employees Commission is created with members appointed by the Governor subject to the consent of the senate. One member is to be appointed from labor, one from industry and one from the public who has significant knowledge of maritime affairs. The public member is the Chair of the Commission. The Commission is to:

- Adjust all complaints, grievances, and disputes between labor and management;
- Provide for impasse mediation; and

- Provide salary surveys (RCW 47.64.280)

The salary survey is to be conducted prior to and for the purpose of collective bargaining. The survey is to compare wages, hours, employee benefits, and conditions of employment of involved ferry employees with those of public and private sector employees in states along the west coast, including Alaska and British Columbia. The survey is to guide but not define or limit collective bargaining. (RCW 47.64.220)

4. Collective Bargaining

Negotiations must commence on or before September 1st of every odd-numbered year, with negotiations to be complete by April 1st of the following year. If negotiations are not concluded by April 1st, the parties shall be deemed to be at impasse and shall proceed to mediation. The agreements must be complete on or before September 1st of the even-numbered year next preceding the biennial budget period during which the agreement should take effect.

The governor shall submit to the legislature a request for funds or legislation necessary to implement the agreement or arbitration award only if the Director of the Office of Financial Management has by October 1st before the legislative session certified that the agreement or arbitration award is financially feasible for the state.

The legislature shall approve or reject the submission of the request for funds necessary to implement the agreement or arbitration award as a whole for each agreement or award. If the legislature rejects or fails to act on the submission, the agreement is not binding and either party may reopen all or part of the agreement.

If a significant revenue shortfall occurs resulting in reduced appropriations to WSF, as declared by the governor or by the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed-upon modification of the agreement. (RCW 47.64.170)

5. Interest Arbitration

If an agreement is not reached by April 15th and upon recommendation of the assigned mediator, all impasse items shall be submitted for arbitration. The issues for arbitration shall be limited to those issues certified by the commission, with final positions on the matters to be submitted to the arbitrator or arbitration panel not later than ten working days before the hearing date. (RCW 47.64.300)

An interest arbitration exercises a state function and is functioning as a state agency. (RCW 47.64.310)

The decision of an arbitrator or arbitration panel is not binding on the legislature. If not funded by the legislature, the arbitrated agreement is not binding on the state, WSDOT or ferry employee organizations. Arbitrators are to take into consideration:

- Past collective bargaining contracts between the parties including the bargaining that led up to the contracts.
- The constitutional and statutory authority of the employer.
- Stipulations of the parties.
- The results of the salary survey.
- Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved.
- Changes in any of the foregoing circumstances during the pendency of the proceedings.
- The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature.
- Other factors that are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining. (RCW 47.64.320)

Table 8. Marine Employees Labor Relations

RCW	Provision
47.64.006	Public policy of the state to: <ol style="list-style-type: none"> 1. provide continuous operation of the ferry system at reasonable cost to users. 2. efficiently provide levels of ferry service consistent with trends and forecasts of ferry usage. 3. promote harmonious and cooperative relationships between the ferry system and its employees by permitting ferry employees to organize and bargain collectively. 4. protect the citizens of this state by assuring effective and orderly operation of the ferry system. 5. prohibit and prevent all strikes or work stoppages by ferry employees. 6. protect the rights of ferry employees with respect to employee organizations. 7. promote just and fair compensation, benefits, and working conditions for ferry system employees as compared with public and private sector employees in states along the west coast and B.C.
47.64.140	Prohibits strikes, work stoppages and lockouts.
47.64.280	Establishes the three-member Marine Employees Commission to <ol style="list-style-type: none"> 1. Adjust complaints, grievances and disputes between labor and management 2. Provide for impasse mediation 3. Provide salary surveys Members to be appointed by governor, subject to consent of the senate. One member is to be appointed from labor, one from industry and one from the public. Public member is chair. Salary survey is to be conducted prior to and for the purpose of collective bargaining.
47.64.170	Establishes schedule for collective bargaining. <ol style="list-style-type: none"> 1. Must commence on or before 9-1 of every odd-numbered year. 2. Must be complete by 4-1 of the following year. 3. If not concluded by 4-1, the parties shall proceed to mediation. 4. Agreements must be complete by 9-1 of the even-numbered year preceding the biennial budget. Governor shall submit to the legislature a request for funds or legislation to implement the agreement if the Director of the Office of Financial Management certifies before 10-1 that it is financially feasible. Legislature shall approve or reject the submission of the request for funds or necessary legislation as a whole. If rejected by the legislature, the agreement is not binding.

RCW	Provision
	If a significant shortfall in revenue occurs resulting in reduced appropriations to WSF, as declared by the governor or the legislature, both parties must return to collective bargaining.
47.64.300	If agreement is not reached by 4-15, or upon recommendation of the mediator, all impasse items shall be submitted for arbitration, with issues for arbitration limited to those certified by the Marine Employees Commission. Final positions on matters to go to arbitration must be submitted no later than 10 working days before the hearing date.
47.64.310	An interest arbitration exercises a state function and is functioning as a state agency.
47.64.320	An arbitration decision is not binding on the legislature. Arbitrators are to take into consideration: <ol style="list-style-type: none"> 1. Past collective bargaining contracts. 2. The constitutional and statutory authority of the employer. 3. Stipulations of the parties. 4. The results of the salary survey. 5. Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees in states along the west coast & BC. 6. Changes in any of the foregoing circumstances during the pendency of the proceedings. 7. The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature. 8. Other factors that are normally or traditionally taken into consideration.

D. RCW 47.06 Planning

RCW 47.06 deals with the statewide transportation plan. The intent of planning is to provide a guide for short-term investment needs and a long-range vision for transportation system development.

The statewide multimodal transportation plan is to: conform with federal requirements; ensure the continued mobility of people and goods within regions and across the state in a safe, cost-effective manner; and include a state-owned facilities component, which shall guide state investment for state highways including bicycle and pedestrian facilities, and state ferries. The plan is also to include a state-interest component, which shall define the state interest in aviation, marine ports and navigation, freight rail, inter-city passenger rail, bicycle transportation and pedestrian walkways, and public transportation.

The plans developed under the state-owned facilities component and the state-interest components:

- Must be consistent with the state transportation policy plan and with each other.
- Reflect public involvement.
- Be consistent with regional transportation planning, high-capacity transportation planning, and local comprehensive plans.
- Include analysis of intermodal connections and choices.

A primary emphasis for these plans shall be the relief of congestion, the preservation of existing investments and downtowns, the ability to attract or accommodate planned population and employment growth, the improvement of traveler safety, the efficient

movement of freight and goods, and the improvement and integration of all transportation modes to create a seamless intermodal transportation system for people and goods.

The plans are to identify and document potential affected environmental resources, including, but not limited to, wetlands, storm water runoff, flooding, air quality, fish passage, and wildlife habitat. (RCW 47.06.010)

The ferry portion of the state plan is to:

- Establish service objectives for state ferry routes.
- Forecast travel demand for the various markets served in the ferry system.
- Develop strategies for ferry system investment that consider regional and statewide vehicle and passenger needs.
- Support local land use plans.
- Assure that ferry services are fully integrated with other transportation services.
- Provide for maintenance of capital assets.
- Provide for preservation of capital assets based on lowest life-cycle cost methodologies.
- Assess the role of private ferries operating under the authority of the utilities and transportation commission.
- Coordinate ferry system capital and operational plans with these private operations.
- Be consistent with the regional transportation plans for areas served by the state ferry system.
- Be developed in conjunction with the ferry advisory committees. (RCW 47.06.050)

The plan is also to set level of service standards for state ferry routes of statewide significance and to consider the necessary balance between providing for the free inter-jurisdictional movement of people and goods, and the needs of local communities using these facilities. (RCW 47.06.140)

Table 9. Planning

RCW	Provision
47.06.010	Statewide multimodal transportation plan to include a state-owned component, including a component on ferries. The state-owned components and the state-interest components are to: <ol style="list-style-type: none"> 1. Be consistent with the state transportation policy plan and with each other. 2. Reflect public involvement. 3. Be consistent with regional transportation planning, high-capacity transportation planning, and local comprehensive plans. 4. Include analysis of intermodal connections and choices.
47.06.050	The ferry portion of the plan is to: <ol style="list-style-type: none"> 1. Establish service objectives for state ferry routes. 2. Forecast travel demand for the various markets served in the ferry system. 3. Develop strategies for ferry system investment that consider regional and statewide vehicle and passenger needs. 4. Support local land use plans.

RCW	Provision
	5. Assure that ferry services are fully integrated with other transportation services. 6. Provide for maintenance of capital assets. 7. Provide for preservation of capital assets based on lowest life-cycle cost methodologies. 8. Assess the role of private ferries operating under the authority of the utilities and transportation commission. 9. Coordinate ferry system capital and operational plans with these private operations. 10. Be consistent with the regional transportation plans for areas served by the state ferry system. 11. Be developed in conjunction with the ferry advisory committees.
47.06.140	The ferry plan is to establish level-of-service standards for state ferry routes of statewide significance and to consider the balance between movement of people and goods, and the needs of local communities using these facilities.

E. SSB 6241: Transportation Budget

Policy directions for WSF are incorporated in the transportation budget. SSB 6241 provides policy directions for the FY 2005-07 biennium.

1. Marine Employees Commission (MEC)

To address its growing caseload, the MEC is developing a plan for prioritizing cases to schedule for hearings. The MEC is to report to the transportation committees of the legislature on its case prioritization plan by Dec. 15, 2005.

2. Ferry Financing Study

The purpose of the study is to facilitate policy discussions and decisions by members of the legislature regarding WSF. The legislature recognizes that there is a need within the Washington state ferry system for predictable cash flows, transparency, assessment of organizational structure, verification that the Washington state ferry system is operating at maximum efficiency, and better labor relations. The study must include, at minimum, a review and evaluation of the ferry system's financial plan, including current assumptions and past studies in the following areas:

- Operating program, including ridership, revenue and cost forecasts and the accuracy of those forecasts.
- Capital program, including project scoping, prioritization and cost estimating, project changes including legislative input regarding significant project changes, and performance measures.

The Joint Transportation Committee is to forward the study to the transportation committees of the house and senate by January 1, 2007.

3. Passenger-Only Ferry Service

Established the eighteen-member passenger-only ferry service task force. (See passenger-only service section above.)

4. Sidney Service

WSF is directed to continue service to Sidney.

5. Fuel Costs

WSDOT, the Washington State Economic Revenue Forecast Council and Office of Financial Management are to review and adopt a method of forecasting motor vehicle and special fuel prices, revenue and the amount of consumption. The report, which will deal with ferries' fuel prices, is due December 1, 2006.

6. Security Expenditures

Ferry security operations costs shall not be included as part of the operational costs that are used to calculate farebox recovery. WSF is to track security costs and expenditures.

7. Electronic Fare System

WSF is to implement an electronic fare system, including the integration of the regional fare system (smart card). WSF is required to report each December and June on the implementation of electronic fares, with updates concluding the first December after full implementation.

8. Project Reporting

WSF is required to report, on a quarterly basis beginning July 1, 2005, to the Office of Financial Management and the legislature the status of each project in the project lists regarding project scope, schedule and costs.

Table 10. Budget Policies

SSB	Provision
SSB 6241	<p>Marine Employees Commission: Develop system to prioritize caseload and report to legislature by 12-05.</p> <p>Ferry Financing Study: Authorize Joint Transportation Committee report to facilitate legislative discussions on the ferry system. Report due Jan. 1, 2007.</p> <p>Passenger-Only Ferry Service: Established the eighteen-member passenger-only ferry service task force. (See passenger-only service section above.)</p> <p>Sidney Service: WSF is directed to continue service to Sidney.</p> <p>Fuel Costs: WSDOT, the Washington State Economic Revenue Forecast Council and OFM are to review and adopt a method of forecasting motor vehicle and special fuel prices, revenue and the amount of consumption. The report, is due December 1, 2006.</p> <p>Security Expenditures: Ferry security operations costs shall not be included as part of the operational costs that are used to calculate farebox recovery. WSF is to track security costs and expenditures.</p> <p>Electronic Fare System: WSF is to implement an electronic fare system, including the integration of the regional fare system (smart card). WSF is required to report each December and June on the implementation of electronic fares, with updates concluding the first December after full implementation.</p> <p>Project Reporting: WSF is required to report, on a quarterly basis beginning July 1, 2005, to OFM and the legislature the status of each project in the project lists regarding project scope, schedule and costs.</p>

Appendix A Interviews

Senate

Senator Haugen – Chair Senate Transportation Committee
Senator Benson
Senator Rockefeller
Senator Shin
Senator Spanel
Mike Groesch – Senate Transportation Committee staff
Joseph Backholm – Senate Republican caucus staff

House of Representatives

Rep. Murray
Rep. Flannagan
Rep. Woods
Rep. Morris
Beth Redfield – House Transportation Committee staff
Jay Balasbas – House Republican Caucus staff
Mary Fleckenstein – House Democratic Caucus staff

Appendix B Summary of Legislation

Purpose of Ferries

RCW	Provision
47.60.010	Authorizes ferries to connect to state highways. Ferry system may include toll bridges, approaches & connecting roadways.
47.60.017	State ferry system is a public mass transportation system.
47.60.120	Prohibits other ferry services within 10 miles of WSF ferry routes, except for passenger-only ferry service by ferry districts or public transportation districts meeting the requirements of RCW 36.57A.200.
47.60.130	Allows operation and financing of the ferry system in conjunction with any toll bridge across Puget Sound that replaces a presently operated ferry route or across Hood Canal.

Tariffs and Charges

RCW	Provision
47.60.290	Review tariffs for the purpose of establishing a more fair and equitable tariff for passengers, vehicles and commodities, subject to RCW 47.60.326.
47.60.300	The review required by RCW 47.60.326 shall occur every three years & must include: <ul style="list-style-type: none"> a. time of travel b. distance of travel c. operating costs d. maintenance and repair expenses e. effect on debt service requirements f. allocation of vessels to particular runs g. the scheduling of particular runs h. the adequacy and arrangements of docks and dock facilities i. or factors as decided by the department.
47.60.310	Establishes Ferry Advisory Committees to be appointed by County legislative authorities, except for Vashon Island where a community council appoints the members. The department is to consult with the Ferry Advisory Committees in making tariff recommendations.
47.60.326	The department to review fares by Feb. 1 st of each odd-numbered year. WSTC to adopt fares by July 1 st for the ensuing biennium. Fare review may include: <ul style="list-style-type: none"> a. Subsidy available to the ferry system for maintenance and operation. b. Time and distance of runs. c. Maintenance and operation costs for runs adjusted for use of outmoded or less efficient equipment. d. Efficient distribution of traffic between cross-sound routes. e. Reasonable rates for commuters & other frequent users in ferry dependent communities. f. Increasing walk-on and vehicular passenger use. g. Promote non-peak use. h. Other revenues from advertisements, parking, contracts, leases, etc. i. The pre-purchase of multiple fares. j. Other factors prudent ferry system managers would consider. WSF CEO allowed to set promotional, discounted and special event fees.
47.60.330	Establishes public participation requirements for major service reductions or expansions and for tariff changes. Requires: <ul style="list-style-type: none"> a. Public hearings in local communities, or b. A survey of affected ferry users, and c. Review with Ferry Advisory Committees as required by RCW 47.60.130. Requires the consideration of all possible cost reductions, with full public participation on the cost reductions, and adapting service levels equitably on a route-by-route basis to reflect trends in and forecasts of traffic usage before tolls are increased.

RCW	Provision
47.60.440	Ferry system is to be operated and maintained as a revenue-producing undertaking. WSTC required to set tolls to meet debt service requirements.

Other Operating Revenues/Public-Private Partnerships

RCW	Provision
47.60.135	Authorizes chartering of ferries when not disruptive to normal operations. Charter fees must be set for full cost recovery plus a market-rate return. Chartering must be sensitive to the interests of existing private enterprises.
47.60.140	Ferries to be operated as revenue-producing and self-liquidating undertaking. Authorized to enter into leases and contracts for concessions & space. Allowed to sell commercial advertising space and use of the WSF trademarks. Unless part of a joint development agreement, leases cannot be longer than ten years and must be entered into through an invitation for bids or RFP process. All concessions and other income from these ten year agreements must be used to support operations. Joint development agreements can be up to 55 years (or 30 for those areas located within harbors) if necessary to allow the developer to make a reasonable recovery on their initial investment. An analysis of the compatibility of public and private partnerships with WSF's core business and the effort to maximize non-farebox revenue is to be included in the strategic planning and performance assessment process required under the state budget law – RCW 43.88.090. If an open solicitation is warranted, public-private partnerships are to be sought via an RFP with the evaluation based on compatibility with WSF's core business, potential to maximize non-farebox revenue, longevity of possible partnership commitment and benefit to ferry users. If no responses are received or the responses to the RFP are rejected, WSF may proceed to implement its operating strategies without established partnerships.

Vessel Acquisition

RCW	Provision
47.60.730-780	Authorized Jumbo Mark II class vessel construction. Authorized bid process for vessel construction. Permitted an RFP process to be used for purchase of the propulsion system in response to the findings of the 1991 Washington State Ferries Management of Vessel Refurbishment Programs report. Notes to 47.60.780 reference implementation of the 1991 report with additional criteria for acquisition of equipment, parts, and supplies to be installed in the Jumbo Mark II ferries.
47.60.810-822	Authorized auto-ferry vessel acquisition through a three-phase design-build process in response to the 2001 Performance Audit of the Washington State Ferry System Capital Program.

Passenger-Only Ferry Service

RCW	Provision
47.60.649-654	Directed WSF to proceed with design and permitting processes for passenger-only terminals at Southworth and Kingston. Authorized to acquire 4 passenger-only ferries. Terminal improvements and vessel acquisition contingent on legislative appropriation.
47.60.656	Authorized the department to convey its passenger-only ferries and other properties associated with passenger-only service to public transportation benefit areas or county ferry districts as full or part consideration for the benefit area or ferry district to assume all future maintenance and operations obligations and costs to maintain and operate the vessels and facilities.
47.60.658	Department shall maintain the Jan. 1, 2006 level of service on the Vashon to Seattle passenger-only ferry route until the legislature approves a county ferry district's assumption of the route under RCW 36.54.110(5).
47.60.662	WSF shall collaborate with new and potential passenger-only ferry service providers as described under RCW 36.54.110(5) for terminal operations at its existing terminal facilities.

County Ferry Districts – Passenger-Only Service

RCW	Provision
37.54.110	<p>Authorizes the legislative authority to create a ferry district. The ferry district is an independent taxing authority. The members of the county legislative authority shall compose the governing body of any ferry district. Authorizes a ferry district to assume a passenger-only ferry route between Vashon and Seattle, including an expansion to include Southworth provided that the district submits a business plan to the governor and legislature by November 1, 2006. The business plan must include:</p> <ol style="list-style-type: none"> 1. Hours of operation 2. Vessel needs 3. Labor needs 4. Proposed routes 5. Passenger terminal facilities 6. Passenger rates 7. Anticipated federal and local funding 8. Coordination with WSF 9. Coordination with existing transit providers 10. Long-term maintenance and operations needs 11. Long-term financial plan <p>All operations must be provided by the ferry district and cannot be sub-contracted. All existing labor agreements must be honored. Operations must start by July 1, 2007.</p>
36.54.130	<p>Ferry district may levy each year an ad valorem tax on all taxable property in the district not to exceed \$.75 per thousand dollars of assessed value. The levy must be sufficient for the provision of ferry services as shown in the budget of the ferry district. The tax may only be used for providing ferry services.</p>
36.54.140	<p>Ferry district may impose excess levies upon the property included in the district for a one-year period to be used for operating or capital purposes whenever authorized by district electors.</p>

Public Transportation Benefit Areas – Passenger-Only Ferry Service

RCW	Provision
36.57A.200	<p>Authorizes a public transportation benefit area with a boundary located on Puget Sound to provide passenger-only ferry service. Before providing such service, the benefit area must develop a passenger-only ferry investment plan to include:</p> <ol style="list-style-type: none"> 1. Elements to operate or contract for the operation of passenger-only ferry service, including purchase, lease or rental of ferry vessels and dock facilities for the provision of transit service and other activities necessary to implement the plan. 2. Terminal locations to be served. 3. Project costs for providing service. 4. Revenues to be generated from tolls, locally collected revenues and other revenue sources. <p>Findings: The legislature finds that passenger-only ferry service is a key element to the state's transportation system and that it is in the interest of the state to ensure provision of such services. The legislature further finds that diminished state transportation resources require that regional and local authorities be authorized to develop, operate, and fund needed services. The legislature recognizes that if the state eliminates passenger-only ferry service on one or more routes, it should provide an opportunity for locally sponsored service and the department of transportation should assist in this effort. It is the intent of the legislature to encourage inter-local agreements to ensure passenger-only ferry service is reinstated on routes that the Washington state ferry system eliminates.</p>
36.57A.210	<p>As part of passenger-only investment plan, benefit areas may recommend some or all of the following revenue sources:</p> <ol style="list-style-type: none"> 1. Motor vehicle excise tax as provided in RCW 82.80.130. 2. Sales and use tax, as provided in RCW 82.14.440.

RCW	Provision
	3. Tolls for passengers and packages, and where applicable, parking. 4. Charges or licensing fees for advertising, leasing space for services to ferry passengers and other revenue-generating activities. Taxes may not be imposed without voter approval.
36.57A.220	A public transportation benefit area seeking funding for a passenger-only ferry route between Kingston and Seattle shall first receive approval from the governor after submitting a complete business plan to the governor and legislature by November 1, 2006. The business plan must include, at a minimum: <ol style="list-style-type: none"> 1. Hours of operation 2. Vessel needs 3. Labor needs 4. Proposed routes 5. Passenger terminal facilities 6. Passenger rates 7. Anticipated federal and local funding 8. Coordination with WSF 9. Coordination with existing transit providers 10. Long-term operations and maintenance needs 11. Long-term financial plan

Marine Employees Labor Relations

RCW	Provision
47.64.006	Public policy of the state to: <ol style="list-style-type: none"> 1. Provide continuous operation of the ferry system at reasonable cost to users. 2. Efficiently provide levels of ferry service consistent with trends and forecasts of ferry usage. 3. Promote harmonious and cooperative relationships between the ferry system and its employees by permitting ferry employees to organize and bargain collectively. 4. Protect the citizens of this state by assuring effective and orderly operation of the ferry system. 5. Prohibit and prevent all strikes or work stoppages by ferry employees. 6. Protect the rights of ferry employees with respect to employee organizations. 7. Promote just and fair compensation, benefits, and working conditions for ferry system employees as compared with public and private sector employees in states along the west coast and B.C.
47.64.140	Prohibits strikes, work stoppages and lockouts.
47.64.280	Establishes the three-member Marine Employees Commission to <ol style="list-style-type: none"> 1. Adjust complaints, grievances and disputes between labor and management. 2. Provide for impasse mediation. 3. Provide salary surveys. Members to be appointed by governor, subject to consent of the senate. One member is to be appointed from labor, one from industry and one from the public. Public member is chair. Salary survey is to be conducted prior to and for the purpose of collective bargaining.
47.64.170	Establishes schedule for collective bargaining. <ol style="list-style-type: none"> 1. Must commence on or before 9-1 of every odd-numbered year. 2. Must be complete by 4-1 of the following year. 3. If not concluded by 4-1, the parties shall proceed to mediation. 4. Agreements must be complete by 9-1 of the even-numbered year preceding the biennial budget. Governor shall submit to the legislature a request for funds or legislation to implement the agreement if the Director of the Office of Financial Management certifies before 10-1 that it is financially feasible. Legislature shall approve or reject the submission of the request for funds or necessary legislation as a whole. If rejected by the legislature, the agreement is not binding. If a significant shortfall in revenue occurs resulting in reduced appropriations to WSF, as declared by

RCW	Provision
	the governor or the legislature, both parties must return to collective bargaining.
47.64.300	If agreement is not reached by 4-15, or upon recommendation of the mediator, all impasse items shall be submitted for arbitration, with issues for arbitration limited to those certified by the Marine Employees Commission. Final positions on matters to go to arbitration must be submitted no later than 10 working days before the hearing data.
47.64.310	An interest arbitration exercises a state function and is functioning as a state agency.
47.64.320	An arbitration decision is not binding on the legislature. Arbitrators are to take into consideration: <ol style="list-style-type: none"> 1. Past collective bargaining contracts. 2. The constitutional and statutory authority of the employer. 3. Stipulations of the parties. 4. The results of the salary survey. 5. Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees in states along the west coast & BC. 6. Changes in any of the foregoing circumstances during the pendency of the proceedings. 7. The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature. 8. Other factors that are normally or traditionally taken into consideration.

Planning

RCW	Provision
47.06.010	Statewide multimodal transportation plan to include a state-owned component, including a component on ferries. The state-owned components and the state-interest components are to: <ol style="list-style-type: none"> 1. Be consistent with the state transportation policy plan and with each other. 2. Reflect public involvement. 3. Be consistent with regional transportation planning, high-capacity transportation planning, and local comprehensive plans. 4. Include analysis of intermodal connections and choices.
47.06.050	The ferry portion of the plan is to: <ol style="list-style-type: none"> 1. Establish service objectives for state ferry routes. 2. Forecast travel demand for the various markets served in the ferry system. 3. Develop strategies for ferry system investment that consider regional and statewide vehicle and passenger needs. 4. Support local land use plans. 5. Assure that ferry services are fully integrated with other transportation services. 6. Provide for maintenance of capital assets. 7. Provide for preservation of capital assets based on lowest life-cycle cost methodologies 8. Assess the role of private ferries operating under the authority of the utilities and transportation commission. 9. Coordinate ferry system capital and operational plans with these private operations. 10. Be consistent with the regional transportation plans for areas served by the state ferry system. 11. Be developed in conjunction with the ferry advisory committees.
47.06.140	The ferry plan is to establish level-of-service standards for state ferry routes of statewide significance and to consider the balance between movement of people and goods, and the needs of local communities using these facilities.

Budget Policies

SSB	Provision
SSB 6241	Marine Employees Commission: Develop system to prioritize caseload and report to legislature by 12-05. Ferry Financing Study: Authorize Joint Transportation Committee report to facilitate legislative discussions on the ferry system. Report due Jan. 1, 2007.

SSB	Provision
	<p>Passenger-Only Ferry Service: Established the eighteen-member passenger-only ferry service task force. (See passenger-only service section above.)</p> <p>Sidney Service: WSF is directed to continue service to Sidney.</p> <p>Fuel Costs: WSDOT, the Washington State Economic Revenue Forecast Council and OFM are to review and adopt a method of forecasting motor vehicle and special fuel prices, revenue and the amount of consumption. The report, is due December 1, 2006.</p> <p>Security Expenditures: Ferry security operations costs shall not be included as part of the operational costs that are used to calculate farebox recovery. WSF is to track security costs and expenditures.</p> <p>Electronic Fare System: WSF is to implement an electronic fare system, including the integration of the regional fare system (smart card). WSF is required to report each December and June on the implementation of electronic fares, with updates concluding the first December after full implementation.</p> <p>Project Reporting: WSF is required to report, on a quarterly basis beginning July 1, 2005, to OFM and the legislature the status of each project in the project lists regarding project scope, schedule and costs.</p>