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Jones Act Exacerbates US Ferry System Struggles

By Colin Grabow



Washington State Ferries (WSF) has certainly seen better days. With over 3,500 **canceled sailings** last year and just 15 of its 21 vessels **reliably**

operating, a recent *Seattle Times* **editorial** described the ferry system as “in crisis” and characterized its fleet as “antiquated” and “depleted.” Such language is apt. With 11 of the **system’s ferries** at least 40 years old and WSF five short of the 26 vessels it **considers ideal**, new vessels are badly needed. Unfortunately, none are projected to arrive **until 2028** at the earliest.

The ferry system’s troubles have **become a topic** of this year’s governor’s race, including **criticism** of the state’s decision to procure ferries powered by hybrid electric engines—a move some observers allege has complicated the acquisition process. At most, however, this is only a proximate cause of WSF’s ferry woes. Far more deserving of blame are protectionist maritime laws that prohibit the purchase of vessels from the international market. Such restrictions mean that WSF—in fact, *all* US ferry systems—must provide service with one hand tied behind their backs.

That Washington urgently needs to revamp its ferry fleet isn’t news. Five years ago, the state **passed legislation** allowing a contract extension with Seattle shipyard Vigor—which has built WSF’s **last ten vessels**—to build up to five more large ferries using hybrid electric technology. But negotiations with the shipyard then hit a snag. While Washington had pegged the cost of new ferries at \$188 million each in 2018—an estimate that rose to **\$249 million** in 2022—the price quoted by Vigor for the first such ferry was **over \$400 million**.

Ouch.

Washington responded by **rebidding the contract** and **changing its law** so **shipyards outside the state** could compete to build the vessels. That, however, has meant **delays** in the acquisition process, mounting **frustration** among ferry users, and the ongoing **exchange of barbs** over the new propulsion system.

But this controversy misses the bigger picture. Washington’s chief obstacle to cost-effectively acquiring new ferries isn’t rooted in technology but protectionism. One only needs to look across Washington’s international border to see why.

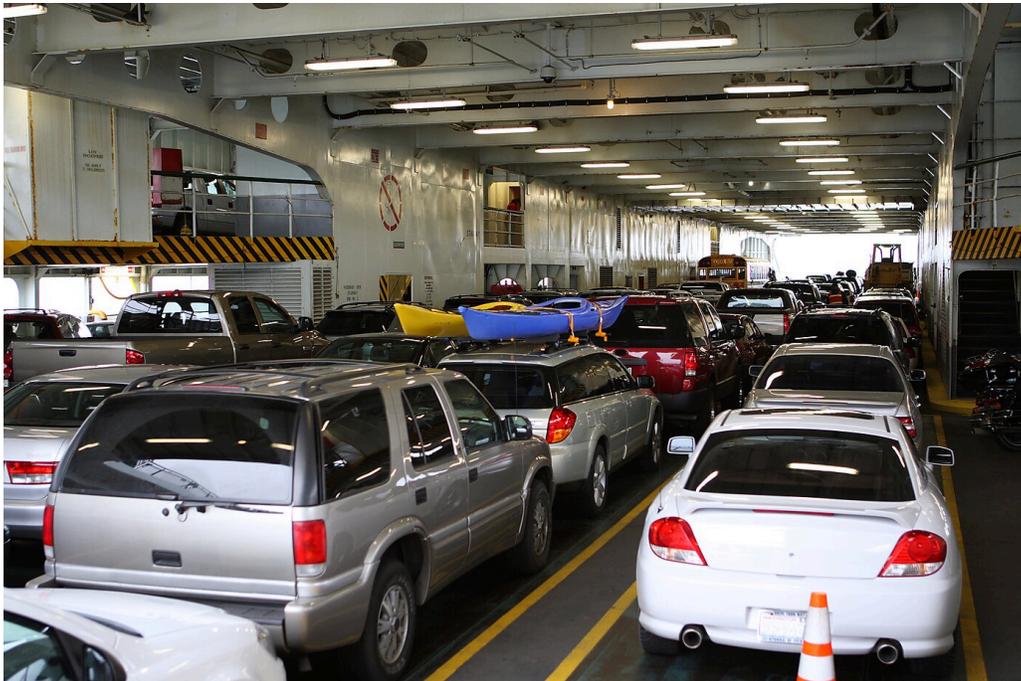
In late 2019, only two months after Washington **announced** its plan to purchase new hybrid electric ferries, Canadian ferry operator BC Ferries **ordered** four vessels with the same technology from a European

shipbuilder. All four **were delivered** before the end of 2021. Featuring a capacity approximately one-third that of the vessels sought by WSF (450 passengers and crew and 47 vehicles versus 1,500 passengers and 144 vehicles), the ferries cost about **\$38 million each**—less than a sixth of the new WSF ferries' estimated price.

WSF and BC Ferries' contrasting experiences are largely (if not entirely) due to the latter's ability to buy vessels from international shipbuilders. When BC Ferries announced its desire to purchase four new hybrid electric ferries, **18 shipyards** from around the world indicated their interest (of which 9 were selected to compete). Notably, not a single Canadian shipyard bid on the project.

In contrast, WSF must contend with the 1920 **Jones Act**, which applies to the domestic waterborne transportation of merchandise (e.g. vehicles), and the Passenger Vessel Services Act of 1886, which restricts the domestic waterborne transportation of people. Both laws require vessels to be constructed in US shipyards that are far less numerous and far less competitive than their international counterparts. Significantly higher prices for WSF's new ferries are a foregone conclusion.

And the protectionist headaches don't stop there.



After the vessels are delivered, WSF still faces the task of finding mariners to crew them. That's unlikely to be easy, with a **January report** from Washington's Department of Transportation pointing out that the ferry system faces "severe staff shortages that are unprecedented in its 70-year history." Maritime protectionism figures here too. While BC Ferries and other international ferry systems can hire skilled foreign mariners to help mitigate such crew shortages, the report points out that WSF is "precluded from doing [so] by the 1920 Jones Act" (US-flagged vessels **are restricted** in the employment of foreign nationals to green card holders).

Unfortunately, Jones Act-induced complications to US ferry systems go beyond Washington.

Like WSF, the Alaska Marine Highway System (AMHS) also needs new vessels, including a **hybrid electric replacement** for its 1964-built ferry *Tustumena*. **Described** by the system's director as thirty years past its prime, the ferry has a history of **structural issues** and saw its return to service from an annual overhaul **recently delayed** by the discovery of wasted steel. Just maintaining the vessel costs **\$2 million** per year. As the *Anchorage Daily News* has **pointed out**, however, finding the money and a shipyard willing to build the new ferry is proving a challenge:

The replacement vessel is expected to cost around \$350 million. Sam Dapcevich, a marine highway spokesperson, said the state has so far secured nearly \$243 million, counting around \$60 million in expected federal formula funds. That leaves more than \$107 million needed to fund the project. The state is hoping most — if not all — of the balance can be covered through a federal grant.

As of March, amid months of delays, the *Tustumena* replacement vessel has yet to go out to bid. The design was changed to include batteries, reflecting a federal requirement for reduced emissions. **A bid attempt in 2022 yielded no takers** [emphasis and hyperlink added]. Last summer, [AMHS Director Craig] Tornga **said** he wanted to select a shipyard by the end of the year. In December, Tornga **said** he wanted to put out a request for proposals in January. Delays have piled on as Tornga held meetings with several shipyard officials to ensure that unlike in 2022, shipyards would, in fact, bid on the project.

On the East Coast, meanwhile, Massachusetts' Steamship Authority hasn't even bothered constructing new purpose-built vessels to replace three of

its aging (and **deteriorating**) ferries. Instead, it **purchased three** offshore service vessels—all at least fifteen years of age—used to support Gulf of Mexico offshore oil and gas operations and is converting them into ferries. The project has already experienced hiccups, with the conversions' cost increasing from a projected \$9 million per vessel to **\$13.6 million**.

Transporting **over 131 million** passengers in 2019, ferries form an important part of the US transportation system. They are particularly vital for parts of the country, including Alaska and the greater Puget Sound region, for which land-based transport alternatives are either less direct and more time-consuming or non-existent. For these communities, ferry service is a lifeline and their difficulties demand an effective response from policymakers. Taking aim at **costly and ineffective** maritime protectionism that impedes US ferry systems' ability to obtain the vessels and mariners they need would be an excellent start.

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