

SENATE BILL REPORT

SSB 6519

As Amended by House, February 28, 2018

Title: An act relating to revising the establishment of marine pilotage tariffs.

Brief Description: Revising the establishment of marine pilotage tariffs.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators King and Hobbs).

Brief History:

Committee Activity: Transportation: 1/31/18, 2/05/18 [DPS].

Floor Activity:

Passed Senate: 2/12/18, 46-1.

Passed House: 2/28/18, 98-0.

Brief Summary of First Substitute Bill

- Transfers the function of marine pilotage rate-setting from the Board of Pilotage commissioners to the Utilities and Transportation Commission, beginning July 1, 2019.
- Prohibits pilotage tariffs from being established more frequently than annually.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 6519 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hobbs, Chair; Saldaña, Vice Chair; King, Ranking Member; Chase, Cleveland, Dhingra, Fortunato, Liias, McCoy, O'Ban, Sheldon, Takko, Wellman and Zeiger.

Staff: Hayley Gamble (786-7452)

Background: Board of Pilotage (BOP). The BOP is a regulatory board consisting of nine part-time members supported by three staff. Seven members are appointed by the Governor, subject to Senate confirmation, each for a term of four years. Additionally, the director of the Department of Ecology, or the director's designee is a member, and the assistant secretary of the Department of Transportation's Ferry Division, or their designee, is the chairperson. The

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

BOP trains, tests, licenses, and regulates marine pilotage in Puget Sound and Grays Harbor. The BOP also sets tariff rates and takes disciplinary action against pilots and vessel owners who violate state pilotage laws. Generally, most foreign-flagged vessels are required to use a licensed marine pilot when in Puget Sound or Grays Harbor waters. Vessels using a pilot are charged a fee known as a pilotage tariff, which is set by the BOP.

Since 2008, the BOP has been a non-appropriated agency, and therefore does not need appropriation authority before making expenditures from the pilotage account. The BOP is required to submit an annual report of its activities and financial transactions, as well as those of the Puget Sound Pilot's Association.

The Washington Utilities and Transportation Commission (UTC). The UTC is a three-member commission appointed by the Governor, subject to Senate confirmation. The UTC has more than 150 staff supporting the commissioners. The UTC regulates and sets rates for, telecommunication companies and privately-owned electric, natural gas, and water companies and also certain transportation businesses such as in-state household movers, solid waste carriers, and private ferries. The UTC also deals with certain safety issues relating to charter buses, railroads, limousines, and special needs transportation. Generally, rate setting cases are heard in a formal, legal setting.

Summary of First Substitute Bill: The function of marine pilotage rate-setting is transferred from the BOP commissioners to the UTC, beginning July 1, 2019. The UTC would establish pilotage tariffs not more frequently than annually.

The pilotage account is made an appropriated account and UTC expenditures for pilotage tariff-setting is added as an allowable use of the account. Grays Harbor pilotage tariff proposals are sent to the UTC rather than the BOP for approval. The UTC may include reasonable costs incurred by the UTC in the pilotage rate. The UTC may adopt rules relating to setting pilotage tariffs prior to July 1, 2019, and may receive tariff filings 30 days after pilotage rules are adopted. The UTC shall submit any statutory changes necessary to implement this bill by December 1, 2018. Requires the Port of Grays Harbor to include a pension charge for pilots employed prior to October 1, 2001, in its recommended pilotage tariff.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on July 1, 2019.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This is an appropriate move and would remove some of the animosity from the BOP process. It moves rate setting to an agency that is set up to do rate setting. The Pacific Merchant Shipping Association represents the shipping industry and the people who pay the tariff. This is an important step

to transfer the tariff. The Puget Sound Pilots are in support of this bill and support the JTC study recommendations. We look forward to working with the UTC.

OTHER: The UTC is neutral on this bill, however the work is consistent with other work we currently do and we are happy to answer any questions. The Port of Grays Harbor is a lot different than the Puget Sound Pilots District. This bill does not work for the Port, the Port recommends pilotage rates to the BOP. The Port has a public process to determine rates. The BOP has a long history of rate setting and could continue that process. The BOP recognizes the need for more transparency and the need for the process to be analytically driven. Marine safety is tied to the tariff. The BOP is committed to improving its processes, including the tariff process.

Persons Testifying: PRO: Senator Curtis King, Prime Sponsor; Scott Hazlegrove, Pacific Merchant Shipping Association; Eric von Brandenfels, Puget Sound Pilots.

OTHER: Jaimie Bever, Executive Director, Board of Pilotage Commissioners; Jay Balasbas, Washington Utilities and Transportation Commission; Gary Nelson, Port of Grays Harbor.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Requires the UTC to provide a report to the Governor and the transportation committees of the Legislature to address matters related to establishing the tariff by July 1, 2020.
- Requires a port district to provide published notice of open meetings for the setting of tariffs, rates, and rules of service at least 30 days prior to the open meeting rather than ten days prior to it; to release its pilotage budget and its proposed tariffs at least 30 days prior to this meeting; and to receive public comments for 30 days prior to approving and recommending pilotage tariffs, rates, and rules of service
- Authorizes the UTC to request the BOP's assistance in setting pilotage tariff rates and requires the BOP to specifically provide its assistance when it is requested, rather than considering the the BOP a "person with a substantial interest" that may petition the UTC for a proposed tariff rate change.
- Explicitly preserves the BOP's ability to charge for certain services that it provides that are separate from the tariff, such as pilotage waiver application fees.
- Mandates the following be part of UTC tariff setting: notification of tariff setting, use of an administrative law judge, contents of tariff filings, UTC response time, persons eligible to comment, burden of proof requirements, and encouragement of alternative dispute resolution.
- Requires that tariffs be fair, just, reasonable, and sufficient for the provision of pilotage services.
- Permits the UTC to consider Puget Sound District pilot retirement expenses incurred in the prior year as an element of the Puget Sound Pilotage District tariff, rather than pilot retirement expenses from both pilotage districts.
- Requires that the UTC include a pilot trainee surcharge to fund training stipends and the BOP's training program.