

# SENATE BILL REPORT

## SB 6321

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As of January 28, 2020

**Title:** An act relating to the compliance of certain national transportation safety board recommendations.

**Brief Description:** Addressing the compliance of certain national transportation safety board recommendations.

**Sponsors:** Senators O'Ban and Zeiger.

**Brief History:**

**Committee Activity:** Transportation: 1/27/20.

**Brief Summary of Bill**

- Requires the Utilities and Transportation Commission (UTC) to review and monitor the actions taken by the Washington State Department of Transportation (DOT), the National Railroad Passenger Corporation (Amtrak), and Sound Transit to comply with the National Transportation Safety Board (NTSB) recommendations regarding the Point Defiance bypass derailment.
- Disallows passenger rail service on the Point Defiance bypass until the UTC submits confirmation to the Governor and the transportation committees of the Legislature that DOT, Amtrak, and Sound Transit have complied with the NTSB recommendations.

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### SENATE COMMITTEE ON TRANSPORTATION

**Staff:** Daniel Masterson (786-7454)

**Background:** Amtrak Cascades and the Point Defiance Bypass Derailment. Amtrak operates passenger rail service on the Amtrak Cascades corridor on behalf of, and with funding from, the Washington and Oregon DOTs.

The \$180 million Point Defiance bypass project was part of the federal High-Speed Rail Program funded through the American Recovery and Reinvestment Act (ARRA) to implement higher speed rail transportation on the Amtrak Cascades corridor. Several entities

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participated in developing the Point Defiance bypass. Sound Transit owns the track where the derailment occurred, and hired and managed the contractors who undertook the work.

On December 18, 2017, on the inaugural run of the new Point Defiance bypass, an Amtrak Cascades train derailed, resulting in three deaths and injuries to many of the passengers on board. In 2019, the NTSB issued an accident report on the derailment. The NTSB report included recommendations to, among others, the Federal Railroad Administration (FRA), Washington State DOT, Amtrak, and Sound Transit, and found there was an absence of clearly defined roles and responsibilities among agencies during preparation for the start of service on this route.

Rail Safety Oversight. Federal law mandates a national rail safety program that is carried out, in part, through the issuance of federal safety requirements and through inspection efforts to monitor compliance with these requirements. The FRA and participating states conduct inspections and investigations as part of the national Rail Safety Program.

Under state law, for the purposes of participating in the enforcement of federal rail safety regulations in cooperation with the FRA, the UTC is granted regulatory jurisdiction over the safety practices for railroad equipment, facilities, rolling stock, and operations. In this role, the UTC collects rail inspection information.

The NTSB is an independent federal agency dedicated to promoting transportation safety, including rail safety. The agency is mandated to investigate transportation accidents, determine the probable causes of the accidents, issue safety recommendations, study transportation safety issues, and evaluate the safety effectiveness of government agencies involved in transportation. The NTSB does not assign fault or legal liability; its statutory mission is to improve transportation safety by investigating accidents and incidents, and issue safety recommendations.

The Washington Utilities and Transportation Commission. 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.

**Summary of Bill:** The UTC is required to:

- conduct a review of the actions taken by DOT, Amtrak, and Sound Transit to comply with recommendations provided by the NTSB regarding the December 18, 2017 Point Defiance bypass derailment, and report to the Governor and the transportation committees of the Legislature by December 1, 2020; and
- monitor the actions taken by DOT, Amtrak, and Sound Transit until it can confirm that the three entities have complied with the recommendations.

Passenger rail service may not resume on the Point Defiance bypass rail corridor, and no state funds shall be expended for such service, until ten days after the UTC submits

confirmation to the Governor and the transportation committees of the Legislature that DOT, Amtrak, and Sound Transit have complied with the NTSB recommendations.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The derailment had a profound impact to nearby communities and across Pierce County, as well as loss of life. The NTSB report made it clear that there was system wide failure among agencies responsible for operating Amtrak Cascades. Many now have a profound lack of confidence in the three agencies, that they will make the changes necessary to operate safely. It is necessary to have third party validation that the service can operate safely. Lakewood and other local agencies strongly support this bill. There are seven at-grade crossings where the bypass runs through Lakewood. We are grateful that two of these crossings will be removed thanks to Connecting Washington package funding. However, we still have concerns about safety at the other crossings which are in highly congested areas of our city and drivers are not accustomed to trains using this track. We believe that many of the NTSB recommendations should have been completed before service started on this route and should be completed before it resumes.

OTHER: We agree with the spirit and the intention of this bill. We also would like to see the Point Defiance bypass open. However we disagree with the NTSB recommendation to remove the Series VI trainsets from the corridor. The information that we wanted to provide to the NTSB was not included in the report. The Series VI design was not a factor in the derailment. NTSB has never once recommended that an entire class of train cars be removed from service. Requiring compliance with this NTSB recommendation would be a problem for us. The UTC appreciates the focus on rail safety. The six months remaining after this bill were to be enacted may not be enough time to complete all of the work of the review. None of the in house rail experts at UTC would be able to perform all of the work necessary to complete the review in this bill, so it would be necessary to hire outside consultants. There are also some questions about the jurisdiction of the UTC and our ability to access all of the records necessary for the review.

**Persons Testifying:** PRO: Senator Steve O'Ban, Prime Sponsor; John Caulfield, City Manager, City of Lakewood.

OTHER: Troy Nichols, Talgo, Inc.; Jason Lewis, Utilities & Transportation Commission.

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