

SENATE BILL REPORT

SB 5465

As Passed Senate, March 3, 1995

Title: An act relating to the maritime commission.

Brief Description: Transferring functions of the Maritime Commission to a nonprofit corporation.

Sponsors: Senators Owen, Prince and Haugen; by request of Washington State Maritime Commission.

Brief History:

Committee Activity: Transportation: 2/2/95, 2/16/95 [DP].
Passed Senate, 3/3/95, 48-0.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass.

Signed by Senators Owen, Chair; Heavey, Vice Chair; Fairley, Haugen, Kohl, Morton, Oke, Prentice, Prince, Rasmussen, Schow and Wood.

Staff: Jennifer Joly (786-7305)

Background: All commercial vessels over 300 gross tons entering Washington waters are required to have an oil spill response system. To that end, vessel owners or operators must prepare an oil spill contingency plan for submittal to the Office of Marine Safety (OMS) prior to entering Washington waters. Additionally, an emergency response communications network is required to ensure calls for assistance are acted upon in the event of an oil spill. A formal contractual relationship must be established with an approved oil spill response contractor capable of responding to a total loss of oil from a vessel anywhere in Washington waters. Finally, a full mobilization exercise, monitored by OMS personnel, must be performed annually. The vessel owner or operator is subject to civil penalties for the non-performance of these requirements.

Realizing the potential impracticality and expense of requiring each vessel calling on a Washington port to have an individualized vessel contingency plan, the 1990 Legislature created the Washington State Maritime Commission (WSMC) to prevent any potential loss of trade due to the oil spill first response system requirements. While some commercial vessel owners or operators have voluntarily joined organizations that provide immediate oil spill response, the WSMC was formed for those vessel owners or operators who are not members of an approved cleanup cooperative, or who do not have individual vessel contingency plans.

The WSMC is responsible for a "first response" system to ensure rapid deployment of personnel and equipment to a spill site. When a spill involves a vessel covered by the WSMC, the WSMC is responsible for a complete containment, recovery and cleanup

response for the first 24 hours after the initial spill report. Expenses incurred during the first 24-hour period by WSMC must be paid by the responsible party (i.e., the spiller).

In order to fulfill their duties, the WSMC is vested with the responsibility and authority to develop a contingency plan, a communications network, and to enter into contracts with an oil spill response contractor. The WSMC levies an assessment on those vessels using its resources in order to fully fund its operation.

In 1994, the Legislature determined that the functions of the WSMC could be provided by a nonprofit, private corporation. Thus, the Legislature voted to sunset WSMC as of July 1, 1995.

Summary of Bill: The WSMC is authorized to conduct activities and make expenditures necessary for the transition of its services and contracts to the nonprofit corporation established for the purpose of providing oil spill response and contingency plan coverage.

The sunset of the WSMC occurs upon completion of the transfer to a nonprofit corporation, but no later than July 1, 1995.

WSMC's documents, books, records, tangible property and assets are transferred to the nonprofit corporation. Funds transferred are earmarked for oil spill response and contingency plan coverage. No funds may be transferred until liabilities of the WSMC have been provided for or satisfied. Outstanding liabilities not provided for or satisfied by WSMC are transferred to the nonprofit corporation.

The statute that requires the Attorney General to serve as the legal adviser to the WSMC is repealed effective July 1, 1995.

Also repealed is the law that allows a contractual provision indemnifying authorized contractors of the WSMC against specific loss, damage, or injury arising out of the performance of the contract, and resulting from the fault of the WSMC, a member, officer, employee, incident commander, or agent thereof.

Appropriation: None.

Fiscal Note: Requested on January 24, 1995.

Effective Date: The bill takes effect immediately, except for Section 4, which takes effect July 1, 1995.

Testimony For: The WSMC has been a model of government and industry partnership to protect the waters and environment by providing umbrella oil spill contingency plan and response coverage to vessels over 300 gross tons that do not have a plan and response system of their own. In order to ensure continued, uninterrupted protection, it is imperative that SB 5465 be passed to assure the smooth transition to privatization.

Testimony Against: None.

Testified: Jerry McMahon, Chair, Washington State Maritime Commission, and Vice President, Pacific Region, the American Waterways Operators; Harry Hutchins, Marine Exchange and Puget Sound Steamship Operators Association.