
Transportation Committee

SSB 6519

Brief Description: Revising the establishment of marine pilotage tariffs.

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

Brief Summary of Substitute Bill

- Transfers marine pilotage tariff rate-setting authority from the Board of Pilotage Commissioners (Board) to the Utilities and Transportation Commission (UTC) as of July 1, 2019.
- Requires the UTC to submit any additional statutory changes necessary to the transfer of tariff-setting responsibilities by December 2018.
- Allows any person with a substantial interest in marine pilotage tariffs, including marine pilots, shippers, and the Board, to file a revised proposed tariff with the UTC.
- Authorizes the UTC to include reasonable costs for setting tariff rates as part of the tariff.
- Transfers a port district's authority to recommend tariffs for pilotage services from the Board to the UTC.

Hearing Date: 2/20/18

Staff: Jennifer Harris (786-7143).

Background:

Board of Pilotage Commissioners.

The Board of Pilotage Commissioners (Board) is comprised of a chairperson, who is either the Assistant Secretary of Marine Operations of the Washington State Department of Transportation (WSDOT) or the Assistant Secretary's designee and an employee of the WSDOT's marine division; the Director of the Department of Ecology or the Director's designee; and seven other

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members appointed by the Governor and confirmed by the Senate. The Board is charged with providing for the maintenance of efficient and competent pilotage service on the waters of the Puget Sound Pilotage District and the Grays Harbor Pilotage District.

The Board is responsible for:

1. issuing training licenses and pilot licenses to pilot applicants;
2. maintaining a comprehensive training and evaluation program for pilot applicants;
3. overseeing additional training requirements, including for continuing education;
4. maintaining a register of pilots, records of pilot accidents, and other pertinent information;
5. determining the number of licensed pilots needed;
6. annually setting pilotage tariffs;
7. filing an annual report with the chairs of the Transportation Committees of the Legislature and with the Governor; and
8. providing for the maintenance of pilotage services on all waters where it is required.

In setting pilotage tariffs, the Board is permitted to fix extra compensation for: extra services to vessels in distress, awaiting vessels, all vessels in direct transit to or from a Canadian port where Puget Sound pilotage is required for a portion of the voyage, being carried to sea on vessels against the will of the pilot, and other services as determined by the Board. The Board may consider pilot retirement plan expenses incurred in the prior year in either pilotage district. Under no circumstances may the state be obligated to fund or pay for any portion of retirement payments for pilots or retired pilots.

Pilots are licensed in the state for a term of five years and must pay an annual license fee to the State Treasurer in an amount set by the Board by rule. The Board is prohibited from increasing the annual license fee (and has been since June 30, 2011). The Board is authorized to pay stipends to pilot trainees. The Board is also authorized to assess penalties and fines for certain specified violations in the performance of pilotage duties, the unlicensed piloting of vessels under state pilotage laws, and other violations of state pilotage laws.

Expenditures from the Pilotage Account may only be used for expenditures related to Board responsibilities. The Pilotage Account is an unappropriated account from which only the Board or its designee may authorize expenditures.

Pilotage Districts.

Compulsory pilotage applies to all foreign vessels not exempted in state law that travel in the waters of the Puget Sound Pilotage District or the Grays Harbor Pilotage District. The Puget Sound Pilots, a private organization, contracts with pilots licensed by the Board to provide pilotage services in the Puget Sound Pilotage District. The Port of Grays Harbor (Port) currently employs pilots licensed by the Board to provide pilotage services in the Grays Harbor Pilotage District. The Port is authorized to recommend rules of service, rates, and tariffs governing its pilotage services to the Board for consideration. The rules, rates, and tariffs recommended by the Port must have been approved in open meetings of the port district.

Marine Pilotage Study.

In the 2017-2019 Transportation Budget, the Legislature tasked the Joint Transportation Committee (JTC) with overseeing a consultant study of marine pilotage in the state, with the goal of recommending best practices for an analytically driven pilotage tariff and fee-setting process; determination of the total number of pilots and pilot workload; pilot recruitment, training, review, and selection, with a focus on increasing pilot diversity; and selection of governance structures for the oversight and management of pilotage activities.

The output of the study, the *Washington State Pilotage Final Report and Recommendations* (2018), included a recommendation to transfer rate-setting authority to the Utilities and Transportation Commission (UTC). This recommendation was identified in the report as the preferred approach.

Utilities and Transportation Commission.

The UTC's Commission is composed of three members appointed by the Governor for a term of six years, with the consent of the Senate. No more than two members of the Commission may belong to the same political party. The UTC regulates the following in the public interest, as provided by state law:

- persons engaging in the transportation of persons or property within the state for compensation; and
- rates, services, facilities, and practices of all persons engaging within the state in the business of supplying utility services or commodities to the public for compensation.

The UTC is authorized to make rules and regulations to carry out its duties.

The UTC may appoint administrative law judges when necessary for its general administration. The administrative law judges may: administer oaths; issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and testimony; examine witnesses; make findings of probable cause and issue complaints in the name of the UTC; and receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under UTC-adopted rules.

Initial orders of administrative law judges become final on the day following expiration of the time established by the UTC for filing a petition for administrative review, unless, within that time, a party petitions for administrative review or the UTC notifies parties that it will review the initial order on its own motion.

Summary of Bill:

Puget Sound Pilotage District Tariffs.

The authority to set marine pilotage tariffs for the Puget Sound Pilotage District is transferred from the Board to the UTC. As part of the tariff, the UTC may include reasonable costs incurred for setting tariffs. The Pilotage Account is modified to become an appropriated account, and authorization to make expenditures from it is extended to the UTC for expenditures related to pilotage tariff rate setting.

Any person with a substantial interest in marine pilotage tariffs, which includes a licensed pilot or group of pilots, a vessel operator or other person or organization utilizing the services of a

licensed pilot and paying pilotage tariffs, and the Board, as well as any person or business that can show that requested tariff changes would be likely to have a substantial economic impact on it, may file a proposed tariff with the UTC.

The UTC may accept tariff filings from a person with a substantial interest beginning 30 days after the effective date of UTC-adopted rules for tariff setting. The UTC must suspend any tariff filing made before July 1, 2019, within 30 days of receipt to prevent the filing from taking effect prior to July 1, 2019.

By December 1, 2018, the UTC is required to submit to the Transportation Committees of the Legislature any additional statutory changes necessary for implementation of the UTC's tariff-setting process.

Grays Harbor Pilotage District Tariffs.

A port district is authorized to recommend tariffs for pilotage services to the UTC, provided that they have been approved in open meetings of the port district 10 or more days after published notice in a newspaper of general circulation and after a copy of the notice has been mailed to the UTC. Board approval is no longer required for port district-recommended pilotage tariffs.

The port district must include a pension charge in its tariff until its pilot retirement agreement expenses for Grays Harbor Pilotage District pilots employed prior to October 1, 2001, is no longer in effect, and must deposit revenue collected for this purpose into an account maintained solely for these pilot retirement expenses. The pension charge must be sufficient to cover the costs associated with expenses mandated by the pilot retirement agreement. The Grays Harbor Port District may not be obligated to fund or pay any portion of these retirement expenses.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 13, 2018.

Effective Date: The bill takes effect on July 1, 2019, except for section 7, relating to granting the UTC the authority to adopt rules for the tariff-setting process and the acceptance of early tariff filings, which takes effect 90 days after adjournment of the session in which the bill is passed.