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**SUBSTITUTE SENATE BILL 6519**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate Transportation (originally sponsored by Senators King and Hobbs)

AN ACT Relating to revising the establishment of marine pilotage tariffs; amending RCW 88.16.035, 80.01.040, 88.16.061, 88.16.120, and 53.08.390; adding a new section to chapter 88.16 RCW; adding a new section to chapter 80.01 RCW; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 88.16.035 and 2009 c 496 s 1 are each amended to read as follows:

(1) The board of pilotage commissioners shall:

(a) Adopt rules, pursuant to chapter 34.05 RCW, necessary for the enforcement and administration of this chapter;

(b)(i) Issue training licenses and pilot licenses to pilot applicants meeting the qualifications provided for in RCW 88.16.090 and such additional qualifications as may be determined by the board;

(ii) Establish a comprehensive training program to assist in the training and evaluation of pilot applicants before final licensing; and

(iii) Establish additional training requirements, including a program of continuing education developed after consultation with pilot organizations, including those located within the state of Washington, as required to maintain a competent pilotage service;

(c) Maintain a register of pilots, records of pilot accidents, and other history pertinent to pilotage;

(d) Determine from time to time the number of pilots necessary to be licensed in each district of the state to optimize the operation of a safe, fully regulated, efficient, and competent pilotage service in each district;

(e) ((~~Annually fix the pilotage tariffs for pilotage services provided under this chapter: PROVIDED, That the board may fix extra compensation for extra services to vessels in distress, for awaiting vessels, for all vessels in direct transit to or from a Canadian port where Puget Sound pilotage is required for a portion of the voyage, or for being carried to sea on vessels against the will of the pilot, and for such other services as may be determined by the board: PROVIDED FURTHER, That as an element of the Puget Sound pilotage district tariff, the board may consider pilot retirement plan expenses incurred in the prior year in either pilotage district. However, under no circumstances shall the state be obligated to fund or pay for any portion of retirement payments for pilots or retired pilots;~~

~~(f)~~)) File annually with the governor and the chairs of the transportation committees of the senate and house of representatives a report which includes, but is not limited to, the following: The number, names, ages, pilot license number, training license number, and years of service as a Washington licensed pilot of any person licensed by the board as a Washington state pilot or trainee; the names, employment, and other information of the members of the board; the total number of pilotage assignments by pilotage district, including information concerning the various types and sizes of vessels and the total annual tonnage; the annual earnings or stipends of individual pilots and trainees before and after deduction for expenses of pilot organizations, including extra compensation as a separate category; the annual expenses of private pilot associations, including personnel employed and capital expenditures; the status of pilotage tariffs, extra compensation, and travel; the retirement contributions paid to pilots and the disposition thereof; the number of groundings, marine occurrences, or other incidents which are reported to or investigated by the board, and which are determined to be accidents, as defined by the board, including the vessel name, location of incident, pilot's or trainee's name, and disposition of the case together with information received before the board acted from all persons concerned, including the United States coast guard; the names, qualifications, time scheduled for examinations, and the district of persons desiring to apply for Washington state pilotage licenses; summaries of dispatch records, quarterly reports from pilots, and the bylaws and operating rules of pilotage organizations; the names, sizes in deadweight tons, surcharges, if any, port of call, name of the pilot or trainee, and names and horsepower of tug boats for any and all oil tankers subject to the provisions of RCW 88.16.190 together with the names of any and all vessels for which the United States coast guard requires special handling pursuant to their authority under the Ports and Waterways Safety Act of 1972; the expenses of the board; and any and all other information which the board deems appropriate to include;

((~~(g)~~)) (f) Make available information that includes the pilotage act and other statutes of Washington state and the federal government that affect pilotage, including the rules of the board, together with such additional information as may be informative for pilots, agents, owners, operators, and masters;

((~~(h)~~)) (g) Appoint advisory committees and employ marine experts as necessary to carry out its duties under this chapter;

((~~(i)~~)) (h) Provide for the maintenance of efficient and competent pilotage service on all waters covered by this chapter; and do such other things as are reasonable, necessary, and expedient to insure proper and safe pilotage upon the waters covered by this chapter and facilitate the efficient administration of this chapter.

(2) The board may pay stipends to pilot trainees under subsection (1)(b) of this section.

**Sec.**  RCW 80.01.040 and 2007 c 234 s 1 are each amended to read as follows:

The utilities and transportation commission shall:

(1) Exercise all the powers and perform all the duties prescribed by this title and by Title 81 RCW, or by any other law.

(2) Regulate in the public interest, as provided by the public service laws, all persons engaging in the transportation of persons or property within this state for compensation.

(3) Regulate in the public interest, as provided by the public service laws, the rates, services, facilities, and practices of all persons engaging within this state in the business of supplying any utility service or commodity to the public for compensation.

(4) Make rules and regulations necessary to carry out its other powers and duties.

(5) Establish marine pilotage tariffs as provided in section 3 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 88.16 RCW to read as follows:

(1) The utilities and transportation commission shall periodically, but not more frequently than annually, establish the pilotage tariffs for pilotage services provided under this chapter: PROVIDED, That the commission may establish extra compensation for extra services to vessels in distress, for awaiting vessels, for all vessels in direct transit to or from a Canadian port where Puget Sound pilotage is required for a portion of the voyage, or for being carried to sea on vessels against the will of the pilot, and for such other services as may be determined by the commission: PROVIDED FURTHER, That as an element of the Puget Sound pilotage district tariff, the commission may consider pilot retirement plan expenses incurred in the prior year in either pilotage district. However, under no circumstances shall the state be obligated to fund or pay for any portion of retirement payments for pilots or retired pilots.

(2) The utilities and transportation commission may include as part of the tariff for pilotage services provided under this chapter reasonable costs incurred for the setting of pilotage tariff rates.

(3) By December 1, 2018, the utilities and transportation commission shall submit to the transportation committees of the legislature any additional statutory changes necessary to implement this act.

**Sec.**  RCW 88.16.061 and 2008 c 128 s 17 are each amended to read as follows:

((~~The account in the general fund designated in RCW 43.79.330(17) as the "Puget Sound pilotage account" is hereby redesignated as the "pilotage account".~~))

The pilotage account is ((~~hereby redesignated as a nonappropriated account, and is therefore~~)) created in the ((~~custody of the~~)) state ((~~treasurer. All receipts designated, credited, or transferred to the pilotage account must be deposited into the account~~)) treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of the board of pilotage commissioners as prescribed under this chapter((~~. Only the board or the board's designee may authorize expenditures from the account~~)) and by the utilities and transportation commission for purposes related to pilotage tariff rate setting. The account is subject to allotment procedures under chapter 43.88 RCW((~~, but an appropriation is not required for expenditures~~)).

**Sec.**  RCW 88.16.120 and 1987 c 485 s 4 are each amended to read as follows:

No pilot shall charge, collect or receive and no person, firm, corporation or association shall pay for pilotage or other services performed hereunder any greater, less or different amount, directly or indirectly, than the rates or charges herein established ((~~or which may be hereafter fixed by the board pursuant to this chapter~~)) by the utilities and transportation commission. Any pilot, person, firm, corporation or association violating the provisions of this section shall be guilty of a misdemeanor and shall be punished pursuant to RCW 88.16.150 as now or hereafter amended, said prosecution to be conducted by the attorney general or the prosecuting attorney of any county wherein the offense or any part thereof was committed.

**Sec.**  RCW 53.08.390 and 2010 c 8 s 16003 are each amended to read as follows:

A countywide port district located in part or in whole within the Grays Harbor pilotage district, as defined by RCW 88.16.050(2), may commence pilotage service with the following powers and subject to the conditions contained in this section.

(1) Persons employed to perform the pilotage service of a port district must be licensed under chapter 88.16 RCW to provide pilotage.

(2) Before establishing pilotage service, a port district shall give at least sixty days' written notice to the chair of the board of pilotage commissioners to provide pilotage.

(3) A port district providing pilotage service under this section requiring additional pilots may petition the board of pilotage commissioners to qualify and license as a pilot a person who has passed the examination and is on the waiting list for the training program for the district. If there are no persons on the waiting list, the board shall solicit applicants and offer the examination.

(4) In addition to the power to employ or contract with pilots, a port district providing pilotage services under this section has such other powers as are reasonably necessary to accomplish the purpose of this section including, but not limited to, providing through ownership or contract pilots launches, dispatcher services, or ancillary tug services required for operations or safety.

(5)(a) A port district providing pilotage services under this section may recommend to the board of pilotage commissioners rules of service((~~, rates, and tariffs~~)) governing its pilotage services for consideration and adoption pursuant to RCW 88.16.035. A port district providing pilotage services under this section may recommend to the utilities and transportation commission tariffs for pilotage services for consideration pursuant to section 3 of this act. The rules, rates, and tariffs recommended by the port district must have been approved in open meetings of the port district ten or more days after published notice in a newspaper of general circulation and after mailing a copy of the notice to the chair of the board of pilotage commissioners, or to the utilities and transportation commission in the case of rates or tariffs.

(b) The port district must include a pension charge in its recommended pilotage tariff until such time as the pilot retirement agreement expenses for Grays Harbor bar pilots employed prior to October 1, 2001, have terminated. The pension charge must be sufficient to cover costs associated with the pilot retirement agreement expenses for Grays Harbor pilots employed prior to October 1, 2001. The revenue collected from the pension charge must be deposited into an account maintained by the port district solely for the pilot retirement agreement expenses of Grays Harbor pilots employed prior to October 1, 2001. However, under no circumstances shall the port district be obligated to fund or pay for any portion of the retirement agreement expenses for Grays Harbor pilots employed prior to October 1, 2001.

(6) A pilot providing pilotage services under this section must comply with all requirements of the pilotage act, chapter 88.16 RCW, and all rules adopted thereunder.

NEW SECTION. **Sec.**  A new section is added to chapter 80.01 RCW to read as follows:

(1) To ensure that this act is implemented in a timely manner, the utilities and transportation commission may adopt rules prior to July 1, 2019.

(2) The utilities and transportation commission may accept a tariff filing from a person with a substantial interest beginning thirty days after the effective date of utilities and transportation commission rules adopted under subsection (1) of this section. The utilities and transportation commission must suspend any tariff filing made prior to July 1, 2019, within thirty days of receipt. Any tariff filing made under this subsection may not take effect until after July 1, 2019. For the purposes of this subsection, "person with a substantial interest" means (a) a pilot or group of pilots licensed under chapter 88.16 RCW; (b) a vessel operator or other person utilizing the services of a licensed pilot and paying pilotage fees and charges for such services or an organization representing such vessel operators or persons; (c) the board of pilotage commissioners; or (d) any other person or business that can show that the requested tariff changes would likely have a substantial economic impact on its operations.

NEW SECTION. **Sec.**  Except for section 7 of this act, this act takes effect July 1, 2019.

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