

ESHB 1418 - S AMD 821

By Senator Hobbs

NOT CONSIDERED 04/26/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature recognizes that rail
4 safety is critical to the impacts of the state's transportation
5 network on public safety and the environment. On December 18, 2017, a
6 passenger train derailed from a bridge near DuPont, Washington. Three
7 passengers were killed and 57 passengers and crewmembers were
8 injured. While the 2017 derailment had particularly tragic
9 consequences, the risks to public safety and the environment are
10 underscored by other rail incidents that have occurred in the past
11 several years, including the freight train transporting oil
12 derailment and resulting fire on June 3, 2016, in the Columbia river
13 gorge, near Mosier, Oregon, while in route to Tacoma, Washington, and
14 the derailment of a freight train transporting oil through Custer,
15 Washington, in late 2020 that also resulted in a fire.

16 (2) The national transportation safety board issued an accident
17 report on the 2017 derailment in early 2019. The report included
18 recommendations for government agencies that participated in
19 developing the new route related to improvements in safety oversight,
20 coordination, and communication. In 2020, the joint transportation
21 committee oversaw a rail safety governance study that provided an
22 assessment and recommendations for how rail safety oversight,
23 organizational structures and processes, and coordination activities
24 could be modified to improve rail safety governance across the state.

25 (3) The legislature intends to build on the recommendations of
26 the national transportation safety board and joint transportation
27 committee reports to strengthen rail safety governance by expanding
28 the utility and transportation commission's role in rail safety. The
29 legislature intends for this role to include promotion of safety and
30 security of the public and rail employees, as well as protection of
31 the environment, to the extent these goals can be furthered by the
32 commission's expanded role.

1 (4) This section expires July 1, 2023.

2 NEW SECTION. **Sec. 2.** (1) By January 1, 2023, the utilities and
3 transportation commission shall report to the transportation
4 committees of the legislature and the governor's office with options
5 for expanding the commission's role in rail safety. The commission
6 shall prepare an inventory of rail safety oversight conducted by
7 state agencies in other states identified for review by program area
8 as compared to the role of state agencies in Washington. This
9 inventory must include a comparison of the oversight conducted by
10 state agencies in California and New York, as well as other state
11 agencies selected by the commission that play a broader role in rail
12 safety oversight than state agencies in Washington. In developing its
13 inventory, the commission shall include consideration of the
14 relationship of state efforts to federal law. The inventory must
15 include information related to safety oversight, coordination,
16 communication, and enforcement of state and federal laws and
17 regulations relating to transportation of persons or commodities, or
18 both, of any nature or description by rail.

19 (2) The commission must host one workshop with interested
20 parties. The purpose of the workshop is to ensure consideration of
21 relevant information in development of an inventory of current
22 efforts in rail safety oversight by other states that can inform the
23 legislature's intended expansion of the role of the commission in
24 rail safety in the state of Washington. The purpose of the workshop
25 is not to foreclose consideration of a specific legislative approach.
26 Interested legislators and legislative staff and staff of the
27 governor's office may participate in the workshop or workshops.
28 Participation in the workshop must include, but is not limited to,
29 representatives of:

30 (a) Host and tenant railroads;

31 (b) Rail labor organizations;

32 (c) The state safety oversight agency for rail fixed guideway
33 public transportation systems;

34 (d) Operators of, and entities providing financial support for,
35 intercity passenger rail and rail fixed guideway systems;

36 (e) Local jurisdictions;

37 (f) Rail advocacy organizations;

38 (g) State emergency management organizations;

39 (h) The department of ecology;

- 1 (i) The department of labor and industries;
- 2 (j) The national transportation safety board;
- 3 (k) The federal railroad administration; and
- 4 (l) The pipeline and hazardous materials safety administration.

5 (3) The commission shall review, at a minimum, the report of the
6 national transportation safety board report on the 2017 Amtrak
7 derailment, the joint transportation committee's 2020 rail safety
8 governance study, Engrossed Substitute House Bill No. 1418 (2021), as
9 passed by the house on March 7, 2021, relevant federal laws and
10 rules, and state rail safety plans.

11 (4) The commission's inventory must include, but is not limited
12 to:

13 (a) An analysis of expanding the commission's role to match the
14 role of other state agencies examined, including as it relates to
15 oversight of implementation of new and materially changed railroad
16 operations and infrastructure; operator safety management practices;
17 the safety of transportation of crude oil by rail and enforcement of
18 chapter 90.56 RCW; the safety and oversight of rail fixed guideway
19 systems as defined in RCW 81.104.015; annual reporting practices; and
20 rail safety communication and collaboration efforts, including
21 through the use of a rail safety committee;

22 (b) A review of federal preemption issues and analysis of state
23 rail safety authority in the context of the current rail safety
24 oversight role of other states, as examined in subsection (1) of this
25 section;

26 (c) A review of workshop discussions;

27 (d) Estimated costs associated with implementation in Washington
28 state of the safety program elements included in the inventory
29 required in this section, itemized by program area and level of
30 oversight performed, including estimated costs of options to improve
31 the safety of transportation of crude oil by rail and enforcement of
32 chapter 90.56 RCW;

33 (e) A review of revenue sources that support rail safety
34 oversight activities in other states included in the inventory,
35 including federal revenue sources. For each source, the review must
36 also include:

37 (i) Estimates of revenue generated if imposed in Washington; and

38 (ii) Estimates of how much would be paid by different types of
39 entities; and

1 (f) A review of the level of liability protection afforded
2 agencies that perform rail safety oversight under state law in the
3 states examined in the inventory conducted.

4 (5) This section expires July 1, 2023."

5 Correct the title.

EFFECT: (1) Removes the provisions of the underlying bill after the intent section including:

- (a) The expansion of the UTC's authority to oversee rail safety;
- (b) The requirement that the UTC provide support and technical assistance to the Washington State Department of Transportation in the oversight of the safety of rail transit systems;
- (c) The requirement that the UTC submit an annual report on rail safety and promote rail safety through facilitating communication and collaboration among parties with an interest in rail.

(2) Adds a requirement that the UTC report to the legislature with options for expanding the commission's role in rail safety and an inventory of rail safety oversight conducted by state agencies in other states by January 1, 2023. The UTC must host a workshop with interested parties for the purpose of ensuring consideration of relevant information in development of an inventory. The UTC inventory must include:

(a) A comparison of the oversight conducted by state agencies in California and New York, as well as other state agencies selected by the commission that play a broader role in rail safety oversight than state agencies in Washington;

(b) An analysis of expanding the commission's role to match the role of other state agencies examined including specific elements included in the underlying bill;

(c) A review of federal preemption issues and analysis of state rail safety authority in the context of the current rail safety oversight role of other states;

(d) A review of workshop discussions;

(e) Estimated costs associated with implementation in Washington state of the safety program elements included in the inventory including options to improve the safety of transportation of crude oil by rail;

(f) A review of revenue sources that support rail safety oversight activities in other states included in the inventory including federal revenue sources, the estimated revenue generated, and estimated amounts paid by specific entities; and

(g) A review of the level of liability protection afforded agencies that perform rail safety oversight under state law in the states examined in the inventory conducted.

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