

SENATE BILL REPORT

SB 5749

As of February 21, 2023

Title: An act relating to enhancing rail safety governance by expanding the role of the utilities and transportation commission.

Brief Description: Enhancing rail safety governance by expanding the role of the utilities and transportation commission.

Sponsors: Senators Liias, King and Shewmake.

Brief History:

Committee Activity: Transportation: 2/21/23.

Brief Summary of Bill

- Authorizes the Utilities and Transportation Commission (UTC) to oversee rail safety in the state to the extent permitted by federal law, including for new or materially changed railroad operations and infrastructure, and oversight of safety management practices.
- Broadens the authority of the Utilities and Transportation Commission to investigate and inspect rail safety practices to the extent permitted under federal law.
- Requires the UTC to produce an annual report on rail safety in the state and promote rail safety through facilitation of communication and collaboration among stakeholders.
- Requires the UTC to examine and make recommendations on implementation of a gross revenue fee within Washington State.
- Transfers the safety oversight of rail fixed guideway public transportation systems from the Department of Transportation to the UTC, upon federal certification.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Jenna Forty (786-7755)

Background: The Federal Rail Administration (FRA) oversees the national rail safety program, and issues federal safety requirements and inspection efforts to monitor compliance. The Utilities and Transportation Commission (UTC) has regulatory jurisdiction over rail safety practices and collects rail inspection information.

Federal law requires states to have a State Safety Oversight (SSO) program regarding fixed rail guideway transit systems. Transit agencies operating rail fixed guideway transit systems are required to submit safety plans, as well as security and emergency preparedness to the Washington State Department of Transportation (WSDOT). WSDOT has safety and security-related investigative and enforcement authority, and must be independent from any agency it oversees, as required under state and federal law. WSDOT may levy financial penalties for noncompliance with state or federal regulations. On an annual basis, WSDOT is required to report the status of safety and security of each rail fixed guideway public transit system to the Governor, Federal Transit Administration (FTA), transportation committees of the Legislature and each rail fixed guideway public transit agency. Rail fixed guideway public transportation systems in Washington include Sound Transit Link light rail, Seattle streetcars, and the Seattle Monorail.

There have been numerous studies on rail safety oversight in Washington since the December 2017 derailment of the Amtrak passenger train near DuPont. The National Transportation Safety Board issued a final report in May 2019, detailing the investigation and safety recommendations based on investigation results. In 2021, the Joint Transportation Committee commissioned an Assessment of Rail Safety Governance in Washington State, completed by consultant teams at CPCS. In 2022, the UTC completed the Washington State Inventory of Rail Oversight.

Summary of Bill: The UTC is authorized to oversee rail safety in the state to the extent permitted by federal law, including for new or materially changed railroad operations and infrastructure, and oversight of safety management practices. WSDOT must coordinate with the UTC and Amtrak to facilitate the oversight of state passenger rail service to the extent permitted under federal law.

Authority is expanded for the UTC to investigate and inspect rail safety practices to the extent permitted. On an annual basis, the UTC must produce a report on rail safety in the state to the transportation committees of the Legislature, including the Joint Transportation Committee, and make the report public. The UTC must promote rail safety through facilitation of communication and collaboration among stakeholders, including local jurisdictions, host and tenant railroads, and rail labor organizations.

The UTC must examine and make recommendations on implementation of a gross revenue

fee within Washington State to the transportation committees of the Legislature by December 2023.

Safety oversight of rail fixed guideway public transportation systems is transferred from WSDOT to the UTC, upon federal certification from the FTA.

Before January 1, 2026, the UTC is authorized to adopt rules and policies, hire staff, certify personnel, and facilitate stakeholder communication to ensure implementation of the act. All rules adopted prior to January 1, 2026, must have an effective date consistent with the act's effective date.

Appropriation: None.

Fiscal Note: Requested on February 18, 2023.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony: PRO: Expansion of UTC is important, especially for freight rail. There is a concern bill language may interfere with current authorities. Legislature should consider pay and benefits to keep qualified rail inspectors.

CON: The federal government already has well established rules. Transit agencies should not be included under regulation with other rail types. The bill would subject companies to further permitting processes and discourage investment.

OTHER: WSDOT is already certified by the FTA to inspect rail fixed guideway systems, the transition of the SSO to the UTC comes at a time with the Sound Transit link light rail expansion. UTC would have resource needs to enact provisions of the bill, it is a small agency. Union Pacific is a major job creator and safety is our focus. Rail infrastructure and operations needs to be further defined. New and material also needs further definition.

Persons Testifying: PRO: Senator Marko Liias, Prime Sponsor; Herb Krohn, SMART TD; Mike Elliott, Retiree.

CON: Bill Stauffacher, BNSF Railway.

OTHER: Molly Hughes, Washington State Department of Transportation; Jason Lewis, Utilities and Transportation Commission; Tom McBride, Union Pacific Railroad Co; Josephine Jordan, Union Pacific Railroad Co.

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