

WSR 21-24-020
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS
[Filed November 19, 2021, 11:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-19-072.

Title of Rule and Other Identifying Information: WAC 363-116-301
New revenue collection.

Hearing Location(s): On January 20, 2022, at 10:00 a.m., virtual via Microsoft Teams. Please contact Jaimie Bever at 206-515-3887 for information regarding meeting access.

Date of Intended Adoption: January 20, 2022.

Submit Written Comments to: Jaimie C. Bever, Executive Director, 2901 Third Avenue, Suite 500, Seattle, WA 98121, email BeverJ@wsdot.wa.gov, by January 13, 2022.

Assistance for Persons with Disabilities: Contact Jolene Hamel, phone 206-515-3904, email HamelJ@wsdot.wa.gov, by January 14, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this filing is to comply with legislative intent, through the passage of SB [SSB] 5165, which stipulates certain conditions in order for the board of pilotage commissioners (BPC) to receive state appropriation from the pilotage account solely for self-insurance liability premium expenditures. This revised rule defines these two stipulated conditions.

Reasons Supporting Proposal: Revising the mechanisms already in place to collect the revenue needed to pay the self-insurance liability premium expenditures is necessary for BPC to show compliance with legislative intent thus prompting the state to transfer the funds from the pilotage account. Without the fund sources allocated by SB [SSB] 5165, the agency would be in financial crisis, putting the BPC's mission to ensure against the loss of lives, loss of or damage to property and vessels, and to protect the marine environment by maintaining efficient and competent pilotage services in jeopardy.

Statutory Authority for Adoption: Chapter 88.16 RCW.

Statute Being Implemented: Chapter 88.16 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The BPC's self-insurance liability premium is comprised of monetary contributions from the BPC, Puget Sound pilots, and those vessels taking pilots in the Puget Sound pilotage district. This revised rule enforces the collection of revenue from all participants.

Name of Proponent: BPC, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jaimie C. Bever, 2901 Third Avenue, Suite 500, Seattle, WA 98121, 206-515-3887.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to the adoption of these rules. BPC is not a listed agency in RCW 34.05.328 (5) (a) (i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under chapter 88.16 RCW.

Explanation of exemptions: This was a legislative mandate. The application of the proposed language is clear in the description of the proposal and its anticipated effects as well as the attached proposed revised WAC language.

November 19, 2021
Jaimie C. Bever
Executive Director

OTS-3332.1

AMENDATORY SECTION (Amending WSR 19-20-013, filed 9/20/19, effective 10/21/19)

WAC 363-116-301 New revenue collection. With respect to the passage of (~~Engrossed Substitute House Bill No. 1160, Section 108~~) section 107, chapter 333, Laws of 2021 (Substitute Senate Bill No. 5165), the board of pilotage commissioners is appropriated (~~three million one hundred twenty five thousand dollars~~) \$2,926,000 from the pilotage account state appropriation solely for self-insurance liability premium expenditures. This appropriation is contingent upon two stipulated conditions:

(1) The Puget Sound pilots shall pay to the board, from its tariffs, (~~one hundred fifty thousand dollars~~) \$150,000 annually on July 1, (~~2019~~) 2021, and July 1, (~~2020~~) 2022. These amounts shall be deposited by the board into the pilotage account and used solely for the expenditure of self-insurance premiums; and

(2) A self-insurance premium surcharge of (~~sixteen dollars~~) \$16 shall be added to each Puget Sound pilotage assignment on all vessels requiring pilotage in the Puget Sound pilotage district. The Puget Sound pilots shall remit the total amount of such surcharges generated to the board by the tenth of each month. The surcharge shall be in effect from July 1, (~~2019~~) 2021, through June 30, (~~2021~~) 2023. These amounts shall be in addition to those fees to be paid to the board pursuant to subsection (1) of this section and shall be deposited by the board into the pilotage account solely for the expenditure of self-insurance premiums.

These two directives are in effect beginning May (~~16, 2019~~) 18, 2021, through June 30, (~~2021~~) 2023.

[Statutory Authority: Chapter 88.16 RCW. WSR 19-20-013, § 363-116-301, filed 9/20/19, effective 10/21/19; WSR 17-20-009, § 363-116-301, filed 9/22/17, effective 10/23/17.]