

# Joint Transportation Committee Pilotage Best Practices Review

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# Meeting Agenda

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1. Project Overview
2. Recommendations
  - a. Addressing Lack of Diversity in Pilotage
  - b. Analytically Driven Tariff and Fee Rate Setting
  - c. Effective Oversight of Marine Pilotage Activities
3. Discussion and Q&A

# Project Background and Purpose

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- Project timeline: July 2017 to January 2018
- Scope of Work
  - Review and assess existing practices in Washington state pilotage
  - Identify best practices and compare with Washington state
  - Provide recommendations to the Legislature to improve Washington state pilotage
- Project Team
  - Community Attributes Inc.
  - Gleason & Associates

# Addressing Lack of Diversity in Pilotage

# Finding #1: Lack of Data on Gender and Ethnicity

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- **Problem Statement**

- No formal data collection on gender and ethnicity of pilotage exam applicants
- Very little data regarding gender and ethnicity of licensed pilots and trainees. What little information exists is anecdotal at best
- Local and national problem
- Board of Pilotage Commissioners ill equipped to: 1) establish a baseline; and 2) track progress on improving diversity

# Finding #1: Lack of Data on Gender and Ethnicity

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- **Recommendation**

- Develop voluntary data collection protocol to track gender and ethnicity among pilotage exam applicants, trainees, and licensed pilots

- **Who**

- BPC

- **Resource Requirements**

- Could include modification of existing application to allow for self-identification
- Low-cost, voluntary electronic survey

- **Expected Outcomes**

- Ability to evaluate progress and impact of subsequent efforts to improve diversity among applicants, trainees, and licensed pilots

# Finding #2: Evidence of Potential Subjectivity and Bias in Training and Evaluation

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- **Problem Statement**

- Past allegations of subjectivity and bias have lead to increased awareness of the need to be more inclusive and welcoming of women and minorities
- Efforts underway include establishment of the Joint Diversity Committee, the “Train the Trainer” program, and hiring of outside experts to review exam and training program

- **Recommendation**

- Expand and continue to improve upon efforts to minimize subjectivity and eliminate bias in the application, training, and licensing process

- **Who**

- BPC

- **Resource Requirements**

- Resources to support Joint Diversity Committee
- Further expansion of the “Train-the-Trainer” Program
- Continued support for outside expert to review & consultation

- **Expected Outcomes**

- Minimize the risk that otherwise qualified candidates are not licensed due to explicit or inadvertent discrimination and/or bias in the application, training and selection process

# Finding #3: Lack of Diversity Endemic in Maritime Industry

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## • **Problem Statement**

- The pool of qualified pilotage applicants directly comes from the maritime industry
- The industry struggles with diversity across all sectors
- Multiple factors contribute
  - Traditional avenues of recruitment
  - Nepotism in some areas
  - Challenging workplace environment
  - Perceptions and stereotypes about gender and ethnicity
- This challenge is beyond the scope and capabilities of any one agency or organization
- Need for a more holistic approach leveraging resources and expertise
  - Government
  - Private Sector

# Finding #3: Lack of Diversity Endemic in Maritime Industry

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- **Recommendation**

- Establish a statewide Task Force on Maritime Sector Workforce Development, with a specific focus on increasing diversity
  - Dept. of Commerce, Dept. of Transportation/WSF, State Workforce Board, OFM Asst. Director for HR
  - Pilots, ports & terminal operators, shipyards, tug & barge, shipping companies, recreational & commercial fishing, recreational boating, organized labor, marine transportation, research & technology, education, training providers, and youth programs
- Develop timeline and deliverables upon convening
- Can coordinate with existing efforts already underway
- Task Force not intended to replace Joint Diversity Committee

- **Who**

- Legislature, in coordination with Governor's Maritime Sector Lead

- **Resource Requirements**

- Staff to support Task Force

- **Expected Outcomes**

- A statewide strategy for a more inclusive maritime workforce, resulting in a more diverse pool of potential pilots

# Analytically Driven Tariff and Fee Rate- Setting

# Two Approaches

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- Option A (Preferred Alternative)
  - Transfer tariff and fee rate-setting authority to the Washington Utilities and Transportation Commission (UTC)
- Option B
  - Address existing tariff and fee rate-setting issues within the current structure of the BPC

## Option A: Transfer Rate-setting Authority to the Washington Utilities & Transportation Commission (UTC)

- Most effective action Legislature can take
- Will require legislative changes to Pilotage Act
- Findings (to be discussed in subsequent slides) can be addressed through the structure, rules, expertise, and rigor of the UTC process
- Extensive research on similar models (Maryland, Oregon, and Virginia) point to the benefits of the public utility model
- Commissioners do not have direct material interest in rate cases w/UTC model
- UTC assessment on Pilots to cover costs, recoverable in tariff
- All parties will benefit from a process that is rules-based, enforceable, predictable, rigorous, and transparent

# Option B: Address existing tariff and fee rate-setting within the current structure of the BPC

# Finding #4: Annual Tariff and Fee Rate-Setting Unnecessary

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- **Problem statement**

- Pilotage Act requires the BPC to "*annually fix the pilotage tariffs for pilotage services*"
- Annual requirement incentivizes stakeholders to continuously advocate, either explicitly or implicitly, for adjustment
- Serves as a distraction and limits discussion on other important items under BPC jurisdiction, such as safety
- Research indicates annual tariff and fee rate-setting rare
  - Many states set rates on "as needed" basis
  - Two+ years duration also common
- Stakeholders agree annual process too frequent

# Finding #4: Unnecessary to Review Tariff and Fees Annually

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- **Recommendation**

- Revise the RCW such that tariff and fee rate-setting reviews **occur only at the request of stakeholders**
- Define (in WAC) “economic and financial hardship”
- Establish evidentiary, petition-based process for tariff and fee rate-setting adjustment
- Process to include (at minimum)
  - Notice to file a petition
  - Petition filing & timeline for data submission

- **Who**

- Legislature (statutory changes) and BPC (administrative rule changes)

- **Resource Requirements**

- Existing staff time

- **Expected Outcomes**

- Rate hearings will reflect economic necessity rather than arbitrary timelines. Stakeholders incentivized to arrive at a mutually beneficial solution outside the hearing process

# Finding #5: No Clearly Defined Methodology for Tariff and Fee-Rate Setting Process

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## • **Problem Statement**

- The Board makes decisions on tariff adjustments without the benefit of an established and agreed upon methodology nor consistent indicators and variables to be considered
  - Pilot compensation
  - Retirement benefits
  - Operating expenses
  - Capital expenditures
- Lack of staff capacity to provide objective analysis, resulting in stakeholders often providing data interpretation

# Finding #5: No Clearly Defined Methodology for Tariff and Fee-Rate Setting Process

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- **Recommendation**

- Hire a staff analyst or consulting economist to develop and administer an evidentiary-based process and include data analysis
- Consider use of an automatic adjuster in several states contributes to greater predictability for stakeholders

- **Who**

- Legislature and BPC

- **Resource Requirements**

- Additional resources to support full time or part-time staff or consulting economist

- **Expected outcomes**

- More predictable and transparent tariff and fee rate-setting process based on defined methodology and independent, objective analysis

# Finding #6: Data Submission not Aligned with Tariff and Fee Rate-Setting Process

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- **Problem statement**

- There is a lack of consistency, clarity, and timeliness in the submission of data necessary to make informed rate adjustment decisions
- There is no established enforceability of a timeline for data submissions

# Finding #6: Data Submission not Aligned with Tariff and Fee Rate-Setting Process

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- **Recommendation**

- Include language in WAC requiring Pilots and/or Associations submit
  - Quarterly assignment-level data on revenues generated by tariff and fee charge AND vessel type
  - Current year budget and future budget projections
- No rate adjustment may be considered if the timeline and submission requirements are not met

- **Who**

- BPC

- **Resource Requirements**

- Electronic password-protected database of invoices may be one option for gathering and inventorying this information, and could be paid for through a surcharge

- **Expected Outcomes**

- Better alignment between data submission and decision-making on tariff and fee rate adjustment petitions

# Finding #7: Significant Uncertainty Regarding Capital Expense Financing

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- **Problem statement**

- No defined, rigorous, and enforceable process for evaluating pilotage capital expenses (e.g., replacement of a pilot boat, personal pilotage units)
- No timely submission of key data, funding plans, and other relevant information needed to make informed decisions on financing requirements
- Difficult to track tariff and/or fee performance necessary to finance these expenses

# Finding #7: Significant Uncertainty Regarding Capital Expense Financing

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- **Recommendation**

- As part of petition-based adjustment process, Pilots must submit a funding plan, including capital projections
- Establish a Transportation Oversight Committee
  - Reviews submitted requests for tariff and fee-based financing of capital expenses
  - Provides approval or denial recommendation to BPC
  - Committee should include both maritime and financial subject matter expertise
- Consider using a one-time or defined-period surcharge rather than a general tariff increase
  - Include binding funding plan w/expiration date for temporary adjustment

- **Who**

- Legislature and BPC

- **Resource Requirements**

- Existing staff

- **Expected Outcomes**

- Transparency & predictability regarding capital expense financing

# Effective Oversight of Marine Pilotage Activities in Washington State

# Finding #8: BPC Composition May be Sub-optimal with Respect to Tariff and Fee Rate-Setting

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## • **Problem Statement**

- Pilots and industry have equal representation on the BPC
- Predictably, they often vote in the own self interest, leaving the remaining Commissioners to cast deciding votes
- With the frequent abstention of agency representatives, the three remaining Commissioners actually cast deciding votes
- These Commissioners represent the public interest and environmental considerations, but may not have relevant financial expertise

## Finding #8: BPC Composition May be Sub-optimal with Respect to Tariff and Fee Rate-Setting

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- As previously discussed, our preferred alternative is to transfer tariff and fee rate-setting authority to the UTC
- However, if the Legislature chooses the option for rate-setting authority to remain within the BPC, we believe the following recommendations will mitigate against this sub-optimality:
  - An evidentiary, petition-based process
  - A clearly defined methodology and timeline
  - Increased staff capacity sufficient to provide unbiased, objective analysis

# Discussion and Q&A