

stating that such proposition shall be partially financed by the levying of an additional three tenths of one percent per dollar on sales transactions "within King County". The reference to "King County" creates internal inconsistencies within the bill since the bill pertains to a city within a Class AA County, a Class AA County, or any metropolitan municipal corporation within a Class AA County. Since the tax authorization will, in any event, be included in the ballot proposition the clause is functionally superfluous. Accordingly, this item has been vetoed.

Veto
Message

Section 2 contains a proviso that after June 30, 1973, no sales or use tax levied and collected pursuant to this act may be used as qualifying matching funds. The effect of this proviso will be that a Class AA County which approves a sales tax will lose state matching funds after 1973 even though cities in all other counties would continue to be eligible to receive state matching funds for public transportation systems. After careful consideration of this question, I have determined to item veto this proviso. With this matching capability restored, the needed long-term funding support for public transportation within a Class AA County will be provided.

With the exception of the items referred to above, the remainder of the bill is approved."

CHAPTER 297

[Engrossed Senate Bill No. 465]

PILOTAGE--

STUDY AUTHORIZED--

INVESTIGATIONS AND HEARINGS ON PILOTAGE SERVICES

AN ACT Relating to pilotage on Puget Sound; amending section 9, chapter 18, Laws of 1935 as amended by section 6, chapter 15, Laws of 1967 and RCW 88.16.030; amending section 3, chapter 18, Laws of 1935 as amended by section 2, chapter 15, Laws of 1967 and RCW 88.16.050; amending section 4, chapter 18, Laws of 1935 as amended by section 3, chapter 15, Laws of 1967 and RCW 88.16.070; and amending section 13, chapter 18, Laws of 1935 and RCW 88.16.100; and declaring an emergency.

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

Section 1. Section 9, chapter 18, Laws of 1935 as amended by

section 6, chapter 15, Laws of 1967 and RCW 88.16.030 are each amended to read as follows:

The board is authorized and shall have power to make rules and regulations not in conflict with this chapter covering the matters hereinafter set forth which shall have the force and effect of law until altered, repealed or set aside by action of the board:

(1) To establish the qualifications of pilots, provide for their examination and the issuance of licenses to qualified persons and to keep a register of licensed pilots and of vessels, operators and agents.

(2) To provide for the maintenance of efficient and competent pilotage service on all waters covered by this chapter.

(3) To fix the rates of pilotage for the waters covered by this chapter: PROVIDED, That no rate shall be changed by the board more than once in any twelve months' period: AND PROVIDED FURTHER, That the rates presently in effect shall remain in effect until changed by the board pursuant to this chapter: AND PROVIDED FURTHER, That no rate shall be increased, lowered or altered without a public hearing of which due notice ((by registered letter)) ,mailed at least ((fifteen)) twenty days prior to the date of hearing, shall have been ((served upon)) sent to all pilots licensed under this chapter to pilot vessels on the particular waters for which the change of rate is proposed and upon all vessel operators and agents who have registered with the board. The notice shall specify the waters for which the change of rate is sought and also the change proposed. The board may, despite anything in this chapter contained, fix extra compensation for extra services to vessels in distress and compensation for awaiting vessels or being carried to sea on vessels against the will of the pilot. In determining rates the board shall have the right to subpoena witnesses.

(4) To do such other things as are reasonable, necessary and expedient to insure proper and safe pilotage upon the waters covered by this chapter and to facilitate the efficient administration of this chapter.

All rules and regulations adopted by the board shall be printed, and a copy thereof shall be mailed to each licensed pilot and to every vessel operator or agent who has registered with the board. Such mailing shall be proved by the affidavit of the person mailing the same, filed with the records of the board, and such affidavit shall be conclusive as to such mailing. All rules and regulations shall be effective three days after the completion of such mailing.

Sec. 2. Section 3, chapter 18, Laws of 1935 as amended by section 2, chapter 15, Laws of 1967 and RCW 88.16.050 are each amended to read as follows:

This chapter applies to Puget Sound and adjacent inland waters and to Grays Harbor and Willapa Bay as those terms are hereinafter defined:

(1) "Puget Sound and adjacent inland waters", whenever used in this chapter, shall be construed to mean and include all the inland waters of the state of Washington inside the international boundary line between the state of Washington and British Columbia (~~extending south to and including Olympia,~~) but excluding that portion of the Straits of Juan de Fuca west of Port Angeles.

(2) "Grays Harbor and Willapa Bay" shall include all inland waters, channels, waterways, and navigable tributaries within each area. The boundary line between inland waters and the high seas shall be designated as the outermost sea buoy as established and placed for Grays Harbor and Willapa Bay.

Sec. 3. Section 4, chapter 18, Laws of 1935, as amended by section 3, chapter 15, Laws of 1967 and RCW 88.16.070 are each amended to read as follows:

V- All vessels under enrollment and all private vessels of United States or Canadian registry engaged exclusively in the coasting trade on the west coast of the continental United States (including Alaska) and/or British Columbia shall be exempt from the provisions of this chapter unless a pilot licensed under this chapter be actually employed, in which case the pilotage rates provided for in this chapter shall apply. Every vessel ((not so exempt,) not having two pilots holding current licenses issued by the United States Coast Guard on board shall, while entering and navigating into Puget Sound and adjacent inland waters, Grays Harbor and Willapa Bay, ((employ a pilot licensed under the provisions of this chapter and shall be liable for and pay pilotage rates in accordance with the pilotage rates herein established or which may hereafter be established under the provisions of this chapter)) be subject to rules and regulations promulgated by the Washington Pilotage Commission insofar as such rules and regulations may require such vessel to employ a pilot licensed under the provisions of this chapter: PROVIDED, That the Washington Pilotage Commission, immediately after the effective date of this act, shall conduct a study of the need to require employment of pilots licensed under the provisions of this chapter on all vessels entering into Puget Sound and adjacent inland waters, together with an assessment of the legality and feasibility of such requirement. The commission shall report the results of such study together with recommended legislative action to the next session of the legislature.

Sec. 4. Section 13, chapter 18, Laws of 1935 and RCW 88.16.100 are each amended to read as follows:

The board shall have power on its own motion or, in its

discretion, upon the written request of any interested party, to investigate the performance of pilotage services subject to this act and to suspend, withhold or revoke the license of any pilot for misconduct, incompetency, inattention to duty, intoxication or failure to perform his duties under this chapter, or violation of any of the rules or regulations provided by the board for the government of pilots. ((No complaint shall be entertained by the board unless same be reduced to writing and duly verified as in civil actions.)) When the board determines that reasonable cause exists for the conduct of a hearing on the issue of the suspension, withholding or revocation of a pilot license it shall forthwith prepare and serve a copy of a notice of hearing upon the pilot in question who shall be ((When a written complaint is filed, the accused party shall be forthwith served with a copy thereof and)) required to appear and answer the same within ten days from date of service and shall be entitled to a full ((trial)) hearing thereof before the board and to be represented by counsel and to subpoena witnesses. The decision of the board must be in writing and entered of record upon the minutes of the board. All final decisions of the board shall be subject to review by the superior court of the state of Washington for Thurston county, to which court any case with all the papers and proceedings therein shall be immediately certified by the chairman of the board if requested to do so by any party to the proceedings at anytime within thirty days after the date of any such final decision. No appeal may be taken after the expiration of thirty days after the date of final decision. Any case so certified to the superior court shall be tried de novo and after certification of the record to said superior court the proceedings shall be had as in a civil action.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health and safety, and support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate May 9, 1971.

Passed the House May 8, 1971.

Approved by the Governor May 21, 1971 with the exception of one item which is vetoed.

Filed in Office of Secretary of State May 21, 1971.

Note: Governor's explanation of partial veto is as follows:

"...While the apparent purpose of section 3, that of insuring greater environmental protection to the waters of Puget Sound, is commendable, the unfortunate effect of the section is to delete the provision of state law making pilotage compulsory with respect to vessels not specifically

Veto
Message

exempted by the Legislature. If section 3 is enacted into law, certain described vessels will be exempted from all the provisions of the Pilotage Act. All vessels not so exempt will "be subject to rules and regulations promulgated by the Washington Pilotage Commission", but there will be no legislative enactment making pilotage compulsory as to any vessels whatsoever.

Veto
Message

While the pilotage commission might, and probably would, adopt rules and regulations requiring that a pilot be engaged for all vessels not specifically exempted by the legislature, there is a serious question as to the constitutionality and thus the enforceability of such a regulation.

The provision in section 3 does require the pilotage commission, immediately after the effective date of the act, to conduct a study relative to the need to require pilots licensed under the provisions of state law on all vessels entering Puget Sound and adjacent waters. I will instruct the chairman of the pilotage commission to make such a study the prime order of business of the commission so a comprehensive report will be available for the next session of the legislature.

Rather than run the risk of seriously weakening the present law relative to pilotage on Puget Sound I am vetoing certain portions of section 3, with the belief that after the submission of the report by the pilotage commission to the next session of the legislature the entire matter will be reviewed and the legislature will be able to determine what, if any, amendments are needed to the pilotage act.

The remainder of Senate Bill 465 is approved."
