



AB-1025 Harbors and ports: inland pilots. (2011-2012)

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Assembly Bill No. 1025

CHAPTER 324

An act to amend Sections 1113, 1126, 1127, 1136, 1140, 1156, 1156.6, 1157, 1157.1, 1157.5, 1158.1, 1171, 1171.5, 1176, 1180, 1180.3, 1180.6, 1181, 1182, 1183, 1191, 1196, 1196.1, and 1196.3 of, to amend and renumber Section 1159.1 of, to add Section 1171.6 to, and to repeal Section 1142 of, the Harbors and Navigation Code, relating to bar pilots, and making an appropriation therefor.

[Approved by Governor September 26, 2011. Filed with Secretary of State September 26, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1025, Skinner. Harbors and ports: inland pilots.

Existing law provides for the regulation and licensing of pilots and inland pilots for the Bays of Monterey, San Francisco, San Pablo, and Suisun by the Board of Pilot Commissioners (board). Under existing law, any person who does not hold a license as a pilot or as an inland pilot and who pilots any vessel into or out of any harbor or port of the Bays of Monterey, San Francisco, San Pablo, or Suisun, or who acts as a pilot for ship movements or special operations upon the waters of any of those bays is guilty of a misdemeanor.

Existing law requires the board to adopt a continuing education program for pilots and inland pilots funded from fees from the surcharge for each movement of a vessel using pilot services.

Existing law requires the board to adopt training standards and a training program for pilot trainees.

This bill would delete all references to inland pilots from these provisions.

Existing law requires the executive director of the board to assign a commission investigator, if suspected equipment safety standard violations are reported to the board, to personally inspect the equipment for its compliance with the relevant safety standards. Existing law requires the commission investigator to report preliminary conclusions to the executive director. Existing law also requires the commission investigator to submit a report, that is required to remain confidential, to an incident review committee and the committee is required to report its findings, if any, to the board.

This bill would recast these provisions to instead require the executive director to perform investigations, make findings and recommendations, and report to the board regarding suspected equipment safety standard violations.

The bill would require an examination fee to be charged in an amount established by the board to each applicant to the pilot trainee training program who participates in any written or simulator examinations established by the

costs to the board of preparing and administering the examination. The bill would require that the moneys charged and collected from the applicant be paid to the board and deposited into the Board of Pilot Commissioners' Special Fund, a continuously appropriated fund, and be used only to fund the pilot trainee training program in the manner established by the board.

By increasing the amount of revenue deposited into a continuously appropriated fund and by authorizing the expenditure of money in that fund for a new purpose, the bill would make an appropriation.

Existing law requires the Governor to appoint one assistant director to serve at the pleasure of the Governor. Existing law requires the assistant director to have the duties as assigned by the executive director who is appointed by the Board of Pilot Commissioners.

This bill would require that the Secretary of Business, Transportation and Housing appoint one assistant director to serve in a career executive assignment at the pleasure of the secretary.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1113 of the Harbors and Navigation Code is amended to read:

1113. "Inland pilot" means a person holding an inland pilot license prior to January 1, 2011.

SEC. 2. Section 1126 of the Harbors and Navigation Code is amended to read:

1126. (a) A person who does not hold a license as a pilot issued pursuant to this division, and who pilots any vessel into or out of any harbor or port of Monterey Bay and the Bay of San Francisco, San Pablo, or Suisun, or who acts as a pilot for ship movements or special operations upon the waters of any of those bays, is guilty of a misdemeanor. In addition to the fines or other penalties provided by law, the court may order that person to pay to the pilot who is entitled to pilot the vessel the amount of pilotage fees collected. No fees shall be paid for pilotage if a state-licensed pilot refuses to join the vessel under paragraph (5) of subdivision (c).

(b) A person may also be enjoined from engaging in the pilotage prescribed by subdivision (a) by a court of competent jurisdiction.

(c) This section does not apply to any of the following persons:

(1) The master of a vessel who has relieved the pilot to ensure the safe operation of the vessel, but only from the point where the pilot is relieved to the closest safe berth or anchorage, or the high seas if closer than a safe berth or anchorage.

(2) Persons piloting vessels pursuant to the valid regulatory authority of the Port of Sacramento or the Port of Stockton.

(3) Persons piloting vessels sailing under an enrollment, as specified in Section 1127.

(4) Persons piloting vessels pursuant to Section 1179.

(5) Persons piloting vessels if a state-licensed pilot refuses to join the vessel. However, a vessel may not hire a pilot not licensed by the state until a representative of the vessel notifies the port agent or his or her designee that the vessel will hire a pilot not licensed by the state unless a state-licensed pilot offers to join the vessel immediately. The port agent or his or her designee shall notify the executive director of the board or his or her designee that this paragraph applies.

(d) The exemption set forth in paragraph (5) of subdivision (c) does not apply in instances in which a state licensed pilot refuses to join a vessel because of suspected safety violations concerning that vessel's pilot hoists or pilot ladders.

SEC. 3. Section 1127 of the Harbors and Navigation Code is amended to read:

property, and vessels using the waters of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and to avoid damage to those waters and surrounding ecosystems as a result of vessel collision or damage by providing competent, efficient, and regulated pilotage for vessels required by this division to secure pilotage services.

(b) This section does not supersede, modify, or otherwise alter pilot practices that are not safety related, including, but not limited to, the determination of rates charged for pilot services or employer-employee relationships for individuals, agencies, or organizations involved in providing pilotage services between any port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and any other port of the United States that is in existence on December 31, 1995, or otherwise abridge the authority of local port or harbor districts relating to pilotage in effect on December 31, 1995.

(c) The board shall regulate pilotage on waters of the state as provided in this division.

(d) A vessel sailing under a coastwise license or appropriately endorsed registry and engaged in the coasting trade between a port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and another port of the United States is exempt from all pilotage charges unless a pilot is actually employed. A foreign vessel and a vessel bound between a foreign port and a port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun, and a vessel sailing under a register between a port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and another port of the United States, shall use a pilot holding a license issued pursuant to this division, except as otherwise provided by law.

(e) Subdivision (d) does not apply to a vessel that is less than 750 gross tons and is manufactured and used for private recreation.

SEC. 4. Section 1136 of the Harbors and Navigation Code is amended to read:

1136. A pilot licensed pursuant to this division shall do all of the following:

(a) Take an oath of office in the manner prescribed by law.

(b) Submit monthly to the board a verified account of all moneys or other compensation received by the pilot as a result of pilotage services, or by any other person for the pilot, or on the pilot's account, on the forms furnished by the board.

SEC. 5. Section 1140 of the Harbors and Navigation Code is amended to read:

1140. (a) It is the intent of the Legislature to provide for a unified system of state regulated pilotage for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun.

(b) The Legislature finds and declares that unified pilotage will be beneficial to the safety of people, vessels, and property using those bays and tributaries.

(c) The Legislature further finds and declares that unified systems of regulated pilotage are common to the ports of the world and are most familiar to, and best able to serve, both foreign and domestic vessels.

SEC. 6. Section 1142 of the Harbors and Navigation Code is repealed.

SEC. 7. Section 1156 of the Harbors and Navigation Code is amended to read:

1156. (a) The board may appoint, fix the compensation of, and from time to time adjust the compensation of, an executive director who is exempt from the civil service laws, and other employees as may be necessary. The executive director may perform all duties, exercise all powers, discharge all responsibilities, and administer and enforce all laws, rules, and regulations under the jurisdiction of the board, with the approval of the board, including, but not limited to, all of the following:

(1) The administration of personnel employed by the board in accordance with the civil service laws.

(2) To serve as treasurer of the board and keep, maintain, and provide the board with all statements of accounts, records of receipts, and disbursements of the board in accordance with the law.

- (4) The administration of matters and the maintenance of files pertaining to action taken against licenses issued by the board.
- (5) The administration of investigations of, and reporting on, a navigational incident or other matter for which a license issued by the board may be revoked or suspended.
- (6) To work with board members, staff, and other interested stakeholders to recommend improvements in the pilot training program.
- (7) Under the direction of the board, to coordinate with other state and federal agencies charged with protecting the environment and with the oil and hazardous chemical shipping industry.
- (8) Any other function, task, or duty as may reasonably be assigned by the president of the board, including, but not limited to, performing research and obtaining documents and other evidence for board activities, including rate hearings.
- (b) The Secretary of Business, Transportation and Housing shall appoint one assistant director to serve in a career executive assignment at the pleasure of the secretary. The assistant director shall have the duties as assigned by the executive director, and shall be responsible to the executive director for the performance of his or her duties.
- (c) The board may employ personnel necessary to carry out the purposes of this chapter. All personnel shall be appointed pursuant to the State Civil Service Act (Part 1 (commencing with Section 18000) of Division 5 of Title 2 of the Government Code), except for the executive director and the assistant director, who shall be exempt from state civil service. The board may fix the compensation of, and from time to time adjust the compensation of, any employees as may be necessary.
- (d) All personnel of the board shall be appointed, directed, and controlled by the board, the executive director, or the board's authorized deputies or agents to whom it may delegate its powers.
- (e) The board may contract and employ commission investigators. The board shall adopt regulations for the minimum standards for a commission investigator that shall include, but are not limited to, a basic knowledge of investigative techniques and maritime issues.

SEC. 8. Section 1156.6 of the Harbors and Navigation Code is amended to read:

1156.6. (a) If suspected safety standard violations concerning pilot hoists, pilot ladders, or the proper rigging of pilot hoists or pilot ladders are reported to the board, the executive director shall investigate the report. The executive director may personally inspect or assign a commission investigator to personally inspect the equipment for its compliance with the relevant safety standards promulgated by the United States Coast Guard and the International Maritime Organization. If, in the preliminary investigation, the equipment is found to be in violation, or in likely violation in the opinion of the executive director, of the relevant safety standards, the executive director shall immediately alert the cognizant United States Coast Guard office. The executive director shall report his or her findings and recommendations, if any, to the board. The board shall receive the executive director's findings, which may include other reports, information, or statements from interested parties. The board shall specify, by regulation, the information that shall be contained in the report.

(b) This section applies to the pilotage grounds, as defined in Section 1114.5. If a vessel passes outside of the pilotage grounds, the executive director's report shall include that fact along with a description of the incident.

(c) The record of the investigation and the board's findings and recommendations, if any, shall be a public record maintained by the board.

SEC. 9. Section 1157 of the Harbors and Navigation Code is amended to read:

1157. The board shall keep a written record of all the board's proceedings and acts.

(a) The board shall also keep a complete record of each pilot appointed and licensed by the board that includes, at a minimum, his or her current mailing address, residence, the date of the initial issuance and renewal of the license, the date of completion for initial and any subsequent training, and a record of any reports of meritorious

the issuance and use of his or her pilot license.

(b) All pilots licensed by the board shall provide the board with written notice of any change of name, mailing address, or residence within 30 days of that change in a manner prescribed by the board.

SEC. 10. Section 1157.1 of the Harbors and Navigation Code is amended to read:

1157.1. (a) Except as provided in Section 1157.4, all records of the board relating to the personal information of a pilot, a pilot trainee, or an applicant to the pilot trainee training program are confidential and shall not be open to public inspection.

(b) For purposes of this section, "personal information" means information, other than the name and mailing address, that identifies an individual, including an individual's photograph, social security number, address, telephone number, and medical or disability information, but does not include other information related to licensing such as incidents, rules or safety violations, misconduct, training records, commendations, and license status.

SEC. 11. Section 1157.5 of the Harbors and Navigation Code is amended to read:

1157.5. On or before April 15, 2010, and annually thereafter, the board shall submit to the Secretary of the Senate, the Chief Clerk of the Assembly, and the Secretary of Business, Transportation and Housing a report describing the board's activities for the preceding calendar year. The report shall include, but not be limited to, all of the following:

(a) The number of vessel movements across the bar, on the bays, and on the rivers within the board's jurisdiction.

(b) The name of each licensed pilot and pilot trainee, and the status of each person. If a person has had more than one status during the reporting year, each status and the length of time in that status shall be indicated. For the purposes of this section, "status" includes all of the following designations:

(1) Licensed and fit for duty.

(2) Licensed and not fit for duty.

(3) Licensed and on authorized training.

(4) Licensed and on active military duty.

(5) Licensed and on leave of absence.

(6) Licensed but license suspended.

(c) A summary of each report of misconduct or a navigational incident involving a pilot or pilot trainee, or other matters for which a license issued by the board may be revoked or suspended. For those cases that have been closed, the summary shall include a description of findings made by the incident review committee and of the resulting action taken by the board. For those cases that are still under investigation, the summary shall include a description of the reported incident and an estimated completion date for the investigation. For those closed cases involving a pilot who has been involved in a prior incident and a finding of pilot error had been made, the report shall also include a summary of that incident.

SEC. 12. Section 1158.1 of the Harbors and Navigation Code is amended to read:

1158.1. The executive director shall not, during the term of his or her office, serve as a member of the board or as a pilot, or otherwise be concurrently employed in the maritime industry.

SEC. 13. Section 1159.1 of the Harbors and Navigation Code, as amended by Section 20 of Chapter 567 of the Statutes of 2008, is amended and renumbered to read:

1159.2. (a) The vessel shall pay a board operations surcharge, the purpose of which is to fully compensate the

by pilots pursuant to Sections 1190 and 1191 unless the board establishes, with the approval of the Department of Finance, a lesser percentage, not to exceed any percentage consistent with subdivision (d).

(b) The surcharge shall be billed and collected by the pilots. The pilots shall pay all surcharges collected by them to the board monthly or at a later time that the board may direct.

(c) The board shall quarterly review its ongoing and anticipated expenses and adjust the surcharge to reflect any changes that have occurred since the last adjustment.

(d) The board operations surcharge shall not represent a percentage significantly more than that required to support the board and any costs of the Business, Transportation and Housing Agency related to the administration of the board pursuant to subdivision (a) in addition to the maintenance of a reasonable reserve.

SEC. 14. Section 1171 of the Harbors and Navigation Code is amended to read:

1171. (a) The board shall have the sole authority to determine the qualifications for obtaining a license as a pilot pursuant to this division, determine who shall have the license, and issue the license.

(b) A person possessing a valid state pilot's license on January 1, 1985, is hereby licensed as if the license was granted by the board.

SEC. 15. Section 1171.5 of the Harbors and Navigation Code is amended to read:

1171.5. (a) The board shall adopt, by regulation, licensing standards that equal or exceed standards for obtaining federal endorsements and that conform with and support the state policy specified in Sections 1100 and 1101.

(b) The board shall adopt reasonable rules and regulations that require pilots to be qualified to perform all pilot duties.

(c) The board shall adopt, by regulation, training standards and a training program for pilot trainees, and continuing education standards and a continuing education program for pilots. In the case of pilot trainees, the training program shall be for a minimum of one year and a maximum of three years. In the case of pilots, the board shall specify the type, nature, duration, and frequency of the continuing education required and the identity of the pilots who are required to undergo continuing education in the next 12-month period. Pursuant to Section 1182, the license of a pilot may be revoked or suspended if he or she fails to complete the continuing education required by this subdivision during the period specified. The board shall also require that an evaluation of the pilot's performance be prepared by the institution selected by the board to provide pilot continuing education, and the institution shall provide copies of the evaluation to the pilot and to the board.

(d) The board shall adopt, by regulation, the qualifications, standards, and rating criteria for admission of pilot trainees to the training program. Notwithstanding subdivision (f), the board shall administer and conduct the pilot trainee admission selection in accordance with the regulations for admission.

(e) The board shall establish a pilot evaluation committee consisting of five active pilots who each have at least 10 years' experience as a pilot on the Bays of San Francisco, San Pablo, and Suisun. The board shall select the members of the pilot evaluation committee. A member may not serve for more than two four-year terms, except that two of the initial members appointed to the pilot evaluation committee shall serve terms of two years.

(f) The pilot evaluation committee shall conduct and supervise the pilot trainee training program pursuant to the direction and regulation of the board and consistent with the intent of this division.

(g) The board shall issue a certificate of completion to each pilot trainee who satisfactorily completes the training program. The board shall not issue a pilot's license to a person who does not receive a certificate of completion of the training program from the board, although the board may refuse to issue a pilot license to a pilot trainee who has received this certificate.

(h) The training program for pilot trainees and the continuing education program for pilots shall be funded from revenues collected for these purposes as determined by the board pursuant to Sections 1195 and 1196 and deposited into the Board of Pilot Commissioners' Special Fund pursuant to Section 1159.

applicant to the pilot trainee training program who participates in any written or simulator examinations established by the board for the purposes of determining admission to the pilot trainee training program pursuant to subdivision (d) of Section 1171.5. The fee shall be charged only to those who actually participate in an examination and shall not exceed the administrative costs to the board of preparing and administering the examination.

(b) The moneys charged and collected from the applicant pursuant to subdivision (a) shall be paid to the board and deposited into the Board of Pilot Commissioners' Special Fund pursuant to Section 1159. The moneys shall be used only to fund the pilot trainee training program in the manner established by the board.

SEC. 17. Section 1176 of the Harbors and Navigation Code is amended to read:

1176. (a) The board shall appoint a physician or physicians who are qualified to determine the suitability of a person to perform his or her duties as a pilot or a pilot trainee in accordance with subdivision (c).

(b) An applicant for a pilot trainee position or for a pilot license, a pilot trainee, or a pilot seeking renewal of his or her license shall undergo a physical examination by a board-appointed physician in accordance with standards prescribed by the board. Within 30 days prior to the examination, the applicant or licensee shall submit to the physician conducting the physical examination a complete list of all prescribed medications being taken by or administered to the applicant or licensee.

(c) On the basis of both the examination and an evaluation of the effects of the prescription medications named on the submitted list, the physician shall designate to the board whether or not the pilot or pilot trainee is fit to perform his or her duties as a pilot or a pilot trainee.

(d) The license of a pilot shall not be renewed unless he or she is found fit for duty pursuant to subdivision (c).

(e) If a pilot or a pilot trainee is prescribed either a new dosage of a medication or a new medication, or suspends the use of a prescribed medication, he or she shall, within 10 days, submit that information to the board-appointed physician having possession of the prescribed medication list submitted pursuant to subdivision (b). If the physician receives the updated information, the physician shall determine whether or not the medication change affects the licensee's or trainee's fitness for duty. If the physician determines that the medication change results in the pilot or pilot trainee being unfit for duty, the physician shall inform the board.

(f) The board may terminate a pilot trainee or suspend or revoke the license of a pilot who fails to submit the prescribed medication information required by this section.

SEC. 18. Section 1180 of the Harbors and Navigation Code is amended to read:

1180. If, in the opinion of the board, there is reasonable cause to believe that the public interest requires that a pilot be summarily suspended pending hearing on charges of misconduct that include any of the causes for suspension or revocation specified in Section 1181 or if the board has information that leads it to believe that a pilot has become unable to comply with the standards of health or physical condition requisite to a pilot's duties, the board may, without hearing, temporarily suspend the license of the pilot for not exceeding 40 days pending hearing and decision on the charges. Unless an accusation on the charge is served on the pilot as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, prior to the close of the sixth day after the suspension becomes effective, the temporary suspension terminates at the close of the sixth day.

SEC. 19. Section 1180.3 of the Harbors and Navigation Code is amended to read:

1180.3. (a) The board shall establish an incident review committee, which shall be composed of one public member of the board and the executive director. The board shall delegate to the incident review committee the responsibility to review all reports of misconduct or navigational incidents involving pilots or other matters for which a license issued by the board may be revoked or suspended. This subdivision does not apply to an incident involving a pilot aboard a vessel of less than 300 gross tons unless a pilot is required by law.

(b) The incident review committee, with the assistance of one or more investigators, shall investigate the incident, misconduct, or other matter and prepare a written report. The incident review committee may call

complete investigation. In performing their duties, the members of the incident review committee and its investigators shall act fairly and impartially and shall treat all matters developed or maintained as required by law. The members of the incident review committee and the investigators shall not discuss any investigation with the board or any member of the board until the matter has been finally disposed of by the incident review committee or final action has been taken by the board, as appropriate. The board shall specify, by regulation, the information to be contained in the report, which shall include, but need not be limited to, the following information relating to the incident, misconduct, or other matter:

- (1) The name of the vessel, date, location, and identification of the pilot.
- (2) A description of the weather and sea conditions.
- (3) An illustration and description of the incident, misconduct, or other matter under investigation.
- (4) An estimate of the damages, if any.
- (5) The names of the witnesses providing information relating to the incident, misconduct, or other matter under investigation.
- (6) The nature and extent of any injuries.
- (7) A summary of any prior investigations of incidents, misconduct, or other matters involving the same pilot designated pursuant to paragraph (1).
- (8) Any relevant correspondence or records from the United States Coast Guard relating to the incident, misconduct, or other matter under investigation.
- (9) A historical record of the actions taken in the investigation and the action taken pursuant to Section 1180.6.
- (10) A summary of the factual background of the incident, misconduct, or other matter investigated.
- (11) The following information that is not a part of the public record:
 - (A) The report from the pilot.
 - (B) The confidential report of the investigator.
- (c) Unless an accusation for suspension or revocation of the pilot's license is served on the pilot as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the incident review committee shall present the completed investigation report to the board at the first monthly meeting of the board after the completion of the report. Unless an extension is granted by the board, the report shall be presented within 90 days of the date of the incident, misconduct, or other matter investigated.
- (d) The record of the investigation prepared pursuant to subdivision (b) and the final disposition of the incident, misconduct, or other matter shall be retained in the records of the board for 10 years after the completion of the investigation and, except for the items listed in paragraph (11) of subdivision (b), shall be a public record.

SEC. 20. Section 1180.6 of the Harbors and Navigation Code is amended to read:

1180.6. (a) The board, after full consideration of the evidence, report, and recommendations presented by the incident review committee relating to an incident, misconduct, or other matter pursuant to Section 1180.3, shall take one or more of the following actions:

- (1) Serve an accusation for suspension or revocation of the pilot's license on the pilot as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, pursuant to Sections 1181 and 1182.
- (2) Enter into a written stipulation for corrective action to be performed by the pilot, which may include, but is not limited to, further training or supervised practice trips.
- (3) Provide counseling for the pilot relating to the duties and obligations of a pilot.
- (4) Issue a warning letter of reprimand to the pilot.

(6) Close the investigation without further action.

(7) Remand the matter to the incident review committee for further investigation.

(b) Action required pursuant to subdivision (a) shall be taken by a majority vote of the board.

(c) A member of the board shall not sit on the board as a trier of fact for those cases in which he or she has served on the incident review committee recommending action to the board.

(d) The executive director shall note any action taken by the board pursuant to this section in a pilot's record and shall establish a suspense file to ensure that all training, practice trips, or other corrective action required to be performed pursuant to subdivision (a) by the pilot are completed as required. The executive director shall report to the board each month on the progress of any training, supervised practice trips, or other corrective action or the completion of any other action required pursuant to subdivision (a).

(e) The executive director shall notify the board of a pilot who fails, or refuses, to complete training, practice trips, or other corrective action imposed by the board pursuant to subdivision (a). If the board determines that the pilot has intentionally failed to complete training, practice trips, or other corrective action, the board may take additional action as specified in subdivision (a).

(f) The board shall adopt guidelines for the determination by the incident review committee of the action to be taken pursuant to subdivision (a) at the completion of an investigation conducted pursuant to Section 1180.3.

SEC. 21. Section 1181 of the Harbors and Navigation Code is amended to read:

1181. The license of a pilot may be revoked or suspended before its expiration only for reasons of misconduct, which shall include, but not be limited to, the following:

(a) Neglect, for 30 days after it becomes due, to render an account to the board of all money received for pilotage.

(b) Neglect, for 30 days after it becomes due, to pay over to the board the percentage of all pilotage money received, as set by the board.

(c) Rendering to the board a false account of pilotage received.

(d) Absence from duty for more than one month at any one time without leave granted by the board, unless sickness or personal injury causes the absence.

(e) Refusing to exhibit the pilot license when requested to do so by the master of any vessel boarded.

(f) Intoxication or being under the influence of any substance or combination of substances that so affects the nervous system, brain, or muscles as to impair, to an appreciable degree, the ability to conduct the duties of a pilot while on duty.

(g) Negligently, ignorantly, or willfully running a vessel on shore, or otherwise rendering it liable to damage, or otherwise causing injury to persons or damage to property. However, this subdivision does not apply to a vessel of less than 300 gross tons unless a pilot is required by law.

(h) Willful violation of the rules and regulations adopted by the board for the government of pilots.

(i) Inability to comply with the standards of health or physical condition requisite to the duties of a pilot, but in that case the burden of proving compliance with these standards is upon the licensee, unless prior to the hearing the licensee takes and passes those tests or examinations required by the board.

(j) Failure or refusal, to complete training, practice trips, or other corrective action imposed on that pilot by the board pursuant to Section 1180.6.

SEC. 22. Section 1182 of the Harbors and Navigation Code is amended to read:

1182. If, after a hearing, the board finds that the pilot is guilty of misconduct sufficient for deprivation of the

accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted pursuant to that chapter.

SEC. 23. Section 1183 of the Harbors and Navigation Code is amended to read:

1183. (a) Upon notification of nonrenewal of the license, a pilot is entitled to a trial and hearing in the same manner that other charges and accusations against pilots are tried.

(b) In every case of nonrenewal, suspension, or revocation of the license of a pilot for cause, the final decision of the board is subject to judicial review in accordance with law, and the court shall exercise its independent judgment on the evidence.

SEC. 24. Section 1191 of the Harbors and Navigation Code is amended to read:

1191. (a) The board, pursuant to Chapter 6 (commencing with Section 1200), shall recommend that the Legislature, by statute, adopt a schedule of pilotage rates providing fair and reasonable return to pilots engaged in ship movements or special operations if rates for those movements or operations are not specified in Section 1190.

(b) A vessel using pilots for ship movements or special operations that do not constitute bar pilotage shall pay the rate specified in the schedule of pilotage rates adopted by the Legislature.

(c) Consistent with the board's adoption of rate recommendations in May 2002, the minimum rates imposed pursuant to this section that are in effect on December 31, 2002, shall be increased by 26 percent on January 1, 2003; those in effect on December 31, 2003, shall be increased by 26 percent on January 1, 2004; those in effect on December 31, 2004, shall be increased by 14 percent on January 1, 2005; and those in effect on December 31, 2005, shall be increased by 14 percent on January 1, 2006.

SEC. 25. Section 1196 of the Harbors and Navigation Code is amended to read:

1196. (a) In addition to other fees for pilotage, there shall be a surcharge in an amount established by the board for each movement of a vessel using pilot services for the pilot continuing education program established by the board.

(b) The moneys charged and collected each month from the pilot continuing education program surcharge shall be paid to the board. The moneys shall be used only to fund the pilot continuing education program in the manner established by the board.

(c) By action of the board, the board may adjust the amount established pursuant to subdivision (a) as necessary to efficiently administer the pilot continuing education program.

SEC. 26. Section 1196.1 of the Harbors and Navigation Code is amended to read:

1196.1. (a) The moneys charged and collected each month from the pilot continuing education surcharge pursuant to Section 1196 shall be paid to the Board of Pilot Commissioners' Special Fund pursuant to Section 1159. The moneys shall be used only to fund the pilot continuing education program referred to in subdivision (h) of Section 1171.5 and Section 1196.3.

(b) Information regarding moneys remitted to the Board of Pilot Commissioners' Special Fund pursuant to Section 1159 collected from the surcharge authorized pursuant to Section 1196, or otherwise collected by the board for that purpose, and information regarding moneys spent as pilot continuing education expenses authorized by Section 1196.3 shall be made available to the public upon request and to the board or its finance committee.

SEC. 27. Section 1196.3 of the Harbors and Navigation Code is amended to read:

1196.3. Pilot continuing education expenses shall include all costs incurred by the board in the operation and administration of the pilot continuing education program and all costs resulting from any contracts entered into for the purchase or lease of goods and services required by the board, including, but not limited to, the

any other goods and services necessary for effectuating the purposes of continuing education as determined by the board.



AB-1025 Harbors and ports: inland pilots. (2011-2012)

Date	Action
09/26/11	Chaptered by Secretary of State - Chapter 324, Statutes of 2011.
09/26/11	Approved by the Governor.
09/16/11	Enrolled and presented to the Governor at 11:30 a.m.
09/02/11	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 75. Noes 0. Page 2846.).
08/31/11	In Assembly. Concurrence in Senate amendments pending. May be considered on or after September 2 pursuant to Assembly Rule 77.
08/30/11	Read third time. Passed. Ordered to the Assembly. (Ayes 38. Noes 0. Page 2127.).
08/22/11	Read second time and amended. Ordered to third reading.
08/18/11	From committee: Do pass as amended. (Ayes 8. Noes 0.) (August 15).
06/28/11	From committee: Do pass and re-refer to Com. on APPR. with recommendation: to consent calendar. (Ayes 13. Noes 0.) (June 28). Re-referred to Com. on APPR.
06/07/11	In committee: Set, first hearing. Hearing canceled at the request of author.
05/26/11	Referred to Com. on G.O.
05/12/11	In Senate. Read first time. To Com. on RLS. for assignment.
05/12/11	Read third time. Passed. Ordered to the Senate. (Ayes 70. Noes 0. Page 1344.)
05/09/11	Read second time. Ordered to third reading.
05/05/11	From committee: Do pass. (Ayes 17. Noes 0.) (May 4).
04/27/11	Measure version as amended on April 13 corrected.
04/14/11	Re-referred to Com. on APPR.
04/13/11	Read second time and amended.
04/12/11	From committee: Do pass as amended and re-refer to Com. on APPR. with recommendation: to consent calendar. (Ayes 12. Noes 0.) (April 11).
03/31/11	Re-referred to Com. on TRANS.
03/30/11	From committee chair, with author's amendments: Amend, and re-refer to Com. on TRANS. Read second time and amended.
03/14/11	Referred to Com. on TRANS.
02/20/11	From printer. May be heard in committee March 22.
02/18/11	Read first time. To print.

SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION
Senator Roderick D. Wright, Chair
2011-2012 Regular Session
Staff Analysis

AB 1025 Author: Skinner
As Amended: April 13, 2011
Hearing Date: June 28, 2011
Consultant: Art Terzakis

SUBJECT

Bays of Monterey, San Francisco, San Pablo & Suisun: bar pilots

DESCRIPTION

AB 1025 makes the following substantive changes to existing provisions of the Harbors and Navigation Code relating to bar pilotage in Monterey Bay and the Bays of San Francisco, San Pablo and Suisun:

1. Modifies the definition of "inland pilot" to mean a person holding an inland pilot license prior to January 1, 2011 and deletes all references to inland pilots.
2. Requires that the Board of Pilot Commissioner's assistant director be appointed by the Secretary of Business, Transportation and Housing (BT&H), instead of the Governor, and serve at the pleasure of the Secretary, as a "career executive."
3. Recasts certain provisions relating to violations of safety standards to require the executive director instead of an assigned commission investigator to perform investigations, make findings and recommendations and report to the Board of Pilot Commissioners.
4. Authorizes the Board of Pilot Commissioners to charge an examination fee, in an amount established by the board and not to exceed the board's costs to administer the exam, to each applicant to the pilot trainee training program who participates in any written or simulation examination for the purposes of determining admission to the program.
5. Makes other minor, technical and code maintenance changes.

EXISTING LAW

Existing law establishes in state government the Board of Pilot Commissioners, with jurisdiction over Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun. Existing law directs the Board to regulate pilotage and provides for the licensing,

regulation, and management of pilots in these Bays. The Board consists of 7 members appointed by the Governor, with the consent of the Senate, as follows: (1) two members must be licensed pilots; (2) two members must represent the industry and be substantial users of Monterey Bay and any of the waters of the Bays of San Francisco, San Pablo, or Suisun; and, (3) three must be "public" members. Additionally, the Secretary of Business, Transportation & Housing Agency serves *ex officio*.

Existing law requires the Board to adopt a continuing education program for pilots and inland pilots funded from fees from the surcharge for each movement of a vessel using pilot services. Existing law also requires the Board to adopt training standards and a training program for pilot trainees.

Existing law requires the executive director of the Board to assign a commission investigator, if suspected equipment safety standard violations are reported to the board, to personally inspect the equipment for its compliance with the relevant safety standards promulgated by the U.S. Coast Guard and the International Maritime Organization. Additionally, existing law requires the commission investigator to report preliminary conclusions to the executive director. Furthermore, existing law requires the commission investigator to submit a report, required to remain confidential, to an incident review committee and the committee is required to report its findings, if any, to the Board.

Existing law requires the Governor to appoint an assistant director to serve at the pleasure of the Governor. The law also provides for an executive director (who is appointed by the Board) and requires that the executive director assign duties to the assistant director who is responsible to the executive director for the performance of his/her duties.

BACKGROUND

Brief Historical Perspective: Bar pilots have been guiding ships into San Francisco Bay, one of the most treacherous passages in the world, since at least 1835. The work that bar pilots performed was so important that one of the first legislative enactments by the newly formed California Legislature that met in San Jose in 1850 was to address the regulation of bar pilots.

California's history of piloting parallels to a large extent the history of pilotage throughout the United States. Prior to the American Revolution, pilotage was regulated by colonial legislatures. They generally provided for the commissioning of pilots, apprenticeship requirements to become a pilot, specified the type and size of pilot boats used in the service, and established fees to be charged. When the United States Constitution was adopted, it recognized that pilotage fell within the domain of the federal government because it involved regulation of instruments of foreign commerce. One of the first acts of the newly formed Congress in 1789 was to recognize the existing state laws regulating pilots and delegate to the states the authority to continue to regulate pilotage because of its unique character.

Bar pilots are responsible for steering an arriving vessel through the Golden Gate of San Francisco Bay, the Bay waters and adjoining navigable waters, which include San Pablo Bay, Suisun Bay, the Sacramento River and its tributaries. When a vessel approaches the "SF" buoy several miles west of the Golden Gate Bridge, a bar pilot boards the ship and

takes navigational control. (Pilots in San Francisco are called "Bar Pilots" because they board and disembark ships just beyond a treacherous sand bar which provides a natural obstacle to shipping.) It becomes the pilot's responsibility to guide the ship to its berth. The bar pilots provide service to all types of vessels, from 100-foot tugs to 1000-foot supertankers.

Purpose of AB 1025: According to the author's office, this measure has been introduced to increase the efficiency of the board's operations. Specifically, the author's office points out that the board has expressed its frustration that individuals complete the board's examination process, which includes navigation simulation and which is free of charge, in order to gain navigation experience, with no intention of ever becoming San Francisco Bay pilots. The board claims that allowing it to charge a fee will not only discourage disingenuous exam takers but also ensure the board can cover expenses resulting from administering the exam.

This measure also proposes to change the appointing authority from the Governor to the Secretary of the Business, Transportation and Housing Agency (BT&H) for the assistant director of the Board. On January 1, 2009, the Board was moved from an independent entity existing in state government to be a part of BT&H. The Secretary of BT&H was added as a non-voting Member of the Board. Because the Board is now under the aegis of BT&H, the Secretary is much closer to the administration of the Board, and thus, for consistency purposes, the author and co-sponsors of AB 1025 believe it makes sense to have the Secretary make the appointment rather than the appointment coming from the Governor's Office.

Additionally, AB 1025 modifies the investigation and reporting procedure for safety equipment to put the executive director in the lead position, rather than the commission investigator.

Furthermore, this measure removes references to "inland pilot." The author's office states that the last inland pilot has retired and there is no longer a distinction between "inland pilot" and "pilot." Accordingly, the term is now obsolete and unnecessary.

Staff Comments: Prior to 1984, in addition to the bar pilots, another group of pilots known as "inland pilots" were employed to moor vessels and guide them through the narrow channels inside the Bay. At the time, inland pilots were not licensed by the state but acted as independent contractors. Also, there was no requirement that inland pilots be used. A third group of pilots employed by company-owned vessels performed the same duties as inland pilots.

AB 1768 (Papan) Chapter 1653 of 1984 established a unified system of state regulated bar and inland pilotage for the Bays of San Francisco, San Pablo and Suisun. Specifically, AB 1768 provided that only pilots licensed by the Board of Pilot Commissioners who are not the master or owner of the piloted vessel have the right of pilotage between and within the ports of the bays. At the time, a group of approximately 10 independent pilots were initially opposed to AB 1768 on the basis that it would abolish the existing system of "preferred pilots" in favor of a rotational, pooling system that would make it more expensive to use them. AB 1768 granted the inland pilots the opportunity to be licensed as bar pilots or be grandfathered as inland pilots with the

additional requirement that they seek license renewal each year and hold an active and proper license to pilot vessels on the waters on which the pilot operates – a handful of inland pilots chose to remain inland pilots. The last of the “inland pilots” recently retired, thus there is no need for the term “inland pilot” in statute.

PRIOR/RELATED LEGISLATION

AB 907 (Ma) 2011-12 Session. Would make specified changes to various provisions of the Harbors and Navigation Code relating to bar pilotage rates for Monterey Bay and the Bays of San Francisco, San Pablo and Suisun. **(Pending in this Committee)**

AB 656 (Huber) 2011-12 Session. Would sunset, as of January 1, 2011, the Board of Pilot Commissioners and transfer, as of that date, the board's duties to the Secretary of Business, Transportation and Housing. **(Pending in this Committee)**

AB 1888 (Ma) Chapter 455, Statutes of 2010. Among other things, revised the terms for members of the board who are licensed pilots and members who represent the industry and exempted from those pilotage fees and surcharges noncommercial vessels that are maritime academy training vessels and vessels owned and operated by nonprofit museums or foundations. These vessels would be subject to the board operations surcharge.

SB 300 (Yee) Chapter 497, Statutes of 2009. Established a surcharge for payment of navigational aids for bar pilots and revised the pilotage rate based upon the current number of bar pilots.

SB 1627 (Wiggins) Chapter 567, Statutes of 2008. Made numerous substantive, clarifying and technical changes to the body of law relating to the Board of Pilot Commissioners. Specifically, injected ongoing and continuous legislative oversight and administrative responsibility within the existing pilot licensing framework, without altering the Board, its charge, or composition and without changing current pilotage rates, pilot pension benefits, or duties and responsibilities of current, past or future licensed pilots. Also, directed the Bureau of State Audits to conduct a comprehensive performance and financial audit of the Board.

SB 1217 (Yee) Chapter 568, Statutes of 2008. Required the Board of Pilot Commissioners to appoint a physician or physicians who are qualified to determine the suitability of a person to perform his or her duties as a pilot, an inland pilot, or a pilot trainee in accordance with specified requirements. Also, required the Board to terminate a pilot trainee or suspend or revoke the license of a pilot or an inland pilot who fails to submit the prescribed medication information required by these provisions.

AB 852 (Leno) Chapter 129, Statutes of 2005. Among other things, authorized revenue generated by the pilot boat surcharge to be used to pay for pilot boat design and engineering modifications intended to extend the service life of existing boats, in addition to the existing purpose of purchasing new pilot boats.

SB 1303 (Torlakson) Chapter 560, Statutes of 2004. Made a minor change to an existing provision of law relative to representation on the Board of Pilot Commissioners

by clarifying that the Board's two industry members must be substantial users of any of the waters of the Bays of San Francisco, San Pablo, Suisun, or Monterey.

SB 1353 (Perata) Chapter 765, Statutes of 2002. Established a schedule of incremental changes (through January 1, 2006) to the rates and special surcharges that bar pilots may impose on vessels that move in and out of the Bays of San Francisco, San Pablo and Suisun.

SB 637 (McPherson) Chapter 177, Statutes of 2001. Allowed San Francisco bar pilots to pilot commercial vessels calling on ports in "Monterey Bay" by including Monterey Bay within the system of state regulated pilotage for the Bays of San Francisco, San Pablo and Suisun.

SB 2177 (McPherson) 1999-2000 Session. Would have applied existing provisions of law relative to the regulation, licensing, and management of pilots for the Bays of San Francisco, San Pablo and Suisun to persons who pilot vessels into or out of the waters of Monterey Bay. (Held in Assembly policy committee at author's request)

SB 2144 (Perata) Chapter 394, Statutes of 2000. Made various modifications to provisions of law governing the licensing of bar pilots.

SB 1109 (Burton) Chapter 786, Statutes of 2000. Among other things, required a vessel owner and its operators to defend, indemnify, and hold harmless, a bar pilot from any liability and expenses in connection with any civil claim suit as action arising out of the pilot's performance of the pilotage services, except for acts of willful misconduct.

AB 951 (Wiggins) Chapter 261, Statutes of 1999. Codified the agreement on bar pilot rate increases reached between the San Francisco Bar Pilots and the Pacific Merchant Shipping Association.

SB 1741 (Johnston) Chapter 1115, Statutes of 1996. Among other things, established a schedule of bar pilotage rate increases that were phased in over a three-year period (1997-99).

SB 496 (M. Thompson) Chapter 711, Statutes of 1995. Revised the formula the fiduciary uses to calculate the quarterly adjustment for pilotage rates. Also, changed the schedule of pilotage fees for ship movements and internal operations, as specified.

SB 2068 (Johnston) Chapter 385, Statutes of 1994. Increased the pilotage rate from 60.70 mills to 64.88 mills and required the board to temporarily reduce the additional charge, as specified, if maintenance and repair costs of two pilot boats are less than \$200,000.

SB 238 (Lockyer) Chapter 1192, Statutes of 1993. Increased the rate of the additional pilotage charge from 60.56 mills per high gross registered ton to 60.70 mills. Also, included inland pilots, as defined, in the pension benefit program.

AB 1768 (Papan) Chapter 1653, Statutes of 1984. Among other things, established a unified system of state regulated pilotage whereby inland pilots became members of the

San Francisco Bar Pilots Association and the combined group assumed joint responsibility for all pilotage moves on the pilotage grounds (e.g., San Francisco, San Pablo, and Suisun Bays and all other ports included therein.)

AB 1061 (Agnos) Chapter 1306, Statutes of 1983. Increased pilotage rates and pension benefits, as specified.

AB 2027 (Felando) 1983 Session. Among other things, would have created three classes of pilots (pilots, inland pilots, and company pilots) and would have repealed existing law relative to the Legislature establishing pilotage rates. **(Held in this Committee at author's request)**

AB 3603 (Brown, W.) 1982 Session. Would have provided a unified system of state regulated bar and inland pilotage. **(Dropped at author's request in Senate Finance Committee)**

SUPPORT: As of June 24, 2011:

Pacific Merchant Shipping Association (co-sponsor)
San Francisco Bar Pilots (co-sponsor)

OPPOSE: None on file as of June 24, 2011.

FISCAL COMMITTEE: Senate Appropriations Committee
