**AB-3049 Bar pilots: pilotage rates.** (2017-2018)

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**Date Published: 03/22/2018 09:00 PM**

AMENDED IN ASSEMBLY MARCH 22, 2018

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

# ASSEMBLY BILL NO. 3049

**Introduced by Assembly Member Grayson**
***(Coauthor: Assembly Member Cooley)***

**February 16, 2018**

~~An act to amend Section 1151 of the Harbors and Navigation Code, relating to bar pilots.~~ *An act to amend Sections 1101, 1154, 1156, 1156.5, 1157.5, 1159.2, 1170.1, 1190, and 1190.1 of, and to add Section 1190.2 to, the Harbors and Navigation Code, relating to bar pilots, and making an appropriation therefor.*

## LEGISLATIVE COUNSEL'S DIGEST

AB 3049, as amended, Grayson. ~~Bar pilots: Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun.~~ *Bar pilots: pilotage rates.*

*Existing law provides for the regulation and licensing of pilots for Monterey Bay, and the Bays of San Francisco, San Pablo, and Suisun, and the payment of specified pilotage rates and charges imposed on vessels piloted in those bays. Existing law also establishes, in the Transportation Agency, a Board of Pilot Commissioners for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun, and prescribes the membership, functions, and duties of the board with regard to the licensure and regulation of bar pilots.*

*Existing law requires that every vessel inward or outward bound from those bays pay a bar pilotage fee of $8.11 per draft foot of a vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 73.01 mills per high gross registered ton. Existing law also imposes, among other things, a board operations surcharge of up to 7.5% of all bar pilotage fees charged by bar pilots, which is paid into the State Treasury to the credit of the Board of Pilot Commissioners' Special Fund and continuously appropriated to the board to compensate the board and the agency for their services and expenses.*

*This bill would increase that bar pilotage fee to $10.26 per draft foot of a vessel's deepest draft and fractions of a foot pro rata, and the additional charge to 92.43 mills per high gross registered ton. The bill would make changes in the considerations required of the board when it is determining the number of pilots needed, and*

*of moneys paid into and expended from the fund, the bill would make an appropriation.*

~~Existing law provides for the regulation and licensing of pilots for the Bays of Monterey, San Francisco, San Pablo, and Suisun by the Board of Pilot Commissioners. Existing law requires each member of the board to satisfy specified citizenship and residency requirements.~~

~~This bill would make a nonsubstantive change to the latter provision.~~

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

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

***SECTION 1.*** *Section 1101 of the Harbors and Navigation Code is amended to read:*

**1101.** The Legislature further finds and declares all of the following:

(a) The maritime industry is necessary for the continued economic well-being and cultural development of all California citizens.

(b) The Bays of San Francisco, San Pablo, and Suisun provide a vital transportation route for the maritime industry.

(c) The increase in vessel size and traffic, and the increase in cargoes carried in bulk, particularly oil and gas and hazardous chemicals, create substantial hazards to the life, property, and values associated with the environment of those waters.

(d) The federal government has long adopted the policy of providing minimum standards that ensure port and waterway safety while encouraging state control over pilot qualifications and licensing.

(e) A program of pilot regulation and licensing is necessary in order to ascertain and guarantee the qualifications, fitness, and reliability of qualified personnel who can provide safe pilotage of vessels entering and using Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun.

(f) The need to ensure safe and pollution-free waterborne commerce requires that pilotage services be employed in the confined, crowded, and environmentally sensitive waters of those bays.

(g) Bar pilotage in the Bays of San Francisco, San Pablo, and Suisun has continuously been regulated by a single-purpose state board since 1850, and that regulation and licensing should be continued.

(h) The individual physical safety and well-being of pilots is of vital importance in providing required pilot services.

*(i) The setting of pilotage rates by a state board of pilot commissioners is common to many ports in the United States and such a board is most familiar with, and best able to serve and balance, the interests of the public, foreign and domestic vessels, and bar pilots in the setting of those rates.*

***SEC. 2.*** *Section 1154 of the Harbors and Navigation Code is amended to read:*

**1154.** (a) The board is vested with all functions and duties relating to the administration of this division, except those functions and duties vested in the Secretary of ~~Business, Transportation and Housing.~~ *Transportation.*

(b) The board's vested powers include the power to make and enforce rules and regulations that are reasonably necessary to carry out its provisions and to govern its actions. These rules and regulations shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

***SEC. 3.*** *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~~ *periodically* 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,

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.

(3) The issuance and countersigning of licenses that shall also be signed by the president of the board.

(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. 4.*** *Section 1156.5 of the Harbors and Navigation Code is amended to read:*

**1156.5.** (a) The executive director shall serve at the pleasure of the board and shall be under the direct supervision of the board. The term of office to which the executive director is appointed is five years.

(b) The Secretary of ~~Business, Transportation and Housing,~~ *Transportation,* or his or her designee, shall act as the executive director during the absence from the state or other temporary absence, disability, or unavailability of the executive director, or during a vacancy in that position.

***SEC. 5.*** *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~~ *The* board shall submit to the Secretary of the Senate, the Chief Clerk of the Assembly, and the Secretary of ~~Business, Transportation and Housing~~ *Transportation, by April 15 of each year,* 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.

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. 6.*** *Section 1159.2 of the Harbors and Navigation Code is amended to read:*

**1159.2.** (a) The vessel shall pay a board operations surcharge, the purpose of which is to fully compensate the board and the Transportation Agency for the official services, staff services, and incidental expenses of the board and agency. The amount of the surcharge shall be 7.5 percent of all pilotage fees charged by pilots pursuant to Sections ~~1190 and~~ *1190, 1190.2, 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 Transportation Agency related to the administration of the board pursuant to subdivision (a) in addition to the maintenance of a reasonable reserve.

***SEC. 7.*** *Section 1170.1 of the Harbors and Navigation Code is amended to read:*

**1170.1.** In determining the number of pilots needed, pursuant to Section 1170, the board shall take into consideration the findings and declarations in Sections ~~1100~~ *1100, 1101,* and ~~1101,~~ *1102,* the results of *the study required by Section 1196.5, the 1986 manpower study adopted by the board, the results of* an audit made pursuant to, and the factors specified in, Section 1203, the industry's current economic trends, fluctuations in the number of vessel calls, the size of vessels, and whether the need for pilotage is increasing or decreasing.

***SEC. 8.*** *Section 1190 of the Harbors and Navigation Code is amended to read:*

**1190.** (a) Every vessel spoken inward or outward bound shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) ~~Eight dollars and eleven cents ($8.11)~~ *(A) Ten dollars and twenty-six cents ($10.26)* per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of ~~73.01~~ *92.43* mills per high gross registered ~~ton as changed pursuant to law in effect on December 31, 1999. The mill rates established by this paragraph may be changed as follows:~~ *ton.*

~~(A)(i)On and after January 1, 2010, if the number of pilots licensed by the board is 58 or 59 pilots, the mill rate in effect on December 31, 2006, shall be decreased by an incremental amount that is proportionate to one-half~~

~~(ii)On and after January 1, 2010, if the number of pilots licensed by the board is fewer than 58 pilots, the mill rate in effect on December 31, 2006, shall be adjusted in accordance with the method described in clause (i) as though there are 58 pilots licensed by the board.~~

~~(iii)The incremental mill rate adjustment authorized by this subparagraph shall be calculated using the data reported to the board for the number of gross registered tons handled by pilots licensed under this division during the same 12-month period as the audited annual average net income per pilot. The incremental mill rate adjustment shall become effective at the beginning of the immediately following quarter, commencing January 1, April 1, July 1, or October 1, as directed by the board.~~

~~(iv)On and after January 1, 2010, if, during any quarter described in this paragraph, the number of pilots licensed by the board is equal to or greater than 60, clauses (i) to (iii), inclusive, shall become inoperative on the first day of the immediately following quarter.~~

~~(B)There shall be an incremental rate of additional mills per high gross registered ton as is necessary and authorized by the board to recover the pilots' costs of obtaining new pilot boats and of funding design and engineering modifications for the purposes of extending the service life of existing pilot boats, excluding costs for repair or maintenance. The incremental mill rate charge authorized by this subparagraph shall be identified as a pilot boat surcharge on the pilots' invoices and separately accounted for in the accounting required by Section 1136. Net proceeds from the sale of existing pilot boats shall be used to reduce the debt on the new pilot boats and any debt associated with the modification of pilot boats under this subparagraph. The board may adjust a pilot boat surcharge to reflect any associated operational savings resulting from the modification of pilot boats under this subparagraph, including, but not limited to, reduced repair and maintenance expenses.~~

~~(C)In addition to the incremental rate specified in subparagraph (B), the~~

*(B) The* mill rate established by this subdivision may be adjusted at the direction of the board if, after a hearing conducted pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, the board determines that there has been a catastrophic cost increase to the pilots that would result in at least a 2-percent increase in the overall annual cost of providing pilot services.

(2) A minimum charge for bar pilotage shall be six hundred sixty-two dollars ($662) for each vessel piloted.

(3) The vessel's deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the course of such transit inward or outward.

(b) The rate specified in subdivision (a) shall apply only to a pilotage that passes through the Golden Gate to or from the high seas to or from a berth within an area bounded by the Union Pacific Railroad Bridge to the north and Hunter's Point to the south. The rate for pilotage to or from the high seas to or from a point past the Union Pacific Railroad Bridge or Hunter's Point shall include a movement fee in addition to the basic bar pilotage rate as specified by the board pursuant to Section 1191.

(c) The rate established in paragraph (1) of subdivision (a) shall be for a trip from the high seas to dock or from the dock to high seas. The rate specified in Section 1191 shall not be charged by pilots for docking and undocking vessels. ~~This subdivision does not apply to the rates charged by inland pilots for their services.~~

~~(d)The board shall determine the number of pilots to be licensed based on the 1986 manpower study adopted by the board.~~

~~(e)Consistent with the board's May 2002 adoption of rate recommendations, the rates imposed pursuant to paragraph (1) of subdivision (a) that are in effect on December 31, 2002, shall be increased by 4 percent on January 1, 2003; those in effect on December 31, 2003, shall be increased by 4 percent on January 1, 2004; those in effect on December 31, 2004, shall be increased by 3 percent on January 1, 2005; and those in effect on December 31, 2005, shall be increased by 3 percent on January 1, 2006.~~

***SEC. 9.*** *Section 1190.1 of the Harbors and Navigation Code is amended to read:*

**1190.1.** Every vessel that uses a pilot under this division while navigating the waters of Monterey Bay shall pay the rate ~~provided by subdivisions~~ *determined pursuant to subdivision* (a) ~~and (e)~~ of Section 1190.

***1190.2.*** *There shall be an incremental rate of additional mills per high gross registered ton as is necessary and authorized by the board to recover the pilots' cost of obtaining new pilot boats and of funding design and engineering modifications for the purposes of extending the service life of existing pilot boats, excluding costs for repair or maintenance. The incremental mill rate charge authorized by this section shall be identified as a pilot boat surcharge on the pilots' invoices and separately accounted for in the accounting required by Section 1136. Net proceeds from the sale of an existing pilot boat shall be used to reduce the debt on the new pilot boats and any debt associated with the modification of pilot boats under this section. The board may adjust a pilot boat surcharge to reflect any associated operational savings resulting from the modification of pilot boats under this section, including, but not limited to, reduced repair and maintenance expenses.*

~~SECTION 1.Section 1151 of the Harbors and Navigation Code is amended to read:~~

~~1151.Each member of the board shall be a citizen of the United States and shall be a resident of California. Each member appointed pursuant to paragraphs (1) and (3) of subdivision (a) of Section 1150 shall be a resident of one of the following counties: San Francisco, Alameda, Contra Costa, Marin, Mendocino, Monterey, Sacramento, San Mateo, Santa Clara, Santa Cruz, Solano, San Joaquin, Napa, Sonoma, or Yolo. The member shall hold office during the pleasure of the power appointing the member, not to exceed four years from the date of the member's commission.~~

**AB-3049 Bar pilots: pilotage rates.** (2017-2018)

| Date | Action |
|---|---|
| 11/30/18 | From committee without further action. |
| 04/02/18 | Re-referred to Com. on TRANS. |
| 03/22/18 | From committee chair, with author's amendments: Amend, and re-refer to Com. on TRANS. Read second time and amended. |
| 03/22/18 | Referred to Com. on TRANS. |
| 02/17/18 | From printer. May be heard in committee March 19. |
| 02/16/18 | Read first time. To print. |