

<p>HARBORS AND NAVIGATION CODE DIVISION 5. PILOTS FOR MONTEREY BAY AND THE BAYS OF SAN FRANCISCO, SAN PABLO, AND SUISUN 【§§1100 - 1281】 <i>(Heading of Division 5 amended by Stats. 2001, Ch. 177, Sec. 1.)</i></p>

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HARBORS AND NAVIGATION CODE
DIVISION 5. PILOTS FOR MONTEREY BAY AND THE BAYS OF
SAN FRANCISCO, SAN PABLO, AND SUISUN
[§§1100 - 1281]

(Heading of Division 5 amended by Stats. 2001, Ch. 177, Sec. 1.)

CHAPTER 1. Pilots [1100 - 1146]

(Heading of Chapter 1 amended by Stats. 1984, Ch. 1653, Sec. 1.)

ARTICLE 1. Legislative Policy and Findings [1100 - 1102]

(Article 1 added by Stats. 1974, Ch. 1256.)

1100.

The Legislature finds and declares that it is the policy of the state to ensure the safety of persons, vessels, and property using Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun, and the tributaries thereof, 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.

(Amended by Stats. 2001, Ch. 177, Sec. 2. Effective January 1, 2002.)

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.

(Amended by Stats. 2001, Ch. 177, Sec. 3. Effective January 1, 2002.)

1102.

The Legislature finds and declares that the enhancement of navigational safety is of the utmost concern in state pilotage. In order to ensure and promote the highest level of safety in pilotage, the board is empowered to effectively monitor and oversee the practices of pilots and prevent fatigue resulting from extended hours of service, insufficient rest within a 24-hour period, and disruption of circadian rhythms.

(Added by Stats. 2012, Ch. 794, Sec. 1. (SB 1408) Effective January 1, 2013.)

ARTICLE 2. Application [1105 - 1107]
(Article 2 added by Stats. 1974, Ch. 1256.)

1105.

This division applies to pilots for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun.

(Amended by Stats. 2001, Ch. 177, Sec. 4. Effective January 1, 2002.)

1106.

No fine or other penalty authorized by the provisions of this division, nor any revocation or suspension of a pilot license or commission except as provided in Section 1180, may be imposed by the board without a full and open prior public hearing on the matter.

(Added by Stats. 1974, Ch. 1256.)

1107.

If any provision of this division or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the provisions of this division and their application to other persons or circumstances shall not be affected.

(Added by Stats. 1974, Ch. 1256.)

ARTICLE 3. Definitions [1110 - 1117]
(Article 3 added by Stats. 1974, Ch. 1256.)

1110.

(a) “Bays of San Francisco, San Pablo, and Suisun” means all the waters of those bays and of the tributaries, ports, and harbors of those bays, and includes the water areas from the south end of San Francisco Bay and from the Ports of Sacramento and Stockton to the Golden Gate Bridge. “Bay of San Francisco, San Pablo, or Suisun” means any of those waters, respectively.

(b) “Monterey Bay” means all the waters of that bay and of the tributaries, ports, and harbors of that bay.

(Amended by Stats. 2001, Ch. 177, Sec. 5. Effective January 1, 2002.)

1111.

“Board” means the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun.

(Amended by Stats. 1990, Ch. 1422, Sec. 3.)

1112.

“High seas” includes all the navigable waters of the Pacific Ocean west of the Golden Gate Bridge, and all navigable waters west of the westward boundary of the pilotage grounds for Monterey Bay.

(Amended by Stats. 2001, Ch. 177, Sec. 6. Effective January 1, 2002.)

1113.

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

(Amended by Stats. 2011, Ch. 324, Sec. 1. Effective January 1, 2012.)

1114.

“Pilot” means any of the following:

- (a) Any person licensed under the authority of this division to pilot vessels other than an inland pilot.
- (b) Any person licensed as a bar pilot for the Bays of San Francisco, San Pablo, and Suisun prior to January 1, 1985.
- (c) Any existing inland pilot who becomes a pilot pursuant to Section 1141.
- (d) Any pilot licensed pursuant to subdivision (b) of Section 1171.

(Amended by Stats. 2001, Ch. 177, Sec. 7. Effective January 1, 2002.)

1114.5.

“Pilotage grounds” means all waters extending eastward from the precautionary area surrounding buoy SF to, and including, the Bays of San Francisco, San Pablo, and Suisun, and also includes the waters of Monterey Bay, eastward of a straight line drawn between Point Santa Cruz Light and Point Pinos Light.

(Amended by Stats. 2001, Ch. 177, Sec. 8. Effective January 1, 2002.)

1115.

“Plan” or “pension” or “pension plan” means the San Francisco Pilot Pension Plan established pursuant to Chapter 3 (commencing with Section 1160) of this division.

(Added by renumbering Section 1113 by Stats. 1984, Ch. 1653, Sec. 8.)

1116.

“Vessel” means all vessels not exempted under provisions of this division.

(Added by renumbering Section 1114 by Stats. 1984, Ch. 1653, Sec. 10.)

1117.

“Commission investigator” means a person employed by or under contract with the board and assigned to investigate and report on a navigational incident involving a vessel piloted by a pilot or inland pilot licensed by the board, or other matter, incident, misconduct, suspected safety violation, or other activity reported to, or identified by, the board.

(Added by Stats. 2008, Ch. 567, Sec. 3. Effective January 1, 2009.)

ARTICLE 4. Liability of Persons Using Pilot Services [1120 - 1122]
(Article 4 added by Stats. 1974, Ch. 1256.)

1120.

Vessels which use pilotage services, and their tackle, apparel, furniture, and other appurtenances, and their owners, operators, and agents are jointly and severally liable for pilotage fees and for the surcharges established pursuant to this division.

(Amended by Stats. 1990, Ch. 468, Sec. 1. Effective August 8, 1990.)

1121.

If any pilot, in endeavoring to assist or relieve any vessel in distress, suffers loss or damage to the pilot's vessel, the owner and operator of the distressed vessel are jointly and severally liable for the loss or damage.

(Amended by Stats. 1984, Ch. 1653, Sec. 12.)

1122.

In the event a pilot is carried to sea against the pilot's will, or unnecessarily detained on board a vessel when a pilot vessel is in attendance to receive the pilot, the owner, operator, and agents of the detaining vessel are jointly and severally liable for paying the amount specified in this division.

(Amended by Stats. 2022, Ch. 769, Sec. 1. (AB 2056) Effective September 29, 2022.)

ARTICLE 5. Exclusive Rights of Pilotage [1125 - 1126]
(Article 5 added by Stats. 1974, Ch. 1256.)

1125.

(a) Pilots licensed by the board have exclusive authority, to the extent not provided otherwise by federal law, to pilot vessels from the high seas to Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and the ports thereof, and from those bays and ports to the high seas. They shall also have exclusive authority to pilot vessels within and along the waters of those bays, except as otherwise set forth in this division.

(b) Nothing in this division shall interfere with pilotage regulations of Monterey Bay and of the Ports of Sacramento and Stockton, nor prevent the regulatory authority of those ports from utilizing the pilots licensed pursuant to this division.

(Amended by Stats. 2001, Ch. 177, Sec. 9. Effective January 1, 2002.)

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.
- (Amended by Stats. 2011, Ch. 324, Sec. 2. Effective January 1, 2012.)*

ARTICLE 6. Exempt Vessels and Vessels Liable for Pilotage [1127 - 1128]
(Article 6 added by Stats. 1974, Ch. 1256.)

1127.

- (a) The Legislature finds and declares that it is the policy of the state to ensure the safety of persons, 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.

(Amended by Stats. 2011, Ch. 324, Sec. 3. Effective January 1, 2012.)

1128.

Any nonself-propelled vessel in tow of a tug within Monterey Bay and the Bay of San Francisco, San Pablo, or Suisun, or between those bays, is exempt from pilotage charges unless a pilot is actually employed.

(Amended by Stats. 2001, Ch. 177, Sec. 12. Effective January 1, 2002.)

ARTICLE 7. Duties of Pilots [1130 - 1139]

(Article 7 added by Stats. 1974, Ch. 1256.)

1130.

(a) A majority of all of the pilots licensed by the board shall appoint one pilot to act as port agent to carry out the orders of the board and other applicable laws, and to otherwise administer the affairs of the pilots. The appointment is subject to the confirmation of the board.

(b) The port agent shall be responsible for the general supervision and management of all matters related to the business and official duties of pilots licensed by the board.

(c) The port agent shall immediately notify the executive director of the board of a suspected violation, navigational incident, misconduct, or other rules violation that is reported to him or her or to which he or she is a witness. The board shall adopt regulations for the manner and content of a notice provided pursuant to this section.

(Amended by Stats. 2009, Ch. 576, Sec. 1. Effective January 1, 2010.)

1131.

Pilots shall at all times keep, for their exclusive use, vessels of such description and condition as the board may direct.

(Added by Stats. 1974, Ch. 1256.)

1132.

Every pilot in charge of a vessel arriving in Monterey Bay and the Bay of San Francisco, San Pablo, or Suisun, shall safely moor the vessel in place and position as directed by the master of the vessel, consistent with safe navigation and not contrary to law.

(Amended by Stats. 2001, Ch. 177, Sec. 14. Effective January 1, 2002.)

1133.

Every pilot in charge of a vessel leaving the Bays of San Francisco, San Pablo, and Suisun shall pilot it from its point of departure to a point beyond the San Francisco bar. Every pilot in charge of a vessel leaving Monterey Bay shall pilot it from its point of departure to a point westward of the pilotage grounds.

(Amended by Stats. 2001, Ch. 177, Sec. 15. Effective January 1, 2002.)

1134.

When a pilot goes aboard a vessel, the pilot becomes a servant of the vessel and its owner and operator. Nothing in this division exempts the vessel or its owner or operator from liability to persons or property for damage or loss caused by the vessel or its operation on the ground that (1) the vessel was piloted by a pilot, or (2) the damage or loss was incurred as a result of the error, omission, fault, or neglect of a pilot.

(Added by Stats. 1986, Ch. 669, Sec. 7.)

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.

(Amended by Stats. 2011, Ch. 324, Sec. 4. Effective January 1, 2012.)

1137.

(a) The account required pursuant to Section 1136 shall show all of the following:

- (1) The name of each vessel piloted.
- (2) The name of each vessel for which pilotage has been charged or collected.
- (3) The amount charged to or collected for each vessel.
- (4) Any rebates made and allowed and for what amounts.
- (5) The amount of the fees and surcharges not collected pursuant to Section 1193.
- (6) The depth of each vessel's draft and its highest gross tonnage.
- (7) Whether the vessel was inward or outward bound.

(b) The board shall record the accounts in full detail in a book prepared for that purpose. The account book is a public record.

(Amended by Stats. 2010, Ch. 455, Sec. 2. Effective January 1, 2011.)

1138.

(a) When cruising offshore or standing out to sea, pilots shall go to the vessel nearest to shore or in the most distress, or incur a penalty of one hundred dollars (\$100). For each refusal by a pilot to board a vessel when required, a penalty of one hundred dollars (\$100) shall be incurred.

(b) A pilot may be suspended or expelled by the board for a violation of subdivision (a).

(Added by Stats. 1974, Ch. 1256.)

1139.

(a) Every pilot boarding a vessel shall exhibit his commission or license as pilot when requested by the master of such vessel.

(b) The board may suspend or revoke the commission or license of a pilot for refusal to exhibit such commission or license upon the proper request, and it may impose a liability of fifty dollars (\$50) on the bond of such pilot.

(Added by Stats. 1974, Ch. 1256.)

ARTICLE 8. State Certified Pilotage [1140 - 1146]
(Article 8 repealed and added by Stats. 1984, Ch. 1653, Sec. 23.)

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.

(Amended by Stats. 2011, Ch. 324, Sec. 5. Effective January 1, 2012.)

1141.

(a) Each pilot license shall be valid for a period of one year and shall be renewed upon application and successful completion of the physical examination required by Section 1176.

(b) A pilot license shall not be renewed if the pilot possessing the license does not actively pilot vessels for any consecutive period of one year, unless the board determines the pilot is qualified and makes one of the following findings:

(1) The pilot has presented satisfactory proof of medical disability during that period.

(2) The board has granted the pilot a leave of absence without pay during that period.

(3) The pilot has been serving as port agent under Section 1130.

(c) A pilot licensee shall at all times hold an active and proper license to pilot vessels on the waters on which the pilot operates.

(d) The board may revoke or suspend the license of any pilot who does not use proper equipment maintained exclusively for pilotage or who operates on territorial waters not described in the license. This subdivision shall not be construed to require the use of a pilot boat in order to provide pilotage services for Monterey Bay.

(Amended by Stats. 2001, Ch. 177, Sec. 17. Effective January 1, 2002.)

1144.

Any continuing education program adopted by the board shall regularly inform pilots of the hazards of fatigue and of effective strategies to prevent fatigue while on duty.

(Added by Stats. 2012, Ch. 794, Sec. 2. Effective January 1, 2013.)

1146.

A pilot shall refuse a pilotage assignment if he or she is physically or mentally fatigued and has a reasonable belief that the assignment cannot be carried out in a competent and safe manner.

(Added by Stats. 2012, Ch. 794, Sec. 3. Effective January 1, 2013.)

CHAPTER 2. Board of Pilot Commissioners [1150 - 1159.2]
(Chapter 2 added by Stats. 1970, Ch. 1302.)

1150.

(a) There is in the Transportation Agency a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, consisting of seven members appointed by the Governor, with the consent of the Senate, as follows:

(1) Two members shall be pilots licensed pursuant to this division.

(2) Two members shall represent the industry and shall be persons currently engaged as owners, officers, directors, employees, or representatives of a firm or association of firms that is a substantial user of pilotage service in the Bay of San Francisco, San Pablo, Suisun, or Monterey, one of whom shall be engaged in the field of tanker company operations, and one of whom shall be engaged in dry cargo operations. The board of directors of a regional maritime trade association controlled by West Coast vessel operators that specifically represents the owners and operators of vessels or barges engaged in transportation by water of cargo or passengers from or to the Pacific area of the United States shall nominate, rank, and submit to the Governor the names of three persons for each category of industry member to be appointed.

(3) Three members shall be public members. Any person may serve as a public member unless otherwise prohibited by law, except that during his or her term of office or within the two years preceding his or her appointment, a public member appointed shall not have (A) any financial or proprietary interest in the ownership, operation, or management of tugs, cargo, or passenger vessels, (B) sailed under the authority of a federal or state pilot license in waters under the jurisdiction of the board, (C) been employed by a company that is a substantial user of pilot services, or (D) been a consultant or other person providing professional services who had received more than 20 percent in the aggregate of his or her income from a company that is a substantial user of pilot services or an association of companies that are substantial users of pilot services. Ownership of less than one-tenth of 1 percent of the stock of a publicly traded corporation is not a financial or proprietary interest in the ownership of tugs, cargo, or passenger vessels.

(4) Notwithstanding any other provision of law, this chapter does not prohibit the Governor from notifying the nominating authority identified in paragraph (2) that persons nominated are unacceptable for appointment. Following that notification, the nominating authority shall submit a new list of nominees to the Governor, naming three persons, none of whom were previously nominated, from which the Governor may make the appointment. This process shall be continued until a person nominated by the nominating authority and satisfactory to the Governor has been appointed.

(b) Members appointed pursuant to subdivision (a) shall be appointed with staggered terms as follows:

(1) Each of the members appointed pursuant to paragraphs (1) and (2) of subdivision (a) shall be appointed for a four-year term, except that the first member appointed after December 31, 2012, to an initial term pursuant to paragraph (1) of subdivision (a) shall be appointed to a term expiring on December 31, 2014, and the first member appointed after December 31, 2012, to an initial term pursuant to paragraph (2) of subdivision (a) shall be appointed to a term expiring on December 31, 2014.

- (2) Members appointed pursuant to paragraph (3) of subdivision (a) shall be appointed with staggered four-year terms with the initial four-year terms expiring on December 31 of the years 1988, 1990, and 1991, respectively.
- (3) A person shall not be appointed for more than two terms.
- (4) Vacancies on the board for both expired and unexpired terms shall be filled by the appointing power in the manner prescribed by subdivision (a).
- (c) A quorum of the board members consists of four members. All actions of the board shall require the vote of four members, a quorum being present.
- (d) The Secretary of Transportation shall serve as an ex officio member of the board who, without vote, may exercise all other privileges of a member of the board.
(Amended by Stats. 2013, Ch. 352, Sec. 330. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

1151.

Each member of the board shall be a citizen of the United States and 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.
(Amended by Stats. 1997, Ch. 660, Sec. 2. Effective January 1, 1998.)

1152.

- (a) The public members of the board shall receive, as compensation for their services, the amount that the board may, from time to time, determine, which shall not exceed six hundred dollars (\$600) each per month.
- (b) The appointed members and employees of the board shall also be allowed necessary traveling and other verified expenses incurred by them in the performance of their duties.
(Amended by Stats. 2008, Ch. 567, Sec. 7. Effective January 1, 2009.)

1153.

- (a) The board shall organize itself by electing a president, and shall provide offices in San Francisco or Alameda County, in which it shall meet once a month, and it may adjourn its regular meetings from time to time.
- (b) Meetings of the board are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).
(Amended by Stats. 2008, Ch. 567, Sec. 8. Effective January 1, 2009.)

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.
- (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.

(Amended by Stats. 2008, Ch. 567, Sec. 9. Effective January 1, 2009.)

1155.

The president of the board may administer oaths in regard to any matter properly before it and he or she may issue subpoenas for witnesses in like cases. A witness disobeying the subpoena served on him or her shall incur a penalty of five hundred dollars (\$500), for which judgment may be recovered by the board in a civil action. This section shall not apply to proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 2008, Ch. 567, Sec. 10. Effective January 1, 2009.)

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.

(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.

(Amended by Stats. 2011, Ch. 324, Sec. 7. Effective January 1, 2012.)

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, 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.

(Amended by Stats. 2008, Ch. 567, Sec. 11.5. Effective January 1, 2009.)

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 appropriate 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.

(Amended by Stats. 2012, Ch. 162, Sec. 80. Effective January 1, 2013.)

1156.7.

If the executive director of the board alerts the United States Coast Guard to a violation or likely violation of safety standards pursuant to Section 1156.6 and has reason to believe that the violation or likely violation will not be corrected prior to the vessel reaching its next port of call, the executive director shall request the United States Coast Guard to report the suspected safety standard violation to the port state control officer or a pilot organization in an expected future port of call. This section does not preclude any other party from disseminating any report of the

findings and recommendations of the executive director of the board pursuant to Section 1156.6, and all of those reports and findings shall be considered public records.

(Added by Stats. 2012, Ch. 794, Sec. 4. Effective January 1, 2013.)

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 activities, commendation, misconduct, safety violations, or other incidents or information related or relevant to 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.

(Amended by Stats. 2011, Ch. 324, Sec. 9. Effective January 1, 2012.)

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.

(Amended by Stats. 2011, Ch. 324, Sec. 10. Effective January 1, 2012.)

1157.2.

The board shall establish procedures for access to confidential or restricted information from its records to protect the confidentiality of its employees and licensees. If confidential or restricted information is released to an agent of a person authorized to obtain information, the person shall require the agent to take all steps necessary to ensure confidentiality and prevent the release of information to a third party. An agent shall not obtain or use confidential or restricted records for any purpose other than the reason the information was requested.

(Added by Stats. 2008, Ch. 567, Sec. 15. Effective January 1, 2009.)

1157.3

A member of the board, the executive director, the assistant director, or an employee of the board who willfully discloses confidential information from the board record to a person not authorized to receive it shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which may be assessed and recovered in a civil action.

(Added by Stats. 2008, Ch. 567, Sec. 16. Effective January 1, 2009.)

1157.4.

Upon a request to the board by a federal, state, or local law enforcement agency, the executive director shall make available to the requesting agency any information contained in the board's records.

(Added by Stats. 2008, Ch. 567, Sec. 17. Effective January 1, 2009.)

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.

(Amended by Stats. 2011, Ch. 324, Sec. 11. Effective January 1, 2012.)

1157.6.

(a) After the adoption of the first pilotage tariff pursuant to Chapter 6 (commencing with Section 1250), the board shall convene a committee to review the effectiveness of the revised ratesetting process and to gather stakeholder feedback for the purpose of developing a report for the board's consideration. Upon adoption of the report by the board based on the findings of the committee, the board shall present and submit the report to the Legislature in compliance with Section 9795 of the Government Code, to the Governor, and to the Secretary of Transportation. The report shall be adopted by the board no later than December 31, 2027.

(b) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2032.

(Added by Stats. 2022, Ch. 769, Sec. 2. (AB 2056) Effective September 29, 2022. Repealed as of January 1, 2032, by its own provisions.)

1158.

The public members, the executive director, the assistant director, and employees of the board shall not engage in an employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee or make, participate in making, or attempt to use his or her official position to in any way influence a governmental decision in which he or she knows or has reason to know that he or she, or any member of his or her immediate family, has a financial interest.

(Amended by Stats. 2008, Ch. 567, Sec. 18. Effective January 1, 2009.)

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.

(Amended by Stats. 2011, Ch. 324, Sec. 12. Effective January 1, 2012.)

1159.

(a) All moneys received by the board pursuant to the provisions of any law shall be accounted for at the close of each month to the Controller in the form that the Controller may prescribe and, at the same time on the order of the Controller, all these moneys shall be paid into the State Treasury to the credit of the Board of Pilot Commissioners' Special Fund.

(b) Notwithstanding Section 13340 of the Government Code, the moneys deposited in the State Treasury to the credit of the Board of Pilot Commissioners' Special Fund are appropriated without regard to fiscal years for the payment of the compensation and expenses of the board and its officers and employees.

(Amended by Stats. 2008, Ch. 567, Sec. 19. Effective January 1, 2009.)

1159.1.

(a) The Pilot Boat Surcharge Account is hereby established in the Board of Pilot Commissioners' Special Fund. Notwithstanding Section 13340 of the Government Code, moneys in the account are hereby continuously appropriated to the board without regard to fiscal years for allocation by the board for both of the following:

(1) To fund the pilot boat costs of obtaining new pilot boats and of funding design and engineering modifications for the purpose of extending the service life of existing pilot boats, excluding costs for repair or maintenance, as specified in subdivision (a) of Section 1194.

(2) (A) To cover the administrative costs of the board with respect to administration of the account, including any audits of the usage of the account.

(B) No more than 5 percent of all moneys collected may be used by the board to offset administrative costs and expenses related to managing the pilot boat program, including auditing expenses.

(b) (1) The amount expended from the account in the 2022–23 fiscal year in accordance with claims submitted pursuant to Section 1194.1 shall not exceed two million five hundred thousand dollars (\$2,500,000).

(2) The amount expended from the account in the 2023–24 fiscal year to the 2025–26 fiscal year, inclusive, in accordance with claims submitted pursuant to Section 1194.1 shall not exceed five million dollars (\$5,000,000) each fiscal year, unless otherwise specified in the annual Budget Act.

(3) The amount expended from the account in the 2026–27 fiscal year to the 2035–36 fiscal year, inclusive, in accordance with claims submitted pursuant to Section 1194.1 shall not exceed six million dollars (\$6,000,000) each fiscal year, unless otherwise specified in the annual Budget Act.

(c) Of the maximum expenditure amounts specified in subdivision (b), any funds that are unexpended due to the maximum specified amount exceeding the amounts required for the payment of claims against the account pursuant to Section 1194.1 in any fiscal year shall carry over to the subsequent fiscal year.

(d) Interest earned on the moneys in the Pilot Boat Surcharge Account shall be allocated to the Pilot Boat Surcharge Account and shall be expended to recover the pilots' claims submitted pursuant to Section 1194.1.

(Added by Stats. 2022, Ch. 769, Sec. 3. (AB 2056) Effective September 29, 2022.)

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 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.

(Amended by Stats. 2015, Ch. 303, Sec. 243. Effective January 1, 2016.)

CHAPTER 3. Pension Plan [1160 - 1168]

(Chapter 3 repealed and added by Stats. 1974, Ch. 1256.)

1160.

There is hereby established a San Francisco Bar Pilot Pension Plan which is continued in existence as the San Francisco Pilot Pension Plan.

(Amended by Stats. 1984, Ch. 1653, Sec. 30.)

1161.

All amounts generated by the pension plan shall be used solely to pay pensions to retired pilots and inland pilots, disabled pilots and inland pilots, the surviving spouses of pilots and inland pilots, and to pay the expenses of the plan.

(Amended by Stats. 1993, Ch. 1192, Sec. 1. Effective January 1, 1994.)

1162.

(a) The pension plan shall be administered and all benefit payments shall be made by one or more fiduciary agents selected by the board. Except for the collection of revenues in accordance with Section 1165 and the pilots serving as members of the board, and unless otherwise directed by the board, the pilots shall have no control of any kind or manner over the operation, administration, or management of the plan.

(b) All revenues pursuant to the plan shall be collected by the pilots, at no cost to the state or board, and transmitted monthly to the fiduciary agent or agents. The revenues shall not be included in the account required by Section 1136.

(Amended by Stats. 1992, Ch. 639, Sec. 2. Effective January 1, 1993.)

1163.

(a) (1) (A) Each retired pilot and inland pilot, who has completed 25 full years of service as a pilot or inland pilot, or both, shall receive, as a target monthly pension, an amount that is initially equal to 46 percent of an amount that is an average of the highest three of the last five years of audited annual average net income per pilot, prior to the pilot's or inland pilot's retirement, divided by 12, which initial target monthly pension amount shall be subject to periodic adjustment pursuant to Section 1167. Pilots or inland pilots with other than 25 full years of service as a pilot or inland pilot, or both, shall receive a monthly pension in an amount that is determined by multiplying the above calculated target monthly pension by a fraction, the numerator of which shall be the number of full years of service that the pilot or inland pilot has rendered and the denominator of which shall be 25 years, which initial monthly pension amount shall be subject to periodic adjustment pursuant to Section 1167.

(B) Each disabled pilot or inland pilot shall receive as an initial target monthly pension an amount that is based on 46 percent of the greater of the following, which amount shall be subject to periodic adjustment pursuant to Section 1167:

(i) An amount that is the average of the highest three of the last five years of audited annual average net income per pilot divided by 12 and multiplied by a fraction, the numerator of which shall be the number of full years of service that the pilot or inland pilot has rendered and the denominator of which shall be 25 years.

(ii) The audited annual average net income per pilot, for the last year prior to the pilot's or inland pilot's disability, divided by 12 and multiplied by a fraction, the numerator of which shall be the number of full years of service that the pilot or inland pilot has rendered and the denominator of which shall be 25 years.

(C) Each pilot who retired before January 1, 1985, shall receive as an initial target monthly pension an amount that is one hundred seventy-eight dollars (\$178) multiplied by the number of full years of service he or she performed as a pilot licensed under this division, which amount shall be subject to periodic adjustment pursuant to Section 1167.

(D) Each pilot who retired on or after January 1, 1985, or each inland pilot who retired after January 1, 1993, shall receive as an initial target monthly pension an amount that is the greater of the following, which amount shall be subject to periodic adjustment pursuant to Section 1167:

(i) An amount that is calculated by multiplying one hundred seventy-eight dollars (\$178) by the number of full years of service the pilot or inland pilot performed as a pilot or inland pilot licensed under this division.

(ii) An amount that is 46 percent of the average of the highest three of the last five years of audited annual average net income per pilot, prior to the pilot's or inland pilot's retirement,

divided by 12 and multiplied by a fraction, the numerator of which is the pilot's or inland pilot's actual number of full years of service and the denominator of which is 25 years.

(2) A pilot or inland pilot who retires or becomes disabled shall not begin to receive a pension until the beginning of the benefit payment period next following the date on which the pilot or inland pilot retires or becomes disabled.

(3) A pilot or inland pilot shall not receive any benefits pursuant to the pension plan in any benefit payment period unless the pilot's or inland pilot's resignation as an active pilot or inland pilot specifying a proposed date of retirement was submitted, in writing, to the board, prior to November if the pilot's or inland pilot's retirement is to be effective the first day of the following January, prior to February if the pilot's or inland pilot's retirement is to be effective the first day of the following April, prior to May if the pilot's or inland pilot's retirement is to be effective the first day of the following July, or prior to August if the pilot's or inland pilot's retirement is to be effective the first day of the following October. The pilot's or inland pilot's resignation as an active pilot or inland pilot shall become effective on either January 1, April 1, July 1, or October 1, as specified in the written resignation.

(4) If a retired or disabled pilot or inland pilot who is receiving a pension dies without a surviving spouse, the pilot's or inland pilot's successor in interest shall receive the monthly pension for the remainder of the benefit payment period within which the death occurs, after which time the monthly pension shall cease.

(b) (1) The surviving spouse of a deceased pilot who is eligible for a pension pursuant to paragraph (1) of subdivision (e) of Section 1164 and the surviving spouse of a deceased inland pilot who is eligible for a pension pursuant to paragraph (2) of subdivision (e) of Section 1164 shall each receive, as a monthly pension, three-fourths of the amount that the deceased pilot or inland pilot would have received as a monthly pension pursuant to this section had the pilot or inland pilot lived, calculated as if the deceased pilot or inland pilot had been disabled pursuant to subparagraph (B) of paragraph (1) of subdivision (a).

(2) If a retired or disabled pilot or inland pilot who was receiving a pension dies, the surviving spouse shall continue to receive the full amount of the monthly pension to which the deceased pilot or inland pilot was entitled for the balance of the benefit payment period within which the death occurs, after which the surviving spouse shall receive the amount specified in paragraph (1).

(3) If a surviving spouse receiving a pension dies, the surviving spouse's successor in interest shall receive the monthly pension for the remainder of the benefit payment period within which the death occurs, after which time the monthly pension shall cease.

(c) For the purpose of the computations described in paragraph (1) of subdivision (a), six months or more of service by a pilot or inland pilot shall be considered a full year.

(d) Except as provided otherwise in this section and paragraph (4) of subdivision (e) of Section 1164, monthly pension amounts payable pursuant to this section to retired pilots and inland pilots and to their surviving spouses are payable for the life of that retired pilot, inland pilot, or spouse.

(e) To determine an inland pilot's full years of service under this chapter, any periods of service that an inland pilot has performed as a pilot shall be added to any service time performed as an inland pilot after January 1, 1987.

(f) In calculating the benefits of a retired or disabled pilot who was issued an original pilot's license in 1985 and who was not thereafter issued an inland pilot's license, or in calculating the benefits of the widow of such a pilot who is deceased, the number of years of service used in the calculation shall be the greater of the following:

(1) The actual number of full years of service the pilot has rendered.

(2) Ten years.

(Amended by Stats. 1999, Ch. 261, Sec. 1. Effective January 1, 2000.)

1164.

(a) Except as provided in subdivision (b), a pilot shall be eligible for the pension provided in Section 1163 if the pilot meets all of the following requirements:

(1) Held a license as a pilot and served at least 10 years in that capacity or has attained 62 years of age, whichever occurs first.

(2) Retired after January 1, 1972.

(3) Is at least 60 years of age.

(b) A disabled pilot shall be eligible for the pension provided in Section 1163 if it has been determined by the board, based upon competent medical evidence, that the pilot is unable to perform the duties of a pilot. As used in this chapter, “disabled” means a disability of permanent or extended and uncertain duration, as determined by the board, on the basis of competent medical opinion.

(c) Except as provided in subdivision (d), an inland pilot shall be eligible for the pension provided in Section 1163 if the inland pilot meets all of the following requirements:

(1) Held a license as an inland pilot and served at least 10 years in that capacity after January 1, 1987, or has attained 62 years of age, whichever occurs first.

(2) Retired after January 1, 1987.

(3) Is at least 60 years of age.

(4) Since January 1, 1987, has held himself or herself out as providing pilotage assistance to the entire shipping industry consistent with the inland pilot’s license.

(5) For services provided after January 1, 1994, performs a minimum of 75 assignments per calendar year unless excused from performance of that requirement due to medical needs satisfactory to the board.

(d) A disabled inland pilot who meets the requirements of paragraph (4) of subdivision (c) shall be eligible for the pension provided in Section 1163 if it has been determined by the board, based upon competent medical evidence, that the inland pilot is unable to perform the duties of an inland pilot.

(e) (1) A surviving spouse of a deceased pilot shall be eligible for the pension provided in subdivision (b) of Section 1163 if that deceased pilot died after January 1, 1972, and that deceased pilot had held a license as a pilot.

(2) A surviving spouse of a deceased inland pilot shall be eligible for the pension provided in subdivision (b) of Section 1163 if the deceased inland pilot died after January 1, 1987, had held a license as an inland pilot, and since January 1, 1987, had held himself or herself out as providing pilotage assistance to the entire shipping industry consistent with the inland pilot’s license.

(3) In order for a surviving spouse to be eligible for any pension benefits pursuant to this chapter, the surviving spouse shall have been legally married to the deceased pilot or inland pilot for at least one year prior to the deceased pilot’s or inland pilot’s death.

(4) A surviving spouse of a deceased pilot or inland pilot shall neither be eligible for, nor receive, pension benefits pursuant to this chapter if the surviving spouse remarries. If a surviving spouse who is receiving a monthly pension under this chapter remarries, the surviving spouse’s successor in interest shall receive the amount of the monthly pension for the remainder of the

benefit payment period as if the surviving spouse had died, in accordance with paragraph (3) of subdivision (b) of Section 1163.

(Amended by Stats. 1999, Ch. 261, Sec. 2. Effective January 1, 2000.)

1165.

(a) In addition to, and concurrently with, the basic pilotage rate described in Section 1190, a charge shall be levied for pilotage services at a rate necessary to provide the benefits to be paid out pursuant to the pension plan. The additional rate shall be determined as follows:

(1) On March 1, June 1, September 1, and December 1 of each year, the number of persons eligible to receive benefits under the plan, their identities, the calculated amount each shall be entitled to receive, and the total amount to be paid out to all of those persons during each month of the next three-month period shall be determined by the fiduciary agent or agents.

(2) After the total amount to be paid out monthly under the plan has been determined, the rate necessary to provide that amount each month shall be calculated by the fiduciary agent or agents. The rate shall be based upon the volume of shipping, in gross registered tons, handled by pilots licensed under this division for the 12-month periods ending the previous September 30 for benefit periods commencing the following January 1, ending the previous December 31 for benefit periods commencing the following April 1, ending the previous March 31 for benefit periods commencing the following July 1, and ending the previous June 30 for benefit periods commencing the following October 1, respectively. The rate shall be expressed as mills per gross registered ton and shall be calculated to the nearest one-hundredth of a mill.

(3) The estimated cost of the services of the fiduciary agent or agents to administer the pension plan shall be calculated by the fiduciary agent or agents for the benefit periods described in paragraph (2), shall be expressed as mills per gross registered ton, and shall be calculated to the nearest one-hundredth of a mill.

(b) The rate determined pursuant to paragraphs (1), (2), and (3) of subdivision (a) shall become effective on January 1 of the following year with respect to the September 30 calculations, on April 1 of the following year with respect to the December 31 calculations, on July 1 of that year with respect to the March 31 calculations, and on October 1 of that year with respect to the June 30 calculations. The rates shall be in effect for the succeeding benefit payment period.

(Amended by Stats. 1992, Ch. 639, Sec. 5. Effective January 1, 1993.)

1166.

(a) The benefits actually paid out each month by the fiduciary agent or agents designated by the board to all retired and disabled pilots and inland pilots, to surviving spouses of deceased pilots and inland pilots, and to successors in interest shall be equal to the revenue received pursuant to Section 1165 during the preceding month less the expenses of the fiduciary agent or agents incurred during that month. The revenue, whether greater or less than the amount used in determining the tonnage rates under this chapter to provide the aggregate target pensions to which those persons are entitled according to Section 1163, shall be paid to each of them in proportion to the relative target amounts to which they are entitled, after payment of the expenses of the fiduciary agent or agents.

(b) Revenues for any month or year are the amounts to be received pursuant to the pension plan for pilotage during that month or year. The fiduciary agent or agents shall determine which accounting system shall be used to make the payment, provided that, if the accrual method is used, it shall be subject to later equitable adjustments for unpaid receivables.

(c) Benefits pursuant to the new rate calculations shall be paid commencing in February, May, August, and November of each year and shall continue through, and include, the next following April, July, October, and January, respectively, so that each benefit pension period equals three months of payments. The period during which benefits are paid is the benefit payment period. *(Amended by Stats. 1993, Ch. 1192, Sec. 4. Effective January 1, 1994.)*

1167.

(a) The board shall review the benefits received by retired or disabled pilots and inland pilots and their surviving spouses every three years or when the cumulative percentage increase in the Consumer Price Index (San Francisco Bay Area) has exceeded 12 percent, whichever occurs first.

(b) The board may increase the monthly pensions specified in Section 1163. Those increases shall take into consideration the maritime industry practice in the United States as brought to the attention of the board by the pilots, inland pilots, or the industry. The increase shall not exceed 50 percent of the cumulative increase in the Consumer Price Index (San Francisco Bay Area). Monthly pensions for retired pilots, inland pilots, or their surviving spouses who have been retired less than the full three-year interval between adjustments shall increase on a pro rata basis according to the number of months that those persons have been retired prior to that adjustment. *(Amended by Stats. 1993, Ch. 1192, Sec. 5. Effective January 1, 1994.)*

1168.

The board may review the pension plan and make any recommendations it deems necessary for changes in the plan. Monthly pensions shall not be adjusted except as provided by Section 1167. *(Added by Stats. 1992, Ch. 639, Sec. 8. Effective January 1, 1993.)*

CHAPTER 4. Licensing of Pilots [1170 - 1184]

(Chapter 4 added by Stats. 1974, Ch. 1256.)

ARTICLE 1. Issuance of License [1170 - 1179]

(Article 1 added by Stats. 1974, Ch. 1256.)

1170.

The board shall appoint and license the number of pilots which is sufficient to carry out the purposes of this division.

(Amended by Stats. 1990, Ch. 1422, Sec. 19.)

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 and 1101, the industry's current economic trends, fluctuations in the number of vessel calls, the size of vessels, whether the need for pilotage is increasing or decreasing, and the 1986 manpower study adopted by the board.

(Amended by Stats. 2022, Ch. 769, Sec. 4. (AB 2056) Effective September 29, 2022.)

1170.2.

Before changing the number of pilots which may be licensed pursuant to this division, the board shall conduct a hearing pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 1984, Ch. 1653, Sec. 36.)

1170.3.

(a) The board shall adopt, by regulation, a pilot's conflict-of-interest code, which shall include, but need not be limited to, a provision specifying that a pilot shall not have any interest in, or derive any income from, any tugboat in operation on Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun. This requirement of divestiture does not apply to the ownership of barges and vessels similar to barges.

(b) The conflict-of-interest code shall not prohibit the ownership of stock in any corporation registered on a national securities exchange or on the National Market System of the NASDAQ Stock Market, pursuant to Section 78f of Title 15 of the United States Code, which may own tugboats in operation on Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun.

(Amended by Stats. 2001, Ch. 177, Sec. 19. Effective January 1, 2002.)

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.

(Amended by Stats. 2011, Ch. 324, Sec. 14. Effective January 1, 2012.)

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.

(Amended by Stats. 2011, Ch. 324, Sec. 15. Effective January 1, 2012.)

1171.6.

(a) There shall be 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 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.

(Added by Stats. 2011, Ch. 324, Sec. 16. Effective January 1, 2012.)

1172.

Pilots licensed by the board shall be carefully examined as to their qualifications. A license as a pilot shall be granted for a term of 12 months. The license shall be renewed annually unless the board has good cause to withhold renewal pursuant to Article 2 (commencing with Section 1180) of this chapter.

(Repealed and added by Stats. 1974, Ch. 1256.)

1173.

An application for a pilot's license shall be made in writing to the board, stating such information as the board by rule and regulation may require.

(Repealed and added by Stats. 1974, Ch. 1256.)

1174.

A pilot's license shall be issued in the name of the State of California and contain a designation of the waters for which it is intended. The license shall be signed by the president of the board.

(Repealed and added by Stats. 1974, Ch. 1256.)

1175.

No person shall be licensed as a pilot unless all of the following requirements are met:

- (a) The person can meet the qualifications set by the board, including age limitations, if any.
- (b) The person is of good mental and physical health and good moral character.
- (c) The person possesses the requisite skill and experience as a navigator and pilot, together with practical knowledge of the currents, tide, soundings, bearings, and distances of the several shoals, and the rocks, bars, points of landings, lights, and fog signals of, or pertaining to, the navigation of the pilot ground for which the person applies for a license to act as a pilot.
- (d) The person can satisfy the board that the person has means available for boarding and leaving vessels which the person may be called upon to pilot.

(Amended by Stats. 1984, Ch. 1653, Sec. 40.)

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.

(Amended by Stats. 2011, Ch. 324, Sec. 17. Effective January 1, 2012.)

1176.5.

- (a) At the time of the physical examination required by Section 1176, a trainee or an applicant for a trainee position shall disclose to the board-appointed physician conducting the physical examination all of the following information, if applicable:

- (1) If at any time prior to the examination the trainee or applicant for a trainee position has been rendered incapable of safely operating a vessel or any other motor vehicle because of alcoholism, excessive and chronic use of alcoholic beverages, or addiction to, or habitual use of, any drug.
 - (2) If at any time prior to the examination the trainee or applicant for a trainee position has been addicted to the use of narcotic drugs or has participated in a narcotic treatment program.
 - (3) If at any time prior to the examination the trainee or applicant for a trainee position has suffered from a disorder characterized by lapses of consciousness or has experienced, within the last three years, either a lapse of consciousness or an episode of marked confusion caused by any medical condition that may bring about recurrent lapses, or has any physical or mental disability, disease, or disorder that could affect the safe operation of a vessel or motor vehicle.
- (b) At the time of the physical examination, a licensee shall disclose to the board-appointed physician conducting the physical examination pursuant to Section 1176 all of the following information, if applicable:
- (1) If at any time during the year prior to the examination the licensee applicant has been rendered incapable of safely operating a vessel or any other motor vehicle because of alcoholism, excessive and chronic use of alcoholic beverages, or addiction to, or habitual use of, any drug.
 - (2) If at any time during the year prior to the examination the licensee has been addicted to the use of narcotic drugs or participated in a narcotic treatment program.
 - (3) If at any time during the year prior to the examination the licensee has suffered from a disorder characterized by lapses of consciousness or has experienced either a lapse of consciousness or an episode of marked confusion caused by any medical condition that may bring about recurrent lapses, or has any physical or mental disability, disease, or disorder that could affect the safe operation of a vessel or any other motor vehicle.
- (c) The board may refuse to admit an applicant to the training program, continue a trainee in the training program, or issue or renew a license to any person if the board-appointed physician conducting the physical examination required pursuant to Section 1176 determines that the trainee applicant, trainee, license applicant, or licensee excessively or habitually uses, or is addicted to, alcoholic beverages, narcotics, or dangerous drugs.
- (d) The board shall not admit an applicant to the training program, continue a trainee in the program, issue a license to a pilot license applicant, or renew a pilot license for any applicant who fails to submit the information required by this section.
- (Added by Stats. 2012, Ch. 794, Sec. 5. Effective January 1, 2013.)*

1177.

- (a) All pilots licensed pursuant to this division shall have and maintain proper federal endorsements allowing them to pilot on the high seas and on all waters of the Bays of San Francisco, San Pablo, and Suisun, excluding the San Joaquin River and the Sacramento deep water ship channel.
 - (b) Notwithstanding subdivision (a), all pilots issued original licenses pursuant to this division after December 31, 1987, shall have and maintain proper federal endorsements allowing them to pilot on the high seas and on all waters of the Bays of San Francisco, San Pablo, and Suisun, including the San Joaquin River and the Sacramento deep water ship channel.
 - (c) All pilots licensed pursuant to this division for Monterey Bay shall have and maintain proper federal endorsements allowing them to pilot on the high seas and on all the waters of Monterey Bay.
- (Amended by Stats. 2001, Ch. 177, Sec. 20. Effective January 1, 2002.)*

1177.5

(a) The board's proceedings with regard to the refusal to issue or renew a pilot license shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The board may deny an application for a license without a hearing, if within one year previously, and after proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, an application from the same applicant has been denied upon the same grounds.

(Added by Stats. 2012, Ch. 794, Sec. 6. Effective January 1, 2013.)

1178.

Persons applying for an original license shall not receive a license unless they have proper federal endorsements allowing them to pilot on the high seas and all the waters of those bays pursuant to Section 1171.

(Amended by Stats. 1991, Ch. 282, Sec. 9.)

1178.5.

(a) Subject to this section, the board shall participate in a pull-notice system, pursuant to Section 1808.1 of the Vehicle Code, with respect to all pilot trainees and all licensees.

(b) The purpose of board participation in a pull-notice system pursuant to this section is to provide the board with a report showing each pilot's current public record as recorded by the Department of Motor Vehicles, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the driving privilege or certificate, added to the driver's record while the notification request remains valid and uncanceled.

(c) As used in this section, participation in the pull-notice system means obtaining a requester code and enrolling all pilots and trainees who are subject to the board's jurisdiction under that requester code.

(d) The board shall, additionally, obtain a periodic report from the Department of Motor Vehicles at least every 12 months. The board shall verify that each pilot's and pilot trainee's driver's license has not been suspended or revoked and whether the pilot or pilot trainee has been convicted of a violation of Section 23152 or 23153 of the Vehicle Code or Section 655.

(e) Upon the termination of a pilot's license or the removal of a trainee from the training program, the board shall notify the Department of Motor Vehicles to discontinue the driver's enrollment in the pull-notice system.

(f) For the purposes of the pull-notice system, a pilot and pilot trainee shall be enrolled as if he or she were an employee of the board.

(g) The board shall be exempt from any fees required under the pull-notice system, pursuant to Section 1808.1 of the Vehicle Code.

(h) The board, on an individual basis, shall also request the driving record of every applicant for admission into the pilot training program before granting admission to the training program, and shall request the driving record of every applicant for an original pilot license before issuing a pilot license.

(i) The board, after notice and hearing, may refuse to issue a pilot license or may suspend or revoke the license issued to a pilot if that person has been convicted of a violation of Section

23152 or 23153 of the Vehicle Code, or Section 655. A conviction after a plea of nolo contendere is a conviction within the meaning of this section.

(j) The board may refuse to admit an applicant into the pilot training program or may dismiss a pilot trainee from the pilot training program if that person has been convicted of a violation of Section 23152 or 23153 of the Vehicle Code or Section 655. A conviction after a plea of nolo contendere is a conviction within the meaning of this section.

(Added by Stats. 2012, Ch. 794, Sec. 7. Effective January 1, 2013.)

1179.

Notwithstanding any other provision of this division, any shipping company which regularly employed its employees, or expressed its intent to the board to use its employees, for piloting vessels on the Bays of San Francisco, San Pablo, and Suisun on or before July 1, 1983, may employ and use its employees in that manner in lieu of pilots provided under this chapter. However, this use of employees as pilots on foreign flag vessels shall be limited to five vessel calls per year for those shipping companies that have only expressed their intent to use their employees in lieu of pilots. This limitation shall not apply to those shipping companies which regularly employed their employees for piloting vessels prior to July 1, 1983.

(Amended by Stats. 1990, Ch. 1422, Sec. 24.)

ARTICLE 2. Suspension or Revocation of Licenses [1180 - 1184]

(Article 2 added by Stats. 1974, Ch. 1256.)

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.

(Amended by Stats. 2011, Ch. 324, Sec. 18. Effective January 1, 2012.)

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 witnesses and request additional information if the incident review committee considers it necessary to conduct a 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.
- (Amended by Stats. 2011, Ch. 324, Sec. 19. Effective January 1, 2012.)*

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.
- (5) Take any other action, as provided in the guidelines adopted pursuant to subdivision (e).
- (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.

(Amended by Stats. 2011, Ch. 324, Sec. 20. Effective January 1, 2012.)

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.
(Amended by Stats. 2011, Ch. 324, Sec. 21. Effective January 1, 2012.)

1182.

If, after a hearing, the board finds that the pilot is guilty of misconduct sufficient for deprivation of the license, the board shall revoke or suspend the license of the pilot. The order shall be entered in the minutes and placed in the record of the pilot maintained pursuant to Section 1157. The proceedings shall be conducted in 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.
(Amended by Stats. 2011, Ch. 324, Sec. 22. Effective January 1, 2012.)

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.
(Amended by Stats. 2011, Ch. 324, Sec. 23. Effective January 1, 2012.)

1184.

The board shall formally review the executive director with respect to the performance of his or her duties pursuant to this article at least once each year.
(Added by Stats. 1993, Ch. 1197, Sec. 5. Effective January 1, 1994.)

CHAPTER 5. Pilotage Rates [1190 - 1199]
(Chapter 5 added by Stats. 1974, Ch. 1256.)

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) 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 92.43 mills per high gross registered ton.
 - (2) (A) A minimum charge for bar pilotage shall be six hundred sixty-two dollars (\$662) for each vessel piloted.
 - (B) On and after January 1, 2022, a minimum charge for bar pilotage shall be one thousand eight hundred seventy-five dollars (\$1,875) for each vessel piloted.

(C) On and after January 1, 2023, a minimum charge for bar pilotage shall be two thousand six hundred dollars (\$2,600) for each vessel piloted.

(D) On and after January 1, 2024, a minimum charge for bar pilotage shall be three thousand dollars (\$3,000) 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 that 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 in 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.

(Amended by Stats. 2022, Ch. 769, Sec. 5. (AB 2056) Effective September 29, 2022.)

1190.1.

Every vessel that uses a pilot under this division while navigating the waters of Monterey Bay shall pay the rate provided by Section 1190.

(Amended by Stats. 2022, Ch. 769, Sec. 6. (AB 2056) Effective September 29, 2022.)

1190.3

(a) There shall be an additional surcharge imposed per each movement of a vessel using pilot services as is necessary and authorized by the board to recover the costs of the pilot associated with a catastrophic event. The surcharge authorized by this subdivision shall be identified as a catastrophic event surcharge on the invoice of the pilot and separately accounted for in the accounting pursuant to Section 1136.

(b) Subdivision (a) only applies if the board identifies that the costs recorded in a catastrophic event memorandum account are attributable to a specifically identifiable catastrophic event. Catastrophic events include, but are not limited to, fire, earthquake, terrorism, act of war, or epidemic, if the event has been declared an emergency or a disaster by a local, state, or federal governmental authority.

(Amended by Stats. 2022, Ch. 769, Sec. 8. (AB 2056) Effective September 29, 2022.)

1190.4.

(a) There shall be a movement fee imposed as is necessary and authorized by the board to recover a pilot's costs for the purchase of a new pilot dispatch system in 2021.

(b) The movement fee authorized by this section shall be identified as a dispatch system purchase surcharge on a pilot's invoices and separately accounted for in the accounting required by subdivision (b) of Section 1136.

(c) The cumulative amount of the surcharge collected pursuant to this section shall not exceed two hundred seventy-five thousand dollars (\$275,000).

(d) The board shall review and adjust as necessary the dispatch system purchase surcharge authorized by this section at least quarterly.

(e) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2023, deletes or extends that date. *(Added by Stats. 2021, Ch. 172, Sec. 5. (AB 807) Effective September 16, 2021. Repealed as of January 1, 2023, by its own provisions.)*

1190.5

(a) In addition to any pilot boat surcharge established pursuant to Section 1194, there shall be a movement fee imposed as is necessary and authorized by the board to recover a pilot's costs for the maintenance, both deferred and current, of pilot boats that are presented to the board and identified for purposes of recovery under this section on or after January 1, 2021, and before October 1, 2023.

(b) The movement fee authorized by this section shall be separately identified as a pilot boat maintenance surcharge on the pilots' invoices, and separately accounted for in the accounting required by Section 1136.

(c) The cumulative amount of the pilot boat maintenance surcharge collected pursuant to this section shall not exceed one million four hundred thousand dollars (\$1,400,000).

(d) The board shall review and adjust as necessary the pilot boat maintenance surcharge authorized by this section at least quarterly.

(e) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2024, deletes or extends that date. *(Amended by Stats. 2022, Ch. 769, Sec. 9. (AB 2056) Effective September 29, 2022. Repealed as of January 1, 2024, by its own provisions.)*

1191.

(a) The Legislature finds and declares that, consistent with the board's adoption of rate recommendations in May 2002, the Legislature, by statute, adopted a schedule of pilotage rates pursuant to subdivision (c) providing fair and reasonable return to pilots engaged in ship movements or special operations for those movements or operations that 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 pursuant to this section.

(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.

(d) Except as specified in Section 1191.1, the rates imposed pursuant to subdivision (c) that are in effect on December 31, 2022, shall be increased by 15 percent on January 1, 2023.

(Amended by Stats. 2022, Ch. 769, Sec. 10. (AB 2056) Effective September 29, 2022.)

1191.1.

(a) A vessel using pilots for ship movements or special operations that do not constitute bar pilotage shall pay the pilotage rates established in this section.

(b) (1) (A) The minimum charge for each bay move shall be two thousand three hundred dollars (\$2,300).

(B) On and after January 1, 2024, the minimum charge for each bay move shall be two thousand five hundred dollars (\$2,500).

(2) (A) The minimum charge for each river move shall be four thousand five hundred dollars (\$4,500).

(B) On and after January 1, 2024, the minimum charge for each river move shall be five thousand dollars (\$5,000).

(c) On and after January 1, 2023, the rate for standby time, delay en route, and pilot on board in excess of eight hours shall be four hundred ten dollars (\$410) per hour.

(d) On and after January 1, 2023, the rate for cancellation of service after a pilot reports shall be two thousand dollars (\$2,000).

(e) On and after January 1, 2023, the rate for cancellation of service with less than four hours notice shall be one thousand dollars (\$1,000).

(f) On and after January 1, 2023, the rate for a pilot carried away per day shall be five thousand dollars (\$5,000) plus expenses incurred in returning.

(Added by Stats. 2022, Ch. 769, Sec. 11. (AB 2056) Effective September 29, 2022.)

1192.

If a vessel that is subject to the payment of pilotage enters any port of Monterey Bay and the Bays of San Francisco, San Pablo, or Suisun solely by reason of being in distress or requiring care, it shall pay one-half the full pilotage rates.

(Amended by Stats. 2001, Ch. 177, Sec. 22. Effective January 1, 2002.)

1193.

(a) Notwithstanding Section 1120, only the following noncommercial vessels that use pilotage services are exempt from the pilotage fees and surcharges established pursuant to this division, except for the board operations surcharge as established and calculated pursuant to Section 1159.1:

(1) Maritime academy training vessels, whether foreign or domestic.

(2) Vessels owned and operated by a nonprofit museum or foundation.

(b) The vessels specified in subdivision (a) are subject to Section 1198.

(Added by Stats. 2010, Ch. 455, Sec. 4. Effective January 1, 2011.)

1194.

(a) In addition to other charges for pilotage, 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, including preliminary design and engineering, 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 board may adjust the amount of the surcharge established pursuant to this subdivision as necessary to efficiently administer the pilot boat surcharge.

(b) 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. The moneys charged and collected each month from the pilot boat surcharge shall be paid to the board in accordance with Section 1194.1. The moneys shall be used only to fund

pilot boat expenses in the manner established by the board pursuant to Sections 1159.1 and 1194.1.

(c) Net proceeds from the sale of existing pilot boats shall be used to reduce the debt on the new pilot boats, or applied as soon as possible against any balance of a new pilot boat, before any capitalization of the debt of the pilot's costs in obtaining the new pilot boat, and to reduce 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 subdivision, including, but not limited to, reduced repair and maintenance expenses.

(d) (1) For purposes of this section, the costs of obtaining new pilot boats includes the costs of repowering existing pilot boats or the acquisition of new pilot boats in order to meet the requirements of any rule governing the emissions of commercial harbor craft adopted by the State Air Resources Board.

(2) For purposes of this subdivision, the costs of obtaining new pilot boats may be authorized for identification as a pilot boat surcharge by the board prospectively for the purpose of funding the costs of compliance to meet the requirements of any commercial harbor craft regulation and may be collected before the imposition of costs.

(3) The board shall require a final determination of all accounting of all necessary and authorized costs upon the delivery of a new pilot boat and compare to the funding preliminarily determined to be necessary and authorized by the board to recover the pilots' costs. All prospectively collected pilot boat surcharge revenues collected before delivery of a new pilot boat shall be identified and used to offset and reduce the costs of design, engineering, construction, and delivery of a new pilot boat, or applied as soon as possible against any balance of a new pilot boat, before any capitalization of the debt of the pilots' costs in obtaining the new pilot boat.

(4) (A) A cost that is identified as paid and recovered prospectively under this subdivision before the date of delivery and operation of a pilot boat shall not be capitalized into a loan or line of credit to finance the construction of the pilot boat subject to cost recovery under this subdivision.

(B) A cost that is not identified as paid and recovered prospectively under this subdivision before the date of delivery and operation of a pilot boat may be capitalized into a loan or line of credit to finance the construction of the pilot boat subject to cost recovery under this subdivision.

(e) The board shall audit or cause to be audited all pilot boat surcharges imposed pursuant to this section.

(Added by Stats. 2022, Ch. 769, Sec. 12. (AB 2056) Effective September 29, 2022.)

1194.1.

(a) The moneys charged and collected each month from the pilot boat surcharge pursuant to Section 1194 shall be paid to the Board of Pilot Commissioners' Special Fund established pursuant to Section 1159 and credited to the Pilot Boat Surcharge Account established pursuant to Section 1159.1. The moneys shall be used only to fund the pilot boat 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, as specified in subdivision (a) of Section 1194, and to cover the administrative costs of the board with respect to

administration of the Pilot Boat Surcharge Account, including any audits of the usage of the Pilot Boat Surcharge Account.

(b) Information regarding moneys remitted to the Board of Pilot Commissioners' Special Fund collected from the surcharge authorized pursuant to Section 1194, or otherwise collected by the board for that purpose, shall be made available to the public upon request and to the board or its finance committee.

(c) Funds authorized to recover pilot boat maintenance costs pursuant to Section 1190.5 are not subject to this section.

(Added by Stats. 2022, Ch. 769, Sec. 13. (AB 2056) Effective September 29, 2022.)

1195.

(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 each pilot trainee who is enrolled in the pilot trainee training program established by the board.

(b) The moneys charged and collected each month from the pilot trainee surcharge shall be paid to the board. The moneys shall be used only to fund the pilot trainee training 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 trainee training program.

(Amended by Stats. 1990, Ch. 468, Sec. 7. Effective August 8, 1990.)

1195.1.

(a) The moneys charged and collected each month from the pilot trainee surcharge pursuant to Section 1195 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 trainee training program referred to in subdivision (h) of Section 1171.5 and Section 1195.3.

(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 1195, or otherwise collected by the board for that purpose, and information regarding moneys spent as pilot trainee training program expenses authorized by Section 1195.3 shall be made available to the public upon request and to the board or its finance committee.

(Added by Stats. 2008, Ch. 567, Sec. 27. Effective January 1, 2009.)

1195.3.

Expenses of the pilot trainee program shall include all costs incurred by the board in the operation and administration of the pilot trainee training 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 costs of testing, test preparation, advertising and soliciting for trainee applicants, trainee stipends, worker's compensation insurance premiums, reimbursement of costs of services provided to the board by other governmental entities, and for the costs for any other goods and services necessary for effectuating the purposes of training as determined by the board.

(Added by Stats. 2008, Ch. 567, Sec. 28. Effective January 1, 2009.)

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.

(Amended by Stats. 2011, Ch. 324, Sec. 25. Effective January 1, 2012.)

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.

(Amended by Stats. 2011, Ch. 324, Sec. 26. Effective January 1, 2012.)

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 reimbursement of costs of services provided to the board by other governmental entities and for the costs for any other goods and services necessary for effectuating the purposes of continuing education as determined by the board.

(Amended by Stats. 2011, Ch. 324, Sec. 27. Effective January 1, 2012.)

1196.4.

(a) Costs resulting from the provision of continuing education for currently licensed pilots regarding instruction in the proper utilization of portable pilot unit equipment and software, if determined to be necessary for effectuating the purposes of continuing education by the board, shall be considered pilot continuing education expenses pursuant to Section 1196.3.

(b) Subdivision (a) shall apply only to those costs incurred after January 1, 2013.

(Added by Stats. 2012, Ch. 794, Sec. 8. Effective January 1, 2013.)

1196.5.

(a) The board shall contract with an independent entity to conduct a study of the effects of work and rest periods on psychological ability and safety for pilots. The study shall evaluate sleep- and human-related factors for pilots, and shall include information and recommendations on how to prevent pilot fatigue and ensure the safe operation of vessels.

(b) The board shall, based on the results of, and recommendations contained in, the study, promulgate regulations for pilots establishing requirements for adequate rest periods intended to prevent pilot fatigue.

(c) The study required to be conducted pursuant to subdivision (a) shall be funded by revenues received by the board from the board operation surcharge, as described in Section 1159.2. The board shall have authority, consistent with Section 1159.2, to collect and appropriate adequate funding to ensure that the study is completed.

(Added by Stats. 2012, Ch. 794, Sec. 9. Effective January 1, 2013.)

1198.

(a) Except as provided in subdivision (c), the rates and charges for pilotage services shall not include the cost of primary marine insurance insuring a pilot, an organization of pilots, or their officers or employees, from liability arising from negligence or errors in judgment in connection with the provision of pilotage service by pilots, organizations of pilots, or their officers or employees.

(b) A pilot who holds a state license for the Bays of San Francisco, San Pablo, and Suisun shall arrange to have available, upon advance written notice, trip insurance, with coverage limits of thirty-six million dollars (\$36,000,000), naming as insureds the pilot, any organization of pilots to which the pilot belongs, and their officers and employees, and insuring the named insureds against any civil claim, demand, suit, or action by whomsoever asserted, arising out of, or relating to, directly or indirectly, acts or omissions of the insureds in connection with the provision of pilotage service, except willful misconduct.

(c) Every vessel, owner, operator, or demise or bareboat charterer hiring a pilot with a state license for the Bays of San Francisco, San Pablo, and Suisun shall either defend, indemnify, and hold harmless pilots pursuant to paragraph (1), or alternatively, notify pilots of an intent to pay for trip insurance pursuant to paragraph (2). If a vessel or its owner, operator, or demise or bareboat charterer does not provide written notice pursuant to paragraph (2) of an intent to exercise the trip insurance option, then the vessel and its owner, operator, and demise or bareboat charterer will be deemed to have elected the obligation to defend, indemnify, and hold harmless pilots pursuant to paragraph (1).

(1) (A) Except for a vessel electing trip insurance pursuant to paragraph (2), a vessel subject to this subdivision, and its owner, operator, demise or bareboat charterer, and agent shall not assert any claim, demand, suit, or action against the pilot, any organization of pilots to which the pilot belongs, and their officers and employees, for damages, including any rights over, arising out of, or connected with, directly or indirectly, any damage, loss, or expense sustained by the vessel, its owners, agents, demise or bareboat charterers, operators, or crew, or by any third parties, even if the damage results, in whole, or in part, from any act, omission, or negligence of the pilot, any organization of pilots to which the pilot belongs, and their officers and employees.

(B) A vessel subject to this paragraph and its owner, operator, and demise or bareboat charterer shall defend, indemnify, and hold harmless the pilot, any organization of pilots to which the pilot belongs, and their officers and employees, with respect to liability arising from any claim, suit, or action, by whomsoever asserted, resulting in whole, or in part, from any act, omission, or negligence of the pilot, any organization of pilots to which the pilot belongs, and their officers and employees. The obligation to indemnify under this paragraph shall not apply to the extent that it causes the amount recoverable from a vessel, its owner, operator, or demise or bareboat

charterer to exceed the limits of liability to which it is entitled under any bill of lading, charter party, contract of affreightment, or provision of law.

(C) The prohibition on claims by vessels, owners, operators, demise or bareboat charterers, and agents imposed by subparagraph (A) and the obligation to defend, indemnify, and hold harmless the pilot imposed by subparagraph (B) shall not apply in cases of willful misconduct by a pilot, any organization of pilots to which the pilot belongs, and their officers and employees.

(D) A pilot who is the prevailing party shall be awarded attorney's fees and costs incurred in any action to enforce a right to indemnification provided pursuant to this subdivision.

(2) In lieu of paragraph (1), a vessel subject to this subdivision and its owner, operator, demise or bareboat charterer, and agent may elect to notify the pilot, or the organization of pilots to which the pilot belongs, of intent to pay for trip insurance, as described in subdivision (b). If notice of this election is received, in writing, by the pilot, or the organization of pilots to which the pilot belongs, at least 24 hours prior to the time pilotage services are requested, the vessel, and its owner, operator, demise or bareboat charterer, and agent are not subject to the requirements of paragraph (1). The pilot shall take all steps necessary to have trip insurance coverage in place during the vessel movement for which it is requested. The pilot shall assess to the vessel the premium for the trip insurance at the pilot's cost, in addition to any other applicable rates and charges for the pilotage services provided.

(d) Nothing in this section is intended to limit, alter, or diminish the liability of a vessel, owner, operator, or demise or bareboat charterer to any person who sustains loss or damage.

(Added by Stats. 2000, Ch. 786, Sec. 1. Effective January 1, 2001.)

1199.

(a) In addition to other charges for pilotage, there shall be temporary transit fees imposed as is necessary and authorized by this section.

(b) (1) The temporary transit fee for all vessels moved across the bar except for vessels calling at San Francisco Piers 27 and 35 shall be one thousand dollars (\$1,000).

(2) On and after January 1, 2024, the temporary transit fee for all vessels moved across the bar shall be eight hundred fifty dollars (\$850).

(c) (1) The temporary transit fee for all bay moves and all river moves shall be seven hundred dollars (\$700).

(2) On and after January 1, 2024, the temporary transit fee for all bay moves and all river moves shall be eight hundred fifty dollars (\$850).

(d) Only one temporary transit fee per invoice may be assessed.

(e) The Legislature finds and declares that the temporary transit fees imposed pursuant to this section are extraordinary, are not to be considered a precedential factor in any future ratesetting, and are established for the sole purpose of addressing the COVID-19 pandemic's induced supply chain crisis and its related impacts on the pilotage system.

(f) This section shall remain operative only until the board publishes the first pilotage tariff under Chapter 6 (commencing with Section 1250), and as of the following January 1 is repealed.

(Added by Stats. 2022, Ch. 769, Sec. 14. (AB 2056) Effective September 29, 2022. Conditionally inoperative as prescribed by its own provisions. Repealed on January 1 following inoperative date.)

CHAPTER 6. Pilotage Tariff Determination and Procedures [1250 - 1281]

(Chapter 6 repealed and added by Stats. 2022, Ch. 769, Sec. 16.)

ARTICLE 1. Establishment of Pilotage Tariff [1250 - 1254]

(Article 1 added by Stats. 2022, Ch. 769, Sec. 16.)

1250.

Pursuant to the requirements of this chapter, the board shall adopt, and cause to be published, a pilotage tariff that establishes fair, just, reasonable, and sufficient rates for the provision of a safe, competent, reliable, and efficient pilotage service.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1251.

(a) The adopted pilotage tariff shall be determined by a formula whereby a revenue requirement is equal to the sum of pilot costs and expenses plus the product of target net income per pilot and the number of pilots.

(b) In determining target net income per pilot, all of the following factors shall be considered:

(1) The professional skills and experience required of a state-licensed pilot and the difficulty, risk, and lifestyle commitment of providing piloting services, as well as associated activities in support of the pilotage operation.

(2) Evidence of compensation for comparable maritime professions, including individuals in other state-regulated pilotage associations, at a minimum considering evidence of the compensation and benefits.

(3) Evidence of the economic and market conditions existing both locally and within the region of any pilotage association used for the purpose of comparison.

(4) Consumer price index and employment cost index.

(5) Individual amounts paid to pilots since the last rate order, or as directed.

(6) Any other factor deemed relevant to the determination of target net income per pilot.

(c) In determining the number of pilots, all of the following factors shall be considered:

(1) The number of licensed pilots determined by a hearing pursuant to Sections 1170.1 and 1170.2.

(2) The number of licensed pilots at the time of the rate hearing.

(3) Any projected changes in the number of licensed pilots.

(4) Any other factor deemed relevant to the determination of the number of pilots.

(d) In determining pilot costs and expenses, all of the following factors shall be considered:

(1) All costs of providing pilotage service.

(2) Any projected changes in the cost of providing pilotage service.

(3) The amount of activity, including number of vessels, size of vessels by gross registered tonnage, length, and draft.

(4) Any recent or projected changes in the amount of vessel activity.

(5) Producer price index and employment cost index.

(6) Total gross and net revenue since the last rate order, including sources of revenue by tariff category.

(7) Any other factor deemed relevant to the cost of the provision of pilotage service.

(e) For purposes of this section, the following definitions apply:

(1) “Number of pilots” means the number of pilots to be used in the formula to determine the revenue requirement.

(2) “Pilot costs and expenses” means all costs and expenses incurred by all pilots collectively in the provision of all pilotage services to be used in the formula to determine the revenue requirement.

(3) “Target net income per pilot” means an individual pilot’s income, including compensation and benefits, to be used in the formula to determine the revenue requirement.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1252.

(a) The adopted pilotage tariff may include as part of the tariff for pilotage services the reasonable costs for the setting of tariff rates under this chapter of the Office of Administrative Hearings. Those moneys generated by the tariff for the purpose of allocation to the Office of Administrative Hearings pursuant to this section shall be paid into the Board of Pilot Commissioners’ Special Fund and are hereby continuously appropriated, notwithstanding Section 13340 of the Government Code and without regard to fiscal year, to the board to allocate to the Office of Administrative Hearings.

(b) The costs of the board in implementing this chapter shall only be funded from revenues generated by the board operations surcharge pursuant to Section 1159.2 and continuously appropriated from the Board of Pilot Commissioners’ Special Fund pursuant to Section 1159.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1253.

A petition that is submitted on the basis of a notice of intent to petition filed less than 18 months after the effective date of a pilotage tariff adopted pursuant to Section 1278 is untimely.

However, if a petition is filed as a joint petition of at least two of the parties to the previous pilotage tariff hearing process and no other new intervenors present themselves in opposition to the joint petition, the petition shall be timely regardless of the effective date of the previously adopted pilotage tariff.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1254.

(a) The pilotage rates imposed pursuant to Chapter 5 (commencing with Section 1190) shall be subject to adjustment under this chapter.

(b) The pilotage rates imposed pursuant to Chapter 5 (commencing with Section 1190) shall remain in effect and be deemed pilotage tariffs set pursuant to this chapter until the rates are adjusted pursuant to this chapter.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

ARTICLE 2. General Provisions [1255 - 1256]
(Article 2 added by Stats. 2022, Ch. 769, Sec. 16.)

1255.

(a) The administrative adjudication provisions of the Administrative Procedure Act contained in Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of

Title 2 of the Government Code shall apply to an adjudicative proceeding required to be conducted under this chapter, unless the requirements of this chapter relating to the proceeding provide otherwise.

(b) If there is any inconsistency between the provisions of this chapter and Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the provisions of this chapter shall control.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1256.

For purposes of this chapter, the following definitions apply:

(a) “Executive director” means the executive director of the board.

(b) “Intervenor” means a person with a substantial interest or representing those with a substantial interest in the pilotage tariff other than the original petitioner that an administrative law judge permits to appear and participate as a party in the rate proceeding.

(c) “Party” means either of the following:

(1) A person participating in the rate proceeding as a petitioner or intervenor.

(2) A person participating in a prepetition process as a petitioner or stakeholder.

(d) “Person” means any individual, partnership, corporation, association, governmental agency, or public or private organization.

(e) “Petitioner” means a person with a substantial interest or representing those with a substantial interest in the pilotage tariff who has filed a petition or who intends to file a petition with the board for the publication of a pilotage tariff under this chapter.

(f) “Stakeholder” means any person with a substantial interest or representing those with a substantial interest in the pilotage tariff regardless of whether the person is participating as a petitioner or intervenor.

(g) “Substantial interest in the pilotage tariff” means any direct or indirect financial interest in the rates and tariffs charged for pilotage services.

(h) “Tariff” means the schedule of rates, fees, and charges applied to the provision of pilotage services as published by the board pursuant to this chapter.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

ARTICLE 3. Prepetition Procedures [1260 - 1262]

(Article 3 added by Stats. 2022, Ch. 769, Sec. 16.)

1260.

(a) Any person intending to petition to request a change in pilotage rates shall file a notice of intent to petition with the board, with a copy served to interested stakeholders including any association of board-licensed pilots, any association representing the interests of vessel owners or operators, and any other person that participated in the most recent past rate proceedings as a party.

(b) The notice of intent to petition shall contain an explanation of the proposed change, including a description of each change of a rate or inclusion of a new cost item not previously included in the current pilotage tariff.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1261.

Upon receipt of a notice of intent to petition, the executive director shall do all of the following:

(a) Schedule an item for the next regular meeting of the board for the purposes of providing notice to the public and interested stakeholders and for the executive director to publish the notice of intent to petition into the record.

(b) Notify the director of the Office of Administrative Hearings of the notice of intent to petition and request the assignment of an administrative law judge pursuant to Section 11370.3 of the Government Code to the board for the purpose of administering a hearing on any subsequently filed petition.

(c) Notify the petitioner of any stakeholder who has communicated a request to participate in prepetition meetings to the executive director prior to the notice requirement deadline established pursuant to subdivision (a) of Section 1262.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1262.

(a) Within 20 days of publication of the notice of intent to petition at a duly noticed meeting of the board, the filing petitioner shall provide a notice of a proposed meeting schedule to all interested stakeholders for the purposes of holding a meeting or series of prepetition meetings for the purposes described in this section.

(b) Within 45 days of provision of service of a copy of the notice of intent to petition or the reading of the notice of intent to petition at a duly noticed meeting of the board, whichever is earlier, the filing petitioner shall hold at least one meeting with all interested stakeholders.

(c) All parties shall make a good faith effort to schedule as many meetings as reasonably necessary to achieve the purpose of the meetings during the notice of intent to petition period.

(d) The purpose of the meetings during the notice of intent to petition period shall be to clarify the issues presented in the notice of intent to petition, to explore means of narrowing and simplifying the issues as much as possible, and to consider areas of substantive agreement and substantive disagreement.

(e) All parties shall identify the potential for joint stipulations, joint petition, or partial stipulation on issues and joint petition during prepetition meetings.

(f) Interested parties may choose amongst themselves to arrange meetings at their own discretion and cost, including arrangements for mediators or alternative dispute resolution processes if desired.

(g) The prepetition meetings required pursuant to this section are not public meetings. Public notice of these meetings is not required other than as described in this section.

(h) Members of the board or staff of the board shall not attend any prepetition meetings held pursuant to this section.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

ARTICLE 4. Petitions [1265 - 1274]

(Article 4 added by Stats. 2022, Ch. 769, Sec. 16.)

1265.

(a) Any person with a substantial interest in the pilotage tariff may file a petition with the board.

(b) A petitioner filing a petition with the board is a moving party and bears the burden of the preponderance of the evidence in the proceedings as described in this chapter.

(c) A counterpetitioner responding to a petition is a moving party and bears the burden of the preponderance of the evidence in the proceedings as described in this chapter.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1266.

(a) Provided that the requirements of Sections 1260 and 1262 have been complied with by the petitioner, a petition filing is in order after 90 days of provision of service of a copy of the notice

of intent to petition or the reading of the notice of intent to petition at a duly noticed meeting of the board, whichever is earlier.

(b) There is no obligation on a petitioner to file a petition under this chapter after the completion of the prepetition meeting process.

(c) If stakeholder participants in prepetition meetings stipulate that prepetition meetings are continuing, there is no limitation on the time to file a petition after the filing of a notice of intent to petition.

(d) If no petition is filed within 180 days of the filing of the notice of intent to petition, or if no stipulation is presented to the board under subdivision (c), a petition is no longer in order and a new notice of intent to petition shall be filed prior to a subsequent petition filing pursuant to Section 1260.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1267.

(a) A petition filed under this chapter shall include all of the following components:

(1) (A) A signed submission by the petitioner identifying the petitioner, including the names and contact information of the person requesting the tariff revision and the basis of the petitioner's substantial interest in the pilotage tariff.

(B) If the petition is a joint submission by multiple parties, the petition shall be identified as a joint submission on the filing and include a signed submission by each of the joint petitioners, including the names and contact information of each of the persons requesting the tariff revision and the bases of each of the petitioners' substantial interests in the pilotage tariff.

(2) A request for a hearing, including a proposed hearing date and calendar.

(3) A copy of the proposed tariff, along with a copy of the proposed changes to the tariff in a format in which strikethroughs indicate the material to be deleted or replaced and underlining indicates the material to be inserted.

(4) Testimony in support of the petition, including a description of why or how the existing tariff is not fair, just, reasonable, or sufficient, along with all exhibits and information to demonstrate a need for the tariff revision and addressing the criteria for tariff revisions as set forth in Section 1251.

(5) A copy of any joint stipulations, partial stipulations, or any other agreements to narrow or simplify issues reached during prepetition meetings pursuant to Section 1262.

(b) A petition filed under this chapter may include any of the following:

(1) A copy of a proposed order.

(2) Any other information required by the board by regulation or by previous order.

(c) A petitioner shall file with the board one paper copy and one electronic copy of all petition documents, including testimony and exhibits that the petitioner intends to present as the petitioner's direct case. An electronic copy of all filed material shall be filed in a format identified by the board, if the board elects to require a specified filing format.

(d) A petitioner shall provide electronic notification and access to an electronic copy of all filed material to every stakeholder or interested party who requested to participate in prepetition meetings pursuant to Section 1262.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1268.

Upon receipt of a petition, the executive director shall do all of the following:

- (a) Schedule an item for the next regular meeting of the board for the purposes of providing notice to the public and for the executive director to publish the signed submission and request for a hearing on the petition into the record.
- (b) Provide all copies of all filed materials to the administrative law judge assigned upon the request of the board pursuant to Section 1261 for the purpose of administering the hearing on the petition.
- (c) Provide notification to the petitioner and to every stakeholder who requested to participate in prepetition meetings pursuant to Section 1262 of all of the following:
 - (1) The name and contact information of the administrative law judge assigned to administer the hearing on the petition.
 - (2) The official date of the filing of the petition with the board.
 - (3) The requirement of interested stakeholders to file a request to intervene within 20 calendar days of petition filing pursuant to Section 1269.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1269.

- (a) Any stakeholder with a substantial interest in the pilotage tariff may file a written request to intervene in a petition proceeding under this chapter.
- (b) A request to intervene shall include all of the following:
 - (1) A signed request identifying the proposed intervenor, including the names and contact information of the person requesting the intervention.
 - (2) The proposed intervenor's substantial interest in the pilotage tariff.
 - (3) The position of the party in the proceeding.
 - (4) A response to the petitioner's proposed hearing date and calendar.
- (c) A written request to intervene shall be considered timely if it is received by the administrative law judge within 20 calendar days of petition filing.
- (d) Intervention shall not broaden the issues in the proceeding, except to the limited extent that an issue is raised in a counterpetition, nor shall intervention unreasonably delay the hearing or unfairly prejudice the other parties.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1270.

- (a) Any intervening party, or proposed intervening party, shall file an answer, counterpetition, or response within 30 calendar days of petition filing. For good cause shown, the administrative law judge may extend the time for filing an answer, counterpetition, or response for a period not to exceed an additional 20 days.
- (b) The answers filed by intervenors, whether counterpetitions or responses, shall address the factors specified in this chapter and all related issues raised in the petition.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1271.

- (a) The administrative law judge shall hold an initial petition management conference to set a hearing date, establish a complete petition calendar, rule on requests to intervene, and address any other timely or appropriate business presented by the parties.

(b) (1) In order to make a more effective use of hearing time in formal proceedings and to expedite the orderly conduct and disposition of the proceedings, the administrative law judge shall set a date in the complete petition calendar for at least one prehearing conference between the parties. The parties attending a prehearing conference shall consider, but not be limited to the consideration of, all of the following:

- (A) Simplifying and clarifying the issues and eliminating irrelevant or immaterial issues.
- (B) Obtaining stipulations as to facts, authenticity of documents, admissibility of evidence, and other evidentiary matters.
- (C) The use of other aids to the orderly conduct and disposition of the proceeding as may be possible.

(2) This section does not preclude any party from calling or holding off-calendar conferences by agreement or stipulation. If a conference is called before the hearing, or if the hearing is recessed for a conference, and the conference yields an outcome of substance, the administrative law judge shall state on the record the results of the conference.

(c) The administrative law judge shall set dates in the complete petition calendar for the parties to conclude all discovery and data requests, respond to discovery and data requests, and lodge any objections to discovery or discovery responses by another party.

(d) (1) The administrative law judge shall set dates in the complete petition calendar for the parties to file proposed written testimony, witness lists, and proposed exhibits with the administrative law judge on a date before the hearing, reserving rights of cross-examination at the hearing.

(2) Any objections to the prefiled testimony, witnesses, or proposed exhibits shall be lodged with the administrative law judge at a prehearing date set in the complete petition calendar, and shall be resolved by the administrative law judge at the commencement of the hearing.

(3) When a party fails to file any written testimony, witness list, or proposed exhibit for the rate hearing, or objections to the prefiled testimony, witnesses, or proposed exhibits for the rate hearing, within the time specified by the complete petition calendar, the late filing may be accepted if the administrative law judge determines that there was good cause for failure to file within the required time. For purposes of this section, “good cause” exists when a failure to file arises from an excusable mistake, surprise, excusable neglect, or reasonable reliance on the statement of the administrative law judge, or from fraud, misrepresentation, or other misconduct by a party participating in the proceeding.

(e) The administrative law judge shall set a date in the complete petition calendar for the parties to file proposed stipulations, agreements, or other reports resulting from a prehearing conference on a date before the hearing.

(f) The administrative law judge shall set the hearing for a date and time most convenient to the parties concerned.

(g) The administrative law judge shall set dates in the complete petition calendar for the parties to file posthearing briefs and reply briefs.

(h) (1) For all petitions contested by an intervenor, the complete petition calendar shall require a final order and tariff to be published no later than 240 days from the date of petition filing established pursuant to Section 1268 if there is no rereferral under Section 1279.

(2) For all petitions that are either uncontested by an intervenor or a joint submission that is not subject to any further requests to intervene by a party opposed to the petition, the complete petition calendar shall require that an expedited hearing date is set and a final order and tariff

are published no later than 120 days from the date of petition filing established pursuant to Section 1268 if there is no rereferral under Section 1279.

(i) This section does not prohibit an administrative law judge from revising by order the hearing date or other components of the complete petition calendar at the discretion of the administrative law judge in response to a motion by a party or upon stipulation of the parties at any time after the initial order setting the complete petition calendar.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1272.

(a) During the public hearing on the petition, the administrative law judge retains the discretion to direct additional briefing or presentation of evidence by the parties posthearing. All parties have the right to respond at the hearing and in writing posthearing to a direction by the administrative law judge for additional briefing or presentation of evidence, regardless of to which party the additional briefing or presentation of evidence are directed.

(b) During the public hearing on the petition, the executive director shall be in attendance and available to the administrative law judge. The administrative law judge retains the discretion to consult with the executive director in public during the public hearing. All parties have the right to respond at the hearing and in writing posthearing to a consultation by the administrative law judge with the executive director.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1273.

(a) At the conclusion of the public hearing on the petition and until the issuance of the tentative order and tariff, the administrative law judge may submit bench interrogatories and discovery requests to a party or parties. All parties have the right to respond to posthearing bench interrogatories and discovery requests, regardless of to which party the interrogatories or discovery requests are directed.

(b) The administrative law judge may set consultations or develop bench interrogatories or discovery requests for the executive director. All parties may attend all posthearing bench consultations and respond independently and, in addition, all parties have the right to respond to posthearing bench interrogatories and discovery requests that are directed to the executive director.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1274.

Except as otherwise permitted with respect to the executive director's responses to bench requests pursuant to Section 1273, members of the board and board staff shall not engage in ex parte communications regarding the pilotage tariff, pilotage rates, or issues that are the subject of a pilotage tariff petition with any party, stakeholder, member of the public, or other board member during the period beginning with the request by the executive director for assignment of an administrative law judge until the time that any potential for a related board hearing on the petition has concluded.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

ARTICLE 5. Orders [1275 - 1279]
(Article 5 added by Stats. 2022, Ch. 769, Sec. 16.)

1275.

- (a) The administrative law judge shall issue a tentative order and tariff inclusive of the findings of law and findings of fact necessary to support the tentative order and tariff.
- (b) The tentative order and tariff shall be based on the formulaic rate approach and factors described in Section 1251 and include specific findings with respect to each formula factor.
- (c) The tentative order and tariff shall set both a publication date for the final order and tariff and an effective date for the tariff of no later than 30 days after the publication date if there is no further board action pursuant to Section 1278.
- (d) All parties shall receive electronic service of the tentative order and tariff and included findings.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1276.

- (a) Upon receipt of a tentative order and tariff from an administrative law judge, the executive director shall provide board members, parties, and the public with notice of the issuance of the tentative order and tariff and included findings, and the publication date and effective date established by the tentative order and tariff by publication on the board's internet website, and to advise board members and the public of their right to request that the executive director agendaize the tentative order and tariff at the next regular meeting of the board between the issuance of the tentative order and tariff and the publication date pursuant to this section.
- (b) In the 10 calendar days following the notice of the issuance of the tentative order and tariff by the executive director pursuant to subdivision (a), board members, parties, and members of the public have the right to request that the tentative order and tariff be agendaized for consideration at the next regular monthly meeting of the board.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1277.

If no request for the tentative order and tariff to be agendaized is received by the executive director within 10 calendar days of the notice provided pursuant to Section 1276, the tentative order and tariff are final as a matter of law. The executive director shall cause to be published a final order and tariff inclusive of findings on the publication date specified by the tentative order and tariff on the board's internet website. The executive director shall further submit the final tariff to the Office of Administrative Law for publication in the California Regulatory Notice Register. If the effective date is not included in the tentative order and tariff or is defective for any reason, the final tariff shall be deemed to be effective upon publication in the California Regulatory Notice Register.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1278.

- (a) If a request for the tentative order and tariff to be agendaized is received by the executive director within 10 calendar days of the notice provided pursuant to Section 1276, the tentative order and tariff shall be agendaized for the next regular monthly meeting of the board.

- (b) (1) If the next regular monthly meeting of the board is 10 or more calendar days from the receipt of the request to agendize the tentative order and tariff, the board shall notice the hearing pursuant to Section 11125 of the Government Code.
- (2) If the next regular meeting is less than 10 calendar days from the receipt of the request to agendize the tentative order and tariff, the board shall notice the hearing pursuant to Section 11125.3 of the Government Code.
- (c) Upon consideration of the tentative order and tariff at the next regular monthly meeting of the board, the board shall hold a public hearing in accordance with all of the following:
- (1) The executive director shall summarize and present the tentative order and tariff.
- (2) Parties to the petition proceeding shall be provided with the opportunity to comment on the tentative order and tariff. All comments by the parties shall be recorded in board minutes and may include any of the following:
- (A) A stipulation agreed to by all parties that includes a request for technical changes to the tentative order and tariff with a precise copy of the technical changes requested and a justification for each proposed technical change.
- (B) A request by an individual party that includes a request for technical changes to the tentative order and tariff with a precise copy of the technical changes requested and a justification for each proposed technical change.
- (C) A request by an individual party that includes a request for the tentative order and tariff to be rereferred to the administrative law judge for further proceedings pursuant to Section 1279, including the specific items and issues sought to be briefed and reviewed upon rereferral and a justification for each item and issue sought to be briefed and reviewed upon rereferral.
- (3) The public shall be provided with the opportunity to comment on the tentative order and tariff and all public comments shall be recorded in board minutes.
- (4) The Transportation Agency shall be provided with the opportunity to comment on the tentative order and tariff and all comments by the agency shall be recorded in board minutes.
- (d) Upon conclusion of the public hearing, the members of the board shall be required to take one of the following actions:
- (1) Accept the tentative order and tariff.
- (2) Accept the tentative order and tariff as proposed to be revised pursuant to the technical change stipulations presented by the parties pursuant to subparagraph (A) of paragraph (2) of subdivision (c).
- (3) Reject the tentative order and tariff, provided that the board agrees to a basis for rejecting the tentative order and tariff and the basis for the rejection is documented.
- (4) Rerefer the tentative order and tariff back to the administrative law judge for further proceedings pursuant to Section 1279, provided that the board agrees to a basis for rereferring the tentative order and tariff as presented by a party as a request for a technical change pursuant to subparagraph (B) of paragraph (2) of subdivision (c) or as a request for rereferral pursuant to subparagraph (C) of paragraph (2) of subdivision (c) and the basis for rereferral is documented.
- (5) Take no action.
- (e) (1) If the board accepts the tentative order and tariff or takes no action pursuant to paragraph (1), (2), or (5) of subdivision (d), the tentative order and tariff are deemed to be final as a matter of law. The executive director shall cause to be published a final order and tariff inclusive of findings on the publication date specified by the tentative order and tariff or on an alternative

date as set by the board. The executive director shall further submit the final tariff to the Office of Administrative Law for publication in the California Regulatory Notice Register with an effective date of 30 days after the board hearing.

(2) If the board rejects the tentative order and tariff pursuant to paragraph (3) of subdivision (d), the petition is deemed rejected as a matter of law. The executive director shall cause to be published a formal notice of rejection on the board's internet website inclusive of the documentation of the basis for rejection. The executive director shall further submit the formal notice of rejection to the Office of Administrative Law for publication in the California Regulatory Notice Register.

(3) If the board opts to rerefer the tentative order and tariff to the administrative law judge pursuant to paragraph (4) of subdivision (d), the executive director shall provide all copies of all hearing materials to the administrative law judge for the purpose of administering an additional hearing on the petition pursuant to Section 1279.

(f) The board action required by subdivision (d) shall be taken before the publication date set by the administrative law judge.

(g) For purposes of this section, a "technical change" is a change to the language of the tentative order and tariff that does not result in a change to, and is consistent with, the findings or conclusions of the tentative order and tariff as issued by the administrative law judge pursuant to Section 1275.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1279.

(a) If the board opts to rerefer a tentative order and tariff to the administrative law judge pursuant to Section 1278, the further review of the petition by the administrative law judge shall be conducted pursuant to this section.

(b) (1) Upon receipt of the board hearing materials from the executive director, the administrative law judge shall by order set a deadline for the parties to submit a proposed calendar for supplemental briefing.

(2) The calendar shall be limited to briefing on the basis of the existing evidence in the record and no additional discovery or data requests shall be allowed by the parties.

(3) The substantive scope of the briefing shall be limited to issues raised by the party requesting a rereferral before the board and affirmed by the board in its adopted basis for rereferral.

(c) The calendar set by the administrative law judge shall be to support a determination upon the briefing alone and no additional public hearing shall be scheduled.

(d) The calendar for briefing and for the issuance of a reviewed tentative order and tariff is to be determined by the administrative law judge.

(e) The administrative law judge has the discretion to issue a reviewed tentative order and tariff to the board. The reviewed tentative order and tariff may be revised as requested by a party.

(f) A reviewed tentative order and tariff issued under this section shall be consistent with the requirements of Section 1275.

(g) Upon receipt of a reviewed tentative order and tariff, the board shall proceed in a manner consistent with Sections 1276, 1277, and 1278, with the exception that the board shall not take any action on a reviewed tentative order pursuant to paragraph (2) or (4) of subdivision (d) of Section 1278.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

ARTICLE 6. Administrative Provisions [1280 - 1281]
(Article 6 added by Stats. 2022, Ch. 769, Sec. 16.)

1280.

- (a) The board shall authorize a pilot to establish a catastrophic event memorandum account and to record in that account the costs of maintaining, restoring, repairing, or replacing the provision of pilotage services to customers due to a catastrophic event.
- (b) The costs, including capital costs, recorded in a catastrophic event memorandum account shall only be recovered through the catastrophic event surcharge following the submission of an application by an affected pilot, the board finding the reasonableness of the costs identified in a catastrophic event memorandum account, and approval by the board of a definitive and exact amount of costs authorized to recover. The board may adjust the total amount of costs to be recovered to reflect any associated savings to ongoing operations or other pilot capital costs as a result from the expense of pilot costs associated with those identified in a catastrophic event memorandum account.
- (c) The board shall hold a proceeding in response to a pilot application to recover costs associated with catastrophic events, including 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.
- (d) The catastrophic event surcharge shall only be billed on the first day of the fiscal quarter after final approval by the board of an application of an affected pilot, and upon a separate action by the board at a following meeting to set a reasonable time and rate of recovery recommended by the finance committee of the board. The finance committee recommendation shall take into consideration any impact that the catastrophic event may have had on pilot customers and may reduce or extend the terms of the surcharge imposition as appropriate.
- (e) The moneys collected under a catastrophic event surcharge shall be used only to recover the costs approved in the pilot catastrophic event memorandum account in the manner established by the board.
- (f) At the recommendation of the finance committee, the board may adjust the surcharge amount established pursuant to Section 1190.3 as necessary to efficiently administer the recovery of costs of the catastrophic event memorandum account, with adjustments to take effect only on the first day of the fiscal quarter following adjustment of the surcharge.
- (g) Information regarding moneys remitted to an affected pilot and moneys collected from the surcharge pursuant to Section 1190.3, as well as information regarding moneys spent as catastrophic event memorandum account costs, shall be made available to the board or its finance committee in a regular format upon request by the board or its finance committee. The information shall additionally be made available to the public upon request to the board.
- (h) The board shall adopt, by regulation, the process for approving the recovery of catastrophic event costs, including, but not limited to, the form and information it shall require in an application for the recovery of costs related to a catastrophic event and the format for the catastrophic event memorandum account reports acceptable to the board.
- (i) For purposes of this section, “catastrophic event surcharge” means the catastrophic event surcharge established pursuant to Section 1190.3.
(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)

1281.

Pilots may submit to the board annually a copy of an audit of the financial record of pilotage operations for the prior year. The pilot audited financial document shall be a public record.

(Added by Stats. 2022, Ch. 769, Sec. 16. (AB 2056) Effective September 29, 2022.)