

§ 236.1. Pilot Boats Surcharge.

(d) Necessity Determination.

(1) The pilots or the pilots' benevolent and protective association shall petition the Board for a determination that the expenditure of funds for the purpose of obtaining a new pilot boat or boats, or for funding design and engineering modifications for extending the service life of an existing pilot boat or boats, is reasonable and necessary.

(2) The petition for a necessity determination shall be in writing and shall include the following info and documentation:

- (A) A description of the pilot boat or boats to be obtained or modified, including the specifications, equipment, and capabilities of the vessel or vessels;*
- (B) A statement of the reasons why the new pilot boat or boats, or the modifications to an existing pilot boat or boats, are reasonable and necessary for the safe and efficient operation of the pilotage service;*
- (C) An estimate of the total cost of obtaining the new pilot boat or boats, or of funding the design and engineering modifications for extending the service life of an existing pilot boat or boats, including any financing costs;*
- (D) An estimate of the operational life of the new or modified pilot boat or boats; and*
- (E) A proposal for the surcharge rate and the period of time during which the surcharge should be collected to recover the authorized costs.*

(3) Upon receipt of a petition for a necessity determination, the Board shall refer the petition to the Pilot Boat Advisory Committee for investigation and recommendation. The Committee shall conduct a public meeting to consider the petition and shall report its findings and recommendations to the Board.

(4) The Board shall consider the report and recommendations of the Pilot Boat Advisory Committee at a regular or special meeting and shall, by resolution, either approve, approve with modifications, or deny the petition for a necessity determination.

Harbors and Navigation Code

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(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.)

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) 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.