

**Senate Bill No. 637**

\_\_\_\_\_

Passed the Senate July 12, 2001

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

Passed the Assembly July 9, 2001

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day of \_\_\_\_\_, 2001, at \_\_\_\_\_ o'clock \_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

Corrected 7-16-01



## CHAPTER \_\_\_\_\_

An act to amend Sections 1100, 1101, 1105, 1110, 1112, 1114, 1114.5, 1125, 1126, 1127, 1128, 1130, 1132, 1133, 1140, 1141, 1150, 1170.3, 1177, 1192, and 6084 of, to amend the heading of Division 5 (commencing with Section 1100) of, and to add Section 1190.1 to, the Harbors and Navigation Code, relating to pilots, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

SB 637, McPherson. Bar pilots: Monterey Bay.

(1) Existing law provides for the regulation and licensing of pilots for the Bays of San Francisco, San Pablo, and Suisun.

This bill would apply those provisions also to persons who pilot vessels into or out of any harbor or port of the bay of Monterey Bay.

(2) Existing law authorizes the board of a harbor district to borrow money by issuance of promissory notes, or execute conditional sales contracts to purchase personal property, up to a specified amount, for the purposes of acquiring land for, and constructing or operating, any work, project, or facility, and prohibits any money borrowed pursuant to this provision from exceeding a term of five years. Existing law also requires, before the board may borrow money pursuant to this provision, that the board approve by resolution, and have on file, a specified report on the engineering and economic feasibility relating to the project.

This bill would exclude, from those requirements, any money borrowed from any agency or department of the United State government or of the State of California.

(3) Under existing law, any person who does not hold a license as a pilot or as an inland pilot and who pilots any vessel into or out of any harbor or port of the Bays of 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. By expanding the scope of persons subject to that law to include pilots in Monterey Bay, the bill would impose a state-mandated local program by creating a new crime.

(4) Existing law requires all moneys received by the Board of Pilot Commissioners pursuant to any statute to be deposited in the



Board of Pilot Commissioners' Special Fund. The fund is continuously appropriated for the payment of the compensation and expenses of the board, its officers and employees, and the pilot training programs. Existing law specifies the rates for pilotage for vessels entering or leaving the Bays of San Francisco, San Pablo, and Suisun. Existing law also imposes a surcharge of 7.5% of pilotage fees, to be deposited in the fund and used to support the board, and imposes an additional charge for pension benefits payable to a fiduciary agent, as specified. Because this bill would increase the amount of money deposited in a continuously appropriated fund, the bill would make an appropriation.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. The heading of Division 5 (commencing with Section 1100) of the Harbors and Navigation Code is amended to read:

**DIVISION 5. PILOTS FOR MONTEREY BAY AND THE BAYS OF SAN FRANCISCO, SAN PABLO, AND SUISUN**

SEC. 2. Section 1100 of the Harbors and Navigation Code is amended to read:

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.

SEC. 3. Section 1101 of the Harbors and Navigation Code is amended to read:



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

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

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

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

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

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

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

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

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

SEC. 4. Section 1105 of the Harbors and Navigation Code is amended to read:

1105. This division applies to pilots for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun.

SEC. 5. Section 1110 of the Harbors and Navigation Code is amended to read:

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.

SEC. 6. Section 1112 of the Harbors and Navigation Code is amended to read:

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.

SEC. 7. Section 1114 of the Harbors and Navigation Code is amended to read:

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.

SEC. 8. Section 1114.5 of the Harbors and Navigation Code is amended to read:

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.

SEC. 9. Section 1125 of the Harbors and Navigation Code is amended to read:

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.

SEC. 10. Section 1126 of the Harbors and Navigation Code is amended to read:

1126. (a) Every person who does not hold a license as a pilot or as an inland 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) Any 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 when 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 where a state licensed pilot refuses to join a vessel because of suspected safety violations concerning that vessel's pilot hoists or pilot ladders.



SEC. 11. Section 1127 of the Harbors and Navigation Code is amended to read:

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) Nothing in this section shall 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) Every vessel sailing under a coastwise license or appropriately endorsed registry and engaged in the coasting trade between any port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and any other port of the United States is exempt from all pilotage charges unless a pilot or inland pilot is actually employed. Every foreign vessel and every vessel bound between a foreign port and any port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun, and every vessel sailing under a register between any port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and any other port of the United States, shall use a pilot or inland 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 300 gross tons and is manufactured and used for private recreation.

SEC. 12. Section 1128 of the Harbors and Navigation Code is amended to read:



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.

SEC. 13. Section 1130 of the Harbors and Navigation Code is amended to read:

1130. 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, other applicable laws, and otherwise administer the affairs of the pilots. The appointment is subject to the confirmation of the board.

SEC. 14. Section 1132 of the Harbors and Navigation Code is amended to read:

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.

SEC. 15. Section 1133 of the Harbors and Navigation Code is amended to read:

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.

SEC. 16. Section 1140 of the Harbors and Navigation Code is amended to read:

1140. (a) No person shall hold both a pilot license and an inland pilot license concurrently.

(b) 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.

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

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



SEC. 17. Section 1141 of the Harbors and Navigation Code is amended to read:

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.

SEC. 18. Section 1150 of the Harbors and Navigation Code is amended to read:

1150. (a) There is in the state government 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 Monterey Bay and the Bay of San Francisco, San Pablo, or Suisun, 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, no public member appointed on or after January 1, 1991, may 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, nothing in this chapter prohibits 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) Each of the members appointed pursuant to paragraphs (1) and (2) of subdivision (a) shall be appointed for a four-year term, and may not be appointed for more than two terms. 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, and no person may be appointed for more than two terms. 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.

SEC. 19. Section 1170.3 of the Harbors and Navigation Code is amended to read:

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.

SEC. 20. Section 1177 of the Harbors and Navigation Code is amended to read:

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.

SEC. 21. Section 1190.1 is added to the Harbors and Navigation Code, to read:



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

SEC. 22. Section 1192 of the Harbors and Navigation Code is amended to read:

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.

SEC. 23. Section 6084 of the Harbors and Navigation Code is amended to read:

6084. (a) Notwithstanding any other provision of this part, the board may borrow money by issuance of promissory notes, or execute conditional sales contracts to purchase personal property, in an amount or of a value not exceeding in the aggregate at any one time the sum of one million dollars (\$1,000,000), for the purposes of acquiring land for and constructing or operating any work, project, or facility authorized by subdivision (d) of Section 6012 or Section 6075 or for the making of improvements or the purchase of equipment or for the maintenance thereof.

All moneys borrowed pursuant to this section shall not be borrowed for a term exceeding five years, and the indebtednesses shall not incur a rate of interest in excess of 12 percent per annum. The indebtedness shall be authorized by a resolution of the board of commissioners adopted by a two-thirds vote of the members of the board.

As a condition precedent to the borrowing of any money or the execution of any conditional sales contract, as provided in this section, in excess of one hundred thousand dollars (\$100,000), the board shall first by a two-thirds vote approve by resolution and have on file a report on the engineering and economic feasibility relating to the project contemplated for the expenditure of the borrowed money or conditional sales contract. The feasibility report shall be prepared and signed by an engineer or engineers licensed and registered under the laws of the State of California.

The district shall budget, levy, and collect taxes and pay for all indebtedness without limitation by any other provision of this part.

(b) Subdivision (a) does not apply to any money borrowed from any agency or department of the United States government or of the State of California.



SEC. 24. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved \_\_\_\_\_, 2001

\_\_\_\_\_  
*Governor*

