

AMENDED IN SENATE JUNE 8, 2011
AMENDED IN ASSEMBLY APRIL 14, 2011
AMENDED IN ASSEMBLY MARCH 15, 2011
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 907

Introduced by Assembly Member Ma

February 17, 2011

An act to amend Sections 1122, 1156.6, 1190, 1190.1, 1191, 1196, 1196.1, and 1196.3 of, *and to add Section 1190.2 to*, the Harbors and Navigation Code, relating to harbors and ports.

LEGISLATIVE COUNSEL'S DIGEST

AB 907, as amended, Ma. Harbors and ports: Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun: pilotage.

Existing law provides for the regulation and licensing of pilots for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun by the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun. Existing law specifies the rates of bar pilotage for vessels inward or outward bound through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun.

This bill would increase those rates, with additional increases effective January 1, 2013, January 1, 2014, and January 1, 2015. This bill also would delete obsolete rate increases in those provisions. The bill would establish a fuel surcharge for each movement of a vessel using pilot services which would be determined by the board's executive director according to specified criteria.

Existing law requires the board to adopt a schedule of pilotage rates applicable to pilots and inland pilots for those operations that are not

otherwise provided for under existing law. Existing law also requires the board to establish a surcharge for each movement of a vessel using pilot services to be used for the pilot and inland pilot continuing education program established by the board.

This bill would make those provisions inapplicable to inland pilots. *This bill would provide that the board's schedule of pilotage rates for those operations not otherwise provided for under existing law shall be increased pursuant to the board's findings and recommendations to the Legislature dated May 25, 2011, with additional increases effective January 1, 2013, January 1, 2014, and January 1, 2015. The bill would require the board to post the schedule of rates on its Internet Web site.* The bill would also make conforming changes.

Under existing law, whenever 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 is required to assign a commission investigator to personally inspect the equipment for its compliance with specified safety standards. This requirement applies to vessels in certain defined pilotage grounds.

This bill would provide that, if a vessel is expected to pass outside the pilotage grounds before the investigation, findings, and recommendations are complete, the port agent would be authorized to review the initial report of a suspected safety standard violation and any information gathered as part of the preliminary investigation. The bill would further provide that if the port agent, in his or her discretion, concludes that the ladder or hoist presents a potential danger, the agent would be required to report the suspected safety standard violation to other pilot organizations.

Existing law makes the owner, operator, and agents of a vessel jointly and severally liable for \$600 per day when a pilot is unwillingly carried out to sea or unnecessarily detained on board a vessel.

This bill would increase that amount to \$2,058 per day, with additional increases effective January 1, 2013, January 1, 2014, and January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 *SECTION 1. Section 1122 of the Harbors and Navigation Code*
- 2 *is amended to read:*

1 1122. (a) A pilot carried to sea against the pilot's will, or
2 unnecessarily detained on board a vessel when a pilot vessel is in
3 attendance to receive the pilot, shall receive ~~six hundred dollars~~
4 ~~(\$600)~~ *two thousand fifty-eight dollars (\$2,058)* per day while so
5 carried to sea or detained, plus reimbursement for any expenses
6 incurred by the pilot in returning to the pilot station. *The amount*
7 *payable per day to a pilot so carried to sea or detained shall*
8 *increase as follows: effective January 1, 2013, the amount shall*
9 *be two thousand eighty-nine dollars (\$2,089); effective January*
10 *1, 2014, the amount shall be two thousand one hundred twenty*
11 *dollars (\$2,120); and effective January 1, 2015, the amount shall*
12 *be two thousand one hundred fifty-two dollars (\$2,152).*

13 (b) The owner, operator, and agents of the detaining vessel are
14 jointly and severally liable for paying the amount specified in
15 subdivision (a).

16 ~~SECTION 4.~~

17 *SEC. 2.* Section 1156.6 of the Harbors and Navigation Code
18 is amended to read:

19 1156.6. (a) Whenever suspected safety standard violations
20 concerning pilot hoists, pilot ladders, or the proper rigging of pilot
21 hoists or pilot ladders are reported to the board, the executive
22 director shall assign a commission investigator to personally inspect
23 the equipment for its compliance with the relevant safety standards
24 promulgated by the United States Coast Guard and the International
25 Maritime Organization. The commission investigator shall report
26 preliminary conclusions, including an assessment of the
27 equipment's compliance with the relevant safety standards, to the
28 executive director as soon as possible. If, in the preliminary report,
29 the equipment is found to be in violation, or in likely violation in
30 the opinion of the commission investigator, of the relevant safety
31 standards, the executive director shall immediately alert the
32 cognizant United States Coast Guard office. The commission
33 investigator shall submit a written report to the incident review
34 committee, as established by subdivision (a) of Section 1180.3,
35 and the report shall remain confidential until reported to the board.
36 The incident review committee, in turn, shall report its findings
37 and recommendations, if any, to the board. The board shall receive
38 the incident review committee's findings, which may include other
39 reports, information, or statements from interested parties. The

1 board shall specify, by regulation, the information that shall be
 2 contained in the report.

3 (b) (1) This section applies to the pilotage grounds, as defined
 4 in Section 1114.5. Whenever a vessel passes outside of the pilotage
 5 grounds, the commission investigator’s report shall include that
 6 fact along with a description of the incident.

7 (2) If a vessel is expected to pass outside of the pilotage grounds
 8 before the investigation, findings, and recommendations are
 9 complete, the port agent may review the initial report of a suspected
 10 ladder or hoist safety standard violation, and any information
 11 gathered as part of the preliminary investigation. If the port agent,
 12 in his or her discretion, concludes that the ladder or hoist presents
 13 a potential danger to future users, the port agent shall report the
 14 suspected safety standard violation to organizations of pilots in
 15 expected next ports of call, and may similarly report to any national
 16 or international organization concerned with pilot ladder or pilot
 17 hoist safety.

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

21 ~~SEC. 2.~~

22 *SEC. 3.* Section 1190 of the Harbors and Navigation Code is
 23 amended to read:

24 1190. (a) Every vessel spoken inward or outward bound shall
 25 pay the following rate of bar pilotage through the Golden Gate
 26 and into or out of the Bays of San Francisco, San Pablo, and
 27 Suisun:

28 (1) ~~Eight dollars and eleven cents (\$8.11)~~ *Ten dollars and*
 29 *forty-one cents (\$10.41)* per draft foot of the vessel’s deepest draft
 30 and fractions of a foot pro rata, and an additional charge of ~~73.04~~
 31 *93.82* mills per high gross registered ~~ton as changed pursuant to~~
 32 ~~law in effect on December 31, 1999:~~ *ton. These rates shall increase*
 33 *as follows: effective January 1, 2013, the respective rates shall be*
 34 *ten dollars and fifty-seven cents (\$10.57) and 95.23 mills; effective*
 35 *January 1, 2014, the respective rates shall be ten dollars and*
 36 *seventy-three cents (\$10.73) and 96.66 mills; and effective January*
 37 *1, 2015, the respective rates shall be ten dollars and eighty-nine*
 38 *cents (\$10.89) and 98.11 mills.* The mill rates established by this
 39 paragraph may be changed as follows:

1 (A) (i) On and after January 1, 2010, if the number of pilots
2 licensed by the board is 58 or 59 pilots, the mill rate in effect on
3 ~~December 31, 2006, pursuant to paragraph (1) of this subdivision~~
4 shall be decreased by an incremental amount that is proportionate
5 to one-half of the last audited annual average net income per pilot
6 for each pilot licensed by the board below 60 pilots.

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

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

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

26 (B) There shall be an incremental rate of additional mills per
27 high gross registered ton as is necessary and authorized by the
28 board to recover the pilots' costs of obtaining new pilot boats and
29 of funding design and engineering modifications for the purposes
30 of extending the service life of existing pilot boats, excluding costs
31 for repair or maintenance. The incremental mill rate charge
32 authorized by this subparagraph shall be identified as a pilot boat
33 surcharge on the pilots' invoices and separately accounted for in
34 the accounting required by Section 1136. Net proceeds from the
35 sale of existing pilot boats shall be used to reduce the debt on the
36 new pilot boats and any debt associated with the modification of
37 pilot boats under this subparagraph. The board may adjust a pilot
38 boat surcharge to reflect any associated operational savings
39 resulting from the modification of pilot boats under this

1 subparagraph, including, but not limited to, reduced repair and
2 maintenance expenses.

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

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

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

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

24 (c) The rate established in paragraph (1) of subdivision (a) shall
25 be for a trip from the high seas to dock or from the dock to high
26 seas. The rate specified in Section 1191 shall not be charged by
27 pilots for docking and undocking vessels.

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

30 *SEC. 4. Section 1190.1 of the Harbors and Navigation Code*
31 *is amended to read:*

32 1190.1. Every vessel that uses a pilot under this division while
33 navigating the waters of Monterey Bay shall pay the rate provided
34 by ~~subdivisions (a) and (e)~~ *subdivision (a)* of Section 1190.

35 *SEC. 5. Section 1190.2 is added to the Harbors and Navigation*
36 *Code, to read:*

37 1190.2. (a) *In addition to other fees for pilotage, there shall*
38 *be a fuel surcharge for each movement of a vessel using pilot*
39 *services. The fuel surcharge shall be determined by the board's*
40 *executive director as follows:*

- 1 (1) *The benchmark price for California No. 2 ultra low sulfur*
2 *diesel fuel (0-15 parts per million) shall be two dollars and*
3 *seventy-five cents (\$2.75) per U.S. gallon, inclusive of tax, if any,*
4 *paid by the pilots.*
- 5 (2) *By December 5, March 5, June 5, and September 5 of each*
6 *year, commencing December 5, 2012, the port agent shall provide*
7 *the board, for each three-month period that precedes, respectively,*
8 *December, March, June, and September, an accounting of all of*
9 *the following:*
- 10 (A) *The total gallons of fuel purchased for the exclusive use of*
11 *the pilot boats.*
- 12 (B) *The average price paid per gallon for that fuel, inclusive of*
13 *tax, if any.*
- 14 (C) *The total vessel moves by the pilots.*
- 15 (3) *If the average price paid per gallon for any three-month*
16 *period exceeds the benchmark price, a fuel surcharge shall be*
17 *charged and collected effective at the beginning of the immediately*
18 *following quarter, commencing January 1, April 1, July 1, or*
19 *October 1.*
- 20 (4) *The total dollar amount of any fuel surcharge to be charged*
21 *and collected for the immediately following quarter shall be*
22 *obtained by subtracting two dollars and seventy-five cents (\$2.75)*
23 *from the average price paid per gallon over the three-month*
24 *period, then multiplying that dollar amount by the total gallons*
25 *purchased over that three-month period.*
- 26 (5) *The fuel surcharge to be paid by each vessel during the*
27 *immediately following quarter shall be obtained by dividing the*
28 *total dollar amount calculated under paragraph (4) by the total*
29 *vessel moves over the three-month period.*
- 30 (6) *Annually, prior to March 1, the port agent shall determine*
31 *whether the total fuel surcharges collected for the previous*
32 *calendar year ending December 31 were less or more in amount*
33 *than the total dollar amount calculated pursuant to paragraph*
34 *(4). The port agent shall report the amount of the undercollection*
35 *or overcollection to the board prior to March 1 and the amount*
36 *shall be added to or subtracted from, as appropriate, the total*
37 *dollar amount subject to recovery by the fuel surcharge for the*
38 *quarter beginning April 1. If a fuel surcharge is not to be recovered*
39 *for the quarter beginning April 1, or if the overcollection is not*
40 *completely offset by a reduction in the amount of the surcharge to*

1 *be recovered for the quarter beginning April 1, the dollar amount*
2 *of any remaining over collection shall be carried forward to*
3 *succeeding quarters until it is completely offset by reductions in*
4 *the amount of future surcharges.*

5 *(b) The amount of any fuel surcharge in effect shall be posted*
6 *on the board's Internet Web site.*

7 ~~SEC. 3.~~

8 *SEC. 6.* Section 1191 of the Harbors and Navigation Code is
9 amended to read:

10 1191. (a) The board, pursuant to Chapter 6 (commencing with
11 Section 1200), shall recommend that the Legislature, by statute,
12 adopt a schedule of pilotage rates providing fair and reasonable
13 return to pilots engaged in ship movements or special operations
14 where rates for those movements or operations are not specified
15 in Section 1190.

16 (b) Every vessel using pilots for ship movements or special
17 operations that do not constitute bar pilotage shall pay the rate
18 specified in the schedule of pilotage rates adopted by the
19 Legislature *as provided in subdivision (c), subject to the changes*
20 *in subdivision (d).*

21 ~~(e) Consistent with the board's adoption of rate~~
22 ~~recommendations in May 2002, the minimum rates imposed~~
23 ~~pursuant to this section that are in effect on December 31, 2002,~~
24 ~~shall be increased by 26 percent on January 1, 2003; those in effect~~
25 ~~on December 31, 2003, shall be increased by 26 percent on January~~
26 ~~1, 2004; those in effect on December 31, 2004, shall be increased~~
27 ~~by 14 percent on January 1, 2005; and those in effect on December~~
28 ~~31, 2005, shall be increased by 14 percent on January 1, 2006.~~

29 *(c) Effective January 1, 2012, the schedule of pilotage rates*
30 *payable pursuant to subdivision (b) shall be those in the Appendix*
31 *to the board's Findings and Recommendations to the Legislature,*
32 *dated May 25, 2011.*

33 *(d) The minimum rates imposed pursuant to this section that*
34 *are in effect on December 31, 2012, shall be increased by 1.5*
35 *percent on January 1, 2013; those in effect on December 31, 2013,*
36 *shall be increased by 1.5 percent on January 1, 2014; and those*
37 *in effect on December 31, 2014, shall be increased by 1.5 percent*
38 *on January 1, 2015.*

39 *(e) The schedule of rates in effect pursuant to this section shall*
40 *be posted on the board's Internet Web site.*

1 ~~SEC. 4.~~

2 *SEC. 7.* Section 1196 of the Harbors and Navigation Code is
3 amended to read:

4 1196. (a) In addition to other fees for pilotage, there shall be
5 a surcharge in an amount established by the board for each
6 movement of a vessel using pilot services for the pilot continuing
7 education program established by the board.

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

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

15 ~~SEC. 5.~~

16 *SEC. 8.* Section 1196.1 of the Harbors and Navigation Code
17 is amended to read:

18 1196.1. (a) The moneys charged and collected each month
19 from the pilot continuing education surcharge pursuant to Section
20 1196 shall be paid to the Board of Pilot Commissioners' Special
21 Fund pursuant to Section 1159. The moneys shall be used only to
22 fund the pilot continuing education program referred to in
23 subdivision (h) of Section 1171.5 and Section 1196.3.

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

31 ~~SEC. 6.~~

32 *SEC. 9.* Section 1196.3 of the Harbors and Navigation Code
33 is amended to read:

34 1196.3. Pilot continuing education expenses shall include all
35 costs incurred by the board in the operation and administration of
36 the pilot continuing education program and all costs resulting from
37 any contracts entered into for the purchase or lease of goods and
38 services required by the board, including, but not limited to, the
39 reimbursement of costs of services provided to the board by other
40 governmental entities, and for the costs for any other goods and

- 1 services necessary for effectuating the purposes of continuing
- 2 education as determined by the board.

O