

CONCURRENCE IN SENATE AMENDMENTS

AB 1432 (Bonta)

As Amended September 4, 2015

Majority vote

ASSEMBLY:

SENATE:

(vote not relevant)

COMMITTEE VOTE: 18-0 (April 07, 2015) RECOMMENDATION: Concur
Health

Original Committee Reference: **TRANS.**

SUMMARY: Establishes a limited surcharge on vessels sailing into and out of the San Francisco Bay (and its environs) to reimburse the San Francisco bar pilots for costs associated with the purchase, lease, or maintenance of certain navigation equipment. Specifically, **this bill:**

- 1) Deletes language authorizing the Board of Pilot Commissioners (BOPC) to establish and collect a movement fee on an ongoing basis and in advance of expenditures related to the purchase, lease, or maintenance of navigation equipment.
- 2) Authorizes the BOPC to establish, and for San Francisco bar pilots to collect, a movement fee to recover costs associated with the purchase, lease, or maintenance of certain navigational equipment on or after January 1, 2017.
- 3) Requires that the specified navigational equipment be used strictly and exclusively to aid San Francisco bar pilots working in areas under their jurisdiction.
- 4) Requires that the movement fee be identified as a navigation technology surcharge on San Francisco bar pilot invoices and accounted for separately.
- 5) Prohibits the cumulative amount of the surcharge collected from exceeding \$1.2 million.
- 6) Requires the BOPC to conduct a quarterly review of the surcharge and to adjust it, as needed.
- 7) Requires that the surcharge sunset on January 1, 2021.

EXISTING LAW:

- 1) Provides for the regulation and licensure of pilots for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun by the BOPC within the California State Transportation Agency (CalSTA).
- 2) Specifies that the BOPC consist of seven members appointed by the Governor and one ex-officio non-voting member (the Secretary of CalSTA). Two members are pilots licensed by the BOPC; two are industry members (one from the tanker industry and one from the dry cargo industry); and, three public members who are neither pilots nor work for companies that use pilots.

- 3) Prescribes the rates of pilotage fees required to be charged by San Francisco bar pilots and paid by vessels.
- 4) Requires that the BOPC recommend that the Legislature, by statute, adopt a schedule of San Francisco bar pilots' pilotage rates providing fair and reasonable return to pilots engaged in ship movements or special operations.
- 5) Provides for a movement fee, as necessary and authorized by the BOPC, to recover a pilot's costs for the purchase, lease, or maintenance of navigation software, hardware, and ancillary equipment purchased after November 5, 2008, and before January 1, 2011.

FISCAL EFFECT: According to the Senate Appropriations Committee, no direct state impacts, but the bill would result in unknown indirect surcharge revenue gains to the Board of Pilot Commissioners' Special Fund.

Pilotage fees and surcharges, including the "technology navigation surcharge," are paid directly to the bar pilots and are not deposited into the State Treasury. Staff notes, however, that specified surcharges for the operations of the Board and for pilot training and continuing education programs are transferred by the Board for deposit into the Board of Pilot Commissioners' Special Fund. Since the "board operations surcharge" is based upon the pilotage fee rates, this bill would technically make an appropriation by impacting the amount of fees deposited into a continuously appropriated fund. The Board has the authority to reduce the rate of the surcharge, with the approval of the Department of Finance, if revenues are out of balance with expenditures.

COMMENTS: Prior to the American Revolution, pilotage was regulated by colonial legislatures which generally provided for the commissioning of pilots, apprenticeship requirements, and establishing fees. When the United States Constitution was adopted, it recognized that pilotage fell within the domain of the federal government because it involved foreign commerce. One of the first acts of the newly formed Congress in 1789 was to recognize state laws regulating pilotage and to delegate that authority to the states. In California, the San Francisco bar pilots have been guiding ships into the San Francisco Bay since at least 1835 and one of the first legislative enactments by the newly formed California Legislature in 1850 was to address the regulation of San Francisco bar pilots.

Specifically, San Francisco bar pilots are responsible for steering large commercial vessels through the Golden Gate of San Francisco Bay and adjoining navigable waters, which include San Pablo Bay, Suisun Bay, the Sacramento River, and associated tributaries. When a vessel arrives at a point eleven miles west of the Golden Gate Bridge, a San Francisco bar pilot boards the ship, takes navigational control, and guides the ship to its berth. The same process occurs in reverse as ships depart from the San Francisco Bay. The San Francisco bar pilot's primary function is to ensure that large commercial vessels are navigated safely through the San Francisco Bay's confined waters. They provide service for all types of commercial vessels, from 100-foot tugs to 1000-foot supertankers.

This bill would allow the BOPC to impose a fee on vessels entering the San Francisco Bay to recover costs incurred for the purchase, lease, or maintenance of specified navigation equipment such as software, hardware, and ancillary equipment following a public approval process of the required technology by the BOPC. The navigation technology surcharge authorized by this bill would sunset on January 1, 2021, and be capped at \$1.2 million.

Earlier versions of AB 1432 would have authorized the surcharge to be collected indefinitely which, opponents argued, essentially amounted to a pilotage rate increase - an issue that has been the subject of much debate between commercial vessel owners and the BOPC for many years. The parties agreed to terms, reflected in the May 11, 2016, amendments of this bill, and have agreed to continue discussions with regard to rate increases in general in the coming months.

Writing in support of this bill, the Pacific Merchant Shipping Association notes that it is extremely important that vessels entering and exiting the San Francisco Bay be piloted safely and they agree that providing San Francisco bar pilots with state-of-the-art navigation technology would enhance safety and reduce the risk of an accident or environmental catastrophe (such as an oil spill).

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