CONCURRENCE IN SENATE AMENDMENTS
AB 1296 (Grayson)
As Amended June 10, 2024
Majority vote

SUMMARY

Prohibits a state regulation requiring the San Francisco Bar Pilots (SFBP) to replace a pilot station boats unless the state regulation authorizes the SFBP to replace a pilot station boat upon the pilot boat reaching the end of its useful service life.

Senate Amendments

1) Provides that a state regulation shall not require, or compel, directly or indirectly, the SFBP to replace a pilot station boat unless the state regulation authorizes the SFBP to replace the pilot station boat upon it reaching the end of its useful service life, as determined by California Air Resources Board (CARB) in consultation with the SFBP and a board-approved accredited marine surveyor, and not before the pilot station boat reaches the end of its useful service life.

2) Specifies that the useful service life shall be between 25 and 35 years from the date the boat was commissioned.

3) Defines "pilot station boats" to mean the 104-foot San Francisco class pilot vessels (PV) employed by the SFBP to embark and disembark by the pilots from ships entering or leaving the Bays of San Francisco, San Pablo, and Suisun, which consists of the PV San Francisco, the PV California, and the PV Drake.

COMMENTS

The transportation sector is responsible for about 40% of greenhouse gas (GHG), 80% of nitrous oxides (NOX), and 90% of diesel particulate matter emissions (DPM) in California. Vessels make up a relatively small portion of the transportation sector's GHG emissions, about 3%. However, the diesel engines used by vessels contribute a high proportion other toxic air contaminants, such as NOx and DPM that can increase the risk of developing lung cancer and other health problems. A 2021 CARB emissions inventory of ocean-going vessels found that they were responsible for about 20% of statewide NOX emissions and that this would grow to 30% by 2037, unless regulatory action was taken to improve emissions. There is no similar inventory for Commercial Harbor Craft Regulations (CHC), but CARB has reported that CHC emissions at the Port of Los Angeles and the Port of Long Beach were the second-largest contributor of near-source cancer risk in 2016 and would become the largest source of seaport emissions at those ports by 2023.

The U.S. Environmental Protection Agency (EPA) has established nationwide emissions standards for vessel engines that have become more stringent as emission control technologies have improved. The EPA established Tier 1 and Tier 2 standards in 1999 and Tier 3 and Tier 4 emissions standards in 2008. Their stringency generally requires engines to utilize after treatment technologies capable of removing pollutants from the exhaust gas stream. For example, DPFs are installed on engine exhaust systems and use a porous ceramic material or metallic filter to

physically trap DPM and remove it from the exhaust stream. After DPM is collected by the filter, it is reduced to ash during filter regeneration. DPFs verified by EPA and CARB are typically effective at reducing emissions of PM by 85 to 90% or more.

CARB Clean harbor craft rules. CHCs include any private, commercial, government, or military marine vessel that does not otherwise meet the definition of ocean-going vessels. This includes vessels such as ferries, barges, tugboats, crew and supply vessels, research vessels, commercial fishing vessels, and research vessels. CHCs are a vital part of California's economy and are essential to moving cargo and people throughout its various ports, harbors, and marinas. These vessels are predominantly powered by diesel engines that emit significant amounts of harmful pollutants.

In 2008 CARB adopted initial CHC regulations, which established new and in-use engine emissions limits for engines on certain CHC vessels. These regulations reduced NOx and PM emissions by requiring in-use CHCs to meet Tier 1 - 3 marine engine standards. The initial CHC regulation was amended in 2010 and was updated again in 2022. The regulation currently requires upgrading most CHC engines to Tier 4 engines with DPF filters. The oldest engines must upgrade between 2024-2026. After that different classes of vessels must upgrade beginning with tugboats and ferries, followed by excursion vessels and commercial passenger fishing vessels, then dredges, barges, and workboats. The final upgrade requirements phase in by 2033. CARB estimated that the new rule would further reduce statewide emissions by approximately 1,560 tons of DPM, 33,110 tons of NOx, and 375,490 metric tons of GHGs. Based on these emissions reductions, CARB estimates reducing 501 premature deaths, 153 hospital admissions, and 224 emergency room visits over the implementation period. This would save the state $4.95 billion in healthcare costs. Because these emissions are localized in the ports, the benefits would be concentrated in nearby disadvantaged communities.

San Francisco Bar Pilots. In California, SFBP 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.

The SFBP's primary function is to ensure that large commercial vessels are navigated safely through the San Francisco Bay's confined waters. SFBP steer 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 bar pilot boards the vessel, takes navigational control, and guides the vessel to its berth. The same process occurs in reverse as vessels depart from the San Francisco Bay. They provide service for all types of commercial vessels, from 100-foot tugs to 1000-foot supertankers. The SFBP intermittently operate five pilot vessels: three offshore station vessels and two high speed harbor vessels. Corporations and ship owners who use the SFBP's services pay for 100% of their operating costs, including the costs of obtaining new pilot boats.

The Pilot Boat Surcharge Account. AB 2056 (Grayson), Chapter 769, Statutes of 2022 established the Pilot Boat Surcharge Account (PBSA) to hold monies available to fund the costs of obtaining new pilot boats and of funding design and engineering modifications to extend the service life of existing pilot boats, excluding costs for repair or maintenance, and other related costs. The account is expected to accumulate $6 million annually and currently has a balance of approximately $9 million.

Regulatory extensions. As part of the CHC regulation, a number of extensions are available to delay the implementation date when compliance would be impossible due to circumstances outside of the vessel owner's control. Processes are already in place in the regulation to extend the compliance dates for the pilot station vessels based on technical feasibility and cost, and scheduling extensions are also available if challenges arise such as supply chain delays or shipyard availability.

SFBP has already begun the process of designing new station vessels and has applied to CARB for 2-year renewable feasibility extension (E3 Extension) for their three station vessels as a contingency. Vessels are eligible for three renewals under the E3 extension for a total of 6 years. Their application notes that the three vessels would require extensions of 4, 8, and 10 years beyond the current compliance dates to accumulate sufficient monies to fund the vessel replacements.

Compliance costs. According to the SFBP's most recent build cost estimate, it expects the costs of the three vessels to be approximately $60 million. If SFBP is required to finance the cost of replacement because it does not receive compliance extensions from CARB, it anticipates an estimated additional $27 million in interest to finance these costs.

Committee comments. The CHC regulation extensions can be granted for a total of six years beyond compliance deadlines. SFBP applied for the E3 feasibility extensions on May 24, 2024, which includes technical analysis demonstrating infeasibility of repowering the existing vessels, and their finances may demonstrate an inability to pay for new-build.

Under the Clean Air Act, CARB must seek a waiver from the US EPA to enforce their regulations. Enactment of this bill would require CARB to amend the CHC regulation for which the US EPA is considering a waiver. As a result, this would delay and possibly jeopardize the waiver approval needed to enforce these regulations. As a result, this would delay and possibly jeopardize the waiver approval needed to enforce these regulations. Finally, delaying repowers or retrofits for inspected vessels would result in a loss of air quality benefits for impacted communities and jeopardize attainment of National Ambient Air Quality Standards set by the federal government, which could result in federal sanctions and the loss of billions in federal transportation funding.

According to the Author
"Under California Code, SFBP is mandated to maintain a minimum of two pilot boats in service, with one boat "on station" in the open ocean at all times. To meet these requirements, SFBP maintains a fleet of five pilot boats, including three 104-foot station boats subject to Commercial Harbor Craft Regulations (CHC). However, these regulations, effective December 31, 2024, will render San Francisco Bar Pilot's services nearly impossible. Of SFBP's existing pilot boats fleet, three are immediately subject to CARB's stringent compliance deadlines. With a total construction cost of $68 million, not including financing, replacing these vessels within the specified deadlines is neither financially nor logistically feasible. Although the cost of the boats is ultimately borne by the shipping interests that utilize pilotage services, SFBP must secure and guarantee the construction loans, which entails significant financial risk.

AB 1296 creates a viable path towards compliance with the Air Resources Board's harbor craft regulations by affording a narrowly tailored extension of time for certain pilot station boats

operated by the SF Bar Pilots. AB 1296 prohibits a state regulation from requiring or compelling the San Francisco Bar Pilots (SFBP) to replace specified pilot station boats unless the state regulation authorizes the San Francisco Bar Pilots to replace the pilot station boats upon the boats reaching their end useful service life, as specified. Ultimately, AB 1296 will ensure the economic health and stability of the pilotage system while aligning with California's environmental goals."

Arguments in Support
In support, the San Francisco Bar Pilots and Pacific Merchant Shipping Association (co-sponsors) write: "Under current California Air Resources Board Commercial Harbor Craft regulation, SFBP must replace two of its three existing station boats by the end of 2024, and the third by the end of 2025. Considerable resources have been expended to evaluate the feasibility of repowering these three station boats with CARB-compliant engines. However, due to the nature and size of the exhaust filtration and treatment systems those engines require, and engineering space limitations onboard, repowering is not feasible. Therefore, new replacement station boats must be built in order for SFBP to comply with the Harbor Craft Regulation. It should also be noted that zero-emission technology for this very specific application does not currently exist. The estimated cost to build the new, CARB-compliant station boats is $22.5 million each, exclusive of financing costs, or in excess of $67 million to build all three. While the construction costs are ultimately recovered from the shipping interests that utilize pilot services, SFBP must secure and guaranty considerable financing in order to build them. While the construction costs are ultimately recovered from the shipping interests that utilize pilot services, SFBP must secure and guaranty considerable financing in order to build them. At today's interest rates, the total cost of the build program is in excess of $85 million. It is not feasible for SFBP, an association currently comprised of 52 individual licensed pilots, to obtain or guaranty such financing, and if it were feasible, it would be an untenable business risk to do so."

Arguments in Opposition
The Coalition for Clean Air, Pacific Environment, Sunflower Alliance, Ocean Conservancy, the Union of Concerns Scientists and Earth Justice state: "The CHC Rule as adopted provides a feasible pathway towards cleaner harbor craft. The rule already allows for compliance extensions for various circumstances that may prevent regulated parties from complying, and contains exemptions for low-use vessels so that requirements are imposed on the largest emitters. … "The proposed extension in AB 1296 would undermine the emissions reductions and health benefits of the CHC Rule by delaying requirements to replace pilot station boats until vessels have reached the end of their useful service life. A vessel's useful service life is between 25 to 35 years, which is an unacceptable timeframe to deliver emissions reductions to California's portside communities. Harbor craft vessels are a major driver of air pollution at seaports, and in Los Angeles, Long Beach, San Diego and Oakland, these vessels are one of the top three drivers of cancer risk to frontline communities."

FISCAL COMMENTS

According to Senate Appropriations Committee, "The California Air Resources Board (CARB) reports total costs of approximately $2.4 million beginning in Fiscal Year 2024-25 and annually ongoing for additional staff resources to amend the Commercial Harbor Craft (CHC) Regulation

to change compliance deadlines and implement a process to determine the end of useful service life of pilot vessels (Certification and Compliance Fund)."

VOTES:

ASM BANKING AND FINANCE: 11-0-1
YES: Grayson, Bauer-Kahan, Cervantes, Dixon, Mike Fong, Gabriel, Petrie-Norris, Soria, Waldron, Wicks, Wilson
ABS, ABST OR NV: Chen

ASM APPROPRIATIONS: 14-0-2
YES: Holden, Megan Dahle, Calderon, Wendy Carrillo, Dixon, Mike Fong, Addis, Lowenthal, Papan, Pellerin, Robert Rivas, Sanchez, Weber, Wilson
ABS, ABST OR NV: Bryan, Mathis

ASSEMBLY FLOOR: 74-0-6
YES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Wallis, Ward, Weber, Wicks, Wood, Zbur, Rendon
ABS, ABST OR NV: Cervantes, Vince Fong, Friedman, Villapudua, Waldron, Wilson

UPDATED

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