

Date of Hearing: April 26, 2021

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

AB 807 (Grayson) – As Amended March 22, 2021

SUBJECT: Bar pilots: pilotage rates: catastrophic event surcharge

SUMMARY: Makes various changes to the Board of Pilot Commissioners (Board) catastrophic cost recovery process. Specifically, **this bill:**

- 1) Removes the authority of the Board to adjust the pilotage fees for catastrophic cost increases.
- 2) Requires a surcharge be imposed per each movement of a vessel using pilot services, as is necessary and authorized by the Board to recover the costs of the pilot associated with a catastrophic event.
- 3) Requires the authorized surcharge to be identified as a catastrophic event surcharge on the invoice of the pilot and to be separately accounted.
- 4) Authorizes a pilot to establish a catastrophic event memorandum account and to record in that account the costs of maintaining, restoring, repairing, or replacing the provision of pilotage services to customers due to a catastrophic event.
- 5) Conditions the application of the surcharge only if the Board identifies that the costs are attributable to a specifically identifiable catastrophic event, such as fire, earthquake, terrorism, act of war, or epidemic, if a state of emergency or disaster has been declared.
- 6) Requires the Board to hold a proceeding in response to a pilot application to recover costs associated with catastrophic events.

EXISTING LAW:

- 1) Establishes the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun for the purpose of regulating bar pilotage.
- 2) Makes findings and declarations 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 its tributaries, 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 that require pilotage services.
- 3) Requires inward or outbound vessels to pay bar pilotage fees based on the vessel's deepest draft (distance between the waterline and the bottom of the hull) and high gross registered tonnage (essentially volume of the enclosed spaces on the vessel).
- 4) Requires the Board to recommend that the Legislature, by statute, adopt a schedule of pilotage rates providing fair and reasonable return to pilots engaged in ship movements.

- 5) Requires the California Public Utilities Commission (CPUC) to authorize public utilities to establish catastrophic event memorandum accounts and to record in those accounts the costs of restoring utility services to customers; repairing, replacing, or restoring damaged utility facilities; complying with governmental agency orders in connection with declared disasters. Further requires costs recorded in the accounts to be recoverable in rates following a request by the affected utility, a CPUC finding of their reasonableness, and approval by CPUC.

FISCAL EFFECT: Unknown

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.

According to the author, "San Francisco Bar Pilots provide an essential and critical service by safely navigating commercial vessels to and from nine Northern California ports. In the wake of the COVID-19 pandemic, it became apparent that the current statute within the Harbors and Navigation code regarding the ability of the Board to adjust rates in the midst of a catastrophic event lacked clarity and accountability. By contrast, CPUC maintains a successful and effective framework for evaluating claims for adjustments to rates for regulated businesses in the event of a declared emergency or disaster.

This bill would authorize the Board to approve a temporary surcharge in order to recover the pilots' costs associated with catastrophic events and utilize and adopt the CPUC system of Catastrophic Event Memorandum Accounts. This will create an effective and streamlined way to recover costs incurred by natural disasters or emergencies, such as COVID-19. By also establishing catastrophic event memorandum accounts, pilots are able to record costs incurred resulting from catastrophic events and apply to the Board to recover those costs in a transparent and easy to understand process."

In support, the bar pilots and the shipping industry write, "Due to the COVID pandemic, the maritime community has faced tremendous upheaval and disruption. In the wake of this disruption, it has become obvious to the stakeholders in the state pilotage system, pilot licensees

and pilot customers alike, that it is time to modernize the cost recovery process for responding to the potential impacts of a declared natural disaster or other emergency. The current authority of the Board of Pilot Commissioners (BOPC) to address a catastrophic event presents pilots with arbitrary and unclear hurdles for relief as well as ratepayers with no transparency or accountability guarantees in the process of setting any rate adjustments. The current statute has never been used to actually adjust any rates and the BOPC has never adopted any interpretive or implementing regulations. AB 807 would replace the existing statute by establishing a new Catastrophic Event Memorandum Accounts process based on the same authority given to regulated entities in the Public Utilities Code with respect to an increase in rates in order to facilitate a recovery of the costs of responding to a natural disaster. As such, this bill takes the best available model already established by law and provides authority for a new surcharge to be imposed on vessels for the discrete costs associated with a catastrophic event.”

Committee comments: This bill represents an agreement between the rate-payers (the shipping industry) and the service providers (the bar pilots) on how best to recover costs increases associated with catastrophic events.

Previous legislation: AB 1372 (Bonta) of 2020 was substantially amended in the Senate and would have revised the process for changing rates of bar pilotage fees to instead require the Board to adopt a schedule of pilotage rates. AB 1372 was held in Senate Governmental Organization Committee.

AB 251 (Bonta) of 2018 was substantially amended on the Senate Floor and would have revised bar pilotage fees. AB 251 was re-referred to Senate Rules Committee and held.

AB 3049 (Grayson) of 2018 would have increased the bar pilotage fees, among other changes. AB 3049 was held in Assembly Transportation Committee.

AB 3181 (Bonta) of 2018 would have increased the bar pilotage fees. AB 3181 was held in Assembly Transportation Committee.

AB 1432 (Bonta), Chapter 119, Statutes of 2016 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.

REGISTERED SUPPORT / OPPOSITION:

Support

Cruise Lines International Association (Sponsor)
Pacific Merchant Shipping Association (Sponsor)
San Francisco Bar Pilots (Sponsor)
Western States Petroleum Association (Sponsor)

Opposition

None on file

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