

1-1 By: Ritter, Deshotel, Hamilton H.B. No. 3366
1-2 (Senate Sponsor - Williams)
1-3 (In the Senate - Received from the House April 28, 2003;
1-4 May 1, 2003, read first time and referred to Committee on Natural
1-5 Resources; May 22, 2003, reported favorably by the following vote:
1-6 Yeas 9, Nays 0; May 22, 2003, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to licensing and regulation of certain pilots, pilotage
1-10 rates, and pilot service.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Chapter 69, Transportation Code, is amended to
1-13 read as follows:

1-14 CHAPTER 69. JEFFERSON AND ORANGE COUNTY PILOTS LICENSING AND
1-15 REGULATORY ACT

1-16 SUBCHAPTER A. GENERAL PROVISIONS

1-17 Sec. 69.001. SHORT TITLE. This chapter may be cited as the
1-18 Jefferson and Orange County Pilots Licensing and Regulatory Act.

1-19 Sec. 69.002. DEFINITIONS. In this chapter:

1-20 (1) "Board" means the board of pilot commissioners
1-21 described by Section 69.011.

1-22 (2) "Consignee" means a person, including a master,
1-23 owner, agent, subagent, firm, or corporation or any combination of
1-24 those persons, who enters or clears a vessel at the office of the
1-25 collector of customs.

1-26 (3) "Jefferson or Orange County port" means a place in
1-27 Jefferson or Orange County into which a vessel enters or from which
1-28 a vessel departs and the waterway leading to that place from the
1-29 Gulf of Mexico.

1-30 (4) "Pilot" means a person who is licensed as a branch
1-31 pilot or certified as a deputy branch pilot under this chapter.

1-32 (5) "Pilotage rate" means the remuneration a pilot may
1-33 lawfully charge a vessel for pilot services.

1-34 (6) "Pilot services" means acts of a pilot in
1-35 conducting a vessel through navigable water in this state and the
1-36 ports in which the pilot is licensed or certified as a pilot.

1-37 (7) "Vessel" means an oceangoing vessel.

1-38 Sec. 69.003. APPLICABILITY OF CHAPTER. This chapter
1-39 applies only to a Jefferson or Orange County port.

1-40 [Sections 69.004-69.010 reserved for expansion]

1-41 SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

1-42 Sec. 69.011. COMPOSITION OF BOARD. (a) The board of pilot
1-43 commissioners for all of the ports and private terminals located in
1-44 Jefferson or Orange County, or both, is composed of five
1-45 commissioners from Jefferson or Orange County appointed by the
1-46 governor in the manner provided by Subchapter A, Chapter 63.

1-47 (b) The presiding officer of the board shall be selected by
1-48 the members of the board.

1-49 Sec. 69.012. PROHIBITED INTEREST. A person may not be a
1-50 member of the board if the person has a direct or indirect pecuniary
1-51 interest in a pilot boat or branch pilot in the business of the
1-52 board's trust.

1-53 Sec. 69.013. OATH. Before beginning service as a board
1-54 member, each board member must take and sign before a person
1-55 authorized to administer oaths an oath to faithfully and
1-56 impartially discharge the duties of the office.

1-57 Sec. 69.014. TERMS OF OFFICE. (a) Board members serve
1-58 staggered two-year terms of office.

1-59 (b) A member holds office until the member's successor is
1-60 appointed and qualified.

1-61 Sec. 69.015. JURISDICTION OF BOARD. The board has
1-62 exclusive jurisdiction over the pilot services provided in
1-63 Jefferson or Orange County, including intermediate stops and
1-64 landing places for vessels on navigable streams wholly or partially

2-1 located in the board's jurisdiction.

2-2 Sec. 69.016. ADMINISTRATION; RULES. (a) The board shall
 2-3 administer this chapter and may perform any act or function
 2-4 necessary to carry out its powers and duties under this chapter.

2-5 (b) The board may adopt rules to carry out this chapter.

2-6 Sec. 69.017. DUTIES. (a) The board shall:

2-7 (1) establish the number of pilots necessary to
 2-8 provide adequate pilot services for each Jefferson or Orange County
 2-9 port;

2-10 (2) establish pilotage rates;

2-11 (3) hear and determine complaints relating to the
 2-12 conduct of pilots;

2-13 (4) make recommendations to the governor concerning
 2-14 any pilot whose license or certificate should not be renewed or
 2-15 should be revoked;

2-16 (5) adopt rules and issue orders to pilots and vessels
 2-17 when necessary to secure efficient pilot services;

2-18 (6) institute investigations or hearings or both to
 2-19 consider casualties, accidents, or other actions that violate this
 2-20 chapter;

2-21 (7) provide penalties to be imposed on a person who is
 2-22 not a pilot for a Jefferson or Orange County port and who pilots a
 2-23 vessel into or out of the port if the person offered pilot services
 2-24 to the vessel;

2-25 (8) establish times during which pilot services will
 2-26 be available;

2-27 (9) accept applications for pilot licenses and
 2-28 certificates and determine whether each applicant meets the
 2-29 qualifications for a pilot;

2-30 (10) submit to the governor the names of persons who
 2-31 have qualified under this chapter to be appointed as branch pilots;
 2-32 and

2-33 (11) approve any changes of the locations of pilot
 2-34 stations.

2-35 (b) The board may:

2-36 (1) recommend the number of deputy pilots each branch
 2-37 pilot may appoint under Section 69.038; and

2-38 (2) make any other provision for proper, safe, and
 2-39 efficient pilotage under this chapter and for the efficient
 2-40 administration of this chapter.

2-41 (c) The board may assess against the users of pilot
 2-42 services:

2-43 (1) the actual costs the board considers fair and just
 2-44 incurred in connection with hearings against any applicant or
 2-45 objecting party; and

2-46 (2) other expenses that are necessary and proper to
 2-47 enable the board to effectively carry out the purposes and
 2-48 requirements of this chapter, including processing of applications
 2-49 for pilot licenses and certificates, establishing pilotage,
 2-50 determining and approving the locations for pilot stations,
 2-51 establishing times during which pilot services will be available,
 2-52 hearing and ruling on complaints relating to the conduct of pilots,
 2-53 adopting rules and issuing orders to pilots or vessels when
 2-54 necessary to secure efficient pilot services, instituting
 2-55 investigations or hearings to consider casualties, accidents, or
 2-56 other actions that violate this chapter, making of any provision
 2-57 for proper, safe, and efficient pilotage, and funding general
 2-58 administrative expenses associated with the operation of the board.

2-59 (d) Assessments against the users of pilot services under
 2-60 Subsection (c) may not exceed \$100,000 in a fiscal year.

2-61 (e) Funds collected under this section may not be used for
 2-62 compensation to any member of the board.

2-63 Sec. 69.018. UNFAIR DISCRIMINATION PROHIBITED. (a) In all
 2-64 its duties, including rulemaking, the board may not sanction
 2-65 discriminatory practices or discriminate against a pilot or pilot
 2-66 applicant because of race, religion, sex, ethnic origin, or
 2-67 national origin.

2-68 (b) A person seeking a remedy for a violation of this
 2-69 section must bring suit in a district court in Jefferson County.

3-1 Sec. 69.019. OPEN MEETINGS LAW. Chapter 551, Government
3-2 Code, applies to actions and proceedings under this chapter.

3-3 Sec. 69.020. RULE OR RATE CHANGE. (a) The board shall give
3-4 at least 10 days' notice as provided by this section before the
3-5 board adopts a rule or changes a pilotage rate.

3-6 (b) The board shall send the notice and a copy of the
3-7 proposed rule or change by registered mail to the last known address
3-8 of:

- 3-9 (1) all known pilots association offices;
- 3-10 (2) all pilots licensed or certified in the port;
- 3-11 (3) all steamship agencies and associations in the
3-12 port; and
- 3-13 (4) all known users of pilot services for the previous
3-14 12 months.

3-15 (c) The board shall post a copy of the proposed rule or
3-16 change at the county courthouse of Jefferson County and of Orange
3-17 County, as well as the subcourthouse in Port Arthur, for public
3-18 inspection.

3-19 (d) The board shall publish a copy of the proposed rule or
3-20 change in a newspaper of general circulation in Jefferson and
3-21 Orange Counties.

3-22 Sec. 69.021. CONTESTED CASE NOTICE. The board shall give
3-23 notice in each contested case to the persons and in the manner
3-24 provided by Section 69.020(b) that includes the same information as
3-25 the notice given to the parties in each contested case.

3-26 Sec. 69.022. JUDICIAL REVIEW. Proceedings for judicial
3-27 review of a board decision shall be brought in a district court in
3-28 Jefferson County.

3-29 Sec. 69.023. BUDGET; ANNUAL REPORT; AUDITS. (a) The board
3-30 shall adopt a budget not later than the 45th day before the start of
3-31 a fiscal year. The budget may be adopted only after a public
3-32 meeting has been held to explain the budget.

3-33 (b) Accounts of the board are subject to audit by the state
3-34 auditor.

3-35 (c) The board shall keep minutes of its meetings and other
3-36 books and records that clearly reflect all acts and transactions of
3-37 the board. The board shall open its records to examination by any
3-38 person during regular business hours.

3-39 (d) Not later than the 30th day after the end of a fiscal
3-40 year, the board shall submit to the governor a report itemizing all
3-41 income and expenditures and describing all activities of the board
3-42 during the previous fiscal year.

3-43 Sec. 69.024. DEPOSITORY BANK; EXPENDITURE OF FUNDS. The
3-44 board shall deposit all money received by the board under this
3-45 chapter, including assessments and grants from governmental
3-46 agencies, in a bank located in Jefferson or Orange County and
3-47 selected by the board.

3-48 [Sections 69.025-69.030 reserved for expansion]

3-49 SUBCHAPTER C. PILOT LICENSES AND CERTIFICATES

3-50 Sec. 69.031. LICENSES OR CERTIFICATE REQUIRED. A person
3-51 may not provide pilot services unless the person has a license or
3-52 certificate issued under this chapter for the Jefferson and Orange
3-53 County ports in which the pilot services are to be provided.

3-54 Sec. 69.032. EXEMPTIONS. The requirement to use a pilot
3-55 does not apply to:

3-56 (1) a vessel sailing under enrollment, or licensed or
3-57 engaged in the coasting trade between Texas ports or between any
3-58 Texas port and any other port of the United States; or

3-59 (2) a vessel exempt under federal law from payment of
3-60 state pilotage rates.

3-61 Sec. 69.033. QUALIFICATIONS FOR LICENSE. To be eligible
3-62 for a license as a branch pilot for the ports within the
3-63 jurisdiction of the board, a person must:

3-64 (1) be at least 25 years of age and younger than 68
3-65 years of age unless exempted under the provisions of Section
3-66 69.040(a);

3-67 (2) be a United States citizen;
3-68 (3) as of the date the license is issued, have resided
3-69 continuously in this state for at least two years;

4-1 (4) have at least one year's service as a deputy branch
4-2 pilot or equivalent service piloting vessels of at least 5,000
4-3 gross tons within the board's jurisdiction;
4-4 (5) have successfully completed the board-approved
4-5 training program;
4-6 (6) have commanded or controlled the navigation of
4-7 vessels such as the person would pilot;
4-8 (7) have extensive experience in the docking and
4-9 undocking of vessels;
4-10 (8) be in good mental and physical health;
4-11 (9) have good moral character;
4-12 (10) possess the requisite skill as a navigator and
4-13 pilot to perform competently and safely the duties of a branch
4-14 pilot; and
4-15 (11) hold a license under federal law to act as a pilot
4-16 on vessels that navigate water on which the applicant will furnish
4-17 pilot services.
4-18 Sec. 69.034. QUALIFICATIONS FOR CERTIFICATE. To be eligible
4-19 for a certificate as a deputy branch pilot, a person must:
4-20 (1) be at least 25 years of age;
4-21 (2) be a United States citizen;
4-22 (3) hold a license under federal law to act as a pilot
4-23 on vessels that navigate water on which the applicant will furnish
4-24 pilot services;
4-25 (4) be in good mental and physical health;
4-26 (5) have good moral character;
4-27 (6) possess the requisite skill as a navigator and
4-28 pilot to perform competently and safely the duties of a deputy
4-29 branch pilot; and
4-30 (7) successfully complete the board-approved
4-31 apprenticeship training program.
4-32 Sec. 69.035. APPLICATION FOR LICENSE OR CERTIFICATE. To
4-33 apply for a branch pilot's license or a deputy branch pilot's
4-34 certificate, a person must give the board a written application in
4-35 the form and manner required by board rule.
4-36 Sec. 69.036. CONSIDERATION OF APPLICATION. (a) The board
4-37 shall carefully consider each application submitted under Section
4-38 69.035 and shall conduct any investigation it considers necessary
4-39 to determine whether an applicant is qualified for a license or
4-40 certificate.
4-41 (b) As part of its consideration under Subsection (a), the
4-42 board may develop and administer standardized examinations to
4-43 determine an applicant's knowledge of piloting, management of
4-44 vessels, and the waterways in the board's jurisdiction.
4-45 Sec. 69.037. BRANCH PILOT APPOINTMENT BY GOVERNOR. (a) On
4-46 filing of the bond and oath required by Section 69.039, the board
4-47 shall certify to the governor that a person licensed as a branch
4-48 pilot has qualified.
4-49 (b) On receipt of the board's certification, the governor
4-50 shall issue to the person, in the name of the state and under the
4-51 state seal, a commission to serve as a branch pilot to and from
4-52 Jefferson and Orange County ports.
4-53 Sec. 69.038. DEPUTY BRANCH PILOT APPOINTMENT BY BRANCH
4-54 PILOT. (a) Each branch pilot, subject to examination and approval
4-55 of the board, may appoint two deputy branch pilots.
4-56 (b) A branch pilot may appoint an additional deputy branch
4-57 pilot if the board considers the appointment advisable.
4-58 (c) A branch pilot who appoints a deputy branch pilot
4-59 without the approval of the board forfeits the pilot's appointment
4-60 as a branch pilot.
4-61 (d) A branch pilot who appoints a deputy branch pilot is
4-62 responsible for the actions of the deputy branch pilot.
4-63 Sec. 69.039. OATH AND BOND. (a) A person appointed as a
4-64 pilot must take the official oath before entering service as a
4-65 pilot. The oath shall be endorsed on the bond required by
4-66 Subsection (b).
4-67 (b) Each pilot must execute a \$25,000 bond payable to the
4-68 governor and conditioned on compliance with the laws, rules, and
4-69 orders relating to pilots and on the faithful performance of the

5-1 pilot's duties.

5-2 (c) Each bond must be approved by the board.

5-3 Sec. 69.040. TERMS OF LICENSES AND CERTIFICATES. (a) A
5-4 branch pilot's license expires on the earlier of:

5-5 (1) the fourth anniversary of the date it is issued or
5-6 renewed; or

5-7 (2) the license holder's 68th birthday.

5-8 (b) Subsection (a)(2) does not apply to a person who is a
5-9 branch pilot serving a port covered under this chapter on the
5-10 effective date of this chapter or who reaches his or her 68th
5-11 birthday within one year after the effective date of this chapter.

5-12 (c) A deputy branch pilot's certificate expires on the
5-13 second anniversary of the date it is issued and may not be renewed.

5-14 Sec. 69.041. BRANCH PILOT'S LICENSE RENEWAL. (a) The
5-15 governor shall renew a branch pilot's expiring license if the board
5-16 recommends renewal.

5-17 (b) If a pilot applies in writing and qualifies, the board
5-18 shall recommend renewal unless the board determines there is
5-19 probable cause not to renew the license.

5-20 (c) Probable cause not to renew a license exists if the
5-21 board finds that the license holder:

5-22 (1) does not possess a qualification required by this
5-23 chapter for pilots; or

5-24 (2) has a disability that will affect the license
5-25 holder's ability to serve as a pilot.

5-26 (d) If the board determines that it has probable cause not
5-27 to renew a license, the board shall notify the license holder not
5-28 later than the 60th day before the date the license expires. On
5-29 request, the board shall provide a hearing after proper notice to
5-30 consider whether the board has cause not to recommend renewal of the
5-31 license.

5-32 (e) If the board finds at the conclusion of the hearing that
5-33 the board lacks probable cause for nonrenewal of the license, the
5-34 board shall recommend that the governor renew the license.

5-35 (f) The board shall issue a written order recommending that
5-36 the governor not renew a license and the governor may not renew the
5-37 license if:

5-38 (1) the pilot does not contest the board's decision not
5-39 to renew the license; or

5-40 (2) the board after a hearing finds that it has
5-41 probable cause not to renew the license.

5-42 (g) The denial of renewal of a pilot's license does not
5-43 prohibit the pilot from applying for a new license and being
5-44 reappointed.

5-45 Sec. 69.042. DEPUTY BRANCH PILOT. A person who has been
5-46 issued a deputy branch pilot's certificate may not be issued a
5-47 deputy branch pilot's certificate before the fifth anniversary of
5-48 the date the person was previously issued a deputy branch pilot's
5-49 certificate.

5-50 Sec. 69.043. SUSPENSION OR REVOCATION OF BRANCH PILOT'S
5-51 LICENSE. (a) On complaint or on its own motion, and after notice
5-52 and hearing, the board may suspend a branch pilot's license for not
5-53 more than six months or recommend that the governor revoke a branch
5-54 pilot's license if the board finds that the pilot has:

5-55 (1) failed to demonstrate and maintain the
5-56 qualifications for a license required by this chapter;

5-57 (2) used narcotics or other types of drugs, chemicals,
5-58 or controlled substances as defined by law that impair the pilot's
5-59 ability to perform the pilot's duties skillfully and efficiently;

5-60 (3) used alcohol to an extent that impairs the pilot's
5-61 ability to perform the pilot's duties skillfully and efficiently;

5-62 (4) violated a provision of this chapter or rules
5-63 adopted by the board under this chapter;

5-64 (5) made a material misstatement in the application
5-65 for a license;

5-66 (6) obtained or attempted to obtain a license under
5-67 this chapter by fraud or misrepresentation;

5-68 (7) charged a pilotage rate other than that approved
5-69 by the board;

6-1 (8) intentionally refused to pilot a vessel when
 6-2 requested to do so by the master or person responsible for
 6-3 navigation of the vessel except when, in the judgment of the pilot,
 6-4 movement of the vessel would have constituted a hazard to life or
 6-5 property or when pilotage charges that are due and owing are unpaid
 6-6 by the person ordering the pilot services;

6-7 (9) been absent from duty in violation of board rules
 6-8 and without authorization;

6-9 (10) aided or abetted another pilot in failing to
 6-10 perform the other pilot's duties;

6-11 (11) been guilty of carelessness, neglect of duty,
 6-12 intentional unavailability for normal performance of duties,
 6-13 refusal to perform duties, misconduct, or incompetence while on
 6-14 duty;

6-15 (12) intentionally failed to comply with an order of
 6-16 the board; or

6-17 (13) intentionally caused damage to a vessel.

6-18 (b) On determining that a license should be suspended or
 6-19 revoked, the board shall adopt a written order that states its
 6-20 findings and:

6-21 (1) suspends the license for a stated period; or

6-22 (2) recommends to the governor revocation of the
 6-23 license.

6-24 (c) If the federal pilot's license of a pilot licensed under
 6-25 this chapter is suspended or revoked, the board, on a finding that
 6-26 it has good cause, shall suspend the license for the same period or
 6-27 revoke the license under this chapter.

6-28 (d) The governor, on receipt of a board order recommending
 6-29 revocation of a license, shall revoke the license.

6-30 (e) A suspension of a license on the recommendation of a
 6-31 pilot review board takes effect on adoption of the board's order. A
 6-32 revocation of a branch pilot's license takes effect on issuance of
 6-33 the governor's decision.

6-34 Sec. 69.044. SUSPENSION OR REVOCATION OF DEPUTY BRANCH
 6-35 PILOT'S CERTIFICATE. A deputy branch pilot's certificate may be
 6-36 suspended or revoked by the board in the same manner and for the
 6-37 same reasons as provided for the suspension or revocation of a
 6-38 branch pilot's license by Section 69.043.

6-39 Sec. 69.045. LIABILITY TO PILOT. (a) A person who is not a
 6-40 pilot and who, in violation of this chapter, pilots a vessel and the
 6-41 consignee of the vessel are liable to a pilot, on written demand,
 6-42 for the amount of the applicable pilotage rate.

6-43 (b) In an action to recover compensation under Subsection
 6-44 (a), the court may include in a judgment in favor of a pilot an award
 6-45 of court costs and reasonable attorney's fees.

6-46 [Sections 69.046-69.060 reserved for expansion]

6-47 SUBCHAPTER D. PILOTAGE RATES

6-48 Sec. 69.061. PILOTAGE RATE CHANGE. The board may not change
 6-49 pilotage rates before the first anniversary of the preceding rate
 6-50 change.

6-51 Sec. 69.062. PILOTAGE RATE CHANGE APPLICATION. (a) An
 6-52 application for a change in a pilotage rate may be filed with each
 6-53 commissioner of the board by:

6-54 (1) a pilot;

6-55 (2) an association of pilots;

6-56 (3) a consignee liable under Section 69.070 to pay
 6-57 pilotage rates;

6-58 (4) an association of consignees; or

6-59 (5) a party financially responsible for the payment of
 6-60 pilot services.

6-61 (b) The application must be written and must state
 6-62 specifically the changes requested.

6-63 (c) The board shall set a hearing date within two weeks of
 6-64 receipt of an application. The hearing may not be set for a day
 6-65 earlier than the 20th day or later than the 40th day after the date
 6-66 the board sets the hearing.

6-67 (d) An applicant shall give notice of the application and
 6-68 the hearing date, by certified mail to the last known address, to:

6-69 (1) all pilots licensed or certified in the port;

7-1 (2) all known pilots associations or consignees;
 7-2 (3) all steamship agencies and associations in the
 7-3 port;
 7-4 (4) each Jefferson and Orange County port; and
 7-5 (5) all known users of pilot service within the past 12
 7-6 months.

7-7 (e) The board may not increase pilotage rates for the public
 7-8 ports of Beaumont, Port Arthur, or Orange unless the affected board
 7-9 of commissioners approves the increase.

7-10 Sec. 69.063. PILOT FINANCIAL REPORT. (a) Not later than
 7-11 the 10th day before the date set for a pilotage rate hearing, the
 7-12 pilots who are licensed or certified to serve the port for which the
 7-13 rates are being considered shall submit in writing to the board and
 7-14 to any party designated by the board complete accounts of:

7-15 (1) all amounts received from performance of pilot
 7-16 services within the board's jurisdiction organized by categories or
 7-17 classifications of rates, if rates are set in that manner;

7-18 (2) all earnings from capital assets devoted to
 7-19 providing pilot service;

7-20 (3) all expenses incurred in connection with pilotage
 7-21 activities within the board's jurisdiction; and

7-22 (4) estimates of receipts and expenses anticipated to
 7-23 result from the requested changes in pilotage rates.

7-24 (b) The pilots shall provide the information for:

7-25 (1) the calendar or fiscal year preceding the date of
 7-26 the pilotage rate change application; and

7-27 (2) the subsequent period to within 60 days of the date
 7-28 of the application.

7-29 (c) The board may require an independent audit of financial
 7-30 information submitted under Subsection (a) by an accountant
 7-31 selected by the board. The board, as it considers fair and just,
 7-32 shall assess the costs of the audit against one or more of the
 7-33 applicants and objecting parties.

7-34 (d) The board may require relevant additional information
 7-35 it considers necessary to determine a proper pilotage rate.

7-36 Sec. 69.064. FACTORS FOR BOARD CONSIDERATION. In acting on
 7-37 a pilotage rate change application, the board shall consider:

7-38 (1) characteristics of vessels to be piloted;

7-39 (2) the public interest in maintaining safe,
 7-40 efficient, and reliable pilot services;

7-41 (3) the average number of hours spent by a pilot in
 7-42 performing all pilot services and pilot services onboard vessels;

7-43 (4) costs to pilots to provide the required pilot
 7-44 services;

7-45 (5) economic factors affecting the shipping industry
 7-46 in the area in which the port is located;

7-47 (6) the average wages of masters of United States flag
 7-48 vessels;

7-49 (7) an adequate and reasonable compensation for the
 7-50 pilots and a fair return on the equipment and vessels that the
 7-51 pilots employ in connection with pilot duties; and

7-52 (8) the relationship between pilotage rates in
 7-53 Jefferson or Orange County ports and the rates applicable in other
 7-54 ports of this state and in competitive ports in other states
 7-55 bordering the Gulf of Mexico.

7-56 Sec. 69.065. RATE DECISION. Not later than the 10th day
 7-57 after the date of the completion of a hearing on an application for
 7-58 a change in pilotage rates, the board shall issue a written decision
 7-59 that:

7-60 (1) grants or denies the application wholly or partly;

7-61 (2) states the reasons for the decision; and

7-62 (3) states each new pilotage rate.

7-63 Sec. 69.066. COSTS. The board, in a final order under this
 7-64 subchapter, may charge all or part of the costs of processing an
 7-65 application to the parties in the proceedings.

7-66 Sec. 69.067. APPEAL OF BOARD DECISION. Any party aggrieved
 7-67 by a board decision on pilotage rates, after exhausting all
 7-68 administrative remedies, may appeal the order to a court.

7-69 Sec. 69.068. EMERGENCY PILOTAGE RATES. (a) The board may

8-1 establish emergency pilotage rates for the period of an emergency,
 8-2 not to exceed 30 days, if the board finds that:

8-3 (1) a natural or man-made disaster has created a
 8-4 substantial hazard to piloting vessels into and out of a port; and

8-5 (2) the existence of the hazard overrides the
 8-6 necessity to comply with normal pilotage rate-setting procedures.

8-7 (b) In adopting emergency pilotage rates, the board is not
 8-8 required to comply with the procedures in this chapter and in its
 8-9 rules relating to the adoption of pilotage rates.

8-10 (c) Emergency pilotage rates may not be appealed.

8-11 (d) The board shall adopt rules to carry out this section.

8-12 Sec. 69.069. PILOT SERVICES REQUIRED. The consignee of a
 8-13 vessel under the consignee's control shall obtain pilot services
 8-14 for the vessel and shall pay the pilot who pilots the vessel into
 8-15 and out of the port area compensation according to the pilotage
 8-16 rates filed by the board.

8-17 Sec. 69.070. PILOTAGE RATE LIABILITY. (a) A consignee who
 8-18 declines the services of a pilot offered outside the bar and enters
 8-19 the port without the aid of a pilot is liable for the payment of
 8-20 pilotage to the first pilot whose services were declined.

8-21 (b) A consignee is liable for the payment of pilotage to the
 8-22 pilot who brings a vessel in if the vessel goes out without
 8-23 employing a pilot.

8-24 (c) A consignee is liable for the payment of pilotage for a
 8-25 vessel that goes out without the aid of a pilot and that came in
 8-26 without the aid of a pilot to the pilot who first offered services
 8-27 before the vessel came in.

8-28 (d) A consignee is not liable for the payment of pilotage
 8-29 for a vessel going out without a pilot if the vessel came in without
 8-30 the aid of a pilot or came in without the offer of a pilot outside.

8-31 (e) Subsections (a)-(d) do not apply to a consignee exempt
 8-32 under this chapter from payment of pilotage rates.

8-33 (f) A pilot who charges a pilotage rate for pilot services
 8-34 different from the pilotage rates established under this chapter
 8-35 for the port in which the pilot serves is liable to each person who
 8-36 was charged the different rate for double the amount of pilotage.

8-37 (g) A court may include in a judgment in favor of a person
 8-38 who files suit to collect an amount owed under this chapter an award
 8-39 to cover court costs and reasonable attorney's fees.

8-40 Sec. 69.071. RECOVERY OF COMPENSATION. A pilot who offers
 8-41 pilot services to a vessel required under this chapter to obtain
 8-42 pilot services and whose services are refused is entitled to
 8-43 recover from the consignee the pilotage rate for the services.

8-44 [Sections 69.072-69.080 reserved for expansion]

8-45 SUBCHAPTER E. PILOT LIABILITY

8-46 Sec. 69.081. PURPOSE. The purpose of this subchapter is
 8-47 to:

8-48 (1) in the public interest, stimulate and preserve
 8-49 maritime commerce on the pilotage grounds of this state by limiting
 8-50 and regulating the liability of pilots; and

8-51 (2) maintain pilotage fees at reasonable levels.

8-52 Sec. 69.082. PILOT LIABILITY. A pilot is not liable
 8-53 directly or as a member of an organization of pilots for a claim
 8-54 that:

8-55 (1) arises from an act or omission of another pilot or
 8-56 organization of pilots; and

8-57 (2) relates directly or indirectly to pilot services.

8-58 Sec. 69.083. PILOT LIABILITY LIMITED. (a) A pilot
 8-59 providing pilot services is not liable for more than \$1,000 for
 8-60 damage or loss caused by the pilot's error, omission, fault, or
 8-61 neglect in the performance of the pilot services, except as
 8-62 provided by Subsection (b).

8-63 (b) Subsection (a) does not apply to:

8-64 (1) damage or loss that arises because of the wilful
 8-65 misconduct or gross negligence of the pilot;

8-66 (2) liability for exemplary damages for gross
 8-67 negligence of the pilot and for which no other person is jointly or
 8-68 severally liable; or

8-69 (3) an act or omission related to the ownership and

9-1 operation of a pilot boat unless the pilot boat is directly involved
 9-2 in pilot services other than the transportation of pilots.

9-3 (c) This section does not exempt the vessel or its owner or
 9-4 operator from liability for damage or loss caused by the vessel to a
 9-5 person or property on the grounds that:

9-6 (1) the vessel was piloted by a pilot; or
 9-7 (2) the damage or loss was caused by the error,
 9-8 omission, fault, or neglect of a pilot.

9-9 (d) In an action brought against a pilot for an act or
 9-10 omission for which liability is limited as provided by this section
 9-11 and in which other claims are made or anticipated with respect to
 9-12 the same act or omission, the court shall dismiss the proceedings as
 9-13 to the pilot to the extent the pleadings allege pilot liability that
 9-14 exceeds \$1,000.

9-15 [SUBCHAPTER A. PILOT RATES

9-16 [~~Sec. 69.001. PILOTAGE RATE PROCEDURES. (a) A pilot board~~
 9-17 ~~for a public port of Beaumont, Orange, or Port Arthur or a privately~~
 9-18 ~~owned dock or terminal in Orange County or Jefferson County may not~~
 9-19 ~~adopt a pilotage rate applicable to any of these ports, docks, or~~
 9-20 ~~terminals except as provided by this section.~~

9-21 [~~(b) An application for a new pilotage rate in Orange County~~
 9-22 ~~or Jefferson County must be filed with each commissioner of pilots~~
 9-23 ~~by:~~

9-24 [~~(1) a pilot association;~~
 9-25 [~~(2) a consignee of a vessel who maintains an office in~~
 9-26 ~~the county in which the application is filed; or~~
 9-27 [~~(3) the Port of Port Arthur Navigation District,~~
 9-28 ~~Orange County Navigation and Port District, or Port of Beaumont~~
 9-29 ~~Navigation District of Jefferson County.~~

9-30 [~~(c) The application must contain:~~
 9-31 [~~(1) a brief statement of the circumstances that~~
 9-32 ~~warrant the change; and~~
 9-33 [~~(2) a certificate that the applicant has submitted~~
 9-34 ~~copies of the application to all known pilot associations,~~
 9-35 ~~navigation districts, and associations of consignees operating in~~
 9-36 ~~the county at the time of the application.~~

9-37 [~~(d) The board shall hold a hearing not later than the 40th~~
 9-38 ~~day after the date notice of the application is sent if, not later~~
 9-39 ~~than the 20th day after the date notice of the application is sent,~~
 9-40 ~~a commissioner receives a written objection to the application from~~
 9-41 ~~any person who appears to have a legitimate interest in the~~
 9-42 ~~application.~~

9-43 [~~(e) The board shall give notice of the hearing to:~~
 9-44 [~~(1) each applicant;~~
 9-45 [~~(2) each person who objects to the application; and~~
 9-46 [~~(3) any other party the board determines to be~~
 9-47 ~~interested in the proceedings.~~

9-48 [~~(f) The hearing shall be open to the public and held at a~~
 9-49 ~~convenient public place in one of the ports that would be affected~~
 9-50 ~~by the rate change. Each party who demonstrates a legitimate~~
 9-51 ~~interest in the application is entitled to be heard, to present~~
 9-52 ~~evidence, and, to the extent the board considers practical, to~~
 9-53 ~~cross-examine testifying witnesses.~~

9-54 [~~(g) The board shall grant, deny, or modify the application~~
 9-55 ~~after receiving the evidence offered by the parties and the~~
 9-56 ~~arguments and briefs the board desires to receive. The board order~~
 9-57 ~~shall state its effective date. The board shall file a copy of its~~
 9-58 ~~order in the offices of the appropriate county clerks before the~~
 9-59 ~~21st day after the close of the hearing.~~

9-60 [~~(h) If an objection to an application is not received by~~
 9-61 ~~any commissioner within the period for objections to the~~
 9-62 ~~application provided by Subsection (d), the board shall act on the~~
 9-63 ~~application without further proceedings and file a copy of its~~
 9-64 ~~order with the appropriate county clerks before the 41st day after~~
 9-65 ~~the date notice of the application is sent.~~

9-66 [~~(i) In acting on an application, the board shall consider:~~
 9-67 [~~(1) the effect that granting, denying, or modifying~~
 9-68 ~~the application would have on:~~

9-69 [~~(A) residents within the board's jurisdiction;~~

10-1 and

10-2 [~~(B) the ports within the board's jurisdiction,~~
 10-3 [~~(2) the assurance of an adequate and reasonable~~
 10-4 compensation to the pilots and a fair return on the equipment and
 10-5 vessels that the pilots employ in connection with pilot duties; and
 10-6 [~~(3) the relationship between the pilotage rates in~~
 10-7 the ports under the board's jurisdiction and the rates applied in
 10-8 other ports of this state and competitive ports in other states.

10-9 [~~(j) The board may assess the actual costs the board~~
 10-10 considers fair and just of reporting and stenographic services
 10-11 necessarily incurred in connection with a hearing against any
 10-12 applicant or objecting party. The board may require that an
 10-13 applicant or objecting party deposit an amount against those costs
 10-14 as a condition of presenting an application or objection.

10-15 [~~(k) The board may not increase pilotage rates for the~~
 10-16 public ports of Beaumont, Port Arthur, or Orange unless the
 10-17 affected board of commissioners of the Port of Beaumont Navigation
 10-18 District of Jefferson County, Port of Port Arthur Navigation
 10-19 District, or Orange County Navigation and Port District approves
 10-20 the increase.

10-21 [~~(l) Pilotage rates for the public ports of Orange,~~
 10-22 Beaumont, or Port Arthur or for a privately owned dock or terminal
 10-23 in Orange County or Jefferson County set under this section are not
 10-24 subject to the limit provided by Section 64.002.

10-25 [~~(m) In this section, "consignee" has the meaning provided~~
 10-26 by Section 64.001.

10-27 [SUBCHAPTER B. PILOT LIABILITY

10-28 [Sec. 69.051. PURPOSE. The purpose of this subchapter is

10-29 to:

10-30 [~~(1) in the public interest, stimulate and preserve~~
 10-31 maritime commerce on the pilotage grounds of this state by limiting
 10-32 and regulating the liability of pilots; and

10-33 [~~(2) maintain pilotage fees at reasonable levels.~~

10-34 [Sec. 69.052. APPLICABILITY. This subchapter applies to a

10-35 pilot licensed or certified to render pilotage services to or from a

10-36 port in Jefferson or Orange County.

10-37 [Sec. 69.053. PILOT LIABILITY LIMITED. (a) A pilot

10-38 providing a pilot service is not liable for more than \$1,000 for

10-39 damages or loss caused by the pilot's error, omission, fault, or

10-40 neglect in the performance of the pilot service.

10-41 [(b) Subsection (a) does not apply to:

10-42 [(1) damage or loss that arises because of the wilful

10-43 misconduct or gross negligence of the pilot;

10-44 [(2) liability for exemplary damages for gross

10-45 negligence of the pilot and for which no other person is jointly or

10-46 severally liable; or

10-47 [(3) an act or omission related to the ownership and

10-48 operation of a pilot boat unless the pilot boat is directly involved

10-49 in pilot services other than the transportation of pilots.

10-50 [(c) This section does not exempt the vessel or its owner or

10-51 operator from liability for damage or loss caused by the ship to a

10-52 person or property on the ground that:

10-53 [(1) the ship was piloted by a pilot; or

10-54 [(2) the damage or loss was caused by the error,

10-55 omission, fault, or neglect of a pilot.

10-56 [(d) In an action brought against a pilot for an act or

10-57 omission for which liability is limited as provided by this section

10-58 and in which other claims are made or anticipated with respect to

10-59 the same act or omission, the court shall dismiss the proceedings as

10-60 to the pilot to the extent the pleadings allege pilot liability that

10-61 exceeds \$1,000.

10-62 [Sec. 69.054. LIABILITY FOR ACTS OF OTHER PILOTS. A pilot

10-63 is not liable directly or as a member of an organization of pilots

10-64 for a claim arising from an act or omission of any other pilot or

10-65 organization of pilots that relates directly or indirectly to pilot

10-66 services.]

10-67 SECTION 2. (a) A person who is a branch pilot serving a

10-68 port covered under Chapter 69, Transportation Code, as amended by

10-69 this Act, on the effective date of this Act shall continue to serve

11-1 as a branch pilot until the person's current commission expires, at
11-2 which time the person will be eligible for license renewal under the
11-3 license renewal provisions of Chapter 69, Transportation Code, as
11-4 amended by this Act, and the branch pilot is governed by Chapter 69,
11-5 Transportation Code, as amended by this Act, after its effective
11-6 date.

11-7 (b) On requesting the certificate in writing and without
11-8 having to comply with other procedural provisions of Chapter 69,
11-9 Transportation Code, as amended by this Act, a person appointed as a
11-10 deputy branch pilot before the effective date of this Act, and
11-11 acting as a deputy branch pilot serving a port covered under Chapter
11-12 69, Transportation Code, as amended by this Act, shall be issued a
11-13 deputy branch pilot certificate by the board of pilot commissioners
11-14 in whose jurisdiction the person is acting as deputy branch pilot.

11-15 (c) A certificate described by Subsection (b) of this
11-16 section shall be issued for a term of two years unless the deputy
11-17 branch pilot has less than two years to serve as a deputy branch
11-18 pilot. If a deputy branch pilot has less than two years to serve as
11-19 a deputy branch pilot, the certificate shall be issued for the
11-20 remaining time the deputy is required to serve. A deputy branch
11-21 pilot in a port covered by Chapter 69, Transportation Code, as
11-22 amended by this Act, is governed by that chapter, as amended by this
11-23 Act, after its effective date.

11-24 SECTION 3. This Act takes effect immediately if it receives
11-25 a vote of two-thirds of all the members elected to each house, as
11-26 provided by Section 39, Article III, Texas Constitution. If this
11-27 Act does not receive the vote necessary for immediate effect, this
11-28 Act takes effect September 1, 2003.

11-29 * * * * *