

By: Williams

S.B. No. 1772

A BILL TO BE ENTITLED

AN ACT

relating to licensing and regulation of certain pilots, pilotage rates, and pilot service.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

CHAPTER 69, JEFFERSON AND ORANGE COUNTY PILOTS LICENSING AND REGULATORY ACT

SUBCHAPTER A. GENERAL PROVISIONS [~~PILOT RATES~~]

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

~~[Pilotage Rate procedures. (a) A pilot board for a public port of Beaumont, Orange, or Port Arthur or a privately owned dock or terminal in Orange County or Jefferson County may not adopt a pilotage rate applicable to any of these ports, docks, or terminals except as provided by this section.~~

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

~~(1) a pilot association,~~

~~(2) a consignee of a vessel who maintains an office in the county in which the application is filed, or~~

~~(3) the Port of Port Arthur Navigation District, Orange County Navigation and Port District, or Port of Beaumont~~

1 ~~Navigation District of Jefferson County.~~

2 ~~(c) The application must contain:~~

3 ~~(1) a brief statement of the circumstances that~~
4 ~~warrant the change, and~~

5 ~~(2) a certificate that the applicant has submitted~~
6 ~~copies of the application to all known pilot associations,~~
7 ~~navigation districts, and associations of consignees operating in~~
8 ~~the county at the time of the application.~~

9 ~~(d) The board shall hold a hearing not later than the~~
10 ~~40th day after the date notice of the application is sent if, not~~
11 ~~later than the 20th day after the date notice of the application is~~
12 ~~sent, a commissioner receives a written objection to the~~
13 ~~application from any person who appears to have a legitimate~~
14 ~~interest in the application.~~

15 ~~(e) The board shall give notice of the hearing to:~~

16 ~~(1) each applicant,~~

17 ~~(2) each person who objects to the application, and~~

18 ~~(3) any other party the board determines to be~~
19 ~~interested in the proceedings.~~

20 ~~(f) The hearing shall be open to the public and held at a~~
21 ~~convenient public place in one of the ports that would be affected~~
22 ~~by the rate change. Each party who demonstrates a legitimate~~
23 ~~interest in the application is entitled to be heard, to present~~
24 ~~evidence, and, to the extent the board considers practical, to~~
25 ~~cross-examine testifying witnesses.~~

26 ~~(g) The board shall grant, deny, or modify the application~~
27 ~~after receiving the evidence offered by the parties and the~~

1 ~~arguments and briefs the board desires to receive. The board order~~
2 ~~shall state its effective date. The board shall file a copy of its~~
3 ~~order in the offices of the appropriate county clerks before the~~
4 ~~21st day after the close of the hearing.~~

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

11 ~~(I) In acting on an application, the board shall consider:~~

12 ~~(1) the effect that granting, denying, or modifying~~
13 ~~the application would have on:~~

14 ~~(A) residents within the board's jurisdiction,~~
15 ~~and~~

16 ~~(B) the ports within the board's jurisdiction,~~
17 ~~(2) the assurance of an adequate and reasonable~~
18 ~~compensation to the pilots and a fair return on the equipment and~~
19 ~~vessels that the pilots employ in connection with pilot duties, and~~

20 ~~(3) the relationship between the pilotage rates in the~~
21 ~~ports under the board's jurisdiction and the rates applied in other~~
22 ~~ports of this state and competitive ports in other states.~~

23 ~~(j) The board may assess the actual costs the board~~
24 ~~considers fair and just of reporting and stenographic services~~
25 ~~necessarily incurred in connection with a hearing against any~~
26 ~~applicant or objecting party. The board may require that an~~
27 ~~applicant or objecting party deposit an amount against those costs~~

1 ~~as a condition of presenting an application or objection.~~

2 ~~(k) The board may not increase pilotage rates for the public~~
3 ~~ports of Beaumont, Port Arthur, or Orange unless the affected board~~
4 ~~of commissioners of the Port of Beaumont Navigation District of~~
5 ~~Jefferson County, Port of Port Arthur Navigation District, or~~
6 ~~Orange County Navigation and Port District approves the increase.~~

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

11 ~~(m) In this section, "consignee" has the meaning provided by~~
12 ~~Section 64.001.]~~

13 Sec. 69.002. Definitions. In this chapter:

14 (1) "Board" means the board of pilot commissioners for
15 Jefferson and Orange County ports.

16 (2) "Consignee" means a person, including a master,
17 owner, agent, subagent, firm, or corporation or any combination of
18 those persons, who enters or clears a vessel at the office of the
19 collector of customs.

20 (3) "Port" means a place in Jefferson or Orange County
21 into which a vessel enters or from which a vessel departs and the
22 waterway leading to that place from the Gulf of Mexico.

23 (4) "Pilot" means a person who is licensed as a branch
24 pilot or certified as a deputy branch pilot under this chapter.

25 (5) "Pilotage rate" means the remuneration a pilot may
26 lawfully charge a vessel for pilot services.

27 (6) "Pilot services" means acts of a pilot in

1 conducting a vessel through the navigable waters in this state and
2 the ports in which the pilot is licensed or certified as a pilot.

3 (7) "Vessel" means an oceangoing vessel.

4 Sec. 69.003. Applicability of Chapter. This chapter
5 applies only to a Jefferson and Orange County port.

6 SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

7 Sec. 69.011. Board. Each of the five members of the board
8 shall reside in either Jefferson or Orange County and be appointed
9 by the Governor, in accordance with Chapter 63, Transportation
10 Code. The chairman of the board shall be selected by the members of
11 the board and the terms of the members shall be staggered.

12 Sec. 69.012. Prohibited Interest. A person may not be a
13 member of the board if the person has a direct or indirect pecuniary
14 interest in a pilot boat or branch pilot in the business of the
15 board's trust.

16 Sec. 69.013. Oath. Before beginning service as a board
17 member, each board member must take and sign, before a person
18 authorized to administer oaths, an oath to faithfully and
19 impartially discharge the duties of the office.

20 Sec. 69.014. Term of Office. Each member of the board
21 serves a term of two years.

22 Sec. 69.015. Jurisdiction. The board has exclusive
23 jurisdiction over the piloting of vessels and the pilot services
24 provided in Jefferson and Orange County ports, including
25 intermediate stops and landing places for vessels on navigable
26 streams wholly or partially located in the board's jurisdiction.

27 Sec. 69.016. Administration; Rules. (a) The board shall

1 administer this chapter and may perform any act or function
2 necessary to carry out its powers and duties under this chapter.

3 (b) The board may adopt rules to carry out this chapter.

4 Sec. 69.017. Duties. (a) The board shall:

5 (1) establish the number of pilots necessary to
6 provide adequate pilot services for each Jefferson and Orange
7 County port;

8 (2) accept applications for pilot licenses and
9 certificates and determine whether each applicant meets the
10 qualifications for a pilot;

11 (3) submit to the governor lists of applicants the
12 board finds to be qualified for appointment as pilots;

13 (4) establish pilotage rates;

14 (5) approve the locations for pilot stations;

15 (6) establish times during which pilot services will
16 be available;

17 (7) hear and determine complaints relating to the
18 conduct of pilots;

19 (8) recommend to the governor each pilot whose license
20 or certificate should not be renewed or should be revoked;

21 (9) adopt rules and issue orders to pilots or vessels
22 when necessary to secure efficient pilot services;

23 (10) institute investigations or hearings or both to
24 consider casualties, accidents, or other actions that violate this
25 chapter; and

26 (11) provide penalties to be imposed on a person who is
27 not a pilot for a Jefferson and Orange County port who pilots a

1 vessel into or out of the port if a pilot offered those services to
2 the vessel.

3 (b) The board may

4 (1) recommend the number of deputy pilots necessary to
5 fulfill the number of pilots established in 69.017(a)(1);

6 (2) make any other provision for proper, safe, and
7 efficient pilotage under this Act and for the efficient
8 administration of this chapter; and

9 (3) The board may assess the actual costs the board
10 considers fair and just incurred

11 (A) in connection with a hearing against any
12 applicant or objecting party and

13 (B) other expenses that are necessary and proper
14 to enable the board to effectively carry out the purposes and
15 requirements of this chapter against the users of pilot services
16 provided that the rate charged against the users shall not generate
17 a total of more than \$100,000.00 per fiscal year. Such purposes and
18 requirements include processing of applications for pilot licenses
19 and certificates, establishing pilotage, determining and approving
20 the locations for pilot stations, establishing times during which
21 pilot services will be available, hearing and determine complaints
22 relating to the conduct of pilots, adopting rules and issue orders
23 to pilots or vessels when necessary to secure efficient pilot
24 services, instituting investigations or hearings or both to
25 consider casualties, accidents, or other actions that violate this
26 chapter, making of any provision for proper, safe, and efficient
27 pilotage, and funding general administrative expenses associated

1 with the operation of the board. No funds derived under this act
2 may be used for compensation to any member of the board.

3 Sec. 69.018. Unfair Discrimination Prohibited. (a) In all
4 its duties, including rulemaking, the board may not approve of
5 discriminatory practices or discriminate against a pilot or pilot
6 applicant because of race, religion, sex, ethnic origin, or
7 national origin.

8 (b) A person seeking a remedy for a violation of this
9 section must bring suit in a district court in Jefferson County.

10 Sec. 69.019. Open Meetings Law. Chapter 551, Government
11 Code, applies to actions and proceedings under this chapter.

12 Sec. 69.020. Rule or Rate Change. (a) The board shall give
13 at least 10 days' notice as provided by this section before the
14 board adopts a rule or changes a pilotage rate.

15 (b) The board shall post the notice and a copy of the
16 proposed rule or change at the county court houses for Jefferson and
17 Orange Counties, publish in a newspaper of general circulation in
18 Jefferson and Orange Counties, and give notice of the proposed rule
19 or change, by certified mail to the last known address, to:

20 all pilots licensed or certified in the port;

21 all known pilots' associations;

22 all steamship agencies and associations in the port; and

23 all known users of pilot services for the previous twelve months.

24 Sec. 69.021. Contested Case Notice. The board will give
25 notice in each contested case in accordance with Section 69.020(b)
26 that includes the same information as the notice given to the
27 parties in each contested case.

1 Sec. 69.022. Judicial Review. Proceedings for judicial
2 review of a board decision shall be brought in a district court in
3 Jefferson County.

4 Sec. 69.023. Budget; Annual Report; Audits. The board
5 shall adopt a proposed fiscal year budget forty-five days prior to
6 the start of the fiscal year and may expend funds only after a
7 public meeting has been held to explain the proposed budget and
8 after the board has approved the budget.

9 (b) Accounts of the board are subject to audit by the state
10 auditor.

11 (c) The board will keep minutes of its meetings and other
12 books and records that clearly reflect all acts and transactions of
13 the board. The board will open its records to examination by any
14 participating producer during regular business hours.

15 (d) Within 30 days following the end of each fiscal year of
16 the board, the board shall submit to the governor a report itemizing
17 all income and expenditures and describing all activities of the
18 board during the previous fiscal year.

19 Sec. 69.024. Depository Bank; Expenditure of Funds. The
20 board shall deposit all money received by the board under this
21 chapter, including assessments, and grants from governmental
22 agencies, in a bank located in Jefferson or Orange County and
23 selected by the board.

24 SUBCHAPTER C. PILOT LICENSES AND CERTIFICATES

25 Sec. 69.031. License or Certificate Required. A person may
26 not provide pilot services unless the person has a license or
27 certificate issued under this chapter for the Jefferson and Orange

1 County ports in which the pilot services are to be provided.

2 Sec. 69.032. Exemptions. The requirement to use a pilot
3 does not apply to:

4 (1) a vessel sailing under enrollment, or licensed or
5 engaged in the coasting trade between Texas ports or between any
6 Texas port and any other port of the United States; or

7 (2) a vessel exempt under federal law from payment of
8 state pilotage rates.

9 Sec. 69.033. Qualifications for License. To be eligible
10 for a license as a branch pilot, a person must:

11 (1) be at least 25 years of age and less than 68 years
12 of age unless exempted under the provisions of section 69.040(a) of
13 this chapter;

14 (2) be a United States citizen;

15 (3) as of the date the license is issued, have resided
16 continuously in this state for at least two years;

17 (4) be licensed under federal law to act as a pilot on
18 vessels that navigate water on which the applicant will furnish
19 pilot services and have completed the training program approved by
20 the board;

21 (5) have at least one year's service as a deputy branch
22 pilot or equivalent service piloting vessels of at least 5,000
23 gross tons within the board's jurisdiction;

24 (6) have commanded or controlled the navigation of
25 vessels such as the person would pilot;

26 (7) have extensive experience in the docking and
27 undocking of vessels;

- 1 (8) be in good mental and physical health;
2 (9) have good moral character; and
3 (10) possess the requisite skill as a navigator and
4 pilot to perform competently and safely the duties of a branch
5 pilot.

6 Sec. 69.034. Qualifications for Certificate. To be
7 eligible for a certificate as a deputy branch pilot, a person must:

- 8 (1) be at least 25 years of age;
9 (2) be a United States citizen;
10 (3) hold a license under federal law to act as a pilot
11 on vessels that navigate water on which the applicant will furnish
12 pilot services and have successfully completed the apprenticeship
13 training program as approved by the board;
14 (4) be in good mental and physical health;
15 (5) have good moral character; and
16 (6) possess the requisite skill to perform competently
17 and safely the duties of a deputy branch pilot.

18 Sec. 69.035. Application for License or Certificate. To
19 apply for a branch pilot's license or a deputy branch pilot's
20 certificate, a person must give to the board a written application
21 in the form and manner required by board rule.

22 Sec. 69.036. Consideration of Application. (a) The board
23 shall carefully consider each application and shall conduct any
24 investigation it considers necessary to determine whether an
25 applicant is qualified for a license or certificate.

26 (b) As part of its consideration of applications for
27 licenses and certificates, the board may develop and administer

1 examinations to determine an applicant's knowledge of piloting,
2 management of vessels, and the water in the board's jurisdiction.

3 Sec. 69.037. Branch Pilot Appointment by Governor. (a) On
4 filing of the bond and oath required by Section 69.039, the board
5 shall certify to the governor that a person licensed as a branch
6 pilot has qualified.

7 (b) On receipt of the board's certification, the governor
8 shall issue to the person, in the name of the state and under the
9 state seal, a commission to serve as a branch pilot to and from
10 Jefferson and Orange County ports.

11 Sec. 69.038. Deputy Branch Pilot Appointment. Each branch
12 pilot

13 (1) may appoint, subject to examination and approval
14 by the board, two deputy branch pilots for whose acts the branch
15 pilot is responsible;

16 (2) may appoint an additional deputy branch pilot if
17 the board considers the appointment advisable;

18 (3) who appoints a deputy branch pilot without the
19 approval of the board forfeits the pilot's appointment as a branch
20 pilot; and

21 (4) is responsible for the actions of the deputy
22 branch pilot appointed by that pilot.

23 Sec. 69.039. Oath; Bond. (a) A person appointed as a pilot
24 must take the official oath before entering service as a pilot. The
25 oath shall be endorsed on the bond required by Subsection (b).

26 (b) Each pilot must execute a \$25.000 bond payable to the
27 governor and conditioned on compliance with the laws, rules, and

1 orders relating to pilots and on the faithful performance of the
2 pilot's duties.

3 (c) Each bond must be approved by the board.

4 Sec. 69.040. Terms of Licenses and Certificates. (a) A
5 branch pilot's license expires on the fourth anniversary of the
6 date it is issued or renewed; provided that no pilot may furnish
7 pilot services under authority of a license after the pilot's 68th
8 birthday unless such a pilot who's license or certificate unless
9 such an individual is a pilot under this chapter on the effective
10 date of this chapter or who becomes a pilot within one year after
11 the effective date of this chapter.

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

14 Sec. 69.041. Branch Pilot's License Renewal. (a) The
15 governor shall renew a branch pilot's expiring license if the board
16 recommends renewal.

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

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

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

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

26 (d) If the board determines that it has probable cause not
27 to renew a license, the board shall notify the license holder of

1 that determination not later than the 60th day before the date the
2 license expires. On request, the board shall provide a hearing
3 after proper notice to consider whether the board has cause not to
4 recommend renewal of the license.

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

8 (f) The board shall issue a written order recommending that
9 the governor not renew a license and the governor may not renew the
10 license if:

11 (1) the pilot does not contest the board's decision not
12 to renew the license; or

13 (2) the board after a hearing finds that it has
14 probable cause not to renew the license.

15 (g) The denial of renewal of a pilot's license does not
16 prohibit the pilot from applying for a new license and being
17 reappointed.

18 Sec. 69.042. Deputy Branch Pilot. A person who has been
19 issued a deputy branch pilot's certificate may not be issued a
20 deputy branch pilot's certificate before the fifth anniversary of
21 the date the person was previously issued a deputy branch pilot's
22 certificate.

23 Sec. 69.043. Suspension or Revocation of Branch Pilot's
24 License. (a) On complaint or on its own motion, and after notice
25 and hearing, the board may suspend a branch pilot's license for not
26 more than six months or recommend that the governor revoke a branch
27 pilot's license if the board finds that the pilot has:

1 (1) failed to demonstrate and maintain the
2 qualifications for a license required by this chapter;

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

6 (3) used alcohol to an extent that impairs the pilot's
7 ability to perform the pilot's duties skillfully and efficiently;

8 (4) violated a provision of this chapter or rules
9 adopted by the board under this chapter;

10 (5) made a material misstatement in the application
11 for a license;

12 (6) obtained or attempted to obtain a license under
13 this chapter by fraud or misrepresentation;

14 (7) intentionally failed to comply with an order of
15 the board;

16 (8) charged a pilotage rate other than that approved
17 by the board;

18 (9) intentionally refused to pilot or neglected to
19 board promptly a vessel when requested to do so by the master or
20 person responsible for navigation of the vessel except when, in the
21 judgment of the pilot, movement of the vessel constitutes a hazard
22 to life or property or when pilotage charges that are due and owing
23 are unpaid by the person ordering the pilot services;

24 (10) intentionally caused damage to a vessel;

25 (11) been absent from duty in violation of board rules
26 and without authorization;

27 (12) aided or abetted another pilot in failing to

1 perform the other pilot's duties; or

2 (13) been guilty of carelessness, neglect of duty,
3 intentional unavailability for performance of duties, refusal to
4 perform duties, misconduct, or incompetence while on duty.

5 (b) If the federal pilot's license of a pilot licensed under
6 this chapter is suspended or revoked, the board, on a finding that
7 it has good cause, shall suspend the license for the same period or
8 revoke the license under this chapter.

9 (c) On determining that a license should be suspended or
10 revoked, the board shall adopt a written order that states its
11 findings and:

12 (1) suspends the license for a stated period; or

13 (2) recommends to the governor revocation of the
14 license.

15 (d) The governor, on receipt of a board order recommending
16 revocation of a license, shall revoke the license.

17 (e) A suspension of a license takes effect on adoption of
18 the board's order. A revocation of a branch pilot's license takes
19 effect on issuance of the governor's decision.

20 Sec. 69.044. Suspension or Revocation of Deputy Branch
21 Pilot's Certificate. A deputy branch pilot's certificate may be
22 suspended or revoked by the board in the same manner and for the
23 same reasons as provided for the revocation or suspension of a
24 branch pilot's license by Section 69.043.

25 Sec. 69.045. Liability to Pilot. (a) A person who is not a
26 pilot and who, in violation of this chapter, pilots a vessel and the
27 consignee of the vessel are liable to a pilot, on written demand,

1 for the amount of the applicable pilotage rate.

2 (b) In an action to recover compensation under subsection
3 (a), the court may include in a judgment in favor of a pilot an award
4 of court costs and reasonable attorney's fees.

5 SUBCHAPTER D. PILOTAGE RATES

6 Sec. 69.061. Pilotage Rate Change. The board may not change
7 pilotage rates before the first anniversary of the preceding rate
8 change.

9 Sec. 69.062. Pilotage Rate Change Application. (a) An
10 application for a change in pilotage rates may be submitted to the
11 board by:

12 (1) a pilot;

13 (2) an association of pilots;

14 (3) a consignee liable under Section 69.070 to pay
15 pilotage rates; or

16 (4) an association of consignees;

17 (5) a party financially responsible for the payment of
18 pilot services.

19 (b) The application must be written and must state
20 specifically the changes requested.

21 (c) The board shall set a hearing date within two weeks of
22 receipt of an application. The board shall hold the hearing not
23 earlier than the 20th day and not later than the 40th day after the
24 date the board sets the hearing date.

25 (d) An applicant shall give notice of the application and
26 the hearing date, by certified mail to the last known address, to:

27 (1) all pilots licensed or certified in the port;

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

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

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

15 (1) all mounts received from performing pilot
16 services, organized by categories or classifications of rates, if
17 rates are set in that manner;

18 (2) all earnings from capital assets devoted to
19 providing pilot services;

20 (3) all expenses incurred in connection with
21 activities for pilotage services within the board's jurisdiction
22 which amounts described by Subdivision (1) and (2) were received
23 and earned; and

24 (4) estimates of receipts and expenses anticipated to
25 result from the requested changes in pilotage rates.

26 (b) The pilots shall provide the information for:

27 (1) the calendar or fiscal year preceding the date of

1 the pilotage rate change application; and

2 (2) the subsequent period to within 60 days of the date
3 of the application.

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

9 (d) The board may require relevant additional information
10 it considers necessary to determine a proper pilotage rate.

11 Sec. 69.064. Factors for Board consideration. In
12 establishing pilotage rates, the board shall consider factors
13 relevant to determining reasonable and just pilotage rates,
14 including:

15 (1) characteristics of vessels to be piloted;

16 (2) the average number of hours spent by a pilot
17 performing:

18 (A) pilot services on board vessels; and

19 (B) all pilot services;

20 (3) costs to pilots to provide the required pilot
21 services;

22 (4) the public interest in maintaining safe,
23 efficient, and reliable pilot services;

24 (5) the average wages of masters of United States flag
25 vessels that navigate in the United States territorial and inland
26 waters;

27 (6) economic factors affecting the shipping industry

1 in the area in which the port is located; and

2 (7) an adequate and reasonable compensation for the
3 pilots and a fair return on the equipment and vessels that the
4 pilots employ in connection with their duties.

5 (8) the relationship between the pilotage rates in the
6 ports under the board's jurisdiction and the rates applied in other
7 ports of this state and competitive ports in other states within the
8 Gulf of Mexico.

9 Sec. 69.065. Rate Decision. Not later than the 10th day
10 after the date of the completion of a hearing on an application for
11 a change in pilotage rates, the board shall issue a written decision
12 that:

13 (1) grants or denies the application in whole or in
14 part;

15 (2) states the reasons for the decision; and

16 (3) states each new pilotage rate.

17 Sec. 69.069. Costs. The board, in a final order under this
18 subchapter, may charge all or part of the costs of processing an
19 application to the parties in the proceedings.

20 Sec. 69.067. Appeal of Board Decision. Any party aggrieved
21 by a board decision on pilotage rates, after exhausting all
22 administrative remedies, may appeal the order to a court.

23 Sec. 69.068. Emergency Pilotage Rates. (a) The board may
24 establish emergency pilotage rates for the period of an emergency,
25 not to exceed 30 days, if the board finds that:

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

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

3 (b) In adopting emergency pilotage rates, the board is not
4 required to comply with the procedures in this chapter or in its
5 rules relating to adoption of pilotage rates.

6 (c) Emergency pilotage rates may not be appealed.

7 (d) The board shall adopt rules to carry out this section.

8 Sec. 69.069. Pilot Services Required. The consignee of a
9 vessel under the consignee's control shall obtain pilot services
10 for the vessel and shall pay the pilot who pilots the vessel into
11 and out of the port area compensation according to the pilotage
12 rates filed by the board.

13 Sec. 69.070. Pilotage Rate Liability. (a) A consignee who
14 declines the services of a pilot offered outside the bar and enters
15 the port without the aid of a pilot is liable for the payment of
16 pilotage to the first pilot whose services were declined.

17 (b) A consignee is liable for the payment of pilotage to the
18 pilot who brings a vessel in if the vessel goes out without
19 employing a pilot.

20 (c) A consignee is liable for the payment of pilotage for a
21 vessel that goes out without the aid of a pilot and that came in
22 without the aid of a pilot to the pilot who first offered services
23 before the vessel came in.

24 (d) A consignee is not liable for the payment of pilotage
25 for a vessel going out without a pilot if the vessel came in without
26 the aid of a pilot or came in without the offer of a pilot outside.

27 (e) Subsections (a)-(d) do not apply to a consignee exempt

1 under this chapter from payment of pilotage rates.

2 (f) A pilot who charges a rate for pilot services different
3 from the pilotage rates established under this chapter for the port
4 in which the pilot serves is liable to each person who was charged
5 the different rate for double the amount of pilotage.

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

9 Sec. 69.071. Recovery of Compensation. A pilot who offers
10 pilot services to a vessel required under this chapter to obtain
11 pilot services and whose services are refused is entitled to
12 recover from the consignee the pilotage rate for the services.

13 SUBCHAPTER E. PILOT LIABILITY

14 Sec. 69.081. Purpose. The purpose of this subchapter is to:

15 (1) in the public interest, stimulate and preserve
16 maritime commerce on the pilotage grounds of this state by limiting
17 and regulating the liability of pilots; and

18 (2) maintain pilotage fees at reasonable amounts.

19 Sec. 69.082. Pilot Liability. A pilot is not liable
20 directly or as a member of an organization of pilots for any claim
21 that:

22 (1) arises from an act or omission of another pilot or
23 organization of pilots; and

24 (2) relates directly or indirectly to pilot services.

25 Sec. 69.083. Pilot Liability Limited. (a) A pilot
26 providing pilot services is not liable for more than \$1,000 for
27 damage or loss caused by the pilot's error, omission, fault, or

1 neglect in the performance of the pilot services, except as
2 provided by Subsection (b).

3 (b) Subsection (a) does not apply to:

4 (1) damage or loss that arises because of the wilful
5 misconduct or gross negligence of the pilot;

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

9 (3) an act or omission relating to the ownership and
10 operation of a pilot boat unless the pilot boat is directly involved
11 in pilot services other than the transportation of pilots.

12 (c) This section does not exempt a vessel or its owner or
13 operator from liability for damage or loss caused by the vessel to a
14 person or property on the grounds that:

15 (1) the vessel was piloted by a pilot; or

16 (2) the damage or loss was caused by the error,
17 omission, fault, or neglect of a pilot.

18 (d) In an action brought against a pilot for an act or
19 omission for which liability is limited as provided by this section
20 and in which other claims are made or anticipated with respect to
21 the same act or omission, the court shall dismiss the proceedings as
22 to the pilot to the extent the pleadings allege pilot liability that
23 exceeds \$1,000.

24 SECTION 2. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

S.B. No. 1772

1 Act takes effect September 1, 2003.