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## DIGEST

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HB 650 Engrossed

2021 Regular Session

Pressly

**Abstract:** Makes changes to the regulation of river port pilots and steamship pilots.

### River Port Pilots

Present law creates the Board of River Port Pilot Commissioners and requires gubernatorial appointment of the members and Senate confirmation of the appointments.

Proposed law retains present law and adds that confirmation shall also be by the House of Representatives.

Present law requires appointees to hold a commission as a river port pilot and requires such commission to have been active for at least 4 years.

Proposed law repeals present law and requires one member to be the commander of the U.S. Coast Guard Atlantic Area, 8<sup>th</sup> District, or his designee.

Proposed law requires that the governor appoint two members, one who is a businessperson of good standing and one who is a licensed pilot. Proposed law requires the businessperson be selected from four nominees jointly submitted by the Baton Rouge Area Chamber and Greater New Orleans, Inc. Proposed law requires the pilot be selected from a list of two pilots nominated by the association of river port pilots.

Proposed law prohibits nominees from serving on the Board of Louisiana River Pilot Review and Oversight or the Louisiana Pilotage Fee Commission.

Present law requires the governor to designate the president of the board, requires the commissioners to serve at the pleasure of the governor, and requires the board member to take an oath to perform their duties faithfully.

Proposed law retains present law.

In accordance with present law, the board shall:

- (1) Make rules establishing qualifications, providing for the examination and approval of apprenticeship programs, and to administer examinations of river port pilots.

- (2) Meet quarterly.
- (3) Make rules establishing minimum standards of conduct including neglect of duty, drunkenness, carelessness, habitual intemperance, substance abuse, and incompetency, and other rules for proper and safe pilotage on waters covered under present law and for the efficient administration of present law.
- (4) Conduct hearings and investigate violations of provisions of present law or rules or regulations adopted by the commissioners, and to report findings to the governor if the board requests gubernatorial action.
- (5) Have the authority to impose fines, remove a pilot from a vessel, or recommend suspension or revocation of a pilot's commission.
- (6) Provide to all pilots and pilot candidates rules and regulations.

Proposed law retains present law but amends the provisions requiring the board to establish minimum standards of conduct to require the board to make rules establishing standards of conduct consistent with present and proposed law.

Proposed law prohibits pilot associations from superseding the board's authority.

Proposed law requires meetings of the board to comply with the Open Meetings Law.

Present law requires pilots to be appointed by the governor and serve until revocation of the appointment in accordance with present law.

Proposed law retains present law and makes pilots agents and public officers. Further, proposed law adds that revocation can be done pursuant to the rules and regulations adopted by the board.

Proposed law prohibits a pilot from discontinuing his duties without permission from the pilot's association to which he belongs, except for health reasons provided he furnishes proof to the board if requested.

Present law requires the board to hold examinations when it is determined necessary by the river port pilots.

Proposed law retains present law but requires the board to determine when there is a need for more pilots and then hold examinations.

Proposed law sets forth the following criteria for participation in the pilot apprenticeship program required under present law for commission:

- (1) A graduate of a federally approved maritime academy.

- (2) Have 5 years of experience as a master or commanding officer of a naval vessel or merchant ship.
- (3) Hold a U.S. Coast Guard license.
- (4) Be under 45 but at least 30 years of age.
- (5) Complete and maintain ship handling simulator courses and bridge resource management courses.
- (6) Have not been convicted of a felony involving drugs, personal consumption of alcohol, or a crime of truth in the 60 months preceding application.
- (7) Pass a drug test before acceptance into the program and agree to participate in a mandatory drug and alcohol program upon acceptance.

Proposed law sets forth the board's requirements for pilotage certification as follows:

- (1) A commissioned pilot shall comply with the requirements to maintain their commission.
- (2) Beginning on Jan. 1, 2022, a commissioned pilot must maintain a valid commission by attending 40 hours of continuing education classes that must meet certain criteria.

Proposed law requires the commissioners to provide the governor, speaker of the House, and president of the Senate with an annual report of the race, age, and gender of all apprenticeship participants who are related to pilots or other public official by blood or marriage.

Proposed law prohibits the board from discriminating against an applicant during the selection or examination process in favor of a person related to a pilot or other public official, or based on race, color, religion, gender, national origin, age, disability, political affiliation, or belief.

Present law makes all communications by and between the board and a pilot during the course of an investigation privileged and not required to be disclosed in any original proceedings in accordance with present law and pursuant to reporting requirements to the governor.

Proposed law repeals present law.

### Steamship Pilots

Present law creates the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River and requires gubernatorial appointment of the members and Senate confirmation of the appointments.

Proposed law retains present law and adds that confirmation shall also be by the House of Representatives.

Present law requires the board to recommend appointees to fill an examiner vacancy and requires the recommended appointee to have served at least 5 years as an unrestricted state commissioned steamship pilot. Present law further requires examiners to continue in their office until the successor is appointed and requires the appointees to only be from pilots commissioned by virtue of present law.

Proposed law repeals present law and requires the appointees to comply with the La. Code of Ethics.

Proposed law requires one member to be appointed by the governor from a list of 4 nominees selected by the New Orleans Steamship Association, Louisiana Association of Business and Industry, the Louisiana Chemical Association, the Louisiana Mid-Continent Oil and Gas Association, and the International Freight Forwarders and customs Brokers Association of New Orleans, Inc.

Proposed law requires that the governor appoint two members, one who is a businessperson of good standing and one who is a licensed pilot. Proposed law requires the businessperson be selected from four nominees jointly submitted by the Baton Rouge Area Chamber and Greater New Orleans, Inc. Proposed law requires the pilot be selected from a list of two pilots nominated by the association of river port pilots.

Proposed law prohibits nominees from serving on the Board of Louisiana River Pilot Review and Oversight or the Louisiana Pilotage Fee Commission.

Present law requires the governor to designate the president of the board.

Proposed law retains present law and requires the examiners to serve at the pleasure of the governor.

Present law requires the board to immediately report to the governor all cases of neglect of duty, habitual drunkenness, and gross violations of rules. Proposed law further provides that the governor shall then refer the cases for investigation to the board.

Proposed law retains present law.

Proposed law prohibits pilot associations from superseding the board's authority.

Proposed law requires meetings of the board to comply with the Open Meetings Law.

Present law requires pilots to be appointed by the governor and serve until revocation of the appointment in accordance with present law.

Proposed law retains present law and makes pilots agents and public officers. Further, proposed law adds that revocation can be done pursuant to the rules and regulations adopted by the board.

Present law requires pilots provided for in present law to be appointed by the governor from those pilots recommended to the governor pursuant to provisions outlined in the board's rules and regulations.

Proposed law retains present law and requires the pilots to also be recommended pursuant to provisions outlined in proposed law.

Proposed law prohibits a pilot from discontinuing his duties without permission from the pilot's association to which he belongs, except for health reasons provided he furnishes proof to the board if requested.

Present law requires the board to hold examinations when it is determined necessary.

Proposed law retains present law but requires the board to determine when there is a need for more pilots.

Present law requires applicants to meet the requirements set forth in the board's Pilot Development Program and authorizes the governor to appoint applicant who has complied with present law to fill existing vacancies.

Proposed law repeals present law.

Proposed law sets forth the following criteria for participation in a pilot apprenticeship program:

- (1) A graduate of a federally approved maritime academy.
- (2) Have 5 years of experience as a master or commanding officer of a naval vessel or merchant ship.
- (3) Hold a U.S. Coast Guard license.
- (4) Be under 45 but at least 30 years of age.
- (5) Complete and maintain ship handling simulator courses and bridge resource management courses.
- (6) Have not been convicted of a felony involving drugs, personal consumption of alcohol, or a crime of truth in the 60 months preceding application.
- (7) Pass a drug test before acceptance into the program and agree to participate in a mandatory drug and alcohol program upon acceptance.

Proposed law sets forth the board's requirements for pilotage certification as follows:

- (1) A commissioned pilot shall comply with the requirements to maintain their commission.
- (2) Beginning on Jan. 1, 2022, a commissioned pilot must maintain a valid commission by attending 40 hours of continuing education classes that must meet certain criteria.

Proposed law requires the board of examiners to provide the governor, speaker of the House, and president of the Senate with an annual report of the race, age, and gender of all apprenticeship participants who are related to pilots or other public official by blood or marriage.

Proposed law prohibits the board from discriminating against an applicant during the selection or examination process in favor of a person related to a pilot or other public official, or based on race, color, religion, gender, national origin, age, disability, political affiliation, or belief.

Proposed law requires the fee commission to establish rules that provide definitions for pilotage services pursuant to present law.

Present law requires pilotage fees and rates to provide for ordinary and necessary operating expenses.

Proposed law retains present law and requires all such costs to be subject to evaluation in any proceeding before the commission that seeks or provides for any increase in pilotage fees and rates.

Present law allows the pilotage fee commission to take into account any factor relevant to the determination of reasonable and just fees and rates.

Proposed law retains present law and allows the commission to take into account any other charge, collection, or expense levied pursuant to this section.

Present law prohibits standards that are not applicable to a particular pilot service from being considered in the determination of fees and rates for such service.

#### Board of Louisiana River Pilot Review and Oversight

Present law requires members of the board to serve without compensation, but allows member appointed as former judges to get per diem of not more than \$150.

Proposed law retains present law but changes the per diem amount from not more than \$150 to the same amount established by the Louisiana Supreme Court from time to time for ad hoc judges.

Present law requires the board to meet twice a year and requires six members of the board to be present to have a quorum. Present law further requires a vote of a majority of the members of the board to make a decision of the board.

Proposed law retains present law but changes the vote needed to make a decision of the board from a majority of the members of the board to a majority of the members of the board present.

Present law requires the first meeting of the board to convene on or before March 1, 2005.

Proposed law repeals present law.

Present law authorizes the board to approve or reject proposed rules or regulations made by the

Board of Commissioners or Examiners except for emergency rules and regulations.

Proposed law retains present law but changes the requirement to make emergency rules and regulations subject to board approval by requiring the Board of Commissioners or Examiners to transmit emergency rules and regulations to the board and to each member of the board and allows a board member to request a hearing for the purpose of rejecting or approving the rule or regulation by giving notice to the chairman of the board or an officer of the board in the absence of the chairman.

Proposed law further requires a meeting requested to consider an emergency regulation or rule be held within 30 days of the request for the meeting. A vote to reject an emergency regulation or rule shall make it null and of no effect.

Proposed law requires that a review of an emergency rule conducted pursuant to proposed law be in addition to present law as set forth in the Administrative Procedure Act, and makes proposed law control with regard to the emergency rules promulgated by the Board of Commissioners or Examiners where there is a conflict between proposed law and present law as set forth in the Administrative Procedure Act.

Proposed law sets forth that the boards of commissioners or examiners are established for the purposes of prudent and safe pilotage and requires the pilot members of the Board of Commissioners or Examiners to consider the purpose of prudent in safe pilotage in their decisions and deliberations.

Proposed law requires the pilot members of the Board of Commissioners or Examiners to act independently of the pilots they regulate and to act independently of any pilots' association. Any effort to control or influence the decisions of commissioners or examiners is a violation of law.

Proposed law prohibits a pilot association, partnership, corporation, or limited liability company from creating a provision which impinges on or diminishes the authority or duties of the Board of Commissioners or Examiners.

Proposed law repeals present law.

(Amends R.S. 34:991, 992(B), 993, 1042, 1044, 1045, and 1122(B)(1) and (C), 1133(G), 1134, and 1135(B); Adds R.S. 34:992(C), 1043(C), and 1122(A)(4), 1139, and 1140; Repeals R.S. 34:1005)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.
2. Remove a provision that requires one member of the Board of River Port Pilot Commissioners for the Port of Orleans to be chosen from a list of 4 nominees submitted by the New Orleans Steamship Association, the Louisiana Association of Business and

Industry, the Louisiana Chemical Association, the Louisiana Mid-Continent Oil and Gas Association, and the International Freight Forwarders and Customs brokers Association of New Orleans, Inc and prohibits the nominee from serving on the Board of Louisiana River Pilot Review and Oversight or the Louisiana Pilotage Fee Commission.

3. Add a provision that requires one member of the Board of River Port Pilot Commissioners for the Port of Orleans to be the commander of the U.S. Coast Guard Atlantic Area, 8<sup>th</sup> district or his designee.
4. Add a provision that changes the per diem amount for the Board of Louisiana River Pilot Review and Oversight from an amount not to exceed \$150 to the same per diem established by the Louisiana Supreme Court from time to time for ad hoc judges.
5. Add a provision that makes decisions of the board final if voted on by a majority of the board members present.
6. Make changes to the regulation regarding the emergency rulemaking process of the Board of Commissioners or Examiners and requires the Board of Commissioners or Examiners to transmit emergency rules to the board and to each member of the board, allow 10 days for a member to call a meeting to review the rule, and hold a requested meeting within 30 days of the request.
7. Add a provision that sets forth the purpose of the boards of commissioners or examiners for prudent and safe pilotage and requires the pilot members of the Board of Commissioners or Examiners to consider the purpose of prudent and safe pilotage, act independently of the pilots they regulate, and act independently of any association of pilots.
8. Add that any effort by pilots or a pilots' association to influence or control the decisions of a commissioner or examiner is a violation of the law.
9. Prohibit a pilot association, partnership, corporation, or limited liability company from creating a provision that impinges on or diminishes the authority or duties of the Board of Commissioners or Examiners.