

Senate Bill 851

Sponsored by Senator JOHNSON (at the request of Oregon Board of Maritime Pilots)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Public Utility Commission to appoint executive director of Oregon Board of Maritime Pilots.

Directs board to investigate allegations of acts affecting public safety.

Imposes board operations fee.

Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

1
2 Relating to the Oregon Board of Maritime Pilots; creating new provisions; amending ORS 776.105,
3 776.123, 776.126 and 776.365; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 776.105 is amended to read:

6 776.105. (1) The Oregon Board of Maritime Pilots is established within the Public Utility Com-
7 mission of Oregon, and shall consist of nine members appointed by the Governor for terms of four
8 years. The appointments of members of the board are subject to confirmation by the Senate in the
9 manner prescribed in ORS 171.562 and 171.565.

10 (2) Three members of the board shall be public members, one of whom shall act as chairperson
11 of the board. The public members of the board may not:

12 (a) During the preceding five years or during their terms of office, have any interest in the
13 ownership, operation or management of any tugs, cargo or passenger vessels or in the carriage of
14 freight or passengers by vessel;

15 (b) During the preceding five years or during their terms of office, have any interest in any as-
16 sociation or organization represented under subsection (4) of this section or principally comprised
17 of persons engaged in commercial pursuits in the maritime industry as described in paragraph (a)
18 of this subsection in any capacity; or

19 (c) Hold or have held a maritime pilot license issued by any state or federal authority.

20 (3) Three members shall be licensees under this chapter. One member shall be a Columbia River
21 bar licensee, one member shall be a Columbia River licensee and one member shall be a Coos Bay
22 or Yaquina Bay licensee. A licensee member shall:

23 (a) Have been licensed for more than three years under this chapter;

24 (b) Be actively engaged in piloting; and

25 (c) Be a resident of this state.

26 (4) Except as provided in subsection (5) of this section, three members of the board shall, for
27 at least three years immediately preceding their appointment, have been and during their terms of
28 office be engaged in the activities of a person, as defined in ORS 174.100, that operates or represents
29 commercial oceangoing vessels.

30 (5) The Governor may appoint a past or present employee or commissioner of a port to serve

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 on the board in lieu of one of the operators or representatives of a commercial oceangoing vessel
2 under subsection (4) of this section.

3 (6)(a) The majority of members shall constitute a quorum for the transaction of all business if
4 at least one member of each group, as described in subsections (2), (3) and (4) of this section, is
5 present.

6 (b) Notwithstanding paragraph (a) of this subsection, when the board fixes pilotage fees under
7 ORS 776.115 (5) a quorum shall consist of seven members.

8 (c) Notwithstanding paragraph (a) of this subsection, for purposes of ORS 192.610 to 192.690 a
9 quorum shall consist of five members.

10 (7) The commission may appoint a member of the commission, or a designee, as a nonvoting, ex
11 officio member of the board.

12 (8)(a) The commission is responsible for the administrative oversight of the board. The respon-
13 sibilities of the commission include, but are not limited to:

14 (A) Budgeting;

15 (B) Financial management;

16 (C) Record keeping;

17 (D) Staffing;

18 (E) Purchasing and contracting;

19 (F) Collecting fees; and

20 (G) Compliance with rulemaking procedures set forth in ORS chapter 183.

21 (b) In consultation with the board, the commission shall:

22 (A) Fix the qualifications of and appoint **an executive director and** an administrative officer
23 for the board; and

24 (B) Subject to the State Personnel Relations Law, fix the compensation of the **executive di-**
25 **rector and the** administrative officer.

26 **SECTION 2. Section 3 of this 2013 Act is added to and made a part of ORS chapter 776.**

27 **SECTION 3. (1) Upon the written complaint of any person or upon its own initiative, the**
28 **Oregon Board of Maritime Pilots shall investigate any alleged incident resulting from a**
29 **licensee's operation of a vessel if there is an allegation of:**

30 (a) **Property damage over \$150,000;**

31 (b) **Loss of life or serious physical injury requiring hospitalization;**

32 (c) **A vessel colliding with a bridge;**

33 (d) **A release of 50 gallons or more of oil or another hazardous substance into the water;**

34 (e) **A violation of ORS 830.325; or**

35 (f) **Gross negligence or willful misconduct.**

36 (2) **If, after the investigation, the board has reason to believe that a licensee has engaged**
37 **in an act described in subsection (1) of this section, the board may refuse to issue or renew**
38 **a license, may suspend or revoke a license or may reprimand a licensee as provided in ORS**
39 **776.375.**

40 **SECTION 4. ORS 776.123 is amended to read:**

41 776.123. (1) The Oregon Board of Maritime Pilots may issue subpoenas to compel the attendance
42 of witnesses and the production of records, documents, books, papers, memoranda or other informa-
43 tion necessary to conduct an investigation under ORS 776.115, 776.375 or 776.405 **or section 3 of**
44 **this 2013 Act.**

45 (2) If a person fails to comply with a subpoena issued under this section, a judge of the circuit

1 court, on the application of the board, shall compel obedience by instituting proceedings for con-
 2 tempt in the same manner that the court would institute proceedings for contempt when a person
 3 fails to comply with a subpoena in a civil action.

4 **SECTION 5.** ORS 776.126 is amended to read:

5 776.126. (1) When conducting an investigation under ORS 776.115, 776.375 or 776.405 **or section**
 6 **3 of this 2013 Act**, the Oregon Board of Maritime Pilots or its authorized representative may enter
 7 and investigate a premises, ship or facility.

8 (2) When conducting an investigation under subsection (1) of this section, the board or its au-
 9 thorized representative may:

10 (a) Examine the records, documents, books, papers, memoranda or other information kept at the
 11 premises, ship or facility.

12 (b) Examine under oath an officer, agent or employee of the premises, ship or facility.

13 (3) If the board or its authorized representative is inspecting a premises, ship or facility that is
 14 not open to the public, the board or the representative shall present credentials to the owner or
 15 occupant of the premises, ship or facility and obtain the consent of the owner or occupant before
 16 conducting the inspection. If the owner or occupant denies entry to the premises, ship or facility,
 17 the board or the representative must obtain a warrant to conduct the inspection.

18 (4) The board or its authorized representative may use information obtained during an investi-
 19 gation only to fulfill the board's duties under ORS 776.115, 776.375 or 776.405 **or section 3 of this**
 20 **2013 Act**.

21 **SECTION 6.** Sections 7 and 8 of this 2013 Act are added to and made a part of ORS
 22 chapter 776.

23 **SECTION 7.** (1) Except as provided in subsection (2) of this section, each licensee under
 24 this chapter shall collect a board operations fee from each vessel using the services of a
 25 licensee. The purpose of the fee is to allow the Oregon Board of Maritime Pilots to carry
 26 out its duties, functions and powers under this chapter. The fee may not exceed the amount
 27 described in section 8 of this 2013 Act.

28 (2) The fee described in subsection (1) of this section shall be collected in the following
 29 manner:

30 (a) For vessels entering or leaving the Columbia River, licensees for the Columbia River
 31 bar pilotage ground shall collect the fee from inbound vessels and licensees for the Columbia
 32 and Willamette River pilotage ground shall collect the fee from outbound vessels.

33 (b) For vessels entering or leaving Coos Bay or Yaquina Bay, licensees for the Coos Bay
 34 or Yaquina Bay pilotage ground shall collect the fee from inbound and outbound vessels.

35 (3) The board shall prescribe the procedures for collecting and remitting the fee imposed
 36 under this section.

37 (4) Each quarter the board shall review the amount of the fee. If the board determines
 38 that the fee should be adjusted, then the board may adjust the fee subject to:

39 (a) Prior approval of the Oregon Department of Administrative Services; and

40 (b) A report to the Emergency Board.

41 **SECTION 8.** (1) Subject to subsection (2) of this section, the maximum board operations
 42 fee for a vessel is \$100.

43 (2) The Oregon Board of Maritime Pilots shall adjust the amount of the maximum board
 44 operations fee for a vessel each biennium beginning July 1, 2015, by a proportional amount
 45 equal to the percentage change in the 24-month period prior to the beginning of the biennium

1 **in the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All**
2 **Items, as published by the Bureau of Labor Statistics of the United States Department of**
3 **Labor.**

4 **SECTION 9.** ORS 776.365 is amended to read:

5 776.365. The Pilot Account is established in the State Treasury, separate and distinct from the
6 General Fund. All moneys received by the Oregon Board of Maritime Pilots under this chapter shall
7 be deposited in the account. All moneys in the account are continuously appropriated to the board
8 and the board may use the moneys only **to carry out the duties, functions and powers of the**
9 **board**, for the administration and enforcement of this chapter and for expenses incurred by the
10 Public Utility Commission in its oversight of the board.

11 **SECTION 10.** **This 2013 Act being necessary for the immediate preservation of the public**
12 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
13 **July 1, 2013.**