

Regular Session, 2013

HOUSE BILL NO. 573

BY REPRESENTATIVE CONNICK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PILOTS: Includes legal and consulting fees of Pilotage Fee Commission in pilotage fees and rates

1 AN ACT

2 To enact R.S. 34:1122(B)(4), relative to pilotage fees and rates; to provide for legal and
3 consulting expenses of certain members of the Pilotage Fee Commission; to provide
4 for the establishment of necessary fee, rate, or surcharge; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 34:1122(B)(4) is hereby enacted to read as follows:

8 §1122. Fees and charges; adjudication of disputes

9 * * *

10 B.

11 * * *

12 (4)(a) Pilotage fees and rates shall provide for the reasonable legal expenses
13 and consulting expenses of the industry members of the Pilotage Fee Commission
14 incurred in the discharge of their duties, functions, and responsibilities as provided
15 for in this Part.

16 (b) "Industry members" as used in this Paragraph shall mean those members
17 of the Pilotage Fee Commission appointed pursuant to R.S. 34:1121(B)(2).

18 (c) The Pilotage Fee Commission shall adopt rules and regulations in
19 accordance with the Administrative Procedures Act and as proposed by the industry

1 members for the purpose of establishing any necessary fee, rate, or surcharge to fund
2 such legal expenses and consulting expenses.

3 (d) At a minimum, the rules shall provide that:

4 (i) Industry members shall be solely responsible for establishing the amount
5 of such necessary fee, rate, or surcharge.

6 (ii) Industry members shall be solely responsible for retaining legal
7 representation to represent industry members, overseeing legal bills, and directing
8 legal work performed on behalf of industry members.

9 (iii) Industry members shall be solely responsible for retaining consultants,
10 including but not limited to accountants and technical experts, to assist industry
11 members, overseeing consultant bills, and directing consulting work performed on
12 behalf of industry members.

13 (iv) Industry members shall base the fee, rate, or surcharge used on the
14 amount of legal expenses and consulting expenses incurred and anticipated and any
15 available funds on hand to pay legal expenses and consulting expenses.

16 (v) Industry members shall adjust the fee, rate, or surcharge used annually.

17 (vi) Only industry stakeholders shall participate in the industry members'
18 annual proceedings to consider adjustments to the fee, rate, or surcharge used.

19 * * *

20 Section 2. This Act shall become effective upon signature by the governor or, if not
21 signed by the governor, upon expiration of the time for bills to become law without signature
22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
23 vetoed by the governor and subsequently approved by the legislature, this Act shall become
24 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Connick

HB No. 573

Abstract: Allows for the inclusion of reasonable legal and consulting expenses for certain members of the Pilotage Fee Commission in the establishment of pilotage fees, rates or surcharges.

Present law creates the Pilotage Fee Commission made up of eleven members and nine alternates appointed as follow:

- (1) 4 mmmbers and 4 alternates appointed by the governor and designated by the board of directors of the 4 pilot associations to represent the interests of the pilot associations.
- (2) 4 members and 4 alternates appointed by the governor from nominees submitted by the N.O. Steamship Assoc., the Mississippi River Maritime Assoc., the Lake Charles Maritime Assoc. and the International Freight Forwarders and Customs Brokers of N.O. Inc., LABI, the La. Chemical Assoc. and La. Mid-Continent Oil and Gas Assoc. to represent the interests of the industry.
- (3) Three at-large members and one at-large alternate.

Present law gives the fee commission exclusive authority to fix and establish reasonable and just fees and rates for:

- (1) Pilotage service to ships and vessels.
- (2) Pilotage service to ships in distress.
- (3) Extraordinary pilotage service.
- (4) A pilot being carried to sea unwillingly, which fee and rate shall include reimbursement for his return to pilot station.
- (5) The detention of a pilot.

Present law provides that pilotage fees and rates provide for all ordinary and necessary operating and administrative costs, including but not limited to the cost of, replacement of, and reasonable return on investment of pilot stations, administrative offices, furniture and fixtures, communication equipment and facilities, vessels, launches and other required vehicles of transportation and the expenses of maintaining and repairing same, other transportation expenses, the expense of maintaining necessary employees, operating materials, consumables and services, pensions, pension plans, hospitalization, disability compensation, taxes and licenses, life insurance, license insurance, trade promotions when requested to participate by industry or any port, required continuing education, legal expense, accounting expense, professional dues, administrative and professional publications, state pilot commissions, state and federal requirements, and fair average annual compensation for a state ship pilot, in comparison to regulated state ship pilotage in other United States ports. Further provides for all ordinary and necessary operating and administrative expenses of the fee commission.

Proposed law provides that pilotage fees and rates provide for reasonable legal and consulting expenses of the industry members of the fee commission. Defines "industry members" as those in present law members appointed by the governor from nominees submitted by the N.O. Steamship Assoc., the Mississippi River Maritime Assoc., the Lake Charles Maritime Assoc. and the International Freight Forwarders and Customs Brokers of N.O. Inc., LABI, the La. Chemical Assoc. and La. Mid-Continent Oil and Gas Assoc. to represent the interests of the industry.

Proposed law requires the fee commission to adopt rules and regulations as proposed by the industry members for the purpose of establishing any necessary fee, rate, or surcharge to fund the legal and consulting expenses.

Proposed law specifies that the rules should provide at a minimum that:

- (1) Industry members are solely responsible for retaining legal representation, overseeing the billing, and directing legal work performed on behalf of the industry members.
- (2) Industry members are solely responsible for retaining consultants, including accountants and technical experts, overseeing the billing and directing consulting work performed on behalf of the industry members.
- (3) Industry member are to base the fee, rate, or surcharge on the amount of expenses incurred and anticipated, and any available funds to pay the expenses.
- (4) Industry members are to adjust the fee, rate, or surcharge annually.
- (5) Only industry stakeholder are to participate in the annual proceedings to consider adjustments to the fee, rate, or surcharge.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 34:1122(B)(4))