

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1915
By: Alvarado
Texas Ports, Select
4/13/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

What does this bill do?

- S.B. 1915 seeks to mitigate the recent set of issues that have dominated the headlines regarding the Port of Houston Authority and the controversial one-way traffic policy.

Background and Purpose:

- The Port of Houston is one of the world's busiest ports, with over \$265 billion of economic impact statewide, responsible for nearly 1.2 million jobs throughout Texas.
- Currently, the commissioners of the Houston Port Authority also serve a dual role and serve as the Harris County Board of Pilot Commissioners, creating a conflict of interest as the state-certified pilots are supposed to be the final arbiter of all safety and traffic decisions on the ship channel.
- This causes an inappropriate conflict of interest as the Houston Port Authority is also a market participant and has a financial interest in the traffic decisions that the pilots make every day in the Houston Ship Channel.

C.S.S.B. 1915 Provisions:

- The committee substitute for S.B. 1915 will separate the governance of the Board of Pilot Commissioners for Harris County Ports from that of the Port Commissioners of Houston Port Authority of Harris County.
- Under C.S.S.B. 1915, the Pilot Board will be selected in the same manner as the Houston Port Authority (Section 5007.204, Special Districts Local Laws Code) with:
 - two members of the board chosen by the majority of the Houston City Council;
 - two members chosen by a majority of the Harris County Commissioners Court;
 - one member chosen by the Pasadena City Council;
 - one member chosen by the majority of the Harris County Mayors' and Councils' association;
 - two members appointed by the governor; and
 - the chair chosen by a joint committee of the City of Houston Mayor, City Council and Harris County Commissioners Court.

Fiscal Impact:

- No fiscal implication to the State is anticipated.

C.S.S.B. 1915 amends current law relating to the board of pilot commissioners for Harris County ports.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5007.209(b), Special District Local Laws Code, as follows:

(b) Deletes existing text of Subdivision (4) requiring the training program to provide the person with information regarding the duties of the port commission as the board of pilot commissioners for Harris County ports (board) under Chapter 66 (Houston Pilots Licensing and Regulatory Act), Transportation Code, and renumbers subsequent subdivisions accordingly.

SECTION 2. Amends Section 66.002, Transportation Code, by amending Subdivisions (2) and (6) and adding Subdivision (5-a), to redefine "consignee" and "pilot services" and define "pilot commissioner."

SECTION 3. Amends Section 66.011, Transportation Code, as follows:

Sec. 66.011. BOARD. Provides that the board is composed of nine pilot commissioners appointed as follows:

- (1) two pilot commissioners appointed by a majority of the city council of the City of Houston;
- (2) two pilot commissioners appointed by a majority of the Harris County Commissioners Court;
- (3) one pilot commissioner appointed by the city council of the City of Pasadena, who are required to reside in the city of Pasadena;
- (4) one pilot commissioner appointed by a majority of the Harris County Mayors' and Councils' Association, who is required to be a resident of a municipality in Harris County that is located adjacent to the Houston Ship Channel and has a population of less than 100,000;
- (5) two pilot commissioners appointed by the governor; and
- (6) the chair of the board, appointed as described by Section 66.0116, rather than the port commissioners of the Port of Houston Authority of Harris County, Texas.

SECTION 4. Amends Subchapter B, Chapter 66, Transportation Code, by adding Sections 66.0115 and 66.0116, as follows:

Sec. 66.0115. QUALIFICATIONS; VACANCY. (a) Requires each pilot commissioner, except as otherwise provided by Sections 66.011 and 66.0116, to be a property tax payer and a qualified voter in Harris County.

(b) Provides that a person is not eligible for appointment to the board if the person has previously served the equivalent of at least 12 full years on the board or is currently serving or has previously served as a port commissioner for the Port of Houston Authority of Harris County, Texas.

(c) Requires the appointing entity, not later than the 45th day after the date on which a term expires or on which a vacancy on the board begins, to appoint a new pilot commissioner. Provides that if the appointing entity fails to make the

appointment before the 45th day, the office is considered an open position and the person serving in that position is ineligible for reappointment to fill the position, and:

(1) if the appointing entity is the city council of the City of Houston, the city council of the City of Pasadena, or Harris County Mayors' and Councils' Association, the Harris County Commissioners Court is required to appoint a pilot commissioner to fill the position; or

(2) if the appointing entity is the Harris County Commissioners Court, the city council of the City of Houston is required to appoint a pilot commissioner to fill the position.

(d) Provides that if a second appointing entity under Subsection (c)(1) or (2) fails to make an appointment before the 90th day after the date on which the term expires or the vacancy begins:

(1) the office is considered an open position and the person serving in that position is ineligible for reappointment to fill the position; and

(2) the governor is required to appoint a pilot commissioner to fill the position with the advice and consent of the senate.

(e) Requires a vacancy, if the vacancy occurs through death, resignation, or other reason, to be filled in the manner provided for making the original appointment and in accordance with Subsections (c) and (d).

(f) Authorizes the governor to appoint a pilot commissioner under Subsection (d) only if the appointing entity under Subsection (c) fails to make an appointment within the period described by this section, and requires that any subsequent appointment be made by the appropriate appointing entity.

Sec. 66.0116. APPOINTMENT OF CHAIR; TERM. (a) Requires the City of Houston mayor and city council and the Harris County Commissioners Court to jointly appoint the chair of the board in January of odd-numbered years. Provided that the term of the chair expires on February 1 of each odd-numbered year.

(b) Requires the governor, if the mayor, city council, and commissioners court do not make an appointment within the period specified by this section, to appoint the chair of the board with the advice and consent of the senate. Authorizes the governor to appoint the chair only if the original appointing entities fail to make an appointment within the period described by this section, and requires that any subsequent appointment be made by the appointing entities.

(c) Requires the person appointed as the chair of the board to comply with the qualifications described by Section 61.160 (Qualifications; Compensation; Authority), Water Code.

(d) Requires the City of Houston mayor and city council, the Harris County Commissioners Court, and the Harris County judge, on the second Monday of January in each odd-numbered year, to hold a joint meeting to appoint the chair of the board.

(e) Provides that in the meeting held under Subsection (d):

(1) each city council member and the mayor is required to have one vote; and

(2) each county commissioner and the county judge is required to have the mixed-fraction number of votes equal to the sum of the number of city

council members plus the mayor divided by the sum of the number of county commissioners plus the county judge.

(f) Provides that the presence of individuals with a majority of the total potential votes is required to establish a quorum at the meeting. Provides that a separate quorum from each group, representing the city and the county, is not required. Requires the chair to be appointed by at least a majority of the total potential votes, in any combination.

(g) Provides that in the event of a tie, the city council, mayor, county commissioners, and county judge have three calendar days to deliberate, convene a meeting, and revote. Authorizes the period to be extended to allow for compliance with Chapter 551 (Open Meetings), Government Code, as it applies to the notice requirement for an open meeting. Provides that if a second vote results in a tie the office of the chair of the board is considered an open position and the person serving as the chair is not eligible for reappointment to fill the position and the governor is required to appoint the chair as provided by Subsection (b).

SECTION 5. Amends Section 66.014, Transportation Code, as follows:

Sec. 66.014. TERM OF OFFICE. Provides that pilot commissioners other than the chair serve staggered terms of two years that expire on February 1, rather than a board member serves a term of office that coincides with the member's term as a port commissioner.

SECTION 6. Amends Section 66.015, Transportation Code, as follows:

Sec. 66.015. JURISDICTION. Provides that the board has exclusive jurisdiction over the regulation of pilots who provide pilot services, rather than exclusive jurisdiction over the piloting of vessels, in Harris County ports, including intermediate stops and landing places for vessels on navigable streams wholly or partially located in the board's jurisdiction.

SECTION 7. Amends Section 66.016, Transportation Code, by adding Subsection (c) to authorize rules under this chapter involving the adoption and implementation of ship movement strategies, including navigation safety guidelines, for use by pilots in the navigable water in this state to be made only on a recommendation from not less than 80 percent of the pilots authorized to operate under the board's jurisdiction.

SECTION 8. Provides that of the two pilot commissioners of the board appointed under Sections 66.011(1), (2) and (5), Transportation Code, as amended by this Act, one pilot commissioner appointed under each subdivision serves a term expiring in an even-numbered year and one serves a term expiring in an odd-numbered year. Provides that the pilot commissioner of the board appointed under Section 66.011(3), Transportation Code, as amended by this Act, serves a term expiring in an odd-numbered year. Provides that the pilot commissioner of the board appointed under Section 66.011(4), Transportation Code, as amended by this Act, serves a term expiring in even-numbered years.

SECTION 9. Effective date: September 1, 2019.