REVISOR'S REPORT

TRANSPORTATION CODE
TITLES 1, 2, 3, 4, 6, AND 7

VOLUME I

A NONSUBSTANTIVE REVISION
OF THE STATUTES RELATING TO
TRANSPORTATION

Including
Carriers
Aviation
Navigation
Roadways
Vehicles and Traffic

To be submitted to the 74th Legislature
as part of the
Texas Legislative Council's
Statutory Revision Program

Austin, Texas
March 1995
accompanyingly.

[Chapters 26-50 reserved for expansion]

TITLE 4. NAVIGATION

SUBTITLE A. WATERWAYS AND PORTS

CHAPTER 51. TEXAS COASTAL WATERWAY ACT

Sec. 51.001. SHORT TITLE ........................................... 171
Sec. 51.002. DEFINITIONS ........................................... 171
Sec. 51.003. PURPOSE .............................................. 173
Sec. 51.004. COOPERATION WITH OTHER ENTITIES .................... 174
Sec. 51.005. LAND ACQUISITION .................................... 175
Sec. 51.006. HEARING REQUIRED BEFORE ACQUISITION OF
PROPERTY .......................................................... 177
Sec. 51.007. EVALUATION AND REPORT ............................. 179
Sec. 51.008. SCHOOL LAND BOARD POWER ............................ 179

TITLE 4. NAVIGATION

SUBTITLE A. WATERWAYS AND PORTS

CHAPTER 51. TEXAS COASTAL WATERWAY ACT

Revised Law

Sec. 51.001. SHORT TITLE. This chapter may be cited as the
Texas Coastal Waterway Act. (V.A.C.S. Art. 5415e-2, Sec. 1.)

Source Law

Art. 5415e-2
Sec. 1. This Act may be cited as the "Texas
Coastal Waterway Act of 1975."

Revisor's Note

The revised law omits the reference in Section 1, V.A.C.S. Article 5415e-2, to 1975, the year of the act, because it is clear that the legislature intended the act to apply in the years after 1975.

Revised Law

Sec. 51.002. DEFINITIONS. In this chapter:
(1) "Coastal marshes" means those soft, low-lying
watery or wet lands and drainage areas in the coastal areas of the
(2) "Coastal public land" means:
   (A) the state-owned submerged land and the water
       overlying that land; and
   (B) state-owned islands or portions of islands
       that may be affected by the ebb and flow of the tide.

(3) "Commission" means the Texas Transportation
    Commission.

(4) "Gulf Intracoastal Waterway" means the main
    channel, not including tributaries or branches, of the shallow
    draft navigation channel running from the Sabine River southward to
    the Brownsville Ship Channel near Port Isabel that is known as the
    Gulf Intracoastal Canal. (V.A.C.S. Art. 5415e-2, Secs. 4(a), (b),
    (c), (d)).

Source Law

Sec. 4. As used in this chapter:
   (a) "Coastal public lands" means all or
       any portion of the state-owned submerged land, the
       waters overlying those lands, and all state-owned
       islands or portions of islands that may be affected by
       the ebb and flow of the tide.
   (b) "Coastal marshes and similar areas"
       means those soft, low-lying watery or wet lands and
       drainage areas in the coastal areas of the state which
       may or may not be subject to the ebb and flow of the
       tide but which are of ecological significance to the
       environment and to the maintenance, preservation, and
       enhancement of wildlife and fisheries.
   (c) "Commission" means the State Highway
       Commission.
   (d) "Gulf Intracoastal Waterway" means the
       main channel, not including tributaries or branches, of
       the shallow draft navigation channel running from the
       Sabine River southward along the Texas coast to the
       Brownsville Ship Channel near Port Isabel that is
       generally referred to as the Gulf Intracoastal Canal.

Revisor's Note

(1) Section 4, V.A.C.S. Article 5415e-2, refers
    to the "State Highway Commission." The revised law
    substitutes "Texas Transportation Commission" for the
    reasons stated in the revisor's note to Section
(2) The revised law omits the phrase "which may or may not be subject to the ebb and flow of the tide" in Section 4(b), V.A.C.S. Article 5415e-2, because it is unnecessary and does not add to the clear meaning of the law.

(3) The revised law omits the definition of "person" in Section 4(e), V.A.C.S. Article 5415e-2, because it is substantively identical to the definition provided by Section 311.005, Government Code (Code Construction Act). The omitted law reads:

(e) "Person" means any individual, firm, partnership, association, corporation (public or private, profit or nonprofit), trust, or political subdivision or agency of the state.

Revised Law

Sec. 51.003. PURPOSE. This state shall act as the nonfederal sponsor of the main channel of the Gulf Coast Intracoastal Waterway from the Sabine River to the Brownsville Ship Channel in order to:

(1) support the marine commerce and economy of this state by providing for the shallow draft navigation of the state's coastal waters in an environmentally sound manner;

(2) prevent waste of publicly and privately owned natural resources;

(3) prevent or minimize adverse impacts on the environment; and

(4) maintain, preserve, and enhance wildlife and fisheries. (V.A.C.S. Art. 5415e-2, Sec. 2 (part).)

Source Law

Sec. 2. It is the policy of the State of Texas (i) to support the marine commerce and economy of this state by providing for the shallow draft navigation of the state's coastal waters in an environmentally sound fashion, and (ii) to prevent waste of both publicly and privately owned natural resources, to prevent or minimize adverse impacts on the environment, and to maintain, preserve, and enhance wildlife and fisheries;
and to accomplish such policy the State of Texas shall act as the nonfederal sponsor of the main channel of the Gulf Coast Intracoastal Waterway from the Sabine River to the Brownsville Ship Channel, . . . .

Revised Law

Sec. 51.004. COOPERATION WITH OTHER ENTITIES. (a) The commission shall cooperate with the Department of the Army, other federal and state agencies, navigation districts, port authorities, counties, and other appropriate persons to determine the state's federal local sponsorship requirements relating to the Gulf Intracoastal Waterway, shall fulfill those requirements, and shall satisfy the responsibilities of the nonfederal sponsor as determined by federal law.

(b) The commission shall coordinate actions taken under this chapter that may have a significant environmental impact or effect on coastal public land, coastal marshes, wildlife, and fisheries with appropriate federal and state agencies that have environmental, wildlife, and fisheries responsibilities.

(c) Within its authority and available resources, an agency or political subdivision of the state shall assist the commission in performing its duties under this chapter. (V.A.C.S. Art. 5415e-2, Secs. 2 (part), 6(a), (b), (d), (e) (part).)

Source Law

Sec. 2. . . . and shall satisfy the responsibilities of the nonfederal sponsor as determined by federal law consistent with the policy of the State of Texas as declared in this section.

Sec. 6. (a) The commission shall cooperate and work with the Department of the Army, all other appropriate federal and state agencies, navigation districts and port authorities, counties, and other appropriate persons to determine specifically what must be done by the State of Texas to satisfy federal local sponsorship requirements relating to the Gulf Intracoastal Waterway in a manner consistent with the policy of the State of Texas as stated in Section 2 of this Act.

(b) The commission shall fulfill, in a manner consistent with the policy of the state as stated in Section 2 of this Act, the local sponsorship requirements of the Gulf Intracoastal Waterway as agent for the state.

(d) Proposed actions and actions of the commission pursuant to this Act which have potential for significant environmental impact or effect upon
coastal public lands, coastal marshes and similar areas, wildlife, and fisheries shall be coordinated with appropriate state and federal agencies having environmental, wildlife, and fisheries responsibilities.

(e) All agencies and political subdivisions of the State of Texas shall, within their legal authority and available resources, assist the commission in carrying out the purposes of this Act.

Reviser's Note

Section 6(a), V.A.C.S. Article 5415e-2, refers to the duty of the commission to "cooperate and work with" specified departments. The reference to "work" is omitted from the revised law because "work" is included within the meaning of "cooperate."

Revised Law

Sec. 51.005. LAND ACQUISITION. (a) The commission may acquire by gift, purchase, or condemnation property or an interest in property that the commission considers necessary to enable it to meet its responsibilities under this chapter, including easements and rights-of-way for dredge material disposal sites or channel alteration.

(b) The commission may not:

(1) acquire oil, gas, sulphur, or other minerals that may be recovered without using the surface of land acquired by the commission for exploration, drilling, or mining purposes; or

(2) condemn any submerged public land under the jurisdiction of the School Land Board.

(c) An agency or political subdivision of the state may convey, without advertisement, title or rights and easements owned by the agency or political subdivision to any property the commission needs to meet its responsibilities under this chapter.

(V.A.C.S. Art. 5415e-2, Secs. 6(c) (part), (e) (part).)

Source Law

(c) . . . the commission is authorized to acquire by gift, purchase, or condemnation any property or interest in property of any kind or character deemed necessary by the commission to fulfill its responsibilities under this Act as the nonfederal
sponsior of the Gulf Intracoastal Waterway, including
but not limited to easements and rights-of-way for
dredge material disposal sites and easements and
rights-of-way for channel expansion, relocation, or
alteration, save and except oil, gas, sulphur, and
other minerals of any kind or character which can be
recovered without utilizing the surface of any such
land for exploration, drilling, or mining
purposes. . . . However, the commission does not have
the authority to condemn any submerged public lands
under the jurisdiction of the School Land Board.

(e) . . . All such agencies and political
subdivisions are hereby authorized without any form of
advertisement to make conveyance of title or rights and
easements, owned by any such body, to any property
needed by the commission to meet its responsibilities
under this Act as the nonfederal sponsor of the Gulf
Intracoastal Waterway.

Revisor's Note

(1) Section 6(c), V.A.C.S. Article 5415e-2,
refers to "property of any kind or character." The
revised law omits the phrase "of any kind or character"
as unnecessary. Section 311.005, Government Code (Code
Construction Act), defines "property" as real and
personal property. That definition applies to the
revised law.

(2) The revised law omits "but not limited to"
in the revised law because under Section 311.005,
Government Code (Code Construction Act), "includes" and
"including" are terms of enlargement and not of
limitation and do not create a presumption that terms
not expressed are excluded.

(3) The revised law omits "expansion" and
"relocation" from the phrase "expansion, relocation, or
alteration" in Section 6(c), V.A.C.S. Article 5415e-2,
because "expansion" and "relocation" are included
within the meaning of "alteration."

(4) The revised law omits as unnecessary that
part of Section 6(c), V.A.C.S. Article 5415e-2,
relating to the commission's exercise of its power of
eminent domain. Section 51.005(a) provides the
commission authority to condemn property under this chapter. Additionally, the hearing provisions of Section 51.006 clearly apply to acquisition of property by condemnation. The omitted law reads as follows:

(c) . . . All other provisions relating to the exercise of the power of eminent domain shall be in accord with the commission's existing powers and authority relating to eminent domain. . . .

Revised Law

Sec. 51.006. HEARING REQUIRED BEFORE ACQUISITION OF PROPERTY. (a) Before the commission approves or implements a plan or project to acquire property or an interest in property under Section 51.005 for a dredge material disposal site or for an alteration of the Gulf Intracoastal Waterway that requires the acquisition of additional property or an interest in property to meet its responsibilities under this chapter, the commission shall hold a public hearing to receive evidence and testimony concerning the desirability of the proposed dredge material disposal site or channel alteration.

(b) The commission shall publish notice of a plan or project and the date, time, and place of a hearing at least once a week for three successive weeks before the hearing in a newspaper of general circulation that is published in the county seat of each county in which any part of a proposed dredge material disposal site or channel alteration is located.

(c) The commission may approve the plan or project and implement it and acquire additional property if the commission determines, after the public hearing, that the proposed plan or project can be accomplished without an unjustifiable waste of publicly or privately owned natural resources or a permanent and substantial adverse impact on the environment, wildlife, or fisheries. (V.A.C.S. Art. 5415e-2, Secs. 6(c) (part), (g).)

Source Law

(c) Subject to the provisions of Subsection (g) of this section, [the commission is authorized to
acquire by gift, purchase, or condemnation any property] ....

(g) Prior to approval or implementation by the commission of any plan or project for acquisition or acquisition of any property or interest in property for any dredge material disposal site, or for the widening, relocation, or alteration of the main channel of the Gulf Intracoastal Waterway which requires the acquisition of any additional property or interest in property, to satisfy federal local sponsor requirements, the commission shall hold public hearings for the purpose of receiving evidence and testimony concerning the desirability of such proposed dredge material disposal site and of any such widening, relocation, or alteration of the main channel of the Gulf Intracoastal Waterway, prior to which hearing the commission shall publish notice of such plan, project, and hearing, at least once a week for three successive weeks in a newspaper of general circulation published in the county seat of each county in which any such proposed dredge material disposal site or part thereof is located and in which the channel or any portion of the channel of the Gulf Intracoastal Waterway to be widened, relocated, or altered is located, of the date, time, and place of such hearing. If after such public hearing the commission shall determine that such proposed dredge material site plan or project or such proposed plan or project for widening, relocation, or alteration of the main channel of the Gulf Intracoastal Waterway, as the case may be, can be accomplished without unjustifiable waste of publicly or privately owned natural resources and without permanent substantial adverse impact on the environment, wildlife, or fisheries, the commission may then, upon its approval of such plan or project, proceed to implement such plan or project and acquire, in such manner as is provided in Section 6(c) of this Act, such additional property or interest in property necessary to satisfy federal local sponsorship requirements for implementation of such plans for such dredge material site or for such widening, relocation, or alteration of the main channel of the Gulf Intracoastal Waterway.

Revisor's Note

(1) The revised law omits "widening" and "relocation" from the phrase "widening, relocation, or alteration" in Section 6(g), V.A.C.S. Article 5415e-2, for the reason stated in Revisor's Note (3) under Section 51.005.

(2) Section 6(g), V.A.C.S. Article 5415e-2, refers to Section 6(c) of "this Act." The relevant portion of that section is codified in this chapter as Section 51.005, and the revised law is drafted accordingly.
Sec. 51.007. EVALUATION AND REPORT. (a) In cooperation with appropriate persons, the commission shall continually evaluate the impact of the Gulf Intracoastal Waterway on the state. The evaluation shall include:

(1) an assessment of the importance of the Gulf Intracoastal Waterway that includes identification of its direct and indirect beneficiaries;

(2) identification of principal problems and possible solutions to those problems that includes estimated costs, economic benefits, and environmental effects;

(3) an evaluation of the need for significant modifications to the Gulf Intracoastal Waterway; and

(4) specific recommendations for legislative action that the commission believes are in the best interest of the state in carrying out the state's duties under this chapter.

(b) The commission shall publish a report of its evaluation and present the report to each regular session of the legislature.

(V.A.C.S. Art. 5415e-2, Sec. 6(f).)

Sec. 51.008. SCHOOL LAND BOARD POWER. This chapter does not diminish the duty or power of the School Land Board to manage the coastal public land of the state. (V.A.C.S. Art. 5415e-2, Sec.
(c) Nothing in this Act shall diminish the duties, powers, and authorities of the School Land Board to manage the coastal public lands of the state.

Revisor's Note

Section 5(c), V.A.C.S. Article 5415e-2, refers to the "duties, powers, and authorities of the School Land Board." The reference to "authority" is omitted from the revised law because "authority" is included within the meaning of "power."

Revisor's Note

(End of Chapter)

(1) The revised law omits as unnecessary Section 3 of V.A.C.S. Article 5415e-2 because that section, which describes legislative findings, is nonsubstantive. The omitted section reads:

Sec. 3. The legislature finds and declares that:

(a) Marine commerce is a vital element of the state's economy and the benefits derived therefrom are realized directly or indirectly by the entire state.

(b) The coastal public lands and the coastal marshes and similar coastal areas located on both publicly and privately owned lands are similarly vital elements of the state's economy, and to the maintenance, preservation, and enhancement of the environment, wildlife, and fisheries, the benefits of which are similarly realized directly or indirectly by the entire state.

(c) The coastal public lands and related natural resources constitute a vital asset of the state to be managed for the benefit of all citizens of the State of Texas.

(d) The Gulf Intracoastal Waterway traverses coastal public lands and areas in close proximity to the coastal marshes and similar coastal areas located on both publicly and privately owned lands.

(e) The Gulf Intracoastal Waterway can be maintained, operated, and improved in such a way as to prevent waste of both publicly and privately owned natural resources, that adverse environmental impacts are avoided or minimized, and that in some cases beneficial environmental effects can be
realized.

(f) It is in the best interest of all citizens to accomplish the policy of the State of Texas as stated in Section 2 of this Act for the State of Texas to meet the responsibilities as required by federal law of the nonfederal sponsor of the Gulf Intracoastal Waterway.

(2) The revised law omits as unnecessary Section 5(a) of V.A.C.S. Article 5415e-2 because the administration of the chapter is covered by the substantive provisions of this chapter. The omitted provision reads:

Sec. 5. (a) This Act shall be administered by the State Highway Commission.

(3) The revised law omits as unnecessary Section 5(b) of V.A.C.S. Article 5415e-2, relating to the cumulative effect of the article. An accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are inconsistent. The general principle applies to this provision. The omitted subsection reads:

(b) The provisions of this Act are cumulative of all other Acts relating to the commission.

(4) The revised law omits as unnecessary Section 7 of V.A.C.S. Article 5415e-2, authorizing the legislature to appropriate general revenue funds to administer the Texas Coastal Waterway Act of 1975. The legislature has the power to appropriate money without an express statement to that effect. The omitted provision reads:

Sec. 7. The legislature is hereby authorized to appropriate from the General Revenue Fund funds in the amount necessary to accomplish the purposes of this Act.

CHAPTER 52. TEXAS DEEPWATER PORT PROCEDURES ACT

Sec. 52.001. SHORT TITLE ........................................ 182

Sec. 52.002. DEFINITIONS ........................................ 182
CHAPTER 52. TEXAS DEEPWATER PORT PROCEDURES ACT

Revised Law
Sec. 52.001. SHORT TITLE. This chapter may be cited as the Texas Deepwater Port Procedures Act. (V.A.C.S. Art. 5415i, Sec. 1.)

Source Law
Art. 5415i
Sec. 1. This Act shall be entitled the Texas Deepwater Port Procedures Act.

Revised Law
Sec. 52.002. DEFINITIONS. In this chapter:

(1) "Adjacent coastal county" means a county bordering the Gulf of Mexico that has an onshore storage facility for a deepwater port for which an application has been filed.

(2) "Commissioner" means the commissioner of the General Land Office or the commissioner's designated representative.

(3) "Deepwater port" means a facility defined in Section 3(10), Deepwater Port Act of 1974 (33 U.S.C. Sec. 1502(10)), and includes an onshore storage tank facility and the pipelines located in this state that connect the onshore
storage tank facility with an offshore facility of a deepwater port.

(4) "Person" means an individual, association, organization, trust, partnership, or corporation.

(5) "Secretary" means the United States secretary of transportation.

(6) "State or local agency" means a board, commission, department, office, agency, or political subdivision of the state or of a county or municipality, or another public body created by or under state law. (V.A.C.S. Art. 5415i, Secs. 3(1), (4), (5), (7), (9); New.)

Source Law

Sec. 3. In this Act:

(1) "Adjacent coastal county" means any Texas county, bordering on the Gulf of Mexico, in which are located the onshore storage facilities of a deepwater port, as defined in Subdivision (5) herein.

(4) "Commissioner" means the commissioner of the general land office, or his designated representative.

(5) "Deepwater port" means (A) the facilities defined in Section 3(10) of the federal Deepwater Port Act of 1974, 33 U.S.C.A. 1501 et seq., and also includes (B) the onshore storage tank facilities and the pipelines located within the State of Texas which connect such onshore storage facilities with the offshore facilities of a deepwater port.

(7) "Person" means any individual, association, organization, trust, partnership, or corporation.

(9) "State or local agency" means any board, commission, department, office, agency, or political subdivision of the state or of any county or city in the state, or any other public body created by or pursuant to state law.

Reviser's Note

(1) The revised law omits as unnecessary the definition in V.A.C.S. Article 5415i of "applicant" because it is a common word and the meaning is clear from the context. The omitted law reads:

(2) "Applicant" means a person who has filed an application, as defined in Subdivision (3) below.
(2) The revised law omits as unnecessary the definition in V.A.C.S. Article 5415i of "governor" because it is clear from the context that "governor" means the governor of the State of Texas. The omitted law reads:

   (6) "Governor" means the Governor of the State of Texas.

(3) The revised law omits as unnecessary the definition in V.A.C.S. Article 5415i of "state." The omitted law reads:

   (8) "State" means the State of Texas.

(4) The definition of "secretary" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

(5) Section 3(9), V.A.C.S. Article 5415i, refers to a "city." The revised law substitutes the term "municipality" for "city" because that is the term used in the Local Government Code.

Revised Law

Sec. 52.003. GENERAL ADMINISTRATION. (a) The governor shall approve or disapprove an application made to the secretary under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) to own, construct, or operate a deepwater port off the Texas Gulf Coast.

(b) The commissioner shall administer, implement, and coordinate the provisions of this chapter regarding a determination by state and local agencies of the application's compliance with state and local laws regarding environmental protection, land and water use, and coastal zone management. (V.A.C.S. Art. 5415i, Secs. 3(3) (part), 4.)

Source Law

[Sec. 3]

(3) "Application" means any application
submitted under the federal Deepwater Port Act of 1974, 33 U.S.C.A. 1501 et seq., (A) for a license for the ownership, construction, and operation of a deepwater port; . . . .

Sec. 4. The governor is hereby designated as the officer of the state to approve or disapprove an application to the secretary of transportation to own, construct, or operate a deepwater port off the Texas Gulf Coast. The commissioner of the general land office is hereby designated the officer of the state charged with the administration, implementation, and coordination of the provisions of this Act relating to the determination by state or local agencies that such an application complies with state and local laws relating to environmental protection, land and water use, and coastal zone management.

Revisor's Note
The revised law omits Sections 3(3)(B) and (C), V.A.C.S. Article 5415i, because federal law requires an application for an initial license only. The omitted law reads:

[(3) "Application" means any application submitted under the federal Deepwater Port Act of 1974, 33 U.S.C.A. 1501 et seq., . . . (B) for transfer of any such license; or (C) for any substantial change in any of the conditions and provisions of any such license.

Revised Law
Sec. 52.004. APPLICATION: GOVERNOR'S DUTIES. (a) On receipt of a copy of an application from the secretary, the governor shall immediately send a copy to the attorney general and the commissioner.

(b) If the governor determines that the application is substantially similar to an application previously reviewed under this chapter, the governor may approve or disapprove the application without further action under this chapter and notify the secretary of the action taken. (V.A.C.S. Art. 5415i, Secs. 5(a), (b).)

Source Law
Sec. 5. (a) Upon receipt of a copy of an application transmitted from the secretary of transportation pursuant to the federal Deepwater Port Act of 1974, 33 U.S.C.A. 1501 et seq., the governor shall immediately transmit a copy of the application to
the commissioner of the general land office and to the
Attorney General of Texas.

(b) If the governor determines that the
application transmitted from the secretary of
transportation is substantially similar to a previous
application already reviewed under the terms of this
Act, the governor may notify the secretary of
transportation whether the governor approves or
disapproves the application, and there shall be no
further proceedings under this Act on such application.

Revised Law
Sec. 52.005. APPLICATION TO BE FILED; FEE FOR DUPLICATION
AND MAILING. (a) A copy of the application shall be filed in the
General Land Office and in the office of the county judge of the
adjacent coastal county.

(b) The public may inspect or duplicate the application
during normal business hours. A reasonable fee may be charged for
duplicating and mailing the application. (V.A.C.S. Art. 5415i,
Sec. 5(i) (part).)

Source Law
(i) One copy of the application shall be filed
in the general land office and in the office of the
county judge of the adjacent coastal county for public
inspection and shall be available to the public for
inspection or duplication during normal business hours.
A person requesting a copy of the application may be
charged a reasonable fee for duplicating and mailing
costs... .

Revised Law
Sec. 52.006. DUTIES OF ATTORNEY GENERAL AND COMMISSIONER;
FEE FOR DUPLICATION AND MAILING. (a) Not later than the 30th day
after the date of receiving a copy of the application from the
governor, the attorney general shall send the governor and the
commissioner a list of each state or local agency that the attorney
general determines has jurisdiction to administer laws regarding
environmental protection, land and water use, and coastal zone
management in the area in which the deepwater port is located.

(b) On receipt of the list, the commissioner shall
immediately send a copy of the application to each state and local
agency.
(c) The applicant may be charged a reasonable fee to cover the cost of duplicating and mailing the application to the state and local agencies unless the applicant provides the necessary copies. (V.A.C.S. Art. 5415i, Secs. 5(d), (e) (part), (i) (part).)

Source Law

(d) Within 30 days after the receipt of an application from the governor, the attorney general shall determine and forward to the governor and to the commissioner a list of the state or local agencies which have jurisdiction to administer laws relating to environmental protection, land and water use, and coastal zone management, and also within whose boundaries are located facilities constituting a deepwater port, as defined by Section 3(5) herein.

(e) Upon receipt of the list of state or local agencies prepared by the attorney general pursuant to Subsection (d) of this section, the commissioner shall immediately transmit a copy of the application to each such state or local agency . . . .

(i) . . . The applicant may be charged a reasonable fee to cover the costs of reproducing and mailing copies of applications to state and local agencies, unless the applicant provides the number of copies required by such agencies.

Revised Law

Sec. 52.007. PUBLICATION OF NOTICE. Not later than the 15th day after the date of receiving a copy of the application from the governor, the commissioner shall publish notice of the application in:

(1) the Texas Register;

(2) the newspaper having the greatest general circulation in Travis County and in each of the five most populous counties in the state; and

(3) a newspaper in the adjacent coastal county and in each county that adjoins the adjacent coastal county in which notice is not otherwise required to be published under this section. (V.A.C.S. Art. 5415i, Sec. 5(c).)

Source Law

(c) Within 15 days after the receipt of an application from the governor, the commissioner shall publish notice of the application in any official register of the State of Texas, in the newspaper of
greatest general circulation in Travis County and in each of the five most populous counties in Texas, according to the latest United States census, and in a newspaper in the adjacent coastal county and in any county adjoining the adjacent coastal county in which such notice would not have otherwise been published under this subsection.

Revisor's Note

(1) Section 5(c), V.A.C.S. Article 5415i, refers to "any official register of the State of Texas." The Texas Register is the official register of the state, and the revised law makes that change.

(2) Section 5(c), V.A.C.S. Article 5415i, describes a population number that is to be determined according to the most recent United States census. The revised law omits the reference to the United States census because the reference is unnecessary. Section 311.005(3), Government Code (Code Construction Act), and Section 312.011(20), Government Code, define "population" as population according to the most recent federal decennial census. That definition applies to the revised law.

Revised Law

Sec. 52.008. REPORT BY AGENCIES. (a) Not later than the 60th day after the date of receiving a copy of the application from the commissioner, a state or local agency notified under Section 52.006 shall report in writing to the commissioner the agency's determination of whether the application complies with laws, including rules and regulations, administered by the agency.

(b) If an agency determines that the application does not comply with laws administered by that agency, the agency shall include in the report:

(1) a detailed description of the manner in which the application does not comply; and

(2) recommended changes that would enable the
application to comply with those laws.

(c) The commissioner shall send a copy of the agency's report to the applicant.

(d) An applicant is entitled to:

(1) respond in writing to the agency that issued the report; and

(2) request and receive a public hearing before the commissioner on the provisions of the application that an agency has determined do not comply with laws administered by that agency.

(e) If an agency fails to file a report within the period prescribed by Subsection (a), the application is presumed to comply with the laws administered by that agency. (V.A.C.S. Art. 5415i, Secs. 5(e) (part), (f), (g), (h), 6(a).)

Source Law

[Sec. 5]

(e) [Upon receipt of the list of state or local agencies prepared by the attorney general pursuant to Subsection (d) of this section, the commissioner shall immediately transmit a copy of the application to each such state or local agency] for review and determination of whether the application complies with the laws or regulations administered by such state or local agency.

(f) The state or local agency shall report such determination to the commissioner in writing within 60 days after its receipt of a copy of the application from the commissioner.

(g) If any state or local agency reports to the commissioner that the application is not in compliance, such agency shall set forth in detail the manner in which the application does not comply with any law or regulation administered by the agency and shall report to the commissioner how the application can be brought into compliance with the law or regulation involved. A copy of such report shall be forwarded by the commissioner to the applicant, and the applicant shall be entitled to respond in writing to the state or local agency which issued such report and to request that a public hearing be held by the commissioner on the provisions of the application determined by the state or local agency not to comply with state or local law.

(h) The failure of a state or local agency to forward a determination report to the commissioner within the time period established in Subsection (f) of this section shall constitute a presumption that the application complies with the law or regulations administered by that agency.

Sec. 6. (a) As provided in Section 5(f) of this Act, an applicant shall be entitled to a public hearing on the provisions in his application which have been determined by a state or local agency not to be in compliance with the laws which they have jurisdiction
Revisor's Note

(1) Sections 5(g) and (h), V.A.C.S. Article 5415i, refer to "regulations." The reference to "regulations" is changed to "rules and regulations" in the revised law because a state or local agency may have authority to enforce federal regulations.

(2) Section 5(h), V.A.C.S. Article 5415i, refers to "Subsection (f) of this section." That subsection is codified in this section as Subsection (a), and the revised law is drafted accordingly.

Revised Law

Sec. 52.009. HEARINGS. (a) The commissioner may hold a public hearing after receiving the reports required under Section 52.008.

(b) If the commissioner decides to hold a public hearing or if the applicant requests a hearing under Section 52.008(d)(2), the commissioner shall publish notice of the hearing in the publications described by Section 52.007.

(c) Notice of the hearing must:

(1) describe the purpose of the hearing; and

(2) provide the date, time, and place of the hearing.

(d) Notice of the hearing must be published and personal notice of the hearing, if any, must be given not later than the 10th day before the date set for the hearing.

(e) The commissioner may consolidate a hearing held under this section with the hearing that is required to be held in this state by the secretary under the Deepwater Port Act of 1974 (33 U.S.C. Sec. 1501 et seq.).

(f) A hearing held under this section must be concluded not later than the 120th day after the date the commissioner receives the application from the governor. The commissioner may hold a hearing after that date if:
(1) the required federal hearing in this state has not been held; and

(2) the commissioner decides to consolidate the hearings and gives notice of the decision. (V.A.C.S. Art. 5415i, Secs. 6(b), (c), (d), (e).)

Source Law

(b) Upon receipt of a request from an applicant for such a hearing, the commissioner shall publish notice of such hearing as provided in Section 5(b) of this Act. The notice shall describe the purpose of the hearing and the date, time, and place of the hearing. The date of the publication and of any personal notice of the hearing shall be not less than 10 days before the date set for the hearing.

(c) The commissioner may also hold a public hearing on the determination of compliance reports submitted to him by the state and local agencies. Notice of such hearing shall be given as provided by Subsection (b) of this section.

(d) The commissioner may consolidate any hearing held under this section with the hearing required by the federal Deepwater Port Act of 1974, 33 U.S.C.A. 1501 et seq., to be held in Texas by the secretary of transportation.

(e) All hearings on the application shall be concluded not later than 120 days after the date on which the commissioner received the application from the governor; provided, however, that the commissioner shall be entitled to hold a hearing after such 120 day period if the federal hearing required to be held in Texas has not been held and the commissioner has determined and given notice that a hearing provided for in this section will be held in conjunction with the federal hearing.

Revisor's Note

Section 6(b), V.A.C.S. Article 5415i, refers to "Section 5(b) of this Act." The source law cross-reference is incorrect. It is clear from the context that the correct cross-reference should be Section 5(c). That subsection is codified in this chapter as Section 52.007, and the revised law is drafted accordingly.

Revised Law

Sec. 52.010. REPORT BY COMMISSIONER. (a) Notwithstanding Section 52.009(f), not later than the 150th day after the date of receiving a copy of the application from the governor, the
commissioner shall send the governor:

(1) a written report summarizing the reports submitted by state and local agencies under Section 52.008; and

(2) a transcript of the testimony from each public hearing the commissioner held on the application, including each consolidated hearing.

(b) If the commissioner's report contains a determination by a state or local agency that the application does not comply with a law relating to environmental protection, land and water use, or coastal zone management, the commissioner shall include in the report:

(1) the manner in which the application does not comply; and

(2) recommended changes that would enable the application to comply with the law.

(c) If the commissioner fails to report to the governor within the period prescribed by Subsection (a), the application is presumed to comply with state and local law. (V.A.C.S. Art. 5415i, Secs. 6(f), 7.)

Source Law

[Sec. 6]
(f) Notwithstanding Subsection (e) of this section, the commissioner shall be required to comply with the date provided in Section 7(a) for transmitting his report to the governor.

Sec. 7. (a) Within 150 days after the receipt of an application from the governor, the land commissioner shall transmit to the governor a report in the form of a written summary of the determination of compliance reports submitted by any state or local agency, together with the transcript and testimony from any public hearing held by the commissioner or any joint hearing held in the state with the secretary of transportation.

(b) If the commissioner's report contains a determination by a state or local agency that the application does not comply with a law relating to environmental protection, land and water use, or coastal zone management, the commissioner shall include in his report the manner in which the application does not comply and how the application can be brought into compliance.

(c) The failure of the commissioner to transmit his summary report to the governor within the time period established in Subsection (a) of this section shall constitute a presumption that the application complies with state and local law.
Reviser's Note

Section 6(f), V.A.C.S. Article 5415i, refers to "Subsection (e) of this section." That statute is codified in this code as Section 52.009(f), and the revised law is drafted accordingly.

Revised Law

Sec. 52.011. APPROVAL BY GOVERNOR. (a) On receipt of the commissioner's report and not later than 45 days after the last public hearing held by the secretary as required by Section 5(g) of the Deepwater Port Act of 1974 (33 U.S.C. Sec. 1504(g)), the governor shall notify the secretary whether the governor approves or disapproves an application.

(b) The governor may disapprove an application if the governor concludes the application does not comply with state law regarding environmental protection, land and water use, and coastal zone management.

(c) If the governor determines the application can be amended to comply with those state laws, the governor may approve the application and notify the secretary of:

(1) the manner in which the application does not comply; and

(2) recommended changes that would enable the application to comply with those state laws.

(d) The governor shall send a copy of the notification to the secretary, the applicant, the commissioner, and each state and local agency that was notified under Section 52.006. (V.A.C.S. Art. 5415i, Sec. 8.)

Source Law

Sec. 8. (a) Upon receipt of the report from the commissioner, and not later than 45 days after the last public hearing held on the application by the secretary of transportation pursuant to Section 5(g) of the federal Deepwater Port Act of 1974, 33 U.S.C.A. 1501 et seq., the governor shall notify the secretary of transportation whether he approves or disapproves the application.

(b) If the governor concludes that the application does not comply with state laws relating to
environmental protection, land and water use, and
coastal zone management, he may disapprove the
application. However, if he concludes that the
application can be amended to comply with such laws, he
may approve the application and shall notify the
secretary of transportation of the manner in which the
application does not comply and how the application can
be brought into compliance with such laws.

(c) The governor shall transmit copies of his
notification to the secretary, the applicant, the
commissioner, and to the state and local agencies to
whom were transmitted copies of the application by the
commissioner pursuant to Section 5(d) herein.

Reviser's Note

The source law refers to "Section 5(d) herein,"
meaning Section 5(d), V.A.C.S. Article 5415i. The
source law cross-reference is incorrectly cited. The
correct citation should be Section 5(e). The pertinent
part of that statute is codified in this code in
Section 52.006, and the revised law is drafted
accordingly.

Revised Law

Sec. 52.012. EFFECT ON OTHER LAWS. This chapter does not
affect the power or activities of a state or local agency and does
not change or repeal the statutes regarding those agencies.
(V.A.C.S. Art. 5415i, Sec. 13.)

Source Law

Sec. 13. Nothing herein shall be construed in
any way to limit, impair, diminish, change, or curtail
the power, authority, and activities of any state or
local governmental agency, but all power and authority
vested in and exercised by such agencies are hereby
specifically reserved as to them; and none of the
statutory law pertaining to those existing authorities
or districts is amended, changed, or repealed by the
provisions hereof.

Reviser's Note

(1) Section 13, V.A.C.S. Article 5415i, refers
to "limit, impair, diminish, change, or curtail the
power, authority, and activities of any state or local
governmental agency." The revised law omits the words
"limit, impair, diminish" and "curtail" because they
are included in the meaning of the word "change." The revised law also omits the word "authority" because "authority" is included in the meaning of the word "power."

(2) Section 13, V.A.C.S. Article 5415i, refers to a "state or local governmental" agency. The revised law omits the word "governmental" because the term is included within the meaning of "political subdivision" in the definition of "state or local agency" in Section 52.002.

(3) Section 13, V.A.C.S. Article 5415i, refers to "statutory law . . . amended, changed, or repealed . . . ." The revised law omits "amended" because it is included in the meaning of "changed."

Revisor's Note
(End of Chapter)

The revised law omits as nonsubstantive and unnecessary the source law statement of the purpose of the legislation, Section 2, V.A.C.S. Article 5415i. The omitted law reads:

Sec. 2. The purpose of this Act is to authorize state and local governmental agencies to perform and fulfill the responsibilities of the State of Texas under the federal Deepwater Port Act of 1974, 33 U.S.C.A. 1501 et seq., and to establish the procedures by which such state and local agencies will determine that applications for deepwater ports off the Texas Gulf Coast are in compliance with applicable state and local laws.

[Chapters 53-60 reserved for expansion]

SUBTITLE B. PILOTS

CHAPTER 61. COMPULSORY PILOTAGE

Sec. 61.001. SHORT TITLE ........................................ 196
Sec. 61.002. DEFINITIONS ........................................ 196
Sec. 61.003. DUTY TO ENGAGE PILOT .............................. 197
Sec. 61.004. PAYMENT FOR PILOT ................................. 198
Sec. 61.005. PILOT OPTIONAL ..................................... 198
Sec. 61.001. SHORT TITLE. This chapter may be cited as the Texas Compulsory Pilotage Act. (V.A.C.S. Art. 8278, Sec. 1.)

Sec. 61.002. DEFINITIONS. In this chapter:

(1) "Board" means the board of pilot commissioners for a port.

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

(3) "Pilot" means a licensed state pilot or certified deputy pilot.

(4) "Pilot services" means acts of a pilot in piloting through navigable water in this state and ports in which the pilot is licensed or certified as a pilot.

(5) "Pilotage rate" means the remuneration a pilot may charge a vessel for the pilot's services.

(6) "Port" means a place in this state into which a vessel enters or from which a vessel departs. If the port connects
to the Gulf of Mexico, "port" includes the waterway leading from
the port to the Gulf of Mexico.

(7) "Vessel" means an oceangoing vessel. (V.A.C.S.
Art. 8278, Sec. 2.)

Source Law

Sec. 2. In this article:
(1) "Board" means the board of pilot
commissioners for each port affected by this article.
(2) "Consignee" means the person,
including the master, owner, agent, subagent, firm, or
corporation or any combination of these, that enters or
clears a vessel at the office of the collector of
Customs.
(3) "Pilot" means a licensed state pilot
or certified deputy pilot.
(4) "Pilot services" means acts of a pilot
in piloting through the navigable water within the
boundaries of this state and the ports in which the
pilot is licensed or certified as a pilot.
(5) "Pilotage rate" means the amount of
remuneration a pilot may lawfully charge a vessel for
the pilot's services.
(6) "Port" means a place in this state
into which a vessel enters or from which a vessel
departs. If the port connects to the Gulf of Mexico,
"port" includes the waterway leading from the port to
the Gulf of Mexico.
(7) "Vessel" means every oceangoing vessel
navigating the water within the board's jurisdiction
except vessels exempt from payment of pilotage rates
under this article.

Revisor's Note

The revised law omits the language in the
definition of "vessel" in Section 2(7), V.A.C.S.
Article 8278, that excepts vessels exempt from payment
of pilotage rates under V.A.C.S. Article 8278. The
reference is unnecessary because Section 3, V.A.C.S.
Article 8278, codified as Section 61.003, contains the
exemptions.

Revised Law

Sec. 61.003. DUTY TO ENGAGE PILOT. (a) A consignee having
control of a vessel shall obtain a pilot to provide pilot services
when the vessel is under way or otherwise moving on a river, bay,
harbor, or port in this state unless the vessel is:

(1) documented as a United States vessel and licensed
for and engaged in coastwise trade;

(2) a public vessel;

(3) of 20 gross tons or less;

(4) a motorboat registered in this state; or

(5) subject to Subsection (b), in distress or jeopardy.

(b) A consignee having control of a vessel that is in distress or jeopardy shall take on a pilot as soon as the pilot arrives at the vessel. (V.A.C.S. Art. 8278, Secs. 3, 4(a).)

Source Law

Sec. 3. (a) A vessel shall engage a pilot to provide pilot services when underway or otherwise moving on a river, bay, harbor, or port in this state unless the vessel is:

(1) documented as a United States vessel and is licensed for and engaged in coastwise trade;

(2) a public vessel;

(3) of 20 gross tons or less;

(4) a motorboat registered in this state; or

(5) subject to Subsection (b) of this section, in distress or jeopardy.

(b) A vessel that is in distress or jeopardy shall take on a pilot as soon as the pilot arrives at the vessel.

Sec. 4. (a) A consignee of a vessel that is subject to Section 3 of this article and that is under the consignee's control shall obtain a pilot to provide pilot services when the vessel is underway or otherwise moving on a river, bay, harbor, or port in this state.

Revised Law

Sec. 61.004. PAYMENT FOR PILOT. A consignee shall pay a pilot at the applicable pilotage rates. (V.A.C.S. Art. 8278, Sec. 4(b).)

Source Law

(b) The consignee shall pay the pilot for the pilot services at the applicable pilotage rates.

Revised Law

Sec. 61.005. PILOT OPTIONAL. This chapter does not prohibit a consignee not required by Section 61.003 to engage a pilot from applying for, receiving, and paying for pilot services. (V.A.C.S. Art. 8278, Sec. 4(c).)
(c) This section does not prohibit the consignee of a vessel that is not subject to Section 3 of this article from applying for, receiving, and paying for pilot services for the vessel.

Sec. 61.006. BOARD JURISDICTION. A board has exclusive jurisdiction over piloting of vessels in this state between the Gulf of Mexico and the ports in the board's jurisdiction. (V.A.C.S. Art. 8278, Sec. 5.)

Sec. 5. The board has exclusive jurisdiction over piloting of vessels in this state between the Gulf of Mexico and the ports within the board's jurisdiction.

Sec. 61.007. ATTORNEY GENERAL. The attorney general shall assist a board in the enforcement of this chapter. (V.A.C.S. Art. 8278, Sec. 6.)

Sec. 6. The office of the attorney general shall assist the board in the enforcement of this article.

Sec. 61.008. LIABILITY TO PILOT. (a) A person who pilots a vessel in violation of this chapter is liable for an amount equal to the applicable pilotage rate to the pilot who first demands the amount in writing.

(b) A pilot may bring an action to enforce this section in district court in the county in which the violation occurred.

(c) In an action under Subsection (b), the court shall add to the amount of any judgment in favor of a pilot court costs and reasonable attorney's fees incurred by the pilot in obtaining the judgment. (V.A.C.S. Art. 8278, Sec. 7.)

Sec. 7. (a) A person who pilots a vessel in violation of this article is liable for an amount equal
to the applicable pilotage rate to the pilot who first
demands the amount in writing.
(b) The pilot may bring an action in a district
court in the county in which the violation occurred to
enforce this section.
(c) A court shall add to the amount of any
judgment in favor of a pilot in an action under
Subsection (b) of this section court costs and
reasonable attorney fees incurred by the pilot in
obtaining the judgment.

Revised Law
Sec. 61.009. LIABILITY TO BOARD. (a) A vessel or the owner
of a vessel that is piloted in violation of this chapter is liable
to a board for $5,000 for each violation.
(b) The board may bring an action to enforce this section in
district court in the county in which the violation occurred.
(c) In an action under Subsection (b), the court shall add
to the amount of any judgment in favor of the board court costs and
reasonable attorney fees incurred by the board in obtaining the
judgment. (V.A.C.S. Art. 8278, Sec. 8.)

Source Law
Sec. 8. (a) A vessel or the owner of a vessel
that is piloted in violation of this article is liable
to the board for $5,000 for each violation.
(b) The board may bring an action in a district
court in the county in which the violation occurred to
enforce this section.
(c) A court shall add to the amount of any
judgment in favor of the board in an action under
Subsection (b) of this section court costs and
reasonable attorney fees incurred by the board in
obtaining the judgment.

Revised Law
Sec. 61.010. COOPERATION. A pilot providing pilot services
shall, to the extent possible, cooperate with the master of the
vessel. (V.A.C.S. Art. 8278, Sec. 11.)

Source Law
Sec. 11. A state-licensed pilot, while providing
pilot services, shall, to the extent possible,
cooperate with the master of the vessel.
Revisor's Note

The source law refers to a "state-licensed pilot." The revised law substitutes "pilot" because that term is defined in Section 61.002 to mean a licensed state pilot or certified deputy pilot.

Revised Law

Sec. 61.011. CERTAIN UNITED STATES LICENSE REQUIRED; OFFENSE. (a) A person may not act as a state-commissioned pilot of a vessel in any water in this state unless the person is licensed under Title 46, United States Code.

(b) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

(V.A.C.S. Art. 8280e.)

Source Law

Art. 8280e. (a) No person may act as a Texas commissioned pilot of a vessel in state waters unless that person is also duly commissioned pursuant to Title 46, United States Code.

(b) A person who violates this article is guilty of a Class A misdemeanor.

Revisor's Note

Subsection (a), V.A.C.S. Article 8280e, refers to a person who has been "duly commissioned" under Title 46, United States Code. The revised law omits "duly" as unnecessary. The revised law substitutes "licensed" for "commissioned" because 46 U.S.C. Section 7101 authorizes the issuance of "licenses" to pilots.

Revisor's Note

(End of Chapter)

(1) The revised law omits as unnecessary Section 9, V.A.C.S. Article 8278, relating to the cumulative effect of that article. An accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in
conflict. The general principle applies to this revision. Section 9 reads:

Sec. 9. The liabilities established by this article are cumulative of the rights and remedies available to a pilot or pilots under any other law.

(2) Section 10, V.A.C.S. Article 8278, states that the article prevails over all laws in conflict with that article. This revision omits this provision as unnecessary because, under general rules of statutory construction, a statute automatically has the effect of repealing prior conflicting enactments. The provision is ineffective to supersede subsequent legislation. Section 10 reads:

Sec. 10. To the extent that this article conflicts with any other law, this article prevails.

CHAPTER 62. NAVIGATION DISTRICT PILOT BOARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 62.001. DEFINITION ........................................... 203

[Sections 62.002-62.020 reserved for expansion]

SUBCHAPTER B. PILOT BOARDS OF NAVIGATION DISTRICTS

Sec. 62.021. PILOT BOARD; COMMISSIONERS OF PILOTS ............. 203

Sec. 62.022. TERM OF OFFICE ..................................... 204

Sec. 62.023. DISQUALIFICATION ................................... 204

Sec. 62.024. JURISDICTION ....................................... 205

Sec. 62.025. POWERS OF PILOT BOARDS ............................. 205

[Sections 62.026-62.040 reserved for expansion]

SUBCHAPTER C. REGULATION OF BRANCH AND DEPUTY PILOTS

Sec. 62.041. BRANCH OR DEPUTY PILOT QUALIFICATIONS .......... 207

Sec. 62.042. OATH; BOND ........................................... 208

Sec. 62.043. ISSUANCE OF BRANCH PILOT LICENSE .................. 209

Sec. 62.044. TERM OF BRANCH PILOT LICENSE ........................ 210

Sec. 62.045. APPOINTMENT OF DEPUTY PILOTS ....................... 210

Sec. 62.046. SUSPENSION OR DISMISSAL OF PILOTS .................. 211

[Sections 62.047-62.060 reserved for expansion]
CHAPTER 62. NAVIGATION DISTRICT PILOT BOARDS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 62.001. DEFINITION. In this chapter, "navigation district" means a navigation district included in:

(1) Subchapters C, D, E, F, G, and H, Chapter 60, Water Code;

(2) Subchapter E, Chapter 61, Water Code; or


(New.)

Revisor's Note

The definition of "navigation district" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

[Sections 62.002-62.020 reserved for expansion]

SUBCHAPTER B. PILOT BOARDS OF NAVIGATION DISTRICTS

Revised Law

Sec. 62.021. PILOT BOARD; COMMISSIONERS OF PILOTS. (a) The pilot board of a navigation district is composed of the district's navigation and canal commissioners.
(b) A member of the pilot board is a commissioner of pilots.

(V.A.C.S. Art. 8248 (part).)

Source Law

Art. 8248. The navigation and canal commissioners of any navigation district included in Part A of this subdivision, in connection with their other duties as such commissioners, shall constitute a Pilot Board, and be commissioners of pilots . . . .

Revisor's Note

V.A.C.S. Article 8248 refers to "any navigation district included in Part A of this subdivision . . . ." "Part A of this subdivision" refers to V.A.C.S. Articles 8229 through 8247e. Those statutes were codified in 1971 as Subchapters C, D, E, F, G, and H, Chapter 60, Water Code; Subchapter E, Chapter 61, Water Code; and Sections 62.154 through 62.159, Water Code. The revised law is drafted accordingly. See the definition of "navigation district" provided by Section 62.001 of this chapter.

Revised Law

Sec. 62.022. TERM OF OFFICE. The term of office of a commissioner of pilots coincides with the person's term as a navigation and canal commissioner. (V.A.C.S. Art. 8248 (part).)

Source Law

Art. 8248. . . . and their terms of office as such shall be contemporaneous with their terms of office as navigation and canal commissioners. . . .

Revised Law

Sec. 62.023. DISQUALIFICATION. A person who is engaged directly or indirectly in a towing, pilot boat, or other business affected by or connected with the performance of the duties of a commissioner of pilots may not be a commissioner of pilots. (V.A.C.S. Art. 8248 (part).)
Art. 8248. ... No person who is engaged directly or indirectly in the towing business or in any pilot boat, or in any other business affected by or connected with the performance of his duties as a commissioner of pilots, shall be a member of such pilot board.

Sec. 62.024. JURISDICTION. The pilot board of a navigation district has exclusive jurisdiction over the pilotage of a vessel between the Gulf of Mexico and a port of the navigation district, including an intermediate stop or landing place on a navigable stream in the district. (V.A.C.S. Art. 8249.)

Art. 8249. Such navigation districts shall have exclusive jurisdiction as hereinafter defined over the pilotage of boats between the Gulf of Mexico and their respective ports, as well as of intermediate stops or landing places for such boats upon navigable streams wholly or partly within such navigation districts.

V.A.C.S. Article 8249 refers to jurisdiction over the "pilotage of boats between the Gulf of Mexico and their respective ports." The revised law substitutes "vessel" for "boat" because in this context "vessel" and "boat" are synonymous and "vessel" is more commonly used.

Sec. 62.025. POWERS OF PILOT BOARDS. The pilot board of a navigation district may:

(1) appoint, suspend, or dismiss a branch or deputy pilot of a port in the district;

(2) establish pilotage rates for service in the board's jurisdiction; or

(3) adopt and enforce rules consistent with this chapter about the appointment, qualification, or regulation of branch or deputy pilots that are needed to govern those pilots and
for the proper operation of the district's ports. (V.A.C.S. Arts. 8250 (part); 8252.)

Source Law

Art. 8250. The right, power and authority is hereby granted to such commission to appoint, suspend or dismiss from office, branch pilots or deputy pilots of their respective ports, and to examine and determine upon their qualifications. . . .

Art. 8252. The right, power and authority is further granted to such commissioners to fix rates of pilotage between the Gulf of Mexico and their respective ports, as well as intermediate stops or landing places for such boats, upon navigable streams wholly or partly within such districts; and to make, adopt and enforce all rules and regulations which they deem advisable in the matter of appointment, qualification and regulation of pilots and deputy pilots as may be needed for the government of pilots and their deputy pilots and the proper operation of their respective ports, not inconsistent with the Federal regulations thereof, the Constitution of Texas, or the provisions of this law.

Revisor's Note

(1) V.A.C.S. Article 8252 refers to "between the Gulf of Mexico and their respective ports, as well as intermediate stops or landing places for such boats, upon navigable streams wholly or partly within such districts." The revised law substitutes "for service in the board's jurisdiction" for the quoted language because the quoted language duplicates the language referring to a pilot board's jurisdiction contained in Section 62.024 of this code.

(2) V.A.C.S. Article 8252 refers to "rules and regulations." The reference to "regulations" is omitted from the revised law because under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law.

(3) V.A.C.S. Article 8252 refers to the adoption and enforcement of rules that are "not inconsistent with the Federal regulations thereof, the Constitution
of Texas . . . ." The revised law omits the reference to federal regulations because under federal supremacy principles, which provide that federal law controls over state law, the state is required to comply with any applicable federal regulation. The revised law also omits the reference to the Constitution of Texas as unnecessary because the state cannot modify constitutional requirements by statute.

(4) V.A.C.S. Article 8250 refers to the commissioner's right, power, and authority to "examine and determine upon their [branch or deputy pilot's] qualifications." The revised law omits this phrase as unnecessary because Section 62.041 of this code requires the commissioners to examine and determine the qualifications of a branch or deputy pilot before they are appointed.

[Sections 62.026-62.040 reserved for expansion]

SUBCHAPTER C. REGULATION OF BRANCH AND DEPUTY PILOTS

Revised Law
Sec. 62.041. BRANCH OR DEPUTY PILOT QUALIFICATIONS. (a) The pilot board of a navigation district shall examine and determine the qualifications of each applicant for the position of branch or deputy pilot before appointing a branch or deputy pilot.

(b) The pilot board shall specify a period that an applicant must reside in this state immediately before the person's appointment. The period may not exceed two years. (V.A.C.S. Art. 8251.)

Source Law
Art. 8251. Before making any appointments as branch pilot or deputy pilots, the commissioners shall examine and determine upon the qualifications for office of each applicant for the position of branch pilot or deputy pilot; and shall require of each of said applicants such terms of residence in this State preceding such appointment as they may deem advisable, not to exceed two years.
Revised Law

Sec. 62.042. OATH; BOND. (a) A branch pilot appointed under this chapter or the rules of the pilot board of a navigation district must take the official oath. The oath must be endorsed on the bond required by Subsection (b).

(b) The branch pilot must enter into a bond in the amount of $5,000 with one or more good and sufficient sureties. The bond must be:

1. payable to the governor;
2. conditioned on the faithful performance of the branch pilot's duties;
3. approved by the pilot board; and
4. deposited in the office of the secretary of state.

(V.A.C.S. Art. 8253 (part).)

Source Law

Art. 8253. All branch pilots appointed under and in accordance with this law or the rules and regulations of such navigation district shall enter into bond with one or more good and sufficient sureties in the sum of five thousand dollars, payable to the Governor, conditioned upon the faithful performance and shall be deposited in the office of the Secretary of State. Each pilot shall also take the official oath, which shall be endorsed on said bond.

Revisor's Note

(1) V.A.C.S. Article 8253 refers to "rules and regulations." The reference to "regulations" is omitted from the revised law for the reason stated in Revisor's Note (2) under Section 62.025 of this chapter.

(2) V.A.C.S. Article 8253 contains requirements for a pilot's bond. The revised law adds the requirement that the bond must be "conditioned on the faithful performance of the branch pilot's duties" and "approved by the commissioners of the pilot board" to convey legislative intent. The printing of V.A.C.S.
Article 8253 introduced erroneous language that reads:

... conditioned upon the faithful performance on any employee which together with any other insurance under commissioners of such district ... .

The intent of the legislature is clear from Chapter 297, Acts of the 64th Legislature, Regular Session, 1975, which reads:

All branch pilots appointed under and in accordance with this law or the rules and regulations of such navigation district shall enter into bond with one or more good and sufficient sureties in the sum of five thousand dollars, payable to the Governor, conditioned upon the faithful performance of the duties of his office. Said bonds shall be approved by the commissioners of such district, and shall be deposited in the office of the Secretary of State.

The erroneous language contained in V.A.C.S. Article 8253 was reenacted by Section 39, Chapter 300, Acts of the 73rd Legislature, Regular Session, 1993. The relevant portion of that Act, relating to the state seal, does not affect the conditions or approval of the bond and does not indicate an intention of the legislature to perpetuate the previous error.

Revised Law
Sec. 62.043. ISSUANCE OF BRANCH PILOT LICENSE. (a) On the filing of the bond and the taking of the oath required by Section 62.042, a commissioner of pilots shall certify to the governor that the branch pilot has qualified.

(b) On receiving the certificate, the governor shall issue to the branch pilot, in the name of the state and under the state seal, a commission to serve as a branch pilot in the jurisdiction of the pilot board of a navigation district. (V.A.C.S. Art. 8253 (part).)

Source Law
Art. 8253. ... Upon the filing of said bond, and the taking of said oath, the commissioners of such district shall certify to the Governor that each branch pilot has duly qualified to act as such, and thereupon the Governor shall issue to said branch pilot, in the
name and under the state seal, a commission to serve as
branch pilot from such ports, across any intermediate
bars, to the open gulf . . . .

Revisor's Note
V.A.C.S. Article 8253 refers to a branch pilot's
commission to serve "from such ports, across any
intermediate bars, to the open gulf." The revised law
substitutes "in the jurisdiction of the pilot board of
the navigation district" for the source law phrase
because that phrase substantially duplicates the
language referring to a pilot board's jurisdiction
contained in Section 62.024 of this code.

Revised Law
Sec. 62.044. TERM OF BRANCH PILOT LICENSE. (a) The term of
a branch pilot commission is four years.
(b) If the pilot board of a navigation district dismisses a
branch pilot from service, the branch pilot's commission expires.
(V.A.C.S. Art. 8253 (part).)

Source Law
Art. 8253. . . . and said commission shall be
for a term of four years, unless such branch pilot
shall be dismissed from service by said navigation and
canal commissioners, in which event such commission
shall expire.

Revised Law
Sec. 62.045. APPOINTMENT OF DEPUTY PILOTS. (a) A branch
pilot may appoint two deputy pilots, subject to the examination by
and approval of the pilot board of a navigation district.
(b) The branch pilot may appoint an additional deputy pilot
if the pilot board considers the appointment advisable.
(c) The branch pilot is responsible for the acts of the
deputy pilots.
(d) The branch pilot's own appointment under this chapter is
forfeited if the branch pilot appoints a deputy pilot without the
pilot board's approval. (V.A.C.S. Art. 8254.)
Art. 8254. Each branch pilot may appoint, subject to examination and approval by the navigation and canal commissioners, two deputies for whose acts such branch pilot shall be responsible, and any branch pilot who shall appoint a deputy without the approval of said commissioners, shall forfeit his own appointment; provided that an additional deputy shall be appointed if such branch pilot and commissioners mutually deem it advisable.

Revisor's Note

V.A.C.S. Article 8254 provides that the appointment of a deputy pilot is contingent on whether the branch pilot and pilot board consider the appointment advisable. The revised law omits as unnecessary the reference to whether the branch pilot considers the appointment advisable because it is within the branch pilot's discretion to appoint the deputy pilot.

Revised Law

Sec. 62.046. SUSPENSION OR DISMISSAL OF PILOTS. The pilot board of a navigation district may suspend or dismiss a branch or deputy pilot only for misconduct, inefficiency, or intoxication on duty and after a hearing on the accusation is held before the pilot board at which there is opportunity for testimony and defense. (V.A.C.S. Art. 8250 (part).)

Source Law

Art. 8250. . . . No branch pilot or deputy pilot shall be suspended or dismissed except for misconduct, inefficiency, or inebriety on duty, and after due hearing of accusation, testimony and defense before said board of navigation and canal commissioners.

Revisor's Note

The revised law substitutes the term "intoxication" for the source law term "inebriety" because the terms are synonymous and the former is more commonly used.
[Sections 62.047-62.060 reserved for expansion]

SUBCHAPTER D. PILOTAGE CHARGES AND LIABILITY

Revised Law
Sec. 62.061. DEFINITION. In this subchapter, "pilot" means a branch or deputy pilot appointed under this chapter. (New.)

Revisor's Note
The definition of "pilot" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

Revised Law
Sec. 62.062. PILOTAGE CHARGES INAPPLICABLE. Pilotage charges under this subchapter do not apply to a vessel of 20 tons or less or to a vessel that is excepted by a federal statute or regulation. (V.A.C.S. Art. 8255 (part).)

Source Law
Art. 8255. . . . (except vessels of twenty tons or under and all vessels excepted by federal statutes and regulations) . . . .

Revised Law
Sec. 62.063. PILOTAGE CHARGES. (a) A pilotage rate charged by a pilot must be fair and just.

(b) A pilot shall furnish a schedule of pilotage rates that must be on file at all times in the office of the navigation district commissioners.

(c) Each time a change in the rates occurs, the pilot must file a revised schedule.

(d) A pilot shall strictly follow the schedule of rates on file in the commissioners' office. (V.A.C.S. Art. 8255 (part).)

Source Law
Art. 8255. The rates of pilotage charged by the pilots operating under this law shall at all times be
fair and just, and a schedule of such rates shall at all times be on file in the office of the district commissioners, said schedule to be furnished by the pilots and strictly adhered to by them; provided that each time a change in the rate shall be effected, a revised schedule shall be filed as above specified. . . .

Revised Law

Sec. 62.064. CONSIGNEE LIABILITY FOR PILOT SERVICES. The consignee of a vessel is liable to a pilot for the pilotage of the vessel. (V.A.C.S. Art. 8256 (part).)

Source Law

Art. 8256. The consignee of any vessel shall be held responsible to pilots operating under this law for the pilotage of said vessel or . . . .

Revisor's Note

The revised law substitutes "liable" for the source law term "responsible" because the terms are synonymous and the former is more commonly used.

Revised Law

Sec. 62.065. LIABILITY OF CERTAIN VESSELS DECLINING PILOT SERVICES. (a) A vessel that, without the aid of a pilot, enters any channel that is under the jurisdiction of a pilot board of a navigation district and declines pilot services offered by the pilot outside the bar, is liable for the payment of half pilotage to the first pilot whose services the vessel declined.

(b) The consignee of a vessel is responsible for pilot services offered and declined under Subsection (a). (V.A.C.S. Arts. 8255 (part), 8256 (part).)

Source Law

Art. 8255. . . . Whenever a vessel . . . shall decline the services of a pilot operating under this law, offered outside the bar, and shall enter any channel subject to the jurisdiction of such navigation district, without the aid of a pilot operating under this law, such vessel shall be liable to the first pilot operating under this law whose services she had declined, for the payment of half-pilotage . . . .

Art. 8256. [The consignee . . . shall be held responsible . . . for . . . ] services offered . . . .

74C263 JD-D 213
Revised Law

Sec. 62.066. LIABILITY OF CERTAIN VESSELS TO OTHER PILOTS.

(a) A vessel that goes out of a channel under the jurisdiction of a pilot board of a navigation district without the aid of a pilot is liable for the payment of half-pilotage to:

(1) the pilot who brought the vessel into the channel;

or

(2) the pilot who first offered the vessel services outside the bar, if the vessel did not employ a pilot to come in.

(b) The consignee of a vessel is responsible for pilot services offered under Subsection (a). (V.A.C.S. Arts. 8255 (part), 8256 (part)).

Source Law

Art. 8255. ... and any vessel which, after being brought in by a pilot operating under this law, shall go without employing one, shall be liable to the payment of half-pilotage to the pilot operating under this law who brought her in; or if she has come in without the aid of such pilot, though offered outside, she shall, on so going out, be liable for the payment of one-half pilotage to the pilot operating under this law who has first offered his services before she came in.

Art. 8256. [The consignee ... shall be held responsible ... for ...] services offered ...

Revised Law

Sec. 62.067. UNAUTHORIZED PILOT LIABILITY. A person, other than a pilot, who pilots a vessel for which a pilot is required out of or into a port, channel, or waterway under the exclusive jurisdiction of the pilot board of a navigation district is liable to a pilot authorized to provide pilot services in the port, channel, or waterway who offers to pilot the vessel for a payment of $50. (V.A.C.S. Art. 8257.)

Source Law

Art. 8257. If any person not appointed a branch pilot or deputy pilot under this law shall pilot any ship or vessel out of, or into, the port, channel or waterway of which exclusive jurisdiction is, under this law, given to the navigation and canal commissioners of such navigation district, when a branch pilot or deputy pilot, operating hereunder has offered such services, the person so piloting shall forfeit and pay to such...
branch pilot or deputy pilot, the sum of fifty dollars.

Revisor's Note

(1) V.A.C.S. Article 8257 provides for money to be paid to a branch or deputy pilot when an unauthorized pilot pilots a vessel or ship. The revised law adds the phrases "for which a pilot is required" and "authorized to provide pilot services in the port, channel, or waterway" to clarify that the section, in this context, applies only to those vessels and only to those pilots.

(2) V.A.C.S. Article 8257 refers to a "ship or vessel." The revised law omits the reference to ship as unnecessary because all ships are vessels.

Revised Law

Sec. 62.068. RECOVERY OF PILOTAGE CHARGES. (a) A pilot may recover in court compensation for pilotage or services offered.

(b) A pilot may bring suit to recover the payment under Section 62.067. (V.A.C.S. Arts. 8256 (part), 8257 (part).)

Source Law

Art. 8256. . . . such pilots shall be entitled to recover same from the consignee of said vessel in any court of competent jurisdiction.

Art. 8257. . . . [the sum of fifty dollars,] to be recovered by suit.

Revisor's Note

V.A.C.S. Article 8256 refers to a suit brought "in any court of competent jurisdiction." The revised law omits the quoted language as unnecessary because a suit may only be brought in a court, and the general laws of civil jurisdiction determine which courts have jurisdiction over the matter. For example, see Sections 24.007-24.011, Government Code, for the general jurisdiction of district courts.
CHAPTER 63. PILOT BOARDS

SUBCHAPTER A. PILOT BOARDS AND COMMITTEES

Sec. 63.001. GOVERNOR TO APPOINT BOARDS. (a) The governor, with the consent of the senate, shall appoint a board of commissioners of pilots consisting of five persons of respectable standing for each port having a population and circumstances that warrant a pilot board.

(b) Each member of the board serves a term of two years.

(c) When the legislature is not in legislative session, the governor may:

(1) suspend any commissioner until the next legislative session; and

(2) fill any vacancy on the board until the next
legislative session. (V.A.C.S. Art. 8264 (part).)

Source Law

Art. 8264. The Governor shall appoint, with the consent of the Senate, for each port whose population and circumstances warrant it, for all of the ports in Galveston County and Brazoria County, a board of five persons of respectable standing under the denomination of 'commissioners of pilots' for such port or ports, who shall be commissioned by the Governor for the term of two years; and the Governor shall, during the recess of the Legislature, be authorized to suspend, until the next session of the same, any of said commissioners, and to fill, until the same period, any vacancies in the board caused by death, resignation or otherwise. . . .

Revisor's Note

(1) V.A.C.S. Article 8264 refers to a board "for all of the ports in Galveston County and Brazoria County." The revised law omits the quoted language because it was impliedly repealed by V.A.C.S. Articles 8280b and 8280c, which govern the licensing and regulation of pilots in Galveston County and Brazoria County. Articles 8280b and 8280c are codified in this code as Chapters 67 and 68, respectively.

(2) V.A.C.S. Article 8264 refers to the governor's ability to fill "any vacancies in the board caused by death, resignation or otherwise." The reference to "caused by death, resignation or otherwise" is omitted from the revised law as unnecessary because the article authorizes the governor to fill any vacancy, regardless of the cause of the vacancy.

Revised Law

Sec. 63.002. DISQUALIFICATION OF BOARD MEMBER. A pilot board member may not have a direct or indirect pecuniary interest in a pilot boat or branch pilot in the business of the board's trust. (V.A.C.S. Art. 8264 (part).)
Source Law

Art. 8264. . . No member of the board of commissioners shall be directly or indirectly pecuniarily interested in any pilot boat or branch pilot in the business of their trust.

Revised Law

Sec. 63.003. POWERS AND DUTIES OF BOARD. (a) A pilot board shall:

(1) examine and determine the qualifications of each applicant for branch or deputy pilot;
(2) recommend meritorious applicants to the governor, if new appointments are proper;
(3) examine any cause of alleged or suspected misconduct or inefficiency in a branch or deputy pilot;
(4) keep a record of its proceedings;
(5) hear and determine all disputes that arise regarding pilots and pilotage;
(6) award to pilots compensation for injurious loss of time incurred in waiting on vessels or by being carried to sea on a vessel by default of the master or owner when the pilot might have been landed;
(7) award to pilots extra compensation for extra services to vessels in distress; and
(8) superintend and generally attend to all matters related to pilots and pilotage.

(b) A pilot board, after a hearing, may suspend a pilot for sufficient cause.

(c) A pilot board may examine and determine the qualifications of a branch or deputy pilot already appointed when the board is organized.

(d) A pilot board may restrict all deputy pilots from piloting over the bar vessels that have over a specified draught of water. (V.A.C.S. Arts. 8265 (part); 8267, Subsec. (A) (part); 8268 (part); 8272 (part).)
Art. 8265. Said board of commissioners shall be authorized, if they deem it advisable, to examine and decide on the qualifications of any branch or deputy pilot whom they find already appointed at the time of their organization; and it shall be their duty to examine each new applicant for the office of branch or deputy pilot, and to decide on his qualifications, recommending to the Governor, where new appointments are proper, such as are meritorious; and it shall also be their duty to examine into any cause of alleged or supposed misconduct or inefficiency in branch or deputy pilots; and they shall be authorized, after a due hearing of accusation testimony and defense, to suspend such pilot if sufficient cause appear . . . .

Art. 8267. (A) . . . the proceedings of the board, of which proceedings a record shall be kept . . . .

Art. 8268. The board shall be authorized and required to hear and determine all disputes that may arise respecting pilots and pilotage; to award to pilots extra compensation for extra services to vessels in distress; as also compensation for injurious loss of time incurred by pilots in waiting on vessels or by being carried off to sea on vessels by default of the master or owner when such pilots might have been landed; provided, always that no more than three dollars for each day shall be awarded for mere loss of time; and said board shall superintend and generally attend to all matters appertaining to pilots and pilotage . . . .

Art. 8272. . . . and said board shall have authority to restrict all deputy pilots from piloting over the bar vessels of over a certain draught of water.

Revisor's Note

(1) V.A.C.S. Article 8265 refers to the commissioners' authority to examine pilots already appointed at the time of the organization of the board "if they deem it advisable." The revised law omits the quoted language because the phrase indicates that the board's authority to examine the pilots already appointed is discretionary, which is fully conveyed in the revised law by "may."

(2) V.A.C.S. Article 8268 provides for a maximum daily rate to be paid a pilot for loss of time. The rate is omitted from the revised law as having been impliedly repealed by the provisions of this title.
authorizing the setting of pilotage rates. Loss of
time is a matter included within pilotage rates.
Article 8268 has remained unamended since 1846, other
than for inclusion in the various revised statutes.
The rates for every pilot now authorized for Texas
ports are set under later enacted law. For example,
V.A.C.S. Article 8252, authorizing the pilot board of a
navigation district to set pilotage rates, was last
amended in 1923.

Revised Law
Sec. 63.004. PILOTAGE RATES AND RULES. A pilot board may
adopt:

(1) pilotage rates;
(2) rules regarding the stations and times that pilots
are required to be on duty and provisions for leave of absence;
(3) rules regarding the class, condition, number, and
use of pilot boats; and
(4) other minor rules necessary for the government of
pilots or for board proceedings. (V.A.C.S. Art. 8267, Subsec. (A)
(part).)

Source Law
Art. 8267. (A) The board shall have authority,
within the limits provided in this subdivision, to fix
rates of pilotage, and to establish regulations
respecting the stations whereat and the times wherein
pilots shall be on duty, with provisions for leave of
absence; as also respecting the class, condition,
number and use of pilot boats, and such other minor
regulations, compatible with the provisions of this
subdivision, as may be needed for the government of
pilots and for the order and good effect of the
proceedings of the board . . . provided no regulation
shall be adopted repugnant to the Constitution.

Revisor's Note
(1) Subsection (A), V.A.C.S. Article 8267,
refers to the board's authority "within the limits
provided in this subdivision." The revised law omits
the quoted language as unnecessary. The limits of a
statute are determined by the terms of that statute.

(2) Subsection (A), V.A.C.S. Article 8267, states "no regulation shall be adopted repugnant to the Constitution." The quoted language is omitted from the revised law because, as a matter of law, the statute cannot authorize the adoption of a rule that contradicts the constitution.

Revised Law
Sec. 63.005. APPEAL OF BOARD DECISION. An appeal from any decision of a board may be taken to a court. (V.A.C.S. Art. 8268 (part).)

Source Law
Art. 8268. . . . [but] from any decision of said board an appeal may be taken to the court having cognizance of the case.

Revisor's Note
V.A.C.S. Article 8268 refers to appeal of a board decision to a court "having cognizance of the case." The revised law omits the quoted language as unnecessary because a suit may be brought only in a court, and the general laws of civil jurisdiction determine which courts have jurisdiction over the matter. For example see Sections 24.007-24.011, Government Code, for the general jurisdiction of district courts.

[Sections 63.006-63.020 reserved for expansion]

SUBCHAPTER B. PROVISIONAL PILOT COMMITTEES

Revised Law
Sec. 63.021. GOVERNOR AUTHORIZES APPOINTMENT. (a) For a port having a population and circumstances that do not warrant the appointment of a pilot board in this chapter the governor may authorize the county judge of the county to appoint a provisional
pilot committee of not less than three and not more than five persons of good character and maritime experience.

(b) In accordance with this chapter, the committee may:

(1) adopt rates of pilotage and rules for governing pilots;

(2) examine the qualifications of pilots and pilot applicants; and

(3) investigate any case of a pilot charged with misconduct or inefficiency and suspend that pilot if sufficient cause is found. (V.A.C.S. Art. 8269.)

Source Law

Art. 8269. At any port whose population and circumstances do not warrant the appointment of a board of commissioners of pilots in the manner before provided, the Governor may authorize the county judge of the county to appoint a provisional committee of from three to five persons of good character and maritime experience who shall be authorized under this chapter to establish the rates of pilotage and the rules for governing pilots; to examine the qualifications of pilots and applicants for the office; to investigate the case of any pilot charged with misconduct or inefficiency, and to suspend him if sufficient cause appear.

[Sections 63.022-63.040 reserved for expansion]

SUBCHAPTER C. BRANCH PILOTS AND DEPUTY PILOTS

Revised Law

Sec. 63.041. APPOINTMENT OF BRANCH PILOTS. (a) The governor shall appoint at each port for which a pilot board or provisional pilot committee is established the number of branch pilots necessary from time to time.

(b) A branch pilot serves a term of four years. (V.A.C.S. Art. 8270.)

Source Law

Art. 8270. The Governor shall appoint at each of the ports and for all of the ports in Galveston County such number of branch pilots as may from time to time be necessary, each of whom shall hold his office for the term of four (4) years.
Revisor's Note

(1) V.A.C.S. Article 8270 refers to "all of the ports in Galveston County." The revised law omits the reference for the reason stated in Revisor's Note (1) under Section 63.001 of this code.

(2) V.A.C.S. Article 8270 refers to appointment of branch pilots "at each of the ports . . . as may . . . be necessary." The revised law adds the phrase "for which a pilot board or provisional pilot committee is established" to clarify to which ports the legislature intended the source law to apply.

Revised Law

Sec. 63.042. APPOINTMENT OF DEPUTY PILOTS. (a) Each branch pilot may appoint two deputies, subject to examination and approval by the board.

(b) A branch pilot is responsible for the actions of the pilot's deputy pilots.

(c) A branch pilot who appoints a deputy pilot without the approval of the board forfeits the pilot's appointment as a branch pilot. (V.A.C.S. Art. 8272 (part).)

Source Law

Art. 8272. Each branch pilot may appoint subject to examination and approval by the board of commissioners, two deputies, for whose acts the branch pilot so appointed shall be responsible; and any branch pilot who shall appoint a deputy without the approval of said board shall forfeit his own appointment . . . .

Revised Law

Sec. 63.043. OATH; BOND. (a) Each branch pilot shall give a bond, payable to the governor, with two or more sufficient sureties.

(b) The bond must:

(1) be in the amount of $5,000;

(2) be conditioned on the faithful performance of the pilot's duties;
1. (3) be approved by the board for the port or, if there
2. is not a board for the port, by the county judge of the county in
3. which the port is located; and
4. 
5. (4) be sent to the governor.
6. 
7. (c) A pilot shall take and sign the official oath. The oath
8. shall be endorsed on the bond.
9. 
10. (d) Before the bond is sent to the governor, the bond and
11. oath shall be recorded in the office of the county clerk of the
12. county in which the port is located. (V.A.C.S. Art. 8271 (part).)

Source Law

Art. 8271. Each branch pilot shall give bond, with two or more good and sufficient sureties, in the
sum of five thousand dollars, payable to the Governor, and conditioned for the faithful performance of the
duties of his office. Such bond shall be approved by the board of commissioners of pilots for the port, or
if there be no such board, by the county judge of the county in which the port is situated, and forwarded to
the Governor. Each pilot shall also take and subscribe the official oath which shall be endorsed on said bond,
and together with the bond shall be recorded in the office of the county clerk of the county in which such
port is situated before being forwarded to the Governor. . . .

Revisor's Note

(1) V.A.C.S. Article 8271 refers to "two or more
good and sufficient sureties." The reference to "good"
is omitted from the revised law because "good" is
within the meaning of "sufficient."

(2) V.A.C.S. Article 8271 provides in part that
a certified copy of a bond given by a pilot conditioned
on the faithful performance of the pilot's duties of
office may be used as evidence in all courts "with like
effect as the originals" if given under the hand and
seal of the county clerk with whom the pilot recorded
the bond and the pilot's oath of office.

Section 22.004, Government Code, permits the
supreme court to adopt rules of practice and procedure
in civil actions and provides that a rule adopted by
the court repeals conflicting laws and parts of laws. Under this authority, the court adopted the Texas Rules of Evidence (now the Texas Rules of Civil Evidence) in 1982. Section 22.109, Government Code, permits the court of criminal appeals to adopt rules of evidence in criminal actions. Under this authority, the court adopted the Texas Rules of Criminal Evidence in 1985.

Because Article 8271 was enacted in 1861, to the extent it conflicts with the civil or criminal rules, it is repealed and to the extent it is in accordance with the rules, it is unnecessary.

Rule 803(8), Texas Rules of Civil Evidence, provides that a record of a public agency that sets forth the activities of the agency is not excluded by the hearsay rule, which generally excludes out-of-court statements. Rule 803(8), Texas Rules of Criminal Evidence, contains a similar exception to the hearsay rule. These exceptions permit a public record to be accepted as proof of an act recited in the record.

Rule 902(4), Texas Rules of Civil Evidence, provides that extrinsic evidence of authenticity as a condition for admissibility is not required for a certified copy of an official record. Rule 902(4), Texas Rules of Criminal Evidence, contains a similar provision.

Because the bond is recorded and sent to the governor, the bond is a public record. Accordingly, the source law provision is omitted as unnecessary. The omitted provision reads:

Certified copies of said bonds, under the hand and seal of the county clerk, may be used as evidence in all the courts with like effect as the originals.

Revised Law

Sec. 63.044. RESIDENCE; PROBATIONARY TERM. (a) The board
shall specify a term that a person must reside in this state to qualify the person to become a branch pilot for the ports or bays in the board's jurisdiction. The term may not exceed two years.

(b) The board shall establish a term of probation that a person must serve as a deputy pilot before the person may exercise the functions of a branch pilot. The term may not exceed one year.

(V.A.C.S. Art. 8266.)

Source Law

Art. 8266. The board shall require a certain term of residence in this State, not less than two years, to authorize any person to exercise the functions of branch pilot for their port or said bays; as also to establish a term of probation, not exceeding one year, as a deputy pilot before any person can exercise the functions of branch pilot.

Revised Law

Sec. 63.045. MALFEASANCE; PENALTIES. (a) On proof that a branch or deputy pilot took charge of a vessel while intoxicated, the branch or deputy pilot shall:

(1) for the first offense, be suspended for one month; and

(2) for the second offense, be dismissed and rendered incapable of serving as either a branch or deputy pilot.

(b) A branch or deputy pilot who wilfully or negligently causes the wreck of a vessel shall be dismissed and disqualified from again serving as either a branch or deputy pilot. (V.A.C.S. Art. 8273.)

Source Law

Art. 8273. Any branch or deputy pilot in a state of inebriety who shall take charge of a vessel shall, upon proof of the same, for the first offense be suspended for one month, and for the second offense be dismissed and be rendered incapable of again serving in either capacity. If any branch or deputy pilot shall willfully or by neglect cause the wreck of a vessel, he shall be dismissed and be rendered incapable of again serving in either capacity.

Revised Law

Sec. 63.046. SUSPENDED PILOT. A suspended pilot may not
exercise the duties of the pilot's office. (V.A.C.S. Art. 8265 (part).)

Source Law

Art. 8265. . . and during such suspension he shall not be allowed to exercise the functions of his office . . . .

Revised Law

Sec. 63.047. REMOVAL OR REINSTATEMENT OF PILOT. The governor may:

(1) remove a branch pilot; or

(2) reinstate a branch pilot who has been suspended by the board. (V.A.C.S. Art. 8265 (part).)

Source Law

Art. 8265. . . the Governor shall, however, have power at his will and pleasure to remove any branch pilot, or to reinstate any one of the same who has been suspended by the commissioners.

Revisor's Note

(End of Chapter)

Subsection (B), V.A.C.S. Article 8267, regarding the rates of pilotage applicable in Galveston County, is omitted from the revised law for the reason stated in Revisor's Note (1) under Section 63.001 of this code. The omitted provision reads:

(B) The commissioners of pilots in no case shall authorize or fix a rate or rates of pilotage applicable to any port in Galveston County differing from the rate in effect at the time of this enactment unless and until the following procedure has been completed:

(1) An application for the establishment of a new rate of pilotage has been filed with each commissioner by one or more pilots or by the owner, agent, or other person defined as "consignee" of a vessel in Article 8276 of this Title, provided such application for increase or decrease of rates shall contain a brief statement of the circumstances which it is alleged warrant the requested action of the commissioners and shall also contain a certificate that the applicant has submitted copies of the application to all known pilots and such associations of "consignees" as defined in Article 8276 of
1 this Title, as are operating in Galveston
2 County at the time of the application.
3
4 (2) In the event the notice
5 required is in fact given and no written
6 objection on the part of any legitimately
7 interested party is received by any
8 commissioner within 20 days after said
9 notice is sent, the commissioners shall
10 proceed to act upon the application as they
11 see fit without further proceedings, and
12 file their action thereupon with the county
13 clerk as provided in Subparagraph (9),
14 within 20 days after the initial 20-day
15 notice period.
16
17 (3) In the event any
18 commissioner receives in writing an
19 objection to the application from any
20 person, firm, or corporation who appears to
21 have a legitimate interest in the
22 application within 20 days after notice of
23 the filing of the application was given,
24 the commissioners shall hold a hearing
25 within 20 days after expiration of the
26 initial 20-day notice period for the filing
27 of and objection to the application and
28 shall notify the applicants, the persons
29 objecting to the application and such other
30 parties as the commissioners may, in their
31 sole discretion, determine to be interested
32 in the proceedings, and shall file their
33 decision with the county clerk as provided
34 in Subparagraph (9), within 20 days after
35 the close of the hearing.
36
37 (4) Said hearing shall be held
38 at a convenient and public place in any one
39 of the ports affected and shall be open to
40 the public. At the hearing all parties,
41 upon demonstrating a legitimate interest in
42 the application, shall have the right to be
43 heard, to present evidence and, to the
44 extent deemed practical by the
45 commissioners, cross-examine the witnesses
46 appearing to testify at the hearing.
47
48 (5) After the receipt of the
49 evidence offered by the parties and such
50 arguments and briefs as the commissioners
51 may desire to receive, the application
52 shall be granted, denied, or modified by
53 the commissioners.
54
55 (6) In determining their
56 action upon any application the
57 commissioners shall consider:
58
59 (a) The effect which the
60 granting, refusal, or modification of the
61 application would have upon the port or
62 ports within the jurisdiction of the
63 commissioners and the citizens residing in
64 it;
65
66 (b) The assurance of an
67 adequate and reasonable compensation to the
68 pilots and a fair return upon the equipment
69 and vessels which they employ in connection
70 with their duties;
71
72 (c) The relationship
73 between the pilotage rates in the ports
74 under the commissioners' jurisdiction and
75 the rates applying in other ports of this
76 state and competitive ports in other
(7) The action of the commissioners in granting, denying, or modifying the application shall be final provided it is supported by substantial evidence.

(8) The commissioners shall have the authority to assess the actual cost of reporting and secretarial services necessarily incurred in connection with any hearing against one or more of the applicants and/or objecting parties as shall appear to the commissioners to be fair and just. The commissioners may further require that any applicant or objecting party deposit a sum against said cost as a condition of presenting its application or objection. The costs authorized by this paragraph shall be strictly limited to the actual and reasonable cost of reporting and stenographic services.

(9) A copy of the commissioners' order with respect to the application shall be filed in the office of the county clerk and said order shall state when it is effective. No pilotage charges in excess of those in existence at the time of the passage of this Act shall be made with respect to the ports of Galveston County except pursuant to such an order so filed by the commissioners. Pilotage rates for the ports of Galveston County properly fixed pursuant to this Article shall not be subject to the maximum limits contained in Article 8274.
(4) the subagent; and
(5) a person who enters or clears a vessel of the collector of customs. (V.A.C.S. Art. 8276 (part).)

Source Law

Art. 8276. ... For the purposes of this Article, "consignee" shall include (i) the master, (ii) the owner, (iii) the agent, (iv) the sub-agent, and (v) any person, firm or corporation who enters or clears said vessel of the Collector of Customs. . . .

Revisor's Note

V.A.C.S. Article 8276 refers to a "person, firm or corporation." The revised law omits the references to "firm" and "corporation" because under Section 311.005(2), Government Code (Code Construction Act), applicable to this code, "person" includes "corporation . . . and any other legal entity."

Revised Law

Sec. 64.002. PILOTAGE RATE. The rate of pilotage that may be adopted under Sections 63.004 and 63.021 on a class of vessel may not, in a port of this state, exceed $6.50 for each foot of water that the vessel draws when piloted. This section does not apply to the rate of pilotage established under:

(1) Section 69.001 for:
   (A) the public ports of Orange, Port Arthur, and Beaumont; and
   (B) privately owned docks or terminals in Orange County or Jefferson County;

(2) Chapter 62; or

(3) Chapters 66-68. (V.A.C.S. Art. 8274 (part).)

Source Law

Art. 8274. Except for rates fixed pursuant to Article 8267, as amended, for Galveston County ports and for the public ports of Orange, Port Arthur and Beaumont and any privately owned docks or terminals in Orange or Jefferson Counties, the rate of pilotage which may be fixed under Articles 8267 and 8269 on any class of vessel shall not, in any port of this state (except as hereinafter provided) exceed $6.50 for each
foot of water which the vessel at the time of piloting
draws, and . . . .

Revisor's Note

(1) V.A.C.S. Article 8274 refers to rates
adopted under V.A.C.S. Article 8267 for Galveston
County ports. V.A.C.S. Article 8267, which governs
regulation of pilots and pilotage rates, was enacted in
1846. V.A.C.S. Article 8280b, which governs licensing
and regulation of Galveston County pilots and is
codified in this code as Chapter 67, was enacted in
1985. Therefore, to the extent V.A.C.S. Article 8267
governs Galveston County pilots, it was impliedly
repealed by V.A.C.S. Article 8280b. Accordingly, the
revised law omits the reference to Galveston County
ports.

(2) V.A.C.S. Article 8274 refers to rates
adopted under V.A.C.S. Article 8267 for the public
ports of Orange, Port Arthur, and Beaumont and
privately owned docks or terminals in Orange County or
Jefferson County. The pertinent part of Article 8267
is codified in this code as Section 69.001, and the
revised law is drafted accordingly.

(3) V.A.C.S. Article 8274 refers to the rate of
pilotage adopted under V.A.C.S. Article 8267. The
pertinent part of Article 8267 is codified in this code
as Section 63.004, and the revised law is drafted
accordingly.

(4) V.A.C.S. Article 8274 refers to the rate of
pilotage adopted under V.A.C.S. Article 8269. Article
8269 is codified in this code as Section 63.021, and
the revised law is drafted accordingly.

(5) The revised law adds an exemption to the
maximum pilotage rates for the ports of Harris County
(Chapter 66 of this code), the ports of Galveston
County (Chapter 67 of this code), and the ports of Brazoria County (Chapter 68 of this code) because the statutes codified in those chapters were enacted after the last amendment to V.A.C.S. Article 8274 and each provides an independent procedure for establishing pilotage rates.

(6) The revised law adds an exemption to the maximum pilotage rates for ports in navigation districts (Chapter 62 of this code) in order to alert the reader that pilotage rates for those districts are set under V.A.C.S. Article 8252 (Section 62.025 of this code) and that this section does not apply to the setting of those rates.

Revised Law

Sec. 64.003. PILOTAGE LIABILITY. (a) A vessel that declines pilot services offered outside the bar and enters the port without the aid of a pilot is liable to the first pilot whose services the vessel declined for half pilotage.

(b) A vessel that, after being brought into port by a pilot, leaves port without employing a pilot is liable to the pilot who brought the vessel into port for the payment of half pilotage.

(c) A vessel that declines pilot services offered outside the bar, comes into port without the aid of a pilot, and leaves port without employing a pilot is liable to the pilot who first offered the pilot's services for the payment of half pilotage.

(d) A vessel that is not offered pilot services outside the bar and both enters and leaves the port without a pilot is not liable for the payment of half pilotage.

(e) At a port where vessels receive or discharge cargo at an anchorage outside the bar, a vessel:

(1) is liable for the payment of pilotage to the anchorage at the rate provided by Section 64.002; and

(2) is not liable for the payment of pilotage from the
anchorage to the open sea.

(f) A vessel bound from the open sea to an anchorage outside the bar that, while under way, declines an offer of pilot services and afterward receives or discharges cargo at the anchorage is liable to the first pilot whose services the vessel declined for the payment of half pilotage to the anchorage at the rate provided by Section 64.002 but is not liable for pilotage from the anchorage to the open sea.

(g) The consignee of a vessel is responsible for the pilotage of the vessel. The liability of each consignee is joint and several.

(h) A pilot who takes charge of a vessel 20 miles outside the bar and brings the vessel to the bar is entitled to one-fourth pilotage for offshore service, in addition to what the pilot is entitled to recover for bringing the vessel in. If the vessel declines offshore service, the pilot is not entitled to offshore-service compensation. (V.A.C.S. Arts. 8274 (part), 8276 (part).)

Source Law

Art. 8274. . . . whenever a vessel, except of the classes below excepted, shall decline the services of a pilot offered outside the bar, and shall enter the port without the aid of one, she shall be liable to the first pilot whose services she so declined for the payment of half pilotage; and any vessel which, after being brought in by the pilot, shall go out without employing one, shall be liable to the payment of half pilotage to the pilot who brought her in, or if she has come in without the aid of a pilot, though offered outside, she shall on so going out be liable for the payment of half pilotage to the pilot who had first offered his services before she came in; but if she has come in without the aid of a pilot, or the offer of one outside, she shall not, in case of going out without a pilot, be liable to half pilotage. At any port where vessels shall receive or discharge their cargoes at an anchorage outside of the bar, such vessel shall be liable to pilotage at the above rate to such anchorage, but shall not be liable for or compelled to pay pilotage from such anchorage to the open sea; and if any vessel bound from open sea to such anchorage, while under way, shall decline the services of a pilot, and shall afterward receive or discharge any portion of her cargo at such anchorage on the lighters or otherwise, she shall be liable for the payment of half pilotage, at the above rate, to such anchorage to the first pilot whose services shall have been tendered to and declined by her, but not liable for any pilotage from such
anchorage to the open sea; and when a pilot takes
charge of a vessel 20 miles outside of the bar, and
brings her to it, he shall be entitled to one-fourth
pilotage for such offshore service, in addition to what
he is entitled to recover for bringing her in; but if
such offshore service be declined, no portion of said
compensation shall be recovered.

Art. 8276. The consignee of any vessel shall be
held responsible for the pilotage of said
vessel. . . . [The pilot who serves said vessel, or
who lawfully offers to serve said vessel, shall be
entitled to recover lawful pilot fees, in any court of
competent jurisdiction,] jointly and severally from any
one or more of said persons, firms, or corporations.

Revisor's Note
(1) V.A.C.S. Article 8274 provides that a
vessel may "not be liable for or compelled" to pay
pilotage. The revised law omits the reference to
"compelled" as unnecessary because a vessel may not
legally be compelled to pay pilotage for which the
vessel is not liable.

(2) V.A.C.S. Article 8274 refers to the receipt
or discharge of cargo at an anchorage "on the lighters
or otherwise." The revised law omits the reference to
"on the lighters or otherwise" because it does not
limit the type of vessel that can receive or discharge
cargo.

(3) V.A.C.S. Article 8276 refers to "persons,
firms, or corporations." The references to "firms" and
"corporations" are omitted from the revised law for the
reason stated in the revisor's note under Section
64.001 of this code.

Revised Law
Sec. 64.004. SUIT TO RECOVER PILOT FEES. A pilot who serves
or offers to serve a vessel may bring suit to recover pilot fees
from a consignee. (V.A.C.S. Art. 8276 (part).)

Source Law
Art. 8276. . . . The pilot who serves said
vessel, or who lawfully offers to serve said vessel,
shall be entitled to recover lawful pilot fees, in any
court of competent jurisdiction, . . . from any one or more of said persons, firms, or corporations.

Revisor's Note

(1) V.A.C.S. Article 8276 refers to a pilot "lawfully" offering to serve a vessel and to the recovery of "lawful" pilot fees. The revised law omits these references as unnecessary because the lawfulness of the offer or fees is implied.

(2) V.A.C.S. Article 8276 refers to recovery of pilot fees "in any court of competent jurisdiction." The revised law refers to a suit to recover pilot fees. The revised law omits the quoted language as unnecessary because a suit may only be brought in a court, and the general laws of civil jurisdiction determine which courts have jurisdiction over the matter. For example, see Sections 24.007-24.011, Government Code, for the general jurisdiction of district courts.

Revised Law

Sec. 64.005. EXEMPTIONS FROM PILOTAGE CHARGES. Except for actual service provided, a vessel of 20 tons or less is exempt from a charge for pilotage. (V.A.C.S. Art. 8275 (part).)

Source Law

Art. 8275. The following classes of vessels shall be free from any charge for pilotage, unless for actual service, to-wit: All vessels of twenty tons and under . . . .

Revisor's Note

In addition to vessels of 20 tons and under, V.A.C.S. Article 8275 attempts to exempt from pilotage charges certain other vessels. The listing of these vessels is omitted as having been impliedly repealed by Section 3 of the Texas Compulsory Pilotage Act (V.A.C.S. Article 8278) enacted in 1991 and revised by
Section 61.003 of this code. Article 8275 has not been amended since 1879. The omitted provision reads:

... all vessels of whatsoever burthen owned in this State and registered and licensed in the district of Texas, when arriving from or departing to any port of this State; all vessels of seventy-five tons and under owned and licensed for the coasting trade in any part of the United States, when arriving from or departing to any port in the State of Texas; all vessels of seventy-five tons or under owned in this State and licensed for the coasting trade in the district of Texas, when arriving from or departing to any port in the United States.

Revised Law

Sec. 64.006. UNAUTHORIZED PILOT; LIABILITY. (a) In addition to any other applicable remedy provided by law, a person who has not been appointed to be a branch or deputy pilot and who pilots a vessel out of or into a port after a branch or deputy pilot who is licensed to provide pilot services for the port offers to do so is liable to pay $50 to the branch or deputy pilot.

(b) The branch or deputy pilot may bring suit to recover the money. (V.A.C.S. Art. 8277.)

Source Law

Art. 8277. If any person not appointed a branch or deputy pilot shall pilot any ship or vessel out of or into any port when a branch or deputy pilot has offered such service, the person so piloting shall forfeit and pay to such branch or deputy pilot the sum of fifty dollars to be recovered by suit.

Revisor's Note

(1) V.A.C.S. Article 8277 requires a person who has not been appointed to be a branch or deputy pilot and who pilots a vessel out of or into a port after a branch or deputy pilot offers to do so to pay money to the branch or deputy pilot. That article is part of Chapter 10, Title 128, Revised Statutes, which pertains generally to pilots. It is clear from the context of that article that this requirement applies only to
branch or deputy pilot who is licensed to provide pilot services for the port. Accordingly, the revised law refers to a branch or deputy pilot "who is licensed to provide pilot services for the port."

(2) The revised law adds "In addition to any other applicable remedy provided by law," to avoid the implication that this section provides an exclusive remedy.

CHAPTER 65. PILOTS FOR MATAGORDA AND LAVACA BAYS

Sec. 65.001. PILOTS FOR MATAGORDA AND LAVACA BAYS. (a) The governor shall appoint at least two and not more than four competent pilots for Matagorda and Lavaca bays, from Pass Cavallo to Indianola and Lavaca.

(b) The term of office, method of qualification, powers, and privileges of a pilot appointed under this section are the same as those of a branch pilot, to the extent applicable.

(c) The county judge of Calhoun County must approve the bond of a pilot appointed under this section.

(d) Except to the extent that the rate of pilotage is set under other applicable law, the rate of pilotage for the bays is $2.50 for each foot of water the vessel may draw when piloted.

(e) A vessel that may draw five feet or more is liable to pay one-half the pilotage prescribed by Subsection (d) to a licensed pilot for the bays whose services are tendered and declined. (V.A.C.S. Art. 8259.)

Art. 8259. The Governor shall also appoint not
less than two nor more than four competent pilots for
Matagorda and Lavaca Bays, from Pass Cavallo to
Indianola and Lavaca, who shall hold their offices for
the same term as branch pilots, and whose mode of
qualification, powers and privileges, insofar as the
same are applicable, shall be the same; the bonds of
such pilots shall be approved by the county judge of
Calhoun County. The rate of pilotage for said bays
shall be $2.50 for each foot of water the vessel may
draw at the time of piloting; and all vessels that may
draw five feet or more shall be subject to pay any
licensed pilot for said bays, whose services are
tendered and declined, one-half the pilotage herein
prescribed.

Revised Law
Sec. 65.002. PROVISIONS FOR BRANCH PILOTS APPLICABLE. The
provisions of Chapter 62 relating to branch pilots at ports, to the
extent applicable, apply to pilots appointed under this chapter.
(V.A.C.S. Art. 8260 (part).)

Source Law
Art. 8260. All the provisions of this chapter
relating to branch pilots at ports, insofar as the same
are applicable and not expressly qualified, shall apply
to and govern pilots appointed for the mouth of the
Brazos River and for Matagorda and Lavaca Bays. . . .

Revisor's Note
(1) V.A.C.S. Article 8260 refers to "the
provisions of this chapter," meaning Chapter 9, Title
128, Revised Statutes. The pertinent part of that
statute is codified in this code as Chapter 62, and the
revised law is drafted accordingly.

(2) V.A.C.S. Article 8260 refers to pilots
appointed "for the mouth of the Brazos River and for
Matagorda and Lavaca Bays." The revised law omits the
reference to the Brazos River for the reason stated in
the revisor's note at the end of this chapter. The
revised law substitutes "under this chapter" for
"Matagorda and Lavaca Bays" for purposes of brevity.
Sec. 65.003. LIABILITY OF PERSONS OTHER THAN LICENSED PILOTS OR DEPUTIES FOR PILOTAGE. (a) A person who is not a licensed pilot or deputy who pilots a vessel up or down the channel of Matagorda or Lavaca Bay is liable to a pilot who is licensed or commissioned for the bays for full pilotage for the vessel.

(b) A pilot may bring suit to recover pilotage under this section. (V.A.C.S. Art. 8260 (part).)

Source Law

... If any person not a licensed pilot or deputy shall pilot any vessel into or out of the mouth of said river or through the channel of said bays, up or down, he shall forfeit and pay to any pilot licensed or commissioned for the mouth of said river, or for said bays, full pilotage for such vessel, to be recovered by suit.

Revisor's Note

The references in V.A.C.S. Article 8260 to the mouth of the Brazos River are omitted from the revised law for the reason stated in the revisor's note at the end of this chapter.

Revisor's Note

V.A.C.S. Article 8258 was enacted in 1981 and pertains to pilots for the mouth of the Brazos River. V.A.C.S. Article 8280c, revised in this code as Chapter 68, was enacted in 1989 and took effect January 1, 1990, and pertains to licensing and regulation of Brazoria County pilots. The mouth of the Brazos River is in Brazoria County. Accordingly, the revised law omits V.A.C.S. Article 8258 as impliedly repealed by V.A.C.S. Article 8280c. The omitted law reads:

Art. 8258. The Governor shall also appoint a sufficient number of competent pilots for the mouth of the Brazos River, whose terms of office, mode of qualification, and pilotage shall be the same as prescribed in the preceding articles for branch pilots; and they shall be entitled to all the privileges and shall
exercise all the powers, and discharge all
the duties prescribed for branch pilots,
and be subject to like penalties. The
county judge of Brazoria County shall
approve the bond of any such pilot.

CHAPTER 66. HOUSTON PILOTS LICENSING AND REGULATORY ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 66.001. SHORT TITLE .................................... 241
Sec. 66.002. DEFINITIONS .................................... 242
Sec. 66.003. APPLICABILITY OF CHAPTER ....................... 243

[Sections 66.004-66.010 reserved for expansion]

SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

Sec. 66.011. BOARD .................................................. 244
Sec. 66.012. PROHIBITED INTEREST .............................. 244
Sec. 66.013. OATH .................................................. 244
Sec. 66.014. TERM OF OFFICE .................................... 245
Sec. 66.015. JURISDICTION ....................................... 245
Sec. 66.016. ADMINISTRATION; RULES ............................ 246
Sec. 66.017. DUTIES ............................................... 246
Sec. 66.018. UNFAIR DISCRIMINATION PROHIBITED ............... 247
Sec. 66.019. OPEN MEETINGS LAW ................................. 248
Sec. 66.020. RULE OR RATE CHANGE ............................... 249
Sec. 66.021. CONTESTED CASE NOTICE ........................... 249
Sec. 66.022. JUDICIAL REVIEW .................................... 249

[Sections 66.023-66.030 reserved for expansion]

SUBCHAPTER C. PILOT LICENSES AND CERTIFICATES

Sec. 66.031. LICENSE OR CERTIFICATE REQUIRED .................. 249
Sec. 66.032. EXEMPTIONS .......................................... 250
Sec. 66.033. QUALIFICATIONS FOR LICENSE ........................ 251
Sec. 66.034. QUALIFICATIONS FOR CERTIFICATE ................... 252
Sec. 66.035. APPLICATION FOR LICENSE OR CERTIFICATE ........... 253
Sec. 66.036. CONSIDERATION OF APPLICATION ........................ 253
Sec. 66.037. BRANCH PILOT APPOINTMENT BY GOVERNOR ............. 254
Sec. 66.038. DEPUTY BRANCH PILOT APPOINTMENT BY BRANCH PILOT .................................................. 254
Sec. 66.039. OATH; BOND .......................................... 255
CHAPTER 66. HOUSTON PILOTS LICENSING AND REGULATORY ACT

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 66.001. SHORT TITLE. This chapter may be cited as the Houston Pilots Licensing and Regulatory Act. (V.A.C.S. Art. 8280a, Sec. 1.01.)
Art. 8280a
Sec. 1.01. This Act may be cited as the Houston Pilots Licensing and Regulatory Act.

Source Law

Sec. 1.02. In this Act:
(1) "Pilot" means a person who is licensed as a branch pilot or certified as a deputy branch pilot under this Act.
(2) "Board" means the board of pilot commissioners created under this Act.
(3) "Pilotage rates" means the amount of remuneration a pilot may lawfully charge vessels for his services.
(4) "Pilot services" means acts of a pilot in conducting a vessel through the navigable water within the boundaries of the state and the port in which he is licensed or certified as a pilot.
(5) "Vessel" means every oceangoing, self-propelled vessel navigating the water within the board's jurisdiction except vessels exempt from payment of pilotage rates under this Act.
(6) "Port" means a place in this state.
into which vessels enter or from which vessels depart
that is located in Harris County and the waterway
leading to that place from the Gulf of Mexico.

(7) "Consignee" means the master, owner,
agent, subagent, person, firm, or corporation or any
combination of these that enters or clears a vessel at
the office of the collector of customs.

Revisor's Note

The revised law omits the language in the
definition of "vessel" in Section 1.02(5), V.A.C.S.
Article 8280a, that refers to vessels navigating the
water in the board's jurisdiction because Section 1.03,
V.A.C.S. Article 8280a, codified as Section 66.003 of
this code, states that the chapter applies only to
Harris County ports and it is unnecessary to restate
that in the definition. The revised law also omits the
language in the definition of "vessel" that excepts a
vessel exempt from payment of pilotage rates under
V.A.C.S. Article 8280a. The reference is omitted as
unnecessary because Section 1.04, Article 8280a,
codified as Section 66.032 of this code, contains the
exemptions from payment of pilotage rates.

Revised Law

Sec. 66.003. APPLICABILITY OF CHAPTER. This chapter applies
only to a Harris County port. (V.A.C.S. Art. 8280a, Secs. 1.03,
6.05.)

Source Law

Sec. 1.03. This Act applies to all ports located
in Harris County.

Sec. 6.05. This Act does not affect the existing
laws for ports in other counties of this state,
including Articles 8248 through 8257 and 8264 through
8280, Revised Civil Statutes of Texas, 1925, as
amended.

[Sections 66.004-66.010 reserved for expansion]
SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

Revised Law

Sec. 66.011. BOARD. The board of pilot commissioners for the ports of Harris County is composed of the port commissioners of the Port of Houston Authority of Harris County, Texas. (V.A.C.S. Art. 8280a, Secs. 2.01, 2.02.)

Source Law

Sec. 2.01. A board of pilot commissioners is created for the ports of Harris County. Sec. 2.02. The board is composed of the port commissioners of the Port of Houston Authority of Harris County, Texas.

Revised Law

Sec. 66.012. PROHIBITED INTEREST. A person may not be a member of the board if the person, directly or indirectly, is engaged in or has an interest in any pilot boat or in any other business affected by or connected with the performance of the person's duties as a pilot commissioner. (V.A.C.S. Art. 8280a, Sec. 2.03.)

Source Law

Sec. 2.03. A person who is engaged or has any interest, directly or indirectly, in any pilot boat or in any other business affected by or connected with the performance of his duties as a pilot commissioner may not be a member of the board.

Revised Law

Sec. 66.013. OATH. Before beginning service as a board member, each board member must take and sign, before a person authorized to administer oaths, an oath to faithfully and impartially discharge the duties of the office. (V.A.C.S. Art. 8280a, Sec. 2.04.)

Source Law

Sec. 2.04. Before beginning to serve as a member of the board, each board member shall take and subscribe, before someone authorized to administer oaths, an oath to discharge faithfully and impartially the duties of the office.
Revisor's Note

Section 2.04, V.A.C.S. Article 8280a, requires a board member to "subscribe . . . an oath." The revised law substitutes "sign" for "subscribe" to reflect modern usage.

Revised Law

Sec. 66.014. TERM OF OFFICE. A board member serves a term of office that coincides with the member's term as a port commissioner. (V.A.C.S. Art. 8280a, Sec. 2.05.)

Source Law

Sec. 2.05. Each person who serves on the board shall hold office as a member of the board for a term that coincides with the member's term as a port commissioner of the Port of Houston Authority of Harris County, Texas.

Revised Law

Sec. 66.015. JURISDICTION. The board has 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. (V.A.C.S. Art. 8280a, Sec. 2.07.)

Source Law

Sec. 2.07. The board shall have exclusive jurisdiction over piloting of vessels between the Gulf of Mexico and the ports within the board's jurisdiction, as well as intermediate stops and landing places for vessels on navigable streams wholly or partially located within the board's jurisdiction.

Revisor's Note

Section 2.07, V.A.C.S. Article 8280a, refers in part to the board's jurisdiction over vessels "between the Gulf of Mexico and the ports within the board's jurisdiction." The revised law substitutes a reference to Harris County ports because the chapter applies only to Harris County ports and the omitted language is included in the definition of "Harris County port."
Sec. 66.016. ADMINISTRATION; RULES. (a) The board shall administer this chapter and may perform any act or function necessary to carry out its powers and duties under this chapter.

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

(V.A.C.S. Art. 8280a, Sec. 2.06.)

Sec. 2.06. The board shall administer this Act in each of the ports within its jurisdiction and may adopt rules to carry out this Act and may perform any acts or functions necessary to carry out those powers and duties under this Act.

Sec. 66.017. DUTIES. The board shall:

(1) establish the number of pilots necessary to provide adequate pilot services for each Harris County port;

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

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

(4) establish pilotage rates;

(5) approve the locations for pilot stations;

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

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

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

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

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

(11) provide penalties to be imposed on a person who
is not a pilot for a Harris County port who pilots a vessel into or out of the port if a pilot offered those services to the vessel.

(V.A.C.S. Art. 8280a, Sec. 2.08.)

Source Law

Sec. 2.08. The board shall:

(1) establish the number of pilots necessary to provide adequate pilot services for each port under the board's jurisdiction;

(2) accept applications for pilot licenses and certificates and determine whether or not each applicant meets the qualifications for a pilot in this Act;

(3) submit to the governor lists of applicants found by the board to be qualified for appointment as pilots;

(4) establish pilotage rates to be charged for piloting vessels within the board's jurisdiction;

(5) approve the locations for pilot stations;

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

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

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

(9) adopt rules and issue orders to pilots and vessels when necessary to secure efficient pilot services within the board's jurisdiction;

(10) institute investigations or hearings or both to consider casualties, accidents, or any other action that violates this Act;

(11) provide penalties to be imposed on any person who is not appointed a branch pilot for the port who pilots any ship or vessel into or out of the port, channel, or waterway under the jurisdiction of the board if a branch pilot or deputy pilot operating under this Act offered those services to the ship or vessel.

Revised Law

Sec. 66.018. UNFAIR DISCRIMINATION PROHIBITED. (a) In all its duties, including rulemaking, the board may not sanction discriminatory practices or discriminate against a pilot or pilot applicant because of race, religion, sex, ethnic origin, or national origin.

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

(V.A.C.S. Art. 8280a, Sec. 2.09.)

Source Law

Sec. 2.09. (a) In all its duties, including
rule making, the board shall not sanction discriminatory practices nor discriminate against any applicant, licensed pilot, branch pilot, or deputy branch pilot on account of race, religion, sex, ethnic origin, or national origin.

(b) Remedies for a violation of this section shall be sought as provided in Section 3.03 of this Act.

Reviser's Note
The source law refers to bringing suit in the manner provided by Section 3.03, V.A.C.S. Article 8280a (codified as Section 66.022 of this code). The revised law substitutes the substance of the language in that section relating to bringing suit.

Revised Law
Sec. 66.019. OPEN MEETINGS LAW. Chapter 551, Government Code, applies to actions and proceedings under this chapter. (V.A.C.S. Art. 8280a, Sec. 3.01.)

Source Law
Sec. 3.01. Except as specifically provided by this Act, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), applies to actions and proceedings under this Act.

Reviser's Note
Section 3.01, V.A.C.S. Article 8280a, states that the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), applies to actions and proceedings under Article 8280a. The open meetings law is codified as Chapter 551, Government Code, and the revised law is drafted accordingly. Section 3.01 also states that the open meetings law applies "[e]xcept as specifically provided by this Act." The revised law omits that language because there are no specific exceptions in this chapter.
Revised Law
Sec. 66.020. RULE OR RATE CHANGE. (a) The board shall give at least 10 days' notice as provided by this section before the board adopts a rule or changes a pilotage rate.

(b) The board shall post the notice and a copy of the proposed rule or change at the board office for public inspection. (V.A.C.S. Art. 8280a, Sec. 3.02(a).)

Source Law
Sec. 3.02. (a) The board shall give at least 10 days' notice of its intention to adopt a rule or to change pilotage rates by posting at the office of the board for public inspection a copy of the proposed rule or change.

Revised Law
Sec. 66.021. CONTESTED CASE NOTICE. The board shall post in the board office for public inspection a notice that includes the same information as the notice given to the parties in each contested case. (V.A.C.S. Art. 8280a, Sec. 3.02(b).)

Source Law
(b) The board shall post in its office for public inspection a notice that includes the same information as the notice given to the parties in each contested case.

Revised Law
Sec. 66.022. JUDICIAL REVIEW. Proceedings for judicial review of a board decision shall be brought in a district court in Harris County. (V.A.C.S. Art. 8280a, Sec. 3.03.)

Source Law
Sec. 3.03. Proceedings for judicial review of a board decision shall be brought in a district court in Harris County.

[Sections 66.023-66.030 reserved for expansion]

SUBCHAPTER C. PILOT LICENSES AND CERTIFICATES

Revised Law
Sec. 66.031. LICENSE OR CERTIFICATE REQUIRED. A person may
not provide pilot services unless the person has a license or certificate issued under this chapter for the Harris County ports in which the pilot services are to be provided. (V.A.C.S. Art. 8280a, Sec. 4.01.)

Source Law

Sec. 4.01. It shall be unlawful for a person to provide pilot services as a branch pilot or deputy branch pilot unless that person has a valid license or certificate issued under this Act for the ports within the jurisdiction of the board in which the pilot services are to be provided.

Revisor's Note

Section 4.01, V.A.C.S. Article 8280a, refers to a person providing pilot services without a valid license or certificate. The revised law omits "valid" as unnecessary. A document purporting to be a license or certificate is no longer a license or certificate if it is expired and is not a license or certificate if it is a forgery.

Revised Law

Sec. 66.032. EXEMPTIONS. The requirement to use a pilot does not apply to:

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

(2) a vessel exempt under federal law from payment of state pilotage rates. (V.A.C.S. Art. 8280a, Sec. 1.04.)

Source Law

Sec. 1.04. The requirement to use a licensed pilot under this Act does not apply to the following classes of vessels:

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

(2) a vessel of whatever burthen owned and registered and licensed in this state; and

(3) a vessel exempt from payment of state pilotage rates under federal law.
Revisor's Note

Section 1.04, V.A.C.S. Article 8280a, refers to "a vessel of whatever burthen owned and registered and licensed in this state." The revised law omits the quoted language as impliedly repealed by Section 3 of the Texas Compulsory Pilotage Act (V.A.C.S. Article 8278), adopted in 1991, which specifies the vessels for which pilotage is required and does not exempt these vessels. Section 1.04 was enacted in 1981 and has not been amended.

Revised Law

Sec. 66.033. QUALIFICATIONS FOR LICENSE. To be eligible for a license as a branch pilot, a person must:

(1) be at least 25 years of age;
(2) be a United States citizen;
(3) as of the date the license is issued, have resided continuously in this state for at least one year;
(4) be licensed under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services;
(5) have at least two years' service as a deputy branch pilot or equivalent service piloting vessels of at least 5,000 gross tons within the board's jurisdiction;
(6) have commanded or controlled the navigation of vessels such as the person would pilot;
(7) have extensive experience in the docking and undocking of vessels;
(8) be in good mental and physical health;
(9) have good moral character; and
(10) possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a branch pilot. (V.A.C.S. Art. 8280a, Sec. 4.02.)
Sec. 4.02. (a) To be eligible for a license as a branch pilot for ports within the jurisdiction of the board, a person must:

(1) be at least 25 years of age;
(2) be a United States citizen;
(3) as of the date that the license is issued, have resided in the state for a continuous period of not less than one year;
(4) be licensed under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services;
(5) have at least two years' service as a deputy branch pilot or equivalent service piloting vessels of at least 5,000 gross tons within the board's jurisdiction;
(6) have exercised command or have exercised control of navigation of vessels such as he would pilot; and
(7) have extensive experience in the docking and undocking of oceangoing vessels.

(b) In addition to the qualifications stated in Subsection (a) of this section, the applicant must be found by the board to be in good mental and physical health, to have good moral character, and to possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a branch pilot.

Sec. 66.034. QUALIFICATIONS FOR CERTIFICATE. To be eligible for a certificate as a deputy branch pilot, a person must:

(1) be at least 25 years of age;
(2) be a United States citizen;
(3) hold a license under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services;
(4) be in good mental and physical health;
(5) have good moral character; and
(6) possess the requisite skill to perform competently and safely the duties of a deputy branch pilot. (V.A.C.S. Art. 8280a, Sec. 4.03.)

Sec. 4.03. (a) To be eligible for a certificate as a deputy branch pilot for ports within the board's jurisdiction, a person must:

(1) be at least 25 years of age;
(2) be a United States citizen; and
(3) be licensed under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services.

(b) In addition to the qualifications stated in
Subsection (a) of this section, the applicant must be found by the board to be in good mental and physical health, to have good moral character, and to possess the requisite skill to perform competently and safely the duties of a deputy branch pilot.

Revised Law

Sec. 66.035. APPLICATION FOR LICENSE OR CERTIFICATE. To apply for a branch pilot's license or a deputy branch pilot's certificate, a person must give to the board a written application in the form and manner required by board rule. (V.A.C.S. Art. 8280a, Sec. 4.04.)

Source Law

Sec. 4.04. (a) An applicant for a branch pilot's license or a deputy branch pilot's certificate shall submit a written application to the board.
(b) The application shall be submitted to the board in the form and in the manner required by the board in its rules.

Revised Law

Sec. 66.036. CONSIDERATION OF APPLICATION. (a) The board shall carefully consider each application and shall conduct any investigation it considers necessary to determine whether an applicant is qualified for a license or certificate.
(b) As part of its consideration of applications for licenses and certificates, the board may develop and administer examinations to determine an applicant's knowledge of piloting, management of vessels, and the water in the board's jurisdiction. (V.A.C.S. Art. 8280a, Sec. 4.05.)

Source Law

Sec. 4.05. (a) The board shall carefully consider each application submitted to it and shall conduct any investigation it considers necessary to assist it in determining whether or not an applicant is qualified for a license or certificate.
(b) As part of its consideration of applications for licenses and certificates, the board may develop and administer examinations to determine each applicant's knowledge of piloting, management of vessels, and the water within the board's jurisdiction.
Revised Law

Sec. 66.037. BRANCH PILOT APPOINTMENT BY GOVERNOR. (a) On filing of the bond and oath required by Section 66.039, the board shall certify to the governor that a person licensed as a branch pilot has qualified.

(b) On receipt of the board's certification, the governor shall issue to the person, in the name of the state and under the state seal, a commission to serve as a branch pilot to and from Harris County ports. (V.A.C.S. Art. 8280a, Sec. 4.06.)

Source Law

Sec. 4.06. On filing of the bond and oath provided by Section 4.09 of this Act, the board shall certify to the governor that the branch pilot has duly qualified to act as a branch pilot, and on receiving this certification, the governor shall issue to the branch pilot, in the name and under the state seal, a commission to serve as a branch pilot from the ports within the jurisdiction of the board, across intermediate bars, to and from the open gulf.

Revised Law

Sec. 66.038. DEPUTY BRANCH PILOT APPOINTMENT BY BRANCH PILOT. (a) Each branch pilot may appoint, subject to examination and approval by the board, two deputy branch pilots for whose acts the branch pilot is responsible.

(b) A branch pilot may appoint an additional deputy branch pilot if the board considers the appointment advisable.

(c) A branch pilot who appoints a deputy branch pilot without the approval of the board forfeits the pilot's appointment as a branch pilot. (V.A.C.S. Art. 8280a, Sec. 4.07.)

Source Law

Sec. 4.07. (a) Subject to examination and approval of the board, each branch pilot may appoint two deputy pilots for whose acts the branch pilot is responsible.

(b) A branch pilot who appoints a deputy pilot without the approval of the board shall forfeit his own appointment as a branch pilot.

(c) An additional deputy pilot may be appointed if the branch pilot and the board mutually consider such an appointment advisable.
Revised Law
Sec. 66.039. OATH; BOND. (a) A person appointed as a pilot must take the official oath before entering service as a pilot. The oath shall be endorsed on the bond required by Subsection (b).
(b) Each pilot must execute a $25,000 bond payable to the governor and conditioned on compliance with the laws, rules, and orders relating to pilots and on the faithful performance of the pilot's duties.
(c) Each bond must be approved by the board. (V.A.C.S. Art. 8280a, Sec. 4.09.)

Source Law
Sec. 4.09. (a) Before entering into service as a pilot, a person appointed to be a branch pilot or deputy branch pilot shall take the official oath which shall be endorsed on the bond required by this section.
(b) Each pilot shall execute a bond for $25,000 conditioned on compliance with the laws, rules, and orders relating to pilots and on the faithful performance of the pilot's duties and payable to the governor.
(c) Each bond must be approved by the board.

Revised Law
Sec. 66.040. TERMS OF LICENSES AND CERTIFICATES. (a) A branch pilot's license expires on the fourth anniversary of the date it is issued or renewed.
(b) A deputy branch pilot's certificate expires on the second anniversary of the date it is issued and may not be renewed. (V.A.C.S. Art. 8280a, Secs. 4.08, 4.11(a).)

Source Law
Sec. 4.08. (a) A license issued under this Act expires four years from the date it is issued or renewed.
(b) A certificate issued under this Act expires two years from the date it is issued and is not renewable.
Sec. 4.11. (a) A deputy branch pilot's certificate expires two years from the date it is issued.

Revised Law
Sec. 66.041. BRANCH PILOT'S LICENSE RENEWAL. (a) The
governor shall renew a branch pilot's expiring license if the board recommends renewal.

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

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

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

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

(d) If the board determines that it has probable cause not to renew a license, the board shall notify the license holder of that determination not later than the 60th day before the date the license expires. On request, the board shall provide a hearing after proper notice to consider whether the board has cause not to recommend renewal of the license.

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

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

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

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

(g) The denial of renewal of a pilot's license does not prohibit the pilot from applying for a new license and being reappointed. (V.A.C.S. Art. 8280a, Sec. 4.10.)

Source Law

Sec. 4.10. (a) Every four years, on written application and successful qualification, a branch pilot's license shall be renewed by the governor on recommendation of the board for an additional four-year term unless the board determines that probable cause
exists for not renewing the license.

(b) Probable cause exists for not renewing a license if the board finds that the licensee no longer possesses one or more of the qualifications stated in this Act for pilots or suffers from a disability that will affect his ability to serve as a pilot.

(c) If the board determines that it has probable cause for not renewing a license, it shall give notice of this fact to the licensee not less than 60 days before expiration of the license and, on request, shall offer the licensee the opportunity for a hearing after proper notice to consider whether or not cause exists for not renewing the license.

(d) If the board finds at the conclusion of the hearing that no probable cause exists for nonrenewal, the board shall renew the license for another term.

(e) If a pilot does not contest the board's decision not to renew the license or if the board after its hearing finds that there is probable cause for nonrenewal, the board shall issue a written order recommending to the governor that the license not be renewed, and the governor shall refuse renewal of the license.

(f) Denial of renewal of a pilot's license does not prevent the former licensee from applying for a new license and being reappointed by the governor at a later time if the licensee then meets all qualifications for a license under this Act.

Revisor's Note

Section 4.10(f), V.A.C.S. Article 8280a, states that denial of renewal of a pilot's license does not prevent the former licensee from applying for a new license and being reappointed "if the licensee then meets all qualifications for a license under this Act."

The revised law omits as unnecessary the reference to meeting qualifications otherwise required by this chapter.

Revised Law

Sec. 66.042. DEPUTY BRANCH PILOT. A person who has been issued a deputy branch pilot's certificate may not be issued a deputy branch pilot's certificate before the fifth anniversary of the date the person was previously issued a deputy branch pilot's certificate. (V.A.C.S. Art. 8280a, Sec. 4.11(b).)

Source Law

(b) No person may be issued more than one deputy branch pilot's certificate within any period of five consecutive years.
Sec. 66.043. SUSPENSION OR REVOCATION OF BRANCH PILOT'S LICENSE. (a) On complaint or on its own motion, and after notice and hearing, the board may suspend a branch pilot's license for not more than six months or recommend that the governor revoke a branch pilot's license if the board finds that the pilot has:

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

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

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

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

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

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

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

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

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

(10) intentionally caused damage to a vessel;

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

(12) aided or abetted another pilot in failing to perform the other pilot's duties; or
(13) been guilty of carelessness, neglect of duty, intentional unavailability for performance of duties, refusal to perform duties, misconduct, or incompetence while on duty.

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

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

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

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

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

(e) A suspension of a license takes effect on adoption of the board's order. A revocation of a branch pilot's license takes effect on issuance of the governor's decision. (V.A.C.S. Art. 8280a, Sec. 4.12.)

Source Law

Sec. 4.12. (a) On complaint or on its own motion and after notice and hearing, the board may suspend a pilot's license for up to six months or may recommend to the governor revocation of a pilot's license if the board finds that the pilot has:

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

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

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

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

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

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

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

(8) charged pilotage rates other than those approved by the board;

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

(10) intentionally caused damage to a
vessel;

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

(12) aided or abetted another pilot in
failing to perform his duties; or

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

(b) The license of a pilot under this Act whose
federal license as a pilot is suspended or revoked, on
a finding by the board that good cause exists, shall be
suspended for the same period or revoked, as the case
may be.

(c) If the board determines that a license
should be suspended or revoked, it shall issue a
written order stating its findings and suspending the
license for a specifically stated period or
recommending to the governor revocation of the license.

(d) On receiving the board's order recommending
revocation of a license, the governor shall revoke the
license.

(e) A suspension takes effect immediately on
issuance of the board's order and revocation takes
effect immediately on issuance of the governor's
decision.

Revised Law
Sec. 66.044. SUSPENSION OR REVOCATION OF DEPUTY BRANCH
PILOT'S CERTIFICATE. A deputy branch pilot's certificate may be
suspended or revoked by the board in the same manner and for the
same reasons as provided for the revocation or suspension of a
branch pilot's license by Section 66.043. (V.A.C.S. Art. 8280a,
Sec. 4.11(c).)

Source Law

(c) A deputy branch pilot's certificate may be
suspended or revoked by the board in the same manner
and for the same reasons provided for branch pilots' licenses by Section 4.12 of this Act.

Revised Law
Sec. 66.045. LIABILITY TO PILOT. (a) A person who is not a
pilot and who, in violation of this chapter, pilots a vessel and
the consignee of the vessel are liable to a pilot, on written
demand, for the amount of the applicable pilotage rate.

(b) In an action to recover compensation under Subsection
(a), the court may include in a judgment in favor of a pilot an award of court costs and reasonable attorney's fees. (V.A.C.S. Art. 8280a, Sec. 4.13.)

Source Law

Sec. 4.13. (a) If a person who is not licensed or certified under this Act pilots a vessel in violation of this Act, that person and the consignee of the vessel are liable to a state licensed or certified pilot in that jurisdiction, on written demand, for an amount equal to the pilotage rates that would have been applicable.

(b) If suit is filed to collect the compensation owed to a pilot under Subsection (a) of this section, the court may include in any final judgment in favor of the pilot an award to cover court costs and reasonable attorney's fees.

Revisor's Note

(End of Subchapter)

The revised law omits as executed the transition language of Section 6.02, V.A.C.S. Article 8280a, that relates to expiration of licenses and certificates of branch pilots and deputy branch pilots appointed before the effective date of Article 8280a (January 1, 1982).

A branch pilot commissioned under V.A.C.S. Articles 8250-8254 (codified as Section 62.025 and Subchapter C of Chapter 62 of this code), which applied to the ports of Harris County before enactment of Article 8280a, had a term that would expire not later than January 1, 1986. Section 6.02 requires license renewal under Article 8280a after that date. Section 6.02 required deputy branch pilots to be issued certificates that would expire not later than January 1, 1984. The omitted section reads:

Sec. 6.02. (a) Persons who are branch pilots serving a port covered under this Act on the effective date of this Act shall continue to serve as branch pilots until their current commissions expire, at which time each will be eligible for license renewal under the license renewal provisions of this Act, and those branch pilots shall be governed by this Act from its effective date.

(b) Persons who were appointed deputy branch pilots before the effective
date of this Act shall be issued deputy
branch pilot certificates by the board in
whose jurisdiction they are acting as
deputy branch pilots on requesting the
certificate in writing and without having
to comply with other procedural provisions
of this Act. A certificate shall be issued
for a term of two years unless the deputy
branch pilot has less than two years to
serve as a deputy branch pilot in which
case the certificate shall be issued for
the remaining time the deputy is required
to serve. Deputy branch pilots in ports
covered by this Act shall be governed by
this Act from its effective date.

[Sections 66.046-66.060 reserved for expansion]

SUBCHAPTER D. PILOTAGE RATES

Revised Law

Sec. 66.061. PILOTAGE RATE CHANGE. The board may not change
pilotage rates before the first anniversary of the preceding rate
change. (V.A.C.S. Art. 8280a, Sec. 5.03(e).)

Source Law

(e) New pilotage rates may not be established
less than one year after the board has established
pilotage rates for the port.

Revised Law

Sec. 66.062. PILOTAGE RATE CHANGE APPLICATION. (a) An
application for a change in pilotage rates may be submitted to the
board by:

(1) a pilot;
(2) an association of pilots;
(3) a consignee liable under Section 66.070 to pay
pilotage rates; or
(4) an association of consignees.

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

(c) The board shall set a hearing date within two weeks of
receipt of an application. The board shall hold the hearing not
earlier than the 20th day and not later than the 40th day after the
date the board sets the hearing date.
(d) An applicant shall give notice of the application and the hearing date, by certified mail to the last known address, to:

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

(2) all known pilots' associations; and

(3) all steamship agencies and associations in the port. (V.A.C.S. Art. 8280a, Secs. 5.03(a), (b), (c) (part), (d).)

Source Law

Sec. 5.03. (a) A pilot licensed or certified by the board, an association of pilots, a consignee liable under Section 6.01 of this Act to pay compensation based on pilotage rates, or an association of consignees may submit an application to the board to establish new pilotage rates for pilot services.

(b) The application must be in writing and must state specifically the changes requested.

(c) Within two weeks of receiving an application, the board shall set a hearing date. The hearing shall be held not less than 20 days nor more than 40 days after the board sets the hearing date.

(d) The applicant shall give notice of the application and the hearing date to all pilots licensed or certified in the port, all known pilots' associations, and all steamship agencies and associations in the port. The notice shall be given by certified mail to their last known addresses.

Revised Law

Sec. 66.063. PILOT FINANCIAL REPORT. (a) Not later than the 10th day before the date set for a pilotage rate hearing, the pilots who are licensed or certified to serve the port for which the rates are being considered shall submit in writing to the board and to any party designated by the board complete accounts of:

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

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

(3) all expenses incurred in connection with activities for which amounts described by Subdivisions (1) and (2) were received and earned; and

(4) estimates of receipts and expenses anticipated to result from the requested changes in pilotage rates.
(b) The pilots shall provide the information for:

(1) the calendar or fiscal year preceding the date of the pilotage rate change application; and

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

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

(d) The board may require relevant additional information it considers necessary to determine a proper pilotage rate. (V.A.C.S. Art. 8280a, Sec. 5.04.)

Source Law

Sec. 5.04. (a) At least 10 days before the date set for a pilotage rates hearing, the pilots who are licensed or certified to serve the port for which new pilotage rates are being considered shall submit in writing to the board and to any party designated by the board complete accounts of:

(1) all amounts received from performance of pilot services, organized by categories or classifications of rates, if rates are set in that manner;

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

(3) all expenses incurred in connection with activities for which these amounts were received and earned; and

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

(b) The information shall be provided for the calendar or fiscal year closest preceding the date of the application, updated to be within 60 days of the date of the application.

(c) The board may require an independent audit of financial information submitted under Subsection (a) of this section by an accountant selected by the board. The cost of the audit shall be assessed against one or more of the applicants and objecting parties as shall appear to the board to be fair and just.

(d) The board may require relevant additional information it considers necessary to determine proper pilotage rates.

Revised Law

Sec. 66.064. FACTORS FOR BOARD CONSIDERATION. In establishing pilotage rates, the board shall consider factors
relevant to determining reasonable and just pilotage rates, including:

1. characteristics of vessels to be piloted;
2. the average number of hours spent by a pilot performing:
   (A) pilot services on board vessels; and
   (B) all pilot services;
3. costs to pilots to provide the required pilot services;
4. the public interest in maintaining safe, efficient, and reliable pilot services;
5. the average wages of masters of United States flag vessels that navigate in the board's jurisdiction and for which the pilotage rate is to be established;
6. economic factors affecting the shipping industry in the area in which the port is located; and
7. an adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with their duties. (V.A.C.S. Art. 8280a, Sec. 5.05.)

Source Law
Sec. 5.05. In establishing pilotage rates, the board shall consider factors relevant to determining reasonable and just pilotage rates, including but not limited to:

1. characteristics of vessels to be piloted;
2. the average number of hours spent by a pilot in the actual performance of pilot services on board vessels as well as the average number of hours spent by a pilot to perform pilot services;
3. costs to pilots to provide the required pilot services;
4. the public interest in maintaining safe, efficient, and reliable pilotage service;
5. average wages of masters of United States flag vessels that navigate the water within the jurisdiction of the board by which the pilotage rates are to be established;
6. economic factors affecting the shipping industry within the area in which the port is located; and
7. an adequate and reasonable compensation for pilots and a fair return on the equipment and vessels that the pilots employ in performance of their duties.
Revisor's Note

Section 5.05, V.A.C.S. Article 8280a, refers to factors "including but not limited to" certain factors. 
"[B]ut not limited to" is omitted as unnecessary because Section 311.005(13), Government Code (Code 
Construction Act), and Section 312.011(19), Government Code, provide that "includes" and "including" are terms 
of enlargement and not of limitation and do not create a presumption that components not expressed are 
excluded.

Revised Law

Sec. 66.065. RATE DECISION. Not later than the 10th day after the date of the completion of a hearing on an application for a change in pilotage rates, the board shall issue a written decision that:

(1) grants or denies the application in whole or in part;
(2) states the reasons for the decision; and
(3) states each new pilotage rate. (V.A.C.S. 
Art. 8280a, Sec. 5.06.)

Source Law

Sec. 5.06. Within 10 days after completion of its hearing on the application for new pilotage rates, the board shall issue a written decision granting or denying the application in whole or in part, setting forth its reasons for the decision, and, if new pilotage rates are authorized, stating the new pilotage rates.

Revised Law

Sec. 66.066. COSTS. The board, in a final order under this subchapter, may charge all or part of the costs of processing an application to the parties in the proceedings. (V.A.C.S. 
Art. 8280a, Sec. 5.03(c) (part).)

(c) ... The board may charge all or part of the costs of processing an application to the parties
in the proceedings as provided in the board's final order.

Revised Law

Sec. 66.067. APPEAL OF BOARD DECISION. Any party aggrieved by a board decision on pilotage rates, after exhausting all administrative remedies, may appeal the order to a court. (V.A.C.S. Art. 8280a, Sec. 5.07.)

Source Law

Sec. 5.07. Any party aggrieved by the decision may seek judicial review of the board's decision after all administrative remedies have been exhausted.

Revised Law

Sec. 66.068. EMERGENCY PILOTAGE RATES. (a) The board may establish emergency pilotage rates for the period of an emergency, not to exceed 30 days, if the board finds that:

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

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

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

(c) Emergency pilotage rates may not be appealed.

(d) The board shall adopt rules to carry out this section. (V.A.C.S. Art. 8280a, Sec. 5.08.)

Source Law

Sec. 5.08. (a) The board may establish emergency pilotage rates, for periods not to exceed 30 days, to replace existing pilotage rates for the period of the emergency if the board finds that a natural or man-made disaster has created a substantial hazard to piloting vessels into and out of a port and that the existence of this hazard overrides the necessity to comply with normal pilotage rate-setting procedures.

(b) In adopting emergency pilotage rates, the board is not required to comply with procedures in this Act and its rules relating to adoption of pilotage rates. Emergency pilotage rates may not be appealed.

(c) The board shall adopt rules necessary to carry out this section.
Sec. 66.069. PILOT SERVICES REQUIRED. The consignee of a vessel under the consignee's control shall obtain pilot services for the vessel and shall pay the pilot who pilots the vessel into and out of the port area compensation according to the pilotage rates filed by the board. (V.A.C.S. Art. 8280a, Secs. 5.09(a) (part), 6.01(a).)

Sec. 5.09. (a) Compensation based on lawfully established pilotage rates shall be paid by the consignee liable for its payment for vessels employing pilots.

Sec. 6.01. (a) The consignee for each vessel is responsible for obtaining pilot services for the vessel under the consignee's control and for paying compensation based on pilotage rates adopted under this Act to the pilots who pilot the vessel into and out of the port area.

Sec. 66.070. PILOTAGE RATE LIABILITY. (a) A consignee who declines the services of a pilot offered outside the bar and enters the port without the aid of a pilot is liable for the payment of pilotage to the first pilot whose services were declined.

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

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

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

(e) Subsections (a)-(d) do not apply to a consignee exempt under this chapter from payment of pilotage rates.

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

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

(V.A.C.S. Art. 8280a, Secs. 5.09(a) (part), (b), (c).)

Source Law

(a) If the consignee of a vessel not exempt under this Act from payment of this compensation declines to enter the port without the aid of a pilot, the consignee is liable to the first pilot whose services were declined for the payment of pilotage; for any vessel that, after being brought in by the pilot, goes out without employing a pilot, the consignee is liable for the payment of pilotage to the pilot who brought the vessel in. If the vessel comes in without the aid of a pilot, though offered outside, the consignee, on going out, is liable for the payment of pilotage to the pilot who first offered his services before the vessel came in. If a vessel comes in without the aid of a pilot, or the offer of a pilot outside, the consignee of the vessel, in case of going out without a pilot, is not liable for pilotage.

(b) A pilot who charges pilotage rates different from those established under this Act for the port in which he serves as a pilot is liable to each person who was charged a pilotage rate other than the lawfully authorized pilotage rate for double the amount of pilotage.

(c) If a person must file suit to collect the amount owed under this section, the court may include in any final judgment in favor of that person an award to cover court costs and reasonable attorney's fees.

Revised Law

Sec. 66.071. RECOVERY OF COMPENSATION. A pilot who offers pilot services to a vessel required under this chapter to obtain pilot services and whose services are refused is entitled to recover from the consignee the pilotage rate for the services.

(V.A.C.S. Art. 8280a, Sec. 6.01(b).)

Source Law

(b) Each pilot who lawfully offers to serve a vessel but is denied such service is entitled to recover compensation based on pilotage rates adopted under this Act from the consignee in any court of competent jurisdiction.
Revisor's Note

Section 6.01(b), V.A.C.S. Article 8280a, refers to a suit brought "in any court of competent jurisdiction." The revised law omits the quoted language as unnecessary because a suit may only be brought in a court, and the general laws of civil jurisdiction determine which courts have jurisdiction over the matter. For example, see Sections 24.007-24.011, Government Code, for the general jurisdiction of district courts.

Revisor's Note
(End of Subchapter)

The revised law omits as executed Sections 5.01 and 5.02, V.A.C.S. Article 8280a, which maintained pilotage rates in effect on the effective date of the original enactment of Article 8280a until the board adopted other rates. The board has adopted more recent pilotage rates. The omitted sections read:

Sec. 5.01. Pilotage rates in effect on the effective date of this Act remain in effect until the board adopts other pilotage rates.
Sec. 5.02. Before different pilotage rates are adopted by the board under this Act, notice shall be given and the board shall hold a hearing.

[Sections 66.072-66.080 reserved for expansion]

SUBCHAPTER E. PILOT LIABILITY

Revised Law

Sec. 66.081. PURPOSE. The purpose of this subchapter is to:

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

(2) maintain pilotage fees at reasonable amounts.

(V.A.C.S. Art. 8280a, Sec. 7.01.)
Sec. 7.01. (a) The stimulation and preservation of maritime commerce on the pilotage grounds of this state is declared to be affected with the public interest and the limitation and regulation of liability of pilots is necessary to such stimulation and preservation of maritime commerce and is deemed to be in the public interest.

(b) To accomplish the stimulation and preservation of maritime commerce it is necessary to limit the liability of the pilots.

(c) The legislature hereby declares that this Act is designed to effect the ends and purposes listed in this section and to maintain pilotage fees at reasonable levels.

Sec. 66.082. PILOT LIABILITY. A pilot is not liable directly or as a member of an organization of pilots for any claim that:

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

(2) relates directly or indirectly to pilot services.

(V.A.C.S. Art. 8280a, Sec. 7.02.)

Sec. 7.02. A pilot is not liable either directly or as a member of an organization of pilots for any claims arising from acts or omissions of any other pilot or organization of pilots that relate directly or indirectly to pilot services.

Sec. 66.083. PILOT LIABILITY LIMITED. (a) A pilot providing pilot services is not liable for more than $1,000 for damage or loss caused by the pilot's error, omission, fault, or neglect in the performance of the pilot services, except as provided by Subsection (b).

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

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

(2) liability for exemplary damages for gross negligence of the pilot and for which no other person is jointly or severally liable; or
(3) an act or omission relating to the ownership and operation of a pilot boat unless the pilot boat is directly involved in pilot services other than the transportation of pilots.

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

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

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

(d) In an action brought against a pilot for an act or omission for which liability is limited as provided by this section and in which other claims are made or anticipated with respect to the same act or omission, the court shall dismiss the proceedings as to the pilot to the extent the pleadings allege pilot liability that exceeds $1,000. (V.A.C.S. Art. 8280a, Sec. 7.03.)

Source Law

Sec. 7.03. (a) A ship's pilot licensed to act as such by the State of Texas and providing service to or from ports of Harris County, Texas, is not liable for damages in excess of the amount of $1,000 for damages or loss occasioned by the pilot's errors, omissions, fault, or neglect in the performance of pilot services, except as may arise by reason of the wilful misconduct or gross negligence of the pilot.

(b) Nothing in this section exempts the vessel or its owner or operator from liability for damage or loss occasioned by that ship to a person or property on the grounds that:

(1) the ship was piloted by a Texas state pilot licensed under this Act; or

(2) the damage or loss was occasioned by the error, omission, fault, or neglect of a Texas state pilot licensed under this Act.

(c) A pilot is not liable for any injury, damage, loss, or expense to any legal entity arising out of or connected with any act or omission that relates directly or indirectly to the performance of pilot services in excess of the amount of $1,000. However, this limitation of liability does not apply to either:

(1) wilful misconduct on the part of the pilot;

(2) liability for exemplary damages based on the gross negligence of the pilot for which no other person is jointly or severally liable; or

(3) acts or omissions relating to the ownership and operation of the pilot boats unless the pilot boat is directly involved in pilot services other than the transportation of pilots.

(d) When any suit or action is brought in any court against a pilot for any such act or omission for
which liability is limited as provided by this section
and other claims are made or anticipated in respect of
the same act or omission, the court shall dismiss the
proceedings as to the pilot to the extent the pleadings
allege liability of the pilot exceeding $1,000.

Revisor's Note
(End of Chapter)

(1) The revised law omits Section 6.03, V.A.C.S.
Article 8280a, a saving provision from the original
enactment of that article. The saving provision
continued the law in effect before the adoption of
Article 8280a for purposes of any pending litigation.
Under Section 311.031, Government Code, any remaining
effect of that saving provision is continued
notwithstanding repeal of Article 8280a by the
revision. The omitted section reads:

Sec. 6.03. This Act does not apply
to any matter that on the effective date of
this Act is involved in litigation, and the
law in effect before the adoption of this
Act shall continue to apply to such
litigation and shall continue in effect for
that limited purpose.

(2) The revised law omits as executed Section
6.04, V.A.C.S. Article 8280a, which contains the
effective date of the original enactment of Article
8280a. The omitted section reads:

Sec. 6.04. This Act takes effect on
January 1, 1982.

CHAPTER 67. GALVESTON COUNTY PILOTS LICENSING
AND REGULATORY ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 67.001. SHORT TITLE .............................................. 275
Sec. 67.002. DEFINITIONS .............................................. 275
Sec. 67.003. APPLICABILITY OF CHAPTER .............................. 277
[Sections 67.004-67.010 reserved for expansion]

SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

Sec. 67.011. BOARD ....................................................... 277
Sec. 67.012. PROHIBITED INTEREST .................................... 278
Sec. 67.013. OATH ............................................ 278
Sec. 67.014. TERM OF OFFICE .................................... 278
Sec. 67.015. JURISDICTION ..................................... 279
Sec. 67.016. ADMINISTRATION; RULES ............................. 279
Sec. 67.017. DUTIES ........................................... 280
Sec. 67.018. PILOT REVIEW BOARD .............................. 281
Sec. 67.019. UNFAIR DISCRIMINATION PROHIBITED .......... 281
Sec. 67.020. OPEN MEETINGS LAW .......................... 282
Sec. 67.021. RULE OR RATE CHANGE .......................... 283
Sec. 67.022. JUDICIAL REVIEW ................................ 283

[Sections 67.023-67.030 reserved for expansion]

SUBCHAPTER C. PILOT LICENSES AND CERTIFICATES

Sec. 67.031. LICENSE OR CERTIFICATE REQUIRED .............. 284
Sec. 67.032. EXEMPTION ....................................... 285
Sec. 67.033. QUALIFICATIONS FOR LICENSE .................... 285
Sec. 67.034. QUALIFICATIONS FOR CERTIFICATE .............. 286
Sec. 67.035. APPLICATION FOR LICENSE OR CERTIFICATE .... 287
Sec. 67.036. CONSIDERATION OF APPLICATION .................. 287
Sec. 67.037. BRANCH PILOT APPOINTMENT BY GOVERNOR ...... 287
Sec. 67.038. DEPUTY BRANCH PILOT APPOINTMENT BY
BRANCH PILOT .................................................. 288
Sec. 67.039. OATH; BOND ...................................... 288
Sec. 67.040. TERMS OF LICENSES AND CERTIFICATES .......... 289
Sec. 67.041. BRANCH PILOT'S LICENSE RENEWAL .............. 289
Sec. 67.042. DEPUTY BRANCH PILOT .......................... 291
Sec. 67.043. SUSPENSION OR REVOCATION OF BRANCH
PILOT'S LICENSE ............................................... 292
Sec. 67.044. SUSPENSION OR REVOCATION OF DEPUTY BRANCH
PILOT'S CERTIFICATE ......................................... 294
Sec. 67.045. LIABILITY TO PILOT ............................. 294

[Sections 67.046-67.050 reserved for expansion]

SUBCHAPTER D. PILOTAGE RATES

Sec. 67.061. PILOTAGE RATE CHANGE .......................... 296
Sec. 67.062. PILOTAGE RATE CHANGE APPLICATION .......... 296

74C263 JD-D 274
Sec. 67.063. OBJECTION; HEARING ........................................... 297
Sec. 67.064. BOARD ACTION ON APPLICATION .......................... 298
Sec. 67.065. PILOT FINANCIAL REPORT .............................. 299
Sec. 67.066. FACTORS FOR BOARD CONSIDERATION ................... 300
Sec. 67.067. BOARD ACTION ................................................. 301
Sec. 67.068. REPORTING AND STENOGRAPHIC COSTS ................. 301
Sec. 67.069. ORDER FILED .................................................. 302
Sec. 67.070. EMERGENCY PILOTAGE RATES .......................... 302
Sec. 67.071. PILOT SERVICES REQUIRED .............................. 303
Sec. 67.072. PILOTAGE RATE LIABILITY ............................... 304
Sec. 67.073. RECOVERY OF COMPENSATION ............................ 304

[Sections 67.074-67.080 reserved for expansion]

SUBCHAPTER E. PILOT LIABILITY

Sec. 67.081. PURPOSE ...................................................... 306
Sec. 67.082. PILOT LIABILITY ............................................. 306
Sec. 67.083. PILOT LIABILITY LIMITED ............................... 306

CHAPTER 67. GALVESTON COUNTY PILOTS LICENSING AND REGULATORY ACT

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law
Sec. 67.001. SHORT TITLE. This chapter may be cited as the
Galveston County Pilots Licensing and Regulatory Act. (V.A.C.S.
Art. 8280b, Sec. 1.01.)

Source Law
Art. 8280b
Sec. 1.01. This Act may be cited as the
Galveston County Pilots Licensing and Regulatory Act.

Revised Law
Sec. 67.002. DEFINITIONS. In this chapter:

(1) "Board" means the board of pilot commissioners for
Galveston County ports.

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

(3) "Galveston County port" means a place in Galveston County into which a vessel enters or from which a vessel departs and the waterway leading to that place from the Gulf of Mexico.

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

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

(6) "Pilot services" means acts of a pilot in conducting a vessel through the navigable water in this state and the ports in which the pilot is licensed or certified as a pilot.

(7) "Vessel" means an oceangoing vessel. (V.A.C.S. Art. 8280b, Sec. 1.02.)

Source Law

Sec. 1.02. In this Act:
(1) "Pilot" means a person who is licensed as a branch pilot or certified as a deputy branch pilot under this Act.
(2) "Board" means the board of pilot commissioners created under this Act.
(3) "Pilotage rates" means the amount of remuneration a pilot may lawfully charge vessels for his services.
(4) "Pilot services" means acts of a pilot in conducting a vessel through the navigable water within the boundaries of the state and the ports in which he is licensed or certified as a pilot.
(5) "Vessel" means every oceangoing vessel navigating the water within the board's jurisdiction except vessels exempt from payment of pilotage rates under this Act.
(6) "Port" means a place in this state into which vessels enter or from which vessels depart that is located in Galveston County and the waterway leading to that place from the Gulf of Mexico.
(7) "Consignee" means the master, owner, agent, subagent, person, firm, or corporation or any combination of these that enters or clears a vessel at the office of the collector of customs.

Revisor's Note

The revised law omits the language in the definition of "vessel" in Section 1.02(5), V.A.C.S. Article 8280b, that refers to vessels navigating the water in the board's jurisdiction because Section 1.03, V.A.C.S. Article 8280b, codified as Section 67.003 of
this code, states that the chapter applies only to Galveston County ports and it is unnecessary to restate that in the definition. The revised law also omits the language in the definition of "vessel" that excepts a vessel exempt from payment of pilotage rates under Article 8280b. The reference is unnecessary because Section 1.04, Article 8280b, codified as Section 67.032 of this code, contains the exemptions from payment of pilotage rates.

Revised Law

Sec. 67.003. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a Galveston County port.

(b) This chapter does not affect the existing laws for ports in other counties, and those laws do not apply to ports located in Galveston County. (V.A.C.S. Art. 8280b, Secs. 1.03, 6.05.)

Source Law

Sec. 1.03. This Act applies to all ports located in Galveston County.

Sec. 6.05. This Act does not affect the existing laws for ports in other counties of this state, including Articles 8248 through 8257 and 8264 through 8280, Revised Statutes; and these laws shall have no application to the ports within the provisions of this Act.

[Sections 67.004-67.010 reserved for expansion]

SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

Revised Law

Sec. 67.011. BOARD. The board of pilot commissioners for the ports of Galveston County is composed of five commissioners from Galveston County appointed by the governor with the advice and consent of the senate. (V.A.C.S. Art. 8280b, Secs. 2.01, 2.02.)

Source Law

Sec. 2.01. A board of pilot commissioners is created for the ports of Galveston County.

Sec. 2.02. The board is composed of five commissioners from Galveston County appointed by the governor with the advice and consent of the senate.
Sec. 67.012. PROHIBITED INTEREST. A person may not be a member of the board if the person has a conflict of interest or a direct or indirect interest in any business affected by or connected with the performance of the person's duties as a pilot commissioner. (V.A.C.S. Art. 8280b, Sec. 2.04.)

Sec. 2.04. A person who has any conflict of interest or is directly or indirectly interested in any business affected by or connected with the performance of his duties as a pilot commissioner may not be a member of the board.

Sec. 67.013. OATH. Before beginning service as a board member, each board member must take and sign before a person authorized to administer oaths an oath to faithfully and impartially discharge the duties of the office. (V.A.C.S. Art. 8280b, Sec. 2.05.)

Sec. 2.05. Before beginning to serve as a member of the board, each board member shall take and subscribe, before someone authorized to administer oaths, an oath to discharge faithfully and impartially the duties of office.

Section 2.05, V.A.C.S. Article 8280b, requires a board member to "subscribe . . . an oath." The revised law substitutes "sign" for "subscribe" to reflect modern usage.

Sec. 67.014. TERM OF OFFICE. (a) Board members serve staggered four-year terms of office.

(b) A member holds office until the member's successor is appointed and qualified. (V.A.C.S. Art. 8280b, Sec. 2.03(a) (part).)
(a) ... appointed members hold office for staggered terms of four years. A member holds office until that member's successor is appointed and qualified.

Revised Law

Sec. 67.015. JURISDICTION. The board has exclusive jurisdiction over the piloting of vessels in Galveston County, including intermediate stops and landing places for vessels on navigable streams wholly or partially located in the board's jurisdiction. (V.A.C.S. Art. 8280b, Sec. 2.07.)

Source Law

Sec. 2.07. The board shall have exclusive jurisdiction over piloting of vessels in this state between the Gulf of Mexico and the ports within the board's jurisdiction, as well as intermediate stops and landing places for vessels on navigable streams wholly or partially located within the board's jurisdiction.

Revisor's Note

Section 2.07, V.A.C.S. Article 8280b, refers in part to the board's jurisdiction over vessels "between the Gulf of Mexico and the ports within the board's jurisdiction." The revised law substitutes a reference to Galveston County ports because the chapter applies only to Galveston County ports and the omitted language is included in the definition of "Galveston County port."

Revised Law

Sec. 67.016. ADMINISTRATION; RULES. (a) The board shall administer this chapter and may perform any act or function necessary to carry out its powers and duties under this chapter.

(b) The board may adopt rules to carry out this chapter. (V.A.C.S. Art. 8280b, Sec. 2.06.)

Source Law

Sec. 2.06. The board shall administer this Act in each of the ports within its jurisdiction and may adopt rules to carry out this Act and may perform any
acts or functions necessary to carry out those powers
and duties under this Act.

Revised Law
Sec. 67.017. DUTIES. The board shall:

(1) recommend to the governor the number of pilots
necessary to provide adequate pilot services for each Galveston
County port;

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

(3) provide names of all qualified applicants for
certificates to each pilot association office of Galveston County;

(4) submit to the governor the names of persons who
have qualified under this chapter to be appointed as branch pilots;

(5) establish pilotage rates;

(6) approve any changes of the locations for pilot
stations;

(7) establish times during which pilot services will
be available;

(8) hear and determine complaints relating to the
conduct of pilots;

(9) make recommendations to the governor concerning
any pilot whose license or certificate should not be renewed or
should be revoked;

(10) adopt rules and issue orders to pilots and
vessels when necessary to secure efficient pilot services;

(11) institute investigations or hearings or both to
consider casualties, accidents, or other actions that violate this
chapter;

(12) provide penalties to be imposed on a person who
is not a pilot for a Galveston County port and who pilots a vessel
into or out of the port; and

(13) approve a training program for deputy branch
pilots. (V.A.C.S. Art. 8280b, Sec. 2.08 (part).)
Sec. 2.08. The board shall:

(1) recommend to the governor the number of pilots necessary to provide adequate pilot services for the ports under the board’s jurisdiction;

(2) accept applications for pilot licenses and certificates and determine whether or not each applicant meets the qualifications for a pilot or deputy pilot in this Act;

(3) provide names of all qualified applicants for certificates to the pilot association office or offices of Galveston County;

(4) submit to the governor the names of persons who have qualified under this Act to be appointed as branch pilots for the ports of Galveston County;

(5) approve any changes of the locations for pilot stations;

(6) establish pilotage rates to be charged for piloting vessels within the board’s jurisdiction;

(7) establish times during which pilot services will be available;

(8) hear and determine complaints relating to the conduct of pilots;

(9) make recommendations to the governor concerning any pilot whose license or certificate should not be renewed or should be revoked;

(10) adopt rules and issue orders to pilots and vessels when necessary to secure efficient pilot services within the board’s jurisdiction;

(11) institute investigations or hearings or both to consider casualties, accidents, or any other action that violates this Act;

(12) provide penalties to be imposed on any person who is not appointed a branch pilot for the port who pilots any ship or vessel into or out of the port, channel, or waterway under the jurisdiction of the board;

(13) approve a training program for deputy branch pilots; and . . . .

Sec. 67.018. PILOT REVIEW BOARD. The board shall establish a pilot review board, consisting of two branch pilots and three members of the marine industry who reside in Galveston County, to hear and review complaints against pilots and to make recommendations to the board concerning the complaints. (V.A.C.S. Art. 8280b, Sec. 2.08 (part).)
Sec. 67.019. UNFAIR DISCRIMINATION PROHIBITED. (a) In all its duties, including rulemaking, the board may not sanction discriminatory practices or discriminate against a pilot or pilot applicant because of race, religion, sex, ethnic origin, or national origin.

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

(V.A.C.S. Art. 8280b, Sec. 2.09.)

Sec. 2.09. (a) In all its duties, including rule making, the board shall not sanction discriminatory practices nor discriminate against any applicant, licensed pilot, branch pilot, or deputy branch pilot on account of race, religion, sex, ethnic origin, or national origin.

(b) Remedies for violation of this section shall be sought as provided in Section 3.03 of this Act.

The source law refers to bringing suit in the manner provided by Section 3.03, V.A.C.S. Article 8280b (codified as Section 67.022 of this code). The revised law substitutes the substance of the language in that section relating to bringing suit.

Sec. 67.020. OPEN MEETINGS LAW. Chapter 551, Government Code, applies to actions and proceedings under this chapter.

(V.A.C.S. Art. 8280b, Sec. 3.01.)

Sec. 3.01. Except as specifically provided by this Act, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), applies to actions and proceedings under this Act.

Section 3.01, V.A.C.S. Article 8280b, states that the open meetings law, Chapter 271, Acts of the 60th
Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), applies to actions and proceedings under Article 8280b. The open meetings law is codified as Chapter 551, Government Code, and the revised law is drafted accordingly. Section 3.01 also states that the open meetings law applies "[e]xcept as specifically provided by this Act." The revised law omits that language because there are no specific exceptions in this chapter.

Revised Law
Sec. 67.021. RULE OR RATE CHANGE. (a) The board shall give at least 10 days' notice as provided by this section before the board adopts a rule or changes a pilotage rate.
(b) The board shall mail the notice and a copy of the proposed rule or change by registered mail to:
   (1) each pilot association office for Galveston County; and
   (2) all known consignees and all known associations of consignees operating in Galveston County.
(c) The board shall post a copy of the proposed rule or change at the county courthouse for public inspection. (V.A.C.S. Art. 8280b, Sec. 3.02.)

Source Law
Sec. 3.02. The board shall give at least 10 days' notice of its intention to adopt a rule or to change pilotage rates by mailing by registered mail such notice to the pilot association office or offices for Galveston County and to all known consignees and to all known associations of consignees which are operating in Galveston County at such time. A copy of the proposed rule or change shall be included with such notice. In addition, a copy of the proposed rule or change shall be posted at the county courthouse for public inspection.

Revised Law
Sec. 67.022. JUDICIAL REVIEW. Proceedings for judicial review of a board decision shall be brought in a district court in
Galveston County. (V.A.C.S. Art. 8280b, Sec. 3.03.)

Source Law

Sec. 3.03. Proceedings for judicial review of a board decision shall be brought in a district court in Galveston County.

Revisor's Note

(End of Subchapter)

The revised law omits as executed the language in Section 2.03, V.A.C.S. Article 8280b, providing for the terms of office of the initial appointments to the board of pilot commissioners. The omitted language reads:

Sec. 2.03. (a) Except for the initial appointments . . .
(b) In making the initial appointments, the governor shall designate two appointed members for terms expiring February 1, 1987, two for terms expiring February 1, 1988, and one for a term expiring February 1, 1990. The governor shall make the initial appointments on or before February 1, 1986.

[Sections 67.023-67.030 reserved for expansion]

SUBCHAPTER C. PILOT LICENSES AND CERTIFICATES

Revised Law

Sec. 67.031. LICENSE OR CERTIFICATE REQUIRED. A person may not provide pilot services unless the person has a license or certificate issued under this chapter for the Galveston County ports in which the pilot services are to be provided. (V.A.C.S. Art. 8280b, Sec. 4.01.)

Source Law

Sec. 4.01. It shall be unlawful for a person to provide pilot services as a branch pilot or deputy branch pilot unless that person has a valid license or certificate issued under this Act for the ports within the jurisdiction of the board in which the pilot services are to be provided.

Revisor's Note

Section 4.01, V.A.C.S. Article 8280b, refers to a
person providing pilot services without a valid license or certificate. The revised law omits "valid" as unnecessary. A document purporting to be a license or certificate is no longer a license or certificate if it is expired and is not a license or certificate if it is a forgery.

Revised Law
Sec. 67.032. EXEMPTION. The requirement to use a pilot does not apply to a vessel exempt under federal law from payment of state pilotage rates. (V.A.C.S. Art. 8280b, Sec. 1.04.)

Source Law
Sec. 1.04. The requirement to use a licensed pilot under this Act does not apply to a vessel exempt from payment of state pilotage rates under federal law.

Revised Law
Sec. 67.033. QUALIFICATIONS FOR LICENSE. To be eligible for a license as a branch pilot, a person must:

(1) be at least 25 years of age;
(2) be a United States citizen;
(3) as of the date the license is issued, have resided continuously in this state for at least two years;
(4) have at least two years' service as a deputy branch pilot and successfully complete the board-approved training program;
(5) have controlled the navigation of vessels such as the person would pilot;
(6) have extensive experience in the docking and undocking of vessels;
(7) be in good mental and physical health;
(8) have good moral character; and
(9) possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a branch pilot. (V.A.C.S. Art. 8280b, Sec. 4.02.)
Source Law

Sec. 4.02. (a) To be eligible for a license as a branch pilot for the ports within the jurisdiction of the board, a person must:

1. be at least 25 years of age;
2. be a United States citizen;
3. as of the date that the license is issued, have resided in the state for a continuous period of not less than two years;
4. have at least two years' service as a deputy branch pilot and successfully complete the board approved training program;
5. have exercised control of navigation of vessels such as he would pilot; and
6. have extensive experience in the docking and undocking of oceangoing vessels.

(b) In addition to the qualifications stated in Subsection (a) of this section, the applicant must be found by the board to be in good mental and physical health, to have good moral character, and to possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a branch pilot.

Revised Law

Sec. 67.034. QUALIFICATIONS FOR CERTIFICATE. To be eligible for a certificate as a deputy branch pilot, a person must:

1. be at least 25 years of age;
2. be a United States citizen;
3. be appointed by a branch pilot;
4. be in good mental and physical health;
5. have good moral character; and
6. possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a deputy branch pilot. (V.A.C.S. Art. 8280b, Sec. 4.03.)

Source Law

Sec. 4.03. (a) To be eligible for a certificate as a deputy branch pilot for ports within the board's jurisdiction, a person must:

1. be at least 25 years of age;
2. be a United States citizen; and
3. be appointed by a branch pilot.

(b) In addition to the qualifications stated in Subsection (a) of this section, the applicant must be found by the board to be in good mental and physical health, to have good moral character, and to possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a deputy branch pilot.
Sec. 67.035. APPLICATION FOR LICENSE OR CERTIFICATE. To apply for a branch pilot's license or a deputy branch pilot's certificate, a person must give to the board a written application in the form and manner required by board rule. (V.A.C.S. Art. 8280b, Sec. 4.04.)

Sec. 4.04. (a) An applicant for a branch pilot's license or a deputy branch pilot's certificate shall submit a written application to the board. (b) The application shall be submitted to the board in the form and in the manner required by the board in its rules.

Sec. 67.036. CONSIDERATION OF APPLICATION. As part of its consideration of applications for licenses and certificates, the board may examine and decide on the qualifications of an applicant for the position of branch pilot or deputy branch pilot. (V.A.C.S. Art. 8280b, Sec. 4.05.)

Sec. 4.05. As part of its consideration of applications for licenses and certificates, the board may, if it deems it advisable, examine and decide on the qualifications of the applicant for the position of branch or deputy pilot.

Sec. 67.037. BRANCH PILOT APPOINTMENT BY GOVERNOR. (a) On filing of the bond and oath required by Section 67.039, the board shall certify to the governor that a person licensed as a branch pilot has qualified. (b) On receipt of the board's certification, the governor shall issue to the person, in the name of the state and under the state seal, a commission to serve as a branch pilot to and from Galveston County ports. (c) The governor shall appoint the number of branch pilots necessary to provide adequate pilot services for each Galveston
County port. (V.A.C.S. Arts. 8270 (part); 8280b, Sec. 4.06.)

Source Law

Art. 8270. The Governor shall appoint ... and for all of the ports in Galveston County, such number of branch pilots as may from time to time be necessary . . . .

[Art. 8280b]
Sec. 4.06. (a) On filing of the bond and oath provided by Section 4.09 of this Act, the board shall certify to the governor that the branch pilot has duly qualified to act as a branch pilot, and on receiving this certification, the governor shall issue to the branch pilot, in the name and under the state seal, a commission to serve as a branch pilot from the ports within the jurisdiction of the board, across intermediate bars, to and from the open gulf.

(b) The governor shall appoint the number of pilots necessary to provide adequate pilot services for each of the ports in Galveston County under the board's jurisdiction.

Revised Law

Sec. 67.038. DEPUTY BRANCH PILOT APPOINTMENT BY BRANCH PILOT. (a) Each branch pilot, subject to examination and approval of the board, may appoint two deputy branch pilots.

(b) A branch pilot may appoint an additional deputy branch pilot if the board considers the appointment advisable.

(c) A branch pilot who appoints a deputy branch pilot without the approval of the board forfeits the pilot's appointment as a branch pilot. (V.A.C.S. Art. 8280b, Sec. 4.07.)

Source Law

Sec. 4.07. (a) Subject to examination and approval of the board, each branch pilot may appoint two deputy pilots.

(b) A branch pilot who appoints a deputy pilot without the approval of the board shall forfeit his own appointment as a branch pilot.

(c) An additional deputy pilot may be appointed if the branch pilot and the board mutually consider such an appointment advisable.

Revised Law

Sec. 67.039. OATH; BOND. (a) A person appointed as a pilot must take the official oath before entering service as a pilot. The oath shall be endorsed on the bond required by Subsection (b).

(b) Each pilot must execute a $25,000 bond payable to the
governor and conditioned on compliance with the laws, rules, and orders relating to pilots and on the faithful performance of the pilot's duties.

(c) Each bond must be approved by the board. (V.A.C.S. Art. 8280b, Sec. 4.09.)

Source Law

Sec. 4.09. (a) Before entering into service as a pilot, a person appointed to be branch pilot or deputy branch pilot shall take the official oath which shall be endorsed on the bond required by this section.
(b) Each pilot shall execute a bond for $25,000 conditioned on compliance with the laws, rules, and orders relating to pilots and on the faithful performance of the pilot's duties and payable to the governor.
(c) Each bond must be approved by the board.

Revised Law

Sec. 67.040. TERMS OF LICENSES AND CERTIFICATES. (a) A branch pilot's license expires on the fourth anniversary of the date it is issued or renewed.
(b) A deputy branch pilot's certificate expires on the second anniversary of the date it is issued and may not be renewed. (V.A.C.S. Arts. 8270 (part); 8280b, Secs. 4.08, 4.11(a).)

Source Law

Art. 8270. . . . each of whom shall hold his office for the term of four (4) years.

[Art. 8280b]
Sec. 4.08. (a) A license issued under this Act expires four years from the date it is issued or renewed.
(b) A certificate issued under this Act expires two years from the date it is issued and is not renewable.

Sec. 4.11. (a) A deputy branch pilot's certificate expires two years from the date it is issued.

Revised Law

Sec. 67.041. BRANCH PILOT'S LICENSE RENEWAL. (a) The governor shall renew a branch pilot's expiring license if the board recommends renewal.
(b) If a pilot applies in writing and qualifies, the board
shall recommend renewal unless the board determines there is probable cause not to renew the license.

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

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

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

(d) If the board determines that it has probable cause not to renew a license, the board shall notify the license holder not later than the 60th day before the date the license expires. On request, the board shall provide a hearing after proper notice to consider whether the board has cause not to recommend renewal of the license.

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

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

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

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

(g) The denial of renewal of a pilot's license does not prohibit the pilot from applying for a new license and being reappointed. (V.A.C.S. Art. 8280b, Sec. 4.10.)

Source Law

Sec. 4.10. (a) Every four years, on written application and successful qualification, a branch pilot's license shall be renewed by the governor on recommendation of the board for an additional four-year term unless the board determines that probable cause exists for not renewing the license.

(b) Probable cause exists for not renewing a license if the board finds that the licensee no longer possesses one or more of the qualifications stated in this Act for pilots or suffers from a disability that will affect his ability to serve as a pilot.
(c) If the board determines that it has probable cause for not renewing a license, it shall give notice of this fact to the licensee not less than 60 days before expiration of the license and, on request, shall offer the licensee the opportunity for a hearing after proper notice to consider whether or not cause exists for not renewing the license.

(d) If the board finds at the conclusion of the hearing that no cause exists for nonrenewal, the board shall make recommendations to the governor for the renewal of such license for another term.

(e) If a pilot does not contest the board's decision not to renew the license or if the board after its hearing finds that there is probable cause for nonrenewal, the board shall issue a written order recommending to the governor that the license not be renewed, and the governor shall refuse renewal of the license.

(f) Denial of renewal of a pilot's license does not prevent the former licensee from applying for a new license and being reappointed by the governor at a later time if the licensee then meets all qualifications for a license under this Act.

Reviser's Note

Section 4.10(f), V.A.C.S. Article 8280b, states that denial of renewal of a pilot's license does not prevent the former licensee from applying for a new license and being reappointed "if the licensee then meets all qualifications for a license under this Act." The revised law omits as unnecessary the reference to meeting qualifications otherwise required by this chapter.

Revised Law

Sec. 67.042. DEPUTY BRANCH PILOT. A person who has been issued a deputy branch pilot's certificate may not be issued a deputy branch pilot's certificate before the fifth anniversary of the date the person was previously issued a deputy branch pilot's certificate. (V.A.C.S. Art. 8280b, Sec. 4.11(b).)

Source Law

(b) No person may be issued more than one deputy branch pilot's certificate within any period of five consecutive years.
Sec. 67.043. SUSPENSION OR REVOCATION OF BRANCH PILOT'S LICENSE. (a) On complaint or on its own motion, and after notice and hearing, the board may suspend a branch pilot's license for not more than six months or recommend that the governor revoke a branch pilot's license if the board finds that the pilot has:

1. (1) failed to demonstrate and maintain the qualifications for a license required by this chapter;
2. (2) used narcotics or other types of drugs, chemicals, or controlled substances as defined by law that impair the pilot's ability to perform the pilot's duties skillfully and efficiently;
3. (3) used alcohol to an extent that impairs the pilot's ability to perform the pilot's duties skillfully and efficiently;
4. (4) violated a provision of this chapter or rules adopted by the board under this chapter that were material to the performance of the pilot's duties at the time of the violation;
5. (5) made a material misstatement in the application for a license;
6. (6) obtained or attempted to obtain a license under this chapter by fraud or misrepresentation;
7. (7) charged a pilotage rate other than that approved by the board;
8. (8) intentionally refused to pilot a vessel when requested to do so by the master or person responsible for navigation of the vessel except when, in the judgment of the pilot, movement of the vessel would have constituted a hazard to life or property or when pilotage charges that are due and owing are unpaid by the person ordering the pilot services;
9. (9) been absent from duty in violation of board rules and without authorization;
10. (10) aided or abetted another pilot in failing to perform the other pilot's duties; or
11. (11) been guilty of carelessness, neglect of duty, intentional unavailability for normal performance of duties,
refusal to perform duties, misconduct, or incompetence while on duty.

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

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

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

(c) The governor, on receipt of a board order recommending revocation of a license, shall revoke the license. If the board's order is appealed, the governor may not revoke the license until the order is upheld on appeal.

(d) A suspension of a license on the recommendation of a pilot review board takes effect on adoption of the board's order. A revocation of a branch pilot's license takes effect on issuance of the governor's decision. (V.A.C.S. Art. 8280b, Sec. 4.12.)

Source Law

Sec. 4.12. (a) On complaint or on its own motion and after notice and hearing, the board may suspend a pilot's license for up to six months or may recommend to the governor revocation of a pilot's license if the board finds that the pilot has:

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

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

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

(4) violated a provision of this Act or rules adopted by the board under this Act which were material to the performance of his duties at the time of the violation;

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

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

(7) charged pilotage rates other than those approved by the board;

(8) intentionally refused to pilot a vessel when requested to do so by the master or person responsible for navigation of the vessel except when, in the judgment of the pilot, movement of the vessel would have constituted a hazard to life or property or when pilotage charges due and owed remained unpaid by the person ordering the pilot services;

(9) been absent from duty in violation of rules of the board and without authorization;
(10) aided or abetted another pilot in failing to perform his duties; or
(11) been guilty of carelessness, neglect of duty, intentional unavailability for normal performance of duties, refusal to perform duties, misconduct, or incompetence while on duty.

(b) If the board determines that a license should be suspended or revoked, it shall issue a written order stating its findings and suspending the license for a specifically stated period or recommending to the governor revocation of the license.

(c) On receiving the board's order recommending revocation of a license, the governor shall revoke the license except where an appeal has been taken and then the governor shall revoke the license only after the order is upheld.

(d) A suspension based on the recommendation of a pilot review board takes effect immediately on issuance of the board's order. Revocation takes effect immediately on issuance of the governor's decision.

Revised Law

Sec. 67.044. SUSPENSION OR REVOCATION OF DEPUTY BRANCH PILOT'S CERTIFICATE. A deputy branch pilot certificate may be suspended or revoked by the board in the same manner and for the same reasons as provided for the suspension or revocation of a branch pilot's license by Section 67.043. (V.A.C.S. Art. 8280b, Sec. 4.11(c).)

Source Law

Sec. 4.13. (a) If a person who is not licensed or certified under this Act pilots a vessel in violation of this chapter, pilots a vessel and the consignee of the vessel are liable to a pilot, on written demand, for the amount of the applicable pilotage rate.

(b) In an action to recover compensation under Subsection (a), the court may include in a judgment in favor of a pilot an award of court costs and reasonable attorney's fees. (V.A.C.S. Art. 8280b, Sec. 4.13.)

Source Law

Sec. 4.13. (a) If a person who is not licensed or certified under this Act pilots a vessel in
violation of this Act, that person and the consignee of
the vessel are liable to a state licensed or certified
pilot in that jurisdiction, on written demand, for an
amount equal to the pilotage rates that would have been
applicable.

(b) If suit is filed to collect the compensation
owed to a pilot under Subsection (a) of this section,
the court may include in any final judgment in favor of
the pilot an award to cover court costs and reasonable
attorney's fees.

Revisor's Note
(End of Subchapter)

The revised law omits as executed the transition
language of Section 6.02, V.A.C.S. Article 8280b, that
relates to expiration of licenses and certificates of
branch pilots and deputy branch pilots appointed before
the effective date of Article 8280b (September 1,
1985). A branch pilot commissioned under V.A.C.S.
Article 8270 (codified as Section 63.041 of this code),
which applied to the ports of Galveston County before
enactment of Article 8280b, had a term that would
expire not later than September 1, 1989. Section 6.02
requires license renewal under Article 8280b after that
date. Section 6.02 required deputy branch pilots to be
issued certificates that would expire not later than
September 1, 1987. The omitted section reads:

Sec. 6.02. (a) Persons who are
branch pilots serving a port covered under
this Act on the effective date of this Act
shall continue to serve as branch pilots
until their current commissions expire, at
which time each will be eligible for
license renewal under the license renewal
provisions of this Act, and those branch
pilots shall be governed by this Act from
its effective date.

(b) Persons who were appointed
deputy branch pilots before the effective
date of this Act shall be issued deputy
branch pilot certificates by the board in
whose jurisdiction they are acting as
deputy branch pilots on requesting the
certificate in writing and without having
to comply with other procedural provisions
of this Act. A certificate shall be issued
for a term of two years unless the deputy
branch pilot has less than two years to
serve as a deputy branch pilot in which
case the certificate shall be issued for
the remaining time the deputy is required
to serve. Deputy branch pilots in ports
covered by this Act shall be governed by this Act from its effective date.

[Sections 67.046-67.060 reserved for expansion]

SUBCHAPTER D. PILOTAGE RATES

Revised Law
Sec. 67.061. PILOTAGE RATE CHANGE. The board may not change pilotage rates before the first anniversary of the preceding rate change. (V.A.C.S. Art. 8280b, Sec. 5.03(j).)

Source Law
(j) New pilotage rates may not be established more often than once every 12 months.

Revised Law
Sec. 67.062. PILOTAGE RATE CHANGE APPLICATION. (a) An application for a change in a pilotage rate may be filed with each commissioner of the board by:

(1) one or more pilots; or

(2) the owner, agent, or consignee of a vessel navigating to or from a Galveston County port.

(b) The application must contain:

(1) a brief statement of the circumstances that warrant the change; and

(2) a certification that the applicant has submitted copies of the application to all known pilots, consignees, and associations of consignees operating in Galveston County at the time of the application. (V.A.C.S. Art. 8280b, Sec. 5.03(a).)

Source Law
Sec. 5.03. (a) An application for the establishment of a new rate of pilotage may be filed with each commissioner by one or more pilots or by the owner, agent, or other person defined as consignee of a vessel; provided such application for increase or decrease of rates shall contain a brief statement of the circumstances which, it is alleged, warrant the requested action of the commissioners and shall also contain a certificate that the applicant has submitted copies of the application to all known pilots and to all known consignees and to all known associations of consignees operating in Galveston County at the time of the application.

74C263 JD-D 296
Revisor's Note

The revised law adds the qualifying language "navigating to or from a Galveston County port" in Subsection (a)(2) because this chapter applies only to those vessels.

Revised Law

Sec. 67.063. OBJECTION; HEARING. (a) If, not later than the 20th day after the date notice is sent, a commissioner receives a written objection to the application from any person who appears to have a legitimate interest in the application, the board shall hold a hearing as provided by this section.

(b) The board shall hold the hearing not later than the 20th day after the date the 20-day period provided by Subsection (a) expires.

(c) The board shall give notice of the hearing to:

(1) each applicant;
(2) each person objecting to the application; and
(3) any other person the board determines is interested in the proceedings.

(d) The hearing shall be open to the public and held at a convenient public place in one of the ports that would be affected by the change. Each party who demonstrates a legitimate interest in the application is entitled to be heard, to present evidence, and, to the extent the board considers practical, to cross-examine testifying witnesses. (V.A.C.S. Art. 8280b, Secs. 5.03(c) (part), (d).)

Source Law

(c) In the event any commissioner receives in writing an objection to the application from any person, firm, or corporation who appears to have a legitimate interest in the application within 20 days after notice of the filing of the application was given, the commissioners shall hold a hearing within 20 days after the expiration of the initial 20-day notice period for the filing of any objection to the application and shall notify the applicants, the persons objecting to the application, and such other parties as the commissioners may in their sole
discretion determine to be interested in the proceedings . . . .

(d) Said hearing shall be held at a convenient and public place in any one of the ports affected and shall be open to the public. At the hearing all parties, upon demonstrating a legitimate interest in the application, shall have the right to be heard, to present evidence and, to the extent deemed practical by the commissioners, to cross-examine the witnesses appearing to testify at the hearing.

Revisor's Note

Section 5.03(c), V.A.C.S. Article 8280b, refers to a "person, firm, or corporation." The reference to "firm, or corporation" is omitted from the revised law because under Section 311.005(2), Government Code (Code Construction Act), "person" is defined to include a corporation or any other legal entity. That definition applies to the revised law.

Revised Law

Sec. 67.064. BOARD ACTION ON APPLICATION. (a) If an objection to an application for a rate change is not received by any commissioner within the period provided by Section 67.063(a), the board shall act on the application without further proceedings. 

(b) If a hearing is held as provided by Section 67.063, the board shall grant, deny, or modify the application after receipt of the evidence offered by the parties and arguments and briefs requested by the board. (V.A.C.S. Art. 8280b, Secs. 5.03(b) (part), (e).)

Source Law

(b) In the event the notice required is in fact given and no written objection on the part of any legitimately interested party is received by any commissioner within 20 days after said notice is sent, the commissioners shall proceed to act upon the application as they see fit without further proceedings . . . .

(e) After receipt of the evidence offered by the parties and such arguments and briefs as the commissioners may desire to receive, the application shall be granted, denied, or modified by the commissioners.
Sec. 67.065. PILOT FINANCIAL REPORT. (a) Not later than the 10th day before the date set for a pilotage rate hearing, the pilots who are licensed or certified to serve the port for which the rates are being considered shall submit in writing to the board and to any party designated by the board complete accounts of:

1. all amounts received from performing pilot services, organized by categories or classifications of rates, if rates are set in that manner;
2. all earnings from capital assets devoted to providing pilot services;
3. all expenses incurred in connection with activities for which amounts described by Subdivisions (1) and (2) were received and earned; and
4. estimates of receipts and expenses anticipated to result from the requested changes in pilotage rates.

(b) The pilots shall provide the information for:

1. the calendar or fiscal year preceding the date of the pilotage rate change application; and
2. the subsequent period to within 60 days of the date of the application.

(c) The board may require relevant additional information it considers necessary to determine a proper pilotage rate. (V.A.C.S. Art. 8280b, Sec. 5.04.)

Sec. 5.04. (a) At least 10 days before the date set for a pilotage rate hearing, the pilots who are licensed or certified to serve the port for which new pilotage rates are being considered shall submit in writing to the board and to any party designated by the board complete accounts of:

1. all amounts received from performance of pilot services, organized by categories or classifications of rates, if rates are set in that manner;
2. all earnings from capital assets devoted to providing pilot service;
3. all expenses incurred in connection with activities for which these amounts were received and earned; and
4. estimates of receipts and expenses anticipated to result from the requested changes in
pilotage rates.

(b) The information shall be provided for the calendar or fiscal year closest preceding the date of the application, updated to be within 60 days of the date of the application.

(c) The board may require relevant additional information it considers necessary to determine proper pilotage rates.

Revised Law

Sec. 67.066. FACTORS FOR BOARD CONSIDERATION. In acting on a pilotage rate change application, the board shall consider:

(1) characteristics of vessels to be piloted;

(2) the average number of hours spent by a pilot in performing pilot services;

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

(4) the effect, including economic factors affecting the shipping industry in the area, that the granting, refusal, or modification of the application would have on Galveston County ports and the persons residing in the board's jurisdiction;

(5) an adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with pilot duties; and

(6) the relationship between the pilotage rates in Galveston County ports and the rates applicable in other ports of this state and in competitive ports in other states. (V.A.C.S. Art. 8280b, Sec. 5.03(f).)

Source Law

(f) In determining their action upon any application, the commissioners shall consider:

(1) characteristics of vessels to be piloted;

(2) the average number of hours spent by a pilot in the performance of pilot services;

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

(4) the effect, including economic factors affecting the shipping industry within the area, which the granting, refusal, or modification of the application would have upon the port or ports within the jurisdiction of the commissioners and the citizens residing in it;

(5) an adequate and reasonable compensation to the pilots and a fair return upon the equipment and vessels which they employ in connection
with their duties;
(6) the relationship between the pilotage rates in the ports under the commissioners' jurisdiction and the rates applying in other ports of this state and competitive ports in other states.

Revised Law
Sec. 67.067. BOARD ACTION. (a) A board order granting, denying, or modifying an application for a rate change must state its effective date. The order is final, except as provided by Subsection (b).

(b) Any party aggrieved by the board's order may, after exhausting all administrative remedies, appeal the order to a court. (V.A.C.S. Art. 8280b, Secs. 5.03(g), (i) (part), 5.05.)

Source Law
[Sec. 5.03]
(g) The action of the commissioners in granting, denying, or modifying the application shall be final.

(i) . . . and said order shall state when it is effective. . . .

Sec. 5.05. Any party aggrieved by the decision may seek judicial review of the board's decision after all administrative remedies have been exhausted.

Revised Law
Sec. 67.068. REPORTING AND STENOGRAPHIC COSTS. (a) The board may assess the actual costs the board considers fair and just for reporting and stenographic services necessarily incurred in connection with a hearing against one or more of the applicants and objecting parties.

(b) The board may require that an applicant or objecting party deposit an amount against those costs as a condition of presenting an application or objection. (V.A.C.S. Art. 8280b, Sec. 5.03(h).)

Source Law
(h) The commissioners shall have the authority to assess the actual cost of reporting and secretarial services necessarily incurred in connection with any hearing against one or more of the applicants and objecting parties as shall appear to the commissioners to be fair and just. The commissioners may further require that any applicant or objecting party deposit a
sum against said costs as a condition of presenting its application or objection. The costs authorized by this subsection shall be strictly limited to the actual and reasonable costs of reporting and stenographic services.

Revisor's Note

Section 5.03(h), V.A.C.S. Article 8280b, limits the costs of reporting and stenographic services to "actual and reasonable" costs. The revised law omits "reasonable" because it is included in the requirement that the costs be limited to those the board considers fair and just.

Revised Law

Sec. 67.069. ORDER FILED. (a) The board shall file a copy of its order with the county clerk.

(b) The board shall file the order not later than the 20th day after:

(1) the closing date of a hearing held as provided by Section 67.063(b); or

(2) if the hearing is not held, the expiration of the period provided by Section 67.063(a). (V.A.C.S. Art. 8280b, Secs. 5.03(b) (part), (c) (part), (i) (part).)

Source Law

(b) ... and shall file their action thereupon with the county clerk as provided in Subsection (i) of this section, within 20 days after the initial 20-day notice period.

(c) ... and shall file their decision with the county clerk as provided in Subsection (i) of this section within 20 days after the close of the hearing.

(i) A copy of the commissioners' order with respect to the application shall be filed in the office of the county clerk . . . .

Revised Law

Sec. 67.070. EMERGENCY PILOTAGE RATES. (a) The board may establish emergency pilotage rates for the period of an emergency, not to exceed 30 days, if the board finds that:

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

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

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

(c) Emergency pilotage rates may not be appealed.

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

(V.A.C.S. Art. 8280b, Sec. 5.06.)

Source Law

Sec. 5.06. (a) The board may establish emergency pilotage rates, for periods not to exceed 30 days, to replace existing pilotage rates for the period of the emergency if the board finds that a natural or man-made disaster has created a substantial hazard to piloting vessels into and out of a port and that the existence of this hazard overrides the necessity to comply with normal pilotage rate-setting procedures.

(b) In adopting emergency pilotage rates, the board is not required to comply with the procedures in this Act and in its rules relating to adoption of pilotage rates. Emergency pilotage rates may not be appealed.

(c) The board shall adopt rules to carry out the provisions of this section.

Revised Law

Sec. 67.071. PILOT SERVICES REQUIRED. The consignee of a vessel under the consignee's control shall obtain pilot services for the vessel and shall pay the pilot who pilots the vessel into and out of the port area compensation according to the pilotage rates filed by the board. (V.A.C.S. Art. 8280b, Secs. 5.03(i) (part), 5.07(a), 6.01(a).)

Source Law

[Sec. 5.03]

(i) . . . No pilotage charges . . . shall be made with respect to the ports of Galveston County except pursuant to such an order so filed by the commissioners.

Sec. 5.07. (a) Compensation based on lawfully established pilotage rates shall be paid by the consignee liable for its payment for vessels employing pilots.

Sec. 6.01. (a) The consignee for each vessel is responsible for obtaining pilot services for the vessel.
under the consignee's control and for paying compensation based on pilotage rates adopted under this Act to the pilots who pilot the vessel into and out of the port area.

Revisor's Note
Section 5.03(i), V.A.C.S. Article 8280b, refers to pilotage charges in existence at the time the statute was passed. The revised law omits this reference as unnecessary. Pilotage charges may be made in accordance with rates adopted by the board of pilot commissioners. The omitted provision reads:

[No pilotage charges] in excess of those in existence at the time of passage of this Act [shall be made] . . . .

Revised Law
Sec. 67.072. PILOTAGE RATE LIABILITY. (a) A pilot who charges a pilotage rate for pilot services different from the pilotage rates established under this chapter for the port in which the pilot serves is liable to each person who was charged the different rate for double the amount of pilotage.
(b) A court may include in a judgment in favor of a person who files suit to collect an amount owed under this chapter an award to cover court costs and reasonable attorney's fees. (V.A.C.S. Art. 8280b, Secs. 5.07(b), (c).)

Source Law
(b) A pilot who charges pilotage rates different from those established under this Act for the port in which he serves as a pilot is liable to each person who was charged a pilotage rate other than the lawfully authorized pilotage rate for double the amount of pilotage.
(c) If a person must file suit to collect the amount owed under this section, the court may include in any final judgment in favor of that person an award to cover court costs and reasonable attorney's fees.

Revised Law
Sec. 67.073. RECOVERY OF COMPENSATION. A pilot who offers pilot services to a vessel required under this chapter to obtain pilot services and whose services are refused is entitled to
recover from the consignee the pilotage rate for the service.

(V.A.C.S. Art. 8280b, Sec. 6.01(b).)

Source Law

(b) Each pilot who lawfully offers to serve a vessel but is denied such service is entitled to recover compensation based on pilotage rates adopted under this Act from the consignee in any court of competent jurisdiction.

Revisor's Note

Section 6.01(b), V.A.C.S. Article 8280b, refers to a suit brought "in any court of competent jurisdiction." The revised law omits the quoted language as unnecessary because a suit may only be brought in a court, and the general laws of civil jurisdiction determine which courts have jurisdiction over the matter. For example, see Sections 24.007-24.011, Government Code, for the general jurisdiction of district courts.

Revisor's Note (End of Subchapter)

The revised law omits as executed Sections 5.01 and 5.02, V.A.C.S. Article 8280b, which maintained pilotage rates in effect on the effective date of the original enactment of Article 8280b until the board adopted other rates. The board has adopted more recent pilotage rates. The omitted sections read:

Sec. 5.01. Pilotage rates in effect on the effective date of this Act remain in effect until the board adopts other pilotage rates.

Sec. 5.02. Before different pilotage rates are adopted by the board under this Act, notice shall be given and a hearing held.

[Sections 67.074-67.080 reserved for expansion]
SUBCHAPTER E. PILOT LIABILITY

Revised Law

Sec. 67.081. PURPOSE. The purpose of this subchapter is to:

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

(2) maintain pilotage fees at reasonable amounts.

(V.A.C.S. Art. 8280b, Sec. 7.01.)

Source Law

Sec. 7.01. (a) The stimulation and preservation of maritime commerce on the pilotage grounds of this state are declared to be affected with the public interest, and the limitation and regulation of liability of pilots are necessary to such stimulation and preservation of maritime commerce and are considered to be in the public interest.

(b) To accomplish the stimulation and preservation of maritime commerce it is necessary to limit the liability of pilots.

(c) The legislature declares that this article is designed to effect the ends and purposes listed in this section and to maintain pilotage fees at reasonable levels.

Revised Law

Sec. 67.082. PILOT LIABILITY. A pilot is not liable directly or as a member of an organization of pilots for a claim that:

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

(2) relates directly or indirectly to pilot services.

(V.A.C.S. Art. 8280b, Sec. 7.02.)

Source Law

Sec. 7.02. A pilot is not liable either directly or as a member of an organization of pilots for any claims arising from acts or omissions of any other pilot or organization of pilots that relate directly or indirectly to pilot services.

Revised Law

Sec. 67.083. PILOT LIABILITY LIMITED. (a) A pilot providing pilot services is not liable for more than $1,000 for

74C263 JD-D 306
(a) A ship's pilot licensed to act as a pilot by this state and providing service to or from ports of Galveston County, Texas, is not liable for damages in excess of the amount of $1,000 for damage or loss occasioned by the pilot's errors, omissions, fault, or neglect in the performance of pilot services, except as may arise by reason of the wilful misconduct or gross negligence of the pilot.

(b) This section does not exempt the vessel or its owner or operator from liability for damage or loss occasioned by a ship to a person or property on the grounds that:

(1) the ship was piloted by a pilot licensed under this Act; or

(2) the damage or loss was occasioned by the error, omission, fault, or neglect of a pilot licensed under this Act.
(c) A pilot is not liable in excess of the amount of $1,000 for any injury, damage, loss, or expense to any legal entity arising out of or connected with any act or omission that relates directly or indirectly to the performance of pilot services. However, this limitation of liability does not apply to:

(1) wilful misconduct on the part of the pilot;
(2) liability for exemplary damages based on the gross negligence of the pilot for which no other person is jointly or severally liable; or
(3) acts or omissions relating to the ownership and operation of the pilot boats unless the pilot boat is directly involved in pilot services other than the transportation of pilots.

(d) If a suit or action is brought in a court against a pilot for an act or omission for which liability is limited as provided by this section and other claims are made or anticipated in respect of the same act or omission, the court shall dismiss the proceedings as to the pilot to the extent the pleadings allege liability of the pilot exceeding $1,000.

Revisor's Note
(End of Chapter)

(1) The revised law omits Section 6.03, V.A.C.S. Article 8280b, a saving provision from the original enactment of that article. The saving provision continued the law in effect before the adoption of Article 8280b for purposes of any pending litigation. Under Section 311.031, Government Code, any remaining effect of that saving provision is continued notwithstanding the repeal of Article 8280b by the revision. The omitted section reads:

Sec. 6.03. This Act does not apply to any matter that on the effective date of this Act is involved in litigation, and the law in effect before the adoption of this Act shall continue to apply to such litigation and shall continue in effect for that limited purpose.

(2) The revised law omits as executed the effective date section of the original enactment of V.A.C.S. Article 8280b. The omitted section reads:

Sec. 6.04. This Act takes effect on September 1, 1985.
CHAPTER 68. BRAZORIA COUNTY PILOTS LICENSING AND REGULATORY ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 68.001. SHORT TITLE .................................................. 311
Sec. 68.002. DEFINITIONS .................................................. 311
Sec. 68.003. APPLICABILITY OF CHAPTER ................................. 313
Sec. 68.004. VENUE .......................................................... 313

[Sections 68.005-68.010 reserved for expansion]

SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

Sec. 68.011. BOARD .......................................................... 314
Sec. 68.012. PROHIBITED INTEREST ....................................... 314
Sec. 68.013. OATH ........................................................... 314
Sec. 68.014. TERM OF OFFICE .............................................. 315
Sec. 68.015. JURISDICTION .................................................. 315
Sec. 68.016. ADMINISTRATION; RULES .................................... 316
Sec. 68.017. DUTIES .......................................................... 316
Sec. 68.018. PILOT REVIEW BOARD ........................................ 317
Sec. 68.019. UNFAIR DISCRIMINATION PROHIBITED ....................... 318
Sec. 68.020. OPEN MEETINGS LAW ......................................... 319
Sec. 68.021. RULE OR RATE CHANGE ....................................... 319
Sec. 68.022. JUDICIAL REVIEW ............................................. 320

[Sections 68.023-68.030 reserved for expansion]

SUBCHAPTER C. PILOT LICENSES AND CERTIFICATES

Sec. 68.031. LICENSE OR CERTIFICATE REQUIRED .......................... 320
Sec. 68.032. EXEMPTION .................................................... 321
Sec. 68.033. QUALIFICATIONS FOR LICENSE ................................. 321
Sec. 68.034. QUALIFICATIONS FOR CERTIFICATE ............................ 322
Sec. 68.035. APPLICATION FOR LICENSE OR CERTIFICATE .................. 323
Sec. 68.036. CONSIDERATION OF APPLICATION ............................... 324
Sec. 68.037. BRANCH PILOT APPOINTMENT BY GOVERNOR .................... 324
Sec. 68.038. DEPUTY BRANCH PILOT APPOINTMENT BY BRANCH PILOT ........ 325
Sec. 68.039. OATH; BOND .................................................... 326
Sec. 68.040. TERMS OF LICENSES AND CERTIFICATES ....................... 327
Sec. 68.041. BRANCH PILOT'S LICENSE RENEWAL .......................... 327
Sec. 68.042. DEPUTY BRANCH PILOT ................................. 329
Sec. 68.043. HEALTH AND DRUG CERTIFICATION ............................ 329
Sec. 68.044. SUSPENSION OR REVOCATION OF BRANCH PILOT'S LICENSE .......................... 330
Sec. 68.045. SUSPENSION OR REVOCATION OF DEPUTY BRANCH PILOT'S CERTIFICATE .......................... 332
Sec. 68.046. LIABILITY TO PILOT ........................................ 333

[Sections 68.047-68.060 reserved for expansion]

SUBCHAPTER D. PILOTAGE RATES
Sec. 68.061. PILOTAGE RATE CHANGE .................................... 334
Sec. 68.062. PILOTAGE RATES .......................................... 334
Sec. 68.063. PILOTAGE RATE CHANGE APPLICATION .......................... 335
Sec. 68.064. OBJECTION; HEARING ...................................... 335
Sec. 68.065. BOARD ACTION ON APPLICATION .............................. 336
Sec. 68.066. PILOT FINANCIAL REPORT .................................. 337
Sec. 68.067. FACTORS FOR BOARD CONSIDERATION ........................ 338
Sec. 68.068. BOARD ACTION ............................................. 339
Sec. 68.069. REPORTING AND STENOGRAPHIC COSTS ........................ 340
Sec. 68.070. ORDER FILED ............................................. 341
Sec. 68.071. EMERGENCY PILOTAGE RATES ................................ 341
Sec. 68.072. PILOT SERVICES REQUIRED .................................. 342
Sec. 68.073. PILOTAGE RATE LIABILITY .................................. 343
Sec. 68.074. RECOVERY OF COMPENSATION ................................ 343

[Sections 68.075-68.080 reserved for expansion]

SUBCHAPTER E. PILOT LIABILITY
Sec. 68.081. PURPOSE ................................................... 344
Sec. 68.082. PILOT LIABILITY ........................................... 345
Sec. 68.083. PILOT LIABILITY LIMITED ................................... 345

[Sections 68.084-68.090 reserved for expansion]

SUBCHAPTER F. BRAZOS PILOTS ASSOCIATION
Sec. 68.091. PILOTS ASSOCIATION ....................................... 347
Sec. 68.092. ASSOCIATION PURPOSES .................................... 347
Sec. 68.093. OFFICERS .................................................. 348
CHAPTER 68. BRAZORIA COUNTY PILOTS LICENSING AND REGULATORY ACT

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law
Sec. 68.001. SHORT TITLE. This chapter may be cited as the Brazoria County Pilots Licensing and Regulatory Act. (V.A.C.S. Art. 8280c, Sec. 1.01.)

Source Law
Art. 8280c
Sec. 1.01. This Act may be cited as the Brazoria County Pilots Licensing and Regulatory Act.

Revised Law
Sec. 68.002. DEFINITIONS. In this chapter:

(1) "Board" means the board of pilot commissioners for Brazoria County ports.

(2) "Brazoria County port" means a place in Brazoria County into which a vessel enters or from which a vessel departs and the waterway leading to that place from the Gulf of Mexico.

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

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

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

(6) "Pilot services" means acts of a pilot in
conducting a vessel through the navigable water in this state and
the ports in which the pilot is licensed or certified as a pilot.

(7) "Vessel" means an oceangoing vessel. (V.A.C.S.
Art. 8280c, Secs. 1.02(1), (2), (3), (4), (5), (6), (7).)

Source Law

Sec. 1.02. In this Act:
(1) "Pilot" means a person who is licensed
and commissioned as a branch pilot or certified as a
deputy branch pilot under this Act.
(2) "Board" means the board of pilot
commissioners created under this Act.
(3) "Pilotage rates" means the amount of
remuneration a pilot may lawfully charge vessels for
his services.
(4) "Pilot services" means acts of a pilot
in conducting a vessel through the navigable water
within the boundaries of the state and the ports in
which he is licensed or certified as a pilot.
(5) "Vessel" means every oceangoing vessel
navigating the water within the board's jurisdiction
except vessels exempt from payment of pilotage rates
under this Act.
(6) "Port" means a place in this state
into which vessels enter or from which vessels depart
that is located in Brazoria County and the waterway
leading to that place from the Gulf of Mexico.
(7) "Consignee" means the master, owner,
agent, subagent, person, firm, or corporation or any
combination of these that enters or clears a vessel at
the office of the collector of customs.

Reviser's Note

The revised law omits the language in the
definition of "vessel" in Section 1.02(5), V.A.C.S.
Article 8280c, that refers to vessels navigating the
water in the board's jurisdiction because Section 1.03,
V.A.C.S. Article 8280c, codified as Section 68.003 of
this code, states that the chapter applies only to Brazoria County ports and it is unnecessary to restate that in the definition. The revised law also omits the language in the definition of "vessel" that excepts a vessel exempt from payment of pilotage rates under V.A.C.S. Article 8280c. The reference is omitted as unnecessary because Article 8280c contains an exemption only from the required use of a licensed pilot for a vessel exempt from payment of state pilotage rates under federal law. See Section 1.04, codified as Section 68.032 of this code.

Revised Law
Sec. 68.003. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a Brazoria County port.
(b) This chapter does not affect laws relating to a port in another county and those laws do not apply to a Brazoria County port. (V.A.C.S. Art. 8280c, Secs. 1.03, 6.04.)

Source Law
Sec. 1.03. This Act applies to all ports located in Brazoria County.
Sec. 6.04. This Act does not affect the existing laws for ports in other counties of this state and those laws have no application to the ports under this Act.

Revised Law
Sec. 68.004. VENUE. A suit to enforce a claim, right, or cause of action provided by this chapter shall be brought in Brazoria County. (V.A.C.S. Art. 8280c, Sec. 6.03(b).)

Source Law
(b) The venue for a suit brought for the enforcement of a claim, right, or cause of action provided by this Act is in Brazoria County.

[Sections 68.005-68.010 reserved for expansion]
SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

Revised Law

Sec. 68.011. BOARD. The board of pilot commissioners for the ports of Brazoria County is composed of the navigation and canal commissioners of the Brazos River Harbor Navigation District of Brazoria County. (V.A.C.S. Art. 8280c, Secs. 2.01, 2.02.)

Source Law

Sec. 2.01. A board of pilot commissioners is created for the ports of Brazoria County.
Sec. 2.02. The board is composed of the navigation and canal commissioners of the Brazos River Harbor Navigation District of Brazoria County.

Revised Law

Sec. 68.012. PROHIBITED INTEREST. A person may not be a member of the board if the person, directly or indirectly, is engaged in or has any interest in a pilot boat business, towing business, or other business affected by or connected with the performance of the person's duties as a pilot commissioner. (V.A.C.S. Art. 8280c, Sec. 2.03.)

Source Law

Sec. 2.03. A person who is engaged or has any interest, directly or indirectly, in any pilot boat business, towing business, or other business affected by or connected with the performance of the person's duties as a pilot commissioner may not be a member of the board.

Revised Law

Sec. 68.013. OATH. Before beginning service as a board member, each board member must take and sign, before a person authorized to administer oaths, an oath to faithfully and impartially discharge the duties of the office. (V.A.C.S. Art. 8280c, Sec. 2.04.)

Source Law

Sec. 2.04. Before beginning to serve as a member of the board, each board member shall take and subscribe, before someone authorized to administer oaths, an oath to discharge faithfully and impartially the duties of the office.
Revisor's Note

Section 2.04, V.A.C.S. Article 8280c, requires a board member to "subscribe . . . an oath." The revised law substitutes "sign" for "subscribe" to reflect modern usage.

Revised Law

Sec. 68.014. TERM OF OFFICE. A board member serves a term of office that coincides with the member's term as a navigation and canal commissioner. (V.A.C.S. Art. 8280c, Sec. 2.05.)

Source Law

Sec. 2.05. Each person who serves on the board holds office as a member of the board for a term that coincides with the member's term as a navigation and canal commissioner of the Brazos River Harbor Navigation District of Brazoria County.

Revised Law

Sec. 68.015. JURISDICTION. The board has exclusive jurisdiction over the piloting of vessels in Brazoria County ports, including intermediate stops and landing places for vessels on navigable streams wholly or partially located in the board's jurisdiction. (V.A.C.S. Art. 8280c, Sec. 2.07.)

Source Law

Sec. 2.07. The board shall have exclusive jurisdiction over piloting of vessels in this state between the Gulf of Mexico and the ports within the board's jurisdiction, as well as intermediate stops and landing places for vessels on navigable streams wholly or partially located within the board's jurisdiction.

Revisor's Note

Section 2.07, V.A.C.S. Article 8280c, refers in part to the board's jurisdiction over vessels "between the Gulf of Mexico and the ports within the board's jurisdiction." The revised law substitutes a reference to Brazoria County ports because the chapter applies only to Brazoria County ports and the omitted language is included in the definition of "Brazoria County.
Revised Law
Sec. 68.016. ADMINISTRATION; RULES. (a) The board shall administer this chapter and may perform any act or function necessary to carry out its powers and duties under this chapter. (b) The board may adopt rules to carry out this chapter. (V.A.C.S. Art. 8280c, Sec. 2.06.)

Source Law
Sec. 2.06. The board shall administer this Act in each of the ports within its jurisdiction and may adopt rules to carry out this Act and may perform any acts or functions necessary to carry out those powers and duties under this Act.

Revised Law
Sec. 68.017. DUTIES. The board shall:
(1) recommend to the governor the number of pilots necessary to provide adequate pilot services for each Brazoria County port;
(2) accept applications for pilot licenses and certificates and determine whether each applicant meets the qualifications for a pilot;
(3) provide the names of all qualified applicants for certificates to the Brazos Pilots Association;
(4) submit to the governor the names of persons who have qualified under this chapter to be commissioned as branch pilots;
(5) establish pilotage rates;
(6) approve the locations for pilot stations;
(7) establish times during which pilot services will be available;
(8) hear and determine complaints relating to the conduct of pilots;
(9) recommend to the governor each pilot whose license or certificate should not be renewed or should be revoked;
(10) adopt rules and issue orders to pilots or vessels when necessary to secure efficient pilot services;

(11) institute investigations or hearings or both to consider casualties, accidents, or other actions that violate this chapter;

(12) provide penalties to be imposed on a person who is not a pilot for a Brazoria County port who pilots a vessel into or out of the port; and

(13) approve a training program for deputy branch pilots. (V.A.C.S. Art. 8280c, Sec. 2.08 (part.).)

Source Law
Sec. 2.08. The board shall:
(1) recommend to the governor the number of pilots necessary to provide adequate pilot services for each port under the board's jurisdiction;
(2) accept applications for pilot licenses and certificates and determine whether each applicant meets the qualifications for a pilot or deputy pilot in this Act;
(3) provide the names of all qualified applicants for certificates to the pilot association;
(4) submit to the governor the names of persons who have qualified under this Act to be commissioned as branch pilots;
(5) establish pilotage rates to be charged for piloting vessels within the board's jurisdiction;
(6) approve the locations for pilot stations;
(7) establish times during which pilot services will be available;
(8) hear and determine complaints relating to the conduct of pilots;
(9) recommend to the governor any pilot whose license or certificate should not be renewed or should be revoked;
(10) adopt rules and issue orders to pilots and vessels when necessary to secure efficient pilot services within the board's jurisdiction;
(11) institute investigations or hearings or both to consider casualties, accidents, or any other action that violates this Act;
(12) provide penalties to be imposed on any person who is not appointed and commissioned a branch pilot for the port who pilots any ship or vessel into or out of the port, channel, or waterway under the jurisdiction of the board;
(13) approve a training program for deputy branch pilots; and . . . .

Revised Law
Sec. 68.018. PILOT REVIEW BOARD. The board shall establish a pilot review board, consisting of two branch pilots and three
members of the marine industry who reside in Brazoria County, to
hear and review complaints against pilots and to make
recommendations to the board concerning the complaints. (V.A.C.S.
Art. 8280c, Sec. 2.08 (part).)

Source Law
Sec. 2.08. The board shall:

(14) establish a pilot review board,
consisting of two branch pilots and three members of
the marine industry who reside in Brazoria County, to
hear and review complaints against pilots and to make
recommendations to the board concerning the complaints.

Revised Law
Sec. 68.019. UNFAIR DISCRIMINATION PROHIBITED. (a) In all
its duties, including rulemaking, the board may not sanction
discriminatory practices or discriminate against a pilot or
applicant because of race, religion, sex, ethnic origin, or
national origin.

(b) A person seeking a remedy for a violation of this
section must bring suit in a district court in Brazoria County.
(V.A.C.S. Art. 8280c, Sec. 2.09.)

Source Law
Sec. 2.09. (a) In all its duties, including
rule making, the board may not sanction discriminatory
practices or discriminate against any applicant,
licensed pilot, branch pilot, or deputy branch pilot on
account of race, religion, sex, ethnic origin, or
national origin.

(b) Remedies for a violation of this section
shall be sought as provided in Section 3.03 of this
Act.

Revisor's Note
The source law refers to bringing suit in the
manner provided by Section 3.03, V.A.C.S. Article 8280c
(codified as Section 68.022 of this code). The revised
law substitutes the substance of the language in that
section relating to bringing suit.
Revised Law
Sec. 68.020. OPEN MEETINGS LAW. Chapter 551, Government Code, applies to actions and proceedings under this chapter. (V.A.C.S. Art. 8280c, Sec. 3.01.)

Source Law
Sec. 3.01. Except as specifically provided by this Act, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), applies to actions and proceedings under this Act.

Revisor's Note
Section 3.01, V.A.C.S. Article 8280c, states that the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), applies to actions and proceedings under Article 8280c. The open meetings law is codified as Chapter 551, Government Code, and the revised law is drafted accordingly. Section 3.01 also states the open meetings law applies "[e]xcept as specifically provided by this Act." The revised law omits that language because there are no specific exceptions in this chapter.

Revised Law
Sec. 68.021. RULE OR RATE CHANGE. (a) The board shall give at least 10 days' notice as provided by this section before the board adopts a rule or changes a pilotage rate.
(b) The board shall mail the notice and a copy of the proposed rule or change by registered mail to:
(1) each Brazos Pilots Association office; and
(2) all known consignees and all known associations of consignees operating in Brazoria County.
(c) The board shall post a copy of the proposed rule or change at the county courthouse for public inspection. (V.A.C.S. Art. 8280c, Sec. 3.02.)
Sec. 3.02. The board shall give at least 10 days' notice of its intention to adopt a rule or to change pilotage rates by mailing by registered mail notice to the pilot association office or offices and to all known consignees and to all known associations of consignees operating in Brazoria County at that time. A copy of the proposed rule or change shall be included with the notice. In addition, a copy of the proposed rule or change shall be posted at the county courthouse for public inspection.

Sec. 68.022. JUDICIAL REVIEW. Proceedings for judicial review of a board decision shall be brought in a district court in Brazoria County. (V.A.C.S. Art. 8280c, Sec. 3.03.)

Sec. 3.03. Proceedings for judicial review of a board decision shall be brought in a district court in Brazoria County.

[Sections 68.023-68.030 reserved for expansion]

SUBCHAPTER C. PILOT LICENSES AND CERTIFICATES

Sec. 68.031. LICENSE OR CERTIFICATE REQUIRED. A person may not provide pilot services unless the person has a license or certificate issued under this chapter for the Brazoria County ports in which the pilot services are to be provided. (V.A.C.S. Art. 8280c, Sec. 4.01.)

Sec. 4.01. A person may not provide pilot services as a branch pilot or deputy branch pilot unless that person has a valid license or certificate issued under this Act for the ports within the jurisdiction of the board in which the pilot services are to be provided.

Revisor's Note

Section 4.01, V.A.C.S. Article 8280c, refers to a person providing pilot services without a valid license or certificate. The revised law omits "valid" as unnecessary. A document purporting to be a license or...
certificate is no longer a license or certificate if it is expired and is not a license or certificate if it is a forgery.

Revised Law
Sec. 68.032. EXEMPTION. The requirement to use a pilot does not apply to a vessel exempt under federal law from payment of state pilotage rates. (V.A.C.S. Art. 8280c, Sec. 1.04.)

Source Law
Sec. 1.04. The requirement to use a licensed pilot under this Act does not apply to a vessel exempt from payment of state pilotage rates under federal law.

Revised Law
Sec. 68.033. QUALIFICATIONS FOR LICENSE. To be eligible for a license as a branch pilot, a person must:

1. be at least 25 years of age;
2. be a United States citizen;
3. as of the date the license is issued, have resided continuously in this state for at least two years;
4. have at least two years' service as a deputy branch pilot and have successfully completed the board-approved training program;
5. have controlled the navigation of vessels such as the person would pilot;
6. have extensive experience in the docking and undocking of vessels;
7. be licensed under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services;
8. be in good mental and physical health;
9. have good moral character; and
10. possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a branch pilot. (V.A.C.S. Art. 8280c, Sec. 4.02.)
Sec. 4.02. (a) To be eligible for a license as a branch pilot for ports within the jurisdiction of the board, a person must:

(1) be at least 25 years of age;
(2) be a United States citizen;
(3) as of the date that the license is issued, have resided in the state for a continuous period of not less than two years;
(4) have at least two years' service as a deputy branch pilot and have successfully completed the board-approved training program;
(5) have exercised control of navigation of vessels such as the person would pilot;
(6) have extensive experience in the docking and undocking of oceangoing vessels; and
(7) be licensed under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services.

(b) In addition to the qualifications in Subsection (a) of this section, the applicant must be found by the board to be in good mental and physical health, to have good moral character, and to possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a branch pilot.

Sec. 68.034. QUALIFICATIONS FOR CERTIFICATE. To be eligible for a certificate as a deputy branch pilot, a person must:

(1) be at least 25 years of age;
(2) be a United States citizen;
(3) be appointed by a branch pilot;
(4) be in good mental and physical health;
(5) have good moral character; and
(6) possess the requisite skill to perform competently and safely the duties of a deputy branch pilot. (V.A.C.S. Art. 8280c, Sec. 4.03.)

Sec. 4.03. (a) To be eligible for a certificate as a deputy branch pilot for ports within the board's jurisdiction, a person must:

(1) be at least 25 years of age;
(2) be a United States citizen; and
(3) be appointed by a branch pilot.

(b) In addition to the qualifications in Subsection (a) of this section, the applicant must be found by the board to be in good mental and physical health, to have good moral character, and to possess the requisite skill to perform competently and safely the duties of a deputy branch pilot.
Revised Law

Sec. 68.035. APPLICATION FOR LICENSE OR CERTIFICATE. (a) To apply for a branch pilot's license or a deputy branch pilot's certificate, a person must give the board a written application in the form and manner required by board rule.

(b) The board may require an applicant to include with an application:

(1) a certification by a medical doctor, dated not earlier than the 15th day before the date of the application, stating that in the doctor's opinion the applicant on the date of the certification possesses the mental and physical health necessary to perform competently and safely the duties of a branch pilot or deputy branch pilot, as applicable; or

(2) a certification by a medical doctor, dated not earlier than the 15th day before the date the application is filed, certifying that the applicant's body on the date of the certification is free of evidence of the presence of illegal drugs or chemicals. (V.A.C.S. Art. 8280c, Secs. 4.04, 4.05(d).)

Source Law

Sec. 4.04. (a) An applicant for a branch pilot's license or a deputy branch pilot's certificate shall submit a written application to the board.

(b) The application shall be submitted to the board in the form and in the manner required by the board in its rules.

[Sec. 4.05]

(d) The board may require that each application for a license or certificate be accompanied by:

(1) a certification by a medical doctor bearing a date not earlier than 15 days before the date of the application, certifying that in the opinion of the doctor the applicant on the date of the certification possesses the mental and physical health necessary to perform competently and safely the duties of deputy pilot or branch pilot, as applicable; or

(2) a certification of a medical doctor bearing a date not earlier than the 15th day before the day the application is filed, certifying that the applicant's body on the date of the certification is free of evidence of the presence of illicit drugs or chemicals.
Reviser's Note

Section 4.05(d)(2), V.A.C.S. Article 8280c, refers to "illicit drugs or chemicals." The revised law substitutes "illegal" for "illicit" to reflect modern usage.

Revised Law

Sec. 68.036. CONSIDERATION OF APPLICATION. (a) The board shall carefully consider each application and shall conduct any investigation it considers necessary to determine whether an applicant is qualified for a license or certificate.

(b) As part of its consideration of applications for licenses and certificates, the board may develop and administer examinations to determine an applicant's knowledge of piloting, management of vessels, and the water in the board's jurisdiction.

(c) The board may not disapprove an application for certification as a deputy branch pilot made by a person who has a written recommendation for the certification from a branch pilot unless the board, after notice to the applicant, has provided the applicant a hearing on the applicant's qualifications. (V.A.C.S. Art. 8280c, Secs. 4.05(a), (b), (c).)

Source Law

Sec. 4.05. (a) The board shall carefully consider each application submitted to it and shall conduct any investigation it considers necessary to assist it in determining whether or not an applicant is qualified for a license or certificate.

(b) As part of its consideration of applications for licenses and certificates, the board may develop and administer examinations to determine each applicant's knowledge of piloting, management of vessels, and the water within the board's jurisdiction.

(c) In considering an application for the position of deputy pilot, if the applicant has been recommended in writing for the appointment by a branch pilot, the certificate may not be disapproved by the board unless the board, after notice to the applicant, has provided the applicant a hearing on the applicant's qualifications for appointment as a deputy pilot.

Revised Law

Sec. 68.037. BRANCH PILOT APPOINTMENT BY GOVERNOR. (a) On
filing of the bond and oath required by Section 68.039, the board
shall certify to the governor that a person licensed as a branch
pilot has qualified.

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

(c) The governor shall appoint the number of branch pilots
necessary to provide adequate pilot services for each Brazoria
County port. (V.A.C.S. Art. 8280c, Sec. 4.06.)

Source Law
Sec. 4.06. (a) On filing of the bond and oath
provided by Section 4.09 of this Act, the board shall
certify to the governor that the branch pilot has
qualified to act as a branch pilot, and on receiving
this certification, the governor shall issue to the
branch pilot, in the name and under the state seal, a
commission to serve as a branch pilot from the ports
within the jurisdiction of the board, across
intermediate bars, to and from the open gulf.

(b) The governor shall appoint the number of
branch pilots necessary to provide adequate pilot
services for each of the ports under the board's
jurisdiction.

Revised Law
Sec. 68.038. DEPUTY BRANCH PILOT APPOINTMENT BY BRANCH
PILOT. (a) Each branch pilot may appoint, subject to examination
and approval by the board, two deputy branch pilots.

(b) A branch pilot may appoint an additional deputy branch
pilot if the board considers the appointment advisable.

(c) The board may not approve an appointment if the
appointee is related to the branch pilot within the second degree
by affinity or within the third degree by consanguinity, as
determined under Subchapter B, Chapter 573, Government Code, unless
each member of the Brazos Pilots Association recommends the
appointment in writing.

(d) A branch pilot who appoints a deputy branch pilot
without the approval of the board forfeits the pilot's appointment
as a branch pilot. (V.A.C.S. Art. 8280c, Sec. 4.07.)
Sec. 4.07. (a) Subject to examination and approval of the board, each branch pilot may appoint two deputy pilots except that the pilot board may not approve a person appointed by a branch pilot as a deputy if the person is related to the branch pilot within the second degree by affinity or within the third degree by consanguinity, as determined under Article 5996h, Revised Statutes, unless the appointment has the unanimous written recommendation of each member of the pilots association.

(b) A branch pilot forfeits the pilot's appointment as a pilot if the pilot appoints a deputy pilot without the approval of the board.

(c) An additional deputy pilot may be appointed if the branch pilot and the board mutually consider such an appointment advisable.

Revisor's Note
Section 4.07, V.A.C.S. Article 8280c, states that the board may not approve a deputy related to the appointing branch pilot within the second degree by affinity or within the third degree by consanguinity, as determined under Article 5996h, Revised Statutes. Article 5996h is codified as Subchapter B, Chapter 573, Government Code, and the revised law is drafted accordingly.

Revised Law
Sec. 68.039. OATH; BOND. (a) A person appointed as a pilot must take the official oath before entering service as a pilot. The oath shall be endorsed on the bond required by Subsection (b).

(b) Each pilot must execute a $25,000 bond payable to the governor and conditioned on compliance with the laws, rules, and orders relating to pilots and on the faithful performance of the pilot's duties.

(c) Each bond must be approved by the board. (V.A.C.S. Art. 8280c, Sec. 4.09.)

Source Law
Sec. 4.09. (a) Before entering into service as a pilot, a person appointed to be a branch pilot or deputy branch pilot shall take the official oath, which shall be endorsed on the bond required by this section.

(b) Each pilot shall execute a bond for $25,000 conditioned on compliance with the laws, rules, and...
orders relating to pilots and on the faithful
performance of the pilot's duties and payable to the
governor.
(c) Each bond must be approved by the board.

Revised Law
Sec. 68.040. TERMS OF LICENSES AND CERTIFICATES. (a) A
branch pilot's license expires on the fourth anniversary of the
date it is issued or renewed.
(b) A deputy branch pilot's certificate expires on the
second anniversary of the date it is issued and may not be renewed.
(V.A.C.S. Art. 8280c, Secs. 4.08, 4.11(a).)

Source Law
Sec. 4.08. (a) A license issued under this Act
expires four years from the date it is issued or
renewed.
(b) A certificate issued under this Act expires
two years from the date it is issued and is not
renewable.

Sec. 4.11. (a) A deputy branch pilot's
certificate expires two years from the date it is
issued.

Revised Law
Sec. 68.041. BRANCH PILOT'S LICENSE RENEWAL. (a) The
governor shall renew a branch pilot's expiring license if the board
recommends renewal.
(b) If a pilot applies in writing and qualifies, the board
shall recommend renewal unless the board determines there is
probable cause not to renew the license.
(c) Probable cause not to renew a license exists if the
board finds that the license holder:
(1) does not possess a qualification required by this
chapter for pilots; or
(2) has a disability that will affect the license
holder's ability to serve as a pilot.
(d) If the board determines that it has probable cause not
to renew a license, the board shall notify the license holder of
that determination not later than the 60th day before the date the
license expires. On request, the board shall provide a hearing after proper notice to consider whether the board has cause not to recommend renewal of the license.

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

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

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

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

(g) The denial of renewal of a pilot's license does not prohibit the pilot from applying for a new license and being reappointed. (V.A.C.S. Art. 8280c, Sec. 4.10.)

Source Law

Sec. 4.10. (a) Every four years, on written application and successful qualification, a branch pilot's license shall be renewed by the governor on recommendation of the board for an additional four-year term unless the board determines that probable cause exists for not renewing the license.

(b) Probable cause exists for not renewing a license if the board finds that the licensee no longer possesses a qualification stated in this Act for pilots or suffers from a disability that will affect the licensee's ability to serve as a pilot.

(c) If the board determines that it has probable cause for not renewing a license, it shall notify the licensee not less than 60 days before expiration of the license and, on request, shall offer the licensee the opportunity for a hearing after proper notice to consider whether cause exists for not renewing the license.

(d) If the board finds at the conclusion of the hearing that no probable cause exists for nonrenewal, the board shall make a recommendation to the governor for the renewal of the license for another term.

(e) If a pilot does not contest the board's decision not to renew the license or if the board after its hearing finds that there is probable cause for nonrenewal, the board shall issue a written order recommending to the governor that the license not be renewed, and the governor shall refuse renewal of the license.

(f) Denial of renewal of a pilot's license does not prevent the former licensee from applying for a new license and being reappointed by the governor at a later time if the licensee then meets all
qualifications for a license under this Act.

Revisor's Note

Section 4.10(f), V.A.C.S. Article 8280c, states that denial of renewal of a pilot's license does not prevent the former licensee from applying for a new license and being reappointed "if the licensee then meets all qualifications for a license under this Act."
The revised law omits as unnecessary the reference to meeting qualifications otherwise required by this chapter.

Revised Law

Sec. 68.042. DEPUTY BRANCH PILOT. A person who has been issued a deputy branch pilot's certificate may not be issued a deputy branch pilot's certificate before the fifth anniversary of the date the person was previously issued a deputy branch pilot's certificate. (V.A.C.S. Art. 8280c, Sec. 4.11(b).)

Source Law

(b) A person may not be issued more than one deputy branch pilot's certificate within any period of five consecutive years.

Revised Law

Sec. 68.043. HEALTH AND DRUG CERTIFICATION. (a) The board may require that certification under Section 68.035(b)(1) be executed annually.

(b) The board randomly from time to time may require a branch pilot or deputy branch pilot to provide the board with certification by a medical doctor that on the date of the certification the body of the pilot is free of evidence of the presence of illegal drugs or chemicals. (V.A.C.S. Art. 8280c, Sec. 4.12.)

Source Law

Sec. 4.12. (a) The board may require that certification under Section 4.05(d)(1) of this Act be renewed annually.
(b) The board may, from time to time, require a deputy pilot or branch pilot, on a random basis, to provide the board with certification by a medical doctor that on the date of the certification the body of the pilot or deputy pilot is free of evidence of the presence of illicit drugs or chemicals.

Revisor's Note

Section 4.12, V.A.C.S. Article 8280c, refers to "illicit drugs or chemicals." The revised law substitutes "illegal" for "illicit" for the reason stated in the revisor's note to Section 68.035 of this code.

Revised Law

Sec. 68.044. SUSPENSION OR REVOCATION OF BRANCH PILOT'S LICENSE. (a) On complaint or on its own motion, and after notice and hearing, the board may suspend a branch pilot's license for not more than six months or recommend that the governor revoke a branch pilot's license if the board finds that the pilot has:

1. failed to demonstrate and maintain the qualifications for a license required by this chapter;
2. used narcotics or other types of drugs, chemicals, or controlled substances as defined by law that impair the pilot's ability to perform the pilot's duties skillfully and efficiently;
3. used alcohol to an extent that impairs the pilot's ability to perform the pilot's duties skillfully and efficiently;
4. violated a provision of this chapter or rules adopted by the board under this chapter that were material to the performance of the pilot's duties at the time of the violation;
5. made a material misstatement in the application for a license;
6. obtained or attempted to obtain a license under this chapter by fraud or misrepresentation;
7. charged a pilotage rate other than that approved by the board;
8. intentionally refused to pilot a vessel when...
requested to do so by the master or person responsible for navigation of the vessel except when, in the judgment of the pilot, movement of the vessel constitutes a hazard to life or property or when pilotage charges that are due and owing are unpaid by the person ordering the pilot services;

(9) been absent from duty in violation of board rules and without authorization;

(10) aided or abetted another pilot in failing to perform the other pilot's duties; or

(11) been guilty of carelessness, neglect of duty, intentional unavailability for normal performance of duties, refusal to perform duties, misconduct, or incompetence while on duty.

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

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

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

(c) The governor, on receipt of a board order recommending revocation of a license, shall revoke the license. If the board's order is appealed, the governor may not revoke the license until the order is upheld on appeal.

(d) A suspension of a license on the recommendation of a pilot review board takes effect on adoption of the board's order. A revocation of a branch pilot's license takes effect on issuance of the governor's decision.

(e) The board shall immediately give notice to the Brazos Pilots Association, by certified mail, of a revocation or suspension under this section. (V.A.C.S. Art. 8280c, Sec. 4.13.)

Source Law
Sec. 4.13. (a) On complaint or on its own motion and after notice and hearing, the board may suspend a pilot's license for up to six months or may recommend to the governor revocation of a pilot's license if the board finds that the pilot has:
(1) failed to demonstrate and maintain the qualifications for a license required by this Act;
(2) used narcotics or other types of drugs, chemicals, or controlled substances as defined by law that impair the pilot's ability to perform the pilot's duties skillfully and efficiently;
(3) used alcohol to an extent that impairs the pilot's ability to perform the pilot's duties skillfully and efficiently;
(4) violated a provision of this Act or rules adopted by the board under this Act that were material to the performance of the pilot's duties at the time of the violation;
(5) made a material misstatement in the application for a license;
(6) obtained or attempted to obtain a license under this Act by fraud or misrepresentation;
(7) charged pilotage rates other than those approved by the board;
(8) intentionally refused to pilot a vessel when requested to do so by the master or person responsible for navigation of the vessel except when, in the judgment of the pilot, movement of the vessel constitutes a hazard to life or property or when pilotage charges that are due and owed remain unpaid by the person ordering the pilot services;
(9) been absent from duty in violation of rules of the board and without authorization;
(10) aided or abetted another pilot in failing to perform the pilot's duties; or
(11) been guilty of carelessness, neglect of duty, intentional unavailability for normal performance of duties, refusal to perform duties, misconduct, or incompetence while on duty.

(b) If the board determines that a license should be suspended or revoked, it shall issue a written order stating its findings and suspending the license for a specifically stated period or recommending to the governor revocation of the license.
(c) On receiving the board's order recommending revocation of a license, the governor shall revoke the license. If the board's order is appealed, the governor may not revoke the license until the order is upheld on appeal.
(d) A suspension based on the recommendation of a pilot review board takes effect immediately on issuance of the board's order. A revocation takes effect immediately on issuance of the governor's decision.
(e) The board shall immediately give notice to the pilots association, by certified mail, of a revocation or suspension under this section.

Revised Law
Sec. 68.045. SUSPENSION OR REVOCATION OF DEPUTY BRANCH PILOT'S CERTIFICATE. A deputy branch pilot's certificate may be suspended or revoked by the board in the same manner and for the same reasons as provided for the suspension or revocation of a branch pilot's license by Section 68.044. (V.A.C.S. Art. 8280c, Sec. 4.11(c).)
(c) A deputy branch pilot's certificate may be suspended or revoked by the board in the same manner and for the same reasons provided for branch pilots' licenses by Section 4.13 of this Act.

Revised Law

Sec. 68.046. LIABILITY TO PILOT. (a) A person who is not a pilot and who, in violation of this chapter, pilots a vessel and the consignee of the vessel are liable to a pilot, on written demand, for the amount of the applicable pilotage rate.

(b) In an action to recover compensation under Subsection (a), the court may include in a judgment in favor of a pilot an award of court costs and reasonable attorney's fees. (V.A.C.S. Art. 8280c, Sec. 4.14.)

Source Law

Sec. 4.14. (a) If a person who is not licensed or certified under this Act pilots a vessel in violation of this Act, that person and the consignee of the vessel are liable to a state licensed or certified pilot in that jurisdiction, on written demand, for an amount equal to the pilotage rates that would have been applicable.

(b) If suit is filed to collect the compensation owed to a pilot under Subsection (a) of this section, the court may include in any final judgment in favor of the pilot an award to cover court costs and reasonable attorney's fees.

Revisor's Note

(End of Subchapter)

The revised law omits as executed the transition language of Section 6.02, V.A.C.S. Article 8280c, that relates to expiration of licenses and certificates of branch pilots and deputy branch pilots appointed before the effective date of Article 8280c (January 1, 1990). A branch pilot commissioned under V.A.C.S. Article 8253 (codified as Sections 62.042-62.044 of this code), which applied to the ports of Brazoria County before enactment of Article 8280c, had a term that would expire not later than January 1, 1994. Section 6.02 requires license renewal under Article 8280c after that
date. Section 6.02 required deputy branch pilots to be
issued certificates that would expire not later than
January 1, 1992. The omitted section reads:

Sec. 6.02. (a) Persons who are
branch pilots serving a port covered under
this Act on the effective date of this Act
shall continue to serve as branch pilots
until their current commissions expire, at
which time each will be eligible for
license renewal under this Act, and those
branch pilots shall be governed by this Act
from its effective date.

(b) Persons who were appointed
deputy branch pilots before the effective
date of this Act shall be issued deputy
branch pilot certificates by the board in
whose jurisdiction they are acting as
deputy branch pilots on requesting the
certificate in writing and without having
to comply with other procedural provisions
of this Act. A certificate shall be issued
for a term of two years unless the deputy
branch pilot has less than two years to
serve as a deputy branch pilot, in which
case the certificate shall be issued for
the remaining time the deputy is required
to serve. Deputy branch pilots in ports
covered by this Act are governed by this
Act from its effective date.

[Sections 68.047-68.060 reserved for expansion]

SUBCHAPTER D. PILOTAGE RATES

Revised Law

Sec. 68.061. PILOTAGE RATE CHANGE. The board may not change
pilotage rates before the first anniversary of the preceding rate
change. (V.A.C.S. Art. 8280c, Sec. 5.03(j).)

Source Law

(j) New pilotage rates may not be established
more often than once every 12 months.

Revised Law

Sec. 68.062. PILOTAGE RATES. Each branch pilot member of
the Brazos Pilots Association shall charge the pilotage rates set
by the board for pilot services. (V.A.C.S. Art. 8280c, Sec. 8.08.)

Source Law

Sec. 8.08. Each branch pilot member of the
pilots association shall charge the pilotage rates for
pilot services that are fixed by the board.
Sec. 68.063. PILOTAGE RATE CHANGE APPLICATION. (a) An application for a change in a pilotage rate may be filed with each commissioner of the board by:

(1) one or more pilots; or

(2) an owner, agent, or consignee.

(b) The application must contain:

(1) a brief statement of the circumstances that warrant the change; and

(2) a certification that the applicant has submitted copies of the application to all known pilots, consignees, and associations of consignees operating in Brazoria County at the time of the application. (V.A.C.S. Art. 8280c, Sec. 5.03(a).)

Sec. 5.03. (a) An application for the establishment of a new rate of pilotage may be filed with each commissioner by one or more pilots or by the owner, agent, or other person defined by this Act as consignee of a vessel. The application for increase or decrease of rates must contain a brief statement of the circumstances that warrant the requested action of the commissioners and must also contain a certificate that the applicant has submitted copies of the application to all known pilots, consignees, and associations of consignees operating in Brazoria County at the time of the application.

Sec. 68.064. OBJECTION; HEARING. (a) If, not later than the 20th day after the date notice of an application for a rate change is sent, a commissioner receives a written objection to the application from any person who appears to have a legitimate interest in the application, the board shall hold a hearing as provided by this section.

(b) The board shall hold the hearing not later than the 20th day after the date the 20-day period provided by Subsection (a) expires.

(c) The board shall give notice of the hearing to:

(1) each applicant;
(2) each person objecting to the application; and
(3) any other person the board determines is interested in the proceedings.

(d) The hearing shall be open to the public and held at a convenient public place in one of the ports that would be affected by the change. Each party who demonstrates a legitimate interest in the application is entitled to be heard, to present evidence, and, to the extent the board considers practical, to cross-examine testifying witnesses. (V.A.C.S. Art. 8280c, Secs. 5.03(c) (part), (d).)

Source Law

(c) In the event any commissioner receives in writing an objection to the application from any person, firm, or corporation who appears to have a legitimate interest in the application within 20 days after notice of the filing of the application was given, the commissioners shall hold a hearing within 20 days after the expiration of the initial 20-day notice period for the filing of any objection to the application and shall notify the applicants, the persons objecting to the application, and other parties the commissioners may, in their discretion, determine to be interested in the proceedings . . . .

(d) The hearing shall be held at a convenient and public place in any one of the ports affected and shall be open to the public. At the hearing all parties, on demonstrating a legitimate interest in the application, are entitled to be heard, to present evidence, and, to the extent deemed practical by the commissioners, to cross-examine the witnesses appearing to testify at the hearing.

Revisor's Note

Section 5.03(c), V.A.C.S. Article 8280c, refers to a "person, firm, or corporation." The reference to "firm, or corporation" is omitted from the revised law because under Section 311.005(2), Government Code (Code Construction Act), "person" is defined to include a corporation or any other legal entity. That definition applies to the revised law.

Revised Law

Sec. 68.065. BOARD ACTION ON APPLICATION. (a) If an objection to an application for a rate change is not received by
any commissioner within the period provided by Section 68.064(a), the board shall act on the application without further proceedings.

(b) If a hearing is held as provided by Section 68.064, the board shall grant, deny, or modify the application after receipt of the evidence offered by the parties and arguments and briefs requested by the board. (V.A.C.S. Art. 8280c, Secs. 5.03(b) (part), (e).)

Source Law

(b) If the notice required is given and a written objection on the part of any interested party is not received by any commissioner within 20 days after the date notice is sent, the commissioners shall act on the application without further proceedings . . . .

(e) After receipt of the evidence offered by the parties and arguments and briefs the commissioners may desire to receive, the application shall be granted, denied, or modified by the commissioners.

Revised Law

Sec. 68.066. PILOT FINANCIAL REPORT. (a) Not later than the 10th day before the date set for a pilotage rate hearing, the pilots who are licensed or certified to serve the port for which the rates are being considered shall submit in writing to the board and to any interested party designated by the board complete accounts of:

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

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

(3) all expenses incurred in connection with activities for which amounts described by Subdivisions (1) and (2) were received and earned; and

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

(b) The pilots shall provide the information for:

(1) the calendar or fiscal year preceding the date of
the pilotage rate change application; and

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

(c) The board may require relevant additional information it considers necessary to determine a proper pilotage rate. (V.A.C.S. Art. 8280c, Sec. 5.04.)

Source Law

Sec. 5.04. (a) At least 10 days before the date set for a pilotage rate hearing, the pilots who are licensed or certified to serve the port for which new pilotage rates are being considered shall submit in writing to the board and to any interested party designated by the board complete accounts of:

(1) all amounts received from performance of pilot services, organized by categories or classifications of rates, if rates are set in that manner;

(2) all earnings from capital assets devoted to providing pilot service;

(3) all expenses incurred in connection with activities for which these amounts were received and earned; and

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

(b) The information shall be provided for the calendar or fiscal year preceding the date of the application, updated to within 60 days of the date of the application.

(c) The board may require relevant additional information it considers necessary to determine proper pilotage rates.

Revised Law

Sec. 68.067. FACTORS FOR BOARD CONSIDERATION. In acting on a pilotage rate change application, the board shall consider:

(1) characteristics of vessels to be piloted;

(2) costs to pilots to provide the required pilot services;

(3) the effect, including economic factors affecting the shipping industry in the area, that the granting, refusal, or modification of the application would have on Brazoria County ports and the persons residing in the board's jurisdiction;

(4) an adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with pilot duties;
(5) the relationship between the pilotage rates in Brazoria County ports and the rates applicable in other ports of this state;

(6) the average number of hours spent by a pilot performing:

(A) pilot services on board vessels; and

(B) all pilot services; and

(7) the average wages of masters of United States flag vessels that navigate in the board's jurisdiction and for which the pilotage rate is to be established. (V.A.C.S. Art. 8280c, Sec. 5.03(f).)

Source Law

(f) In determining any action on an application, the commissioners shall consider:

(1) characteristics of vessels to be piloted;

(2) the average number of hours spent by a pilot in the performance of pilot services;

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

(4) the effect, including economic factors affecting the shipping industry in the area, that the grant, refusal, or modification of the application would have on the ports in the jurisdiction of the commissioners and the citizens residing in that jurisdiction;

(5) an adequate and reasonable compensation to the pilots and a fair return upon the equipment and vessels that they employ in connection with their duties;

(6) the relationship between the pilotage rates in the ports under the commissioners' jurisdiction and the rates applicable in other ports of this state;

(7) the average number of hours spent by a pilot in the actual performance of pilot services on board vessels, as well as the average number of hours spent by a pilot to perform pilot services; and

(8) the average wages of masters of United States flag vessels that navigate the waters within the jurisdiction of the board by which the pilots' rates are to be established.

Revised Law

Sec. 68.068. BOARD ACTION. (a) A board order granting, denying, or modifying an application for a rate change must state its effective date. The order is final, except as provided by Subsection (b).
(b) Any party aggrieved by the board's order may, after exhausting all administrative remedies, appeal the order to a court. (V.A.C.S. Art. 8280c, Secs. 5.03(g), (i) (part), 5.05.)

Source Law

[Sec. 5.03]
(g) The action of the commissioners in granting, denying, or modifying the application is final.

(i) ... and the order shall state its effective date.

Sec. 5.05. Any party aggrieved by the board's decision may seek judicial review of the board's decision after all administrative remedies are exhausted.

Revised Law

Sec. 68.069. REPORTING AND STENOGRAPHIC COSTS. (a) The board may assess the actual costs the board considers fair and just for reporting and stenographic services necessarily incurred in connection with a hearing against one or more of the applicants and objecting parties.

(b) The board may require that an applicant or objecting party deposit an amount against those costs as a condition of presenting an application or objection. (V.A.C.S. Art. 8280c, Sec. 5.03(h).)

Source Law

(h) The commissioners may assess the actual cost of reporting and secretarial services necessarily incurred in connection with any hearing against one or more of the applicants and objecting parties that appears to the commissioners to be fair and just. The commissioners may further require that any applicant or objecting party deposit a sum against the costs as a condition of presenting its application or objection. The costs authorized by this subsection are strictly limited to the actual and reasonable costs of reporting and stenographic services.

Revisor's Note

Section 5.03(h), V.A.C.S. Article 8280c, limits the costs of reporting and stenographic services to "actual and reasonable" costs. The revised law omits "reasonable" because it is included in the requirement
that the costs be limited to those the board considers fair and just.

Revised Law

Sec. 68.070. ORDER FILED. (a) The board shall file a copy of its order with the county clerk.

(b) The board shall file the order not later than the 20th day after:

(1) the closing date of a hearing held as provided by Section 68.064(b); or

(2) if a hearing is not held, the expiration of the 20-day period provided by Section 68.064(a). (V.A.C.S. Art. 8280c, Secs. 5.03(b) (part), (c) (part), (i) (part)).

Source Law

(b) . . . and shall file their action with the county clerk as provided by Subsection (i) of this section, within 20 days after the initial 20-day notice period.

(c) . . . and shall file their decision with the county clerk as provided by Subsection (i) of this section within 20 days after the close of the hearing.

(i) A copy of the commissioners' order shall be filed in the office of the county clerk . . .

Revised Law

Sec. 68.071. EMERGENCY PILOTAGE RATES. (a) The board may establish emergency pilotage rates for the period of an emergency, not to exceed 30 days, if the board finds that:

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

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

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

(c) Emergency pilotage rates may not be appealed.

(d) The board shall adopt rules to carry out this section.
Sec. 5.06. (a) The board may establish emergency pilotage rates, for a period not to exceed 30 days, to replace existing pilotage rates for the period of the emergency, if the board finds that a natural or man-made disaster has created a substantial hazard to piloting vessels into and out of a port and that the existence of the hazard overrides the necessity to comply with normal pilotage rate-setting procedures.

(b) In adopting emergency pilotage rates, the board is not required to comply with the procedures in this Act and its rules relating to adoption of pilotage rates. Emergency pilotage rates may not be appealed.

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

Sec. 68.072. PILOT SERVICES REQUIRED. The consignee of a vessel under the consignee's control shall obtain pilot services for the vessel and shall pay the pilots who pilot the vessel into and out of the port area compensation according to the pilotage rates filed by the board. (V.A.C.S. Art. 8280c, Secs. 5.03(i) (part), 5.07(a), 6.01(a).)

Sec. 5.07. (a) Compensation based on lawfully authorized pilotage rates shall be paid by the consignee liable for its payment for vessels employing pilots.

Sec. 6.01. (a) The consignee for each vessel is responsible for obtaining pilot services for the vessel under the consignee's control and for paying to the pilots who pilot the vessel into and out of the port area compensation based on pilotage rates adopted under this Act.

Reviser's Note

Section 5.03(i), V.A.C.S. Article 8280c, refers to pilotage charges in existence at the time the statute was passed. The revised law omits this reference as unnecessary. Pilotage charges may be made in accordance with rates adopted by the board of pilot
commissioners. The omitted provision reads:

[Pilotage charges] in excess of those in
existence at the time of passage of this
Act [may not be made] . . . .

Revised Law

Sec. 68.073. PILOTAGE RATE LIABILITY. (a) A pilot who
charges a rate for pilot services different from the pilotage rates
established under this chapter for the port in which the pilot
serves is liable to each person who was charged the different rate
for double the amount of pilotage.

(b) A court may include in a judgment in favor of a person
who files suit to collect an amount owed under this chapter an
award to cover court costs and reasonable attorney's fees.
(V.A.C.S. Art. 8280c, Secs. 5.07(b), (c).)

Source Law

(b) A pilot who charges pilotage rates different
from those established under this Act for the port in
which the pilot serves as a pilot is liable to each
person who was charged a pilotage rate other than the
lawfully authorized pilotage rate for double the amount
of pilotage.

(c) If a person must file suit to collect the
amount owed under this section, the court may include
in any final judgment in favor of that person an award
to cover court costs and reasonable attorney's fees.

Revised Law

Sec. 68.074. RECOVERY OF COMPENSATION. A pilot who offers
pilot services to a vessel required under this chapter to obtain
pilot services and whose services are refused is entitled to
recover from the consignee the pilotage rate for the service.
(V.A.C.S. Art. 8280c, Sec. 6.01(b).)

Source Law

(b) Each pilot who offers to serve a vessel but
is denied service is entitled to recover compensation
based on pilotage rates adopted under this Act from the
consignee in any court of competent jurisdiction.

Revisor's Note

Section 6.01(b), V.A.C.S. Article 8280c, refers
to a suit brought "in any court of competent jurisdiction." The revised law omits the quoted language as unnecessary because a suit may only be brought in a court, and the general laws of civil jurisdiction determine which courts have jurisdiction over the matter. For example, see Sections 24.007-24.0011, Government Code, for the general jurisdiction of district courts.

Revisor's Note
(End of Subchapter)

The revised law omits as executed Sections 5.01 and 5.02, V.A.C.S. Article 8280c, which maintained pilotage rates in effect on the effective date of the original enactment of Article 8280c until the board adopted other rates. The board has adopted more recent pilotage rates. The omitted sections read:

Sec. 5.01. Pilotage rates in effect on the effective date of this Act remain in effect until the board adopts other pilotage rates.
Sec. 5.02. Before different pilotage rates are adopted by the board under this Act, notice shall be given and a hearing held.

[Sections 68.075-68.080 reserved for expansion]

SUBCHAPTER E. PILOT LIABILITY

Revised Law

Sec. 68.081. PURPOSE. The purpose of this subchapter is to:
(1) in the public interest, stimulate and preserve maritime commerce on the pilotage grounds of this state by limiting and regulating the liability of pilots; and
(2) maintain pilotage fees at reasonable amounts.
(V.A.C.S. Art. 8280c, Sec. 7.01.)

Source Law

Sec. 7.01. (a) The stimulation and preservation of maritime commerce on the pilotage grounds of this state are declared to be affected with the public
interest and the limitation and regulation of liability
of pilots is necessary to the stimulation and
preservation of maritime commerce and is considered to
be in the public interest.

(b) To accomplish the stimulation and
preservation of maritime commerce, it is necessary to
limit the liability of the pilots.

(c) The legislature declares that this Act is
designed to effect the ends and purposes listed in this
section and to maintain pilotage fees at reasonable
levels.

Revised Law

Sec. 68.082. PILOT LIABILITY. A pilot is not liable
directly or as a member of an organization of pilots for a claim
that:

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

(2) relates directly or indirectly to pilot services.

(V.A.C.S. Art. 8280c, Sec. 7.02.)

Source Law

Sec. 7.02. A pilot is not liable either directly
or as a member of an organization of pilots for any
claims arising from acts or omissions of any other
pilot or organization of pilots that relate directly or
indirectly to pilot services.

Revised Law

Sec. 68.083. PILOT LIABILITY LIMITED. (a) A pilot
providing pilot services is not liable for more than $1,000 for
damage or loss caused by the pilot's error, omission, fault, or
neglect in the performance of the pilot services, except as
provided by Subsection (b).

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

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

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

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

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

(1) the vessel was piloted by a pilot; or
(2) the damage or loss was caused by the error, omission, fault, or neglect of a pilot.

(d) In an action brought against a pilot for an act or omission for which liability is limited as provided by this section and in which other claims are made or anticipated with respect to the same act or omission, the court shall dismiss the proceedings as to the pilot to the extent the pleadings allege pilot liability that exceeds $1,000. (V.A.C.S. Art. 8280c, Sec. 7.03.)

Source Law

Sec. 7.03. (a) A ship's pilot licensed by this state and providing service to or from ports of Brazoria County is not liable for damages in excess of the amount of $1,000 for damages or loss occasioned by the pilot's errors, omissions, fault, or neglect in the performance of pilot services, except damages or loss that may arise by reason of the wilful misconduct or gross negligence of the pilot.

(b) This section does not exempt the vessel or its owner or operator from liability for damage or loss occasioned by that ship to a person or property on the grounds that:

(1) the ship was piloted by a pilot licensed under this Act; or
(2) the damage or loss was occasioned by the error, omission, fault, or neglect of a pilot licensed under this Act.

(c) A pilot is not liable for any injury, damage, loss, or expense to any legal entity arising out of or connected with any act or omission that relates directly or indirectly to the performance of pilot services in excess of the amount of $1,000, except that this limitation does not apply to:

(1) wilful misconduct on the part of the pilot;
(2) liability for exemplary damages based on the gross negligence of the pilot for which no other person is jointly or severally liable; or
(3) acts or omissions relating to the ownership and operation of the pilot boats unless the pilot boat is directly involved in pilot services other than the transportation of pilots.

(d) If a suit or action is brought in court against a pilot for an act or omission for which liability is limited as provided by this section, and other claims are made or anticipated in respect of the same act or omission, the court shall dismiss the proceedings as to the pilot to the extent the pleadings allege liability of the pilot exceeding $1,000.
[Sections 68.084-68.090 reserved for expansion]

SUBCHAPTER F. BRAZOS PILOTS ASSOCIATION

Revised Law
Sec. 68.091. PILOTS ASSOCIATION. The Brazos Pilots Association is a nonprofit association that may be composed only of the licensed branch pilots for the Brazoria County ports. (V.A.C.S. Art. 8280c, Secs. 1.02(8), 8.01.)

Source Law

Sec. 68.092. ASSOCIATION PURPOSES. The purposes of the Brazos Pilots Association are:

(1) the leasing, ownership, management, and operation of equipment and facilities suitable for use by member pilots individually and collectively in performing their individual and collective duties as branch pilots, including pilot boats, communication equipment, and pilot stations;

(2) administering the business of providing an efficient and safe pilot service in accordance with bylaws adopted by a majority vote of the members of the association;

(3) providing a pilots' retirement fund through membership participation; and

(4) maintaining continuous liaison with the board through its elected representatives. (V.A.C.S. Art. 8280c, Sec. 8.02.)

Source Law

Sec. 8.02. The purposes of the Brazos Pilots Association are:

(1) the leasing, ownership, management,
and operation of facilities, including pilot boats, communication equipment, pilot stations, and other equipment and facilities suitable for use by member pilots individually and collectively in performing their individual and collective duties as branch pilots;

(2) administering the business of providing an efficient and safe pilot service in accordance with bylaws adopted by a majority vote of the members of the association;

(3) providing through membership participation a pilots' retirement fund; and

(4) through its elected representatives, maintaining continuous liaison with the board.

Revised Law

Sec. 68.093. OFFICERS. (a) The membership of the Brazos Pilots Association shall elect members to serve as officers. The association's officers must include a president, vice president, and secretary-treasurer.

(b) The officers are elected by secret ballot and by a majority vote of those members casting ballots. Each member is entitled to one vote for each officer. (V.A.C.S. Art. 8280c, Secs. 8.03, 8.05.)

Source Law

Sec. 8.03. Officers of the pilots association shall be elected from and among its membership and shall include a president, vice-president, and secretary-treasurer.

Sec. 8.05. Election of officers shall be by secret ballot, with each member of the pilots association being entitled to cast one vote for each officer to be elected, election to be by majority vote of those members casting ballots at the election.

Revised Law

Sec. 68.094. TERM OF OFFICE. Each association officer serves a one-year term, beginning on January 1, and continues to serve until a successor has been elected and qualified. (V.A.C.S. Art. 8280c, Sec. 8.04.)

Source Law

Sec. 8.04. Each officer shall be elected for a term of one year, beginning on the date this Act takes effect and continuing for a period of one year or until a successor has been elected and qualified.
Revisor's Note

Section 8.04, V.A.C.S. Article 8280c, refers to "the date this Act takes effect." The revised law substitutes "January 1" for the quoted language because the effective date of Article 8280c is January 1, 1990, and because it is not necessary to restate the year of the effective date because the term an officer serves begins each January 1.

Revised Law

Sec. 68.095. PROPERTY. (a) The association may rent or own property, acquire property by gift, purchase, or exchange, and hold title to property that is appropriate for its use in carrying out the purposes of the association under this chapter.

(b) The acquisition, sale, or disposal of permanent assets, as distinguished from consumable assets, must be authorized by resolution of the association. The resolution must be adopted in open meeting by a two-thirds vote of the membership after notice of the date, time, place, and purpose of the meeting. (V.A.C.S. Art. 8280c, Sec. 8.06.)

Source Law

Sec. 8.06. The pilots association is vested with authority to rent or acquire and own property by gift, purchase, or exchange and hold title to property that is appropriate for its use in carrying out the purposes of the association as stated in this Act. Acquisition and sale or disposal of permanent assets, as distinguished from consumables, must be authorized by resolution of the association adopted in open meeting, after notice of the date, time, place, and purpose of the meeting and by two-thirds vote of all members.

Revised Law

Sec. 68.096. INDEPENDENT CONTRACTOR. Although each branch pilot is a member of the association, a branch pilot acts as an independent contractor in performing specific pilot services for a vessel owner or consignee. A branch pilot is solely responsible to each vessel owner or consignee for the manner in which the pilot services are performed. (V.A.C.S. Art. 8280c, Sec. 8.07.)
Sec. 8.07. Notwithstanding that each branch pilot is by provision of this Act a member of the pilots association, each branch pilot acts as to each vessel owner or consignee as an independent contractor in performing specific pilot services, as defined in this Act, and each branch pilot shall be solely responsible to each vessel owner or consignee, for the manner in which the pilot service is performed.

Sec. 8.09. There is delegated to the pilots association the authority to collect in its name for and on behalf of each branch pilot all fees earned by each branch pilot for performance of pilot services and for which the association shall issue appropriate receipts and make full accounting in accordance with bylaws adopted by the association.

Sec. 8.098. OPERATING BUDGET. In December of each year, the association shall adopt, by majority vote, a budget for its operations for the ensuing calendar year. The operating budget may be amended at any regular or special meeting of the association. (V.A.C.S. Art. 8280c, Sec. 8.10.)

Sec. 8.10. In December of each year, the pilots association, acting on majority vote of its members, shall adopt a budget for its operations for the ensuing calendar year that may be amended at any regular or special meeting of the association.

Sec. 8.099. SERVICE FEES. Monthly, the association may retain from fees collected on behalf of each branch pilot, as consideration for services rendered, a pro rata share of 1/12th of
the association's necessary operating expenses according to its
budget. (V.A.C.S. Art. 8280c, Sec. 8.11.)

Source Law

Sec. 8.11. The pilots association is authorized
to retain out of fees collected for and on behalf of
each branch pilot, on a monthly basis and as
consideration for services rendered, a pro rata share
of one-twelfth of its necessary operating expenses as
reflected by its budget.

Revised Law

Sec. 8.11. FEE DISTRIBUTION. Not later than the 25th day
of each month, the association shall distribute to each branch
pilot, as provided by association bylaws, a share of the fees
collected in the preceding calendar month after deducting:

(1) the pilot's share of expenses as provided by
Section 68.099; and

(2) an amount the pilot has authorized deducted and
contributed to the pilot's share of an employee welfare benefit
plan or employees' pension benefit plan established and maintained
by the association. (V.A.C.S. Art. 8280c, Sec. 8.12.)

Source Law

Sec. 8.12. Not later than the 25th day of each
month, the pilots association shall distribute to each
branch pilot, in accordance with bylaws of the
association, a share of the fees collected in the
preceding calendar month after deducting each pilot's
pro rata share of the association's budgeted operating
expenses as provided by Section 8.11 of this Act, and
the amount each branch pilot may authorize deducted and
contributed to the pilot's share of an employee welfare
benefit plan or employees' pension benefit plan as may
be established and maintained by the pilots
association.

Revised Law

Sec. 8.12. ASSOCIATION SERVICES. The association shall
provide for the use and benefit of each branch pilot member:

(1) real property and buildings suitable for use as a
pilot station;

(2) appropriate communications facilities;

(3) pilot boats for transportation to and from
vessels; and

(4) other equipment and facilities authorized by majority vote of the members of the association. (V.A.C.S. Art. 8280c, Sec. 8.13.)

Source Law

Sec. 8.13. The pilots association shall provide for the use and benefit of each branch pilot member:
(1) land and buildings suitable for use as a pilot station;
(2) appropriate communication facilities;
(3) pilot boats for transportation to and from vessels; and
(4) other equipment and facilities as may be authorized by majority vote of the members of the association.

Revised Law

Sec. 68.102. TRANSFER OF PROPERTY. The association may receive from Brazos Pilot Service, Inc., a conveyance of all real and personal property owned and held by that company if all shareholders of the company consent in writing to the transfer. (V.A.C.S. Art. 8280c, Sec. 8.14.)

Source Law

Sec. 8.14. The pilots association may receive from Brazos Pilot Service, Inc., a conveyance of all real and personal property owned and held by Brazos Pilot Service, Inc., provided that consent to the transfer shall be evidenced by a document signed by all shareholders of Brazos Pilot Service, Inc.

Revised Law

Sec. 68.103. SHARE VALUATION. The value of all assets of the association shall be determined by an appraisal made by one or more qualified appraisers designated by the association president. The value of each share is determined by dividing the total value of all assets of the association by the number of shares outstanding. The value of each share shall be used in a transaction that involves:
(1) the purchase of a share by a newly commissioned branch pilot;
(2) the sale of a share on retirement by a branch pilot;
(3) the purchase of a share by the association from the legal heirs of a deceased branch pilot. (V.A.C.S. Art. 8280c, Sec. 8.15.)

Source Law

Sec. 8.15. The value of all assets of the pilots association shall be determined by an appraisal to be made by one or more qualified appraisers as designated by the president of the association. The total valuation of all assets of the association divided by the number of shares currently outstanding shall determine the value of each share. The value of each share, determined in the manner provided by this section shall be used in all transactions dealing with the transfer of shares of the association whether involving:

(1) the purchase of a share by a newly commissioned branch pilot;
(2) the sale of a share on retirement by a branch pilot; or
(3) the purchase of a share by the association from the legal heirs of a deceased branch pilot.

Revisor's Note

Section 8.15, V.A.C.S. Article 8280c, refers to the value of association shares used in transactions:

... dealing with the transfer of shares of the association whether involving:

(1) the purchase of a share by a newly commissioned branch pilot;
(2) the sale of a share on retirement by a branch pilot; or
(3) the purchase of a share by the association from the legal heirs of a deceased branch pilot.

The revised law omits "dealing with the transfer of shares of the association" because each of the enumerated transactions concerns a transfer of shares of the association.

Revised Law

Sec. 68.104. TRANSFER OF SHARES. (a) The association shall issue one share to a branch pilot on the pilot's initial commissioning if the pilot pays the association a sum equal to the value of the share determined in the manner provided by this
subchapter.

(b) The association shall purchase the share of a branch pilot who for any reason other than death ceases to render pilot services. The association shall purchase the share not later than the 30th day after the date of a request by the withdrawing pilot and on surrender of the share.

(c) Not later than the 30th day after providing the association with proof of identity of the legal representative of the estate of a deceased branch pilot, the legal representative shall tender and transfer to the association the deceased pilot's share. The association shall pay the estate the value of the share determined as provided by this subchapter. (V.A.C.S. Art. 8280c, Sec. 8.16 (part).)

Source Law
Sec. 8.16. Membership shares shall be transferred on the occurrence of any one of the following events:
(1) On a person being commissioned for the first time as a branch pilot for the ports of Brazoria County and tendering to the pilots association full payment of a sum equal to the current value of one share, determined in the manner provided by this Act, the branch pilot shall be issued one share by the association.
(2) If a branch pilot, for any reason other than death, ceases to render pilot service, whether by reason of retirement, expiration or nonrenewal of commission, or otherwise, the pilots association shall purchase the share of the withdrawing branch pilot within 30 days after a request by the withdrawing pilot and on surrender of the share.
(3) Within 30 days after providing the association with proof of identity of the legal representative of the estate of a deceased branch pilot, the legal representative shall tender and transfer to the association the share of the deceased branch pilot, for which the estate of the deceased branch pilot shall be paid the full value of the share, determined as provided by this Act.

Reviser's Note
Section 8.16, V.A.C.S. Article 8280c, refers to reasons a pilot may cease to provide pilot services. The revised law omits "whether by reason of retirement, expiration or nonrenewal of commission, or otherwise" because the quoted language is included within the
meaning of "any reason."

Revised Law

Sec. 68.105. FACILITIES FEE. (a) The association may charge a monthly fee for the use of its facilities to a newly commissioned branch pilot who does not tender payment for a share as required by Section 68.104(a) before rendering service as a branch pilot. The fee may be charged until the pilot pays for the share.

(b) The fee must be reasonable, uniform, and adequate to provide the association the pro rata portion of a reasonable return on investment in the assets of the association.

(c) The association may deduct the fee from collections made by the association for pilot services rendered by the branch pilot.

(V.A.C.S. Art. 8280c, Sec. 8.16 (part).)

Source Law

Sec. 8.16. . . . If a newly commissioned branch pilot does not tender and make full payment for such share before rendering service as a branch pilot, the association may, until payment for the share is made, charge the branch pilot, on a monthly basis, a fee for the use of its facilities. The fee shall be reasonable and uniform but adequate to provide the association the pro rata portion of a reasonable return on investment in the assets of the association. The fee may be withheld by the association from collections made by the association for pilot services rendered by the branch pilot.

Revised Law

Sec. 68.106. LIMITATION ON SHARE OWNERSHIP. (a) Shares of the association may be issued to and owned only by a branch pilot licensed under this chapter, except as provided by Subsection (b).

(b) On the death of a branch pilot licensed under this chapter, the ownership of the deceased pilot's share in the association may pass by will to the pilot's devisees or, if the pilot dies intestate, the interest passes under the laws of descent and distribution of this state for the purpose of liquidation, as provided by Section 68.104(c). (V.A.C.S. Art. 8280c, Sec. 8.17.)
Sec. 8.17. On the death of a branch pilot for the ports of Brazoria County, the ownership of the deceased pilot's share in the pilots association may pass by will to the pilot's devisees or, if the pilot dies intestate, the interest shall pass under the laws of descent and distribution of this state for the purpose of liquidation, as provided in Section 8.16(3) of this Act. Otherwise, shares of the pilots association may be issued to and owned only by a person licensed as a branch pilot for the ports of Brazoria County.

Sec. 68.107. RETIREMENT BENEFITS. (a) The association may act as an employer for the purpose of maintaining an employee welfare benefit plan or an employee pension benefit plan, as defined by 29 U.S.C. Section 1002, for the benefit of branch pilots licensed under this chapter.

(b) A benefit plan must be established and maintained in accordance with applicable law pertaining to benefit plans.

Sec. 8.18. (a) The pilots association may act as an employer in relation to the maintenance of an employee welfare benefit plan or an employee pension benefit plan for the benefit of branch pilots for the ports of Brazoria County, as those plans are defined by 29 U.S.C.A. Section 1002.

(b) A benefit plan shall be established and maintained in accordance with applicable laws pertaining to benefit plans.

The revised law omits Section 6.03(a), V.A.C.S. Article 8280c, a saving provision from the original enactment of that article. The saving provision continued the law in effect before the adoption of Article 8280c for purposes of any pending litigation. Under Section 311.031, Government Code, any remaining effect of that saving provision is continued notwithstanding repeal of Article 8280c by the revision. The omitted section reads:
Sec. 6.03. (a) This Act does not apply to any matter that on the effective date of this Act is involved in litigation, and the law in effect before the adoption of this Act continues to apply to that litigation and continues in effect for that limited purpose.

CHAPTER 69. JEFFERSON AND ORANGE COUNTY PILOTS

SUBCHAPTER A. PILOT RATES

Sec. 69.001. PILOTAGE RATE PROCEDURES .............................. 357

[Sections 69.002-69.050 reserved for expansion]

SUBCHAPTER B. PILOT LIABILITY

Sec. 69.051. PURPOSE ............................................. 363

Sec. 69.052. APPLICABILITY ............................................. 363

Sec. 69.053. PILOT LIABILITY LIMITED ................................. 363

Sec. 69.054. LIABILITY FOR ACTS OF OTHER PILOTS .................... 366

CHAPTER 69. JEFFERSON AND ORANGE COUNTY PILOTS

SUBCHAPTER A. PILOT RATES

Revised Law

Sec. 69.001. 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 Navigation District of Jefferson County.

(c) The application must contain:

(1) a brief statement of the circumstances that warrant the change; and
(2) a certificate that the applicant has submitted copies of the application to all known pilot associations, navigation districts, and associations of consignees operating in the county at the time of the application.

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

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

1. each applicant;
2. each person who objects to the application; and
3. any other party the board determines to be interested in the proceedings.

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

(g) The board shall grant, deny, or modify the application after receiving the evidence offered by the parties and the arguments and briefs the board desires to receive. The board order shall state its effective date. The board shall file a copy of its order in the offices of the appropriate county clerks before the 21st day after the close of the hearing.

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

(i) In acting on an application, the board shall consider:
(1) the effect that granting, denying, or modifying the application would have on:

(A) residents within the board's jurisdiction;

and

(B) the ports within the board's jurisdiction;

(2) the assurance of an adequate and reasonable compensation to the pilots and a fair return on the equipment and vessels that the pilots employ in connection with pilot duties; and

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

(j) The board may assess the actual costs the board considers fair and just of reporting and stenographic services necessarily incurred in connection with a hearing against any applicant or objecting party. The board may require that an applicant or objecting party deposit an amount against those costs as a condition of presenting an application or objection.

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

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

(m) In this section, "consignee" has the meaning provided by Section 64.001. (V.A.C.S. Art. 8267, Subsec. (C).)

Source Law

(C) The commissioners of pilots in no case shall authorize or fix a rate or rates of pilotage applicable to the public ports of Beaumont, Orange or Port Arthur, Texas, or of the privately owned docks or terminals in Orange or Jefferson Counties, Texas, differing from the rate in effect at the time of this enactment unless and until the following procedure has been completed:

(1) An application for the establishment of a new rate of pilotage in one of the counties has
been filed with each commissioner by pilot associations or by the owner, agent, or other person defined as "consignee" of a vessel in Article 8276 of this Title, provided such "consignee" maintains an office in the county in which the application is filed, or by the Port of Port Arthur Navigation District or the Orange County Navigation and Port District or the Port of Beaumont Navigation District, which application for increase or decrease of rates shall contain a brief statement of the circumstances which it is alleged warrant the requested action of the commissioners and shall also contain a certificate that the applicant has submitted copies of the application to all known pilot associations and navigational districts and associations of "consignees" as defined in Article 8276 of this Title, as are operating in the counties at the time of the application.

(2) In the event the notice required is in fact given and no written objection on the part of any legitimately interested party is received by any commissioner within 20 days after said notice is sent, the commissioners shall proceed to act upon the application as they see fit without further proceedings, and file their action thereupon with the appropriate county clerks as provided in Subparagraph (8), within 20 days after the initial 20-day notice period.

(3) In the event any commissioner receives in writing an objection to the application from any person, firm, or corporation who appears to have a legitimate interest in the application within 20 days after notice of the filing of the application was given, the commissioners shall hold a hearing within 20 days after expiration of the initial 20-day notice period for the filing of and objection to the application and shall notify the applicants, the persons objecting to the application and such other parties as the commissioners may, in their sole discretion, determine to be interested in the proceedings, and shall file their decision with the appropriate county clerks as provided in Subparagraph (8), within 20 days after the close of the hearing.

(4) Said hearing shall be held at a convenient and public place in any one of the ports affected and shall be open to the public. At the hearing all parties, upon demonstrating a legitimate interest in the application, shall have the right to be heard, to present evidence and, to the extent deemed practical by the commissioners, cross-examine the witnesses appearing to testify at the hearing.

(5) After the receipt of the evidence offered by the parties and such arguments and briefs as the commissioners may desire to receive, the application shall be granted, denied, or modified by the commissioners. However, it is expressly provided that no increase of rates to either the public ports of Beaumont, Port Arthur or Orange, Texas, shall ever be set, established or granted unless the Board of Commissioners of the Port of Beaumont Navigation District, Port of Port Arthur Navigation District or Orange County Navigation and Port District so affected shall approve same.

(6) In determining their action upon any application the commissioners shall consider:

(a) The effect which the granting, refusal, or modification of the application would have upon the port or ports within the jurisdiction of the commissioners and the citizens residing in it;
reasonable compensation to the pilots and a fair return upon the equipment and vessels which they employ in connection with their duties;

(c) The relationship between the pilotage rates in the ports under the commissioners' jurisdiction and the rates applying in other ports of this state and competitive ports in other states.

(7) The commissioners shall have the authority to assess the actual cost of reporting and secretarial services necessarily incurred in connection with any hearing against one or more of the applicants and/or objecting parties as shall appear to the commissioners to be fair and just. The commissioners may further require that any applicant or objecting party deposit a sum against said cost as a condition of presenting its application or objection. The costs authorized by this paragraph shall be strictly limited to the actual and reasonable cost of reporting and stenographic services.

(8) A copy of the commissioners' order with respect to the application shall be filed in the offices of the appropriate county clerks and said order shall state when it becomes effective. No pilotage charges in excess of those in existence at the time of the passage of this Act shall be made with respect to the public ports of Orange, Beaumont, Port Arthur or any privately owned docks or terminals in Orange or Jefferson Counties, Texas, except pursuant to such an order so filed by the commissioners. Pilotage rates for the public ports of Orange, Beaumont, Port Arthur or any privately owned docks or terminals in Orange or Jefferson Counties, Texas, fixed pursuant to this Article shall not be subject to the maximum limits contained in Article 8274.

Revisor's Note

(1) Subsections (C) and (C)(8), V.A.C.S. Article 8267, refer to the "rate in effect at the time of this enactment" and "those [rates] in existence at the time of passage of this Act." The revised law omits the quoted language as executed because the rate has been changed.

(2) Subsections (C)(1) and (5), V.A.C.S. Article 8267, refer to the "Port of Beaumont Navigation District." The revised law substitutes for the quoted language the correct name of the district, "Port of Beaumont Navigation District of Jefferson County," as stated in V.A.C.S. Article 1446.15.

(3) Subsection (C)(1), V.A.C.S. Article 8267, refers to "the owner, agent, or other person defined as
'consignee' of a vessel in Article 8276 of this Title."

The definition cited is codified in this code as Section 64.001, and the revised law is drafted accordingly. The definition of "consignee" is added to the revised law for drafting convenience and to eliminate frequent and unnecessary repetition of the substance of the definition. The revised law also omits the references to "owner" and "agent" because they are included within the meaning of "consignee."

(4) Subsections (C) and (C)(1), V.A.C.S. Article 8267, refer to the board's authority to "authorize or fix" a rate and to the "establishment" of a rate. The revised law omits the references to "authorize," "fix," and "establishment" and substitutes the more commonly used term "adopt."

(5) Subsection (C)(6)(a), V.A.C.S. Article 8267, refers to "citizens residing" in the commissioners' jurisdiction. The revised law substitutes "residents" for the quoted language because, in the context of this section, "citizen" and "resident" are synonymous and "resident" is more commonly used.

(6) Subsection (C)(7), V.A.C.S. Article 8267, refers to the assessment of the cost of certain services in an application hearing as the commissioners consider "fair and just." That subsection also limits the cost to the "actual and reasonable" cost of the services. The revised law omits the reference to the reasonability of the cost because "reasonable" is included within the meaning of "fair and just."

(7) Subsection (C)(8), V.A.C.S. Article 8267, refers to the "maximum limits contained in Article 8274." V.A.C.S. Article 8274 is codified in this code in Sections 64.002 and 64.003 with the maximum pilotage rate revised by Section 64.002, and the revised law is
drafted accordingly.

[Sections 69.002-69.050 reserved for expansion]

SUBCHAPTER B. PILOT LIABILITY

Revised Law
Sec. 69.051. PURPOSE. The purpose of this subchapter is to:
(1) in the public interest, stimulate and preserve maritime commerce on the pilotage grounds of this state by limiting and regulating the liability of pilots; and (2) maintain pilotage fees at reasonable levels.

(V.A.C.S. Art. 8280d, Sec. 1.)

Source Law
Art. 8280d
Sec. 1. (a) The stimulation and preservation of maritime commerce on the pilotage grounds of this state are declared to be affected with the public interest, and the limitation and regulation of liability of pilots are necessary to the stimulation and preservation of maritime commerce and are considered to be in the public interest. (b) To accomplish the stimulation and preservation of maritime commerce, it is necessary to limit the liability of the pilots. (c) The legislature declares that this Act is designed to effect the ends and purposes listed in this section and to maintain pilotage fees at reasonable levels.

Revised Law
Sec. 69.052. APPLICABILITY. This subchapter applies to a pilot licensed or certified to render pilotage services to or from a port in Jefferson or Orange County. (V.A.C.S. Art. 8280d, Sec. 4.)

Source Law
Sec. 4. This Act applies to pilots licensed or certified to render pilotage services to or from ports in Jefferson County or Orange County.

Revised Law
Sec. 69.053. PILOT LIABILITY LIMITED. (a) A pilot providing a pilot service is not liable for more than $1,000 for damages or loss caused by the pilot's error, omission, fault, or
neglect in the performance of the pilot service.

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

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

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

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

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

(1) the ship was piloted by a pilot; or

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

(d) In an action brought against a pilot for an act or omission for which liability is limited as provided by this section and in which other claims are made or anticipated with respect to the same act or omission, the court shall dismiss the proceedings as to the pilot to the extent the pleadings allege pilot liability that exceeds $1,000. (V.A.C.S. Art. 8280d, Sec. 3.)

Source Law

Sec. 3. (a) A ship's pilot licensed by this state and providing service to or from ports in Jefferson County or Orange County is not liable for damages in excess of the amount of $1,000 for damages or loss occasioned by the pilot's errors, omissions, fault, or neglect in the performance of pilot services, except damages or loss that may arise by reason of the wilful misconduct or gross negligence of the pilot.

(b) This section does not exempt the vessel or its owner or operator from liability for damage or loss occasioned by that ship to a person or property on the ground that:

(1) the ship was piloted by a pilot licensed under this Act; or

(2) the damage or loss was occasioned by the error, omission, fault, or neglect of a pilot licensed under this Act.

(c) A pilot is not liable for any injury, damage, loss, or expense to any legal entity arising out of or connected with any act or omission that relates directly or indirectly to the performance of
pilot services in excess of the amount of $1,000, except that this limitation does not apply to:

(1) wilful misconduct on the part of the pilot;

(2) liability for exemplary damages based on the gross negligence of the pilot for which no other person is jointly or severally liable; or

(3) acts or omissions relating to the ownership and operation of the pilot boats unless the pilot boat is directly involved in pilot services other than the transportation of pilots.

(d) If a suit or action is brought in court against a pilot for an act or omission for which liability is limited as provided by this section and other claims are made or anticipated in respect of the same act or omission, the court shall dismiss the proceedings as to the pilot to the extent the pleadings allege liability of the pilot exceeding $1,000.

Revisor's Note

(1) Section 3(a), V.A.C.S. Article 8280d, refers to ship pilots "providing service to or from ports in Jefferson County or Orange County." The revision omits the quoted language as unnecessary and redundant because Section 69.052 of this code provides that this chapter applies only to pilots licensed or certified to render pilotage services to or from ports in Jefferson or Orange County.

(2) Section 3(c), V.A.C.S. Article 8280d, refers to "any injury, damage, loss, or expense ...." The revision omits the word "expense" as unnecessary because "expense" is included within the meaning of damages or loss.

(3) Section 3(b), V.A.C.S. Article 8280d, refers to a pilot "licensed under this Act." The revision substitutes "to whom this chapter applies" for the quoted language because V.A.C.S. Article 8280d does not issue or provide for the issuance of a license to any pilots and Sections 3(a) and 4, V.A.C.S. Article 8280d, which contain the only references in Article 8280d to pilots' licenses, address pilots licensed by the state for ports located in Jefferson County or Orange County.
Sec. 69.054. LIABILITY FOR ACTS OF OTHER PILOTS. A pilot is not liable directly or as a member of an organization of pilots for a claim arising from an act or omission of any other pilot or organization of pilots that relates directly or indirectly to pilot services. (V.A.C.S. Art. 8280d, Sec. 2.)

Source Law
Sec. 2. A pilot rendering pilotage services to or from ports located in Jefferson County or Orange County is not liable either directly or as a member of an organization of pilots for any claims arising from acts or omissions of any other pilot or organization of pilots that relate directly or indirectly to pilot services.

Revisor's Note
Section 2, V.A.C.S. Article 8280d, refers to pilots "rendering pilotage services to or from ports located in Jefferson County or Orange County." The revision omits the quoted language for the reason stated in Revisor's Note (1) to Section 69.053 of this code.

[Chapters 70-90 reserved for expansion]

TITLE 5. RAILROADS

[Chapters 91-200 reserved for expansion]

TITLE 6. ROADWAYS

SUBTITLE A. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 201. GENERAL PROVISIONS AND ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 201.001. DEFINITIONS ........................................... 369

Sec. 201.002. OPERATING EXPENSES; USE OF STATE HIGHWAY FUND .................................................. 370

Sec. 201.003. TITLE CHANGES ........................................... 371

[Sections 201.004-201.050 reserved for expansion]

SUBCHAPTER B. TEXAS TRANSPORTATION COMMISSION

Sec. 201.051. COMMISSION ............................................... 372

Sec. 201.052. TERMS ...................................................... 375