

BILL ANALYSIS

C.S.H.B. 3151
By: Smith
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The board of pilot commissioners for Harris County ports oversees the Houston Pilots, who are responsible for safely navigating ocean-going vessels into and out of the Port of Houston. Interested parties contend that while current law authorizes the board to investigate certain violations and incidents involving pilots, the law does not adequately provide for the authority to compel a party to provide related information. The parties also contend that there is a need to revise certain deadlines associated with rate hearings held by the board. C.S.H.B. 3151 seeks to address these issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3151 amends the Transportation Code to authorize the board of pilot commissioners for Harris County ports to direct the issuance of a subpoena commanding the person to whom it is directed to produce and permit inspection and copying of designated documents or tangible things in the possession, custody, or control of that person. The bill authorizes the board to file suit to enforce the subpoena, and an interested party to file suit for a protective order or other relief in connection with the subpoena, in a district court in Harris County or in a district court in the county in which the subpoena is served. The bill requires all such subpoenas issued and suits filed to be governed by the Texas Rules of Civil Procedure and other law applicable to discovery in civil litigation in the district courts of Texas. The bill specifies that the rules the board is authorized to adopt under the Houston Pilots Licensing and Regulatory Act include rules for conducting hearings.

C.S.H.B. 3151 changes the date by which the board is required to set a hearing date for a pilotage rate change application from within two weeks of receipt of the application to not later than the 45th day after the receipt of the application. The bill removes the requirement of the board to 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 and instead requires the board to begin the hearing not earlier than the 20th day and not later than the 60th day after that date. The bill changes the deadline by which the pilots who are licensed or certified to serve the port for which the rates are being considered are required to submit certain financial information to the board and to any party designated by the board from the 10th day before the date set for the hearing to a date established by the board, which may not be later than the 10th day before the date set for the hearing. The

bill adds the specification to the provision authorizing the board to require relevant additional information the board considers necessary to determine a proper pilotage rate that the required relevant information is from any person.

C.S.H.B. 3151 changes the date by which the board is required to issue a decision on a pilotage rate from not later than the 10th day after the date of the completion of a hearing on an application for a change in pilotage rates to not later than the 60th day after that date, specifies that the decision must be issued publicly, and removes the requirement that the decision be written. The bill includes the effective date for each new pilotage rate among the information required to be in the decision. The bill authorizes the board, before the effective date of a new pilotage rate, to continue or reopen the hearing at which the rate was decided to reconsider the decision.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3151 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 66.016(b), Transportation Code, is amended to read as follows:

(b) The board may adopt rules to carry out this chapter, including rules for conducting hearings and admitting evidence at the hearings.

SECTION 2. Subchapter B, Chapter 66, Transportation Code, is amended by adding Section 66.0215 to read as follows:

Sec. 66.0215. SUBPOENAS. (a) The board may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state.

(b) A subpoena may be served personally or by certified mail.

(c) If a person fails to comply with a subpoena, the board may file suit to enforce the subpoena in a district court in Harris County.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 66.016(b), Transportation Code, is amended to read as follows:

(b) The board may adopt rules to carry out this chapter, including rules for conducting hearings.

SECTION 2. Subchapter B, Chapter 66, Transportation Code, is amended by adding Section 66.0215 to read as follows:

Sec. 66.0215. SUBPOENAS. (a) The board may direct the issuance of a subpoena commanding the person to whom it is directed to produce and permit inspection and copying of designated documents or tangible things in the possession, custody, or control of that person.

No equivalent provision.

(b) The board may file suit to enforce a subpoena issued under this section, and an interested party may file suit for a protective order or other relief in connection with the subpoena, in a district court in Harris County or in a district court

in the county in which the subpoena is served.

(d) On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may punish a person who fails to obey the court order.

No equivalent provision.

(e) The board may delegate the authority granted under Subsection (a) to the secretary of the board.

No equivalent provision.

(f) The board shall pay a reasonable fee for photocopies subpoenaed under this section in an amount not to exceed the amount the board may charge for copies of its records.

No equivalent provision.

(g) The reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103, Government Code.

No equivalent provision.

No equivalent provision.

(c) All subpoenas issued and suits filed under this section shall be governed by the Texas Rules of Civil Procedure, including Rules 176.1 through 176.8, and other law applicable to discovery in civil litigation in the district courts of this state.

SECTION 3. Section 66.022, Transportation Code, is amended to read as follows:

No equivalent provision.

Sec. 66.022. JUDICIAL REVIEW. (a) Proceedings for judicial review of a board decision shall be brought in a district court in Harris County.

(b) Judicial review is by trial de novo.

SECTION 4. Section 66.062(c), Transportation Code, is amended.

SECTION 3. Same as introduced version.

SECTION 5. The heading to Section 66.063, Transportation Code, is amended.

SECTION 4. Same as introduced version.

SECTION 6. Section 66.063, Transportation Code, is amended.

SECTION 5. Same as introduced version.

SECTION 7. Section 66.065, Transportation Code, is amended.

SECTION 6. Same as introduced version.

SECTION 8. Section 66.067, Transportation Code, is amended to read as follows:

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

(b) Judicial review is by trial de novo.

No equivalent provision.

SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 7. Same as introduced version.