

Original text of proposed rulemaking re SAN FRANCISCO PILOT PENSION PLAN  
[text to be added is underlined]

Division 2 as follows:

## **Article 8. Pension Plan**

### **Section 238. Benefit Calculations** [new]

- (a) Chapter 3 of Division 5 of the Harbors and Navigation Code, Sections 1160 through 1168, provides for the San Francisco Pilot Pension Plan. The plan is administered by one or more fiduciary agents selected by the Board. This section provides guidelines for calculating benefits under the plan.
- (b) Pension benefits paid pursuant to the plan are calculated based on the full years of service completed by the pilot.
- (c) “Service” for purposes of calculating pension benefits under the plan shall include all time that the pilot held a pilot license issued by the Board and was authorized to pilot thereunder, except for the following periods:
  - (1) Periods during which the pilot’s federal or state license was temporarily suspended pending a hearing unless the pilot was exonerated;
  - (2) Periods during which the pilot’s federal or state license was suspended following a hearing unless the suspension was set aside following an appeal;
  - (3) Periods during which the pilot was on a leave of absence greater than 30 days unless the leave of absence was for a cause determined to be acceptable by the Board after due consideration of generally accepted business practice in the maritime industry;
  - (4) Periods during which the pilot failed to comply with Section 219(b), as reported by the Port Agent pursuant to subsection (e), unless modified by a decision of the Board following an appeal thereof.
- (d) The term “six months or more of service by a pilot or inland pilot shall be considered a full year” as used in Code Section 1163(c) shall mean that, in calculating “service,” if the total years of service results in a number that includes a fraction of a year and that fraction represents 181 days or more of service, it shall be rounded up to the next full year. If the fraction represents less than 181 days, it shall be rounded down to the last full year of service.

- (e) The Port Agent shall certify annually for each pilot whether he or she performed his or her full share of duties unless prevented by illness or other cause satisfactory to the Port Agent and to the Board, as required by Section 219(b). For any pilot who failed to comply with Section 219(b), the Port Agent shall provide the total number of days that the pilot was unavailable for pilot service when required under that section, the reasons given by the pilot, if any, and such additional information as the Board may require.
- (f) The report required by subsection (e) shall be submitted to the Board on or before March 1 of each year unless otherwise directed by the Board. For pilots who have submitted a timely letter of resignation or retirement to the Board, the Executive Director shall provide a copy of such letter to the Port Agent within 10 days of receipt of the letter, and the Port Agent shall submit to the Board the report required by subsection (e) relative to that pilot within 20 days of receipt of the letter.
- (g) The Port Agent shall ensure that each pilot who is reported as having failed to comply with Section 219(b) was informed of the intended report at least 10 days prior to the submission of the report and was afforded the opportunity to correct any errors in the report. The report shall include either the signature of the pilot attesting to the accuracy of the report or shall state the means by which the pilot was informed of the report, whether the pilot disputed the accuracy of the report and what efforts have been made to resolve the dispute.
- (h) Upon receipt of a report submitted by the Port Agent pursuant to subsection (e), the Board shall mail notice to each pilot who was reported as having failed to comply with Section 219(b) unless the pilot's attestation to the accuracy of the report accompanied the report. The notice shall inform the pilot that he or she has 30 days from the date of the notice in which to appeal the report or it will be deemed accurate for purposes of calculating "service" pursuant to this section.
- (i) Within the period provided by subsection (h), pilots who wish to appeal a report by the Port Agent pursuant to this section shall submit their appeal to the Executive Director at the Board office in writing, stating the basis for the appeal, supported by all written documents necessary to decide the appeal. The pilot shall provide a copy of the appeal and all supporting documents to the Port Agent.
- (j) Within 10 days of the receipt of the appeal, the Port Agent shall submit his or her response to the appeal, along with all documents he or she deems relevant to the determination of the issues raised thereby.
- (k) Upon receipt of the appeal, the Port Agent's response and any supporting documents provided thereto, the Executive Director shall promptly forward a copy to each member of the Board's Pension Committee or to such other committee as may be appointed by proper authority pursuant to Section 208. The committee to which the appeal is assigned shall meet promptly at the time and place determined by the chair of the committee in conformance with applicable open meeting act laws in order to hear the issues raised by

the appeal and develop recommendations to the Board for decision. The Board shall decide the appeal at a duly noticed meeting and its decision shall be final.

- (l) The Executive Director shall ensure the maintenance of the reports submitted pursuant to this section and the results of all appeals hereunder.
- (m) Upon receipt of a letter of retirement submitted by a pilot or other written request, the Executive Director shall calculate the pilot's service in accordance with this section and shall provide a written report thereof to the pilot, the Port Agent and the fiduciary. The letter shall be available as a public record.

### **Section 239 – Disability Retirements**

- (a) For purposes of calculating pension benefits for disabled pilots pursuant to Harbors and Navigation Code Sections 1163 and 1164, the following terms and definitions shall apply:
  - (1) “Disability” or “disabled” as used in this section shall mean a medical condition that is permanent or of extended and uncertain duration and that prevents the pilot from performing his or her duties as a pilot. It is a condition that must be determined by the Board based on competent medical opinion.
  - (2) “Date on which the pilot became disabled” shall mean the date following a pilot's injury or illness on which the pilot reached maximum medical cure and could no longer return to active piloting duty as a result of a disability. It is a date to be determined by the Board based on competent medical opinion.
  - (3) “Last year prior to the pilot's disability” shall mean the year prior to the date on which the pilot became disabled.
- (b) A request for a disability determination shall be submitted to the Board in writing and shall be supported by competent medical opinion setting forth the diagnosis and prognosis in sufficient detail to permit the Board to determine whether the pilot is disabled.
- (c) Upon receipt of a written request for a disability determination, the Executive Director shall review the request and its supporting documents for sufficiency and arrange for an examination of the pilot by a Board physician, requesting a determination of whether the pilot is disabled. The examination may be waived if the Board physician concludes from the supporting documents that the pilot is disabled and that no examination is necessary.
- (d) Upon receipt of the opinion of the Board's physician, the Executive Director shall forward a copy of the request, supporting documents and the opinion of the Board physician to each member of the Board's Pension Committee or to such other committee as may be appointed by competent authority pursuant to Section 208.

- (e) The committee to which the matter is assigned shall meet promptly at the time and place determined by the chair of the committee in conformance with applicable open meeting act laws and shall review the records and such additional information as it deems relevant in order to develop recommendations to the Board as to each of the following:
- (1) Whether there is competent medical evidence sufficient to conclude that the pilot is disabled;
  - (2) The date on which the pilot became disabled;
  - (3) The full years of service of the disabled pilot up through the date of disability;
  - (4) The last year prior to the pilot's disability; and
  - (5) The quarter in which the pilot's disability pension benefits are to begin.
- (f) Upon receipt of the recommendations of the committee pursuant to subsection (e), the Board shall determine whether the pilot is disabled and make such further determinations as it deems appropriate to provide guidance to the fiduciary in calculating the pilot's disability benefits under the pension plan, including those matters itemized in subsection (e).