

**CALENDAR ITEM
C09**

A Statewide

05/23/13

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**CONSIDER SUPPORTING STATE LEGISLATION THAT WOULD DELETE THE
SUNSET ON CALIFORNIA'S VOLUNTARY TURN-IN PROGRAM
THAT ALLOWS RECREATIONAL VESSEL OWNERS TO TURN IN THEIR
DERELICT AND DILAPIDATED VESSELS TO A PUBLIC AGENCY FOR THE
PURPOSE OF DISPOSAL**

INTRODUCTION:

State Lands Commission (Commission) staff has been reviewing various legislative proposals introduced in the 2013-14 legislative session that involve lands under the Commission's jurisdiction. This report describes proposed legislation (SB 122 – Lieu) that would delete the January 1, 2014, sunset date on the State's Voluntary Turn-In Program (VTIP). The VTIP program allows recreational vessel owners to turn in their derelict or dilapidated vessels to a public agency for the purpose of disposal, rather than abandoning them in State waterways.

LEGISLATIVE PROPOSAL:

SB 122 (Lieu): Vessels: abandonment: abatement

SUMMARY:

California's VTIP program allows a boat owner to voluntarily surrender a recreational vessel to a public agency for disposal, as an alternative to abandonment. The VTIP program is scheduled to sunset on January 1, 2014. SB 122 would make the program permanent. It would also eliminate a requirement established in the original legislation that the Department of Boating and Waterways (DBW) track and report to the Legislature on the number of surrendered vessels accepted by a local agency that disposes of these vessels using grants from DBW.

VTIP BACKGROUND:

The VTIP program provides an alternative for boat owners to surrender an unwanted recreational vessel to participating public local agencies. The VTIP was established by

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Assembly Bill 166 (Lieu), Chapter 416, Statutes 2009, and became effective January 1, 2010. The program provides grants to public local agencies to administer a turn-in program in their jurisdiction. Funding for VTIP comes from the Abandoned Watercraft Abatement Fund (AWAF), but is separate from the existing AWAF program and receives separate budget authority. Participation in the current AWAF program is not required to participate in VTIP.

To apply for VTIP funding, interested agencies must submit a Letter of Intent and Work Plan to the DBW. Agencies must also include a Grant Application funding form. A ten percent matching contribution from the public agency is required. The DBW reviews all applications and awards grants to eligible agencies.

According to the author's office, the VTIP program has been successful. For example, in Fiscal Year 2012-13, eleven agencies requested over \$260,000 in grant funding, exceeding the \$150,000 of available funding by more than \$110,000. Further, the cost to dispose of a surrendered vessel under the VTIP program is less than half of the cost to remove and dispose of a vessel that has already been abandoned.

The Governor's proposed 2013-14 Budget includes \$75,000 for the VTIP program, representing a half-year's funding due to the January 1, 2014 sunset date. Unless further legislation extends the VTIP, the program will sunset on January 1, 2014.

THE COMMISSION'S ABANDONED VESSEL PROGRAM:

The public lands under the Commission's jurisdiction consist of approximately 4 million acres of sovereign land that the State acquired at statehood in 1850. Known as sovereign lands, these lands include the beds of California's navigable rivers, lakes and streams, as well as the state's tide and submerged lands, including those along the State's more than 1,100 miles of coastline and offshore islands from the mean high tide line to three nautical miles offshore.

The Commission currently has authority to remove and dispose of abandoned vessels trespassing on sovereign lands through an administrative process, pursuant to SB 595 (Wolk), Chapter 595, Statutes of 2011. Depending upon the circumstances, vessels may either be removed immediately or posted with a notice of trespass and allowed to remain for later removal by the owner or the Commission. Notice is given to the owner if the owner is known or can be determined, and if the Commission has not previously removed the vessel, the owner is given 30 days to remove it. Vessels not removed or claimed within 30 days are deemed abandoned by law and the Commission then may dispose of them in any manner it deems appropriate.

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The Commission's authority is based on its jurisdiction and authority over state property and waterways and the commensurate right as the property owner to remove trespassers. It has had that right since the Commission's inception in 1938. Existing law, Public Resources Code § 6302 was enacted in 1941 (Stats.1941, Ch. 548) and provides a general right to evict trespassers. The specific right to deal with vessels was first codified in 6302.1 in 1987 (Stats. 1987, Ch. 969). In 2011, the Commission sponsored legislation (SB 595 (Wolk) to amend § 6302.1 and add §§ 6302.3 and 6302.4 to the Public Resources Code, which provides for an administrative process to remove and dispose of vessels. Prior to SB 595, any action to remove and dispose of vessels required litigation.

The previous litigation requirement severely hampered the Commission's efforts to evict trespassing vessels. As a result, only in the most egregious situations did the Commission take action to remove a vessel. No vessels have been removed under the Commission's new administrative authority, because it lacks funding and staff to fully implement the program. However, the Commission has previously removed two large vessels (the San Diego, a former San Diego Bay car ferry and Faithful, a cruise ship) from the Sacramento/San Joaquin Delta, following litigation. The Commission has also cleaned up "junkyard flotilla" a collection of 6 boats, 2 tugs, 4 barges and a crane from Lindsey Slough in Solano County. Additionally, the Commission successfully compelled the owner of the sunken Spirit of Sacramento, another large ferry, to remove its vessel from the Sacramento River. These vessels were removed with the assistance of several county sheriffs' and funding provided by CalRecycle.

OTHER PERTINENT INFORMATION:

In the past decade, there have been an increasing number of boat owners who abandon old or unseaworthy vessels in the State's waterways, impeding navigation and causing damage to natural resources under the Commission's jurisdiction. SB 122 is beneficial to the State and its public trust resources because it will help reduce the number of derelict vessels that interfere with public trust uses and cause environmental degradation.

SB 122 was approved by the Senate Natural Resources and Water Committee on April 9, 2013, and is currently on the Senate Appropriations Committee Suspense File. It is supported by the San Francisco Bay Conservation and Development Commission, the City of Santa Barbara, California Harbor Masters and port Captains Association, LA County Sheriff's Department, Contra Costa County Sheriff's Department, and the San Luis Obispo Bay Harbor District.

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RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

1. Adopt a support position on SB 122 (Lieu).