

Date of Hearing: April 18, 2016

**ASSEMBLY COMMITTEE ON TRANSPORTATION**

Jim Frazier, Chair

AB 2092 (Frazier) – As Introduced February 17, 2016

**SUBJECT:** Abandoned Watercraft Abatement Fund: grants

**SUMMARY:** Allows Watercraft Abatement Fund (AWAF) revenues to be used for the removal of abandoned commercial vessels. Specifically, **this bill:**

- 1) Deletes the prohibition on using AWAF revenues to for abatement, removal, storage, or disposal of commercial vessels.
- 2) Makes related, clarifying amendments.

**EXISTING LAW:**

- 1) Makes it an infraction, punishable by a maximum fine of \$3,000, for a person to abandon a vessel on a public waterway or public or private property without express or implied consent of the owner or person in control of the property, with the exception for the urgent and immediate concern for the safety on board the vessel.
- 2) Requires that 80% of fines imposed and collected for abandoning recreational vessels be deposited in AWAF
- 3) Authorizes AWAF revenues to be used, upon appropriation by the Legislature, for grants to local agencies to, among other things, the removal of specified vessels determined to be a public nuisance.
- 4) Requires that in reviewing AWAF grant proposals that weight be placed on the existence of an active local enforcement program to control and prevent the abandonment of watercraft within the local agencies jurisdiction and the existence of a submerged navigational hazard abatement plan.
- 5) Requires that grant awards be matched by a 10% contribution from the local agency receiving the grant.
- 6) Prohibits AWAF grants from being used to abate, remove, store, or dispose of commercial vessels.

**FISCAL EFFECT:** Unknown

**COMMENTS:** AWAF was created in 1998 and is funded with proceeds from vessel fuel taxes, vessel registration fees, yacht and ship broker and sales person licensing fees, as well as fines collected pursuant to laws prohibiting vessel abandonment. AWAF is used to provide grants to public agencies to fund the abatement of non-commercial abandoned vessels, as specified, as well as marine debris or any other partially submerged objects that pose a navigation hazard. According to the Department of Boating and Waterways (DBW), AWAF funds cannot be used to abate commercial vessels because the fund was created by and revenues collected from

recreational boaters for the express use of abating recreational vessels. According to the Governor's budget, AWAFF is projected to be \$1.74 million in the 2016/17 fiscal year.

When a local jurisdiction wishes to remove a qualifying abandoned vessel, they can apply for AWAFF grant funds, which, when awarded by DBW, require a 10% match (or contribution) from the local agency receiving the grant. According to the sponsor, the California Sheriffs' Association, because only non-commercial abandoned vessels qualify for AWAFF grants, and because local jurisdictions typically lack funds for vessel abatement, many commercial vessels are not promptly removed. As a result, over time, the vessels sink and disintegrate. The sponsor notes that once the vessel is submerged and disintegrated, a local jurisdiction can, at that time, apply for AWAFF revenues because the vessel is then considered "marine debris," and a qualifying use of AWAFF revenues.

The author and the sponsor contend that allowing these commercial vessels to sink and disintegrate not only pollutes the waterways with fuel and other chemicals (e.g., battery acids, and other products), it also creates boating strike hazards because the vessels (which can lie just underneath the surface) often go undetected by passing vessels. The sponsor contends that it makes no sense to allow these vessels to deteriorate before AWAFF grant monies can be used. They also argue that this practice is more costly and results in severe environmental damage. For example, the sponsor provided an example where an abandoned commercial vessel could have been abated at a cost of \$10,000 by a local jurisdiction but instead the local jurisdiction was awarded a \$48,500 AWAFF grant for abatement of that same vessel after the vessel sank and became "marine debris." The sponsor also contends that it makes more sense to remove vessels that present a strike hazard or environmental impacts regardless of their commercial or non-commercial status.

Writing in opposition to AB 2092, the Recreational Boaters of California (RBOC) points out that opening up boater fuel tax and registration fee revenues in AWAFF to abate commercial vessels would quickly deplete the fund since these vessels are significantly more expensive to remove. RBOC points out that since commercial vessels do not contribute to fund; recreational vessel abatement should take priority. RBOC and a number of private citizens contend that other state and local agencies have the financial resources and expertise to address the abatement of abandoned commercial vessels, namely CalRecycle's Solid Waste Cleanup Trust Fund and the State Water Resources Control Board's Cleanup and Abatement Account.

A number of private citizens, also writing in opposition to this bill, contend that commercial vessels, while clearly representing a danger on California waterways, are easily identified and, therefore, the owners of these vessels should be required to pay the abatement and clean-up costs.

*Committee comments:* The AWAFF was created to help local jurisdictions remove abandoned vessels and eliminate associated health and safety risks. While recreational vessel fees sustain the fund, it seems that removal of hazardous vessels, regardless of their status, would benefit all waterway users. If existing funds are insufficient to fully address what appears to be a significantly greater need, expanding AWAFF funding to encompass additional source fees may be worth consideration.

*Previous legislation:* Senate Bill 172 (Rainey), Chapter 930, Statutes of 1997, expanded the authority of local officials to remove and dispose of wrecked vessels on public waterways.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Sheriffs' Association (Sponsor)

**Opposition**

Recreational Boaters of California

Sportsmen Yacht Club

115 private citizens

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