

DEPARTMENT OF BOATING AND WATERWAYS

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To: Boating and Waterways Commission Members
From: Department of Boating and Waterways, Legislative Unit
Subject: **LEGISLATIVE REPORT, April, 2008**

This report was prepared on April 8, 2008. This is the middle of the second year of a two-year legislative session.

ASSEMBLY BILLS

AB 990 (Berg) Spud Point Marina. AB 990 would allow Sonoma County to provide facilities at the Spud Point Marina for commercial or recreational vessels in numbers that it determines appropriate, reduce the authority of an existing advisory committee to influence berthing rates at the marina, allow the county to establish different berthing rates for commercial and recreational vessels, and delete existing law from 1982 related to provisions of loans made by the Department of Boating and Waterways to Sonoma County for the development of the Spud Point Marina.

Sponsor: Sonoma County

Status: Amended 1/17/2008, Passed the Assembly 1/29/2008 (70-2-7), In the Senate Natural Resources and Water Committee

Department Position: Support

AB 1950 (Lieu) Vessels: abandonment: abatement. AB 1950, as amended March 24, 2008, would 1) define the term "surrendered vessel", 2) establish conditions under which public agencies could accept such vessels from willing owners, 3) increase the minimum fine for abandonment of a vessel, and 4) allow a public agency to dispose of a surrendered vessel immediately upon acceptance from the surrendering party. The bill would also allow the Department of Boating and Waterways (DBW) to provide grants to local agencies for disposal of surrendered vessels under the existing Abandoned Watercraft Abatement Fund (AWAF), and would require DBW to track the grant program activity between January 1, 2009 and January 1, 2011, and to report that information to legislative committees, as specified, by July 1, 2011. The bill would also set all the above requirements to expire on January 1, 2012, unless another measure deletes or extends that date.

Sponsor: CA Association of Harbor Masters & Port Captains, Marine Parks & Harbors Association, CA Yacht Brokers, Marina Recreation Association, Northern CA Marine Association, Southern CA Marine Association, Western Boaters Safety Group

Status: Amended 3/24/2008, passed the Assembly Transportation Committee 3/24/2008 (14-0), in Assembly Appropriations

Department Position: No approved position

AB 2110 (Duvall). Vessel operator cards. This bill would require operators of vessels powered by an engine, unless specifically exempted, to pass an examination—approved by the Department of Boating and Waterways—which demonstrates the operator’s knowledge of boating safety and existing boating laws, and to obtain and carry a vessel operator card developed and issued by the Department. An implementation schedule would phase in this requirement by age group, starting on January 1, 2012.

AB 2110 would require the Department to either: (1) develop and provide an online vessel operator certification exam, and implement the associated information technology infrastructure, or (2) contract with two or more vendors to provide online vessel operator certification exams on the Department’s website.

On March 27, RBOC, DBW and boating organizations represented by the Apex Group conducted a conference call to discuss concerns about the absence of a fee escalation mechanism in the bill. Some organizations are concerned that other boating programs might suffer if fees in the bill are not sufficient for DBW to administer this program. Consensus has not yet been reached on this issue.

Sponsor: Recreational Boaters of California

Status: Introduced 2/20/2008, in Assembly Transportation Committee.

Department Position: No approved position

AB 2873 (Solorio/Silva) Counties: sheriffs' duties: coastlines, harbors, and inland waterways. This bill would make a legislative intent declaration that authority for the security and safety of Orange County’s coastlines, harbors and inland waterways be granted to a law enforcement entity that employs peace officers, as defined in §830.1 of the Penal Code, who are trained to the same minimum standards and using the same staffing levels currently employed by the Orange County Sheriff’s Department harbor patrol.

According to the Orange County Sheriff’s Department, the Sheriff is currently tasked with enforcement of waterway laws in coastal areas that include the cities of Newport Beach, Huntington Beach, Dana Point, Laguna Beach, et al. The County Board of Supervisors and the City governments involved are not in agreement as to how costs for this enforcement should be divided, and are in dispute as to whether enforcement

by the County should continue in its current format, or whether and how city police should become involved with this scope of work. The Board of Supervisors and the City of Newport Beach are opposed to this bill and are planning a study to address this issue.

Sponsor: Author

Status: Amended 3/28/2008, Passed Assembly Committee on Public Safety 4/1/2008 (7-0)

Department Position: No approved position

AB 3029 (Tran) Small craft harbors and boating: grants. This bill would make federally recognized Indian tribes eligible for funding under the DBW small craft launching facility and vessel pumpout station grant programs.

Amendments to the bill were taken in the Assembly Water, Parks and Wildlife Committee to require tribes to waive their sovereign immunity, for enforcement purposes, as a condition of receiving grant funds.

Sponsor: Chemehuevi Indian Tribe

Status: Amended 4/1/2008, Passed Assembly Water, Parks and Wildlife Committee 4/1/2008 (12-0-1), in Assembly

Department Position: No approved position

SB 1159 (Cox) Alcoholic beverages: possession: Truckee River. This bill would prohibit possession or consumption of alcohol on certain portions of the Truckee River during summer holiday periods when the Placer County Board of Supervisors makes a similar ban on the shore, to improve public safety and the environment.

Sponsor: Placer County Board of Supervisors

Status: Introduced 2/6/2008, Passed the Senate 4/1/2008 (27-4-9), in the Assembly

Department Position: No approved position

SB 1435 (Ducheny) Marinas and harbors: funding. This bill would expand the existing private marina loan program administered by DBW, which would allow loan funds to be used for planning, design and other similar expenses associated with marina construction.

Sponsor: Administration

Status: Introduced 2/21/2008, Passed the Senate Natural Resources and Water Committee 4/8/2008 (vote count not yet posted)

Department Position: Support

SB 1462 (Maldonado) Navigable waters: seaplanes. This bill, as amended on March 24, 2008, would require the Department of Transportation (CalTrans) to adopt regulations establishing requirements for landing, docking and take-off of seaplanes on the State's navigable waters. This amendment removes DBW responsibility from the bill, which in its original version had assigned full responsibility to DBW.

Sponsor: Author

Status: Amended 3/24/2008, in Senate Transportation and Housing Committee

Department Position: No approved position

SB 1685 (Kehoe) Regional comprehensive plan: San Diego County. This bill would amend the purposes for which San Diego County's 1% regional sales tax revenues could be used, to include implementation of the County's regional comprehensive plan, water quality improvement, beach sand nourishment projects and other purposes. The bill would also allow the County to increase the regional sales tax rate up to the maximum allowable under existing law, subject to voter approval.

Sponsor: SANDAG

Status: Amended 4/7/2008, in Senate Transportation and Housing Committee and Senate Local Government Committee

Department Position: No approved position

FEDERAL BILLS

HR 1187 (Woolsey). Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act. This bill would declare it is U.S. policy to protect and preserve living and other resources of the Gulf of the Farallones National Marine Sanctuary (Farallones NMS) and Cordell Bank National Marine Sanctuary (Cordell Bank NMS) marine environments and make certain adjustments to expand the boundaries of the Farallones NMS and the Cordell NMS. The bill would prohibit within the Farallones NMS and the Cordell Bank NMS: (1) the leasing, exploration, development, production, or transporting by pipeline of minerals or hydrocarbons; (2) the conduct of aquaculture (with exceptions); and (3) subject to limitation, the discharge of materials, substances, or introduced species or a harmful change in the salinity. The bill also prohibits the conduct of aquaculture within

Monterey Bay National Marine Sanctuary and directs the Secretary of Commerce to complete: (1) an interim supplemental management plan for each sanctuary that focuses on protective resource management in the areas added by this Act; and (2) a revised comprehensive management plan for each of the sanctuaries. The bill also requires the Secretary to review the operations of the Farallones NMS to determine whether area added to it by this Act shall be designated as a new and separate NMS.

Status: Introduced 2/16/2007. 4/1/2008 in the Senate and referred to the Committee on Commerce, Science, and Transportation

Department Position: No approved position

HR 2550 (Taylor). Recreational Boating Act of 2007. This bill would redefine the term "pollutant" under the federal Clean Water Act to specifically exempt from regulation engine cooling water, bilge water and other incidental discharges from recreational vessels. This bill was introduced by the author in response to a recent federal appellate court decision stating that the provisions of the Clean Water Act shall be applicable to both commercial and recreational vessels, which would make individual boaters subject to the federal Environmental Protection Agency's (EPA) strict National Pollutant Discharge Elimination System (NPDES) permit process.

Status: Introduced 5/24/2007. In Subcommittee on Water Resources and Environment.

Department Position: No approved position

HR 3223 (Allen). Keep Our Waterfronts Working Act of 2007. This bill would amend the Coastal Zone Management Act of 1972 to establish a grant program to coastal states to ensure coastal access for commercial and recreational purposes. The grant program would appropriate \$25 million for fiscal year 2008, \$50 million for fiscal year 2009, and \$75 million for fiscal year 2010 and would have a 25% matching requirement.

Status: Introduced 7/30/2007. 2/28/2008 House Subcommittee Hearings Held

Department Position: No approved position

S 2067 (Martinez). Recreational Boating Act of 2007. This bill would make changes similar to HR 2550, with the same intent, which is to remove recreational boaters from the requirements of the NPDES permit process, as explained above.

Status: Introduced 9/18/2007. In Committee on Environment and Public Works.

Department Position: No approved position

S 2766 (Nelson). Clean Boating Act of 2008. This bill would amend the Federal Water Pollution Control Act to include an exception for recreational vessels from permitting requirements of the Act, and define recreational vessels and management practices associated with the exception.

Status: Introduced 3/13/2008. In Committee on Environment and Public Works.

Department Position: No approved position