

BILL ANALYSIS

C.S.H.B. 2096

By: Bonnen

Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, the Commissioner of the General Land Office has authority under the Oil Spill Prevention and Response Act of 1991 (OSPRA) to remove any vessel or structure involved in an actual or threatened unauthorized discharge of oil that is in a wrecked, derelict, or substantially dismantled condition. While an abandoned vessel may not pose an imminent threat of pollution, its location may at some time in the future cause an unauthorized discharge as the result of a collision or other mishap.

Under Chapter 51 of the Natural Resources Code, the Commissioner has the authority to remove and dispose of vessels left in place for 21 days or longer on land owned by the state if the Commissioner finds the vessel to be without a proper easement or lease from the state or an imminent and unreasonable threat to public health, safety, or welfare. While this does not require the imminent threat of pollution required in OSPRA, the removal authority is limited to structures on land owned by the state.

Therefore, current law does not address the problems created by abandoned and sunken vessels that are not involved in an actual or threatened discharge and are not located on land owned by the state. Although many of the more than 275 abandoned and sunken vessels identified by the Oil Spill Prevention and Response Division are located on land owned by the state, a substantial number are also located on land owned by navigation districts and port authorities as well as a few sunken vessels at dock facilities on dredged channels that are privately owned.

Further, the Texas Parks and Wildlife Department's program to buy back shrimp licenses for the purpose of managing shrimp fisheries does not address the issue of disposal or transfer of the vessel after selling the license back. Although the owner may use the vessel for other legal purposes, the program has left some shrimpers with a vessel that they cannot use profitably. An unintended result of the program is that an incentive may be created for shrimpers who have sold their licenses to abandon their vessel to avoid the continued costs of ownership.

C.S.H.B. 2096 enhances the authority of the Commissioner to remove and dispose of derelict vessels and structures to include circumstances where a vessel or structure is a potential threat to public health and safety, a potential threat to the environment or a potential threat to navigation. The bill provides that the proceeds from the disposal of these vessels are to be deposited into the Coastal Protection Fund. The bill provides that abandoning a vessel is a Class A misdemeanor.

The bill amends the shrimp buyback program to require a statement in the contract with an applicant that discloses the civil and criminal penalties for abandoning a vessel. It also adds a provision for forfeiture of funds paid to buy back a shrimp license if the vessel to which the license applied is abandoned.

RULEMAKING AUTHORITY

SECTION 1. Authorizes the commissioner by rule to establish a system for prioritizing the removal or disposal of vessels or structures.

ANALYSIS

SECTION 1. *Amends Section 40.108, Natural Resources Code, as follows:*

C.S.H.B. 2096 79(R)

Expands the authority of the commissioner to remove and dispose of derelict vessels and structures beyond those involved in actual or threatened discharges of oil, to include circumstances where the vessel or structure is a potential threat to public health and safety or a potential threat to the environment or a potential threat to navigation.

Recovered costs of disposal are credited to the coastal protection account.

Requires the commissioner to dispose of vessels in any reasonable and environmentally sound manner, but must give preference to an option that generates revenue.

SECTION 2. *Amends Section 40.151, Natural Resources Code, by amending Subsection (b) and (d), and adding Subsection (c), as follows:*

Authorizes proceeds from the disposal of a derelict vessel or structure and money forfeited from the license buyback program to be placed in the coastal protection fund.

Authorizes the commissioner to accept donations on behalf of the coastal protection fund, and may sell property donated for the benefit of the account.

SECTION 3. *Amends Section 40.251(a), Natural Resources Code, as follows:*

Makes it a Class A misdemeanor to leave, abandon, or maintain any structure or vessel in or on coastal waters, public or private land, or at a public or private port or dock if the structure or vessel is in a wrecked, derelict, or substantially dismantled condition.

SECTION 4. *Amends Section 40.254, Natural Resources Code, by amending Subsections (a)-(h) and adding Subsections (b-1) and (c-1) as follows:*

Establishes a requirement for notice and opportunity for a hearing to contest removal and disposal of derelict vessels and structures, except where necessary as part of a response action.

SECTION 5. *Amends Section 51.3021, Natural Resources Code, by adding Subsection (k) as follows:*

Establishes that a wrecked, derelict, or substantially dismantled vessel moored or left in place for 21 days without the consent of the commissioner is considered a structure.

SECTION 6. *Amends Section 77.119, Parks and Wildlife Code, by adding Subsections (d) and (e) as follows:*

Requires a person whose license is selected by the department to be purchased under the license buyback program to execute a contract including certain terms.

Authorizes the commissioner to order the forfeiture of funds paid to a person under the license buyback program if the commissioner finds that the vessel to which the license applied was abandoned.

SECTION 7. Effective Date.

EFFECTIVE DATE

September 1, 2005.

C.S.H.B. 2096 79(R)

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. The Original placed proceeds from the program into the derelict vessel removal account, while the Substitute places the proceeds into the coastal protection account.

SECTION 2. The Original established the derelict vessel removal account, while the Substitute removes this provision.

The Original prohibited the proceeds from the disposal of a derelict vessel or structure from being placed in the coastal protection account, while the Substitute requires such proceeds (and money voluntarily given when fishing licenses are purchased) to be placed in the coastal protection fund.

The Substitute also authorizes the commissioner to accept donations on behalf of the coastal protection fund, and may sell property donated for the benefit of the account.

SECTION 3. The Original makes conforming changes, while the Substitute removes the provision.