

AMENDED IN SENATE MAY 11, 2004

SENATE BILL

No. 1480

Introduced by Senator Sher

February 19, 2004

An act to amend ~~Section 8670.17.2~~ *Sections 8670.17.2 and 8670.70* of the Government Code, relating to harbors and navigation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1480, as amended, Sher. Harbors and navigation: tugboat escorts.

The existing Lempert-Keene-Seastrand Oil Spill Prevention and Response Act requires the administrator for oil spill response to adopt regulations governing tugboat escorts for tank ships and tank barges entering, leaving, or navigating in the harbors of the state, to ensure the best achievable protection of the public health and safety and the environment. A knowing violation of a regulation adopted under the act is a crime. The act requires the administrator to establish harbor safety committees for specified harbors of the state.

The act creates the Environmental Enhancement Fund in the State Treasury. The act requires specified penalties related to oil spill prevention and response to be deposited in the fund. The act requires moneys in the fund, upon appropriation, to be used only for environmental enhancement projects.

This bill would authorize the administrator, in consultation with those harbor safety committees, to adopt regulations governing tugboat escorts for other vessels, as defined, ~~carrying specified hazardous materials~~, that are entering, leaving, or navigating in the ~~harbors of the state~~ *Bays of San Francisco, San Pablo, and Suisun, and carrying hazardous material, as defined, in a sufficient quantity that a release of*

the hazardous material into the waters of the state or the atmosphere, as specified, would pose a risk to public health and safety or to the environment. The bill would authorize the administrator to exempt a vessel with a double hull, as defined, if the vessel meets other specified requirements, and to exempt a vessel already subject to specified tugboat escort requirements. Because a knowing violation of the regulations would be a crime, the bill would impose a state-mandated local program.

The bill would provide that the specified penalties related to oil spill prevention and response are not required to be deposited in the Environmental Enhancement Fund if otherwise required pursuant to a settlement or a court order. The bill would authorize moneys in the fund, upon appropriation, to also be used by the administrator to adopt and implement regulations governing tugboat escorts for those other vessels that are in the Bays of San Francisco, San Pablo, and Suisun, and carrying hazardous material, as specified.

The bill would make legislative findings and declarations as to the necessity of a special statute.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8670.17.2 of the Government Code is
 2 amended to read:
 3 8670.17.2. (a) The administrator shall adopt regulations
 4 governing tugboat escorts for tank ships and tank barges entering,
 5 leaving, or navigating in the harbors of the state. The regulations
 6 shall be adopted, and thereafter periodically revised, to ensure the
 7 best achievable protection of the public health and safety and the
 8 environment.
 9 (b) (1) The administrator, in consultation with the harbor
 10 safety committees established pursuant to Section 8670.23, may
 11 adopt regulations governing tugboat escorts for other vessels



1 ~~carrying hazardous materials listed in Part 172 (commencing with~~
2 ~~Section 172.1) of Title 49 of the Code of Federal Regulations, that~~
3 ~~are entering, leaving, or navigating in the harbors of the state. that~~
4 *are entering, leaving, or navigating in the Bays of San Francisco,*
5 *San Pablo, and Suisun, and are carrying hazardous material in a*
6 *sufficient quantity that a release of the hazardous material into the*
7 *waters of the state or the atmosphere, as a result of a vessel*
8 *collision, a vessel running aground, or a terrorist or other criminal*
9 *act, would pose a risk to public health and safety, or to the*
10 *environment.*

11 (2) *The administrator may exempt both of the following from*
12 *the regulations adopted pursuant to paragraph (1):*

13 (A) *A vessel with a double hull, that has fully redundant*
14 *steering and propulsion systems and an integrated navigation*
15 *system.*

16 (B) *A vessel already subject to tugboat escort requirements*
17 *pursuant to existing United States Coast Guard regulations and*
18 *requirements.*

19 (3) *As used in this subdivision, the following terms have the*
20 *following meanings:*

21 (A) *“Double hull” has the meaning set forth in Section 157.03*
22 *of Title 33 of the Code of Federal Regulations.*

23 (B) *“Hazardous material” includes, but is not limited to, those*
24 *explosive materials, poisonous materials, and poisonous gases,*
25 *listed in Section 66261.111 of the Title 22 of the California Code*
26 *of Regulations, anhydrous ammonia, and ammonium nitrate.*

27 (c) *The regulations adopted pursuant to subdivision (a) shall*
28 *include, but not be limited to, a determination of the circumstances*
29 *under which tank ships and tank barges are required to be*
30 *accompanied by a tugboat or tugboats of sufficient size,*
31 *horsepower, and pull capability while entering, leaving, or*
32 *navigating in the harbors of the state. In making that*
33 *determination, the administrator shall be guided by the*
34 *recommendations of the harbor safety committees established*
35 *pursuant to Section 8670.23.*

36 (d) *The administrator may adopt regulations pursuant to*
37 *subdivision (a) that differ from the recommendations of the harbor*
38 *safety committees only after a public hearing. If the administrator*
39 *proposes to adopt regulations that require the use of tugboat*
40 *escorts in fewer instances in the harbors of San Francisco, San*



1 Pablo, and Suisun Bays than that which is recommended by the
2 Harbor Safety Committee for San Francisco, San Pablo, and
3 Suisun Bays, the administrator shall, in a public hearing, adopt
4 findings, based on substantial evidence, that the proposed
5 regulations provide adequate protection and are consistent with
6 the purposes of this chapter.

7 (e) A public hearing held in accordance with Section 11346.8
8 ~~shall satisfy~~ *satisfies* the public hearing requirement of subdivision
9 (d).

10 (f) The Legislature hereby finds and declares that the
11 appropriate use of tugboat escorts can improve vessel safety,
12 particularly in the harbors of San Francisco, San Pablo, and Suisun
13 Bays, and that the regulations concerning tugboat escorts in those
14 harbors shall be adopted as quickly as practicable and may be
15 adopted before the adoption of all other regulations required by
16 this section.

17 SEC. 2. *Section 8670.70 of the Government Code is amended*
18 *to read:*

19 8670.70. (a) The Environmental Enhancement Fund is
20 hereby created in the State Treasury. All penalties collected under
21 Article 9 (commencing with Section 8670.57) shall be deposited
22 into the Environmental Enhancement Fund, except as ~~specified in~~
23 ~~Section 8670.64. The money otherwise required pursuant to~~
24 *Section 8670.68.5, a settlement, or a court order. Except as*
25 *provided in subdivision (b), the moneys in the fund shall only be*
26 *used for environmental enhancement projects. The moneys shall*
27 *not be used for the cleanup of an oil spill or the restoration required*
28 *after an oil spill. The ~~money is~~ moneys are available for*
29 *appropriation by the Legislature to the administrator for the*
30 *purposes stated in this ~~section~~ article.*

31 (b) *Upon appropriation by the Legislature, moneys in the fund*
32 *may be expended by the administrator to adopt and implement the*
33 *regulations authorized pursuant to subdivision (b) of Section*
34 *8670.17.2.*

35 SEC. 3. *The Legislature finds and declares that a special law*
36 *is necessary and that a general law cannot be made applicable*
37 *within the meaning of Section 16 of Article IV of the California*
38 *Constitution because of the unique attributes of the Bays of San*
39 *Francisco, San Pablo, and Suisun.*



1 *SEC. 4.* No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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