

**CALENDAR ITEM
113**

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PROPOSED LEGISLATION

INTRODUCTION:

State Lands Commission staff has been reviewing various legislative proposals introduced in the 112th Congress that involve lands under the Commission's jurisdiction. This report describes the proposed Realize America's Maritime Promise Act (House Bill 104 – Boustany), and the proposed Harbor Maintenance Act of 2011 (Senate Bill 412 – Levin) and proposes a Resolution for the Commission to consider adopting in support of these bills.

LEGISLATIVE PROPOSAL:

House Bill 104 (Boustany): Realize America's Maritime Promise Act/Senate Bill 412 (Levin): Harbor Maintenance Act of 2011

SUMMARY:

The Harbor Maintenance Trust Fund (HMTF) provides funds for the United States Army Corps of Engineers (Corps) to carry out the dredging of navigation channels to their authorized depths and widths. The HMTF was established by the Water Resources Development Act of 1986 to fund the harbor operation and maintenance activities of the Corps. The HMTF is based upon a user fee collected from shippers, excluding exporters, that use the nation's coastal ports.

H.R. 104, the Realize America's Maritime Promise (RAMP) Act, requires the total budget resources for expenditures from the HMTF for harbor maintenance programs to equal the level of receipts plus interest credited to the HMTF for that fiscal year. The RAMP Act has 183 cosponsors. It was referred last year to the House Subcommittee on Coast Guard and Maritime Transportation and to the House Subcommittee on Water Resources and Environment. The Subcommittee on Water Resources and Environment held a Subcommittee hearing on this bill in July 2011.

S. 412, the Harbor Maintenance Act of 2011, requires the total budget resources for expenditures from the HMTF for harbor maintenance programs to equal the level of receipts plus interest credited to the HMTF fund for that fiscal year. S. 412 has 35 cosponsors and has been referred to the Senate Committee on Environment and Public Works.

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In the 111th Congress, multiple bills related to the HMTF were introduced. None of the bills became law.

OTHER PERTINENT INFORMATION:

Due to years of generally steady revenues that far exceed appropriations, the HMTF has developed a significant balance. The interest on the balance alone generated almost \$77 million in revenue for Fiscal Year 2010. The funds and interest, however, are spent on non-port related items. Despite the significant revenue and balance of the HMTF, years of insufficient appropriations have led the nation's maritime infrastructure into disrepair. Only one-third of the nation's navigation channels are at their authorized depths and widths. The benefits of increased dredging include wider, deeper and safer channels; more consistent channel availability; the ability to accommodate larger vessels; and growth in jobs in the shipping and dredging industries. Additionally, because the tax is an ad valorem tax, as the value of cargo increases with the size of the ships, so will revenue, ensuring continued harbor maintenance.

If enacted, House Bill 104 and Senate Bill 412 could significantly improve maritime shipping in California and in the United States.

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

1. Adopt the Resolution in support of H.R. 104 and S. 412 attached hereto as Exhibit A.

EXHIBIT A

RESOLUTION BY THE CALIFORNIA STATE LANDS COMMISSION SUPPORTING H.R. 104, THE 'REALIZE AMERICA'S MARITIME PROMISE ACT' AND S. 412, 'THE HARBOR MAINTENANCE ACT OF 2011,' WHICH WOULD ENSURE THAT THE AMOUNTS CREDITED TO THE HARBOR MAINTENANCE TRUST FUND ARE USED FOR MAINTAINING PORTS AND HARBORS

WHEREAS, the five major ports of California can all trace their origins back to a statutory trust grant of State-owned public trust lands, thus ensuring that these public trust lands would be developed for traditional Public Trust purposes of water-dependent commerce and navigation for the benefit of all the people of the State; and,

WHEREAS, beginning in 1911, the California Legislature placed the lands comprising the five major ports in California, Los Angeles, Long Beach, Oakland, San Francisco and San Diego, in an express statutory trust to ensure these lands and assets are managed solely for trust purposes for the benefit of all Californians, pursuant to the Common Law Public Trust Doctrine and the respective statutory trust grants; and,

WHEREAS, California ports are a significant public trust asset and a vital and vibrant component to our local, state and national economic well-being, acting as a catalyst for economic growth; and,

WHEREAS, California's ports are the largest trading entity in the United States, and the ports of Los Angeles, Long Beach, and Oakland, which are three of the largest volume container ports in the United States, manage approximately forty-five percent of all waterborne containerized cargo arriving in the United States, totaling \$375 billion annually; and,

WHEREAS, the Port of Los Angeles is the number one port container by volume and cargo value in the United States and generates more than 919,000 regional jobs and \$39.1 billion in annual wages and tax revenues; and,

WHEREAS, the Port of Long Beach is the second busiest container port in the United States, generating approximately \$4.9 billion a year in local, state and federal taxes and creates, through Port generated trade, approximately 30,000 jobs in the city of Long Beach, 316,000 jobs in the southern California region, and 1.4 million jobs throughout the United States; and,

WHEREAS, the Port of Oakland's cargo volume makes it the fifth busiest container port in the United States, supporting approximately 70,000 jobs in northern California and impacting over 800,000 jobs nationwide; and,

WHEREAS, the Port of San Diego is one of the largest break bulk ports on the west coast, supports more than 42,000 jobs, and as one of the nation's leading importers of windmill components, has imported enough equipment to supply the power needs of 1.5 million people, or 500,000 households a year; and,

EXHIBIT A

WHEREAS, the Port of San Francisco has the largest floating dry dock on the west coast of the Americas, and the cruise ship industry in San Francisco supports approximately \$31.2 million in annual economic activity and generates 300 jobs within the San Francisco Bay area; and,

WHEREAS, the Harbor Maintenance Trust Fund, established in 1986, provides funds for the United States Army Corps of Engineers to carry out the dredging of navigation channels to their authorized depths and widths, and although this Fund has a balance of approximately \$6 billion, much of it is not being used to maintain ports and harbors and has been spent by the federal government for purposes unrelated to ports; and,

WHEREAS, navigation channels in California and throughout the United States are becoming narrower and shallower due to sediment accumulation and other factors, and the United States Army Corps of Engineers recently reported that approximately thirty percent of commercial vessel calls at United States ports are constrained due to inadequate channel depths; and,

WHEREAS, inadequately maintained harbors increase greenhouse gas emissions, reduce competitiveness of United States exports in the global marketplace, and compromise a vessel's ability to enter ports; inadequately maintained ports are also dangerous, as vessels in unmaintained channels are more likely to collide or contribute to a devastating cargo or oil spill; and,

WHEREAS, the benefits to California and the nation from increased dredging include wider, deeper and safer channels; more consistent channel availability; and the ability to accommodate larger vessels, all of which protect and expand the economic base of our state and national system of ports; and,

WHEREAS, H.R. 104 (Boustany), the 'Realize America's Maritime Promise Act' and S. 412 (Levin), the 'Harbor Maintenance Act of 2011' would ensure that the amounts credited to the Harbor Maintenance Trust Fund are used for maintaining ports and harbors, including for purposes of dredging their navigational channels at their authorized and required depths and widths; and,

WHEREAS, as stewards of the state's public trust lands and assets and as part of their fiduciary duty, California's major ports are required, as a matter of law, to manage and preserve Port property in a manner that is consistent with the Common Law Public Trust Doctrine, and the maintenance and vitality of these ports, which H.R. 104 and S. 412 would further, is integral to the Port's and Commission's public trust stewardship responsibilities; and,

WHEREAS, California ports are faced with an ongoing need to demonstrate ingenuity, increase cargo throughput, and accommodate growth, particularly with the Expansion of the Panama Canal Project, which will double the capacity of the Panama Canal by 2014; therefore, be it

EXHIBIT A

RESOLVED BY THE CALIFORNIA STATE LANDS COMMISSION that it supports H.R. 104 (Boustany), the 'Realize America's Maritime Promise Act' and S. 412 (Levin), the 'Harbor Maintenance Act of 2011', that would ensure that the entire Harbor Maintenance and Trust Fund receipts and interest each year are used for their intended purpose of maintaining navigation channels, thereby improving our environment and economy, and contributing to our state and national economic recovery; and,

RESOLVED, that the Commission's Executive Officer transmit copies of this resolution to the President and Vice President of the United States, to the Governor of California, to the Majority and Minority Leaders of the United States Senate, to the Speaker and Minority Leader of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.