

## HARBORS AND NAVIGATION (MISCELLANEOUS) AMENDMENT BILL – 15 July 09

Adjourned debate on second reading (resumed on motion).

(Continued from page 3515.)

**Mr PEDERICK (Hammond) (15:52):** I rise to make a contribution to the Harbors and Navigation (Miscellaneous) Amendment Bill 2009. This came about by a proposal of the Minister for Infrastructure to increase maximum penalty and expiation fees applying to the registration of prescribed vessels. Also as part of this proposal, recreational and commercial facilities funds are to be replaced by a single 'facilities fund' to pay for establishing, maintaining and improving harbours and other such facilities.

The background to this is that, currently, regulations dictate the levies imposed on the registration of certain recreational vessels and a corresponding levy on commercial fishing vessels. Payment of these funds is made into either the recreational or commercial fund, as prescribed by regulation, and the funds are expended on the relative facilities.

The bill removes those regulations and one facilities fund is created under the act. While this appears to be a positive measure in terms of the equitability and transparency of the fund, recreational fishers are nervous about some aspects of the establishment of the fund. The South Australian Recreational Fishers Advisory Council has questioned the wording in the bill with regards to decisions made by the Treasurer on the use of the fund.

Section 90A(5) provides the Treasurer with the authority to permit the minister to use the fund in any way, as long as the funds are not 'immediately required' for boating facilities. There are no accompanying provisions for repayment of that money into the fund, nor limits on where the Treasurer can apply such funds to be spent.

New section 90A(6) provides that the minister can apply the fund to the payment of the expenses of administering the fund. We on this side of the house are considering whether such expenditure should perhaps be capped to a certain percentage of the fund's balance. I will just go through new section 90A—Facilities Fund:

- (1) The Facilities Fund is established.
- (2) The Fund must be kept as directed by the Treasurer.
- (3) The Fund is to consist of—
  - (a) facilities levies payable under the regulations on the registration, inspection or survey of vessels; and
  - (b) income from investment of money belonging to the Fund.
- (4) A certificate of registration, inspection or survey will not be issued for a vessel until any levy payable on the registration, inspection or survey is paid.

This is the bit that SARFAC is concerned about:

- (5) The Minister may, with the approval of the Treasurer, invest any of the money belonging to the Fund that is not immediately required for the purposes of the Fund in such manner as is approved by the Treasurer.
- (6) The Fund may be applied by the Minister towards—
  - (a) establishing, maintaining and improving facilities for use in connection with vessels; and
  - (b) the payment of expenses of administering the Fund.

Concerns of the recreational fishing industry about this bill are spurred on by a conflict occasionally between the commercial and recreational fishing industries. The Recreational Fishing Advisory Council purports that anglers are losing ground against other interests and that funding projects for interest in developing the \$350 million per year industry is negligible in comparison to developments being made in other sectors.

The recreational industry asserts that much more can be done (as in other states) to develop the industry. Some examples are upgrades of boat ramps and jetties and artificial

reefs to attract fish. We must remember that the recreational fishing industry is very important to the people of the state. There are 300,000-plus people involved in recreational fishing.

In his second reading explanation, the minister stated that the recreational and commercial funds are being rolled into one because it is often not possible to distinguish between vessel facilities that benefit both recreational and commercial users. The recreational fishing industry is nervous about a pooling of funds where the expenditure is no longer limited to the commercial or recreational industries, respectively.

Other notable changes to the act see an increase in the maximum penalty and expiation fees applying to the registration of vessels. It appears that the exponential increases in fees are aligned with the massive increases in registration fees back in July 2008. Schedule 14 of the regulations basically had a flat rate for registration of vessels prior to that date and, when it was changed to a tiered system going by vessel length, there was no consultation with SARFAC.

Understandably, penalties must be changed in line with registration fees in order that a boater is actually compelled to register their vessel. However, these increases were hefty, they were not consulted on and they were clearly the precursor to the changes in penalties encapsulated in the bill. In relation to the cost of registration, section 55 provides:

- (1) A vessel to which this Division applies must not be operated in the jurisdiction unless it is registered and marked in accordance with the regulations.
- (2) If a vessel to which this Division applies is operated in the jurisdiction contrary to this section, the owner of the vessel, and the master or operator of the vessel, are each guilty of an offence (but it is a defence to a charge of such an offence brought against the owner for the owner to prove that the vessel was operated without the owner's consent).

The previous maximum penalty for a breach here was \$750, and that rises to a maximum of \$2,500.

An expiation fee applies if the vessel is registered but not marked in accordance with the regulations, and that goes up from \$55 to \$210; and, if the vessel is neither registered nor marked in accordance with the regulations, it goes from \$80 to \$315. Also, it is noted that the CEO may, subject to such conditions as the CEO thinks fit, grant exemptions from the requirements of this section.

Concerns have been expressed by both representatives of the South Australian Recreational Fishing Advisory Council and also BIASA about the Treasurer's authority over the fund and a capping of the amount expendable on administrative costs. It would be nice to have some guarantee that both commercial and recreational fishing will get the facilities that they deserve.