

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** House Bill 1625 (Proposed House Committee Substitute)

**SHORT TITLE:** Removal of Abandoned Vessels

**SPONSOR(S):** Representative Thomas

**FISCAL IMPACT**

**Yes ( )      No ( )      No Estimate Available (X)**

**FY 2000-01   FY 2001-02   FY 2002-03   FY 2003-04   FY 2004-05**

**REVENUES**

**EXPENDITURES**    See "Assumptions and Methodology" below.

**POSITIONS**

**PRINCIPAL DEPARTMENT(S) &**

**PROGRAM(S) AFFECTED:** Department of Environment and Natural Resources, Division of Marine Fisheries; Wildlife Resources Commission

**EFFECTIVE DATE:** July 1, 2000 until January 1, 2003.

**BILL SUMMARY:** This bill establishes a pilot project enabling the Department of Environment and Natural Resources ("DENR") to remove abandoned vessels from the Neuse River Basin ("the pilot project area") between July 1, 2000 and January 1, 2003. Prior to removing an abandoned vessel, DENR must notify the vessel's owner and give that person the opportunity to remove the vessel. If the owner cannot be determined, DENR must give notice by publication. If the owner does not submit a removal plan within 15 days or remove the vessel within 45 days after notice is served, DENR may proceed to remove the vessel. DENR may recover removal and associated environmental restoration costs from the abandoned vessel's owner by a Court action, or may sell the vessel and contents to recoup those expenditures. DENR is required to report to the Environmental Review Commission ("ERC") by January 1, 2002 and again by January 1, 2003 regarding the number of vessels removed, the removal process used, the cost to the State, and any amounts recovered to offset those costs, to help ERC determine whether the pilot program should be expanded, modified, or made permanent.

**ASSUMPTIONS AND METHODOLOGY:**

Abandoned Vessels in the Pilot Project Area: The bill defines abandoned vessels as those left unattended for over 90 days or wrecked, junked, or substantially dismantled, in either coastal fishing waters<sup>1</sup> or upon submerged lands<sup>2</sup>. While it is impossible to determine exactly the number of abandoned vessels in the pilot project area, the Wildlife Resources Commission (“WRC”) estimates, based on field observations by law enforcement staff, that approximately 22 abandoned vessels lie within the portion of the pilot project area under its jurisdiction. DENR’s Division of Marine Fisheries (“DMF”) is currently aware of eight abandoned vessels near New Bern, in the pilot project area’s coastal fishing waters. DMF estimates that one or two additional vessels may be abandoned each year.

Number of Vessels Likely to be Removed: The eight abandoned vessels located near New Bern are currently being removed pursuant to an agreement involving several governments and private parties (“the New Bern agreement”), leaving no vessels that DMF is aware of in need of removal in the coastal fishing waters of the pilot project area.

In the inland waterways of the pilot project area, the approximately twenty-two vessels observed by law enforcement staff remain. Because the powers granted by the bill are discretionary, it is unclear whether DENR will choose to remove any of those vessels. The bill provides no guidance or direction to DENR regarding when to remove abandoned vessels, or how to determine which ones to remove. If DENR chooses not to remove these vessels or any newly-abandoned ones during the length of the pilot project, this bill will have no fiscal impact because DENR will have no new expenditures. However, if DENR chooses to remove one or more abandoned vessels, the fiscal impact is uncertain, as set out in more detail below.

Costs of Vessel Removal: Because DENR has not to date removed abandoned vessels, the cost of this removal can only be estimated. Vessel removal costs depend on factors such as the vessel’s size, condition, location, and proximity to an acceptable disposal area. DMF estimates that the cost of removal could range from \$10,000 for a small vessel that could be easily raised, pumped, and towed, to up to \$100,000 if the vessel were larger, located in a difficult-to-reach area, contained hazardous materials such as lead paint, asbestos, or petroleum products, and was in poor condition and therefore had to be dismantled for removal.

DMF estimates that most abandoned vessels are in poor condition and contain a moderate amount of hazardous materials, but are not difficult to reach. A local coastal marine contractor has estimated the cost of removing such a “typical” abandoned vessel to be between \$40,000 and \$50,000. These costs include evaluating the vessel, attending with suitable equipment, dismantling the vessel on site, and safely disposing of the vessel and its cargo.

Unlike DMF, WRC has removed one abandoned vessel that contained no hazardous material from the shore. Using in-house labor exclusively, the cost of this removal was \$8,414. WRC indicates that the cost of removing a vessel that is not beached but is instead entirely submerged would be higher. Similarly, using a contractor rather than in-house staff would raise the price.

Given the wide disparity in potential removal costs, this Fiscal Note assumes that the cost of removing an abandoned vessel would range between \$10,000 and \$45,000.

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<sup>1</sup> As defined in G.S. 113-129

<sup>2</sup> As defined in G.S. 146-64

Environmental Costs: In some instances, an abandoned vessel may cause environmental damage, which will need to be repaired upon the vessel's removal. Without on-site assessment, it is impossible to predict such restoration costs, given the potential variety of abandoned vessels, locations, and contents, and the breadth of potential environmental harm. Regardless of its scope, however, any such environmental damage will need to be addressed by the State.

Recovery of Costs: Recovery of the State's costs by sale of the vessels or cargo is expected to be minimal, given the likely condition of the vessels and their cargo, and their owners' lack of interest to date. Were there any significant value in the vessel or cargo, it is assumed that the owner would have already taken steps to preserve or salvage both.

DENR may also sue the vessel's owner for removal and environmental restoration costs. Success in this endeavor is contingent upon there being an easily-found owner able to be sued, with sufficient resources to pay a judgment against him. DENR would only have an incentive to pursue this course of action if the anticipated recovery exceeds the cost of litigation plus the initial removal and restoration costs. The higher the removal and restoration costs, the greater the likelihood that DENR will choose to pursue the owner in court, if that owner can be located.

Conclusion: This bill gives DENR discretion whether or not to remove an abandoned vessel within the pilot project area, but gives no direction as to how to exercise that discretion. Each vessel removed will cost DENR approximately \$10,000, at a minimum, and the cost of potential environmental restoration is unknown. These costs are unlikely to be recovered by sale of the vessel and contents. Unless the appropriate circumstances exist for DENR to sue the owner to recoup these costs, it is expected that DENR will bear the cost of vessel removal in most cases where it chooses to act.

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION 733-4910**

**PREPARED BY:**

Jennifer Hoffmann and Zoya Trofimenko (Research Assistant)

**APPROVED BY:** James D. Johnson

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