



Sen. Terry Link

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1 AMENDMENT TO SENATE BILL 863

2 AMENDMENT NO. _____. Amend Senate Bill 863 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Waukegan Harbor Remedy Facilitation Act.

6 Section 5. Findings. The General Assembly finds:

7 (a) The Waukegan Port District is a political subdivision,
8 body politic, and municipal corporation created pursuant to the
9 Waukegan Port District Act.

10 (b) The United States Environmental Protection Agency has
11 made a decision to further remediate the Waukegan Harbor under
12 the provisions of the Comprehensive Environmental Response
13 Compensation and Liability Act, 42 U.S.C.A. §§9601-9675
14 (CERCLA). The remediation plan is to hydraulically dredge
15 sediment from the harbor. The dredged material is to be placed
16 into a cell for permanent containment. The sediments to be

1 dredged would include low-level poly-chlorinated biphenyl
2 contamination.

3 (c) The cost of on land transport and permanent on land
4 disposal is significantly higher than originally anticipated
5 by the United States, even though the materials are not
6 regarded as toxic or RCRA hazardous wastes.

7 (d) The Waukegan Port District, in cooperation with the
8 United States Environmental Protection Agency, the United
9 States Secretary of Defense, acting through the U.S. Army Corps
10 of Engineers, the State of Illinois Department of Natural
11 Resources, the Illinois Environmental Protection Agency, the
12 City of Waukegan, and other agencies and persons has developed
13 a plan that would benefit the public and the environment by
14 allowing the further remediation of the Waukegan Harbor, while
15 providing an additional recreational facility for boating,
16 fishing, and other recreation.

17 (e) The construction of a permanent confined disposal
18 facility (CDF) on approximately 14 acres more or less adjacent
19 to the current South Harbor mooring areas of the Waukegan
20 Harbor is a potential alternative for PCB sediment disposal
21 that would be cost-effective in allowing the dredgings from
22 Waukegan Harbor to be permanently enclosed and sealed from
23 exposure to people, marine life, and the environment.

24 (f) The further enhancement of Waukegan Harbor by the
25 construction of a permanent CDF in the identified area is in
26 the public interest. Enabling the further remediation of

1 Waukegan Harbor to include the provision and use of a confined
2 disposal facility as authorized under this Act would be of
3 great and direct public benefit.

4 (g) There would be a net benefit to the public by keeping
5 the contaminated soils and sediments that are already in Lake
6 Michigan from further contamination of open waters and also
7 from threatening any on shore release or exposure. Recreational
8 use to be made of the top of the confined and filled area would
9 be of significant public benefit, as well.

10 (h) No substantial benefit is conferred upon a private
11 interest or firm by reason of the approval of the CDF
12 construction, because the Waukegan Port District is a public
13 body whose activity is for the public benefit and because the
14 contamination in soils and sediments to be disposed of was
15 caused by Outboard Marine Corporation, a bankrupt and defunct
16 concern. Most of the cost of construction of the remedy,
17 including the CDF, will be borne by the United States.

18 (i) The use of CDFs has already successfully occurred
19 elsewhere on the Great Lakes, including at Calumet Harbor in
20 Illinois, Milwaukee Harbor in Wisconsin, and in Canadian
21 waters. There is a successful confinement in former slip number
22 3 at Waukegan Harbor, and others are planned.

23 (j) The CDF will further benefit the public by providing
24 new habitat for natural marine, bird, and other life along its
25 edges, and its top would become a functional space supporting
26 additional mooring, fishing, and other recreation.

1 (k) The use of the designated area as a CDF will provide
2 financial savings to the State of Illinois of an estimated
3 several million dollars through credit for the in-kind
4 provision of the CDF land for the Harbor's further remedy. CDF
5 disposal will also significantly reduce the cost for the United
6 States.

7 (l) Irrespective of whether the CDF is used to contain the
8 low level PCB dredging, a CDF and associated breakwater
9 construction will allow the Waukegan Port District to
10 economically provide additional recreational boating and
11 fishing opportunity to the general public by dredging and
12 filling the CDF with uncontaminated sediments for an expanded
13 marina area.

14 (m) Final decisions on the components of the Waukegan
15 Harbor further remediation are the responsibility of the United
16 States Environmental Protection Agency (USEPA) pursuant to
17 CERCLA.

18 (n) Provision of the lakebed land for construction of the
19 CDF authorized by this Act is in the public interests and
20 consistent with the public trust.

21 Section 10. Authorization and use of a confined disposal
22 facility.

23 (a) The CDF may be constructed by the United States if the
24 United States determines that use of the CDF for permanent
25 disposal of low-level PCB sediments is to be part of the

1 further remediation of Waukegan Harbor.

2 (b) If the USEPA decides to employ a CDF at Waukegan Harbor
3 for its further remediation pursuant to CERCLA, the Department
4 of Natural Resources is directed to review and to determine, in
5 cooperation with USEPA and the Waukegan Port District, the
6 location of the approximately 14-acre area upon which a CDF
7 shall be best placed.

8 (c) The Department of Natural Resources shall also receive
9 and act appropriately to grant permission to the Waukegan Port
10 District or the United States to construct a breakwater wall
11 that will be designed to protect moored vessels and the CDF
12 from heavy wave action or seiche action on Lake Michigan.

13 (d) Under Section 18 of the Rivers, Lakes, and Streams Act,
14 the building of a harbor or mooring facility shall not commence
15 without a permit from the Department of Natural Resources, and
16 the facilities shall be confined to those areas recommended by
17 the Department of Natural Resources, authorized by the General
18 Assembly, and approved by the Governor and shall be in aid of
19 and not an interference with the public interest or navigation.

20 (e) The Department of Natural Resources is also authorized
21 to allow the establishment of moorings, boat slips, dockage,
22 and other improvements by the Waukegan Port District in the
23 area generally to be within the partly sheltered waters formed
24 by the new breakwater and the CDF, east of the existing South
25 Harbor and south of the entrance channel, provided acceptable
26 permit applications are submitted by the Waukegan Port

1 District.

2 (f) The jurisdiction and control of the Department of
3 Natural Resources over the bed of Lake Michigan under the
4 Rivers, Lakes, and Streams Act shall not be diminished or
5 limited by the authorization and approval granted under this
6 Act, title to the bed of Lake Michigan in both the harbor and
7 mooring area shall remain in the State of Illinois, and no
8 improvements, other than those authorized and approved
9 pursuant to this Act, shall be made without the further
10 authorization and approval of the Department.

11 Section 15. Power and Duties.

12 (a) Subject to the Waukegan Port District obtaining all
13 required permissions, the Waukegan Port District is authorized
14 to expand its existing South Harbor boating and recreational
15 facilities to the east, south of the existing channel
16 breakwater, to include new boat slips, a new breakwater,
17 suitable public recreational space, ancillary boating service,
18 and other suitable improvements atop of the enclosed surface
19 area of a CDF.

20 (b) The Waukegan Port District shall continue to cooperate
21 with the United States as it deems reasonable and appropriate
22 respecting the Waukegan Harbor further remediation. The
23 Waukegan Port District may contract with the United States for
24 operation and maintenance obligations respecting the CDF,
25 provided that the United States assumes any and all liability

1 for the construction, maintenance, and operation of the CDF or,
2 alternatively, provided the United States extends to the State
3 of Illinois and Waukegan Port District contribution protection
4 under CERCLA and other protection acceptable to the Waukegan
5 Port District and the State from all claims arising from the
6 construction, maintenance, and operation of the CDF.

7 (c) The expanded South Harbor facilities shall otherwise be
8 managed and maintained in accordance with the Waukegan Port
9 District Act.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."