

Staff Report 43

PROPOSED ACTION:

Consider sponsoring legislation in the 2020-21 legislative session that would repeal obsolete school land statutes and recast or modernize other school land statutes.

BACKGROUND:

In 1853, Congress granted the State of California 5.5 million acres of lands to support public schools. These lands, known as school lands, consisted of the 16th and 36th sections of land in each township, with exceptions. A township contains 36 equal sections. Each section within a township is 1 square mile, or 640 acres. Over time, the state sold several million acres of school lands (nearly 90 percent of them). There are now approximately 458,000 acres of school lands that the Commission manages, along with the reserved mineral interests on an additional 790,000 acres where the surface land has been sold.

School lands were placed into a statutory trust in 1984 when the Legislature enacted the School Land Bank Act and established the School Land Bank Fund. The Commission is the trustee of the Fund. School lands and attendant interests are to be proactively managed and enhanced to provide an economic base supporting public schools. The Commission is required to take all action necessary to fully develop school lands, indemnity interests, and attendant mineral interests into a permanent and productive resource base. Public Resources Code section 8701 emphasizes developing school lands in this manner and underscores that all transactions, including exchanges, sales, and acquisitions, should be implemented for revenue-generating purposes.

PROPOSED LEGISLATION:

1. Repeal Public Resources Code section 6373, which requires anyone purchasing school lands to submit to the Commission and the Legislature a general plan, as specified by the Commission, for the use of the lands to be transferred, together with the review and comments of other interested state agencies. The proposed amendment would instead require notification to relevant legislative committees when land is sold or conveyed.

2. Repeal Public Resources Code section 6205: this statute, which requires the Commission to ask the United States for surveys, is obsolete and unnecessary. The United States has completed all these surveys and is not conducting more.
3. Amend Public Resources Code section 6210.5 to create an exception for the requirement that the Commission retains an access easement when it sells, conveys, or disposes of school lands. This will give the Commission more flexibility. In some instances, such as when conveying lands to preserve valuable biological or cultural resources, the purpose of the conveyance may be better fulfilled without reserving an access easement. For example, if the Commission conveys a parcel to better preserve cultural resources, using a reserved easement to access an adjacent state parcel could damage the attendant cultural resources. In such instances, it would be beneficial for the Commission to consider whether there is greater public interest in reserving the easement or better protecting the resources. This proposed amendment would give the Commission the flexibility to make that determination.
4. Amend Public Resources Code section 8709: this would allow the Commission to cover various land acquisition costs and remove a 5 percent cap on these costs. These costs may include third-party appraisals, reports, broker's fees and commissions, and title insurance. The existing 5 percent cap undermines the Commission's competitiveness in the market because the Commission must rely on sellers to volunteer to pay costs that exceed 5 percent—whereas other purchasers may be willing to pay all costs. This proposed amendment would help ensure that the Commission does not miss an opportunity to acquire valuable lands because it lacks authority to pay acquisition costs.
5. Amend Public Resources Code section 8713 to authorize the Commission to delegate authority to the Executive Officer to make nonrefundable down payments for potential acquisitions. Currently, the Commission is restricted to taking actions in public meetings. The proposed amendment would allow the Commission to delegate authority for down payments only, preserving the requirement for the Commission to make final acquisition decisions in public meetings. The purpose of this proposed amendment is to allow the Commission to be on a level playing field with all other participants in the real estate market. If staff finds valuable property for sale but must wait for Commission approval to make any payment, the opportunity will likely be lost to a purchaser who can act more quickly. Without this amendment, it would be extremely difficult, if not impossible, to acquire property that is in the State's best interests. The proposed amendment would allow the Executive Officer to make down payments and

secure prospective acquisitions that would be in the State's best interests pending final Commission approval.

RECOMMENDED ACTION:

It is recommended that the Commission:

Sponsor legislation in the 2020-21 legislative session that would repeal obsolete school land statutes and recast or modernize other school land statutes.