

CHAPTER 1086

An act to convey in trust certain tidclands and submerged lands located in Humboldt Bay to the City of Eureka, hereinafter called "city," a municipal corporation of the State of California, and to its successors, in furtherance of navigation and commerce and the fisheries, and to provide for the government, management, and control thereof, and to reserve certain rights to the state.

[Approved by Governor September 14, 1970 Filed with
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The people of the State of California do enact as follows:

SECTION 1. There is hereby granted and conveyed in trust to the City of Eureka, subject to the provisions of Section

16 of this act, all the right, title, and interest of the state held by the state by virtue of its sovereignty in and to all of those certain tidelands and submerged lands in and underlying Humboldt Bay lying southerly, easterly, and south-easterly of the thread of the main channel and the Arcata Channel as it existed in 1945, whether filled or unfilled, to be forever held by the city, and its successors, in trust for the uses and purposes and upon the prescribed conditions set forth in Chapter 225 of the Statutes of 1945, Chapter 187 of the Statutes of 1927, and in this act, which are described as follows, referenced to the Humboldt base and meridian:

All of Sections 18 and 19, all in Township 5 North, Range 1 East, H.B. & M.; the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 21; the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 28; the East $\frac{1}{2}$ of Section 28; the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 28; the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 29; the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 32, all in Township 5 North, Range 1 West, H B. & M.

SEC. 2. The lands granted and conveyed pursuant to this act, and lands heretofore granted and conveyed to the city pursuant to Chapter 225 of the Statutes of 1945 and Chapter 187 of the Statutes of 1927, shall be held by the city in accordance with Sections 3 to 15, inclusive, of this act. Except as so amended, said Chapter 225 of the Statutes of 1945 and Chapter 187 of the Statutes of 1927 shall continue in full force and effect.

SEC. 3. The city shall establish a separate tidelands trust fund or funds in such manner as may be approved by the Department of Finance and the city shall deposit in the fund or funds all moneys received directly from, or indirectly attributable to, the granted tidelands in the city. An annual statement of financial condition and operations, to conform with such requirements as the Department of Finance may prescribe, shall be submitted to the Department of Finance each year by the city on or before September 30th of each year for the preceding fiscal year.

SEC. 4. Notwithstanding any other provision of law to the contrary, the city, acting either alone or jointly with another local or state agency, may use revenues accruing from or out of the use of the granted tidelands for any or all of the following purposes; provided, that they comply with the terms of the trust and are matters of statewide, as distinguished from local or purely private, interest and benefit:

(a) For the establishment, improvement and conduct of harbors, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient, for the promotion and accommodation of commerce and navigation.

(b) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair and maintenance of commercial and industrial buildings, plants and facilities.

(c) For the establishment, improvement and conduct of airport and heliport or aviation facilities, including but not limited to approach, takeoff and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of air commerce and air navigation.

(d) For the construction, reconstruction, repair and maintenance of highways, streets, roadways, bridges, belt line roads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary or convenient for the promotion and accommodation of any of the uses set forth in this section.

(e) For the construction, reconstruction, repair, maintenance and operation of public buildings, public assembly and meeting places, convention centers, public parks, public playgrounds, public bathhouses and public bathing facilities, public recreation and public fishing piers, public recreation facilities, including but not limited to public golf courses, and for all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses.

(f) For the establishment, improvement and conduct of small boat harbors, marinas, aquatic playgrounds and similar recreational facilities, and for the construction, reconstruction, repair, maintenance and operation of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any of such uses, including but not limited to snackbars, cafes, cocktail lounges, restaurants, motels, hotels, and other forms of transient living accommodations open to the public, launching ramps and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways and landscaped areas and other compatible commercial and recreational activities and uses.

(g) For the protection of wildlife habitats, the improvement, protection, and conservation of the wildlife and fish resources and the ecology of the area, the providing of open space areas and areas for recreational use with open access to the public, the enhancement of the aesthetic appearance of the bay and the area, control of dredging or filling of the bay, or both, and prevention of pollution of the bay.

(h) For the promotion, by advertising and such other means as may be reasonable and appropriate, of maximum public use of such granted tidelands or to encourage private investment

in development of such granted tidelands for the highest and best use in the public interest.

(i) For any other uses or purposes of statewide, as distinguished from purely local or private, interest and benefit which are in fulfillment of those trust uses and purposes described in this act.

(j) For the acquisition of property and the rendition of services reasonably necessary to the carrying out of the uses and purposes described in this section, including the amortization or debt service of any capital improvement funding program which is consistent with the terms and conditions set forth in this act.

SEC. 5. Such revenues may be deposited in one or more reserve funds for use in accordance with the terms and conditions set forth in this act.

SEC. 6. As to the accumulation and expenditure of revenues for any single capital improvement on the granted lands involving an amount in excess of two hundred fifty thousand dollars (\$250,000) in the aggregate, the city shall file with the State Lands Commission a detailed description of such capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith, excepting preliminary planning. The State Lands Commission may, within 90 days after the time of such filing, determine and notify the city that such capital improvement is not in the statewide interest and benefit or is not authorized by the provisions of Section 4 of this act. The State Lands Commission may request the opinion of the Attorney General on the matter, and if it does so, a copy of such opinion shall be delivered to the city with the notice of its determination. In the event the State Lands Commission notifies the city that such capital improvement is not authorized, the city shall not disburse any revenue for or in connection with such capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The city is authorized to bring suit against the state for the purpose of securing such an order or adjudication, which suit shall have priority over all other civil matters. Service shall be made upon the Executive Officer of the State Lands Commission and the Attorney General, and the Attorney General shall defend the state in such suit. If judgment be given against the state in such suit, no costs shall be recovered against it.

SEC. 7. At the end of every third fiscal year, beginning June 30, 1972, that portion of the city tideland trust revenues in excess of two hundred fifty thousand dollars (\$250,000) remaining after current and accrued operating costs and expenditures directly related to the operation or maintenance of tideland trust activities have been made, shall be deemed excess revenues; provided, that any funds deposited in a reserve fund for future capital expenditures or any funds used to retire bond issues for the improvement or operation of the granted lands shall not be deemed excess revenue. Capital im-

provements of the granted lands for purposes authorized by this act may be considered as expenditures for the purpose of determining net revenues; provided, however, that if made after the effective date of this act they may be so considered only if made in accordance with Section 6 of this act.

The excess revenue, as determined pursuant to Section 6 of this act shall be divided as follows: 85 percent to the General Fund in the State Treasury, and 15 percent to the city to be deposited in the trust fund and used for any purpose authorized by Section 4 of this act.

SEC. 8. The State Lands Commission, at the request of the city, shall grant an extension of time, not to exceed 30 calendar days, for filing any report or statement required by this act which was not filed due to mistake or inadvertence.

SEC. 9. In the event that the city fails or refuses to file with the State Lands Commission any report, statement, or document required by any provision of this act within the time period specified by this act, or any extension period granted pursuant to this act, or fails or refuses to carry out the terms of this act, the Attorney General shall, upon the request of the State Lands Commission, bring such judicial proceedings for correction and enforcement as are appropriate, and shall act to protect any improvements to, or assets situated upon, the granted lands or derived therefrom. The State Lands Commission shall notify the Chief Clerk of the Assembly and the Secretary of the Senate within 30 days of the occurrence of such failure or refusal and of actions taken as a result thereof.

SEC. 10. The State Lands Commission shall, from time to time, recommend to the Legislature such amendments as it may deem necessary in the terms and conditions of this act.

SEC. 11. The State Lands Commission shall, from time to time, institute a formal inquiry to determine that the terms and conditions of this act, and amendments thereto, have been complied with, and that all other applicable provisions of law concerning these specific granted lands are being complied with in good faith.

SEC. 12. The State Lands Commission shall, on or before December 31st of each year, report to the Chief Clerk of the Assembly and to the Secretary of the Senate, the full details of any transaction or condition reported to the commission pursuant to this act which it deems in probable conflict with the requirements of this act, or with any other provision of law.

SEC. 13. The Legislature reserves the right to amend, modify, or revoke, in whole or in part, the tidelands and submerged lands granted and conveyed in trust pursuant to this act; provided, that the state shall thereupon assume and be bound by all lawful transactions and obligations related to such lands entered into or created by the city during its holding of such lands.

SEC. 14. The Attorney General, on request by resolution of either house of the Legislature, or upon formal request of

the State Lands Commission made only after a noticed public hearing at which the grantee has been given an opportunity to fully express any disagreement with the commission's findings or to describe any extenuating circumstances causing the violation, shall bring an action in the Superior Court in the County of Humboldt to declare that the grant under which the city holds such tidelands and submerged lands is revoked for gross and willful violation of the provisions of this act or other legislative enactment, or to compel compliance with the terms and conditions of the grant and any other provision of law including, but not limited to, this act.

SEC. 15. The lands described in Section 1 of this act are granted and conveyed to, and shall be held by, the city, and the lands specified in Section 2 of this act heretofore granted and conveyed to the city shall be held by the city, subject to the express reservation and condition that the state may at any time in the future use said lands or any portion thereof for highway purposes without compensation to the city, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event improvements have been placed upon the property taken by the state for such purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements taken or the damages to such interest.

SEC. 16. The grant and conveyance in trust of tidelands and submerged lands to the city provided for by this act shall become effective only upon the written acceptance of such grant and conveyance by the city prior to September 1, 1971.

SEC. 17. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.
