

CHAPTER 1069

An act to amend and renumber Section 2 of, and to add Sections 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 to, Chapter 1044 of the Statutes of 1968, relating to tidelands and submerged lands.

[Approved by Governor October 14, 1971. Filed with
Secretary of State October 14, 1971.]

The people of the State of California do enact as follows:

SECTION 1. Section 2 of Chapter 1044 of the Statutes of 1968 is amended and renumbered to read:

Sec. 3. The State of California hereby confirms the title to the City of Carpinteria of such tide and submerged lands as were originally granted to the County of Santa Barbara by Chapter 846 of the Statutes of 1931 and as are located within the boundaries of the City of Carpinteria, as such boundaries were established upon its incorporation, to be forever held by such city and by its successors in trust for the uses and purposes, and upon the express conditions following, to wit:

(a) That the lands shall be used by the city and its successors for purposes in which there is a general statewide interest as follows:

(1) For the establishment, improvement and conduct of a harbor, and for the construction, reconstruction, repair, main-

tenance, 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.

(2) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair and maintenance of commercial and industrial buildings, plants and facilities, as may be specified by the city council, after public hearing.

(3) For the establishment, improvement and conduct of an 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.

(4) For the construction, reconstruction, repair and maintenance of highways, streets, roadways, bridges, belt line railroads, 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.

(5) For the construction, reconstruction, repair, maintenance and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and 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.

(6) 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, restaurants, motels, 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.

(7) 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.

(b) The city, or its successors shall not at any time, grant, convey, give or alienate such lands, or any part thereof, to any individual, firm or corporation for any purposes whatever; provided, that the city, or its successors, may grant franchises thereon for limited periods, not exceeding 66 years, for wharves and other public uses and purposes, and may lease the lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which the lands are held by the state, and with the requirements of commerce and navigation, and collect and retain rents and other revenues from such leases, franchises and privileges. Such lease or leases, franchises and privileges may be for any and all purposes which shall not interfere with commerce and navigation. Nothing contained in this paragraph (b) shall be deemed to affect the validity or term of any franchise granted by said city under the Franchise Act of 1937, and any such franchise shall be effective with respect to the lands.

(c) Within 10 years from the effective date of this act, the lands shall be substantially improved by the city without expense to the state, and if the State Lands Commission determines that the city has failed to improve the lands as herein required, all right, title, and interest of the city in and to all lands granted by this act shall cease and the lands shall revert and rest in the state.

Nothing contained in this act, however, shall preclude expenditures for the development of the lands for any public purpose not inconsistent with commerce, navigation and fishery, by the state, or any board, agency or commission thereof, when authorized or approved by the city, nor by the city of any funds received for such purpose from the state or any board, agency or commission thereof.

(d) In the management, conduct, operation and control of said lands or any improvements, betterments, or structures thereon, the city or its successors shall make no discrimination in rates, tolls or charges for any use or service in connection therewith.

(e) The state shall have the right to use without charge any transportation, landing or storage improvements, betterments or structures constructed upon the lands for any vessel or other watercraft, aircraft, or railroad owned or operated by the state.

(f) There is hereby reserved to the people of the state the right to fish in the waters on the lands with the right of convenient access to the water over the lands for such purpose.

(g) There is hereby excepted and reserved in the state all deposits of minerals, including oil and gas, in the lands, and to the state, or persons authorized by the state, the right to prospect for, mine, and remove such deposits from the lands.

(h) Such lands are granted subject to the express reservation and condition that the state may at any time in the future use the 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, betterments or structures 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, betterments or structures taken or the damages to such interest.

(i) The State Lands Commission shall, at the cost of the city, survey and monument the granted lands and record a description and plat thereof in the office of the County Recorder of Santa Barbara County.

(j) The city shall cause to be made and filed with the State Lands Commission, annually, a detailed statement of receipts and expenditures by it of all rents, revenues, issues and profits in any manner hereafter arising from the granted lands or any improvements, betterments or structures thereon.

SEC. 2. Section 2 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 2. In addition to the tidelands and submerged lands to which the City of Carpinteria has become the successor in interest, upon its incorporation, to the County of Santa Barbara pursuant to Section 1 of this act, the title to any tidelands and submerged lands located within the boundaries of the City of Carpinteria as were originally granted to the County of Santa Barbara by Chapter 846 of the Statutes of 1931 which have been annexed to the City of Carpinteria since its incorporation is hereby transferred to the City of Carpinteria. Title to any and all tidelands and submerged lands as were originally granted to the County of Santa Barbara by Chapter 846 of the Statutes of 1931 which are at any time in the future annexed to the City of Carpinteria shall be transferred to the City of Carpinteria upon such annexation. Any and all tidelands and submerged lands which are transferred at any time in the future to the City of Carpinteria shall be subject to the provisions of this act.

SEC. 3. Section 4 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 4. The City of Carpinteria is the successor in interest to all leases made by the County of Santa Barbara of tidelands and submerged lands to which title is transferred and confirmed to the City of Carpinteria pursuant to this act to the extent that such leases are of tide or submerged lands located within the boundaries of the city as the boundaries exist on the effective date of this section. Whenever at any time after the effective date of this section the city boundaries are changed so as to include tide or submerged lands which are subject to leases made by the county, the city shall become the successor in interest to all such leases. Any and all accrued rental or rental lease payments or other payments or remunerations previously collected by the county with respect to such tide and submerged lands from September 25, 1965, to the effective date of this section which remain unexpended shall be pro-

rated to the city by the Auditor-Controller of the County of Santa Barbara in direct proportion to the area of tide and submerged lands located within the city on the effective date of this section as the same bears to the total area of the tide and submerged lands trust originally granted to the county by Chapter 846 of the Statutes of 1931. From and after the effective date of this section, payments by lessees under any tide or submerged lands lease agreement made by the county pursuant to which title is transferred or confirmed to the city shall thereafter be made to the city as follows:

(a) If the structures and affected land covered by such lease are wholly within the city, then the lessee shall pay all future rental payments to the city.

(b) In the event of pipeline leases located partly within the county and partly within the city, payments of the lessee shall be apportioned to the city and to the county in direct proportion to the length of the pipeline located within the city as the same bears to the length of the pipeline in the county.

(c) As to all other leases and agreements, the subject matter of which lies partly within the city, the lessee shall be notified by the Auditor-Controller of the County of Santa Barbara of the ratio to be paid to the city, which ratio shall be equitably determined by the auditor-controller on an area basis.

The sums due the city from the county on the effective date of this section shall be transferred to, and vested in, the city by the county. All funds paid to the city shall be held and expended by the city pursuant to the terms of this act.

SEC. 4. Section 5 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 5. The survey of tidelands and submerged lands required by subdivision (i) of Section 3 of this act shall not be construed in any way as a condition precedent to the confirmation of title to such tidelands and submerged lands in the City of Carpinteria.

SEC. 5. Section 6 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 6. The City of Carpinteria shall establish a separate trust fund or funds on or before December 31, 1972, for deposit of all moneys or proceeds derived from the granted tidelands in the city. Commencing on September 30, 1974, a statement of financial condition and operation shall be submitted by the city to the Auditor General annually, on or before September 30 of each year for the preceding fiscal year.

SEC. 6. Section 7 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 7. 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 railroads, 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 re-

sources 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. 7. Section 8 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 8. 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. 8. Section 9 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 9. 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 3 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. Each party shall bear their own costs of suit and no such costs shall be recovered from the other party.

SEC. 9. Section 10 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 10. At the end of each fiscal year, beginning September 30, 1976, that portion of 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 the maintenance of beaches, harbors, and other tidelands trust activities have been paid, shall be deemed excess revenue; provided, that any funds deposited in a reserve fund for future capital expenditures, or any funds required to service or retire general obligation or revenue bond issues, or special funds required to be maintained for the payment of contractual obligations owing to the state on account of harbor improvements authorized by the provisions of Article 3 (commencing with Section 70) of Chapter 2 of Division 1 of the Harbors and Navigation Code, the moneys from which have been, or will be, used for purposes authorized by law, shall not be deemed excess revenue. Amortization payments made subsequent to the effective date of the enactment of this act at the 1971 Regular Session of the Legislature for capital improvements of the granted lands for purposes authorized by the terms of the grant may be considered as expenditures for the purpose of determining net revenues. The excess revenue, as determined pursuant to this section, 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 city's trust fund and used for any purpose authorized by Section 7 of this act.

SEC. 10. Section 11 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 11. The State Lands Commission, at the request of the city, shall grant an extension of time for filing any report or statement required by this act which was not filed due to mistake or inadvertence not to exceed 30 calendar days after service upon the city by the State Lands Commission of written notice of violation.

SEC. 11. Section 12 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 12. In the event that the city fails or refuses to file with the State Lands Commission or with the Auditor General 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 within 30 days after written notice to the city, or fails or refuses to carry out the terms of the grant within 30 days after written notice to the city, the State Lands Commission or the Auditor General shall within 60 days notify the Chief Clerk of the Assembly and the Secretary of the Senate.

The Attorney General shall, upon request of the State Lands Commission, after the city has been given such notice and after such failure or refusal by the city, bring such judicial proceedings for correction and enforcement as are appropriate, and shall act to protect any properties and assets situated on the granted tidelands or derived therefrom.

SEC. 12. Section 13 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 13. The State Lands Commission may from time to time, at the request of the Legislature, institute a formal inquiry to determine that the terms and conditions of the grant 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. 13. Section 14 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 14. The Auditor General shall, on or before March 30 of each year, commencing on March 30, 1975, report to the Chief Clerk of the Assembly, to the Secretary of the Senate, and to the State Lands Commission, the full details of any transaction or condition reported to him pursuant to this act which he deems in probable conflict with the requirements of this act, or with any other applicable provision of law concerning these specific granted lands.

SEC. 14. Section 15 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 15. The Attorney General shall bring an action in the Superior Court of the County of Santa Barbara to declare that the grant under which the city holds such tidelands and submerged lands is revoked for gross and willful violation of the terms of the grant or other applicable provisions of law concerning these specific granted lands, or to compel compliance with the terms and conditions of the grant, or the provisions of such other applicable law, upon request by concurrent resolution of either house of the Legislature or upon formal request of the State Lands Commission. Such request shall be made only after a finding that the city has grossly and willfully violated the terms of the grant or other applicable provisions of law concerning these specific granted lands.

Such finding shall be supported by substantial evidence and shall be made only at the conclusion of a noticed public hearing at which the city has been given an opportunity to present evidence to fully describe conditions and extenuating circumstances and to present facts to disprove the alleged violation.

SEC. 15. Section 16 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 16. In the event the grant of tidelands in trust to the city is revoked pursuant to Section 15 of this act, such revocation shall not impair or affect the security of leases or the rights or obligations of third parties, including lessees, lenders for value, or others who are parties to contracts which, except for such revocation, would be lawful and binding contracts,