
CHAPTER 995

An act to convey certain tide and submerged lands to the City of Brisbane.

[Approved by Governor September 13, 1982. Filed with
Secretary of State September 14, 1982.]

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

SECTION 1. (a) There is hereby granted to the City of Brisbane, hereinafter referred to as the "trustee" all of the right, title, and interest of the State of California, held by the state by virtue of its sovereignty in and to all tide and submerged lands whether filled or unfilled, situated in the County of San Mateo and described in Section 13. Such lands shall be held by the trustee and its successors, in trust for the benefit of all the people of the state for purposes of commerce, navigation, and fisheries, and for other public purposes, including, but not limited to, preservation of the lands in their natural state for scientific study, open space, wildlife habitat, and recreational uses, as more particularly provided in this act.

(b) This grant is subject to the following express conditions:

(1) That the lands shall be used by the trustee and its successors, for purposes in which there is a general statewide interest. The use of the granted lands shall be in conformity with a general use proposal adopted by the trustee and reviewed and approved by the State Lands Commission, hereafter referred to as the "commission." Changes or amendments to the general use proposal shall be reviewed and approved by the commission as provided under Section 3.

(2) That the trustee or its successors shall not at any time grant, convey, give, or alienate the lands, or any part thereof, to any individual, firm, or corporation for any purposes whatsoever; provided, however, that the trustee or its successors may grant franchises thereon for limited periods, not exceeding 66 years for wharves and other public uses and purposes, 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, and may collect and retain rents and other revenues from such leases, franchises, and privileges under rules and regulations adopted in accordance with the provisions of Section 5.

Nothing contained in this paragraph shall be deemed to affect the validity or terms of any franchise granted by the trustee under Division 3 (commencing with Section 6001) of the Public Utilities Code, and any such franchise shall be effective with respect to the affected lands when title thereto passes to the trustee under this act.

(3) That in the management, conduct, operation, and control of the granted lands or any improvement, betterments, or structures thereon, the trustee or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith.

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

(5) That there is reserved to the people of the State of California the absolute right to fish in the waters over the granted lands, with the right of convenient access to such waters over the lands for such purpose.

(6) That there is excepted and reserved to the state all remains of

archeological and historical significance and all deposits of minerals, including, but not limited to, all substances specified in Section 6407 of the Public Resources Code, in the granted lands, and the right to prospect for, mine, and remove such deposits from the lands.

(7) That the trustee shall not authorize a capital outlay project, lease, or agreement for port facilities, such as marine terminals, pipelines, or other related energy facilities, on the granted lands without first requesting and receiving the approval, in writing, of the commission. Prior to approving any such capital outlay project, lease, or agreement, the commission shall consult with other governmental agencies and shall determine that the project is in and for the best interest of the people of the state and consistent with provisions of law.

SEC. 2. (a) On or before September 30 of every succeeding fifth year, commencing on September 30, 1987, the trustee shall submit a report of its utilization of the granted lands for each immediately preceding five-calendar-year period ending with June 30 of the calendar year in which the report is required to be submitted.

(b) The report required by this section shall include all of the following:

(1) A general description of the uses to which the granted lands have been placed during the period covered by the report.

(2) A list of the owners and holders of leases, permits, and franchises granted or issued by the trustee, which list shall specify, as to each such owner or holder:

(A) The use to which the granted lands have been placed by the owner or holder.

(B) The consideration provided for in each such lease, permit, or franchise and the consideration actually received by the trustee for the lease, permit, or franchise granted or issued.

(C) An enumeration of the restrictions which the trustee has placed on the use of the granted lands and each area thereof for the period covered by the report.

SEC. 3. (a) On or before January 1, 1985, the trustee shall submit to the commission a general use proposal indicating details of intended development, preservation, or other use of the granted lands, and covering a period of not less than five years.

(b) The general use proposal may consist of any plan, program, or other document which includes all of the following:

(1) A general description of the type of uses planned or proposed for the granted lands. The location of these land uses shall be shown on a map or aerial photograph.

(2) The projected statewide benefit to be derived from the planned or proposed uses of the granted lands, including, but not limited to, the financial benefit, the benefit to commerce, navigation, and fisheries, and the recreational, educational, or industrial benefit.

(3) The proposed method of financing the planned or proposed uses of the granted lands, including estimated capital costs, annual operating costs, and anticipated annual revenues.

(4) Estimated timetable for implementation of the general use proposal or any phase thereof.

(5) A description of how the trustee proposes to protect and preserve natural and manmade resources in connection with the use of the granted lands.

(c) The trustee shall submit to the commission all changes and amendments to the general use proposal.

(d) The commission shall review with reasonable promptness the general use proposal submitted by the trustee, and any changes or amendments, to determine that they are in accordance with the public trust obligation and the requirements of this act. On the basis of such review, the commission shall furnish the trustee with its formal recommendations.

SEC. 4. The trustee shall demonstrate good faith in carrying out the provisions of its general use proposal and amending it when necessary in accordance with Section 3. If the commission determines that the trustee has substantially failed to improve, restore, preserve, or maintain the granted lands, as required by the general use proposal, or has unreasonably delayed adopting such proposal, all right, title, and interest of the trustee in and to the granted lands shall revert to the state. All improvements, restoration, preservation, or maintenance of the granted lands shall be effected in accordance with the general use proposal.

SEC. 5. (a) The governing body of the trustee shall, within 180 days of the effective date of this act, submit to the commission for its approval, procedures, rules, and regulations to govern the issuance, renewal, or renegotiation of any lease of the granted lands, or any development thereon. These rules and regulations shall specify lease rates, the bases upon which the rates are established, lease terms and conditions, provision for renegotiation of rates and terms and assignments, and such other information as may be required by the commission.

(b) All leases, franchises, or agreements proposed, or entered into, by any trustee after the effective date of this section shall be consistent with the provisions of the general use proposal submitted by the trustee.

(c) Upon request, the trustee shall submit to the commission a copy of all leases, franchises, and agreements entered into, renewed, or renegotiated.

SEC. 6. The trustee shall, with the approval of the commission, establish accounting procedures whereby an accurate record of all revenues derived from the use of the granted lands and of all expenditures of any such revenues shall be maintained. The purpose of such requirement is to provide for the segregation of funds derived from the use of the granted lands in order to ensure that they are only expended to enhance the lands in accordance with the trust uses and purposes upon which the granted lands are held.

SEC. 7. Property acquired with such revenues shall be considered an asset of the trust and subject to the terms and

conditions of this act.

SEC. 8. Notwithstanding any other provision of law, the trustee shall, on or before October 1 of each year, cause to be made and filed with the commission a detailed statement of all revenue and expenditures thereof from the administration of the granted lands, including obligations incurred but not yet paid. This statement shall be in a form specified by the commission and shall cover the fiscal year preceding its submission.

SEC. 9. As to the 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 trustee shall file with the commission a detailed description of the capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith. Within 90 days after the time of such filing, the commission shall determine, whether such capital improvement is in the statewide interest and benefit and is consistent with the conditions of this act. The commission may request the opinion of the Attorney General on the matter; and if it does so, a copy of that opinion shall be delivered to the trustee with the notice of its determination. In the event the commission notifies the trustee that the capital improvement is not authorized, the trustee shall not disburse any revenue for, or in connection with, the capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The trustee is authorized to bring suit against the state for the purpose of securing such an order or judgment, which suit shall have priority over all other civil matters. Service shall be made upon the executive officer of the commission and the Attorney General, and the Attorney General shall defend the state in that suit. If judgment is given against the state in the suit, no costs may be recovered.

SEC. 10. On June 30, 1985, and at the end of every third fiscal year thereafter, that portion of the trustee's tidelands 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 tidelands trust activities shall be deemed excess revenues; provided, however, 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 improvements of the granted lands made for purposes authorized by this act may be considered as expenditures for the purpose of determining excess revenues.

The excess revenues, as determined pursuant to this section, shall be allocated as follows: 85 percent shall be transmitted to the State Treasurer for deposit in the General Fund in the State Treasury; and 15 percent to the trustee for expenditures consistent with the provisions of this act.

SEC. 11. The 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 the granted lands are being complied with in good faith.

SEC. 12. The provisions of Section 6359 of the Public Resources Code shall not apply to this act.

SEC. 13. The lands granted in Section 1 are those salt marsh, tidelands, and submerged lands described as follows:

All that certain real property situated in the State of California, County of San Mateo, City of Brisbane, described as follows:

PARCEL A—Marina Basin:

A portion of Section 14, T.3S, R.5W., M.D.M., more particularly described as follows:

BEGINNING at a point that bears East, 1980 feet and South, 2640 feet from the common corner to Sections 10, 11, 14 and 15, such point also being the southeast corner of Tide Lot 11 in Section 14, T.3S., R.5W., M.D.B. & M., as shown on Map No. 1 of Salt Marsh and Tide Lands, situate in the County of San Mateo, State of California, prepared by order of the Board of Tideland Commissioners under the authority and in accordance with the provisions of an act entitled "An Act Supplementary to and Amendatory of an Act Entitled ' An Act to Survey and Dispose of Certain Salt Marsh and Tide Lands Belonging to the State, approved March Thirtieth, Eighteen Hundred and Sixty Eight, approved April 1, 1870' "; thence from that point of beginning North, 2640 feet along the easterly line of such Lots 11 and 6 of such Map No. 1; thence East, 660 feet; thence South, 2640 feet; thence West, 660 feet to the point of beginning. Containing 40 acres more or less.

PARCEL B—Approach Channel:

BEGINNING at a point that bears East, 2640 feet and South, 2640 feet from the above-mentioned corner common to Sections 10, 11, 14 and 15, such point being 660 feet east of the southeast corner of Tide Lot 11 in Section 14, T.3S, R.5W, M.D.B. & M., as shown on Map of Map No. 1 of Salt Marsh and Tide Lands, situate in the County of San Mateo, State of California, prepared by order of the Board of Tideland Commissioners under the Authority and in accordance with the provisions of an act entitled "An Act Supplementary to and Amendatory of an Act Entitled—An Act to Survey and Dispose of Certain Salt Marsh and Tide Lands Belonging to the State of California, approved March Thirtieth, Eighteen Hundred and Sixty-Eight, approved April 1, 1870"; thence from that point of beginning, South, 150 feet; thence S 45° E, 680 feet; thence N 72° E, 2,975 feet; thence South, 157.72 feet; thence S 72° W, 3,074.29 feet; thence N 45° W, 758.57 feet; thence North, 282.84 feet; thence East, 150 feet to the point of beginning.

EXCEPTING THEREFROM those interests-in-land transferred in trust to the City of South San Francisco by virtue of Chapter 345 of the Statutes of 1913, as amended.

PARCEL C—Portion of BTLC Lots, 6, 7, 10 and 11:

BEGINNING at the point of beginning of the above described Parcel "A" being the southeast corner of Tide Lot 11, thence West, 150 feet; thence North, 130 feet; thence East, 40 feet; thence North, 130 feet; West, 220 feet; North, 130 feet; West, 100 feet; thence N 68° 33' 08" W, 300.83 feet; thence North, 800 feet; thence N 68° 33' 08" E, 300.83 feet; thence East, 320 feet; thence North, 700 feet; thence East, 110 feet to the easterly line of the above-mentioned Board of Tideland Commissioners' Tide Lot 6; thence South, 2110 feet along the easterly line of Tide Land Lots 6 and 11 to the point of beginning.

EXCEPTING THEREFROM those interests-in-land, if any, which might have passed by virtue of a Board of Tideland Commissioners' deed for Tide Land Lots 6, 7, 10, and 11, Section 14, T.3S., R.5W., M.D.M., as those lots are shown on "Map No. 1 of Salt Marsh and Tide Lands," situate in the County of San Mateo.

PARCEL D—Roadway Easement:

A 50-foot wide strip of land for a road Right-of-Way through Tideland Lots 9, 10, and 11 in Section 14, and Lot 16 in Section 15, T.3S., R.5W., M.D.M., as those lots are shown on "Map No. 1 of Salt Marsh and Tide Lands situate in the County of San Mateo."

EXCEPTING THEREFROM those interests-in-land, if any, which might have passed by virtue of the Board of Tideland Commissioners' deeds to:

- (1) Emerson Corville for such tideland Lot 11;
- (2) J. A. Drinkhouse for such tideland Lots 9 and 10;
- (3) A. J. Bryant for such tideland Lot 16.

SEC. 14. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.