

## CHAPTER 159

**An act to amend** Sections 27, 113, 130, 144, 350, 1647.11, 2570.6,

Chapter 661 of the Statutes of 2000, Section 2 of Chapter 693 of the Statutes of 2000, Sections 5 and 6 of the Naval Training Center San Diego Public Trust Exchange Act (Chapter 714 of the Statutes of 2000), Section 228 of Chapter 862 of the Statutes of 2000, and Sections 2 and 3 of Chapter 975 of the Statutes of 2000, relating to maintenance of the codes.

[Approved by Governor August 8, 2001. Filed with  
Secretary of State August 9, 2001.]

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

**SEC. 203.** Section 5 of the Naval Training Center San Diego Public Trust Exchange Act (Chapter 714 of the Statutes of 2000) is amended to read:

Sec. 5. (a) The Legislature hereby approves an exchange of public trust lands within the NTC Property, whereby certain public trust lands that are not now useful for public trust purposes are freed of the public trust and certain other lands that are not now public trust lands, or are subject to uncertainty as to their trust status, and that are useful for public trust purposes are made subject to the public trust, resulting in a configuration of trust lands that is substantially similar to that shown on the diagram in Section 9, provided the exchange complies with the requirements of this act. The exchange is consistent with and furthers the purposes of the public trust and the city granting act and the port granting act.

(b) The commission is authorized to carry out an exchange of public trust lands within the NTC Property, in accordance with the requirements of this act. Pursuant to this authority, the commission shall establish appropriate procedures for effectuating the exchange. The procedures shall include procedures for ensuring that lands are not exchanged into the trust until any necessary hazardous material remediation for those lands has been completed, and may include, if appropriate, procedures for completing the exchange in phases.

(c) The precise boundaries of the lands to be taken out of the trust and the lands to be put into the trust pursuant to the exchange shall be determined by the commission. The commission shall not approve the exchange of any trust lands unless and until all of the following occur:

(1) The commission finds that the configuration of trust lands on the NTC Property upon completion of the exchange will not differ significantly from the configuration shown on the diagram in Section 9, and includes all lands presently subject to tidal action within the NTC Property.

(2) The commission finds that, with respect to the trust exchange as finally configured, the economic value of the lands that are to be exchanged into the trust, as phased, is equal to or greater than the value of the lands to be exchanged out of the trust. The commission may give

economic value to the port expansion area confirmed as public trust lands as provided in subdivision (h).

(3) The commission finds that, with respect to the trust exchange as finally configured and phased, the lands to be taken out of the trust have been filled and reclaimed, are cut off from access to navigable waters, are no longer needed or required for the promotion of the public trust, and constitute a relatively small portion of the lands originally granted to the city, and that the exchange will not result in substantial interference with trust uses and purposes.

(4) The exchange is approved by the entity or entities that, under the provisions of the city granting act, the port granting act, and this act, would be responsible for administering the public trust with respect to the lands to be exchanged into the trust, and any such lands will be accepted by that entity or those entities subject to the public trust and the requirements of the city granting act or port granting act, as applicable.

(d) The exchange authorized by this act is subject to any additional conditions that the commission determines are necessary for the protection of the public trust. At a minimum, the commission shall establish conditions to ensure both of the following:

(1) Streets and other transportation facilities located on trust lands are designed to be compatible with the public trust.

(2) Lands are not exchanged, or confirmed, into the trust until any necessary hazardous materials remediation for those lands has been completed.

(e) All former or existing tide or submerged lands within the NTC Property for which the public trust has not been terminated pursuant to the exchange authorized by this act, and any lands exchanged or confirmed into the trust pursuant to this act, shall be held, whether by the port or by the city, subject to the public trust and the requirements of the city granting act as public trust lands within the city NTC Property, or the port granting act, as to the land within the port expansion area. In addition, notwithstanding the provisions of the city granting act, during any period in which lands confirmed to the city as lands subject to the city granting act are held by the Redevelopment Agency of the City of San Diego rather than the city, the Redevelopment Agency shall be the public trust administrator for the lands, and shall have the same powers and be subject to the same requirements as would the city under the granting act.

(f) Any lands exchanged out of the trust pursuant to this act shall be deemed free of the public trust and the requirements of the city granting act.

(g) For purposes of effectuating the exchange authorized by this act, the commission may do all of the following:

(1) Receive and accept on behalf of the state any lands or interest in lands conveyed to the state by the port or the city, including lands that are now and that will remain subject to the public trust.

(2) Convey to the city or port by patent all of the right, title, and interest of the state in lands that are to be free of the public trust upon completion of an exchange of lands as authorized by this act and as approved by the commission.

(3) Convey to the city or port by patent all of the right, title, and interest of the state in lands that are to be subject to the public trust and the terms of this act and the granting act upon completion of an exchange of lands as authorized by this act and as approved by the commission, subject to the terms, conditions, and reservations that the commission may determine are necessary to meet the requirements of subdivisions (d) and (e).

(h) To achieve the configuration of public trust lands shown in the diagram in Section 9, the port, simultaneous with or following its receipt of the port expansion area, shall confirm its title as tide and submerged lands subject to the port granting act by agreement with the commission. The port and the commission may make conveyances between themselves to establish the title to the port expansion area as public trust lands subject to the port granting act.

(i) In any case where the state, pursuant to this act, conveys filled tidelands and submerged lands transferred to the city pursuant to Chapter 700 of the Statutes of 1911, as amended, the state shall reserve all minerals and all mineral rights in the lands of every kind and character now known to exist or hereafter discovered, including, but not limited to, oil and gas and rights thereto, together with the sole, exclusive, and perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to the state or to its successors and assignees, except that, notwithstanding Chapter 700 of the Statutes of 1911, as amended, or Section 6401 of the Public Resources Code, the reservations shall not include the right of the state or its successors or assignees in connection with any mineral exploration, removal, or disposal activity, to do either of the following:

(1) Enter upon, use, or damage the surface of the lands or interfere with the use of the surface by any grantee or by the grantee's successor or assignees.

(2) Conduct any mining activities of any nature whatsoever above a plane located 500 feet below the surface of the lands without the prior written permission of any grantee of the lands or the grantee's successors or assigns.

**SEC. 204.** Section 6 of the Naval Training Center San Diego Public Trust Exchange Act (Chapter 714 of the Statutes of 2000) is amended to read:

Sec. 6. (a) Notwithstanding the provisions of the granting act, the existing child care center on trust lands within the NTC Property, which was constructed for nontrust purposes during the period of federal ownership and is incapable of being devoted to public trust purposes, may be used for those nontrust purposes for the remaining useful life of the building. The city and the commission, by agreement, shall establish the remaining useful life of the child care center, provided that in no case shall the useful life of the child care center be deemed to extend less than 15 years or more than 40 years from the effective date of this act.

(b) The maintenance, repair, or, in the event of a flood, fire, or similar disaster, partial reconstruction of the child care center, and any structural or other alterations necessary to bring the child care center into compliance with applicable federal, state, and local health and safety standards, including, but not limited to, seismic upgrading, shall be permitted, provided those activities will not enlarge the footprint or the size of the shell of the child care center.

SEC. 208. Any section of any act enacted by the Legislature during the 2001 calendar year that takes effect on or before January 1, 2002, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2001 calendar year and takes effect on or before January 1, 2002, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

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