

Senate Bill No. 1191

CHAPTER 745

Institutions Code, to amend Section 1 of Chapter 74 of the Statutes of 1978, to repeal Section 3 of Chapter 1523 of the Statutes of 1985, to amend Section 2 of Chapter 1495 of the Statutes of 1988, to amend Section 1 of Chapter 1350 of the Statutes of 1989, to repeal Section 1 of Chapter 674 of the Statutes of 1990, to amend Section 1 of Chapter 1621 of the Statutes of 1990, to repeal Section 2 of Chapter 1012 of the Statutes of 1993, to repeal Resolution Chapter 100 of the Statutes of 1995, and to amend Section 2 of Chapter 881 of the Statutes of 1997, relating to reports submitted to the Legislature, the Governor, and state entities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 2001. Filed
with Secretary of State October 12, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1191, Speier. State and local reporting requirements.

Existing law requires or requests various state and local agencies to prepare and submit reports to the Governor, the Legislature, or other state entities.

This bill would revise or delete certain reporting requirements for state and local agencies, and delete obsolete references.

This bill would declare that it is to take effect immediately as an urgency statute.

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

before January 1, 2001, deletes or extends that date.

SEC. 268. Section 1 of Chapter 74 of the Statutes of 1978, as amended by Section 1 of Chapter 317 of the Statutes of 1997, is amended to read:

Section 1. There is hereby granted to the City of Newport Beach and its successors 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 that portion of the tidelands and submerged lands, whether filled or unfilled, bordering upon and under the Pacific Ocean or Newport Bay in the County of Orange, which were within the corporate limits of the City of Newport Beach, a municipal corporation, on July 25, 1919; the same to be forever held by the city and its successors in trust for the uses and purposes and upon the following express conditions:

(a) 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 public harbor; and for the construction, maintenance, and operation thereon of wharves, docks, piers, slips, quays, ways, and streets, and other utilities, structures, and appliances necessary or convenient for the promotion or accommodation of commerce and navigation.

(2) For the establishment, improvement, and conduct of public bathing beaches, public marinas, public aquatic playgrounds, and similar recreational facilities open to the general public; 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 such uses.

(3) For the preservation, maintenance, and enhancement of the lands in their natural state and the reestablishment of the natural state of the lands so that they may serve as ecological units for scientific study, as open space, and as environments which provide food and habitat for birds and marine life, and which favorably affect the scenery and climate of the area.

(b) Except as otherwise provided in this section, the city or its successors shall not, at any time, grant, convey, give, or alienate the lands, or any part thereof, to any individual, firm, public or private entity, or corporation for any purposes whatever; except that the city or its

successors may grant franchises thereon for a period not exceeding 50 years for wharves and other public uses and purposes and may lease the lands, or any part thereof, for terms not exceeding 50 years for purposes consistent with the trust upon which the lands are held by the state and with the uses specified in this section.

(c) The lands shall be improved without expense to the state; provided, however, that nothing contained in this act shall preclude expenditures for the development of the lands for the purposes authorized by this act, by the state, or any board, agency, or commission thereof, or expenditures 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 the 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 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 waters over the lands for such purpose, which rights shall be subject, however, to such rules and regulations as are necessary for the accomplishment of the purposes specified in subdivision (a).

(g) Notwithstanding any provision of this section to the contrary, the city may lease the lots located within Parcels A, B, and C described in Section 6 of this act for the purposes set forth in this act and for terms not to exceed 50 years. The consideration to be received by the city for such leases shall be the fair market rental value of such lots as finished subdivided lots with streets constructed and all utilities installed. The form of such leases and the range of consideration to be received by the city shall be approved by the State Lands Commission prior to the issuance of any such lease. All money received by the city from existing and future leases of those lots shall be deposited in the city tideland trust funds as provided in Section 2.

(h) With the approval of the State Lands Commission, the city may transfer portions of the lands granted by this act, or held pursuant to this act, to the state acting by and through the State Lands Commission, for lease to the Department of Fish and Game for an ecological reserve or wildlife refuge, or both, and other compatible uses to be undertaken by the department; provided, however, that, if at any time the Department of Fish and Game no longer uses those portions of the lands so transferred by the city to the state for those purposes, the lands so transferred shall revert to the city to be held pursuant to the provisions

of this act. Upon approving such a transfer from the city to the state, the State Lands Commission shall lease the lands so transferred to the Department of Fish and Game. The public benefits shall be the sole consideration to be received by the State Lands Commission from the Department of Fish and Game for that lease. Any and all income received by the Department of Fish and Game from the lands so leased shall be used only in connection with the department's improvement and administration of the leased lands.

(i) The city shall establish a separate tidelands trust fund or funds in such a manner as may be approved by the State Lands Commission, and the city shall deposit in the fund or funds all money received directly from, or indirectly attributable to, the granted tidelands in the city.

(j) In accordance with this act, 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 or from any additional trust assets, for any or all of the purposes set forth in this act on public trust lands within the City of Newport Beach. Those revenues may be deposited in one or more reserve funds for use in accordance with the terms and conditions set forth in this act.

(k) As to the accumulation and expenditure of revenues for any single capital improvement on the public trust lands within the city 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 30 days prior to the time of any disbursement therefor or in connection therewith. The executive officer of the commission shall notify the city within 30 days from the date of the filing, if the proposed expenditure raises significant issues. Upon receipt of the notification, the city shall not make any disbursement in connection with the proposed expenditure for 60 days or until the commission has acted on the proposed expenditure, whichever is the shorter period. Within 60 days of the notification by the executive officer, the State Lands Commission may determine and notify the city that the capital improvement is not in the statewide interest and benefit or is not authorized by the provisions of subdivision (j). The State Lands Commission may request the opinion of the Attorney General on the matter; and, if it does so, a copy of the opinion shall be delivered to the city with the notice of its determination. If the State Lands Commission notifies the city that the capital improvement is not authorized, the city 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 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 of process 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 the suit, no costs shall be recovered against it.

(l) On June 30, 1978, and on June 30 of every third fiscal year thereafter, that portion of the city tideland trust revenues in excess of two hundred fifty thousand dollars (\$250,000) remaining after deducting current and accrued operating costs and expenditures directly related to the operation or maintenance of tideland trust activities shall be deemed excess revenues. However, 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 for purposes authorized by this act, including improvements on lands transferred to the state pursuant to subdivision (h) and paid for by the city, may be considered as expenditures for the purpose of determining excess revenues; provided, however, that if made after the effective date of this act they may be so considered only if made in accordance with subdivision (k). The excess revenue, as determined pursuant to this subdivision, shall be allocated as follows: 85 percent shall be transmitted to the Treasurer for deposit in the General Fund in the State Treasury, and 15 percent shall be retained by the city for deposit in the trust fund for use in any purpose authorized by subdivision (j) of this section.

(m) At the request of the city, the State Lands Commission shall grant an extension of time, not to exceed 90 calendar days, for filing any report or statement required by this act, that was not filed due to mistake or inadvertence.

(n) If the city fails or refuse to file with the State Lands Commission any report, statement, or document required by any provision of 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 diverted therefrom. The State Lands Commission shall notify the Chief Clerk of the Assembly and the Secretary of the Senate within 30 days from the date of the occurrence of the failure or refusal and of actions taken as a result thereof.

(o) The State Lands Commission shall, from time to time, recommend to the Legislature such amendments as it may determine to be necessary in the terms and conditions of this act.

(p) 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 in good faith.

(q) If the commission determines any transaction or condition reported to the commission pursuant to this act to be in probable conflict with this act or with any other provision of law, the Attorney General shall, upon formal request of the State Lands Commission made only after a noticed public hearing at which the city has been given an opportunity to express fully any disagreement with the commission's findings or to describe any extenuating circumstances causing the violation, bring an action in the Superior Court in the County of Orange to declare that the grant under which the city holds the tidelands and submerged lands is revoked for gross and willful violation of this act or any other provision of law or to compel compliance with the requirements of this act and any other provision of law.

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

(s) The Department of Fish and Game shall establish the funds and make the deposits required by subdivision (i) of this section and shall prepare and file statements required by subdivision (r) as to any lands transferred to the state pursuant to subdivision (h).

(t) The provisions of Chapter 2 (commencing with Section 6701) of Part 2 of Division 6 of the Public Resources Code shall be applicable to this section. The provisions of Section 6359 of the Public Resources Code shall not be applicable to this section.

(u) Notwithstanding any other provision of this act, the city shall pay to the state all revenues received from the production of oil, gas, and other minerals derived from or attributable to the real property described in Section 6 of this act and the real property acquired by the city pursuant to subdivision (a) of Section 2 of this act. Whenever practicable, the city shall obtain the mineral rights in real property acquired pursuant to subdivision (a) of Section 2 of this act.