

CHAPTER 275

An act to add Article 4 (commencing with Section 6361) of Chapter 4 of Part 1 of Division 6 of the Public Resources Code, and to repeal Chapter 214 of the Statutes of 1937, Chapter 1835 of the Statutes of 1961, and Chapter 1828 of the Statutes of 1963, relating to tidelands and submerged lands and to convey certain tidelands and submerged lands to the City of Pittsburg.

[Approved by Governor September 14, 2006. Filed with
Secretary of State September 14, 2006.]

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

SECTION 1. Article 4 (commencing with Section 6361) is added to Chapter 4 of Part 1 of Division 6 of the Public Resources Code, to read:

Article 4. Conveyance of Tidelands and Submerged Lands to the City
of Pittsburg

6361. As used in this article, the following definitions apply:

- (a) "Plan" means trust lands use plan as described in Section 6364.
- (b) "Public trust purposes" means purposes related to commerce, navigation, and fisheries, and other public trust purposes, including, but not limited to, preservation of the lands in their natural state for scientific study, open space, wildlife habitat, and recreational and visitor-oriented uses.
- (c) "State" means the State of California.
- (d) "Trustee" means the City of Pittsburg, a municipal corporation of the State of California, in Contra Costa County.
- (e) "Trust lands" means all tidelands and submerged lands, whether filled or unfilled, situated within the boundaries of the City of Pittsburg as those boundaries exist on January 1, 2007.
- (f) "Trust revenues" means all revenues received from trust lands and trust assets.

6362. (a) There is hereby granted in trust to the City of Pittsburg all of the right, title, and interest of the state held by the state by virtue of its sovereignty in and to all tidelands and submerged lands, whether

filled or unfilled, situated within the boundaries of the City of Pittsburg as such boundaries exist on January 1, 2007.

(b) The trust lands shall be held by the trustee and its successors in trust for the benefit of all the people of the state for public trust purposes, as more particularly provided in this article.

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

(1) The use of the trust lands shall be in conformity with the public trust and the plan, and shall be without cost to the state.

(2) The trustee or its successors shall not at any time grant, convey, give, or otherwise alienate the trust lands, or any part thereof, to any person, firm, entity, or corporation for any purposes whatsoever. The trustee may lease the trust lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the public trust and the plan. The trustee may collect and retain rents and other trust revenues from those leases, under rules and regulations adopted by the trustee.

(3) In the management, conduct, operation, and control of the trust lands, or any improvement, betterments, or structures thereon, the trustee or its successors shall make no illegal discrimination in rates, tolls, or charges for any use or service in connection herewith, nor shall the trustee discriminate against or unlawfully segregate any person or group of persons on account of sex, race, color, creed, national origin, ancestry, or physical handicap for any use or service in connection herewith.

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

(5) The state shall have the right, at any time in the future, to use the trust lands or any portion thereof for any authorized public use without compensation to the trustee, 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 with legal authority upon the property taken by the state, compensation shall be made to the person entitled thereto for the value of the interest in the improvements taken or the damages to that interest.

(6) There is reserved to the people of the state the right to fish in the waters over the trust lands, with the right to convenient access to those waters over the trust lands for that purpose.

(7) There is excepted and reserved to the state all remains or artifacts of archaeological and historical significance and all deposit of minerals, including, but not limited to, all substances specified in Section 6407, in the trust lands, and the right to prospect for, mine, and remove those deposits from the lands.

(8) This grant is made subject to the rights of any and all persons under any title derived from the state or any of its agencies in or to any part of the trust lands.

(9) A survey of the trust lands pursuant to Sections 6358 and 6359 shall not be required, provided that the grantee has otherwise established a metes and bounds description of the trustee's corporate water boundaries.

6363. Revenue from lands, that are currently leased by the state and designated as state lease numbers PRC 2757.1, PRC 7643.1, PRC 7872.1, and Chapter Lease 18.1, shall remain revenue of the state and be transmitted to the state by the trustee.

6364. (a) On or before July 1, 2008, the trustee shall submit to the commission a plan indicating details of intended development, preservation, or other use of the trust lands. The trustee shall thereafter submit to the commission for approval all changes of, amendments to, or extensions of the plan. Any use of the trust lands shall be consistent with the plan as approved by the commission.

(b) The commission shall review with reasonable promptness the plan submitted by the trustee and any changes of or amendments to the plan to determine that they are consistent with the public trust and the requirements of this article. Based upon its review, the commission shall either approve or disapprove the plan. If the commission disapproves the plan, the commission shall furnish the trustee with its formal recommendations, and the trustee shall submit a revised plan to the commission within 180 days. If that revised plan is determined by the commission to be inconsistent with the public trust and the requirements of this article, all right, title, and interest of the trustee in and to the trust lands and improvements thereon shall revert to the state.

(c) The plan shall include all of the following:

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

(2) The projected statewide benefits to be derived from the planned or proposed uses of the trust lands, including, but not limited to, the financial and environmental benefits and the furtherance of those purposes set forth in subdivision (b) of Section 6362.

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

(4) An estimated timetable for implementation of the plan 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 trust lands.

(d) All leases or agreements proposed, or entered into by any trustee after July 1, 2008, shall be consistent with the plan submitted by the trustee and approved by the commission.

(e) Upon request, the trustee shall submit to the commission a copy of all leases and agreements entered into, renewed, or renegotiated with respect to the trust lands.

6365. The trustee shall demonstrate good faith in carrying out the plan and amending it when necessary in accordance with subdivisions (a) and (b) of Section 6364. If the commission determines that the trustee has substantially failed to improve, restore, preserve, or maintain the trust lands, as required by the plan, in the time period set forth in paragraph (4) of subdivision (c) of Section 6364, or has unreasonably delayed adopting that proposal, all right, title, and interest of the trustee in and to the trust lands and improvements thereon shall revert to the state.

6366. (a) The trustee shall establish and maintain accounting procedures, in accordance with generally accepted accounting principles, providing accurate records of all revenues received from the trust lands and trust assets and of all expenditures of those revenues. If the trustee has several trust grants of adjacent lands and operates the granted lands as a single integrated entity, separation of accounting records for each trust grant is not required. All trust revenues shall be expended only for those uses and purposes set forth in subdivision (b) of Section 6362. The purpose of this subdivision is to provide for the segregation of funds derived from the use of the trust lands in order to ensure that they are only expended to enhance the trust lands in accordance with the trust uses and purposes upon which the trust lands are held.

(b) Trust revenues may be used to acquire appropriate uplands to benefit and enhance the trust with the prior written consent of the commission. Property acquired with these trust revenues shall be considered an asset of the trust and subject to the terms and conditions of this article.

6367. On or before October 1 of each year, the trustee shall file with the commission a detailed statement of all trust revenues and expenditures relating to its trust lands and trust assets, including obligations incurred but not yet paid, covering the fiscal year preceding submission of the statement. This statement shall be prepared according to generally accepted accounting principles and may take the form of an annual audit prepared by or for the trustee.

6368. (a) To expend trust revenues for any single capital improvement on the trust 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.

(b) Within 90 days after the time of that filing, the commission shall determine whether the capital improvement is in the statewide interest and benefit and is consistent with the conditions of this article. 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.

(c) If the commission notifies the trustee that the capital improvement is not authorized, the trustee shall not disburse any trust revenues 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 may bring suit against the state for the purpose of securing an order or judgment, which suit shall have priority over all other civil matters.

(d) 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, costs may not be recovered.

6369. (a) On June 30, 2007, and at the end of every third fiscal year thereafter, that portion of the trustee's 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 trust activities shall be deemed excess revenues.

(b) 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 revenues. To be deemed nonexcess revenues, any reserve funds for future capital expenditure shall be for projects that are consistent with the plan and have prior commission approval under Section 6368. Capital improvements of the trust lands made for purposes authorized by this article may be considered as expenditures for the purpose of determining excess revenues.

(c) The excess revenues, as determined pursuant to this section, shall be allocated 85 percent to the State Treasurer for deposit into the Kapiloff Land Bank Fund (Division 7 (commencing with Section 8600)) and 15 percent to the trustee for expenditures consistent with this article.

6369.1. The commission may, from time to time, institute a formal inquiry to determine that the terms and conditions of this article have

been complied with and that all other applicable provisions of law concerning the trust lands are being complied with in good faith.

6369.2. Reimbursement for the expenditure of nontrust revenues for management, maintenance, and improvements made to the trust shall be approved by the commission in advance of the expenditure, or the expenditure shall be deemed a gift to the trust.

6369.3. Whenever the commission finds that the trustee has violated, or is about to violate, the terms of its trust grant or any other principle of law relating to its obligation in connection with the lands granted pursuant to this article, the commission shall notify the trustee of the violations before the commission pursues other legal remedies.

SEC. 2. Chapter 214 of the Statutes of 1937 is repealed.

SEC. 3. Chapter 1835 of the Statutes of 1961 is repealed.

SEC. 4. Chapter 1828 of the Statutes of 1963 is repealed.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.