

Assembly Bill No. 2607

CHAPTER 211

An act relating to tidelands and submerged lands, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 2022. Filed with Secretary of State August 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2607, Ting. Tidelands and submerged lands: City and County of San Francisco: Port of San Francisco.

Existing law, the Burton Act, grants to the City and County of San Francisco the right, title, and interest of the State of California in and to certain tidelands and submerged lands in trust for certain purposes. Under existing law, the Burton Act and the Burton Act transfer agreement, the interest of the state in and to the Harbor of San Francisco was transferred in trust to the City and County of San Francisco. The State Lands Commission has jurisdiction over tidelands and submerged lands of the state.

This bill would, subject to specified findings made by the commission at a public meeting, require the commission to accept any and all title and interest of the Port of San Francisco, as trustee pursuant to the Burton Act, in specified property, and thereafter would require the commission to convey the property by patent to the city, free of the public trust and the Burton Act Trust and any trust requirement or condition that the property be used for street or railway purposes, including all of the right, title, and interest held by the State of California by virtue of its sovereignty in the property, except as provided. The bill would also make various legislative findings and declarations relating to the transfer of the property.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

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:

SECTION 1. As used in this act:

- (a) "Burton Act" means Chapter 1333 of the Statutes of 1968, as amended.
- (b) "Burton Act Trust" means the statutory trust imposed by the Burton Act, by which the state conveyed to the City and County of San Francisco, in trust and subject to certain terms, conditions, and reservations, the state's

interest in certain tidelands, including filled lands, and lands dedicated or acquired by the city as assets of the trust.

(c) “City” means the City and County of San Francisco.

(d) “Harbor Fund” means the separate fund in the treasury of the city established and maintained in accordance with Section B6.406 of the charter of the city and Section 4 of the Burton Act.

(e) “Property” means the real property described in Section 3 of this act.

(f) “Public trust” or “trust” means the common law public trust for commerce, navigation, and fisheries.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) Upon its admission to the United States of America on September 9, 1850, the state, by virtue of its sovereignty, received in trust for the purposes of commerce, navigation, and fisheries, all right, title, and interest in ungranted tidelands and beds of navigable waterways within its borders, including the property.

(2) Pursuant to Chapter 543 of the Statutes of 1868, the state’s Board of Tide Land Commissioners platted tide and submerged lands in San Francisco Bay into lots and blocks for sale. Chapter 543 required the state to reserve streets bordering the lots for public purposes and subject to the public trust. Some of these streets are today city streets used by the public; others were never developed into streets but remain “paper streets” on maps. The property includes portions of Bancroft Avenue and Griffith Street that are paper streets.

(3) Chapter 543 also donated a 200-foot-wide right-of-way to the Southern Pacific Railroad Company and the Western Pacific Railroad Company. The right-of-way was not used for railroad purposes and reverted to state ownership, subject to the public trust, pursuant to Chapter 543. The property includes a portion of the right-of-way.

(4) In 1969, pursuant to the Burton Act and the Burton Act transfer agreement, the state conveyed certain state tidelands to the city in trust for public trust and Burton Act Trust purposes. The Burton Act Trust requires that the moneys derived from the use of the transferred properties be used solely for the furtherance of the purposes set forth in the Burton Act. The lands transferred by the Burton Act transfer agreement include the property.

(5) The city desires to pay fair market value to acquire the property free from the Burton Act Trust and public trust restrictions and obligations and to acquire additional privately owned lands located adjacent to the property to assemble an approximately seven-acre site on which to construct and operate a fire training facility that will provide necessary training facilities for effective firefighting, including live-fire, rescue, classroom, and equipment training for firefighters, emergency responders, partner fire agencies, and citizen groups.

(6) The primary fire training facility of the San Francisco Fire Department (SFFD) is located on Treasure Island, with an ancillary training tower located at 19th and Folsom Streets. A new fire training facility is necessary to replace the existing facility on Treasure Island, which will be demolished in 2025

due to development of the island. SFFD needs approximately 7.5 acres of land upon which to build the new training facility.

(7) SFFD educates and trains new firefighters, emergency medical technicians, and paramedics, and provides refresher training and recertification to veteran firefighters, emergency medical technicians, and paramedics. Approximately 1,700 firefighters use the fire training facilities each year, depending on their qualifications and the requirements for their position. At a minimum, each SFFD firefighter has about 200 hours of training per year.

(8) In addition to training SFFD personnel, the new fire training facility will function as a regional training center for Northern California's Fire, Emergency Medical Services, Incident Command & Rescue training needs. The current facility is one of only four sites in northern California approved to host Firefighter 1 Academy, Emergency Vehicle Operations, Confined Space Rescue Technician, Rescue Systems 1, Rescue Systems 2, and Rope Rescue Technician courses. The new facility is anticipated to have the same and better training and certification functions. The new fire training facility will provide regional and statewide benefits by improving the readiness and capabilities of the SFFD as well as other local and regional fire organizations to provide mutual aid in an environment of lengthening fire seasons with increased numbers and severity of fires that regularly require mutual aid.

(9) The property consists of approximately 2.6 acres of underutilized land that is cut off from access to the San Francisco Bay, and is composed of two streets, known as paper streets, and a trapezoidal, railroad remainder parcel under Port of San Francisco jurisdiction pursuant to the Burton Act. The city negotiated the purchase and sale of 4.9 acres of land adjacent to the property with a private landowner, which the city plans to acquire in order to assemble a site suitable for the new training facility.

(10) The voters of the city have approved general obligation bonding authority in 2010, 2014, and 2020 to construct capital improvements for earthquake safety and emergency response within the city, and the city intends to use a portion of those funds to construct the new training facility.

(11) The property has ceased to be useful for the promotion of the public trust and the Burton Act Trust. The property was filled and reclaimed as part of a highly beneficial plan of harbor development, has ceased to be tidelands, is cut off from the water, constitutes a relatively small portion of the tidelands granted to the city, is not currently being used, and is not anticipated in the foreseeable future to be used, for public trust or Burton Act Trust purposes. It is the intent of the Legislature that, conditioned on the approval by the State Lands Commission and the additional provisions of this Act, the property be freed of the use requirements of the public trust, the Burton Act Trust, and the Burton Act transfer agreement.

(b) The Legislature hereby finds in accordance with Section 3 of Article X of the California Constitution that the interest of the state in the paper street portion of the property was reserved to the state solely for street purposes, and that the paper street portion of the property, described in

subdivisions (b) and (c) of Section 3 of this act, is no longer used or necessary for navigation purposes.

SEC. 3. Subject to the findings and terms described in Section 4 of this act, the State Lands Commission shall accept any and all title and interest of the Port of San Francisco, as trustee pursuant to the Burton Act, in the property, and thereafter shall convey the property by patent to the city, free of the public trust and the Burton Act Trust and any trust requirement or condition that the property be used for street or railway purposes, all of the right, title, and interest held by the State of California by virtue of its sovereignty in the property, but reserving 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 the grant or Section 6401 of the Public Resources Code, any reservation shall not include the right of the state or its successors or assignees in connection with any mineral exploration, removal, or disposal activity, to enter upon, use, or damage the surface of the lands or interfere with the use of the surface by the city or by the city's successors or assigns or conduct mining activities of any nature whatsoever above a plane located 500 feet below the surface of the lands without the prior written permission of the city or the city's successors or assigns, described as follows:

(a) The Railway Remnant Parcel: Real property located in the City of San Francisco, County of San Francisco, State of California, described as follows:

That certain portion of that certain railroad right-of-way as shown on Board of Tideland Commissioners Block Map No. 9, filed in Map Book W, pages 50 to 52 in the Office of the Recorder of the City and County of San Francisco, within the area bounded on the north by the ordinary high tide line of 1869 as said line is described in the official field notebook of the Board of Tideland Commissioners pages 17 to 22 on file in the office of the State Lands Commission and the southerly line of the South San Francisco Homestead and Railroad Association grant Chapter 325, Statutes 1863, described as follows:

Portion of the right-of-way for the Southern Pacific and Western Pacific railroad companies, 200 feet wide, as fixed and designated by the Board of Tide Land Commissioners under the act of March 30, 1868, as said right of way is shown on Block Map No. 9 exhibiting the dimensions of lots and blocks as subdivided and shown on the map prepared by the Board of Tide Land Commissioners in accordance with the provisions of Section 4 of said act, a copy of which is filed in Map Book W, pages 50 to 52, document x45805 in the Office of the Recorder of the City and County of San Francisco which portions of said right of way are within tide land block 488, and is waterward of ordinary high tide line of 1869 shown but not labeled on said map.

And further excepting therefrom all subsurface mineral deposits, including oil and gas deposits, together with the right of ingress and egress on said land for exploration, drilling and extraction of such mineral, oil and gas deposits, as excepted and reserved by the State of California in that certain act of the Legislature (“the Burton Act”) set forth in Chapter 1333 of the Statutes of 1968 and amendments thereto, and upon terms and provisions set forth therein.

APN: Lot 001, Block 4852

(b) Bancroft Avenue Paper Street: That certain parcel of land situate in the City and County of San Francisco, State of California being portions of the streets and avenues described in that certain document recorded May 14, 1976, in Book C 169, pages 573 to 664, described as follows:

Those portions of the following described streets and avenues as shown on the Board of Tide Land Commissioners map titled “Map of the Salt Marsh and Tide Lands and Lands Lying Under Water South of Second Street and Situate in the City and County of San Francisco” approved by the Board of Tide Land Commissioners March 30, 1868, a copy of which is filed in Map Book W, pages 46 and 47, document #x45805 in the Office of the Recorder of the City and County of San Francisco within the area bounded on the north by the south basin canal, 200 feet wide, as described in the official field notebook of the Board of Tide Lands Commissioners page 18 on file in the office of the State Lands Commission, bounded on the east by the southeasterly line of Fitch Street, formerly “F” Street, bounded on the south by the northeasterly line of Carroll Street, formerly Twenty-Seventh Avenue, and bounded on the west by the ordinary high tide line of 1868-1869 as described in the official field notebook of the Board of Tide Lands Commissioners pages 17 to 22 on file in the office of the State Lands Commission being more particularly described as follows:

Bancroft Avenue, 80 feet wide, formerly Twenty-Sixth Avenue, bounded on the east by the northwesterly line of Griffith Street, 64 feet wide, and on the west by the ordinary high tide line, courses 430 and 431.

Being a portion of Bancroft Avenue as it currently exists.

(c) Griffith Street Paper Street: That certain parcel of land situate in the City and County of San Francisco, State of California being portions of the streets and avenues described in that certain document recorded May 14, 1976, in Book C 169, pages 573 to 664, described as follows:

Those portions of the following described streets and avenues as shown on the Board of Tide Land Commissioners map titled “Map of the Salt Marsh and Tide Lands and Lands Lying Under Water South of Second Street and Situate in the City and County of San Francisco” approved by the Board of Tide Land Commissioners March 30, 1868, a copy of which is filed in Map Book W, pages 46 and 47, document #x45805 in the Office of the Recorder of the City and County of San Francisco within the area bounded on the north by the south basin canal, 200 feet wide, as described in the official field notebook of the Board of Tide Lands Commissioners page 18 on file in the office of the State Lands Commission, bounded on the east by the southeasterly line of Fitch Street, formerly “F” Street,

bounded on the south by the northeasterly line of Carroll Street, formerly Twenty-Seventh Avenue, and bounded on the west by the ordinary high tide line of 1868-1869 as described in the official field notebook of the Board of Tide Lands Commissioners pages 17 to 22 on file in the office of the State Lands Commission being more particularly described as follows:

Griffith Street, 64 feet wide, formerly “G” Street, bounded on the south by the ordinary high tide line, course 437 and on the north by the southwesterly line of Armstrong Avenue;

Being a portion of Griffith Street as it currently exists.

SEC. 4. (a) Before completing the conveyances described in Section 3 of this act, the State Lands Commission shall find at a public meeting all of the following:

(1) The property has been filled and reclaimed as part of a highly beneficial plan of harbor development.

(2) The property is cut off from access to the waters of San Francisco Bay.

(3) The property is a relatively small portion of the tidelands granted pursuant to the Burton Act.

(4) The property is not used, suitable, or required for navigation or any other public trust or Burton Act purpose.

(5) The city’s deposit pursuant to paragraph (1) of subdivision (b) is equal to or greater than the fair market value of the property.

(6) Transfer of the property and its removal from the public trust is in the best interests of the state.

(b) In exchange for the transfer of the property and its removal from the public trust, the city shall do both of the following:

(1) Make a deposit into the Harbor Fund, which shall be held in trust and used for Burton Act purposes.

(2) Use the property, together with adjacent lands, to construct and operate a fire training facility or a public facility addressing earthquake safety or emergency response for a minimum of 30 years.

SEC. 5. The Legislature finds and declares that unique circumstances exist at the San Francisco waterfront and that therefore this act sets no precedent for any other location or project in the state.

SEC. 6. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances applicable only to the lands described in this act.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

The City and County of San Francisco requires a site to construct and operate a fire training facility to replace an existing facility that will no longer be available in 2025. Planning and site acquisition must proceed before that time to meet development timelines. In order to immediately

authorize the terms and conditions under which a railroad remnant parcel and two adjacent paper streets may be made available to the city and conveyed under Section 3 of Article X of the California Constitution, so that the city may proceed with its plans for the fire training facility, it is necessary that this act take effect immediately.