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SB-367 Tidelands and submerged lands: County of Orange.

(2017-2018)

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Date Published: 09/28/2017 09:00 PM

Senate Bill No. 367

CHAPTER 332

An act to amend Section 1 of Chapter 321 of the Statutes of 1961, relating to tidelands and submerged lands.

[Approved by Governor September 27, 2017. Filed with Secretary of State September 27, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 367, Bates. Tidelands and submerged lands: County of Orange.

Existing law grants to the County of Orange and its successors the right, title, and interest of the state in and to certain tidelands and submerged lands in trust for certain purposes relating to commerce, navigation, public access, and recreation. Existing law requires that the county, and its successors, only use those granted lands for those trust purposes and prohibits the county from granting franchises or leases for those tidelands and submerged lands, as authorized, for periods that exceed 50 years.

This bill would extend to 66 years the maximum period for which the county may grant franchises or leases for the use of those tidelands and submerged lands.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1 of Chapter 321 of the Statutes of 1961, as amended by Section 4 of Chapter 512 of the Statutes of 2014, is amended to read:

Section 1. There is hereby granted to the County of Orange and to 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 of the Pacific Ocean within the County of Orange, State of California, in the following area:

Commencing at the intersection of the westerly line of fractional Section 22, Township 8 South, Range 8 West, San Bernardino Base and Meridian with the line of Mean High Tide of the Pacific Ocean from which point said westerly Section line bears North 0° 07' East; thence South 45° 00' East to the point of intersection with a line parallel to and 5,750 feet southerly of the northerly line of said fractional Section 22; thence easterly along said last mentioned parallel line, 5,750 feet southerly of the northerly line of Section 22, and the easterly prolongation of said parallel line to the point of intersection with a meridian line passing through the intersection of the westerly line of Rancho Boca de la Playa as said line is established and shown on a map recorded in Book 4, Pages 118 and 119 of Patents, Records of Los Angeles County, June 29, 1887, and the line of Mean High Tide of the Pacific Ocean; thence northerly along said meridian line to the intersection with the line of Mean High Tide

of the Pacific Ocean; thence westerly along said line of Mean High Tide to the point of beginning, the same to be forever held by the county and by its successors in trust for the uses and purposes and upon the express conditions following, to wit:

(a) That these lands shall be used by the county, and its successors, only for the establishment, improvement, and conduct of a harbor, and for the construction, maintenance, and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures, facilities, and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and for recreational use, public park, parking, highway, playground, and business incidental thereto; and the county, or its successors, shall not, at any time, grant, convey, give, or alien these lands, or any part thereof, to any individual, firm, or corporation for any purposes whatever; provided, that the county, or its successors, may grant franchises thereon for limited periods, but in no event exceeding 66 years, for wharves and other public uses and purposes and may lease these lands, or any part thereof, for limited periods, but in no event exceeding 66 years, for purposes consistent with the trust upon which these lands are held by the State of California, and with the requirements of commerce and navigation at the harbor, and collect and retain rents from these leases.

(b) That these lands shall be improved by the county without expense to the state, and shall always remain available for public use for all purposes of commerce and navigation, and the State of California shall have at all times, the right to use, without charge, all wharves, docks, piers, slips, quays, and other improvements and facilities constructed on these lands, or any part thereof, for any vessel or other water or aircraft, or railroad, owned or operated by the State of California.

(c) That in the management, conduct, or operation of the harbor, or of any of the utilities, structures, appliances, or facilities mentioned in subdivision (a), no discrimination in rates, tolls, or charges or in facilities for any use or service in connection therewith shall ever be made, authorized, or permitted by the county or its successors.

(d) There is hereby reserved, however, in the people of the State of California the absolute right to fish in the waters of the harbor with the right of convenient access to the waters over these lands for these purposes.

(e) There is hereby excepted and reserved to the State of California all deposits of minerals, including oil and gas, in the land, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove deposits from the land.

(f) The lands herein described are granted subject to the express reservation and condition that the state may at any time in the future use these lands or any portion thereof for highway purposes without compensation to the county, 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 upon the property taken by the state for these purposes, compensation shall be made to the person entitled thereto for the value of his or her interest in the improvements taken or the damages to the interest.

(g) That within 10 years from the effective date of this act these lands shall be substantially improved by the county without expense to the state, and if the State Lands Commission determines that the county has failed to improve these lands as herein required, all right, title, and interest of the county in and to all lands granted by this act shall cease and these lands shall revert and vest in the state.

(h) (1) That any funds derived from the management, conduct, or operation of the lands described in this section shall be used within the geographic boundary of the lands for purposes consistent with subdivision (a).

(2) Notwithstanding paragraph (1), funds derived from the management, conduct, or operation of these lands may also be expended on state-owned tidelands and submerged lands, outside the geographic boundary of these lands within the County of Orange and southeasterly of the southern city limits of the City of Laguna Beach, to fund the portion of the Dana Point Branch of the Orange County Harbor Patrol that provides direct protection for public health, safety, and security relating to navigation and other public trust uses on state-owned tidelands and submerged lands.

(i) (1) Notwithstanding subdivision (h), any funds derived from the management, conduct, or operation of the lands described in this section may be used to purchase, lease, or otherwise acquire real property necessary for or incidental to the development and operation of a harbor and that property shall be held as an asset of the trust and used for purposes consistent with the trust grant.

(2) If the real property that is proposed to be purchased, leased, or acquired is adjacent to the geographic boundary of the lands, the county, or its successors, shall give written notice of the proposed expenditure to the State Lands Commission at least 90 days before purchasing, leasing, or acquiring the real property in excess of

one hundred thousand dollars (\$100,000), but not more than five hundred thousand dollars (\$500,000). Expenditures in excess of five hundred thousand dollars (\$500,000) for real property adjacent to the geographic boundary of those lands shall not be made unless the State Lands Commission approves the expenditure pursuant to Chapter 2 (commencing with Section 6701) of Part 2 of Division 6 of the Public Resources Code. For the purpose of this subdivision, "adjacent" means adjoining or separated by a street or road.

(3) If the real property that is proposed to be purchased, leased, or acquired is not adjacent to the geographic boundary of the lands, the county, or its successors, shall give written notice of the proposed expenditure to the State Lands Commission at least 90 days before purchasing, leasing, or acquiring the real property not to exceed fifty thousand dollars (\$50,000). Expenditures in excess of fifty thousand dollars (\$50,000) for real property not adjacent to the geographic boundary of those lands may not be made unless the State Lands Commission approves the expenditure pursuant to Chapter 2 (commencing with Section 6701) of Part 2 of Division 6 of the Public Resources Code.

(4) The notice required in paragraphs (2) and (3) shall include the total proposed expenditure from the tideland's trust, the location of the real property, the purpose of the purchase, acquisition, or lease, and an explanation of how the purchase, acquisition, or lease is consistent with the terms of the trust grant.