

**Introduced by Senator Simitian**

February 22, 2005

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An act relating to tidelands and submerged lands of the City of Santa Cruz.

LEGISLATIVE COUNSEL'S DIGEST

SB 960, as amended, Simitian. Tidelands: exchange: City of Santa Cruz.

Existing law grants to the City of Santa Cruz all the right, title, and interest of the State of California in and to certain tidelands and submerged lands in trust for certain purposes.

~~This bill would state the intent of the Legislature to enact legislation relating to a settlement of land title disputes and land exchange agreements affecting tidelands and submerged lands in the~~ *authorize the City of Santa Cruz, with the approval of the California State Lands Commission, to enter into a land exchange agreement, as a part of a settlement of a title dispute regarding the ownership of tidelands and submerged lands, as long as the tide and submerged land to be exchanged meets certain conditions, as specified.*

*The bill would authorize a party to the land exchange agreement to bring an action to quiet title within 90 days after the recording of the agreement.*

*The bill would also authorize a person who is not a party to the land exchange agreement to bring an action challenging the validity of the agreement within 180 days after the recording of the agreement.*

*This bill would declare that, due to the unique circumstances pertaining to the tide and submerged lands described in the bill, a general statute within the meaning of specific provision of the*

*California Constitution cannot be made applicable and a special statute is necessary.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

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

1 ~~SECTION 1. It is the intent of the Legislature to enact~~  
2 ~~legislation relating to a settlement of land title disputes and land~~

3 *SECTION 1. As used in this act, the following definitions*  
4 *apply:*

5 *(a) "City" means the City of Santa Cruz, a municipal*  
6 *corporation of the State of California, in Santa Cruz County.*

7 *(b) "Commission" means the California State Lands*  
8 *Commission.*

9 *(c) "Legislative grants" means those certain grants of salt*  
10 *marsh, tidelands, and submerged lands to the city as found in*  
11 *Chapter 342 of the Statutes of 1872 and Chapter 1291 of the*  
12 *Statutes of 1969.*

13 *(d) "Person" means an individual, entity, corporation, state*  
14 *agency, political subdivision, the United States, or any agency*  
15 *thereof.*

16 *(e) "Public trust" means the public trust for commerce,*  
17 *navigation, and fisheries, water-oriented recreation, and*  
18 *preservation of land in a natural state.*

19 *SEC. 2. (a) Subject to the requirements for approval by the*  
20 *commission specified in subdivision (b), whenever there is a title*  
21 *dispute regarding the ownership of tide and submerged lands*  
22 *within the legislative grants and it is determined by the city that*  
23 *any portions of the tide or submerged lands granted to the city by*  
24 *the legislative grants have been filled and reclaimed, cut off from*  
25 *access to the waters of the Pacific Ocean, Monterey Bay, or the*  
26 *San Lorenzo River, constitute a relatively small portion of the*  
27 *tide and submerged lands granted to the city, and are no longer*  
28 *needed or required for the promotion of the public trust and the*  
29 *legislative grants, and that there will not be a substantial*  
30 *interference with public trust uses and uses under the legislative*  
31 *grants, the city may, as a part of a settlement of ownership*  
32 *issues, terminate the public trust and the terms and conditions of*  
33 *the legislative grants over those portions of the tide and*

1 *submerged lands and exchange those portions of the tide and*  
2 *submerged lands, or any interest in those lands, with a person for*  
3 *lands or interests in lands of equal or greater value, provided*  
4 *that those lands or interests in lands are confirmed as lands*  
5 *subject to the public trust and to the terms and conditions of the*  
6 *legislative grants.*

7 *(b) An exchange and trust termination under subdivision (a)*  
8 *shall not be effective until the commission, at a regular or special*  
9 *meeting with the proposed exchange and trust termination as a*  
10 *scheduled agenda item, does both of the following:*

11 *(1) Finds that the lands or interests in lands to be acquired by*  
12 *the city and the value of the public trust interest to be confirmed*  
13 *or acquired through the exchange and trust termination are of a*  
14 *value equal to or greater than the value of the tide and*  
15 *submerged lands for which they are to be exchanged and the*  
16 *value of the tide and submerged lands over which the Public*  
17 *Trust and the terms and conditions of the legislative grants will*  
18 *be terminated. In making this finding, the commission, and the*  
19 *city acting pursuant to this section may consider the facts, law,*  
20 *and equities bearing upon the title dispute regarding the tide and*  
21 *submerged lands involved.*

22 *(2) Adopts a resolution approving the proposed exchange and*  
23 *trust termination, which finds and declares that the tide and*  
24 *submerged lands to be exchanged and over which the public trust*  
25 *and the terms and conditions of the legislative grants will be*  
26 *terminated have been filled and reclaimed, are cut off from*  
27 *access to the waters of the Pacific Ocean, Monterey Bay, or the*  
28 *San Lorenzo River, constitute a relatively small portion of the*  
29 *tide and submerged lands granted to the city, and are no longer*  
30 *needed or required for the promotion of the public trust and the*  
31 *legislative grants; and that there will not be a substantial*  
32 *interference with the public trust uses and purposes that will*  
33 *ensue by virtue of the exchange of the trust lands and the trust*  
34 *termination. As to any such exchange and trust termination, upon*  
35 *the close of escrow, the tide and submerged lands to be*  
36 *exchanged and with respect to which the public trust and the*  
37 *terms and conditions of the legislative grants are to be*  
38 *terminated shall thereupon be free from the public trust and the*  
39 *terms and conditions of the legislative grants.*

1 (c) Any lands or interests in lands acquired or confirmed as  
2 public trust lands shall, upon completion of the exchange and  
3 trust termination and recording of its implementing conveyances,  
4 thereafter be held by the city as lands subject to the public trust  
5 and to the terms and conditions of the legislative grants.

6 (d) The provisions of this act are not exclusive with respect to  
7 the settlement or litigation of titles and boundaries of lands  
8 within lands granted to the city by the legislative grants.

9 (e) The precise boundaries of the lands to be taken out of the  
10 public trust and the lands to be put into the trust or confirmed as  
11 public trust lands pursuant to an exchange or settlement under  
12 this section shall be determined by the city, subject to the  
13 approval of the commission.

14 SEC. 3. The city, with the approval of the commission, may  
15 settle by agreement with any person, any disputes as to the  
16 location of the ordinary high or ordinary low water mark, the  
17 boundaries of tidelands conveyed into private ownership  
18 pursuant to various statutes, and any other boundary lines within  
19 or along lands subject to the legislative grants as the city and  
20 commission deem necessary.

21 SEC. 4. For purposes of effectuating the exchange or trust  
22 termination authorized by this act, the commission may do all of  
23 the following:

24 (a) Receive and accept on behalf of the state any lands or  
25 interest in lands conveyed to the state by the trustee, including  
26 lands that are now and that will remain subject to the public  
27 trust.

28 (b) Convey by patent all of the right, title, and interest of the  
29 state in lands that are to be free of the public trust upon  
30 completion of an exchange of lands as authorized by this act and  
31 as approved by the commission.

32 (c) Convey to the trustee by patent all of the right, title, and  
33 interest of the state in lands that are to be subject to the public  
34 trust and the terms of this act upon completion of an exchange of  
35 lands as authorized by this act and as approved by the  
36 commission, subject to the terms, conditions, and reservations as  
37 the commission may determine are necessary to meet the  
38 requirements of this act.

39 SEC. 5. (a) Any party to an exchange and trust termination  
40 agreement or a boundary line agreement entered into pursuant to

1 *this act may bring an action under Chapter 4 (commencing with*  
2 *Section 760.010) of Title 10 of Part 2 of the Code of Civil*  
3 *Procedure to quiet title and to confirm the validity of that*  
4 *agreement as if the agreement had been entered into pursuant to*  
5 *Section 6307 or 6357 of the Public Resources Code. No action*  
6 *shall be brought later than 90 days after the recording of the*  
7 *executed agreement.*

8 *(b) Notwithstanding subdivision (b) of Section 764.080 of the*  
9 *Code of Civil Procedure, a person not a party to an exchange*  
10 *and trust termination agreement or to a boundary line agreement*  
11 *entered into pursuant to this act seeking to bring an action*  
12 *challenging the validity of the agreement, shall file that action no*  
13 *later than 180 days after the recording of the executed*  
14 *agreement.*

15 *(c) Any exchange and trust termination agreement or*  
16 *boundary line agreement entered into pursuant to this act shall*  
17 *be conclusively presumed to be valid, unless held invalid in an*  
18 *appropriate proceeding in a court of competent jurisdiction*  
19 *commenced within the time limits specified in this section.*

20 *SEC. 6. The Legislature finds and declares that, because of*  
21 *the unique circumstances applicable only to the tide and*  
22 *submerged lands described in this act, a statute of general*  
23 *applicability cannot be enacted within the meaning of*  
24 *subdivision (b) of Section 16 of Article IV of the California*  
25 *Constitution. Therefore, this special statute is necessary.*  
26 ~~*exchange agreements affecting tidelands and submerged lands in*~~  
27 ~~*the City of Santa Cruz.*~~